

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 7273/2021

BEFORE: MISS FAREEHA PAUL ... MEMBER (E)

Mubarik Khan s/o Abdus Sattar R/O P.O Shabqadar Fort, Bakyana,
Tehsil Shabqadar, District Charsadda. (Appellant)

Versus

1. Inspector General of Police, Khyber Pakhtunkhwa Peshawar.
2. Regional Police Officer, District Mardan.
3. District Police Officer, District Charsadda. (Respondents)

Mr. Javed Iqbal Gulbela,
Advocate

... For appellant

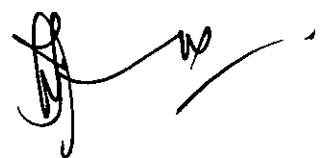
Date of Institution.....	16.08.2021
Date of Hearing.....	28.03.2023
Date of Decision.....	28.03.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The appellant is aggrieved of the order dated 04.02.2014 of the office of District Police Officer, Charsadda whereby he was dismissed from service and order dated 22.04.2021 of the office of Regional Police Officer, Mardan whereby his departmental appeal was turned down.

2. Learned counsel for the appellant heard and available record gone through.

3. From the perusal of record and arguments presented before this bench, it is clear that the appellant was inducted as Constable in the Provincial Police in 2007. From 14.05.2013, he absented himself till 04.02.2014, when the impugned order of Dismissal from service was passed by his competent authority, the District Police Officer, Charsadda on the grounds of absenting himself from lawful duty without any leave and prior permission from his senior officers. He submitted departmental appeal, undated, which was rejected and filed vide order dated 22.04.2021 and in that order, one of the grounds presented by his competent authority was that the appellant approached that forum at a belated stage without advancing any cogent reason. The appellant preferred a revision petition, undated, which was filed, on the grounds of being badly time barred, on 07.06.2021. After that rejection, he filed the instant service appeal on 16.08.2021. Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 is clear when it states that any civil servant who is aggrieved by any final order, whether original or appellate, made by a departmental authority may prefer an appeal before this Tribunal within 30 days of communication of such order, but ironically this service appeal was preferred after lapse of 70 days of the passage of final order of 07.06.2021. During the arguments, learned counsel for the appellant admitted that the appellant was absent from duty from the date as mentioned in the impugned order dated 04.02.2014 and that he did not submit any application for granting leave to his high ups. On a question raised by the bench that being a civil servant and an employee in the



uniformed and disciplined force of the province, was he not bound to get proper permission from his high ups before proceeding on leave, the learned counsel agreed that he was obligated to do so.

4. In the light of above discussion, it is evident that the departmental appeal was barred by time. It is a well-entrenched legal proposition that when an appeal before departmental authority is barred by time, the appeal before Service Tribunal would be incompetent. In this case reference is made to cases titled "Anwarul Haq Vs. Federation of Pakistan" reported in 1995-SCMR-1505, "Chairman PIAC Vs. Nasim Malik" reported in PLD 1990 SC 951 and "State Bank of Pakistan Vs. Khyber Zaman and others" reported in 2004 SCMR 1426.

5. In the light of above discussion this bench does not find any merit in the instant service appeal and it is, therefore, dismissed in *limine*.
Consign.

6. **Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 28th day of March, 2023.**


(Fareeha Paul)
Member(E)