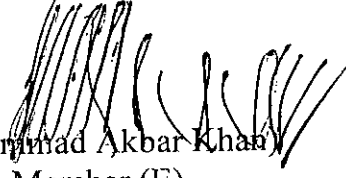
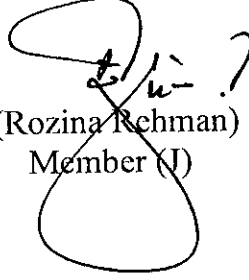


9. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED.

21.03.2023


(Muhammad Akbar Khan)
Member (E)


(Rozina Rehman)
Member (J)

7. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that appellant Ghani Gul was appointed as PTC on 16.09.1989. He was found willfully absent from duty during monitory visit of the AEO alongwith Assistant Agency Education (M&E) on 06.03.2012. He was proceeded against departmentally on the charge of willful absence from duty. Charge sheet was served upon him vide AEO No.6033-36 on 15.04.2012 through registered post at his home address and he was directed to submit reply but he failed to put any defense and did not appear before the authority. An inquiry committee was also constituted and it was on 31.05.2012 when he was dismissed from service. He filed writ Petition No.1611-P/2017 on 04.04.2017 and his grievance was that despite performing his duties, the respondents had illegally withheld his salaries. The respondents were put to notice and they submitted their comments by contending that they had proceeded against the appellant departmentally for his willful absence from duty which culminated in his termination vide Notification dated 31.05.2012. His writ petition was disposed of with direction to seek appropriate remedy under the law. Then he filed departmental appeal on 04.12.2020 which is badly time barred.



8. It is well-entrenched legal proposition that when an appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan reported in 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik reported in PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others reported in 2004 SCMR 1426.

remedy from proper forum as the impugned dismissal order dated 31.05.2012 was produced for the first time before the august Peshawar High Court, Peshawar. Feeling aggrieved, he filed departmental appeal which was not responded to, hence, the present service appeal.

3. The respondents were summoned and they were directed time and again to submit comments but to no avail, therefore, their right to submit reply was struck off.

4. We have heard Kamran Khan Advocate, learned counsel for the appellant and Asif Masood Ali Shah learned Deputy District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

5. Kamran Khan Advocate, learned counsel for the appellant argued inter-alia that impugned order dated 31.05.2012 is against law, facts and norms of natural justice, hence not tenable. He contended that the appellant was not treated in accordance with law and rules and as such the respondents violated Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. It was argued that no proper charge sheet alongwith statement of allegation was served upon appellant before issuance of the impugned order. He submitted that neither show cause notice was issued nor chance of personal hearing was afforded to the appellant and that he was punished without conducting any regular inquiry. He, therefore, requested for acceptance of the instant service appeal.

6. Conversely, DDA argued that the impugned order was passed on 31.05.2012 whereas, departmental appeal was filed on 04.12.2020 which was badly time barred. Therefore, appeal was requested to be dismissed.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4528/2021

Date of Institution ... 02.04.2021
Date of Decision ... 21.03.2023

Mr. Ghani Gul, Ex-PST (BPS-12), GPS Sohbat Dawaizai, Tehsil Pandiali,
District Mohmand.

... (Appellant)

VERSUS

The Secretary (E&SE) Department, Pakhtunkhwa, Peshawar and two
others.

... (Respondents)

Kamran Khan,
Advocate

... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents.

Mrs. Rozina Rehman ... Member (J)
Mr. Muhammad Akbar Khan ... Member (E)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

**“On acceptance of this appeal the impugned order dated
31.05.2012 may very kindly be set aside and the appellant
may be reinstated into service with all back benefits.”**

2. Brief facts of the case are that appellant was appointed as PST
vide order dated 16.06.1989. He performed his duties quite
efficiently and with zeal and zest. During service, his salary was
stopped without any justifiable reasons. Being aggrieved, he
preferred a number of applications and followed by a writ petition
which was disposed of with direction to the appellant to seek his

