

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 662/2022

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

Syed Taimur Ali Shah Ex-Constable bearing Belt No. 1743, Police Department, Peshawar. (Appellant)

Versus

1. **Inspector General of Police, Khyber Pakhtunkhwa Peshawar.**
2. **Capital City Police Officer, Peshawar.**
3. **Superintendent of Police, Cantt. Peshawar. (Respondents)**

Mr. Saifullah Mohmand,
Advocate

...

For appellant

Mr. Muhammad Jan,
District Attorney.

...

For respondents

Date of Institution.....	29.04.2022
Date of Hearing.....	28.04.2023
Date of Decision.....	28.04.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Instant appeal has been filed against three orders, one dated 09.01.2020, whereby the appellant was dismissed from service, 2nd dated 30.04.2020 whereby his departmental appeal was rejected by the appellate authority and 3rd dated 12.10.2020, whereby his revision petition was rejected by the IGP Khyber Pakhtunkhwa. It has been prayed in the appeal that the impugned orders might be set aside and the appellant might be reinstated in service with all back benefits.

2. On submission of the appeal, pre-admission notice was issued to the respondents who submitted their written reply/comments.

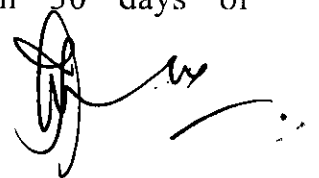


Preliminary arguments heard and the case file alongwith connected documents perused in detail.

3. From perusal of the record and arguments presented before this bench, it is found that the appellant was inducted as constable in the year 2015. Allegedly he met a road accident on 25.03.2019 and suffered a clavicle fracture (collarbone fracture) due to which he remained absent from duties w.e.f. 25.03.2019 to 04.11.2019 (total 224 days). Departmental proceedings were initiated against him. Charge sheet alongwith summary of allegations were served upon the appellant and SDPO Town, Peshawar was appointed as enquiry officer to conduct inquiry against the appellant. The Inquiry Officer conducted the inquiry, submitted findings and recommended the appellant for imposition of major penalty. Final show cause notice was issued to him and he was dismissed from service with immediate effect on 09.01.2022 on the grounds of absenting himself from lawful duty without any leave and prior permission from his senior officers.

4. Feeling aggrieved, the appellant filed departmental appeal which was rejected on 30.04.2020 against which he filed Revision Petition which was also rejected on 12.10.2020, hence the present appeal on 29.04.2022.

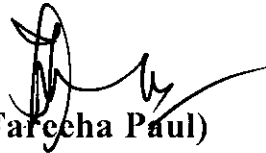
5. Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 is clear when it states that any civil servant, who is aggrieved by any final order, whether original or appellate, made by a departmental authority may prefer an appeal before this Tribunal within 30 days of



communication of such order, but ironically this service appeal was preferred after lapse of 01 year and 07 months, which is hopelessly time barred. Although there is an application seeking condonation of delay but the only ground taken in the application is allegedly delayed communication of the order dated 12.10.2020, which, according to the appellant, was communicated on 21.03.2022, but this ground is just a narration of the appellant, with no supporting material, so as to be considered. Therefore, the application is groundless and is dismissed. As far as seeking leave by the appellant is concerned, no application is available on the record to show that he had applied for any leave from 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 the appellant not bound to get proper permission from his high ups for leave, the learned counsel for the appellant could not respond properly except that he admitted that he was absent without sanctioned leave.

6. In the light of above discussion this bench finds the instant service appeal to be barred by time and its admission for full hearing will be a futile exercise. The appeal is, therefore, dismissed in *limine*. Consign.

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


(Fareeha Paul)
Member(E)