

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Service Appeal No. 7291/2021

Date of Institution ... 20.08.2021

Date of Decision... 25.05.2023

Shahzada S/O Abdul Latif (Ex-Constable No. 4667 FRP Peshawar) R/O
Village Kalenger South, Police Station Beer, Tehsil and District Haripur.

... (Appellant)

VERSUS

Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

MR. MOHAMMAD ASLAM TANOLI,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MR. MUHAMMAD AKBAR KHAN

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Briefly stated the relevant facts of the case are that departmental action was taken against the appellant on the allegations of absence from duty with effect from 08.01.2019. On conclusion of the inquiry, the appellant was awarded major punishment of dismissal from service vide order dated 11.03.2019 passed by Superintendent of Police, Frontier Reserve Police Hazara Region Abbottabad. The departmental appeal of the appellant was also rejected by Commandant Frontier Reserve Police Khyber Pakhtunkhwa Peshawar on 25.07.2019 being meritless as well as time barred. The revision petition of the appellant was

rejected vide order dated 11.08.2020, hence the instant service appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing of reply, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that no proper departmental inquiry was conducted and the appellant was condemned unheard; that the rights of the appellant guaranteed under Articles 4 & 25 of the constitution of Islamic Republic of Pakistan were badly violated; that the absence of the appellant from duty was not deliberate rather the same was due to the reason that he was attending his ailing mother; that the appellant had applied for grant of leave well in time but his request was not treated accordingly by the high-ups; that the impugned orders being wrong and illegal are liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned Deputy District Attorney for the respondents has argued that the appellant had remained absent from duty for 02 months and 03 days without any leave or permission of the competent Authority; that the appellant had not even bothered to submit leave application before the competent Authority; that a regular inquiry was conducted in the matter and all legal and codal formalities were complied with, however the appellant could not

put forward any plausible explanation for his long willful absence from duty; that the appellant was in the habit of absenteeism and had previously also remained absent from duty on so many occasions entailing the awarding of various punishments to him but he did not mend his way; that the appellant has though submitted reply to the charge sheet issued to him, however he did not bother to report for duty till the date of his dismissal from service on 11.03.2019; that the departmental appeal of the appellant was time barred and so is his service appeal, therefore, the appeal in hand is liable to be dismissed on this score alone.

5. Arguments have already been heard and record perused.

6. A perusal of the record would show that the appellant was dismissed from service vide order dated 11.03.2019 and his departmental appeal was also rejected vide order dated 25.07.2019 on the ground that the same was meritless as well as badly time barred. The revision petition of the appellant was also rejected vide order dated 11.08.2020, while he filed the instant service appeal on 20.08.2021 i.e after a delay of about one year. The appellant was required to explain delay of each and every day, however he has not mentioned any sufficient cause in his application for condonation of delay. The service appeal of the appellant is thus also time barred. It is well settled that law favours the diligent and not the indolent. This Tribunal can enter into merits of the case only, when the appeal is within time. Worthy Supreme Court of Pakistan in its judgment reported as 1987 SCMR 92 has held that when an appeal is required

to be dismissed on the ground of limitation, its merits need not to be discussed.

7. In view of the above discussion, the appeal in hand stands dismissed being time barred. Parties are left to bear their own costs.

File be consigned to the record room.

ANNOUNCED

25.05.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



(MUHAMMAD AKBAR KHAN)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD