

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 7363/2021

Date of Institution... 01.09.2021

Date of Decision... 31.05.2023

Farhad Ali, Ex-Warder, Central Jail Peshawar.

... (Appellant)

**VERSUS**

Inspector General of Prisons, Khyber Pakhtunkhwa, Peshawar and 02 others.

... (Respondents)

MR. ASLAM KHAN KHATTAK,  
Advocate

--- For appellant.

MR. ASAD ALI KHAN,  
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN  
MS. FAREEHA PAUL

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

**JUDGMENT:**

**SALAH-UD-DIN, MEMBER:-**

Brief facts of the case are that


the appellant was appointed as Warder on 15.05.2019. He while attached to Central Prisons Peshawar, was proceeded against on the allegations of absence from duty and was awarded major penalty of removal from service vide order dated 11.05.2020 passed by Superintendent Headquarters Prison Peshawar. The appellant challenged the same by way of filing departmental appeal, however the same was also rejected vide order dated 17.08.2021, hence the instant appeal.

2. On admission of the appeal for regular hearing, notices were issued to the respondents, who contested the appeal by way of filing

para-wise comments, wherein they refuted the assertion raised by the appellant in his appeal.

3. Learned counsel for the appellant has addressed his arguments supporting the grounds agitated by the appellant in his service appeal. On the other hand, learned Assistant Advocate General for the respondents has controverted the arguments of learned counsel for the appellant and has supported the comments submitted by the respondents.

4. We have heard the arguments of learned counsel for the parties and have perused the record.



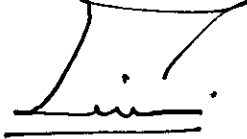
5. The appellant was awarded major penalty of removal from service vide order dated 11.05.2020 on the allegation of his absence from duty. The appellant was required to have challenged the same by way of filing departmental appeal within 30 days, however he remained in deep slumber and filed departmental appeal on 05.08.2021 i.e after a delay of more than 14 months. The departmental appeal of the appellant was thus badly time barred. The appellant was required to have explained the delay of each and every day, however he has not mentioned any sufficient cause in his application for condonation of delay. It is settled proposition of law that when the appeal of an employee was time barred before the appellate Authority, then his appeal before the Tribunal was not competent. Reliance is placed on 2007 SCMR 513, 2012 SCMR 195, PLD 1990 S.C 951 and 2006 SCMR 453. Furthermore, august Supreme Court of Pakistan in its judgment reported as

1987 SCMR 92 has held that when an appeal is required to be dismissed on limitation, its merits need not to be discussed.

6. Consequently, it is held that as the departmental appeal of the appellant was badly time barred, therefore, the appeal in hand being not competent is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
31.05.2023

  
(FAREEHA PAUL)  
MEMBER (EXECUTIVE)

  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)