

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 8487/2020

Date of Institution ... 24.07.2020

Date of Decision... 31.05.2023

Ibrar Ahmad, Belt No. 1734, District Police Mardan.

... (Appellant)

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa, Peshawar and 02 others.
... (Respondents)

MR. JAVED IQBAL GULBELA,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MS. FAREEHA PAUL

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

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precisely stating the facts giving rise to filing of the instant appeal are that the appellant was proceeded against departmentally on the allegation that he while posted in Police Lines Mardan had absented himself from duty with effect from 01.07.2019. On conclusion of the inquiry, he was awarded major punishment of dismissal from service vide order bearing OB No. 2225 dated 14.10.2019 passed by District Police Officer Mardan. The appellant challenged the same by way of filing departmental appeal, however the same was rejected vide order dated



22.04.2020 by Regional Police Officer Mardan Region Mardan, 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 assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant argued that the absence of the appellant from duty was not willful rather the same was on account of his illness; that the inquiry proceedings were conducted at back of the appellant and he was not at all associated in the inquiry proceedings; that the appellant has been condemned unheard and has not been provided any opportunity of personal hearing or self defence; that the impugned orders are wrong and illegal, therefore, the same may be set-aside and the appellant may be reinstated in service with all back benefits.

4. On the other hand, learned Deputy District Attorney for the respondents contended that the appellant remained absent from duty with effect from 01.07.2019 till 14.10.2019 i.e the date of his dismissal without any leave or permission of the competent Authority; that the appellant did not bother to submit any leave or permission of the competent Authority and remained willfully absent from duty for considerable long period; that the appellant was a member of a disciplined force and his absence from duty constituted the act of

misconduct; that a regular inquiry was conducted against the appellant by complying all legal and codal formalities; that charge sheet, statement of allegations as well as final show-cause notices were personally served upon the appellant but he did not even bother to appear and join the inquiry proceedings; that the conduct of the appellant would show that he was not at all interested in duty; that previously too, the appellant had remained absent from duty on so many occasions and were awarded minor penalties, however he did not mend his way.




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


6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations of absence from duty and he was dismissed from service vide order bearing O.B No. 2225 dated 14.10.2019. The appellant was required to have filed departmental appeal within next 30 days after passing of impugned order dated 14.10.2019, however he filed departmental appeal on 27.01.2020 after a delay of more than 03 months, which was dismissed on merit as well as on the ground of being time barred vide order dated 22.04.2020. It is well settled proposition of law that when an appeal of an employee was time barred before the appellate Authority, then the appeal before the Tribunal was also not competent. Reliance in this

respect is placed on PLD 1990 S.C 951, 2006 SCMR 453 and 2007 SCMR 513.

7. Consequent upon the above discussion, it is held that as the departmental appeal of the appellant was time barred, therefore, the instant appeal being not maintainable is hereby, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.05.2023


(FARZEHA PAUL)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)