

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

AT CAMP COURT SWAT.

Service Appeal No. 7413/2022

BEFORE:- MUHAMMAD AKBAR KHAN---MEMBER(E)

Mr. Sabir Khan, PST (BPS-07 Now BPS-12), GMPS Mandan, District Swat
.....**Appellant**

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and
Secondary Education, Department Peshawar and two others...**Respondents.**

Present:-

FAROOQ MOHMAND
Advocate,

For Appellant

Date of Institution ...	11.03.2022
Date of hearing ...	08.02.2023
Date of Decision ...	08.02.2023

JUDGEMENT

MUHAMMAD AKBAR KHAN, MEMBER(E):- Appellant alongwith his
counsel present. Preliminary arguments heard and available record perused.

2. Precisely stated the averments as raised by the appellant in his appeal
are that the appellant was appointed as Primary School Teacher vide order
dated 06.12.1990 and posted at GMPS Mandan District Swat, where he
performed his duties with devotion. Vide impugned order dated 05.03.2008,
the service of the appellant was terminated, therefore, the appellant
submitted department appeal for restoration of his service but his services

were not restored, hence the instant service appeal.

3. Perusal of the record would show that the appellant was appointed as Primary School Teacher vide order dated 06.12.1990. The appellant was terminated from service vide the impugned order dated 05.03.2008. The appellant submitted departmental appeal to Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar on 18.11.2021 but the same remained un-responded. While going through the aforementioned application, it can be observed that the same was filed on 18.11.2021, while the impugned order of termination of services of the appellant was passed on 05.03.2008. Thereafter, the appellant filed the instant service appeal on 11.03.2022 which is time barred. The appellant even did not bother to submit an application for condonation of delay alongwith the instant appeal.

4 The departmental appeal of the appellant is badly time barred. The settled proposition of law dictates that when an appeal of a civil servant is time barred before the appellate authority, then the appeal before the service Tribunal is also not maintainable. Reliance is placed on PLD 1990 Supreme Court 951, 2006 SCMR 453 and 2007 SCMR 513. This Tribunal can take merits of the case into consideration only when the appeal is within time. 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 the ground of limitation then its merits need not to be discussed.

5. In view of the above discussion, the appeal in hand stands dismissed in

limine being time barred. Parties are left to bear their own costs. File be consigned to the record room.

6. *Pronounced in open court at Camp Court Swat and given under my hand and seal of the Tribunal this 8th day of February, 2023.*

ANNOUNCED

08.02.2023

**SCANNED
KPST
Peshawar**



(MUHAMMAD AKBAR KHAN)
MEMBER (E)
CAMP COURT SWAT