

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT D.I.KHAN

Service Appeal No. 7567/2021

Date of Institution ... 08.10.2021

Date of Decision... 17.07.2023

Muhammad Riaz Process Server Process Serving Agency Court of Senior Civil
Judge, Tank

... (Appellant)

VERSUS

Qudratullah Process Server Process Serving Agency Court of Senior Civil
Judge, Tank and 04 others. ... (Respondents)

MR. GUL TIAZ KHAN MARWAT,
Advocate

--- For appellant.

MR. MUHAMMAD ANWAR AWAN,
Advocate

--- For private respondents No. 1 & 2.

MR. FARHAJ SIKANDAR,
District Attorney

--- For official respondent No. 5.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN


--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise averments as raised by
the appellant in his appeal are that he alongwith private respondents
No. 1 to 4 were appointed as Process Servers vide appointment
order bearing No. 336-342/SCJ/JM Tank dated 10.12.2014. The
seniority list of Process Servers working in Process Serving Agency
District Tank was issued on 31.12.2019 but without its circulation
and inviting of any objections from the Process Servers. The
appellant was incorrectly placed at serial No. 18 of the said
seniority list, therefore, he filed representation before Senior Civil

Judge (Admin) Tank on 31.01.2020, which was dismissed vide impugned order dated 01.02.2020, however copy of the same was not communicated to the appellant. The appellant then filed departmental appeal before the District & Sessions Judge Tank on 04.03.2020, which was then withdrawn by him on 11.09.2021. The appellant has now approached this Tribunal for redressal of his grievance.

2. On receipt of the appeal and its admission to full hearing, respondents were summoned but they failed to submit reply/comments, therefore, vide order dated 16.01.2023 their right to file reply was struck off.



3. Learned counsel for the appellant argued that the appellant as well as private respondents No. 1 to 4 were appointed as Process Servers vide same Notification dated 10.12.2014, therefore, the appellant being older in age than the private respondents was required to have been placed senior to them in the seniority list, however the competent Authority has wrongly placed private respondents as senior then the appellant; that the name of the appellant was required to have been placed at serial No. 14 of the seniority list dated 31.12.2019, however his name was wrongly and illegally mentioned at serial No. 18 of the said seniority list, which requires necessary correction; that the competent Authority was required to have first issued tentative seniority list by inviting objections, however the said requirement was not complied with; that the seniority list dated 09.10.2018 was neither issued nor

circulated for inviting any objections on the same, therefore, the learned Senior Civil Judge Tank was wrong in dismissing the representation of the appellant on the ground that the same was barred by time.

4. On the other hand, learned District Attorney representing official respondent No. 5 assisted by learned counsel for private respondents No. 1 & 2, contended that the Departmental Selection Committee had correctly fixed the seniority of the appellant as well as private respondents on merit at the time of initial recruitment, wherein age was not a determining factor for seniority, therefore, the appellant cannot be considered senior merely on the ground that he was older in age than the private respondents; that the same issue was earlier agitated by the appellant by way of filing departmental appeal/representation before the District & Sessions Judge Tank on 19.07.2018, which was dismissed in light of the report dated 09.10.2018 submitted by the then Senior Civil Judge Tank, which order has not been challenged before this Tribunal within the prescribed period of limitation of 30 days, therefore, the appeal in hand is liable to be dismissed on the ground of limitation alone; that the appellant is in habit of submitting successive representations on false and frivolous grounds, therefore, the appeal is liable to be dismissed with costs.

5. Arguments heard and record perused.

6. A perusal of the record would show that the appellant as well as private respondents were appointed as Process Servers vide

appointment order dated 10.12.2014. The issue of his seniority was for the first time agitated by the appellant through filing of representation/application before the District & Sessions Judge Tank on 19.07.2018, who sought report from the then Senior Civil Judge Tank. Senior Civil Judge Tank submitted his report to the District & Sessions Judge Tank vide letter No. 270/SCJ dated 09.10.2018. Nothing in the shape of any document is, however available on the record, which could show the outcome of the representation/application submitted by the appellant to the District & Sessions Judge Tank. The appellant then kept mum and subsequently submitted another representation to the Senior Civil Judge Tank on 31.01.2020, which was dismissed vide order dated 01.02.2020. The said order was then impugned by the appellant through filing of another departmental representation before the District & Sessions Judge Tank on 04.03.2020, however the same was then withdrawn by the appellant and was thus dismissed as withdrawn vide order dated 11.09.2021. The appellant then preferred the instant service appeal challenging the report dated 09.10.2018 submitted by Senior Civil Judge Tank to the District & Sessions Judge Tank upon the first representation filed by the appellant before the District & Session Judge Tank as well as the order dated 01.02.2020 passed by the Senior Civil Judge, Tank upon his representation filed on 31.01.2020.

7. It is an admitted fact that regarding the same issue, the appellant had earlier submitted representation/application before the

District & Sessions Judge Tank on 19.07.2018, therefore, after waiting for outcome of the same for 90 days, he was required to have filed service appeal before this Tribunal within the next 30 days. The appellant instead of filing service appeal, filed another representation before the Senior Civil Judge Tank and then departmental appeal before the District & Sessions Judge Tank and ultimately filed the instant appeal on 08.10.2021, which is badly time barred. Filing of successive representations/departmental appeals for enlarging limitation period for filing of service appeal is not permissible. The appellant has failed to furnish any sufficient reason for condonation of delay. 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 ground of limitation, its merits need not to be discussed.

8. 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
17.07.2023



(KALIM ARSHAD KHAN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT D.I.KHAN