

S.A 2451/2023

05<sup>th</sup> Dec. 2023 01. Appellant present in person. Preliminary arguments heard and record perused.

02. Vide my detailed judgment consisting of 03 pages, the appeal in hand is dismissed in *limine*. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 05<sup>th</sup> day of December, 2023.*

**(FAREEHA PAUL)**  
**Member (E)**

\*Fazle Subhan, P.S\*

not to give a right where there is none, but to impose a bar after the specified period authorizing a litigant to enforce his existing right within the period of limitation. The august court has gone to the extent of saying that a party cannot sleep over their right to challenge an order and that it is bound to do so within the stipulated and prescribed period of limitation before the proper forum.

4. In this case, not only the departmental appeal is barred by time but the service appeal had also not been preferred within the prescribed time limits. The appeal in hand is, therefore, dismissed in *limine*. Costs shall follow the event. Consign.

5 *Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal this 05<sup>th</sup> day of December, 2023.*

  
(Fareeha Paul)  
Member(E)

*\*Fazle Subhan, P.S\**

increment will be admissible in such cases of promotion i.e. all cases of promotion. The non-action of the respondents may be declared illegal, unlawful and against Article 25 etc. of the Constitution of Islamic Republic of Pakistan and to direct the respondents to fix the pay according to decision of the mentioned circular w.e.f. 01.01.2019 alongwith consequential benefits accruing thereon.”

2. Preliminary arguments heard and the case file alongwith connected documents perused in detail.

3. As per record produced before this bench, the appellant, while serving as Accounts Officer (BS-17) in the Local Government, Elections and Rural Development Department was promoted to the post of Deputy Director (Finance & Accounts) BS-18 in the Directorate General, Local Government and Rural Development Department vide a notification dated 12.10.2018. He submitted an application for grant of premature increment on promotion within the same scale to Assistant Director (Admn-HR) Local Government Department, on 05.10.2020, which was not responded. Under the law, he had to wait for 90 days and when no response was received, he had to prefer a service appeal before this Tribunal within 30 days. The appellant preferred service appeal on 14.11.2023. There is no application for condonation of delay. When confronted with this question, he stated that no limitation ran against financial matters. Here reliance is placed on a judgment in a case reported as 2023 SCMR 291 titled “Chief Engineer Gujranwala Electric Power Company (GEPCO) Versus Khalid Mehmood and others’, where the august Supreme Court of Pakistan has clearly held that the intention of the provisions of the law of limitation is



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

**Service Appeal No. 2451/2023**

BEFORE: MISS FAREEHA PAUL ... MEMBER (E)

**Syed Shahin Shah, Deputy Director (Finance & Accounts) C/O  
Directorate General LG & RD, Plot No. 20, Phase-V, Hayat, Peshawar.  
..... (Appellant)**

Versus

1. **Government of Khyber Pakhtunkhwa through its Secretary Finance Department, Civil Secretariat, Peshawar.**
2. **Accountant General of Khyber Pakhtunkhwa, Federal Government, Peshawar.**
3. **Accounts Officer (Pay Roll-V) Office of the Accountant General of Khyber Pakhtunkhwa, Federal Government, Peshawar.**
4. **Section Officer SR-I, Finance Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar. .... (Respondents)**

Appellant in person.

Date of Institution.....	14.11.2023
Date of Hearing.....	05.12.2023
Date of Decision.....	05.12.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** Instant appeal has been filed under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer as follows:-

“on acceptance of the instant appeal, declaring the acts and conduct of the respondents for not following and implementing the Provincial Government Khyber Pakhtunkhwa decision vide letter No. FD SOS (R-I) 2-123/2014 dated 21.02.2014 for the grant of premature increment on promotion within the same scale of higher post and another carrying the same basic pay Scale in fixation of Pay Scales i.e. one increment of higher scale in Basic Pay Scale 17 and the next stage and another as a premature