


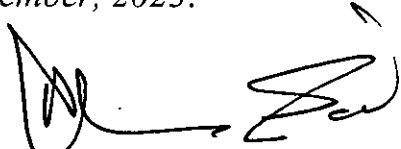
been restored after its dismissal due to non-prosecution but because of oversightness or inadvertence instead the appeal was being restored every time.

4. We at the very outset, observed that that there is no provision of review in the Khyber Pakhtunkhwa Service Tribunal Act, 1974 or the rules made thereunder to review its earlier judgment or order on any grounds. Even otherwise, there is no illegality shown to have been floating on the surface of record leading us to hold that the judgment/order dated 02.05.2016 was apt to be reviewed.

5. This being so, the appeal is dismissed. Consign.

6. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 7th day of December, 2023.*


(Salah-Ud-Din)
Member (J)


(Kalim Arshad Khan)
Chairman

Mutazem Shah

Review Petition No.409/2018 in Service Appeal No.491/2018 titled "Abdul Jalal Khan
Vs. Government of Khyber Pakhtunkhwa"

ORDER

7th Dec. 2023 **Kalim Arshad Khan, Chairman:** Learned counsel for the petitioner and

Mr. Asad Ali Khan, Assistant Advocate General for the respondents
present.

2. The main appeal No.491/2018 was dismissed on 02.05.2016 by this
Tribunal with following operative paragraph:

"Since the appellant has died and the impugned order of compulsory retirement entitles the appellant and his legal heirs to pensionary benefits as such we do not deem it appropriate to further proceed with appeal after the death of the appellants, which is dismissed accordingly. Parties are however left to bear their own costs. File be consigned to the record room."

3. Application for review was filed on 19.11.2018, which was dismissed for non-prosecution on 07.10.2020. An application for restoration of the review petition was filed and a Division Bench of the Tribunal had, on 23.06.2021, inadvertently considered it an application for restoration of the main appeal and accordingly, restored the main appeal but the appeal could not have been restored, rather it was the application for review of the judgment dismissed for non-prosecution on 07.10.2020 and that ought to have been restored. Be that as it may, once again, the mistake was repeated vide order dated 31.03.2023 and the appeal was shown to have been dismissed. Again, vide order dated 19.07.2023, main appeal was mistakenly restored. Neither the office nor the learned counsel for petitioner pointed out this mistake but fact remains the same that the appeal was dismissed vide order dated 02.05.2016 not in default but because of some observation of the Tribunal and it was only the review petition which ought to have

