

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWA AT CAMP COURT ABBOTTABAD

BEFORE: SALAH-UD-DIN ... MEMBER (Judicial)
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No. 3497/2021

Bibi Shahida PST GGPS Kolha Abdul Hai Cum Pashtu, Tehsil Allai
District Battagram. (Appellant)

Versus

Government of Khyber Pakhtunkhwa through Secretary Education
Peshawar and 02 others. (Respondents)

Present:

Mr. Aman Ullah Salik, Advocate.....For the appellant
Mr. Habib Anwar, Additional Advocate GeneralFor respondents

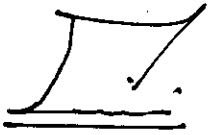
.....
Date of presentation of Appeal.....10.03.2021
Date of Hearing.....12.12.2023
Date of Decision.....12.12.2023

JUDGMENT

SALAH-UD-DIN, MEMBER: Precise facts forming the background of the instant appeal are that the appellant was appointed as Primary School Teacher vide order dated 16.04.1995. Departmental action was taken against the appellant on the allegations of her willful absence from duty with effect from 05.03.2011 and she was removed from service vide the impugned order dated 06.06.2014. The appellant challenged the penalty of her removal from service through filing of departmental appeal, however the same was not responded, hence the instant appeal.

2. On receipt of the appeal and its admission to regular hearing, respondents were summoned, who put appearance through

RECEIVED
KPSST
Peshawar



their representative and contested the appeal by way of filing written reply raising therein numerous legal as well as factual objections.

3. Learned counsel for the appellant argued that the inquiry proceedings were conducted in utter violation of mandatory provisions of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He next argued that in view of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, show-cause notice was required to have been published in two leading newspapers, however the department has allegedly floated the same only in one newspaper. He further argued that the inquiry proceedings were conducted at the back of the appellant without providing her any opportunity of personal hearing as well as self defence. He next contended that the appellant is a female and was having a spotless long period of service which fact was not at all taken into consideration and she was awarded harsh punishment of removal from service. He further contended that as the impugned order is 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 Additional Advocate General for the respondents contended that the appellant had remained absent from duty with effect from 05.03.2011, therefore, she was proceeded against departmentally by issuing her show-cause notice through registered AD as well as publication in daily "*Aaj Abbottabad*" and daily "*Shamal Abbottabad*" but she failed to appear, therefore, in view of Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, ex-parte action was taken against her and

she was removed from service. He next contended that the appellant absented herself from duty with effect from 05.03.2011, who was removed from service vide order dated 06.06.2014 and there-after too, she remained absent for so many years and ultimately filed departmental appeal after considerable delay on 06.12.2018. He also argued that both departmental as well as service appeals of the appellant were badly barred by time, therefore, the instant appeal is liable to be dismissed on the ground of limitation alone. He further contended that all the requirements provided in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 were complied with and there exist no material dent in the inquiry proceedings. He also contended that the appellant has not been able to put forward any plausible reason in respect of her long absence from duty for so many years, therefore, the appeal in hand may be dismissed with cost.

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 the appellant while serving as Primary School Teacher, was proceeded against departmentally on the allegations of her willful absence from duty with effect from 05.03.2011 and was removed from service vide order dated 06.06.2014 passed by District Education Officer (Female) Battagram. The appellant was required to have filed departmental appeal within 30 days, however she filed the same after a lapse of considerable period on 06.12.2018, which was badly time barred. Moreover, the appellant had submitted departmental appeal


on 06.12.2018, therefore, after waiting for outcome of the same for 90 days, she was required to have filed service appeal before this Tribunal within the next 30 days. The appellant instead of filing service appeal, filed another departmental appeal on 03.03.2020 and ultimately filed the instant appeal on 10.03.2021, which is also badly time barred. The appellant has failed to furnish any sufficient reason for condonation of delay.

7. It is well settled that law favours the diligent and not the indolent. While going through record we have observed that the appellant throughout remained indolent and did not pursue her remedy within time before the departmental authority as well as before this Tribunal. 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, 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
12.12.2023


(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



(FAREEHA PAUL)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD


ORDER
12.12.2023

Learned counsel for the appellant present. Mr. Ihsanullah, ADEO alongwith Mr. Habib Anwar, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, 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
12.12.2023


(Farzeha Paul)
Member (Executive)
Camp Court Abbottabad


(Salah-Ud-Din)
Member (Judicial)
Camp Court Abbottabad