

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

BEFORE: **KALIM ARSHAD KHAN** ... **CHAIRMAN**
MUHAMMAD AKBAR KHAN ... **MEMBER (Executive)**

Service Appeal No.73/2019

Date of presentation of Appeal.....26.10.2018
Date of Hearing.....08.05.2024
Date of Decision.....08.05.2024

Barkat Ali Ex-Constable, 1791, Police Lines Bannu....(Appellant)

Versus

1. **The AIG Establishment** for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
2. **The Regional Police Officer**, Bannu Region, Bannu.
3. **The District Police Officer**, Bannu.....(**Respondents**)

Present:

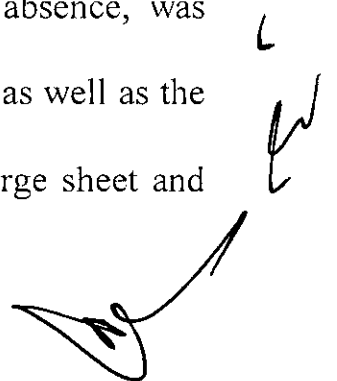
Miss. Uzma Syed, Advocate.....For the appellant
Mr. Asif Masood Ali Shah, Deputy District Attorney....For respondents

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APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER OF RESPONDENT NO.3 DATED 23.02.2015 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND AGAINST THE REJECTION ORDER DATED 10.04.2017 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED AND AGAINST THE ORDER DATED 02.08.2017 RECEIVED BY THE APPELLANT ON 28.09.2018 WHEREBY THE APPEAL UNDER RULE-11 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Shortly narrated facts necessary for disposal of the case are that appellant was serving in the Police Department as Constable, and due to his alleged absence, was unable to attend the duties; that on the basis of his absence, as well as the complaint of taking illegal gratification, he was issued charge sheet and



inquiry was initiated against the appellant; that resultantly, vide impugned order dated 23.02.2015, he was dismissed from service.

2. Feeling aggrieved, he filed departmental appeal, followed by Revision Petition under Rule-11 of the Khyber Pakhtunkhwa Police Rules, 1975, but the same was dismissed. Therefore, the appellant filed the instant service appeal.

3. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

4. We have heard learned counsel for the appellant and learned Deputy District Attorney for respondents.

5. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

6. From the record, it is evident that appellant was serving as Constable in the Police Department. He was charge sheeted by the District Police Officer. The same is reproduced as under:

- *"You while posted in Police Line, Bannu absented yourself from government duty w.e.f 26.06.2014 to 31.07.2014 without any leave or permission from the competent authority.*
- *That you are habitual of absentee and have no good reputation in police department.*
- *That you have ceased to become a good police officer."*

7. Vide impugned order dated 23.02.2015, the District Police Officer, holding the appellant guilty of absence as well as taking illegal gratification from complainant, namely Jehangir and Abdul Wahid, ordered dismissal of the appellant from service. Regarding the charges of absence as well as of taking illegal gratification, the respondents have fulfilled codal formalities i.e. charge sheet, statement of allegations, statements of the complainants, and conducting of regular inquiry. In the absence case, the respondents have also issued notice through publication in the daily "Mashriq".

8. Besides, in the appeal, the appellant has claimed that he had made departmental appeal prior to revision petition under Rule-11 A of the Police Rules, 1975, while in the Appellate Order, there is only mention of revision petition. But there is no copy of any departmental appeal or revision petition, filed by the appellant. However, the order of the Appellate Authority has been passed on 02.08.2017, while the instant service appeal has been filed on 26.10.2018 i.e. more than a period of 14 months. While Section-4 of the Service Tribunal Act, 1974 prescribed the period of limitation for filing appeal as thirty days. The same is reproduced below:

"4. *Appeal to Tribunals.*--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [or within six months of the establishment of the appropriate Tribunal, whichever is later,] prefer an appeal of the Tribunal having jurisdiction in the matter."

9. The appellant has not filed any application for condonation of delay as to why he had filed the instant service appeal after a long delay.

Therefore, the departmental appeal of the appellant is considered badly barred by time.

10. In view of the above, instant service appeal is dismissed. Costs shall follow the event. Consign.

11. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May, 2024.*



KALIM ARSHAD KHAN
Chairman



MUHAMMAD AKBAR KHAN
Member (Executive)

Mutazem Shah

S.A #.73/2019

ORDER

8th May. 2024 1. Learned counsel for the appellant present. Mr. Asif

Masood Ali Shah, Deputy District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, instant service appeal is dismissed. Costs shall follow the event.

Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 8th day of May,*

2024.



(Muhammad Akbar Khan)
Member (E)



(Kalim Arshad Khan)
Chairman