

05.04.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan

learned District Attorney for the respondents present.

2. Vide our detailed judgment of today placed on file, the departmental appeal as well as service appeal filed by the appellant both are barred by time, hence dismissed. Costs shall follow the event.

Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of April, 2024.*



(KALIM ARSHAD KHAN)
Chairman



(RASHIDA BANO)
Member (J)

Kaleemullah

authority had rejected departmental appeal on merit without touching question of limitation, therefore, this tribunal could not touch the question of limitation.

Moreover, revision petition filed by the appellant was rejected vide order dated 06.07.2022 and appellant filed instant appeal on 05.09.2022 after lapse of period of thirty days which is as per Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, appellant will have to file appeal within thirty days of passing of impugned order. Although appellant filed mercy petition but there is no provision of mercy petition in the Police Rules, therefore, filing of the same is of no help to the appellant.

8. For what has been discussed above, the departmental appeal as well as service appeal filed by the appellant both are barred by time, hence dismissed. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 5th day of April, 2024.*



(KALIM ARSHAD KHAN)
Chairman



(RASHIDA BANO)
Member (J)

appeal.

7. Perusal of record reveals that appellant was serving the respondent department, when respondent No. 4 initiated disciplinary proceeding against the appellant by issuing charge sheet and statement of allegation with the allegation that;

"As per the findings report of the preliminary enquiry conducted by SP Investigation Wing Karak that SI Zafar Ali while posted as SHO PS Karak registered case FIR No. 590 dated 16.09.2020 u/s 15AA PS Karak against accused Abdul Hakim s/o Nasib Ghulam r/o Warana Ghari Khel on ill intention. Accused was charged by the complainant in case FIR No. 256 dated 16.09.2020 u/s 302, 34 PPC PS Band Korai in district Dera Ismail Khan. This illegal act was done with the collaboration of Muddad Moharrar and DFC PS Karak. Furthermore, it has also been reported that SI took illegal gratification amounting to Rs. 5 lac from the accused party to provide shelter in the said case. This state of affair is quite adverse on his part and shows his malafide intention, disruptive behavior and irresponsibility in the discharge of his official obligations being a member of discipline force. This act on his part is against service discipline and amounts to gross misconduct."

Appellant was awarded punishment of reduction in pay for two years by District Police Officer, Karak vide order dated 02.01.2021. Appellant preferred departmental appeal against the said order on 05.03.2021 after lapse of period of two months while Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and Rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 gives the period for filing departmental appeal as thirty days, which proposition is reproduced for ready reference;

"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, prefer an appeal of the appeal having jurisdiction in the matter."

When confronted with the question of limitation learned counsel argued that the

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2. Brief facts of the case are that appellant while posted as SIIO at Police Station City Karak, lodged a case FIR No. 590 u/s 15. AA PS Karaka against one Abdul Hakeem S/O Nascem Gul for his ill intention. He was also charged by the complainant in case FIR No. 256 dated 16.09.2020 u/s 302, 34 PPC PS Banda Korai, D.L.Khan. Feeling aggrieved, he preferred departmental appeal which was rejected. Thereafter he filed revision petition, which was not responded, hence, the instant service appeal.

3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned order was against law, facts and norms of natural justice; that the appellant had not been treated in accordance with law and rules; that no charge sheet and statement of allegations had been issued to the appellant prior to the issuance of impugned order; that no chance of defense had been granted to the appellant, and no regular inquiry had been conducted in the matter. Therefore, he requested for acceptance of the instant service appeal.

5. Conversely, learned District Attorney argued that the impugned order was based on facts and norms of justice; that the appellant had been treated in accordance with law and rules; that charge sheet and statement of allegations had duly been served upon the appellant; that appellant had been served with show cause notice on 05.11.2021 which had not been replied by him; that the appellant had been given full opportunity of defense and proper inquiry had been conducted. Therefore, he requested for acceptance of the instant service



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1295/2022

BEFORE: MR. KALIM ARSHAD KHAN CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)

Zafar Ali Sub-Inspector Police Line Karak.

.... (Appellant)

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
 2. Additional Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.
 3. Regional Police Officer, Kohat Region, Kohat.
 4. District Police Officer, Karak.
 5. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
- ... (Respondents)

Mr. Shahid Qayyum Khattak
Advocate

... For appellant

Mr. Muhammad Jan
District Attorney

.... For respondents

Date of Institution.....05.09.2022

Date of Hearing.....05.04.2024

Date of Decision.....05.04.2024

JUDGEMENT

RASHIDA BANO, MEMBER (J): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the following prayer:

“On acceptance of this appeal, the impugned orders dated 02.01.2021, 21.06.2021, 06.07.2021 and 03.08.2022 may graciously be set aside by declaring it illegal, unlawful, without authority, based on malafide, void ab-initio and thus not sustainable in the eyes of law and appellant is entitled for all back benefits of pay and service.”

