

S.A No.7940/2021

ORDER

22<sup>nd</sup> May. 2024

1. Learned counsel for the appellant and Mr. Umair Azam, Additional Advocate General for the respondents present.

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

3. *Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 22<sup>nd</sup> day of May, 2024.*



(Muhammad Akbar Khan)  
Member (E)



(Kalim Arshad Khan)  
Chairman

7. The appellant was required to file appeal within 30 days of the passage of the first order whether original or appellate, but admittedly, the appeal has been filed about 10 months after the appellate order. The grounds mentioned in the application for condonation of delay are not convincing nor plausible. During the course of arguments, learned counsel for the appellant submitted that the appellant had received the order on 25.11.2021, but mere oral assertion of the appellant will not be acceptable in the absence of any valid and justified grounds for condonation of delay.

8. We are fortified with the following judgment on the point:

*2023 SCMR 866 titled "Kirammat Khan versus IG Frontier Corps and others", wherein the august Supreme Court of Pakistan was pleased to have observed that limitation would run even against a void order and an aggrieved party must approach the competent forum for redressal of his grievance within the period of limitation provided by law.*

9. Therefore, instant service appeal is dismissed being bared by time. Costs shall follow the event. Consign.

10. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 22<sup>nd</sup> day of May, 2024.*



**KALIM ARSHAD KHAN**

Chairman



**MUHAMMAD AKBAR KHAN**

Member (Executive)

Feeling aggrieved, he filed departmental appeal on 15.07.2020, which was rejected on 25.02.2021, hence, the instant appeal.

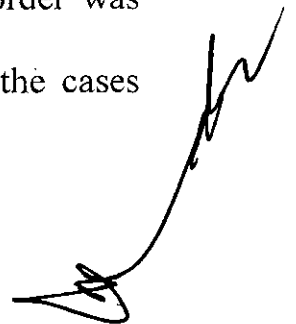
2. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for respondents.

4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General, controverted the same by supporting the impugned order(s).

5. The Additional Advocate General raised a preliminary objection that the impugned order of the appellant was passed by the DPO Hangu on 18.06.2020, against which he filed departmental appeal on 15.07.2020 which was rejected on 25.02.2021 i.e. after 10 months of the passage of the appellate order. He contended that appeal before the Tribunal was barred by time.

6. Controverting the objection of the AAG, the learned counsel for appellant referred to the grounds mentioned in the application for condonation of delay and submitted that the impugned order was void and no limitation ran against such an order. That the cases should be decided on merits and not on technicalities.



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

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

*Service Appeal No.7940/2021*

Date of presentation of Appeal.....21.12.2021  
Date of Hearing.....22.05.2024  
Date of Decision.....22.05.2024

**Syed Atiq Hussain**, No.1138 Driver/Constable at District Police Hangu .....(*Appellant*)

Versus

1. **District Police Officer**, Hangu
2. **Regional Police Officer**, Kohat Region.
3. **Inspector General of Police** Khyber Pakhtunkhwa, Peshawar.  
.....(*Respondents*)

Present:

Miss. Roeeda Khan, Advocate .....For the appellant  
Mr. Umair Azam, Additional Advocate General.....For respondents

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**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 18.06.2020, WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT FROM HIGHER STAGE TO LOWER STAGE AS TIME SCALE OF PAY FOR THREE YEARS AS WELL AS RECOMMENDED FOR TRANSFER TO KARAK DISTRICT AGAINST WHICH THE APPELLANT FILED DEPARTMENTAL APPEAL ON 15.07.2020 WHICH HAS BEEN DECIDED ON 25.02.2021 ON NO GOOD GROUNDS.**

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**JUDGMENT**

**KALIM ARSHAD KHAN, CHAIRMAN:** Appellant's case in brief is that he was serving in the Police Department as Constable. That vide impugned order dated 18.06.2020, he was awarded major punishment of reduction to lower stage as time scale for pay for three years as well as recommendation for transfer to district Karak.