

S.A No.721/2019

ORDER

29<sup>th</sup> May, 2024

1. Learned counsel for the appellant and 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 being barred by time. Costs shall follow the event. Consign.
3. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of May, 2024.*



(Muhammad Akbar Khan)  
Member (E)  
Camp Court, Abbottabad



(Kalim Arshad Khan)  
Chairman  
Camp Court, Abbottabad

\*Mutazem Shah\*

**"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."

06. In this case, the appellant has filed this appeal much beyond the period prescribed for filing of appeal, therefore, the appeal is barred by time.

07. In view of the above, instant service appeal is dismissed being barred by time. Costs shall follow the event. Consign.

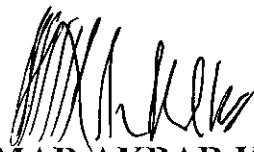
08. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 29<sup>th</sup> day of May, 2024.*



**KALIM ARSHAD KHAN**

Chairman

Camp Court, Abbottabad



**MUHAMMAD AKBAR KHAN**

Member (Executive)

Camp Court, Abbottabad

\*Mutazem Shah.\*

was dismissed from service; that feeling aggrieved, he filed departmental appeal which was dismissed vide order dated 04.07.2017; that the appellant then filed review petition as well as mercy petition but both were dismissed, hence, the instant service appeal.

02. 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.

03. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

04. 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).

05. The impugned dismissal order was passed on 28.03.2017. The departmental appeal was filed on 25.07.2017, which was dismissed on 04.07.2017, but this appeal was filed on 11.06.2019. The period provided in Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for filing of appeal before the Tribunal is 30 days from passage of the final order, whether original order or appellate. Section-4 of the Service Tribunal Act, 1974 is reproduced below:



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**  
**AT CAMP COURT, ABBOTTABAD**

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

*Service Appeal No. 721/2019*

Date of presentation of Appeal.....11.06.2019  
Date of Hearing.....29.05.2024  
Date of Decision.....29.05.2024

**Muhammad Yasir** son of Muhammad Ashraf, Ex-Police Constable FC Yasir No.414, District Police Mansehra, resident of Ghanool, Tehsil Balakot, District Mansehra.....(*Appellant*)

Versus

1. **Government of Khyber Pakhtunkhwa** through Secretary Home, Khyber Pakhtunkhwa, Peshawar.
2. **Inspector General of Police** Khyber Pakhtunkhwa, Peshawar.
3. **Deputy Inspector General of Police**, Hazara Region, Abbottabad.
4. **District Police Officer**, Mansehra.
5. **Departmental Inquiry Committee** District Mansehra through District Police Officer, Mansehra.....(*Respondents*)

Present:

Mr. Malik Muhammad Ashfaq, 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 NO.51 DATED 28.03.2017  
RELATED TO THE DISMISSAL OF APPELLANT  
FROM SERVICE**

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**JUDGMENT**

**KALIM ARSHAD KHAN CHAIRMAN:** Appellant's case in brief is that he was serving as Constable; that vide impugned order dated 28.03.2017, he

