

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

BEFORE: RASHIDA BANO ... MEMBER (J)
MUHAMMAD AKBAR KHAN ... MEMBER (E)

Service Appeal No. 16/2019

Date of presentation of Appeal.....03.01.2019
Date of Hearing.....24.06.2024
Date of Decision.....24.06.2024

Zar Ali S/o Noor Sahib FC No. 616 R/o Surizai Bala Tehsil & District
Peshawar.....(Appellant)

VERSUS

1. Inspector General of Police Khyber Pakhtunkwha IG office Peshawar.
2. CCPO Peshawar.
3. SP Head Quarters.
4. ASP Rural Hayatabad inquiry office.
5. Habibullah Khan ASP Hashtanagri Peshawar.
6. SDPO Hayatabad Peshawar.....(Respondents)

ARBAB SAIFUL KAMAL,
Advocate

For appellant.

MUHAMAMD JAN,
District Attorney

For respondents

JUDGMENT

MUHAMMAD AKBAR KHAN, MEMBER (E):-The instant service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as under;

"That on acceptance of instant appeal, the appellant ay very graciously be reinstated in service his dismissal with full back benefits. Any other relief not specifically asked for may also graciously be extended in favour of the appellant in the circumstances of the case."

02. Brief facts of the case are that the appellant while serving as Constable in Police Department, was proceeded against on the charges of absence/registration of two FIR No. 54 dated 02.02.2017 U/s 302/324/34-PPC PS East Cantt and FIR No. 846 dated 12.08.2017 U/s 302/324/34 PPC PS Badhber against him and was dismissed from service vide impugned order dated 04.01.2017. Feeling aggrieved from the impugned order dated 04.01.2017, the appellant filed departmental appeal which was dismissed/rejected being time barred vide order dated 18.12.2018, hence preferred the instant service appeal on 03.01.2019

03. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions raised by the appellant in his appeal. We have heard arguments of learned counsel for the appellant, learned District Attorney for the respondents and have gone through the record with their valuable assistance.

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

05. Perusal of record reveals that the appellant was dismissed from service vide impugned order dated 04.01.2017 issued by Superintendent of Police Headquarters, Peshawar against which he filed departmental appeal to the Capital City Police Officer, Peshawar after delay of 01 year and 08 months.

06. The departmental appeal of the appellant is badly time barred. The settled proposition of law dictates that when an appeal of a civil servant is

time barred before the appellate authority, then the appeal before the service Tribunal is also not maintainable. Reliance is placed on PLD 1990 Supreme Court 951, 2006 SCMR 453 and 2007 SCMR 513. This Tribunal can take merits of the case into consideration only when the appeal is within time. 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 then its merits need not to be discussed.

07. In view of foregoing findings, the instant service appeal being badly time barred is not maintainable hence stands dismissed. Costs shall follow the event. Consign.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of June, 2024.*



(RASHIDA BANO)
MEMBER (J)




(MUHAMMAD AKBAR KHAN)
MEMBER (E)

ORDER

- 24th June, 2024
1. Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.
 2. Vide our detailed judgment of today, separately placed on file, the instant service appeal being badly time barred is not maintainable hence stands dismissed. Costs shall follow the event. Consign.
 3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 24th day of June, 2024.*


(RASHIDA BANO)
MEMBER (J)


(MUHAMMAD AKBAR KHAN)
MEMBER (E)