


3. The copies of the documents annexed with the appeal would show that vide order of the Deputy Commissioner, Abbottabad, dated 25.11.2023, the services of the appellant were withdrawn from the Settlement Office but the said order has not been challenged by the appellant before the departmental authority. He has impugned the seniority list of the Patwaries as it stood on 31.12.2022 issued by the respondents on 27.02.2023, whereby his name has been included at serial No. 08. But the copy of his departmental appeal available on the file shows that he has preferred his departmental appeal in this regard on 12.09.2023, whereas as under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, he was required to approach the competent authority for redressal of his grievance within 30 days. So his departmental appeal is badly time barred. The august Supreme Court of Pakistan in its judgments reported as 2007 SCMR 513, 2006 SCMR 453 and PLD 1990 S.C 951 has held that when an appeal of an employee was time barred before the appellate Authority, then the appeal before the Tribunal was not competent. 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, its merits need not to be discussed.

4. Consequently, it is held that as the departmental appeal of the appellant was barred by time, therefore, the appeal in hand stands dismissed in *limine* being not competent. File be consigned to the record room.

5. *Pronounced in open Court at Camp Court, Abbottabad and given under my hand and the seal of the Tribunal on this 27 day of June, 2024.*

ANNOUNCED
27.06.2024


(Aurangzeb Khattak)
Member (Judicial)
Camp Court, Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR, AT CAMP COURT ABBOTTABAD

Service Appeal No. 99/2024

Date of Institution17.01.2023

Syed Asad Ali Shah Girdwar Revenue, at Circle Bagan District Abbottabad.

VERSUS

Government of Khyber Pakhtunkhwa through SMBR, Khyber Pakhtunkhwa,
Peshawar and 04 others.

ORDER

27th June, 2024

Mr. Muhammad Arshad Khan Tanoli, Advocate for the appellant present.

Preliminary arguments heard and case filed perused.

2. Brief facts of the case as per contents of this appeal are that the appellant was serving as Patwari (BPS-09) in the Revenue Department and vide order dated 24.03.2016 issued by the Settlement Officer, Abbottabad, he was appointed as Settlement Field Kanungo (BPS-11) purely on temporary/contract basis and there-after vide order dated 25.11.2021 issued by the Deputy Commissioner, Abbottabad, his services were withdrawn from the Settlement Office with the direction to him to report to his parent office as Patwari. The grievances of the appellant are that instated of placing his name in the seniority list of Girdawars, his name has wrongly been added at serial No. 08 of the seniority list of the Patwaries as it stood on 31.12.2022 issued by the respondents on 27.02.2023. The appellant filed his departmental appeal on 12.09.2023 which was not responded within the statutory period of 90 days, hence he filed the instant service appeal on 09.01.2024. He has prayed for deletion of his name from the seniority list of the Patwaries and inclusion of his name in the seniority list of Girdawars and has also prayed for the withdrawal of the repatriation order dated 25.11.2021 vide which he was repatriated to his parent department as Patwari.