

Service Appeal No.1207/2020 titled "Wahid Ullah Vs. Police
Department"

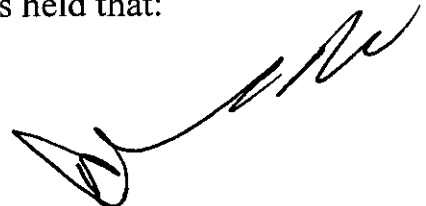
ORDER
29th July. 2024

Kalim Arshad Khan, Chairman: Learned counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present.

2. Brief facts of the case, as per averments of the appeal, are that the appellant was serving as Constable in the Elite Force; that during service, he was selected for the Basic Elite Course-VII; that during the said period, due to illness, he remained unable to attend the duties; that vide impugned order dated 20.11.2012, the appellant was removed from service on the ground of absence; that feeling aggrieved, he filed departmental appeal but the same was rejected vide order dated 27.01.2020, hence, the instant appeal.

3. Arguments heard. Record perused.

4. Perusal of record shows that the appellant was dismissed from service vide order dated 20.11.2012 while he filed departmental appeal (undated) however, the same has been rejected by the respondents vide order dated 27.01.2020, holding the same to be barred by 07 years, 02 months and 07 days. Therefore, the appeal in hand is not competent in view of the judgment of the Supreme Court of Pakistan in 2007 SCMR 513 titled "Muhammad Aslam Vs. WAPDA and others", wherein, the Apex Court has held that:



“If departmental appeal was not filed within the statutory period, appeal before Service Tribunal would not be competent. Civil Servant was non-suited for non-filing of appeal within time, therefore, Supreme Court declined to interfere with the judgment passed by Service Tribunal. Leave to appeal was refused.”

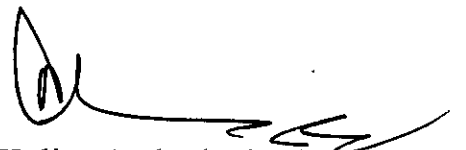
5. Besides, it is engrained legal proposition that when an appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled “Anwarul Haq v. Federation of Pakistan” reported in 1995 SCMR 1505, “Chairman, PIAC v. Nasim Malik” reported in PLD 1990 SC 951 and “State Bank of Pakistan v. Khyber Zaman & others” reported in 2004 SCMR 1426

6. In view of the above, instant service appeal, being barred by time, is dismissed with costs. Consign.

7. *Pronounced in open Court at Peshawar given under our hands and seal of the Tribunal on this 29th day of July, 2024.*



(Rashida Bano)
Member (J)



(Kalim Arshad Khan)
Chairman

**Mutazem Shah **