

ORDER

05.06.20241

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, learned Deputy District Attorney alongwith Mr. Zafarullah A.D, for respondents present.

2. For what has been discussed above, it is held that the departmental appeal of the appellant is barred by time, hence the instant service appeal is dismissed being not maintainable. Costs shall follow the event. Consign.

3. *Pronounced in camp court at Swat and given our hands and seal of this Tribunal on the 5th day of June, 2024.*


(MUHAMMAD AKBAR KHAN)

Member (E)
Camp Court Swat



(RASHIDA BANO)


Member (J)
Camp Court Swat

9. It is well settled that law favours the diligent and not the indolent. The appellant remained indolent and did not agitate the matter before the departmental authority and the Service Tribunal within the period prescribed under the relevant law. This Tribunal can enter into merits of the case only, when the appeal is within time. 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.

10. For what has been discussed above, it is held that the departmental appeal of the appellant is barred by time, hence the instant service appeal is dismissed being not maintainable. Costs shall follow the event. Consign.

11. Pronounced in camp court at Swat and given our hands and seal of the Tribunal on this 5th day of June, 2024.


(MUHAMMAD AKBAR KHAN)
Member (E)
Camp Court Swat


(RASHIDA BANO)
Member (J)
Camp Court Swat

was posted as Incharge PRC Darosh Chitral , when he was served with charge sheet and statement of allegation on 07.02.2020, with the allegations that

“The DFC chitral DFC Chitral reported vide letter No.903/Nizam S/K dated 28.03.2017, that during handing/taken over the charge of PRC Drosh between Nizamul Mulk Junior Clerk and Manzoor Alam Foodgrain Inspector, a quantity of 951 bags 107,819 tons wheat valuing Rs.360,0169/- has been short detected against him (out going Incharge PRC Drosh). An undertaken has also been given by him to DFC Chitral to deposit the cost of wheat bags shor detected and to be deposited in Government Treasury within short possible time.”

7. Inquiry committee was constituted which submit their report on 06.01.2017 after which final show cause notice was issued to appelland and after providing opportunity of personal hearing, appelland was removed from service vide impugned order dated 26.07.2017. Appelland under the rules Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 was required to challenge the impugned order within 30 days of passing, but appelland filed departmental appeal on 11.02.2020 almost after lapse of 3 year which is badly barred by time.

8. Departmental appeal was dismissed on the ground of limitation. August Supreme Court of Pakistan in its judgment reported as 2011 SCMR 08 has held that question of limitation cannot be considered a technicality simpliciter as it has bearing on merit of the case.



benefits. Any other remedy which this august Tribunal deems just and proper in the circumstances of the case may also granted to the appellant.

2. Brief facts of the case are that appellant was initially appointed as Junior Clerk (BPS-7) in Food Department Chitral vide order dated 27.09.2008 and was performing his duty with zeal and zest. The appellant while posted as In-charge PRC Darosh, departmental proceedings were initiated by issuing charge sheet alongwith statement of allegation followed by final show cause notice. Thereafter he was removed from service vide impugned order dated 26.07.2017. After clearance from the alleged liabilities on the basis of which he was removed from service, he filed departmental appeal, which was rejected vide order dated 14.02.2020, hence the instant service appeal.

3. 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.

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

5. 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).

6. Perusal of record reveals that appellant was appointed as Junior Clerk (BPS-07) in respondent/department vide order dated 27.09.2008, who after his appointment performed his duties with full devotion and fairly. Appellant



KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT SWAT

Service Appeal No: 5773/2020

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

**Mr. Nizam Ul Mulk S/o Sher Haider-ul-Mulk, R/o Darkhanan Deh
Tehsil Drosh, District Chitral.**

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. Secretary Food, Government of Khyber Pakhtunkhwa at Civil Secretariat, Peshawar.
3. Director Food, Khyber Pakhtunkhwa, Peshawar.
4. District Food Controller, Chitral (lower).

.... (Respondents)

Mr. Syed Ghufan Ullah Shah
Advocate ... For appellant

Mr. Asif Masood Ali Shah
Deputy District Attorney ... For respondents

Date of Institution..... 16.03.2020
Date of Hearing..... 05.06.2024
Date of Decision.....05.06.2024

JUDGMENT

RASHIDABANO, MEMBER (J): The instant service appeals have been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:.

“On acceptance of instant appeal, the impugned order dated 26.07.2017; issued by Director Food KPK/Respondent No.3 be set

aside and the appellant be reinstated in service with all back

