

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, AT CAMP
COURT SWAT**

SERVICE APPEAL NO.7448/2021

**BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MRS. RASHIDA BANO ... MEMBER (J)**

**Mr. Iqbal Alam (No.2688), S/o Suleman R/o Muhalla Dawlatkhel, Amankot,
Tehsil Babozai, District Swat.**

.... (Appellant)

VERSUS

1. The Provincial Police Officer (I.G), Khyber Pakhtunkhwa, at Peshawar.
2. The Additional Inspector General of Police, Headquarters, Khyber Pakhtunkhwa, Peshawar.
3. The Regional Police Officer Chief Malakand at Saidu Sharif, District Swat.
4. The District Police Office Swat at Gulkada, Saidu Sharif, District Swat.

.... (Respondents)

Mr. Sher Shah Khan
Advocate ... For appellant

Mr. Muhammad Jan
District Attorney ... For respondents

Date of Institution.....06.09.2021
Date of Hearing.....04.09.2024
Date of Decision.....04.09.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant appeal instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“On acceptance of this appeal, the impugned orders mentioned above, may kindly be declared illegal, unlawful, null and void, by setting aside the same, and the appellant may kindly be re-instated with all back benefits. Any other remedy, which is just, appropriate and efficacious may also



be granted in favor of appellant, though not specifically prayed for.”

2. Brief facts of the case are that the appellant was appointed as Police Constable on 01.01.2011. While performing his duties at Police Lines, Kabal, District Swat, he was alleged for gross mis-conduct of absence as narrated in D.D No.15 dated 03.07.2019. The appellant moved an application for leave due to domestic issue, which was not accepted by the respondents. Appellant got mentally distracted and carried on treatment since 21.05.2019. The proceedings of inquiry against the appellant were conducted and charge sheet was issued to the appellant and later on, appellant was removed from service as a result of mis-conduct. He filed departmental appeal, which was rejected vide orders dated 08.05.2020 and 08.06.2021, 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 appellant and learned 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 District Attorney controverted the same by supporting the impugned order(s).
6. Perusal of record reveals that the appellant was appointed as Police Constable on 01.01.2011, while performing his duties at Police Lines, Kabal, District Swat, he was alleged for gross mis-conduct of absence as narrated in



DD No.15 dated 03.07.2019. The appellant moved an application for leave due to domestic issue, which was not accepted by the respondents. Appellant got mentally distracted and carried on treatment since 21.05.2019. The proceedings of inquiry against the appellant were conducted and charge sheet was issued to the appellant, he was served with charge sheet and statement of allegations on 15.07.2019, with the allegations that?

“It has been reported vide DD No.15 dated 03.07.2019 of Police Lines Kabal, that you are a drug addict and do not take interest in your job. You are also a habitual absentee and violate discipline. Your this act is against discipline which warrants strict departmental action. You are therefore, issued this charge sheet and statement of allegations.”

7. The Authority appointed the SDPO City Circle as Inquiry Officer by issuing charge sheet and statement of allegations to the appellant. Inquiry officer conducted inquiry in accordance with rules and provided chance of personal hearing to the appellant, submitted his report and recommended major punishment of dismissal from service. Thereafter the appellant was removed from service vide authority vide impugned order dated 11.09.2019.

8. Appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 was required to challenge the impugned order dated 11.09.2019 within 30 days of its passing, but he filed departmental appeal on 03.02.2020 almost after lapse of 5 months and 8 days, which is badly barred by time.

9. Departmental appeal of the appellant was decided vide order dated 08.05.2020 against which appellant preferred revision petition under 11-A KPK Police Rules, 1975 amended in 2014 which too was rejected vide order



dated 08.06.2021. Under Section 4 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974, appellant was required to challenge the appellate order by way of filing service appeal within 30 days of its passing by the appellate authority, but appellant filed instant service appeal on 06.09.2021, which is also barred by time. 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.

10. It is well settled that law favors the diligent and not the indolent. The appellant remained indolent and did not agitate the matter 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.

11. For what has been discussed above, as the departmental appeal of the appellant is barred by time, hence, the instant service appeal is dismissed. Costs shall follow the event. Consign.

12. Pronounced in camp court at Swat and given under our hands and seal of the Tribunal on this 4th day of September, 2024.



(KALIM ARSHAD KHAN)
CHAIRMAN
Camp Court Swat




(RASHIDA BANO)
MEMBER (J)
Camp Court Swat

04.09.2024 1. Learned counsel for the appellant present. Mr. Muhammad Jan learned District Attorney for the respondents present.

2. Vide our detailed of today placed on file, as the departmental appeal of the appellant is barred by time, hence, the instant service appeal is dismissed. Costs shall follow the event. Consign.

3. *Pronounced in camp court at Swat and given under our hands and seal of the Tribunal on this 4th day of September, 2024.*


(KALIM ARSHAD KHAN)
CHAIRMAN
Camp Court Swat


(RASHIDA BANO)
MEMBER (J)
Camp Court Swat