

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
 MISS FAREEHA PAUL ... MEMBER(E)

Service Appeal No. 7261/2021

Muhammad Zafran, Post Office Jabari Village Budhar District Haripur.
(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male), District Haripur.
 (Respondents)

Mr. Muhammad Arshad Khan Tanoli,
 Advocate ... For appellant

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

Date of Institution.....08.06.2021

Date of Hearing.....24.09.2024

Date of Decision..... 24.09.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that on acceptance of the appeal, the impugned withdrawal order dated 21.05.2018 might be set aside and the respondents be directed to reinstate the appellant into service from the date of appointment i.e. 13.10.2017 with all service back benefits and service period of the

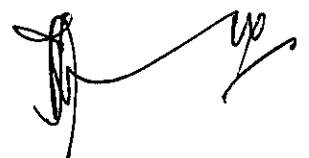


appellant w.e.f. the date of promulgation of K.P Sacked Employees Appointment Act 2012 might also be counted towards pension.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as PST against leave vacancy post vide order dated 17.05.1995. Thereafter, his services were terminated on 13.02.1997. The Government of Khyber Pakhtunkhwa announced Sacked Employees Appointment Act 2012, wherein those employees who were appointed w.e.f. 01.11.1993 to 03.11.1996 and terminated w.e.f. 01.11.1996 to 31.12.1998 were to be reinstated into service against 30% vacant posts. The appellant applied for appointment for the post of PST under the said Act vide application dated 12.10.2012. He was appointed as PST against the vacant post in GPS Budhar vide appointment order dated 13.10.2017. After a period of one month, his appointment order was held in abeyance vide order dated 29.11.2017 by respondent No. 3 and subsequently withdrawn on 21.05.2018. Feeling aggrieved, the appellant filed departmental appeal, which was not responded; hence the instant service appeal.

3. Respondents were put on notice who submitted written reply/comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.


4. Against the impugned order dated 21.05.2018, departmental appeal was preferred by the appellant on 20.06.2018 and the service appeal was preferred on 08.06.2021. When confronted on filing the service appeal at an extremely belated stage i.e after lapse of more than 03 years, learned counsel




for the appellant referred to an order of august Supreme Court of Pakistan dated 05.09.2018 and stated that based on that judgment a departmental appeal was preferred by the appellant on 15.01.2021 and as a consequence to that, the instant service appeal was preferred. Even if we consider the departmental appeal as 15.01.2021, the service appeal dated 08.06.2021 was barred by time. While seeking guidance from the judgments reported as 2006-SCMR-453 and 2012-SCMR-195, the appeal in hand can safely be termed as incompetent due to enormous delay in submission of departmental appeal/representation.

5. In view of the above discussion, the appeal in hand is dismissed being hopelessly time-barred. Cost shall follow the event. Consign.

6. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24th day of September, 2024.*


(FARIEHA PAUL)
Member (E)
(Camp Court, A/Abad)


(KALIM ARSHAD KHAN)
Chairman
(Camp Court, A/Abad)


SA 7261/2021

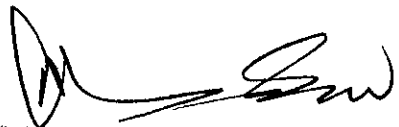
24.09 2024

01. Mr. Muhammad Arshad Khan Tanoli, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 03 pages, the appeal in hand is dismissed being hopelessly time-barred. Cost shall follow the event. Consign.

03. *Pronounced in open court at Camp Court, Abbottabad and given under our hands and seal of the Tribunal on this 24th day of September, 2024.*


(FAREEHA PAUL)
Member (E)
Camp Court, A/Abad


(KALIM ARSHAD KHAN)
Chairman
Camp Court, A/Abad

Fazle Subhan PS