

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 833/2024

Date of institution 29.05.2024

Mubarak Shah, Ex-Constable Belt No. 08, Resident of Mohallah Essa Zai,
Sarband, Teshil & District Peshawar.

VERSUS

Inspector General of Police, Khyber Pakhtunkhwa and 02 others.

ORDER

07.10.2024

Syed Salman Zahid, Advocate for the appellant present. Preliminary arguments heard and available record perused.

2. The present appeal arises from the impugned order dated 14.12.2016, pursuant to which the appellant was dismissed from service as Constable in the Police Department on grounds of absence from duty without permission or leave. The appellant subsequently filed a departmental appeal (copy of which is not available on the file), however the same was rejected on 23.11.2018 on the grounds of being time barred by a period of 01 year and 09 months. Following the rejection of the departmental appeal, the appellant did not pursue further action or seek redress in a timely manner, leading to a significant lapse of time. It was only on 14.02.2023 that the appellant filed an application/mercy petition regarding the dismissal, which met the same fate and was rejected on 07.05.2024. The appellant has the onus to substantiate any claim of sufficient cause for the late filing of the departmental appeal as well as his mercy petition. The nature of the delay, spanning several years, from the dismissal in December 2016 to 29.05.2024, is an extraordinary period which raises questions about the diligence of the appellant in challenging the impugned order. Copy of the FIR No. 760 dated


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08.07.2016 under sections 302/324/427/148/149 PPC of the PS Sarband, Peshawar annexed with the appeal shows that the appellant was nominated in the said case and vide order dated 31.01.2023 he alongwith others acquitted under section 265-K Cr.PC by the court of Additional Sessions Judge-XV, Peshawar. The said order also reveals that the appellant was on bail during trial of the case. The appellant failed to provide satisfactory explanations for the delay. The law mandates that a party must explain each day's delay in a case of this magnitude and the failure to produce credible reasons for the delay will necessitate the dismissal of the appeal. In light of the facts and the legal standards governing appeals in matters of civil servant dismissal, the appeal is hopelessly time barred. The appellant's inaction and failure to provide reasonable justification for the delay diminishes any legal standing to contest the earlier dismissal.

3. In view of the above discussion, the appeal in hand stands dismissed in *limine* being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

07.10.2024


(AURANGZEB KHATTAK)
MEMBER (JUDICIAL)

07/10
2024