

Service Appeal No.3427/2021 titled "Sajjad Ahmad Vs. Police Department"

ORDER

2nd Oct. 2024

Kalim Arshad Khan, Chairman: Learned counsel for the appellant present.

2. Appellant's case in brief, as per averments of appeal, is that he was serving as ASI in the Police Department; that he was booked in FIR No.419 dated 16.12.2015 and on the basis of the said FIR, departmental proceedings were initiated which resulted into his dismissal from service vide order dated 20.12.2016; that against the said order, he filed departmental appeal, vide which, the authority converted the penalty of dismissal from service into minor penalty of withholding of three annual increments with accumulative effect by treating the intervening period as leave without pay, vide order dated 03.02.2017; that feeling aggrieved of the order dated 03.02.2017, he filed Mercy on 16.02.2021, but the same was rejected vide order dated 22.12.2020, hence, the instant service appeal.

3. Arguments heard. Record perused.

4. In the present case, the appellant, who served as an Assistant Sub-Inspector (ASI) in the Police Department, contends that he was dismissed from service following his involvement in FIR No. 419 dated December 16, 2015. The dismissal, enacted on December 20, 2016, prompted the appellant to file a departmental appeal. This appeal resulted in a modification of the dismissal to a lesser penalty of withholding three annual increments, with the intervening period classified as leave without pay, as per the order dated February 3,

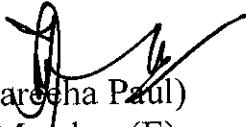
2017. Dissatisfied with this decision, the appellant submitted a Mercy petition on February 16, 2021, which was ultimately rejected on December 22, 2020. Consequently, he has initiated the current service appeal to contest the actions taken against him.

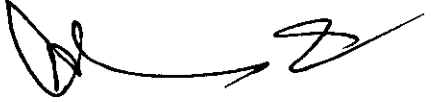
5. The appellant has not filed any departmental appeal against the order dated 03.02.2017 and only filed a mercy petition, and that too, even if we consider that as appellate order, is time barred as he has filed the instant service appeal after 69 days after rejection order dated 22.12.2020, in view of Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The same is reproduced as under:

“4. Appeal to Tribunals.--- Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him [or within six months of the establishment of the appropriate Tribunal, whichever is later,] prefer an appeal of the Tribunal having jurisdiction in the matter.”

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 and given under our hands and seal of the Tribunal on this 2nd day of October, 2024.*


(Fardaha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman