

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 979/2024

BEFORE: MISS FAREEHA PAUL ... MEMBER (E)

Mr. Muhammad Imran S/O Khan Afzal, R/O Mohallah Baral Khel,
Yaqoobi Tehsil Razzar District Swabi. (Appellant)

Versus


1. Government of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar.
2. Commandant Frontier Reserve Police, Khyber Pakhtunkhwa Police Lines, Peshawar.
3. Superintendent of Police, Frontier Reserve Police Peshawar Range, Police Lines, Peshawar.(Respondents)

Mr. Amin-ur-Rehman, ... For appellant.
Advocate

Date of Institution.....	09.07.2024
Date of Hearing.....	14.10.2024
Date of Decision.....	14.10.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Instant appeal has been filed under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 17.09.2020 of respondent No. 4 vide which major penalty of dismissal from service was imposed upon the appellant; against the order dated 06.03.2024 of respondent No. 3 vide which his departmental appeal was turned down; and against the order dated 27.03.2024 of respondent No. 2, whereby his revision petition was rejected. It has been prayed that on acceptance of the appeal, the impugned orders might be set aside and the respondent department might be directed to reinstate the appellant in service with all consequential benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was enlisted as Constable vide order dated 30.10.2009 in the Frontier Reserve Police, Peshawar. He was diagnosed with substance abuse and generalized anxiety disorder due to drug addiction and psychiatric problem and was admitted in New Life Rehab Centre, Islamabad on 14.03.2020 and was discharged on 14.06.2020 in view of his satisfactory general physical condition. He remained outpatient from July 2020 till 10.01.2024 for about four years. His father approached the respondent department to get release his salary and to inform them regarding hospitalization of the appellant but instead of doing the needful, they issued order of inquiry dated 22.04.2020 under rule 5(4) of the Khyber Pakhtunkhwa Police Rules, 1975. Respondent No. 3, without issuing charge & statement of allegations to the appellant and without conducting regular inquiry and providing him the opportunity of personal hearing, dismissed him from service vide order dated 17.09.2020. Feeling aggrieved, he filed departmental appeal which was rejected on 06.03.2024. He then approached respondent No. 1 through Revision Petition dated 12.03.2024, which was rejected on 27.03.2024, communicated to the appellant on 05.07.2024; hence the instant service appeal.

3. Preliminary arguments heard and the case file alongwith connected documents perused in detail.

4. The appellant was proceeded against departmentally on the charge of absence from lawful duty w.e.f. 09.01.2020 to 24.03.2020 and from 24.03.2020 to 17.09.2020, the date on which the impugned order of



dismissal from service was issued. Against that order of dismissal from service, the departmental appeal, attached at page -18 of the service appeal, contained no date. When asked, learned counsel for the appellant stated that it was somewhere in 2024 that he submitted that departmental appeal. As the departmental appeal was submitted at a much belated stage against the impugned order passed in 2020, learned counsel was further asked to produce any condonation of delay application attached with that appeal but he frankly admitted that there was no such application for condonation of delay. When further asked to produce any documentary evidence that the appellant submitted any application to his competent authority to seek leave, learned counsel stated that no such application was submitted by him. The departmental appeal was rejected by the competent authority vide an order dated 06.03.2024 on the ground of being badly time barred and meritless. Record further showed that the revision petition was also rejected vide a letter dated 27.03.2024 after which the appellant had to prefer service appeal within thirty days but the same was done after a delay of more than three months. When the departmental appeal was barred by time, the service appeal before the Tribunal was not maintainable. Reliance is placed on the ruling set forth in 2007-SCMR-513, 2006-SCMR-453 and 2012-SCMR-195 which reinforce the principle that merit of a time barred appeal may not be considered. Reference is also made to the judgment cited as 1997-SCMR-92, wherein it has been stated that where an appeal is to be dismissed solely based on its limitation, a detailed discussion of its merits is not necessary.



7. In view of the foregoing, the appeal in hand is dismissed in *limine*, on the ground of limitation as not only the departmental appeal was badly time barred, the service appeal was also time barred. Consign.

8. ***Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal this 14th day of October, 2024.***


(Fatecha Parul)
Member(E)

Fazle Subhan, P.S

SA 979/2024

- 14.10.2024 01. Mr. Aminur Rehman, Advocate for the appellant present.
Preliminary arguments heard and record perused.
02. Vide my detailed judgment consisting of 04 pages, the
appeal in hand is dismissed in *limine*, on the ground of limitation as
not only the departmental appeal was badly time barred, the service
appeal was also time barred. Consign.
03. *Pronounced in open court at Peshawar and given under my
hand and seal of the Tribunal this 14th day of October, 2024.*


(FARĒEHA PAUL)
Member (E)

Fazle Subhan PS