

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR.**

BEFORE: **AURANGZEB KHATTAK** ... MEMBER (Judicial)  
**FAREEHA PAUL** ... MEMBER (Executive)

**Service Appeal No. 31/2023**

Date of presentation of Appeal.....04.01.2023

Date of Hearing.....30.10.2024

Date of Decision.....30.10.2024

**Mufariq Shah**, Constable No. 1007 District Police Office Kohat.  
.....*Appellant*

Versus

1. Inspector General of Police Khyber Pakhtunkhwa at Peshawar.
2. Regional Police Officer Kohat Region Kohat.
3. District Police Officer Kohat.

.....(*Respondents*)

Present:

Miss. Naila Jan, Advocate .....For appellant

Mr. Naseer-ud-Din Shah, Assistant Advocate General .....For respondents

**JUDGMENT**

**AURANGZEB KHATTAK, MEMBER (JUDICIAL)**: The facts of the case are that the appellant was appointed as a Police Constable in 1994 in District Police Kohat. Disciplinary proceedings were initiated against him on the allegation that he, or his spouse, was unlawfully receiving cash grants from the Benazir Income Support Program (BISP), thereby deceiving the government, as neither he nor his spouse was eligible for such benefits. On conclusion of the disciplinary proceedings, the appellant was imposed major penalty of a two-stage reduction in pay, as outlined in the impugned order dated 04.05.2020. Feeling aggrieved, the appellant filed a departmental appeal on 06.09.2021, which was subsequently rejected vide impugned order dated 06.10.2021. The appellant then filed a

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revision petition on 21.10.2021, which was also rejected vide impugned order dated 30.11.2021. The appellant has now approached this Tribunal by filing the present appeal for redressal of his grievance.

2. The respondents were summoned, who contested the appeal by way of filing their respective written reply/comments.

3. The learned counsel for the appellant contended that penalties were imposed upon the appellant without a formal inquiry or an opportunity for a personal hearing, in violation of the principles of natural justice as established under law and precedent (e.g., 2022 SCMR 745). She further argued that the appellant was subject to discriminatory treatment compared to others facing similar allegations, thus violating constitutional protections under Articles 4 and 25 of the Constitution of Pakistan. She further contended that no charge sheet was issued, nor was the appellant given an opportunity for cross-examination, contrary to procedural rules and the right to a fair trial under Article 10A of the Constitution. In the last, she requested that the impugned orders may be set aside and that the present appeal may be accepted as prayed for.

4. On the other hand, the learned Assistant Advocate General for the respondents contended that the appellant or his spouse inappropriately benefited from BISP, constituting gross misconduct. He next contended that a proper procedure was followed with an inquiry officer conducting a fair inquiry. He further contended that all procedural requirements were met, such as issuing a charge sheet and conducting an inquiry. He also contended that the departmental appeal as well as revision petitions of the

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appellant were rejected as time-barred by departmental authorities, referencing rulings that support dismissing late appeals (e.g., 2017 SCMR 965). He next argued that there were no similarities between the appellant's case and others, justifying difference in penalties. In the last, he argued that the appeal in hand being meritless as well as being time barred may be dismissed with cost.

5. We have heard the arguments of learned counsel for the parties and have perused the record.


6. The record shows that the appellant, has been serving as a Constable in District Police Kohat and he faced disciplinary action for allegedly receiving, or enabling his spouse to receive, ineligible cash grants from the Benazir Income Support Program (BISP). Following an inquiry, he was penalized with a two-stage pay reduction on May 4, 2020. The appellant challenged this order after one year & four months through a departmental appeal filed on September 6, 2021, which was significantly delayed beyond the permissible timeframe and was subsequently rejected on October 6, 2021, for lacking merit and being time-barred. The appellant then submitted a petition to the Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, which was also rejected vide impugned order dated November 30, 2021. The appellant filed the present appeal before this Tribunal on January 4, 2023, which is also badly time-barred. The appellant displayed considerable indolence in pursuing timely legal recourse and disregarded statutory limitations. Although he was required to justify the delay on a day-by-day basis in his application for condonation of delay, no substantial cause was provided to explain the prolonged


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inactivity. We underscore the principle that the law favors those who act diligently. In line with the Supreme Court of Pakistan's precedent, as elucidated in 1987 SCMR 92, appeals dismissed on grounds of limitation do not warrant an examination of their merits, emphasizing the necessity of adhering to procedural timelines in legal proceedings.

7. In view of the above discussion, the appeal in hand stands dismissed as time-barred. However, in accordance with Rule 29 of the Fundamental Rules, it is noted that the impugned order dated 04.05.2020 imposing penalty of reduction of pay by two-stage does not specify the duration for which this penalty shall remain effective. Therefore, we modify the impugned order dated 05.04.2020, stipulating that the reduction in pay by two stages shall remain effective for a period of five years Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30<sup>th</sup> day of October, 2024.*



  
AURANGZEB KHATTAK  
Member (Judicial)

  
FAREEHA PAUL  
Member (Executive)

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

Service Appeal No. 31 of 2023

Mufariq Shah versus Inspector General of Police Khyber Pakhtunkhwa at Peshawar and 02 others.

S.No. of Order & Date of proceeding	<b>Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary</b>
<u>Order-14</u> 30 <sup>th</sup> October, 2024.	<p>Present:</p> <ol style="list-style-type: none"><li>1. Appellant alongwith Miss. Naila Jan, Advocate.</li><li>2. Mr. Naseer-ud-Din Shah, Assistant Advocate General on behalf of respondents.</li></ol> <p>Arguments heard and record perused.</p> <p>Vide our judgment of today placed on file, the appeal in hand stands dismissed as time-barred. However, in accordance with Rule 29 of the Fundamental Rules, it is noted that the impugned order dated 04.05.2020 imposing penalty of reduction of pay by two-stage does not specify the duration for which this penalty shall remain effective. Therefore, we modify the impugned order dated 05.04.2020, stipulating that the reduction in pay by two stages shall remain effective for a period of five years Parties are left to bear their own costs. File be consigned to the record room.</p> <p><i>Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 30<sup>th</sup> day of October, 2024.</i></p> <p style="text-align: center;"> (Fareeha Paul) Member (Executive)</p> <p style="text-align: center;"> (Aurangzeb Khattak) 30/10/2024 Member (Judicial)</p>

09<sup>th</sup> Sept, 2024

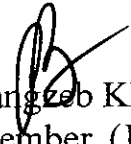
Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned Assistant Advocate General stated that similar nature matter is fixed for arguments on 19/09/2024, therefore, the appeal in hand may also be fixed on the said date. Adjourned. To come up for arguments on 19/09/2024 before the D.B. Parcha Peshi given to the parties.

SCANNED  
17/09/24  
PESHAWAR



(Fareeha Paul)  
Member (Executive)



(Aurangzeb Khattak)  
Member (Judicial)

\*Naeem Amin\*

19.09.2024 1. Junior to counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Junior to counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is busy before the Hon'ble Peshawar High Court, Peshawar. Last chance is given. To come up for arguments on 30.10.2024 before D.B. P.P given to the parties.

SCANNED  
17/09/24  
PESHAWAR



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman

**MEMO OF COSTS**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**

**Service Appeal No. 31/2023**  
Date of presentation of Appeal 04.01.2023  
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**Mufariq Shah**, Constable No. 1007 District Police Office Kohat.  
.....*Appellant*

Versus

1. Inspector General of Police Khyber Pakhtunkhwa at Peshawar.
  2. Regional Police Officer Kohat Region Kohat.
  3. District Police Officer Kohat.
- .....(*Respondents*)

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SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04.05.2020 OF RESPONDENT NO. 3 WHEREBY MAJOR PUNISHMENT OF REDUCTION OF PAY BY TWO STAGES UPON THE APPELLANT WAS IMPOSED AND ORDER OF RESPONDENT NO. 2 DATED 05.10.2021 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND ORDER DATED 30.11.2021 WHEREBY REVISION PETITION OF THE APPELLANT WAS REJECTED BY RESPONDENT NO. 1 IN A CURSORY MANNER THROUGH A NON-SPEAKING ORDER IN UTTER VIOLATION OF POLICE RULES 1975.

**PRESENT**


1. Miss. Naila Jan, Advocate .....For appellant
2. Mr. Naseer-ud-Din Shah, Assistant Advocate General .....For respondents

<b>Appellants</b>	<b>Amount</b>	<b>Respondent</b>	<b>Amount</b>
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs.100/-	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
<b>Total</b>	<b>Rs. 100/-</b>	<b>Total</b>	<b>Rs. Nil</b>

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 30<sup>th</sup> day of October 2024.

  
**Faizeha Paul**  
Member (Executive)

  
**Aurangzeb Khattak**  
Member (Judicial) 30.10.2024.