

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Munib Akhtar
Mr. Justice Shahid Waheed

C.P.L.A.No.1593-L of 2020

(Against the order dated 01.09.2020
passed by the Punjab Service Tribunal,
Lahore in Appeal No.2313 of 2020)

Ali Raza ... Petitioner

VERSUS

Regional Police Officer &
another ... Respondents

For the Petitioner : Mr. Aftab Alam Yasir, ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondents : Mr. Baleegh-uz-Zaman Ch., Addl. A.G.,
Punjab alongwith Nasrullah Khan, DSP

Date of Hearing : 14.03.2024

ORDER

Shahid Waheed, J. A question which has often been put forward to mislead the courts has again come up through this petition for leave to appeal under Article 212(3) of the Constitution. This question is simple and does not require detailed deliberations; therefore, we will be brief in our opinion.

2. The question which comes to our determination, is whether, when the period for filing a departmental appeal is not provided in the efficiency and discipline rules for the employees of the Punjab Police, can it then be dismissed on the ground of time-lapse? To answer this, it is necessary to mention a few events with their dates. The petitioner was working as a constable in the police department when on 10th of January, 2019, disciplinary proceedings were initiated against him on the charge of

inefficiency and misconduct, under the Punjab Police (Efficiency & Discipline) Rules, 1975. Allegation against the petitioner was of grave misconduct and being involved in two criminal cases of delinquent nature. He was held to be guilty, and by an order dated 08th of March, 2019, a major penalty of dismissal from the service was imposed upon him. Aggrieved, he availed himself of a departmental appeal. The appeal was filed on 26th of December, 2019. It was found out of time, and thus, was rejected on 14th of March, 2020. He then filed his service appeal before the Punjab Service Tribunal, and the Tribunal relying on the precedents of this Court,¹ dismissed it by its order dated 1st of September, 2020, with the observation that when an appeal of an employee is time barred before the appellate authority then appeal before the Tribunal will also not be competent.

3. It has been submitted on behalf of the petitioner that the proceedings against him were initiated under the Punjab Police (Efficiency & Discipline) Rules, 1975, which do not prescribe any period for filing a departmental appeal against the order of punishment. Therefore, it could not be dismissed on the ground of limitation, and consequently, the Punjab Service Tribunal also erred in dismissing the service appeal. The strength of this argument was sought from an unreported judgment of this Court, in the case of Tahira Paras.²

4. Mr. Baleegh-Uz-Zaman, learned Additional Advocate General has eloquently answered the above contention by referring to the provisions of section 21 of the Punjab Civil

¹ *Raja Khan v. Manager, Faislabad Electricity Supply Company (WAPDA)* [2011 PLC(CS) 856],
Muhammad Aslam v. WAPDA and others [2007 SCMR 513],
NED University of Technology v. Ashfaq Hussain Shah [2006 SCMR 453], and
Chairman, PIA and others v. Naseem Malik [PLD 1990 SC 951].

² *Tahira Paras v. Chief Traffic Officer, Lahore* [C.P.2477-L/2019].

Servants Act, 1974. He submitted that notwithstanding Rule 14 of the Punjab Police (Efficiency and Discipline) Rules, 1975, where no time period for filing an appeal has been provided, the time frame specified under section 21 of the Punjab Civil Servants Act, 1974, is to be followed, which is sixty days.³ We agree with this.

5. The disciplinary proceedings were initiated against the petitioner on 10th of January, 2019, under the Punjab Police (Efficiency & Discipline) Rules, 1975. On 8th of March, 2019, he was found to be guilty of misconduct and was dismissed from service. Dissatisfied by the order, the petitioner filed a departmental appeal on 26th of December, 2019, after 09 months and 18 days of the punishment order; and so, was patently time barred and was rightly dismissed by the Regional Police Officer on this very ground and subsequently, this order was upheld by the Punjab Service Tribunal on 1st of September, 2020.

6. In regard to the unreported judgment of Tahira Paras by this Court, suffice it to say, with due deference, that it is *per incuriam* as section 21 of the Punjab Civil Servants Act, 1974, was not brought to the attention of the Court and the decision was given in ignorance or forgetfulness of the existence of the said provision.⁴

7. Faced with this tight situation, a feeble attempt was made on behalf of the petitioner to persuade us by submitting that the period of limitation for filing a departmental appeal under section 21 of the Punjab Civil Servants Act, 1974, runs from the

³ Note: on 16th of March, 2023, vide Notification No.6206-EXEC-II, the Provincial Police Officer with the prior approval of the Government, has amended the Punjab Police (Efficiency and Discipline) Rules, 1975, and under Amended Rule 12 has provided for a limitation period of 90 days for appeal from the date of communication of the order of penalty.

⁴ *Police Authority for Huddersfield v. Watson* [(1947) K.B. 842].

date of communication of the order of punishment. And since the copy of the order of punishment was not served on him, the limitation period will be computed from the date the petitioner received the copy on his discharge from the criminal case, which was 12th of December, 2019. From that date, a departmental appeal was filed within time, but this fact was not adequately appreciated. We are not impressed by this argument, as neither was this plea taken up before the appellate authority nor was any application filed before the appellate authority for condonation of delay by furnishing any explanation. Given the circumstances, such a plea can only be construed as an afterthought attempt and could not be entertained before the Tribunal, nor at this stage before this Court.

8. We do not find any merit in this petition. Leave is therefore, declined, and this petition is dismissed.

Judge

Judge

B-III
Islamabad, the
14.03.2024
"Approved for reporting"
Sarfraz Ahmad & Agha M. Furqan LC