

NATIONAL INDUSTRIAL RELATIONS COMMISSION

Peshawar Bench Peshawar

Before: Muhammad Zubair Khan, Member

Case No. 4B (33)/2021-P

Bilal Hussain S/o Zawar Hussain R/o Village Kirman, District Kurram,
Para Chinar..... Petitioner

Versus.

The Managing Director, OPF, Head Office, Overseas Pakistanis
Foundation, Shahrah-e-Jamhuriat, G-5/2, Islamabad and two
others.....Respondents

Present: Mr. Ibad ur Rehman, counsel for petitioner

Mr. Ala Uddin Qureshi, counsel for respondents

ORDER

14.09.2023

Petitioner aggrieved by the termination order dated 03.03.2014 filed this grievance petition u/s 33 of the Industrial Relations Act, 2012.

2. Brief facts relevant for the disposal of this petition are that, the petitioner averred that he was appointed as Steno-typist on 19.06.2012 and after completion of the probation period, the petitioner was confirmed in service and performed duties to the best of his abilities and to the entire satisfaction of his superiors. Further averred that all of a sudden, the petitioner came to know that his services have been terminated vide letter dated 03.03.2014. The petitioner submitted that numerous appeals for setting aside of the said termination orders were given to the respondents but in vain; that the petitioner filed a

writ petition No. 3289/2014 in Hon'ble Islamabad High Court which was disposed of with the direction to decide the grievance of the petitioner; that the petitioner belongs to Kurram District Kurram Agency and was displaced from their due to law and order situation in the area and he is unable to engage counsel. The termination letter is illegal, unlawful, void ab initio and nullity in the eyes of law; that one of colleague of the petitioner namely Muhammad Akram who was also terminated from service on the same allegations, filed a petition in NIRC Quetta Bench which was allowed and the termination order dated 03.03.2014 was set aside and he was reinstated in service with back benefits which order remained unchanged by Supreme Court of Pakistan. The petitioner prayed that the impugned termination order dated 03.03.2014 be set aside and he may be reinstated in service with back benefits.

3. The petitioner annexed with his petition, copy of discharge from service dated 03.03.2014, placed as annexure-A/1, also placed the copy of writ petition and copy of order of the Hon'ble Islamabad High Court as annexure-B, covering letter dated 13.07.2016 regarding appeal of the petitioner annexure-C, Order dated 15.05.2018 passed NIRC Quetta Bench annexure-D, copy of order dated 18.02.2021 passed by Hon'ble Supreme Court annexure-E, copy of review appeal against dismissal from service annexure-F, covering letter dated 29.04.2021 regarding review appeal of the petitioner annexure-G. and copy of grievance notice dated 19.05.2021 annexure-H.

4. The respondents were summoned who contested the petition by filing written reply, contending that petition of the

petitioner is time barred and not proceedable under the law. Para-1 of the petition denied, claiming that a candidate for initial appointment must possess the educational qualification whereas the present petitioner was having a qualification of F.Sc. Pre-Medical which was irrelevant for the said post because as per the advertisement, the qualification for appointment as steno-typist was required as 2nd Class Intermediate in Commerce / Diploma of Commerce and as the experience required as per the advertisement was a typing speed of 50 w.p.m for the post of steno-typist but at the time of test the petitioner as per result of his typing speed was 16 w.p.m instead of 50 w.p.m so he at the said relevant time was not having requisite qualification. Further contending that during probation period and before confirmation, the service record of the petitioner was scrutinized and examined by the review committee and as per their observation, due to lack of requisite qualification the review committee decided to issue a letter dated 08.01.2014 calling his explanation on the discrepancies and after receiving the reply the committee recommended not to confirm his service as steno-typist.

5. Arguments heard and record perused.

6. Admittedly, the petitioner was appointed on 19.06.2012 as steno-typist initially on probation for period of one year. His case was considered on 03.03.2014 while he was in probation and before confirmation his service record was scrutinize by review committee, constituted for the purpose and they observed that the petitioner possess intermediate for pre-medical whereas the required qualification for the post of steno-

typist in OPF as laid down in OPF Employees (Service) Regulations, 1993 was I.Com or D.Com. The review committee after considering the reply of the petitioner for recommendation to confirm the service of the petitioner being ineligible for the post of Steno-typist and by the order dated 03.03.2014 he was discharged from service. On 18.03.2014 he filed appeal against discharge order dated 03.03.2014 and the appeal was dismissed on 13.07.2016 then the petitioner filed review petition on 14.04.2021 which was also dismissed on 29.04.2021 by the competent authority against which the petitioner served the grievance notice on 19.05.2021 and filed the present grievance petition on 10.06.2021. Record reveals that the petitioner filed this grievance petition u/s 33 of the Industrial Relations Act, 2012 in which he challenged the impugned discharge order dated 03.03.2014. According to section 33 of ibid Act, **a worker may bring his grievance in respect of any right guaranteed or secured to him by or under any law or any award or settlement for the time being in force to the notice of his employer in writing, either himself or through his shop steward or collective bargaining agent within 90 days of the day on which the cause of such grievance arises.** But in the case in hand, the petitioner was discharged from service on 03.03.2014 against which he filed departmental appeal on 18.03.2014 and appeal was dismissed on 13.07.2016. If we calculate three months from the impugned order or even calculate the date of dismissal of appeal i.e. 13.07.2016, the alleged grievance notice served on 19.05.2021 is time barred. Grievance petition under section 33 would be time barred when grievance notice was not given by petitioner within

prescribed limitation. Reliance is placed on case law reported as 2017 TD (Labour) 244. It is well settled law that the party approaching Court of competent jurisdiction for redress of grievance beyond specified period of limitation is bound to explain each day's delay to the satisfaction of respective forum because a valuable right accrues to the other side. In this regard reliance is placed on case law reported as 2007 TD (Labour) 27. But in the case in hand, the petitioner has failed to explain the explicit reasons of delay in filing the petition before this Commission within the prescribed period of limitation.

In view of the above, the instant petition is dismissed being barred by limitation. File be consigned to record room.

Announced in the open court

(Muhammad Zubair Khan)

Member

Certificate:

Certified that this order consisting of Five pages. Each page is corrected and signed.

(Muhammad Zubair Khan)

Member