

Appeals made outside delay are set aside.

RULING

The Appellant was challenging the decision of the Respondent to dismiss him from his employment as WG in the ARR on the following grounds:

In consideration of the punishment to be inflicted upon the Appellant, in light of his conviction by the Judges of the Supreme Court on 8th March 2022, on a charge of “Involuntary Homicide by Negligence”, the PSC’s decision dated 31st October 2023 (but notified on 9th November 2023) that the Appellant “ should be dismissed from the service with effect from 29th November 2022 in view of the seriousness of the offence, the term of imprisonment and the amount of fine imposed by the Supreme Court”

The Respondent raised an objection which reads as follows:

The Respondent moves that the present appeal be dismissed in as much as the present application is time-barred, as per Section 3(2) of the Public Bodies Appeal Tribunal Act.

S 3 (2) provides:

An appeal shall be made –

- (a) Within 21 days of the notification to the officer of the decision referred to in subsection (1), or within 21 days of such public notification of the decision as may have been made, whichever the earlier.

In the present matter, the notification of dismissal was made 31st October 2023 but same was acknowledged by the Departmental Head of the Health Commission on the 7th November 2023. Appellant claimed that he was notified on the 9th November 2023 but did not produce any evidence to that effect.

Counsel for Respondent argued that the appeal was made outside delay and the Tribunal did not have jurisdiction to hear the matter.

Counsel for Appellant argued that he submitted an appeal form on the 29th November 2023 on behalf of the Appellant but the appeal form was not signed by the Appellant as required by Section 6(1)(b) of the Public Bodies Appeal Act.

Section 6(1)(b) reads as follows:

- (1) Subject to subsection (5), an appeal made under Section 3-
 - (a)
 - (b) shall be signed by the Appellant.

He was of the opinion that the unsigned appeal form submitted on the 29th November 2023 should deem to be a proper appeal as it is a separate section from Section 3 which deals with prescription of delay.

The Tribunal is not of this view and it is clear that the appeal was made outside the prescribed delay.

The Tribunal, therefore, sets aside the present appeal.