

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

**Service Appeal No. 335/2019**

BEFORE: **MRS RASHIDA BANO** ... **MEMBER (J)**  
**MISS FAREEHA PAUL** ... **MEMBER (E)**

Mst. Roheela Malik, Warden BPS-12, Regional Training Institute (RTI),  
Abbottabad. .... (Appellant)

Versus

1. The Secretary Population Welfare Department, Khyber Pakhtunkhwa,  
Peshawar.
2. The Director General, Directorate of Population Welfare Peshawar.
3. The Principal, Regional Training Institute (RTI), Peshawar.  
..... (Respondents)

Mr. Muhammad Saad Wazir,  
Advocate

...

For appellant

Mr. Fazal Shah Mohmand,  
Addl. Advocate General

...

For respondents

Date of Institution.....	27.12.2019
Date of Hearing.....	02.08.2023
Date of Decision.....	02.08.2023

**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 27.03.2019, communicated to the appellant on 28.08.2019, whereby minor penalty of stoppage of one annual increment for three years and full recovery @ Rs. 100/- P.M/student has been imposed upon the appellant and against the order dated 28.11.2019, whereby the departmental appeal of the appellant was rejected. It has been prayed that on acceptance of this appeal, the impugned orders dated 27.03.2019 and 28.11.2019 might be set aside and the respondents be directed to restore one



annual increment of the appellant with all back and consequential benefits alongwith setting aside the recovery order.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant joined the Population Welfare Department in the year 1993 and had more than 20 years service at her credit. While serving as Warden at Regional Training Institute Hayatabad, Peshawar, she was served with a charge sheet and statement of allegations wherein various charges were leveled against her. The appellant submitted detailed reply and denied the allegations leveled against her. An inquiry was conducted in which neither statements of concerned persons were recorded in the presence of the appellant nor she was allowed to cross examine them. Then final show cause notice was served upon her, which was also replied by her and she again denied the allegations. Vide the impugned order dated 27.03.2019, minor penalty of stoppage of one annual increment for three years and full recovery of the illegally/ unauthorizingly collected amount @ Rs. One hundred per month from the students/trainees residing in the Hostel during period she remained Incharge Warden, was imposed upon her with immediate effect. Since the appellant was transferred to Abbottabad at the relevant time, therefore, the impugned order was communicated to her on 28.08.2019. Feeling aggrieved, she filed departmental appeal on 19.09.2019 which was rejected on 28.11.2019; hence the instant appeal.

3. Respondents were put on notice who submitted written replies/ comments on the appeal. We heard the learned counsel for the appellant as



well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, contended that being a Warden she had to be strict to maintain discipline in the hostel. He further contended that the appellant took Rs. 100/- per month from the students on the directions of the Principal RTI. He argued that the appellant was neither given a chance to cross examine the witnesses/persons nor any evidence was recorded in her presence. Even no chance of personal hearing was provided to her and hence the inquiry committee did not observe the requirements of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. He further argued that the complaints of the appellant, submitted against the miscreants, the hostelites, were totally ignored and that the rejection order was not a speaking order, which was in violation of verdict of the August Supreme Court of Pakistan reported as 1991-SCMR-2330. He requested that the appeal might be accepted as prayed for.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that the factual position of the case was that a written complaint filed by two students of Regional Training Institute Peshawar to Dr. Saadia Nawab, Principal RTI Peshawar/respondent No. 3 on 5.10.2018 regarding the physical assault of the appellant upon them with iron rod and use of abusive language. On the basis of the complaint, respondent No. 3 constituted a committee to probe into the matter. The committee submitted its finding after which the competent authority



constituted a formal committee to probe the case as per requirements of Rule 10(1)(a) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. Charge sheet and statement of allegations was served upon the appellant and she was given full opportunity of cross examination. The competent authority, after having considered the charges, evidence on record, finding of the Inquiry Committee, the explanation of the accused official to the show cause notice and hearing her in person on 31.03.2019, imposed minor penalty of stoppage of one annual increment for three years and full recovery of the illegally/unauthorizingly collected amount which was in accordance with the provisions of E&D Rules, 2011. He requested that the appeal might be dismissed.

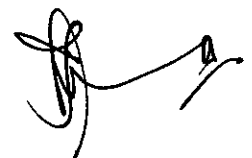
6. From the arguments and record presented before us, it transpires that the appellant while serving as Warden at Regional Training Institute, Hayatabad, Peshawar was charged with the following allegations based on a fact finding inquiry:-

- “ (a) *That she physically assaulted Miss. Qurat-ul-Ain and Miss. Sobia with curtain rod by hurting and bruising their arms and abused them verbally.*
- (b) *That she was involved in collection of illegal funds from hostel students in the name of cleanliness, security and fines.*
- (c) *That she used to take half stipend from Miss. Maimona student of senior batch, and also took loans from students and never returned back.*
- (d) *That she allowed late entry of Chowkidar and Driver in the hostel without any reason.*
- (e) *That she is involved in sexual harassment, blackmailing and character assassination of students.*




- (f) *That she compelled students for homosexuality by inviting them for night stay at her room.*
- (g) *That she threatened Miss Sidra and Miss Quirat-ul-Ain through fake ISI Captain i.e Waqar Cell No. 033300603 CNIC # 11101-6303913-5 and Mr. Zahir Ullah, Cell No. 03369739699 CNIC # 11101-3830038-9 of District Bannu to withdraw complaint and make settlement with her.*
- (h) *That she has provided personal information regarding hostel students to unauthorized persons to blackmail and harass them.”*

7. An inquiry committee was constituted under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 who submitted their report on 31.01.2019 according to which the charges of physical assault and receiving Rs. 100/- from every student residing in the hostel, was proved. After going through the proceedings of the Inquiry Report, it was noted that the committee interviewed different students residing in the hostel, including the ones who had submitted a complaint, all the chowkidars and two drivers. Their statements have not been attached by the respondents in their reply, however from the matter presented before us, it is found that the appellant was not given any chance to cross-examine anyone of them, specially the complainants and the Principal RTI. It was further noted, in both the fact finding inquiry as well as the formal inquiry, that the appellant had been accused of physical violence against the students and the allegation specifically was beating the students with iron rod, but neither any medical report of those students beaten by her has been attached in any of the inquiry nor any medical examination of those students has been mentioned in the report.




8. In view of the above discussion, we feel that the appellant had not been given an opportunity to cross-examine the complainants, the Principal of RTI and other witnesses which is against the spirit of fair trial. The appeal is, therefore, disposed of with the directions to the respondents to conduct denovo inquiry giving a fair opportunity to the appellant to cross examine all the witnesses, the complainants and the Principal RTI, Peshawar, within sixty days of the receipt of this judgment. Costs shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 02<sup>nd</sup> day of August, 2023.*

  
(FAREEHA PAUL)  
Member (F)

*\*Fazle Subhan, P.S\**

  
(RASHIDA BANO)  
Member (J)