

21<sup>st</sup> Mar. 2024

1. Learned counsel for the appellant and Mr. Arshad Azam, Assistant Advocate General present.

2. Despite several opportunities and imposition of cost, reply on behalf of the respondents is still awaited. Therefore, they are placed ex-parte. To come up for arguments on 03.04.2024 before D.B. P.P given to the parties.

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

Service Appeal No.1265/2023 titled "Parmez Nawaz Khan Vs. Government of Khyber Pakhtunkhwa"

ORDER

3<sup>rd</sup> Apr. 2024

**Kalim Arshad Khan, Chairman.** Learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

2. Vide the impugned order dated 18.01.2023, six (06) employees were dismissed from service. Learned counsel for the appellant submits that the official at Serial No.1 namely Constable Wasim Ullah No.1562 was reinstated by the Department itself. Vide judgment dated 21.11.2023 passed in Service Appeal No.979/2023, the Service Appeal of Constable Sair Ullah No.566 and Service Appeal No.980/2023 of Constable Nayab Khan No.971 were allowed by this Tribunal in the following manner:

*"6. Arguments and record presented before us shows that the appellant was appointed as cook constable in the provincial police in 2015. Through the impugned order dated 18.01.2023, he, alongwith five other constables, was dismissed from service on the charge of absence from duty by the District Police Officer, Bannu. Later on, a show cause notice was issued to him, alongwith four other constables, under rules 5(3) of Police Rules 1975, on*

19.01.2023 and he was directed to submit reply within seven days of the receipt of that notice, failing which ex-parte action would be taken against him. It has been noted that the DPO Bannu did not bother to give any heed to the rules under which he had to proceed against the appellant. He issued the order of dismissal first and later on, as an afterthought, issued a show cause notice on the next day. The rule to which he was referring in the show cause notice, i.e. Rule 5(3) of the Khyber Pakhtunkhwa Police Rules 1975, clearly mentions that a reasonable opportunity of showing cause had to be given to the appellant before passing any order of punishment, which was not done in this case. It has been further noted that the charge of absence is also not specified in the dismissal order.

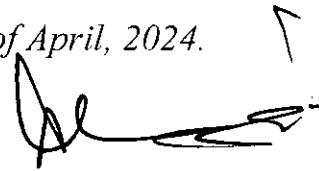
7. From the above discussion, it transpires that the appellant had been dismissed from service without following the due process. He had been awarded a major punishment without giving him any opportunity of defence, which is highly against the spirit of fair trial. The service appeal in hand, as well as connected service appeal No.980/2023, is allowed as prayed for. Costs shall follow the even. Consign."

3. The case of the appellant is no different from the above case, therefore, he is also to be meted out the same treatment. This appeal is thus allowed in the terms, the other appeals against the impugned order were allowed. Costs shall follow the event. Consign.

4. Pronounced in open Court at Peshawar under our hands and seal of the Tribunal on this 3<sup>rd</sup> day of April, 2024.



(Rashida Bano)  
Member (J)



(Kalim Arshad Khan)  
Chairman