



ORDER

04th July, 2024

1. Appellant alongwith her counsel present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.
2. Vide our judgment of today placed on file, we allow this appeal ex-parte and remand the matter back to the respondents for conducting proper de-novo inquiry in the matter within a period of 60 days of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needless to mention that the appellants shall be fully associated with the inquiry proceedings by providing her fair opportunity to cross examine the witnesses as well as to produce evidence in her defence. Parties are left to bear their own costs. File be consigned to the record room.
3. *Pronounced in open Court at Camp Court, Swat and given under our hands and the seal of the Tribunal on this 04th day of July, 2024.*



(Muhammad Akbar Khan)
Member (Executive)
Camp Court, Swat



(Aurangzeb Khattak)
Member (Judicial)
Camp Court, Swat

Service Appeal No.175/2024 titled "Roshitima Bivi, versus Additional Chief Secretary Home & Tribal Affairs, Department Civil Secretariat Peshawar, Khyber Pakhtunkhwa and others", decided on 04.07.2024 by Division Bench comprising of Mr. Aurangzeb Khattak, Member Judicial and Mr. Muhammad Akbar Khan, Member Executive Khyber Pakhtunkhwa Service Tribunal, constituted at Camp Court, Swat.

conducting proper de-novo inquiry in the matter within a period of 60 days of receipt of copy of this judgment, strictly in accordance with relevant law/rules. Needless to mention that the appellants shall be fully associated with the inquiry proceedings by providing her fair opportunity to cross examine the witnesses as well as to produce evidence in her defence. Parties are left to bear their own costs. File be consigned to the record room.

8. *Pronounced in open Court at Camp Court, Swat and given under our hands and the seal of the Tribunal on this 04 day of July, 2024.*


AURANGZEB KHATTAK
Member (Judicial)
Camp Court, Swat


MUHAMMAD AKBAR KHAN
Member (Executive)
Camp Court, Swat

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6. The perusal of the record reveals that the appellant was appointed as Lady Constable in Chitral Levies against the Kalash community quota in 2010. On embracing Islam in May 2023 and subsequently marrying a Muslim husband, she applied for leave and she was granted two months' leave from 17th April 2023 to 16th June 2023. The appellant sought an extension of this leave on 18-06-2023 but was terminated vide order dated 18-08-2023 from her service without any show cause notice, inquiry, or opportunity to be heard. The perusal of the record further reveals that termination order of the appellant was passed without following due process and fundamental principles of natural justice mandate that an individual must be given a fair chance to be heard before any adverse action is taken against him but in this case, no show cause notice was issued, and no inquiry was conducted. Furthermore, the actions of respondents reflect procedural flaws. Not only was the termination done hastily, but it also bypassed the defined procedures of lawful termination which involve issuing a notice and conducting a fair inquiry. Moreover, the termination order of the appellant is also in violation of the fundamental rights ensured by the Constitution of the Islamic Republic of Pakistan, 1973 that every citizen has a right to be treated according to the law and to be granted an opportunity to defend him.

7. In this case, the respondents have not filed any reply nor is there any document placed on file by them. So much so, there is no representative of the respondents present before the Tribunal. In the absence of the documents and the respondents being ex-parte, we allow this appeal ex-parte and remand the matter back to the respondents for

2. The respondents were duly summoned but were placed ex-parte vide order dated 17th May, 2024 due to their non appearance before the Tribunal.

3. Arguments heard and case file perused.

4. The learned counsel for the appellant contended that the appellant was terminated from service on the allegations of absence from duty for two months vide impugned order dated 18.08.2023 without issuing any charge sheet, statement of allegations, show-cause notice and conducting of regular inquiry, therefore, the impugned order is against the law, facts and circumstances of the case. He next contended that the appellant filed departmental appeal before the appellate Authority i.e Secretary Home & Tribal Affairs Department, Civil Secretariat, Peshawar, Khyber Pakhtunkhwa, who sought comments from Deputy Commissioner/Commandant Levies District Lower Chitral and Deputy Commissioner/Commandant Levies District Lower Chitral had admitted in his letter dated 10th November, 2023 that Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has not been adopted before awarding the major penalty to the appellant, therefore, the impugned order is liable to be set-aside and the appellant may be reinstated in service with all back benefits.

5. The respondents were ex-parte, however, the learned District Attorney was provided opportunity of arguments, who opposed the contention of learned counsel for the appellant. The contention of the appellant is supported by the copies of documents annexed with the appeal and there is nothing in rebuttal for the time.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR, AT CAMP COURT SWAT.

BEFORE: **AURANGZEB KHATTAK ... MEMBER (Judicial)**
MUHAMMAD AKBAR KHAN ... MEMBER (Executive)

Service Appeal No. 175/2024

Date of presentation of Appeal.....18.01.2024
Date of Hearing.....04.07.2024
Date of Decision.....04.07.2024

Roshtima Bibi Ex-Lady Constable Headquarter Levies Force
District Lower Chitral, Resident of Broze Domoon District and
Tehsil Lower Chitral**Appellant**

Versus

1. Additional Chief Secretary Home & Tribal Affairs Department Civil Secretariat Peshawar, Khyber Pakhtunkhwa.
2. Deputy Commissioner/Commandant Levies District Lower Chitral.
3. District Account Officer District Lower Chitral.
.....(**Respondents**)

Present:

Mr. Skhakir Uddin Shahid, Advocate.....For appellant
Mr. Muhammad Jan, District AttorneyFor respondents
.....

JUDGMENT

AURANGZEB KHATTAK, MEMBER (JUDICIAL): The appellant Mst. Roshtima Bibi, Ex-Lady Constable has impugned through the instant appeal the order dated 18.08.2023, issued by the Deputy Commissioner/Commandant, Chitral Levies Lower Chitral, vide which the appellant was terminated from service with immediate effect. She had challenged the validity and legality of said order through filing of departmental appeal, which was not responded, hence she filed the instant appeal on 18.01.2024 for redressal of her grievance.