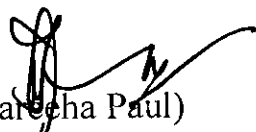



Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, however, in such eventuality, this Bench is of the opinion that the appellant ought to have been treated in accordance with Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The same is reproduced as under:

"[9. Procedure in case of willful absence.— Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the Administrative Secretary in case the competent authority is Chief Minister or Chief Secretary and in all other cases by the competent authority concerned, through registered acknowledgement on his home address directing him to resume duty within fifteen (15) days of issuance of the notice. If the same is received back as undelivered or no response is received from such Government servant, within stipulated time, a notice shall be published in at least two leading newspapers, directing him to resume duty within fifteen (15) days of the publication of the notice, failing which an ex-parte decision shall be taken by the competent authority against him. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant by the competent authority"

6. In view of above, impugned order dated 07.04.2023 is set aside and the matter is remitted back to the respondents to conduct inquiry into the matter. Appellant is reinstated into service for the purpose of inquiry, which is to be conducted within a period of 60 days of the receipt of this order. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

7. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 8th day of October, 2024.*


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

Service Appeal No.1773/2023 titled "Saba Bibi versus Judiciary"

ORDER

8th Oct. 2024

Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

2. Appellant's case in brief, as per averments of appeal, is that she was serving as Sweeper in the District Judiciary, Peshawar; that she allegedly fell ill and was unable to attend her duties; that she allegedly moved applications but in vain; that on 07.03.2023, a show cause notice was served upon her which was replied by her; that vide impugned order dated 07.04.2023, she was removed from service; that feeling aggrieved, she filed departmental appeal but the same was not responded, hence, the instant service appeal.

3. Arguments heard. Record perused.

4. In brief, the appellant was employed as a Sweeper in the District Judiciary of Peshawar. She contends that she fell ill, which prevented her from fulfilling her duties, and despite submitting multiple applications regarding her condition, her requests went unacknowledged. On March 7, 2023, she received a show cause notice, to which she submitted a response. However, she was ultimately removed from service by an order dated April 7, 2023. Dissatisfied with this decision, she filed a departmental appeal, which remains unanswered. Consequently, she has pursued the current service appeal to seek redress for her removal.

5. Perusal of impugned order shows that the appellant has been treated under Rule-5(1)(a) read with Rule-7 of the Khyber

