

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 420/2022

BEFORE: MR KALIM ARSHAD KHAN ... CHAIRMAN  
MRS. RASHIDA BANO ... MEMBER (J)

Mrs. Zainab Iqbal, Family Welfare Assistant (Female), District Population Welfare Office, Nowshera.

.... (*Appellant*)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Population Welfare, Peshawar.
2. Director General, Population Welfare, Khyber Pakhtunkhwa, Peshawar.
3. District Population Welfare Officer, Nowshera .... (*Respondents*)

Mr. Zafar Ali Khan  
Advocate ... For appellant

Mr. Asif Masood Ali Shah  
Deputy District Attorney ... For respondents

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Date of Institution.....24.03.2022  
Date of Hearing.....01.07.2024  
Date of Decision.....01.07.2024

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“It is therefore, most humbly prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.”



02. Brief facts of the case are that appellant was serving as Female Welfare Assistant in the Population Welfare Department, at District Nowshera; that vide impugned order dated 20.03.2020, minor penalty of recovery to tune of Rs.3,11,558/- was ordered to be recovered from the appellant for a period of her unauthorized training w.e.f 01.09.2007 to 30.11.2009; that the said amount was ordered to be recovered in 36 equal installments of Rs.8654/- each per month.

03. Feeling aggrieved, she preferred departmental appeal on 24.11.2021 which was not responded within statutory period of ninety days, hence, the instant service appeal.

04. On receipt of the appeal and its admission to full hearing, the respondents were summoned. Respondents put appearance and contested the appeal by filing written reply raising therein numerous legal and factual objections. The defense setup was a total denial of the claim of the appellant.

05. We have heard learned counsel for the appellants and learned Deputy District Attorney for the respondents.

06. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Deputy District Attorney controverted the same by supporting the impugned order(s).

07. Main contention of the appellant is that she performed her duties, therefore, impugned punishment of recovery of salaries of the said period during which she has done her LHV Training Course is against the



rules. Perusal of inquiry report reveals that inquiry officer put specific questions to the appellant about timing of the LHV Training Course School and her duty. In reply to the said, she categorically stated that timing of the school in which she took admission for LHV Course during her service was from 8:00AM to 2:00PM. It is also admitted fact on record that duty timing of the appellant from 8:00AM to 2:00PM, therefore, humanly it is impossible for any person to be present in two different places at one and same time, in case of appellant attending class of LHV Courses in the School and to perform her official duties in her center at one and same time is impossible. In reply to question No.4 appellant stated that she always went late to the school and oftenly she missed first period as she used to complete first her official work and then went for attending class of LHV Course which means that she went school for attending LHV Course classes during her duty timing. When she attended classes during duty timing, then penalty imposed upon her is just and in accordance with law and rules. The appellant, being a civil servant, is duty bound to follow rules and regulations and in accordance with rules, she was required to obtain NOC from department before admission in LHV Course alongwith submitting application for leave to attend the classes, which was scheduled in the morning/during her duty timing, but she had not done so, therefore, rendered herself liable for disciplinary proceedings, as a result of which, inquiry was conducted and she was awarded impugned punishment. Learned counsel for the appellant argued that inquiry officer has not recorded statement of complainant, therefore, inquiry conducted by him is not in accordance



with the rules. In our humble view, misconduct of appellant is of such a nature, in which recording of statement of complainant is not necessary, because it pertains to record and not any factual controversy having a specific acquisition with respect to the complainant person which requires her statement to prove the allegation. Therefore, there is no need to record statement of the said complainant who brought this fact into the notice of the Department and the Department conducted proper inquiry.

08. In view of the above situation, this case being devoid of merits, is dismissed with costs. Consign.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 1st day of July, 2023.*



**(RASHIDA BANO)**  
Member (J)



**(KALIM ARSHAD KHAN)**  
Chairman

\*Murazem Shah\*