

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

Service Appeal No. 4751/2021

Date of Institution	...	02.04.2021
Date of Hearing	...	07.04.2022
Date of Decision	...	07.04.2022

Mir Nawaz Khan S/O Naik Nawaz Khan, resident of Pukhta Masjid, Kandi Arbab Raa Khan, Tehkal Balla, Peshawar, Now Computer Operator (BS-16) FMIU, Finance Department, Civil Secretariat, Peshawar. (Appellant)

VERSUS

1. The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Chief Minister, Govt: of Khyber Pakhtunkhwa through Secretary, Establishment Department Peshawar.
3. Secretary, Establishment, Department, Govt: of Khyber Pakhtunkhwa Peshawar.

.... (Respondents)

Present:

MIR NAWAZ KHAN,

--- In person.

KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

KALIM ARSHAD KHAN
MIAN MUHAMMAD

--- CHAIRMAN
--- MEMBER(E)

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The service appeal has been submitted involving Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 04.01.2021 for imposition of minor penalty stoppage of one increment for one year alongwith recovery of Rs. 1,07,874 and rejection of his departmental appeal vide appellate order dated 09.03.2021.

02. Brief facts leading to the institution of service appeal are that the appellant has been working as Computer Operator since 18.07.2014. He was proceeded against for misconduct on account of drawl of cash grant from BISP by his spouse. An enquiry was conducted against him vide order dated 26.08.2020 and after having served show cause notice, he was finally awarded the minor penalty of stoppage of one increment for one year and recovery of Rs. 1,07,874/- vide impugned order dated 04.01.2021. He challenged the impugned order through departmental appeal dated 07.01.2021 which was rejected vide appellate order dated 09.03.2021, hence, the instant service appeal was submitted on 02.04.2021.

03. Notices were issued to the parties who submitted written replies/comments on contents of the appeal. We have heard learned counsel for the appellant as well Additional Advocate General and perused the case file with connected documents thoroughly.

04. The appellant pleaded the appeal himself and contended that prior to joining government service in 2014, his spouse was in receipt of cash grant as beneficiary citizen of Pakistan from the Benazir Income Support Programme (BISP) because he was also jobless. When he joined the present service in the respondent-department on 18.07.2014, he sent a formal request to the District Officer BISP, Bannu via mail post on 14.10.2014 to the effect that cash grant in respect of her spouse be stopped as he is a government servant now and his family does not deserve for financial assistance from BISP any longer. However, it was discontinued in October 2019. He further

argued that BISP was launched in 2008 whereas he joined government service on 18.07.2014 then how could he be condemned for that period when he was jobless. Moreso, he was not the direct beneficiary from BISP but her spouse was enrolled under the eligibility criteria PMT (Proxy Means Test) based on PCS (Poverty Scorecard survey). During this period, families of government servants were not declared as ineligible for cash grant under the BISP. It was decided by the Federal Cabinet on 24.12.2019 where-after 820165 beneficiaries were discredited and their financial support was discontinued. Therefore, he was neither direct beneficiary nor associated with any fraud as alleged in the charge sheet and statement of allegations. He further contended that the inquiry has not been conducted in the prescribed manner. Neither statements of the concerned officials were recorded in presence of the appellant nor opportunity of cross examination was afforded to him. No opportunity of personal hearing was provided after having served with the show cause notice but the impugned order was issued on 04.01.2021:

05. Learned Additional Advocate General, on the other hand, rebutted the claim of appellant to have sent application to District Officer BISP for stoppage of the cash grant, on the ground to have been sent via post office receipt of which does not bear any authenticity. Rather, it should have been submitted to the Director BISP-Bannu and the cash grant would have definitely been stopped. Moreover, no cogent reason was given by the appellant for drawl of cash grant during the period of his service i.e 18.07.2014 onward. The

appellant in connivance of his spouse was benefiting from the facility till he was identified as defaulter. This is the reason that in reply to show-cause notice, the appellant agreed to deposit the amount received by his wife since his appointment. Opportunity was granted him to defend his stance whereas no cross examination was required because there was sufficient proof in the form of documentary evidence. Since all codal formalities under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 were fulfilled before imposition of the penalty, the appeal may therefore be dismissed.

06. It is evident from record and is not disputed that spouse of the appellant has been the direct beneficiary of cash grant from BISP since the time when the appellant was not in government service. How an individual can be penalized for the misdoing of another person simply on the ground being her husband and who is a government servant? And that too when families of government servants were debarred from the said facility in the year 2019? The appellant as a responsible citizen, on joining government service tried to formally inform District officer BISP, Bannu to stop the cash grant facility being availed by her spouse. Neither the appellant was himself registered as beneficiary under BISP during his service nor he has been in receipt of the facility directly then he cannot be grilled and condemned on account of misconduct.

08. Forgoing in view, we have arrived at the conclusion that the appellant being not registered beneficiary under BISP is not guilty of misconduct and had also made a request in writing for stoppage of

the grant on appointment. Therefore, the punishment to the extent of stoppage of one increment is set aside. However, the order regarding recovery of Rs. 1,07,874 is not interfered with. The service appeal is therefore partially allowed in the above manner. Costs shall follow the event. Consign.

09. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 7th day of April, 2022.




(KALIM ARSHAD KHAN)
CHAMIRMAN


(MIAN MUHAMMAD)
MEMBER(E)

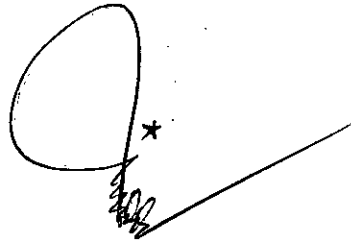
ORDER

07.04.2022

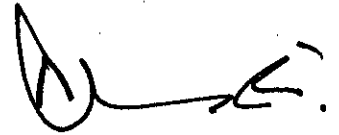
Appellant in person present. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present.

Vide our detailed judgement of today placed on file (containing 05 page), we have arrived at the conclusion that the appellant being not registered beneficiary under BISP is not guilty of misconduct and had also made a request in writing for stoppage of the grant on appointment. Therefore, the punishment to the extent of stoppage of one increment is set aside. However, the order regarding recovery of Rs. 1,07,874 is not interfered with. The service appeal is therefore partially allowed in the above manner. Costs shall follow the event. Consign.

Announced:
07.04.2022

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(Mian Muhammad)
Member(E)


A handwritten signature in black ink, consisting of a stylized 'W' or 'M' shape followed by a horizontal line and a small mark.

Chairman

04.01.2022

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Naheed Gul, Asstt. for the respondents present.

Former seeks adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 07.04.2022 before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

01.06.2021

Appellant present in person. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 07.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee

[Handwritten signature]
24/9/21

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Chairman

07.10.2021

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Written reply/comments of the respondents is still awaited. Last opportunity is granted to respondents to furnish reply/comments within 10 days in office, failing which their right for reply shall be deemed as struck off. Case to come up for arguments before the D.B on 04.01.2022 before the D.B.

[Handwritten signature]
(Mian Muhammad)
Member(Executive)



[Handwritten signature]
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 4751 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/04/2021	<p>The appeal of Mr. Mir Nawaz Khan resubmitted today by him may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Mir Nawaz Khan Computer Operator FIMU Finance Department Peshawar received today i.e. on 02/04/2021 is incomplete on the following score which is returned to appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested
- 2- Appeal may be page marked according to the index.
- 3- Approved file cover is not used.
- 4- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

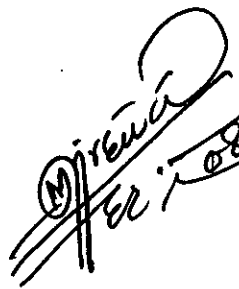
No. 633 /S.T,

Dt. 02/04/2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mir Nawaz Khan appellant.

Resubmitted after do needful.


08/04/2021

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. _____ /2021

Mir Nawaz Khan

versus

Chief Secretary & Others

I N D E X

S. No.	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Appointment order dated 09-06-2014	"A"	5-6
3.	Application for discontinuation, 14-10-14	"B"	7-8
4.	Charge Sheet dated 26-08-2020	"C"	9-11
5.	Reply to Charge Sheet dated 01-09-2020	"D"	12-13
6.	Show Cause Notice dated 20-10-2020	"E"	14-15
7.	Reply to Show Cause Notice, 26-10-2020	"F"	16-17
8.	Impugned order dated 04-01-2021	"G"	18
9.	Departmental appeal dated 07-01-2021	"H"	19-20
10.	Rejection Order dated 09-03-2021	"I"	21

Appellant

Mir Nawaz Khan
(In Person)

Computer Operator (B-16),
FMIU, Finance Department,
Civil Secretariat, Peshawar.

Dated 01-04-2021

Ph: 0333-5950332

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR

4751

S. Appeal No. _____/2021

Mir Nawaz Khan S/O Naik Nawaz Khan,
Resident of Pukhta Masjid, Kandi
Arbab Raza Khan, Tehkal Balla,
Peshawar, Now Computer Operator
(BPS-16), FMIU, Finance Department,
Civil Secretariat, Peshawar. Appellant

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 4530

Dated 02/4/2021

VERSUS

1. Chief Secretary, Government Of KP, Peshawar.
2. Chief Minister, Government of KP through Secretary, Establishment Department, Peshawar.
3. Secretary, Establishment Department, Government of KP, Peshawar Respondents

⇄<=>⇄<=>⇄<=>⇄<=>⇄

Filed to-day

Registrar

02/04/2021

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER NO. SOE-V / E & AD / 8-151 / 2014 DATED 04-01-2021 OF R. NO. 01 WHEREBY PENALTY OF STOPPAGE OF ONE INCREMENT FOR ONE YEAR WAS IMPOSED UPON APPELLANT OR OFFICE LETTER NO. SOE-V (E & AD) / 8-151 / 2014, DATED 09-03-2021 OF R. NO. 02 WHEREBY DEPARTMENTAL APPEAL WAS KEPT INTACT / REJECTED.

Re-submitted to-day and filed.

Registrar

02/04/2021

⇄<=>⇄<=>⇄<=>⇄<=>⇄=

Respected Sir:

1. That appellant was initially appointed as Computer Operator (BS-12) on 09-06-2014. The said post was upgraded to BS-16 on 29-07-2016 with the same designation. (Copy as annex "A")
2. That appellant gave application on 14-10-2014 to District Officer regarding Benazir Income Support Program (BISP), Bannu for discontinuation of relief amount, so he absolved hi liability. (Copy as annex "B")
3. That on the aforesaid period, appellant was performing official duties to the best of ability and to the entire satisfaction superiors.
4. That on 26-08-2020, appellant was served with charge sheet / statement of allegation to the effect: -
 - i. That your spouse fraudulently received grant of Benazir Income Support Program (BISP).
 - ii. That you have been found associated with your spouse in receipt of the aforesaid grant and committed the act of misconduct and corruption.
 - iii. That your conduct, as such is prejudicial to good order / service discipline.

In the said charge sheet, Mr. Usman Jilani (PMS BPS-17), Section Officer (Reg-III), Establishment Department was appointed as Inquiry Officer. (Copy as annex "C")
5. That 01-09-2020, appellant replied the said charge sheet and denied the allegation with cogent reason as the said program was initiated in the year, 2008 while appellant was appointed as such on 09-06-2014. At the same time appellant was not in service. (Copy as annex "D")
6. That perhaps enquiry in the matter was initiated by Inquiry Officer, but the same was not conducted as per the mandate of law. No statement of any concerned was recorded in presence of appellant nor was offered opportunity of cross examinations being mandatory.
7. That thereafter appellant was served with Show Cause Notice by R. No.1 on 20-10-20 regarding the aforesaid allegations which was replied on 26-10-2020 by denying the same. (Copies as annex "E" & "F")

8. That it was necessary for the respondent to give opportunity for personal hearing and self defense but on 04-01-2021, penalty of stoppage of one increment for one year was imposed upon appellant with recovery of Rs.1,07,874/- by R. No.1 (Copy as annex "G")
9. That on 07-01-2021 appellant submitted departmental appeal before R. No.2, which was rejected on 09-03-2021 (Copies annex "H" & "I")

Hence, this appeal, inter alia on the following grounds:

GROUND S.

- A. That under the law, no one can be made accused / defaulter for the acts of others. In the case in hand, appellant never received any penny from Benazir Income Support Program (BISP) what to speak of fraud or corruption.
- B. That the BISP was launched in the year, 2008 and the installment was started in the year 2011. At the same time, appellant was not in service, yet he was appointed as Computer Operator (BS-12) on 09-06-2014, with probation period of one year.
- C. That in such like cases, in other departments, the defaulters were either exonerated from liabilities OR were given penalty of censure OR recovery of the amount.
- D. That no one can be awarded double punishment in one and the same case while, in the case in hand, appellant was vexed twice, Stoppage of one increment for one year and recovery of Rs.107,874/- which is against the law.
- E. That appellate order was not a speaking order but was rejected in a single word "**Kept intact**" and as per judgments of the apex Supreme Court of Pakistan, rejection order should be based on cogent reason, but in the case in hand, no reason was given.
- F. That both the impugned orders are not per the mandate of law as appellant was not afforded opportunity of personal hearing and self-defense, so the same are based on malafide.

4

It is, therefore, most humbly prayed that on acceptance of the appeal, orders dated 04-01-2021 and 09-03-2021 of the respondent be set aside, and the stoppage of one increment along with recovery be waived off, with such other relief as may be deemed proper and just in circumstances of the case.

Appellant

Mir Nawaz Khan
01/04/2021

Mir Nawaz Khan

Dated 01-04-2021



5
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Annexure - A

Dated Peshawar, the July 18, 2014

ORDER

NO.SO.E-V(E&AD)/5-1/2012:- On the recommendations of the Khyber Pakhtunkhwa Public Service Commission and acceptance of Terms & Conditions laid down in their respective offer of appointment, the following recommendees are hereby appointed as Computer Operator/DEO (BPS-12) in the Khyber Pakhtunkhwa Civil Secretariat, with effect from the date(s) of their arrival as noted hereunder:-

S.No.	Name with Father's Name	Date of Arrival
1.	Muhammad Waseem S/O Rahim Bakhsh	09-06-2014
2.	Abid Khan S/O Muhammad Sadiq	09-06-2014
3.	Muhammad Nawaz S/O Azak Mir	26-06-2014
4.	Muhammad Zahir Khan S/O Haji Gul (Late)	24-06-2014
5.	Abdullah Shah S/O Matiab Shah	09-06-2014
6.	Mir Nawaz Khan S/O Naik Nawaz Khan	09-06-2014
7.	Muhammad Jawad Khan S/O Muhammad Ilyas	10-06-2014
8.	Ajmal Khan S/O Inayat Ullah	01-07-2014
9.	Faisal Rahim S/O Rahim Bakhsh	06-06-2014
10.	Zakir Ullah S/O Ghulam Jelani	09-06-2014
11.	Shafiq Ahmad S/O Umar Gul	09-06-2014
12.	Irfan Ullah Khan S/O Nadir Khan	09-06-2014
13.	Muhammad Usman S/O Muhammad Ashfaq	19-06-2014
14.	Said Islam S/O Aslam Khan	12-06-2014

2. The above chronological order shall confer no right of seniority. Their inter-seniority will be determined in the light of the Merit Order drawn by the Khyber Pakhtunkhwa Public Service Commission.

3. Consequent upon their appointment as Computer Operator (BPS-12), the following postings are hereby ordered:-

Mirza
01/04/2021

Contd. Next Page

6

S.#	Name of Official	Place of Posting
1.	Muhammad Waseem, Computer Operator (BPS-12)	Science Technology & Information Technology Department.
2.	Abid Khan, Computer Operator (BPS-12)	Finance Department
3.	Muhammad Nawaz, Computer Operator (BPS-12)	Elementary & Secondary Education Department
4.	Muhammad Zahir Khan, Computer Operator (BPS-12)	Law Department
5.	Abdullah Shah, Computer Operator (BPS-12)	Planning & Development Department
6.	Mir Nawaz Khan, Computer Operator (BPS-12)	Communication & Works Department
7.	Muhammad Jawad, Computer Operator (BPS-12)	Information Department
8.	Ajmal Khan, Computer Operator (BPS-12)	Transport Department
9.	Faisal Rahim, Computer Operator (BPS-12)	Finance Department
10.	Zakir Ullah, Computer Operator (BPS-12)	Elementary & Secondary Education Department
11.	Shafiq Ahmad, Computer Operator (BPS-12)	Planning & Development Department
12.	Irfan Ullah Khan, Computer Operator (BPS-12)	Higher Education Department
13.	Muhammad Usman, Computer Operator (BPS-12)	Planning & Development Department
14.	Said Islam, Computer Operator (BPS-12)	Elementary & Secondary Education Department

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT**

Endst. No. & Date Even.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department.
4. The Secretary to Govt. of Khyber Pakhtunkhwa, Science Technology & Information Technology Department.
5. The Secretary to Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
6. The Secretary to Govt. of Khyber Pakhtunkhwa, Communication & Works Department.
7. The Secretary to Govt. of Khyber Pakhtunkhwa, Information Department.
8. The Secretary to Govt. of Khyber Pakhtunkhwa, Transport Department.
9. The Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
10. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
11. The Deputy Secretary (Admn), Administration Department, Govt. of Khyber Pakhtunkhwa.
12. The Deputy Director, I.T, Establishment & Administration Department.
13. The Section Officer (Admn)/(Secret) /Estate Officer/ Librarian E & A Department.
14. PS to Secretary Establishment.
15. Officials concerned.
16. Personal file of the officials concerned.
17. Master file.

Wardah Latif
(WARDAH LATIF) 18/7/2014
Section Officer (E-V)

No. 260

For Insurance Notices see reverse.
Stamps affixed except in case of
uninsured letters of post
the RGL 1040 1954 in the
Post office mode or on which no
acknowledgement is due

Rs. Ps.

50-

Received a registered
addressed to

BISP Office *Post Stamp*

Write here "letter", "postcard", "packet" or "parcel"
initials of Receiving Office with the word "insured" before it when necessary.

Insured for Rs. (in figures) 500000 (in words)

Insurance fee Rs. Ps. (in words) } Weight Kilo Grams

Name and address of sender {

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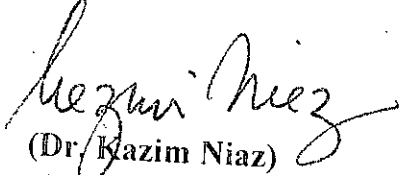
CHARGE SHEET


Annexure - C

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Mir Nawaz Khan, Computer Operator (BPS-16) for the following irregularities, you committed while your posting as Computer Operator (BPS-16) in Excise & Taxation Department:-

- I. That your spouse fraudulently received grant through Benazir Income Support Program.
 - II. That you have been found associated with your spouse in receipt of the aforesaid grant and committed the act of misconduct and corruption as specified in Rule 3 of the rules *ibid*.
 - III. That your conduct, as such is prejudicial to good order / service discipline.
2. By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the rules *ibid*.
 3. You are, therefore, required to submit your written defence within seven (07) days of the receipt of this Charge Sheet to the inquiry officer / inquiry committee, as the case may be.
 4. Your written defence, if any, should reach the inquiry officer / inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case *ex-parte* action shall be taken against you.
 5. Intimate whether you desire to be heard in person.
 6. A Statement of Allegations is enclosed.

Mr. Mir Nawaz Khan,
Computer Operator (BPS-16),
Excise & Taxation Department


(Dr. Kazim Niaz)
Chief Secretary, Khyber Pakhtunkhwa
(Competent Authority)


07/04/2021

(10)
DISCIPLINARY ACTION

I, **Dr. Kazim Niaz**, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Mir Nawaz Khan, Computer Operator (BPS-16), Excise & Taxation Department has rendered himself liable to be proceeded against, as he committed the following acts / omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS


- I. That his spouse fraudulently received grant through Benazir Income Support Program.
- II. That he has been found associated with his spouse in receipt of the aforesaid grant and committed the act of misconduct and corruption as specified in Rule 3 of the rules ibid.
- III. That his conduct, as such is prejudicial to good order / service discipline.

2. For the purpose of formal inquiry against the said accused with reference to the above allegations, an inquiry officer / inquiry committee, consisting of the following, is constituted under Rule 10 (1) (a) of the ibid rules:

- I. Mr. Usman Tilani S.O (R-III)
- II. Estab: department.
- III. _____

3. The inquiry officer / inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer / inquiry committee.


(Dr. Kazim Niaz)
Chief Secretary, Khyber Pakhtunkhwa
(Competent Authority)

Mr. Mir Nawaz Khan,
Computer Operator (BPS-16),
Excise & Taxation Department



(11)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

PH# 091-9213457 FAX# 091-9210447 Email:sectionofficerv@gmail.com

NO.SOE-V(E&AD)/8-151/2011

Dated Peshawar, the AUGUST 26, 2020

To

Mr. Usman Jilani (PMS BPS-17),
Section Officer (Reg-III),
Establishment Department.

SUBJECT: DISCIPLINARY PROCEEDINGS AGAINST MIR NAWAZ & USMAN ALI, COMPUTER OPERATORS (BPS-16) UNDER E&D RULES, 2011.

I am directed to refer to the subject noted above and to state that Competent Authority has been pleased to approve initiation of disciplinary proceedings against the following officials under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011:-

- i. Mir Nawaz, Computer Operator (BPS-16), Excise & Taxation Department.
 - ii. Usman Ali, Computer Operator (BPS-16), Administration Department.
2. Consequently, you have been appointed as Inquiry Officer by the Competent Authority to conduct the enquiry. Copies of Charge Sheet & Statement of Allegations are enclosed herewith for further necessary action.
3. It is, therefore, requested that further necessary action may be taken accordingly and report thereto may be provided within one month, please.

Yours faithfully,

Encls: As above.

SECTION OFFICER (E-V) 20.

Endst: No. & Date Even:-

Copy forwarded for information to:-

1. PS to Secretary, Establishment Department.
2. PS to Special Secretary (Estt), Establishment Department.
3. PA to Deputy Secretary (Estt), Establishment Department.
4. Officials concerned alongwith Charge Sheet and Statement of Allegations with the direction to appear before the Inquiry Officer on the date, time and venue fixed by him for the purpose of inquiry proceedings.

SECTION OFFICER (E-V)

(12)

Annexure - D

To,

Mr. Usman Jilani (PMS BPS-17),
Section Officer (Reg-III),
Establishment Department.

[Handwritten Signature]
01/04/2021

SUBJECT: CHARGE SHEET / REPLY TO CHARGE SHEET.

OR

DISCIPLINARY PROCEEDING AGAINST MIR NAWAZ KHAN
COMPUTER OPERATOR (BPS-16) UNDER E&D RULES, 2011.

Respected Sir,

Reference to Charge Sheet received through letter No.SOE-V)(E&AD)/8-151/2011 dated 26.08.20320, on the subject noted above.

1. Sir, it is to bring into your kind knowledge that Benazir Income Support Program (BISP) was initiated in July, 2008 and at that time my family was helpless and applied to the said program for relief. So for as allegations of fraud is concerned, no fraud was ever made.

The undersigned was appointed as Computer Operator / DEO (BPS-12) on 09.06.2014 (Order Annex-I), so that time I was not in service and former laxities, if any, cannot form basis for punishment.

II- Sir, I was never in association with my spouse in connection with Benazir Income Support Program, so, no act of misconduct / corruption was ever committed by the me.

III- Sir, not correct, as stated earlier my conduct was never prejudicial to good order / service discipline. The said income was discontinued in October 2019.

In spite of all above, I am ready to deposit to Government the amount drawn by my wife from Benazir Income Support Program (BISP) since my appointment as civil servant i.e w.e.f 09.06.2014.

I once again invite your kind attention to the point that at the time of availing aforesaid facilities, I was not in service but appointed much later than same.

2. Sir, by keeping in view the aforesaid submission I never appear to be guilty of any misconduct under any law. I never rendered myself liable to any punishment under any law.

3. Sir, written defence / reply to Charge Sheets is submitted within the stipulated period of time.

[Handwritten Signature]
01/04/2021

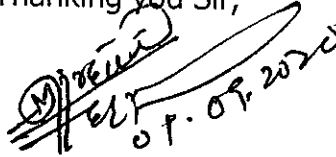
[Handwritten Signature]

(13)

4. As directed, written defence is submitted within the aforesaid period please.
5. I wish to be heard in person.
6. Need no comments, but the Charges are not applied to the case in hand. It is, therefore, most humbly requested that I may be exonerated from the charges and obliged.

Dated: 01.09.2020

Thanking you Sir,


01.09.2020

Mir Nawaz Khan
Computer Operator (BPS-16)
Tax Section
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve upon you, Mir Nawaz Khan, Computer Operator (BPS-16), Excise & Taxation Department:-

- I. That your spouse fraudulently received grant through Benazir Income Support Program.
- II. That you have been found associated with your spouse in receipt of the aforesaid grant and committed the act of misconduct and corruption as specified in Rule 3 of the rules ibid.
- III. That your conduct, as such is prejudicial to good order / service discipline.

2. Whereas, Mr. Usman Jilani (PMS BPS-17), Section Officer (Reg-III), Establishment Department was appointed as Enquiry Officer. He has completed his Enquiry Report.

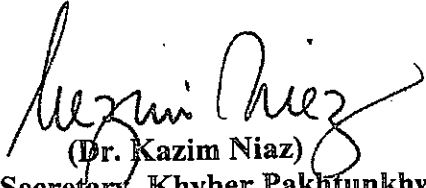
3. Whereas, after perusal of the said Enquiry Report, I am satisfied and find you guilty of aforesaid act / omission which attract E&D Rules.

4. Therefore, I, as competent authority have tentatively decided to impose upon you a penalty of Stoppage of 1 increment for one year and recovery of Rs.107, 874/- fraudulently received under BISP.

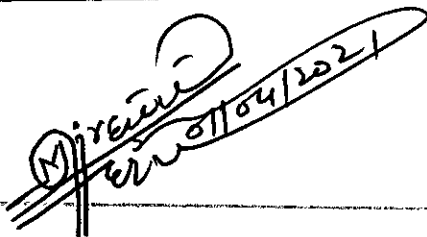
5. You are, therefore, required to show cause as to why aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

6. If no reply of this Notice is received within 15 (Fifteen) days of its delivery, it shall be presumed that you have nothing to put in defence and in that case an ex-parte action shall be taken against you.

7. Copy of the findings of the Enquiry Officer is also enclosed.


(Dr. Kazim Niaz)
Chief Secretary, Khyber Pakhtunkhwa
(Competent Authority)

Mir Nawaz Khan,
Computer Operator (BPS-16)
Excise & Taxation Department.


01/04/2021



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(Establishment Wing)

Ann

15

H# 091-9213457 FAX# 091-9210447 Email:sectionofficerv@gmail.com

NO.SOE-V(E&AD)/8-151/2014

Dated Peshawar, the OCTOBER 20, 2020

To

- i. Mir Nawaz Khan,
Computer Operator (BPS-16),
Excise & Taxation Department.
- ii. Mr. Usman Ali,
Computer Operator (BPS-16),
Administration Department.

SUBJECT: SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to enclose herewith copy of Show Cause Notice, duly signed by competent authority, alongwith inquiry report of the Inquiry Officer with the direction to submit your reply to the same within fifteen (15) days of its receipt otherwise ex-parte action will be taken against you.

Encls: As above.


SECTION OFFICER (E-V)

Endst: No. & Date Even:-

Copy forwarded for information to:-

1. PS to Secretary, Establishment Department.
2. PS to Special Secretary (Estt), Establishment Department.
3. PA to Deputy Secretary (Estt), Establishment Department.


SECTION OFFICER (E-V)

(16)

Annexure - F

To,

The Section Officer (E-V),
Establishment Department
Govt. of Khyber Pakhtunkhwa.

[Signature]
26/10/2022

SUBJECT: SHOW CAUSE NOTICE / REPLY TO SHOW CAUSE NOTICE.

Respected Sir,

Reference to Show Cause Notice received through letter No.SOE-V)(E&AD)/8-151/2014 dated 20.10.2020, on the subject noted above.

1. Sir, I have submitted reply to the Charge Sheet and statement of allegations on 01.09.2020, which should be considered as part in percale of the show cause notice. **(Copy of the reply to the charge sheet is attached).**

2. Sir as per as charges lodged in the show cause notice regarding fraud, association with spouse and conduct is considered, I, myself, never committed any fraud under the law of Land as well as Islamic law, no one shall be made responsible for the Act of others even son, daughter, father, mother and wife, which is against the injunction of Islam.

I. Sir, I personally informed the District Officer of Benazir Income Support Program on dated 14-10-2014, after release of my pay. The copy of application provides to the Inquiry Officer and attached with show case reply. Original receipt of Post Office will be present on the day of personal hearing.

II- The matter was pertaining to the period where I was not inducted in Government service.

III- As per law, no one can be given double punishment of stoppage of 01 increment for one year and recovery of Rs, 107,874/-.

3. Sir, written defence / reply to show cause notice has been submitted in the matter within the stipulated time of period.

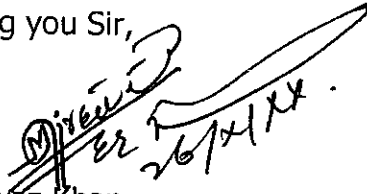
[Signature]
26/10/2022

17

4. I wish to be heard in person.
5. It is, therefore, most humbly requested that I may be exempted from the Penalty and the recovery of amount.

Dated: 26.10.2020

Thanking you Sir,



Mir Nawaz Khan
Computer Operator (BPS-16)
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(Establishment Wing)

091-9213457

091-9210447

sectionofficerv@gmail.com

ORDER

Dated Peshawar, the JANUARY 4, 2021

No. SOE-V/E&AD/8-151/2014

WHEREAS, Mr. Mir Nawaz Khan, Computer Operator (BPS-16), Finance Department was proceeded against under the Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges of illegal receipt of grant under Benazir Income Support Program (BISP) by his spouse.

2. WHEREAS, he is found associated with his spouse in receipt of the grant and committed the act of misconduct as specified in Rule 3 of the rules ibid.
3. WHEREAS, his conduct as such is prejudicial to good order / service discipline.
4. WHEREAS, Mr. Usman Jillani (PMS BPS-17), Section Officer (Reg-III), Establishment Department was appointed as Inquiry Officer to conduct inquiry against the official.
5. WHEREAS, Inquiry Officer after having examined the charges, evidence on record and explanation of the accused official submitted his report.
6. WHEREAS, the official was offered personal hearing.
7. NOW, THEREFORE, after having considered the charges, evidence on record, explanation of the accused official, finding of the Inquiry Officer and hearing him in person, the Competent Authority in exercise of powers conferred under Rule 14 (5) (ii) of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 read with Rule 4 (2) (a) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 has been pleased to impose minor penalty of "stoppage of one increment for one year" upon Mr. Mir Nawaz Khan, Computer Operator (BPS-16), Finance Department along with recovery of Rs.107,874/-.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST: OF EVEN NO. & DATE:-

Copy forwarded to the:-

1. Secretary, Finance Department, Govt. of Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa.
3. Section Officer (Reg-I) / (Reg-III), Estab & Admin Department.
4. PS to Secretary, Establishment Department.
5. PS to Special Secretary (Estt), Establishment Department.
6. PA to Additional Secretary (Estt), Establishment Department.
7. Official concerned.
8. Master file.

Mir Nawaz Khan
01/04/2021

M. Usman
04/01/2021
(MUHAMMAD IRFAN USMAN)
SECTION OFFICER (E-V)

19



Annexure-H

To

THE CHIEF MINISTER,
KHYBER PAKHTUNKHWA

Attention: THROUGH PROPER CHANNEL

The Section Officer (E-V),
Establishment Department (Establishment Wing),
Khyber Pakhtunkhwa.

Subject: DEPARTMENTAL APPEAL FOR JUSTICE AGAINST ORDER NO. SOE-V/E&AD/8-151/2014 DATED 04.01.2021, WHERE THE UNDERSIGNED HAS BEEN PUNISHED.

Respecter Sir,

Reference to the office order No.SOE-V/E&AD/8-151/2014 dated 04.01.2021, received from Section Officer (E-V), Establishment Department, which imposed penalty of "stoppage of increment for one year" along with recovery of Rs.107,874/- under Benazir Income Support Program (BISP) by his spouse (Order of Penalty Annex-I & Reply of Show Cause is at Annex-II).

1. Sir, it is to bring your kind knowledge that Benazir Income Support Program (BISP) was initiated before my service, and at that time my family was helpless. That time I was declared as eligible for the said program by the survey team of Benazir Income Support Program (BISP), so for as allegations of fraud is concerned, no fraud was ever made.

The undersigned was appointed as Computer Operator (BPS-12) on 09.06.2014 (Order Annex-III), so that time I was not in service and former laxities, if any, cannot basis for punishment.

Moreover, I gave an application to District Officer for Benazir Income Support Program (BISP), Bannu to discontinue my relief amount. Copy of application dated: 14.10.2014, and post office receipt are (Annex-IV & V). The copy of application and original post office receipt was given to the officer in personal hearing.

2. Sir, by keeping in view the aforesaid submission I never appear to be guilty of any misconduct under any law. I never rendered myself liable to any punishment under any law for reason that the appellant has himself not received any amount illegally. I once again invite your kind attention to the point that at the time of availing aforesaid facilities, I was not in service but appointed much later than same.

Mirza
14/10/2014
9/C

3. Sir, I also invite your kind attention to the honorable Peshawar High Court, Peshawar decision issued vide Notification No.16927-37/Admn dated: 01.10.2020, wherein “ The penalty of stoppage of increment is set aside (ختم کریں) (Copy of the decision are Annex-VI).

4. Meanwhile, some senior officials of Civil Secretariat notified only censure and recovery of amount, not punished as stoppage of increment.

5. In last, I invite your kind attention to my case, please accept my request for exemption from the punishment “**stoppage of one increment for one year**”. I hopeful that you are pardon me. I shall be careful in future and very grateful in life of your this kindness.

Dated: 07-01-2021

9c

Yours Sincerely,

Mir Nawaz Khan
Computer Operator

FMIU Finance department

Cell: 0333-5950332 / 0303-5950332

Copy forwarded to the:-

1. Secretary, Finance Department, Govt. of Khyber Pakhtunkhwa.
2. Accountant General Khyber Pakhtunkhwa.
3. PS to Secretary, Establishment & Administration Department.
4. PS to Special Secretary (Estt), Establishment Department.
5. PA to Additional Secretary (ESSt), Establishment Department.

Mir Nawaz Khan
Computer Operator

(21)

Annexure-I



GOVERNMENT OF KHYBER PAKHTUNKHWA

ESTABLISHMENT DEPARTMENT

(Establishment Wing)

PH# 091-9213457 FAX# 091-9210447 Email:sectionofficerv@gmail.com

NO.SOE-V(E&AD)/8-151/2014

Dated Peshawar, the MARCH 09, 2021

To

- i. Mir Nawaz Khan,
Computer Operator (BPS-16),
Excise & Taxation Department.
- ii. Mr. Usman Ali,
Computer Operator (BPS-16),
Administration Department.

SUBJECT: DEPARTMENTAL APPEALS UNDER E&D RULES, 2011.

I am directed to refer to the subject noted above and to inform that your departmental appeals were processed and regretted by the Competent Authority. Consequently, the penalty of stoppage of one increment for one year alongwith recovery of the amount drawn under BISP, imposed vide this Department Orders of even No. 04.01.2021, is kept intact.

[Handwritten Signature]
SECTION OFFICER (E-V)

Endst: No. & Date Even:-

Copy forwarded for information to:-

1. PS to Secretary, Establishment Department.
2. PS to Special Secretary (Estt), Establishment Department.
3. PA to Additional Secretary (Estt), Establishment Department.

[Handwritten Signature]
01/04/2021

SECTION OFFICER (E-V)

04/01/2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... Respondents

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5.	Remarks of Chief Secretary on Note	C	10

2

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

APPEAL NO. 4751/2021

Mir Nawaz Khan, Computer Operator (BPS-16)

FMIU, Finance Department.....

Appellant



VS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-6

PRELIMINARY OBJECTIONS:

RESPECTFULLY SHEWETH

1. That the Appellant has got no locus standi / cause of action to file the instant Appeal.
2. That the Appellant has not come to this Hon'ble Tribunal with clean hands. Hence, disentitled to any relief whatsoever.
3. That no discrimination / injustice whatsoever has been done to anyone.
4. That the Appellant is not based on facts, hence, liable to be rejected.
5. That the Appellant is estopped by his conduct to file the instant Appeal.
6. That the Appeal is not based on facts and also devoid of any merit, therefore, is liable to be rejected.

ON FACTS

1. Pertains to record, hence, no comments.
2. Incorrect. The appellant so claimed to have sent application to District Officer Benazir Income Support Program (BISP) Bannu, for stoppage of BISP Cash Grant via Post Office receipt doesn't bear any authenticity, hence is bogus which has been produced only years after the official was identified as delinquent. Had the appellant submitted any application to the Director BISP, Bannu, it would have been on the record and, moreover, the Cash Grant from that onward would have definitely stopped. This also shows the involvement of the Appellant and connivance in the case.
3. No Comments. Pertains to record.
4. Correct. The official was duly served with Charge Sheet/Statement of Allegations.
5. Incorrect. No cogent reason was given for drawing the Cash Grant during the Service period of the official i.e. from 09.06.2014 onward. The appellant in connivance with his wife until

identified as defaulter kept benefiting from the said program which was solely for the poor. The appellant admitted in his reply of Show Cause that he is ready to deposit the amount received by his wife since his appointment.

6. Incorrect. The appellant was given full opportunity to defend his stance as per Efficiency & Disciplinary (E&D) Rules, 2011 as evident from his replies to the Charge Sheet and Show Cause notice (**Annex-A & B**). No cross examination or liability to record statement in the presence of the official was required in the instant case because there was sufficient proof and evidence available on record against the appellant as per section 5 (b) (ii) of the ibid rules which states, "Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry."
7. Correct to the extent that proper Charge Sheet / Statement of Allegations and Show Cause Notice were served upon the appellant of which he replied. As explained in para-4 & 6 above.
8. Incorrect. The official was afforded the opportunity of personal hearing before the then Deputy Secretary (Regulation-I) Mr.Ahmad Kamal on 25.11.2020 in which "the accused official accepted the charges against him and could not deny the allegations in presence of clear evidences which were available on record against him." So after fulfillment of all the required formalities appellant was given minor penalty (**Remarks of the mentioned officer as penned down on a note for Chief Secretary are placed at Annex-C**)
9. The departmental appeal of the appellant was proceeded under the law but was regretted by the Competent Authority being unsatisfactory.

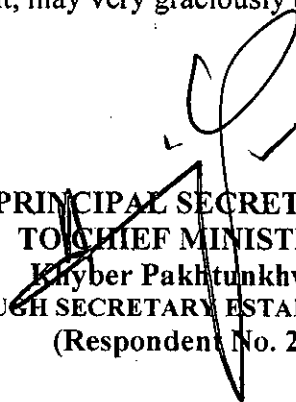
ON GROUNDS:

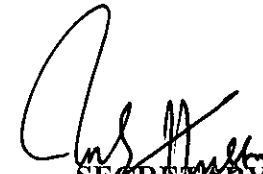
- A. Incorrect. The spouse of the appellant kept drawing monetary benefits from the Cash Grant program despite the fact that her husband, the appellant was in Government Service. How come, the appellant did not have the knowledge of the withdrawal of money by his spouse from the said program. Moreover, he didn't bring it either into the notice of the Department or BISP officials which shows that he was also involved and had connivance in the act.
- B. Pertains to record, however, detail reply give in the preceeding paras.
- C. Pertains to record and subject to proof.
- D. Incorrect. The order of appellant authority is quite speaking one. The appellant was proceeded against under Efficiency & Disciplinary Rules, 2011, and minor penalty of


stoppage of one year increment and recovery of Rs. 107,874/- was imposed upon him in accordance with law and rules.

- E. Incorrect. The Departmental Appeal of the appellant was rejected on the grounds quoted above, the case was processed to the Competent Authority who dismissed it and the penalty was "kept Intact".
- F. Incorrect. As explained at the para-8 of the facts.

Prayer: In view of the above submissions, the instant appeal, being devoid of any legal merit, may very graciously be dismissed with cost.


**PRINCIPAL SECRETARY
 TO CHIEF MINISTER,
 Khyber Pakhtunkhwa.
 THROUGH SECRETARY ESTABLISHMENT
 (Respondent No. 2)**


**SECRETARY,
 Establishment Department,
 Govt. of Khyber Pakhtunkhwa.
 (Respondent No. 3)**


**CHIEF SECRETARY,
 Khyber Pakhtunkhwa
 (Respondent No. 1)**

.....

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator BS-16.....Appellant

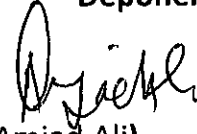
Versus

Govt. of KP through Chief Secretary & Others.....Respondents

AFFIDAVIT

I Amjad Ali , Assistant(Litigation-II) section, Establishment Department, Govt. of Khyber Pakhtunkhwa do hereby solemnly declare that contents of the comments are correct to the best of my knowledge and record and nothing has been concealed from this Hon'able Court.

Deponent



(Amjad Ali)

Assistant (Lit-II)

Establishment Department

CNIC No. 17201-1300258-9

To,

Mr. Usman Jilani (PMS BPS-17),
Section Officer (Reg-III),
Establishment Department.

[Handwritten Signature]
01/09/2020

SUBJECT: CHARGE SHEET / REPLY TO CHARGE SHEET.

OR

**DISCIPLINARY PROCEEDING AGAINST MIR NAWAZ KHAN
COMPUTER OPERATOR (BPS-16) UNDER E&D RULES, 2011.**

Respected Sir,

Reference to Charge Sheet received through letter No.SOE-V)(E&AD)/
8-151/2011 dated 26.08.20320, on the subject noted above.

1. Sir, it is to bring into your kind knowledge that Benazir Income Support Program (BISP) was initiated in July, 2008 and at that time my family was helpless and applied to the said program for relief. So for as allegations of fraud is concerned, no fraud was ever made.

The undersigned was appointed as Computer Operator / DEO (BPS-12) on 09.06.2014 (Order Annex-I), so that time I was not in service and former laxities, if any, cannot form basis for punishment.

II- Sir, I was never in association with my spouse in connection with Benazir Income Support Program, so, no act of misconduct / corruption was ever committed by the me.

III- Sir, not correct, as stated earlier my conduct was never prejudicial to good order / service discipline. The said income was discontinued in October 2019.

In spite of all above, I am ready to deposit to Government the amount drawn by my wife from Benazir Income Support Program (BISP) since my appointment as civil servant i.e w.e.f 09.06.2014.

I once again invite your kind attention to the point that at the time of availing aforesaid facilities, I was not in service but appointed much later than same.

2. Sir, by keeping in view the aforesaid submission I never appear to be guilty of any misconduct under any law. I never rendered myself liable to any punishment under any law.

3. Sir, written defence / reply to Charge Sheets is submitted within the stipulated period of time.

[Handwritten Signature]

4. As directed, written defence is submitted within the aforesaid period please.
5. I wish to be heard in person.
6. Need no comments, but the Charges are not applied to the case in hand. It is, therefore, most humbly requested that I may be exonerated from the charges and obliged.

Dated: 01.09.2020

Thanking you Sir,

Mir Nawaz Khan
01.09.2020

Mir Nawaz Khan
Computer Operator (BPS-16)
Tax Section
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

To,

The Section Officer (E-V),
Establishment Department
Govt. of Khyber Pakhtunkhwa.

[Signature]
26/10/2022

SUBJECT: SHOW CAUSE NOTICE / REPLY TO SHOW CAUSE NOTICE.

Respected Sir,

Reference to Show Cause Notice received through letter No.SOE-V)(E&AD)/8-151/2014 dated 20.10.2020, on the subject noted above.

1. Sir, I have submitted reply to the Charge Sheet and statement of allegations on 01.09.2020, which should be considered as part in percale of the show cause notice. **(Copy of the reply to the charge sheet is attached).**

2. Sir as per as charges lodged in the show cause notice regarding fraud, association with spouse and conduct is considered, I, myself, never committed any fraud under the law of Land as well as Islamic law, no one shall be made responsible for the Act of others-even son, daughter, father, mother and wife, which is against the injunction of Islam.

I. Sir, I personally informed the District Officer of Benazir Income Support Program on dated 14-10-2014, after release of my pay. The copy of application provides to the Inquiry Officer and attached with show case reply. Original receipt of Post Office will be present on the day of personal hearing.

II- The matter was pertaining to the period where I was not inducted in Government service.

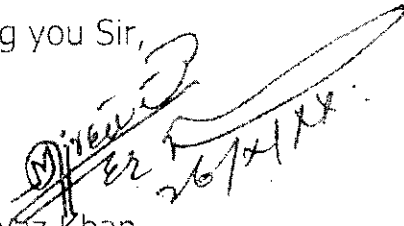
III- As per law, no one can be given double punishment of stoppage of 01 increment for one year and recovery of Rs, 107,874/-.

3. Sir, written defence / reply to show cause notice has been submitted in the matter within the stipulated time of period.

4. I wish to be heard in person.
5. It is, therefore, most humbly requested that I may be exempted from the Penalty and the recovery of amount.

Dated: 26.10.2020

Thanking you Sir,



Mir Nawaz Khan
Computer Operator (BPS-16)
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

Reference Para-6 of the Note

7. The Chief Secretary Khyber Pakhtunkhwa authorized the undersigned to hear in person the accused officials on his behalf. Therefore, the accused officials Mr. Mir Nawaz Khan, Computer Operator (BPS-16) Excise & Taxation Department and Mr. Usman Ali, Computer Operator (BPS-16) Administration Department were called for personal hearing on 25th November, 2020 at 1100hrs in the office of the undersigned. They were afforded opportunity of personal hearing in the presence of departmental representative of Administration Department Mr. Muhammad Ayub Khan Section Officer Budget while representative of the Excise & Taxation Department was absent during the proceedings (Flag-I).

8. Since the accused officials accepted the charges against them to be true and unable to deny the same in presence of clear evidences against them. Therefore, it is recommended that the penalty tentatively imposed upon them "Stoppage of one increment for one year" may be confirmed against the accused officials Mr. Mir Nawaz Khan and Mr. Usman Ali, Computer Operators alongwith recovery of Rs.107,874/- and Rs.113,874/- respectively.

Diary No. 1939
Dated 30/11/2020

(Ahmad Kamal)
Deputy Secretary (Reg-I)
November 26, 2020

Secretary Establishment

Chief Secretary Khyber Pakhtunkhwa

SECRETARY ESTABLISHMENT
Establishment & Administration
Department.

*"One increment for one year" confirmed
and recovery of Rs 107,874/- & Rs 113,874/- resp*

Secretary Estab

(Signature)
Chief Secretary
Govt. of Khyber Pakhtunkhwa

CAJ.C.S Khyber Pakhtunkhwa
No. 2349
Date: 30/11/2020

(Signatures and initials)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... Respondents

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR**

APPEAL NO. 4751/2021

Mir Nawaz Khan, Computer Operator (BPS-16)
FMIU, Finance Department.....**Appellant**

VS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.....**Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-6

PRELIMINARY OBJECTIONS:

RESPECTFULLY SHEWETH

1. That the Appellant has got no locus standi / cause of action to file the instant Appeal.
2. That the Appellant has not come to this Hon'ble Tribunal with clean hands. Hence, disentitled to any relief whatsoever.
3. That no discrimination / injustice whatsoever has been done to anyone.
4. That the Appellant is not based on facts, hence, liable to be rejected.
5. That the Appellant is estopped by his conduct to file the instant Appeal.
6. That the Appeal is not based on facts and also devoid of any merit, therefore, is liable to be rejected.

ON FACTS

1. Pertains to record, hence, no comments.
2. Incorrect. The appellant so claimed to have sent application to District Officer Benazir Income Support Program (BISP) Bannu, for stoppage of BISP Cash Grant via Post Office receipt doesn't bear any authenticity, hence is bogus which has been produced only years after the official was identified as delinquent. Had the appellant submitted any application to the Director BISP, Bannu, it would have been on the record and, moreover, the Cash Grant from that onward would have definitely stopped. This also shows the involvement of the Appellant and connivance in the case.
3. No Comments. Pertains to record.
4. Correct. The official was duly served with Charge Sheet/Statement of Allegations.
5. Incorrect. No cogent reason was given for drawing the Cash Grant during the Service period of the official i.e. from 09.06.2014 onward. The appellant in connivance with his wife until

identified as defaulter kept benefiting from the said program which was solely for the poor. The appellant admitted in his reply of Show Cause that he is ready to deposit the amount received by his wife since his appointment.

6. Incorrect. The appellant was given full opportunity to defend his stance as per Efficiency & Disciplinary (E&D) Rules, 2011 as evident from his replies to the Charge Sheet and Show Cause notice (**Annex-A & B**). No cross examination or liability to record statement in the presence of the official was required in the instant case because there was sufficient proof and evidence available on record against the appellant as per section 5 (b) (ii) of the ibid rules which states, "Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry."
7. Correct to the extent that proper Charge Sheet / Statement of Allegations and Show Cause Notice were served upon the appellant of which he replied. As explained in para-4 & 6 above.
8. Incorrect. The official was afforded the opportunity of personal hearing before the then Deputy Secretary (Regulation-I) Mr.Ahmad Kamal on 25.11.2020 in which "the accused official accepted the charges against him and could not deny the allegations in presence of clear evidences which were available on record against him." So after fulfillment of all the required formalities appellant was given minor penalty (**Remarks of the mentioned officer as penned down on a note for Chief Secretary are placed at Annex-C**)
9. The departmental appeal of the appellant was proceeded under the law but was regretted by the Competent Authority being unsatisfactory.

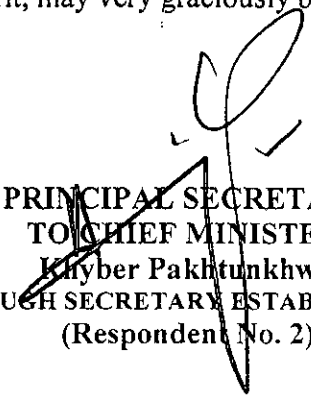
ON GROUNDS:

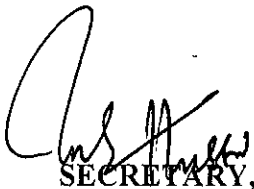
- A. Incorrect. The spouse of the appellant kept drawing monetary benefits from the Cash Grant program despite the fact that her husband, the appellant was in Government Service. How come, the appellant did not have the knowledge of the withdrawal of money by his spouse from the said program. Moreover, he didn't bring it either into the notice of the Department or BISP officials which shows that he was also involved and had connivance in the act.
- B. Pertains to record, however, detail reply give in the preceeding paras.
- C. Pertains to record and subject to proof.
- D. Incorrect. The order of appellant authority is quite speaking one. The appellant was proceeded against under Efficiency & Disciplinary Rules, 2011, and minor penalty of


stoppage of one year increment and recovery of Rs. 107,874/- was imposed upon him in accordance with law and rules.

- E. Incorrect. The Departmental Appeal of the appellant was rejected on the grounds quoted above, the case was processed to the Competent Authority who dismissed it and the penalty was "kept Intact".
- F. Incorrect. As explained at the para-8 of the facts.

Prayer: In view of the above submissions, the instant appeal, being devoid of any legal merit, may very graciously be dismissed with cost.


 PRINCIPAL SECRETARY
 TO CHIEF MINISTER,
 Khyber Pakhtunkhwa.
 THROUGH SECRETARY ESTABLISHMENT
 (Respondent No. 2)


 SECRETARY,
 Establishment Department,
 Govt. of Khyber Pakhtunkhwa.
 (Respondent No. 3)


 CHIEF SECRETARY,
 Khyber Pakhtunkhwa
 (Respondent No. 1)

.....

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator BS-16.....Appellant

Versus

Govt. of KP through Chief Secretary & Others.....Respondents

AFFIDAVIT

I Amjad Ali , Assistant(Litigation-II) section, Establishment Department, Govt. of Khyber Pakhtunkhwa do hereby solemnly declare that contents of the comments are correct to the best of my knowledge and record and nothing has been concealed from this Hon'able Court.

Deponent

(Amjad Ali)
Assistant (Lit-II)
Establishment Department
CNIC No. 17201-1300258-9

To,

Mr. Usman Jilani (PMS BPS-17),
Section Officer (Reg-III),
Establishment Department.

[Handwritten Signature]
01/9/2021

SUBJECT: CHARGE SHEET / REPLY TO CHARGE SHEET.

OR

DISCIPLINARY PROCEEDING AGAINST MIR NAWAZ KHAN
COMPUTER OPERATOR (BPS-16) UNDER E&D RULES, 2011.

Respected Sir,

Reference to Charge Sheet received through letter No.SOE-V)(E&AD)/8-151/2011 dated 26.08.20320, on the subject noted above.

1. Sir, it is to bring into your kind knowledge that Benazir Income Support Program (BISP) was initiated in July, 2008 and at that time my family was helpless and applied to the said program for relief. So far as allegations of fraud is concerned, no fraud was ever made.

The undersigned was appointed as Computer Operator / DEO (BPS-12) on 09.06.2014 (Order Annex-I), so that time I was not in service and former laxities, if any, cannot form basis for punishment.

II- Sir, I was never in association with my spouse in connection with Benazir Income Support Program, so, no act of misconduct / corruption was ever committed by the me.

III- Sir, not correct, as stated earlier my conduct was never prejudicial to good order / service discipline. The said income was discontinued in October 2019.

In spite of all above, I am ready to deposit to Government the amount drawn by my wife from Benazir Income Support Program (BISP) since my appointment as civil servant i.e w.e.f 09.06.2014.

I once again invite your kind attention to the point that at the time of availing aforesaid facilities, I was not in service but appointed much later than same.

2. Sir, by keeping in view the aforesaid submission I never appear to be guilty of any misconduct under any law. I never rendered myself liable to any punishment under any law.

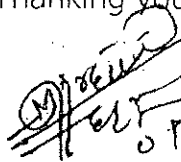
3. Sir, written defence / reply to Charge Sheets is submitted within the stipulated period of time.

[Handwritten Signature]

4. As directed, written defence is submitted within the aforesaid period please.
5. I wish to be heard in person.
6. Need no comments, but the Charges are not applied to the case in hand. It is, therefore, most humbly requested that I may be exonerated from the charges and obliged.

Dated: 01.09.2020

Thanking you Sir,


01.09.2020

Mir Nawaz Khan
Computer Operator (BPS-16)
Tax Section
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

To,
The Section Officer (E-V),
Establishment Department
Govt. of Khyber Pakhtunkhwa.

[Signature]
26/10/2022

SUBJECT: SHOW CAUSE NOTICE / REPLY TO SHOW CAUSE NOTICE.

Respected Sir,

Reference to Show Cause Notice received through letter No.SOE-V)(E&AD)/8-151/2014 dated 20.10.2020, on the subject noted above.

1. Sir, I have submitted reply to the Charge Sheet and statement of allegations on 01.09.2020, which should be considered as part in percale of the show cause notice. **(Copy of the reply to the charge sheet is attached).**

2. Sir as per as charges lodged in the show cause notice regarding fraud, association with spouse and conduct is considered, I, myself, never committed any fraud under the law of Land as well as Islamic law, no one shall be made responsible for the Act of others-even son, daughter, father, mother and wife, which is against the injunction of Islam.

I. Sir, I personally informed the District Officer of Benazir Income Support Program on dated 14-10-2014, after release of my pay. The copy of application provides to the Inquiry Officer and attached with show case reply. Original receipt of Post Office will be present on the day of personal hearing.

II- The matter was pertaining to the period where I was not inducted in Government service.

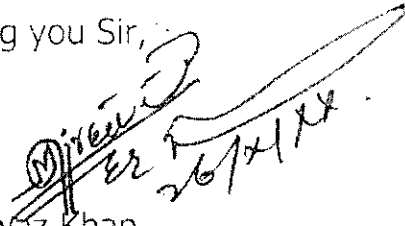
III- As per law, no one can be given double punishment of stoppage of 01 increment for one year and recovery of Rs, 107,874/-.

3. Sir, written defence / reply to show cause notice has been submitted in the matter within the stipulated time of period.

4. I wish to be heard in person.
5. It is, therefore, most humbly requested that I may be exempted from the Penalty and the recovery of amount.

Dated: 26.10.2020

Thanking you Sir,



Mir Nawaz Khan
Computer Operator (BPS-16)
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

Reference Para-6 of the Note

7. The Chief Secretary Khyber Pakhtunkhwa authorized the undersigned to hear in person the accused officials on his behalf. Therefore, the accused officials Mr. Mir Nawaz Khan, Computer Operator (BPS-16) Excise & Taxation Department and Mr. Usman Ali, Computer Operator (BPS-16) Administration Department were called for personal hearing on 25th November, 2020 at 1100hrs in the office of the undersigned. They were afforded opportunity of personal hearing in the presence of departmental representative of Administration Department Mr. Muhammad Ayub Khan Section Officer Budget while representative of the Excise & Taxation Department was absent during the proceedings (Flag-I).

8. Since the accused officials accepted the charges against them to be true and unable to deny the same in presence of clear evidences against them. Therefore, it is recommended that the penalty tentatively imposed upon them "Stoppage of one increment for one year" may be confirmed against the accused officials Mr. Mir Nawaz Khan and Mr. Usman Ali, Computer Operators alongwith recovery of Rs.107,874/- and Rs.113,874/- respectively.

Diary No. 1939
Dated 20/11/2020

(Signature)
(Ahmad Kamal)
Deputy Secretary (Reg-I)
November 26, 2020

Secretary Establishment

Chief Secretary Khyber Pakhtunkhwa

SECRETARY ESTABLISHMENT
Establishment & Administration
Department.

*"One increment for one year" confirmed
and recovery of Rs 107,874/- & Rs 113,874/- resp*

Secretary Estab

(Signature)
Chief Secretary
Govt. of Khyber Pakhtunkhwa

CA/JC S Khyber Pakhtunkhwa
No. 2349
Date: 20/11/2020

(Signature)
(Signature)
(Signature)

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... Respondents

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR**

APPEAL NO. 4751/2021

Mir Nawaz Khan, Computer Operator (BPS-16)
FMIU, Finance Department.....Appellant

VS

Government of Khyber Pakhtunkhwa through Chief Secretary & Others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1-6

PRELIMINARY OBJECTIONS:

RESPECTFULLY SHEWETH

1. That the Appellant has got no locus standi / cause of action to file the instant Appeal.
2. That the Appellant has not come to this Hon'ble Tribunal with clean hands. Hence, disentitled to any relief whatsoever.
3. That no discrimination / injustice whatsoever has been done to anyone.
4. That the Appellant is not based on facts, hence, liable to be rejected.
5. That the Appellant is estopped by his conduct to file the instant Appeal.
6. That the Appeal is not based on facts and also devoid of any merit, therefore, is liable to be rejected.

ON FACTS

1. Pertains to record, hence, no comments.
2. Incorrect. The appellant so claimed to have sent application to District Officer Benazir Income Support Program (BISP) Bannu, for stoppage of BISP Cash Grant via Post Office receipt doesn't bear any authenticity, hence is bogus which has been produced only years after the official was identified as delinquent. Had the appellant submitted any application to the Director BISP, Bannu, it would have been on the record and, moreover, the Cash Grant from that onward would have definitely stopped. This also shows the involvement of the Appellant and connivance in the case.
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4. Correct. The official was duly served with Charge Sheet/Statement of Allegations.
5. Incorrect. No cogent reason was given for drawing the Cash Grant during the Service period of the official i.e. from 09.06.2014 onward. The appellant in connivance with his wife until

identified as defaulter kept benefiting from the said program which was solely for the poor. The appellant admitted in his reply of Show Cause that he is ready to deposit the amount received by his wife since his appointment.

6. Incorrect. The appellant was given full opportunity to defend his stance as per Efficiency & Disciplinary (E&D) Rules, 2011 as evident from his replies to the Charge Sheet and Show Cause notice (**Annex-A & B**). No cross examination or liability to record statement in the presence of the official was required in the instant case because there was sufficient proof and evidence available on record against the appellant as per section 5 (b) (ii) of the ibid rules which states, "Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry."
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9. The departmental appeal of the appellant was proceeded under the law but was regretted by the Competent Authority being unsatisfactory.

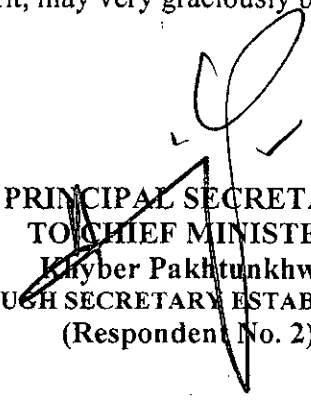
ON GROUNDS:

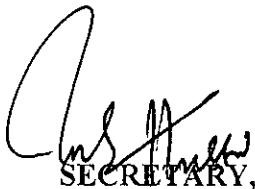
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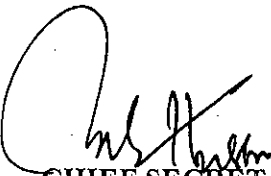
stoppage of one year increment and recovery of Rs. 107,874/- was imposed upon him in accordance with law and rules.

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- F. Incorrect. As explained at the para-8 of the facts.

Prayer: In view of the above submissions, the instant appeal, being devoid of any legal merit, may very graciously be dismissed with cost.


**PRINCIPAL SECRETARY
 TO CHIEF MINISTER,
 Khyber Pakhtunkhwa.
 THROUGH SECRETARY ESTABLISHMENT
 (Respondent No. 2)**


**SECRETARY,
 Establishment Department,
 Govt. of Khyber Pakhtunkhwa.
 (Respondent No. 3)**


**CHIEF SECRETARY,
 Khyber Pakhtunkhwa
 (Respondent No. 1)**

.....

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 4751/2021

Mir Nawaz Khan, Computer Operator BS-16.....Appellant

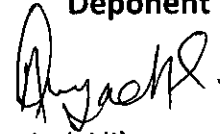
Versus

Govt. of KP through Chief Secretary & Others.....Respondents

AFFIDAVIT

I Amjad Ali , Assistant(Litigation-II) section, Establishment Department, Govt. of Khyber Pakhtunkhwa do hereby solemnly declare that contents of the comments are correct to the best of my knowledge and record and nothing has been concealed from this Hon'able Court.

Deponent



(Amjad Ali)

Assistant (Lit-II)

Establishment Department

CNIC No. 17201-1300258-9

To,

Mr. Usman Jilani (PMS BPS-17),
Section Officer (Reg-III),
Establishment Department.

[Handwritten Signature]
01/9/2020

SUBJECT: CHARGE SHEET / REPLY TO CHARGE SHEET.

OR

**DISCIPLINARY PROCEEDING AGAINST MIR NAWAZ KHAN
COMPUTER OPERATOR (BPS-16) UNDER E&D RULES, 2011.**

Respected Sir,

Reference to Charge Sheet received through letter No.SOE-V)(E&AD)/8-151/2011 dated 26.08.20320, on the subject noted above.

1. Sir, it is to bring into your kind knowledge that Benazir Income Support Program (BISP) was initiated in July, 2008 and at that time my family was helpless and applied to the said program for relief. So for as allegations of fraud is concerned, no fraud was ever made.

The undersigned was appointed as Computer Operator / DEO (BPS-12) on 09.06.2014 (Order Annex-I), so that time I was not in service and former laxities, if any, cannot form basis for punishment.

II- Sir, I was never in association with my spouse in connection with Benazir Income Support Program, so, no act of misconduct / corruption was ever committed by the me.

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In spite of all above, I am ready to deposit to Government the amount drawn by my wife from Benazir Income Support Program (BISP) since my appointment as civil servant i.e w.e.f 09.06.2014.

I once again invite your kind attention to the point that at the time of availing aforesaid facilities, I was not in service but appointed much later than same.

2. Sir, by keeping in view the aforesaid submission I never appear to be guilty of any misconduct under any law. I never rendered myself liable to any punishment under any law.

3. Sir, written defence / reply to Charge Sheets is submitted within the stipulated period of time.

[Handwritten Signature]

4. As directed, written defence is submitted within the aforesaid period please.
5. I wish to be heard in person.
6. Need no comments, but the Charges are not applied to the case in hand. It is, therefore, most humbly requested that I may be exonerated from the charges and obliged.

Dated: 01.09.2020

Thanking you Sir,

Mir Nawaz Khan
01.09.2020

Mir Nawaz Khan
Computer Operator (BPS-16)
Tax Section
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

To,

The Section Officer (E-V),
Establishment Department
Govt. of Khyber Pakhtunkhwa.

[Signature]
26/10/2022

SUBJECT: SHOW CAUSE NOTICE / REPLY TO SHOW CAUSE NOTICE.

Respected Sir,

Reference to Show Cause Notice received through letter No.SOE-V(E&AD)/8-151/2014 dated 20.10.2020, on the subject noted above.

1. Sir, I have submitted reply to the Charge Sheet and statement of allegations on 01.09.2020, which should be considered as part in percale of the show cause notice. **(Copy of the reply to the charge sheet is attached).**

2. Sir as per as charges lodged in the show cause notice regarding fraud, association with spouse and conduct is considered, I, myself, never committed any fraud under the law of Land as well as Islamic law, no one shall be made responsible for the Act of others even son, daughter, father, mother and wife, which is against the injunction of Islam.

I. Sir, I personally informed the District Officer of Benazir Income Support Program on dated 14-10-2014, after release of my pay. The copy of application provides to the Inquiry Officer and attached with show case reply. Original receipt of Post Office will be present on the day of personal hearing.

II- The matter was pertaining to the period where I was not inducted in Government service.

III- As per law, no one can be given double punishment of stoppage of 01 increment for one year and recovery of Rs, 107,874/-.

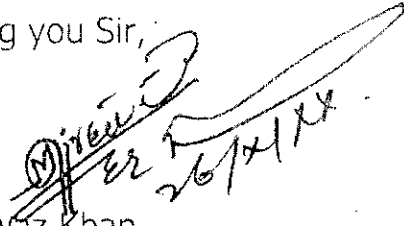
3. Sir, written defence / reply to show cause notice has been submitted in the matter within the stipulated time of period.

4. I wish to be heard in person.

5. It is, therefore, most humbly requested that I may be exempted from the Penalty and the recovery of amount.

Dated: 26.10.2020

Thanking you Sir,



Mir Nawaz Khan
Computer Operator (BPS-16)
Excise, Taxation & Narcotics Control Deptt.
Civil Secretariat, Peshawar.
Cell: 0333-595-0332
0303-595-0332

Annex C

10

Reference Para-6 of the Note

7. The Chief Secretary Khyber Pakhtunkhwa authorized the undersigned to hear in person the accused officials on his behalf. Therefore, the accused officials Mr. Mir Nawaz Khan, Computer Operator (BPS-16) Excise & Taxation Department and Mr. Usman Ali, Computer Operator (BPS-16) Administration Department were called for personal hearing on 25th November, 2020 at 1100hrs in the office of the undersigned. They were afforded opportunity of personal hearing in the presence of departmental representative of Administration Department Mr. Muhammad Ayub Khan Section Officer Budget while representative of the Excise & Taxation Department was absent during the proceedings (**Flag-I**).

8. Since the accused officials accepted the charges against them to be true and unable to deny the same in presence of clear evidences against them. Therefore, it is recommended that the penalty tentatively imposed upon them "Stoppage of one increment for one year" may be confirmed against the accused officials Mr. Mir Nawaz Khan and Mr. Usman Ali, Computer Operators alongwith recovery of Rs.107,874/- and Rs.113,874/- respectively.

Diary No. 1739
Dated 30/11/2020

(Ahmad Kamal) 26/11/2020
Deputy Secretary (Reg-I)
November 26, 2020

Secretary Establishment

Chief Secretary Khyber Pakhtunkhwa

SECRETARY ESTABLISHMENT
Establishment & Administration
Department.

"One increment for one year" confirmed
and recovery of Rs 107,874/- & Rs 113,874/- resp

Sery Estab

Chief Secretary
Govt. of Khyber Pakhtunkhwa

CA/C.S Khyber Pakhtunkhwa
No. 2349
Date: 26/11/2020

Handwritten notes and signatures at the bottom of the page.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 4751 /2021

Mir Nawaz Khan

versus

Chief Secretary & Others

REPLICATION

Respectfully Sheweth,

Preliminary Objections:

All the six (06) preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no locus standi / cause of action, he has not come to the Honorable Tribunal in clean hand, discrimination / injustice was done to him, appeal is based on fact, no estoppel ever by exist, and appeal is based on legal fact, so is liable to acceptance.

ON FACTS

1. Needs no comments.
2. Not correct. The para of the appeal is correct regarding submission of appellant on 14.10.2014 for stoppage of relief amount. Receipt of the postal service is attached with the application for stoppage of the relief. At the same time, appellant was not in active service of the Government, so no bar lay on his part.

More so, there was no restrictions on any one for availing the facility as per "eligibility criteria are approved by the BISEP Board time to time. At the start of the program in July 2008, no reliable data were available for the identification of the underprivileged and vulnerable person in the country. The task of identification of the potential beneficiaries of BISEP was, therefore, **entrusted to the Parliamentarians in what was the Phase-1** of Targeting. Later the Government introduced a more sophisticated and objective

based approach of Poverty Scorecard Survey (PSC) based on **Proxy Means Test (PMT) as a Phase-2** of targeting. The survey was carried out in 2010-11 and families living under the approved PMT cut-off score are identified as potential beneficiaries. However, the cash benefit is provided to an adult ever married female processing CNIC within an "eligible".

A. Government was not a proxy of PMT formula.

B. Being a government employee was not a disqualification to be declared as BISEP beneficiary.

As per policy decision taken by BISEP Board in its 36th meeting held on 19 December, 2019 as well as approved by the Federal Cabinet in its meeting held on 24th December, 2019. As a result of this exercise, 820,165 beneficiaries were exited from the program.

3. Needs no comments.
4. Admitted correct by the respondents regarding service of charge sheet but as stated earlier, there was no bar on any one for availing the facility.
5. Not correct. The para of the appeal is correct. The facility came into force in the year 2008, while appellant was appointed on 09.06.2014, meaning thereby that he was not in Government service. Nothing is outstanding against him.
6. Not correct. The para of the appeal is correct. The enquiry was not conduct as per the mandate of law. Enquiry procedure is given in law and as per the verdict of apex court, **"when law requires to do a thing a particular manner, the same shall be done in that manner, and not otherwise."** No one can dispensed enquiry procedure.
7. Needs no comments.
8. Not correct. The matter was not dealt with as per the mandate of law. Appellant was not in service at that time, so the penalty and recovery are illegal and without lawful authority.

9. Needs no comments.

GROUND:

All the grounds of the appeal are legal and correct while that of the reply are illegal and incorrect. The grounds of the appeal are again re-agitated for the purpose of relief.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Appellant


Mir Nawaz Khan (In person)

Dated: 01-04-2022

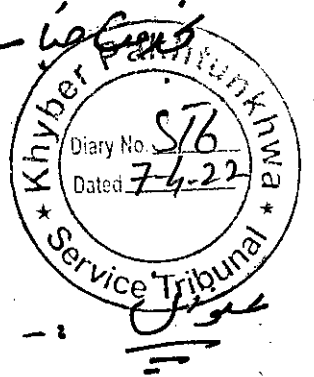
AFFIDAVIT

I, **Mir Nawaz Khan**, appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief, while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.


DEPONENT

ضیاب عالی۔ صدر مین جہاں سرورس ٹریبونل ہے اور



Put up to the court with relevant appeal.

ضیاب عالی!

میرا میرا ہی "Recovery" کو Monthly قسط وار کر دیں۔

07/4/2022

موردانہ گزارش ہے کہ پبلک ٹو سین آف صابن گامبہ دستور میں کہہ رہے ہیں۔
میری Mino Penalty کو ختم کیا جو کہ ایک سال کے لئے سالانہ زنگر ٹیکس کی Stoppage تھی۔

معلومہ ازیں گزارش کی جاتی ہے کہ Recovery جو کہ Rs = 1,07,876/-
ایک لاکھ سات ہزار آٹھ سو چوہتر ہے 12 مہینے قسط وار کر دیں تاکہ
میری بچوں کی تعلیم و تربیت و گھوکا فرام زیادہ effect نہیں ہوں
اور آسانی کے Recovery کو Pay کر دے۔

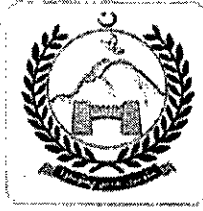
ضیاب عالی!

آپ صابن سے کھولو اور امید کی جاتی ہے کہ میری Recovery
کو Twelve installment (12 قسطوں) میں کرادیں گے۔

عین نورز خان

مقدمہ 07.04.2022

اب P مجلس میر نورز خان کس 4751/2021
Cell = 0333-5950332



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**


No. 936 /ST

Dated: 25-4-2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

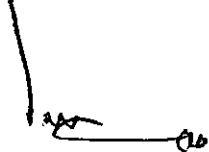
To

The  Secretary Establishment Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 4751/2021, MR. MIR NAWAZ KHAN.

I am directed to forward herewith a certified copy of Judgement dated 07.04.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR