KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
FAREEHA PAUL ... MEMBER (Executive)

Service Appeal No.13565/2020

Mr. Samiullah (Driver), Deputy Commissioner Office Lakki Marwat.
.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.
.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13566/2020

Mr. Naqeeb Ahmad (Patwari) S/O Rasheed Ahmad, Deputy Commissioner Office Lakki Marwat.
.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.
.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13567/2020

Mr. Sanaullah Khan (Assistant) S/O Hakim Khan, Deputy Commissioner Office Lakki Marwat.
.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13568/2020

Mr. Rehmatullah Khan (Naib Qasid), Deputy Commissioner Office Lakki Marwat.
.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.

2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13569/2020

Mr. Khamdullah Khan (Patwari) S/O Hakim Khan, Deputy Commissioner Office Lakki Marwat.

.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13570/2020

Mr. Hamayun Khan (Patwari) S/o Imam Din, Deputy Commissioner Office Lakki Marwat.

.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13571/2020

Mr. Miraj-Ud-Din (Patwari) S/o Rahim Khan, Deputy Commissioner Office Lakki Marwat.

.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

Service Appeal No.13572/2020

Mr. Bashir Nawaz (Sweeper), Deputy Commissioner Office Lakki Marwat.

.....(***Appellant***)

Versus

1. **The SMBR** Khyber Pakhtunkhwa Peshawar.
2. **The Commissioner Bannu,** Division Bannu.
3. **The Deputy Commissioner,** Lakki Marwat.

.....(***Respondents***)

Present:

Syed Noman Ali Bukhari,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For respondents.

Date of Institution.....09.10.2020
Dates of Hearing.....12.10.2022
Date of Decision.....12.10.2022

.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST PUNISHMENT IMPOSED UPON THE APPELLANT OF THE KIND "WITHHOLDING OF 03 ANNUAL INCREMENTS FOR THREE YEARS" VIDE IMPUGNED NOTIFICATION NO. SO(B/T)E&SED/9-2/2019/HSSC BISE D.I.KHAN/MUHAMMAD TARIQ BHATTI DATED 06.07.2020.

CONSOLIDATED JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this single judgment this appeal and connected Appeal No. 13566/2020 titled "Naqeeb Ahmad-vs- the SMBR Khyber Pakhtunkhwa Peshawar and others", No. 13567/2020 titled "Sanaullah Khan-vs- the SMBR Khyber Pakhtunkhwa Peshawar and others", No. 13568/2020 titled "Rehmat Ullah Khan-vs- the SMBR Khyber Pakhtunkhwa Peshawar and others", No. 13569/2020 titled " Khamdullah

Khan-vs- the SMBR Khyber Pakhtunkhwa Peshawar and others", No. 13570/2020 titled "Hamayun Khan-vs-the SMBR Khyber Pakhtunkhwa Peshawar and others", appeal No. 13571/2020 titled "Miraj Ud Din-vs-the SMBR Khyber Pakhtunkhwa Peshawar and others", and service appeal No. 13572/2020 titled "Bashir Nawaz-vs- the SMBR Khyber Pakhtunkhwa Peshawar and others" are decided as all the eight are respecting the same allegations.

02. Brief facts leading to the institution of this service appeal are that the appellant was serving as Patwari in the respondent department. He was proceeded against for misconduct on account of drawl of cash grant from Benazir Income Support Program (BISP) by his spouse; that the appellant served with show cause notice by respondent No.3 which was replied by the appellant; that thereafter, the appellant challenged the vires of the show cause notice before the Hon'ble Peshawar High Court, Bannu Bench. The Hon'ble Peshawar High Court, Bannu Bench disposed of the writ petition vide judgment dated 28.04.2020 with the direction to respondent to conduct inquiry in accordance with law and rules by providing opportunity of personal hearing to the appellant; that the appellant was removed from service vide order dated 24.04.2020, against which he filed departmental appeal before respondent No.2; That respondent No.2 accepted the departmental appeal vide order dated 13.08.2020 and in compliance with the order, respondent No.3 by reinstating the appellant in service with all back benefits, withheld one annual increment for two years and also ordered for recovery against the appellant vide order 24.08.2020; that the appellant feeling aggrieved from the order dated

24.08.2020 filed departmental appeal on 08.09.2020 which was rejected on 21.09.2020, hence, the instant service appeal in this Tribunal on 09.10.2020.

03. On receipt of the appeals and admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellants.

04. We have heard learned counsel for the appellants and learned Additional Advocate General for the respondents.

05. The learned counsel for the appellants reiterated the facts and grounds detailed in the memo and grounds of the appeals while the learned Assistant Advocate General controverted the same by supporting the impugned order.

06. In a similar matter an appeal No. 4751/2021 titled "Mir Nawaz Khan-vs-The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar and others") was decided by a division bench of this Tribunal and the Tribunal, while allowing the appeal, has passed the following findings in paragraphs-6 and 7 of the judgment in that appeal:-

> **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.

07.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.

07. The point involved in the above appeal and the one in hand is no different rather one and the same, therefore, this appeal is also allowed accordingly and the punishment to the extent of stoppage of one increment is set aside. However, the order regarding recovery is not interfered with. The service appeals are also therefore, partially allowed in the above manner. Costs shall follow the event. Copy of this judgment be placed in all the connected appeals. Consign.

08. ***Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 12th day of October, 2022.***

KALIM ARSHAD KHAN
Chairman

FAREEHA PAUL
Member (Executive)

ORDER

12th Oct, 2022

1. Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

2. Vide our detailed judgement of today placed on file (containing 08 pages), this appeal is also allowed accordingly and the punishment to the extent of stoppage of one increment is set aside. However, the order regarding recovery is not interfered with. The service appeals are also therefore, partially allowed in the above manner. Costs shall follow the event. Consign.

3. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 12th day of October, 2022.*

(Kalim Arshad Khan)
Chairman

(Fareeha Paul)
Member(Executive)

15.02.2022 Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 13.05.2022.for the same as before.

Reader

13-5-22 Proper DB not available the case is adjourned on 26-7-22

Reader

26th July 2022 Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Qasim Khan, Superintendent and Mr. Muhammad Sajjad, Litigation Officer for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for arguments on 12.10.2022 before the D.B.

(Salah-Ud-Din)
Member (J)

(Kalim Arshad Khan)
Chairman

15.03.2021 Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 24.05.2021 before S.B.

Reader

24.05.2021 Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 03.08.2021 for the same as before.

Reader

03.08.2021 Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Muhammad Sagged, Law Officer for the respondents present.

Written reply/comments have submitted and the same are placed on file. The appeal is entrusted to D.B for arguments on 16.12.2021.

Chairman

16.12.2021 Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Muhammad Rasheed, Deputy District Attorney alongwith Mr. Gul Rahman Assistant Commissioner for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 15.02.2022.

(Atiq Ur Rehman Wazir)
Member (E)

(Salah-ud-Din)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 13565 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/11/2020	The appeal of Mr. Sami Ullah Khan resubmitted today by Syed Noman Ali Bukhar Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 21/12/2020. CHAIRMAN
	21.12.2020	Appellant present through counsel. Preliminary arguments heard. File perused. Points raised need consideration. Admitted to regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for written reply/comments. To come up for written reply/comments on 15.03.2021 before S.B. Appellant Deposited Security & Process Fee 21/12/20 (Rozina Rehman) Member (J)

The appeal received today, i.e. on 09-10-2020 is incomplete on the following scores, which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Affidavit is not attached with appeal which may be placed on it.
2- Memorandum of the appeal may be got signed by the appellant.
3- Annex of appeal are not in sequence and flagged.

No. 2921 /S.T,

Dt. 12-10- /2020

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Noman Ali Shah, Adv.

Sir, Objection Removed & file Re-submitted.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO.13565/2020

Samiullah V/S Revenue Deptt

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APPELLANT
Samiullah

THROUGH:

SYED NOMAN ALI BUKHARI
(ADVOCATE, HIGH COURT)

Cell No: 0306-5109438

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

~~5976~~ 13565

APPEAL NO._____/2020

Khyber Pakhtukhwa Service Tribunal
Diary No. 11388
Dated 09/10/2020

Mr Samiullah (Driver)
Deputy Commissioner Office Lakki Marwat.

(Appellant)

VERSUS

1. The SMBR Khyber Pakhtunkhwa Peshawar.
2. The Commissioner Bannu Division Bannu.
3. The Deputy Commissioner Lakki Marwat.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED13.08.2020 WHEREBY— THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN ACCEPTED AND AGAINST THE ORDER DATED 24.8.2020 WHEREBY THE APPELLANT HAS BEEN RE-INSTATED IN TO SERVICE BY WITHHOLDING OF ONE ANNUAL INCREMENT FOR THE PERIOD OF TWO YEARS AND ALSO ORDER FOR RECOVERY AND AGAINST THE REJECTION ORDER DATED 17.09.2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

Filedto-day
Registrar
09/10/2020

Re-submitted to -day and filed.
Registrar
3/11/2020

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED13.08.2020 AND 24.08.2020 MAY PLEASE BE MODIFIED TO THE EXTENT OF INCREMENT AND RECOVERY AND RESTORE THE ANNUAL INCREMENT FOR APPELLANT FROM DUE DATE WITH ALL BACK AND CONSEQUENTIAL BENEFITS AND THE RESPONDENT MAY BE DIRECTED TO STOP THE RECOVERY FROM APPELLANT. ANY OTHER REMEDY WHICH THIS TRIBUNAL FIT AND PROPER MAY ALSO BE AWARDED IN THE FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was serving as Patwari in office of Deputy Commissioner Lucky Marwat and the appellant working with full zeal and zest to the entire satisfaction of his superiors.

2. That the appellant while performing his duties served with show cause notice by respondent no.3. As per content of show cause notice, spouse of the appellant shown recipient of BISP Cash Grant. which was properly replied by the appellant and denied the entire allegations and clear the entire Situation. **Copy of show cause notice and reply is attached as annexure-A & B.**

3. That thereafter appellant also challenge the vires of the show cause notice before the Hon'able Peshawar High court Bannu bench. The Hon'ble Court is kind enough to disposed off the writ petition vide judgment dated 28.04.2020 with direction to respondent that the opportunity of hearing should be provided to the appellant and proper inquiry should be conducted and the appellant should be treated according to law. **(Copy of high court judgment is attached as Annexure-C).**

4. That thereafter the appellant was removed from service vide order dated 24.04.2020 without providing personal hearing and conducting proper inquiry in violation of E&D rules 2011 and High Court Judgment. **Copy of removal order is attached as annexure-D.**

5. That the appellant being feeling aggrieved filed departmental appeal against the order dated 24.04.2020 before the respondent no.2. the respondent no.2 accepted the departmental appeal vide order dated 13.08.2020 and on acceptance of the departmental appeal the appellant has been re-instated in to service with all back and consequential benefits by withholding of one annual increment for two year and also order for recovery. **Copy of departmental appeal and appellate order dated 13.08.2020 is attached as annexure-E & F.**

6. That thereafter the respondent no.3 issued the fresh order dated 24.08.2020 whereby the minor penalty of *"withholding of one annual increment for two year"* was imposed upon the appellant and also order recovery. The appellant feeling being aggrieved from the order dated 24.08.2020 filed departmental appeal against the impugned order dated 24.08.2020. which was rejected vide order dated 17.09.2020. **(Copy of order, departmental appeal and rejection order is attached as Annexure-G, H& I).**

7. That now the appellant comes to this august Tribunal on the following grounds amongst others.

GROUNDS:

A) That impugned order dated. 13.08.2020 and 24.08.2020 is against the law, facts, norms of justice and material on record. Therefore, not tenable and liable to be modified.

B) That no formal inquiry was conducted despite the direction of High Court, no procedure was followed before the penalty was imposed upon the appellant which is against the law and rules.

C) That the recipient was spouse of the appellant not appellant himself and the survey team of BISP recommended his spouse for the subject relief taking their financial condition into account without appellant's consent.

D) That the BISP survey teams duly recommended the wife of the appellant for the financial assistance keeping in view their poverty and at that time there was no clarity whether the government servant may avail the grant or not, it is cleared from the commissioner order. So the impugned order is unlawful and against the natural justice.

E) That the sufficient grounds of innocence of the appellant exist as per provision of supreme court judgment cited as NLR 2005 TD supreme Court Page 78" as no one punished for the fault of others. So the impugned order is illegal.

F) That no proper procedure has been followed before the awarding the penalty, the whole proceedings were conducted in violation of law and rules. Thus, not tenable in the eye of the law.

G) That the inquiry was dispensed with in violation of law and rules which is further cleared from the Hon'ble High Court Judgment and Commissioner order dated 13.08.2020. therefore, the appellant has been re-instated into service, further it is stated that the increment of the appellant was also stopped without any fault on the part of the appellant. Which is liable to be correct by this Hon'ble tribunal

H) That grounds taken in show cause reply and charge sheet reply may also be considered integral part of the appeal.

I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

APPELLANT
Samiullah

THROUGH:

SYED NOMAN ALI BUKHARI
(ADVOCATE, HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO._____/2020

Samiullah Khan V/S Revenue Deptt

.....

APPLICATION FOR CONDONATION OF DELAY IN THE INSTANT APPEAL

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.

2. That if the tribunal determined that the impugned order 24.08.2020 is appellate order and no departmental appeal lie against the same. Then the increment and recovery is recurring cause of action being financial matter so there is no limitation run against the same, so the limitation may be condoned and if other wise then the appeal is well in time.

3. That according to Superior Court Judgment and this Hon'able tribunal Judgment, if the order is passed without following procedure the same has nullity in eye of law and treated to be void and there is no limitation run against the void order. So there is in interest of justice the limitation may be condoned.

4. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.

5. That, the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.

APPELLANT
Samiullah Khan

THROUGH:

SYED NOMAN ALI BUKHARI
Advocate, High Court
Peshawar

AFFIDAVIT

It is affirmed and declared that the contents application are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able tribunal.

DEPONENT

ATTESTED
Muhammad Riaz Shah Advocate
Oath Commissioner
High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO._____/2020

Samiullah V/S Revenue Deptt

.....

APPLICATION FOR SUSPENSION OF THE OPERATION OF THE IMPUGNED ORDER DATED 24.08.2020 TO THE EXTENT OF RECOVERY AND RESTRAINING THE RESPONDENTS FROM MAKING RECOVERY FROM APPELLANT TILL THE FINAL DECISION OF THE MAIN APPEAL.

RESPECTFULLY SHEWETH:

1. That the appellant has filed an appeal along with this application in which a date is not fixed so far.

2. That the appellant filed above mentioned appeal against the order dated 24.08.2020.

3. That all the conduct of the respondents is based on malafide and against the cause of justice. More, so the appellant has a good prima facie case and all the ingredients are in favour of appellant. The grounds of the appeal consider integral part of the application.

4. That if the respondents are not restrained from making recovery then the appellant will suffer from irrespective loss.

It is, therefore, most humbly prayed that the order dated 24.08.2020 may be suspended to the extent of recovery and the respondent may be restrained from

making recovery from appellant till the final decision of the main Appeal. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of appellant.

Appellant
Samiullah Khan

THROUGH:

(SYED NOMAN ALI BUKHARI)
ADVOCATE,HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

ATTESTED
Syed Muhammad Raza Shah Advocate
Oath Commissioner
High Court Peshawar

DEPONENT

A (9)

LAKKI MARWAT

No. 604 DC/LM/Estab:/F.12 Dated 17 . 04 . 2020

SHOW CAUSE NOTICE

I, Abdul Haseeb Khan, Deputy Commissioner Lakki Marwat as Competent Authority, under Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011 do hereby serve you, Mr. Sami Ullah Khan Driver (BPS-07) Deputy Commissioner office Lakki Marwat as follow

I am satisfied that you have committed the following acts /omission specified in rules-3 of the specified rules.

a. That you being a Government Servant, your spouse were recipient of BISP Cash Grant meant for destitute.

b. By reasons of the above, you appear to be guilty of misconduct under rules 3 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, and have rendered yourself liable to all or any of the penalties specified in rules 4 of the rules ibid.

2. In terms of Rules-5 if Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011; I, as Competent Authority, dispense with the Inquiry and serve you with a show case notice under Rules-7 of the ibid rules.

3. As a result therefore, I, as competent authority, have tentatively decided to impose upon you the following penalty under rules-4 of Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011;

i. REMOVAL FROM SERVICES.

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

5. If no reply to this notice is received within Seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and, in that case, ex-parte action shall be taken against you.

(ABDUL HASEEB KHAN)
Deputy Commissioner
Lakki Marwat.

Sami Ullah Khan
Driver BPS-07
DC Office Lakki Marwat.

B

(10)

To:- The Deputy Commissioner,
Lakki Marwat.

Subject: REPLY TO SHOW CAUSE NOTICE

Respected Sir,

With reference to show cause notice bearing No. 605/DC/LM/Estab:/F.12 dated 17.04.2020 received on 20.04.2020, my reply to show cause notice is submitted as under:-

1. That I am the bonafide resident of Village Ahmad Khel Tehsil and District Lakki Marwat.
2. That I have been serving as a Driver O/O Comissioner and presently serving under in the office of Office Kanungo Tehsil Lakki Marwat.
3. That I have been served with clean conduct uptil now and has not given any chance of complaint and served under the entire satisfaction of my superiors.
4. That I am a low paid employee used to pick and drop from Village Ahmad Khel to Lakki City on daily basis with distance of 30( ) KM with Rs. 60-70 passenger vehicle fare charges on daily basis.
5. That total( ) family members depend on my meager salary and hardly to pass these present hard days.
6. That now I have come to know that my spouse has drawn BISP Cash Grant but on enquiry I have come to know that during the course survey conducted by the team of BISP through local elders and my spouse CNIC was registered with them for which I have neither contacted nor I submitted any request for the same and this show cause notice is not based on facts/justice.
7. It is further pointed out that District Lakki Marwat is backward area of Khyber Pakhtunkhwa and our family consists of about 7 family members totally depend upon my meager salary.
8. That settled law, justice and natural law demands that other family member, father of son or husband of spouse of an mistake could not be punished and is against the law/justice as provided in Supreme Court of Pakistan Judgement – 2005 PD (Supreme Court Page 78).

Sir, I am innocent, not aware regarding the facts and figures of the case and is liable to be exonerated from the charges leveled against me.

Keeping in view my above submissions, my long outstanding clean conduct, I request your kind honour that I may very kindly be exonerated from the charges and the show cause notice may kindly be filed without any further proceedings and oblige.

Sir, I reserve my rights of appeal as provided in Rule 22 of the Civil Servant Act, 1973.

Thanking You Sir,

Yours Most Obedient Servant

Dated: _____/ /2020

Samiullah.

ATTW

C 11

BEFORE THE HON'BLE PESHAWAR HIGH COURT,
BANNU BENCH

Writ Petition # 418-B /2019

(1) Humayun Khan S/O Imam Din R/O Muslim Abad, Mohallah Machan Khel Tehsil and District Lakki Marwat.

(2) Sami Ullah Khan S/O Naimat Ullah Khan R/O Jhang Khel Tehsil and District Lakki Marwat.

(3) Bashir Nawaz S/O Sultan Khan R/ O Bamozai Tehsil and District Lakki Marwat.

(4) Noor Ali Khan S/O Habib Ullah Khan R/O Mohallah Khoidad Khel Tehsil and Disitrict Lakki Marwat.

(5) Hamd Ullah Jan S/O Hakim Khan R/O Mohallah Kara Khel, Nawar Khel Tehsil and Disitrict Lakki Marwat.

(6) Rehmat Ullah Khan S/O Muhammad Nawaz Khan R/O Ahmad Khel Tehsil and Disitrict Lakki Marwat.

(7) Sana Ullah Khan S/O Sikander Khan R/O Bachkin Ahmad zai Tehsil and Disitrict Lakki Marwat.

(8) Naqib Ahmad S/O Rashid Ahmad R/O Landa Ahmad Khel Tehsil and Disitrict Lakki Marwat.

(9) Miraj – ud –Din S/O Rahim Khan R/O Jhang Khel Tehsil and Disitrict Lakki Marwat. Present
R/o House #394/A, Mohallah New Tanchi Bazaar Bannu City
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~ (PETITIONERS)

--- VERSUS---

(1) The Government of Khyber Pakhtunkhwa through Secretary Establishment and Administration Department (Regulation Wing Peshawar.

(2) The Commissioner Bannu Division, Bannu.

(3) The Deputy Commissioner, Lakki Marwat.

(4) The Incharge Benazir Income Support Program, Lakki Marwat.

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~ (RESPONDENTS)

SEAL OF PESHAWAR HIGH COURT BANNU BENCH

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

Filed Today
23 APR 2020

PESHAWAR HIGH COURT,
BANNU BENCH.

12

FORM 'A'

FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge (s).
(1)	(2)
28-04-2020	*W.P No.418-B of 2020.* Present: Akbarullah Khan Wazir advocate for petitioners. *** *SAHIBZADA ASADULLAH J.*--- Through the instant Writ petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioners Humayun Khan and others have challenged the wires of Show Cause Notice under section 5 (3) of the Khyber Pakhtunkhwa Police rules, 1975, issued by respondent No.5 in pursuance of letter # SOP-1 (E & AD) 4-17/2020 dated 14/02/2020 of respondent No.1, as illegal, based on malafide intention, against the facts, *void ab initio.* 2- Short but relevant facts of the instant

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

ATTESTED

Writ Petition are that petitioners were performing their duties in FRP Police; that their spouses were receiving cash from Benazir Income Support Program (BISP) and the petitioners being government Servants are not entitled to derive benefit from said program which is against the Standing Operating Procedure (SOP) of the BISP. In this respect, Show Cause Notice was issued by the respondent No.5 to the petitioners in pursuance of letter # SOP-I (E & AD) 4-17/2020 dated 14/ 02/2020 of respondent No.1, hence the instant Writ Petition.

3- The contention of learned counsel for the petitioners is that petitioners were performing their duties in FRP Police but they were having no knowledge of submitting such applications by their spouses and that most of spouses are illiterate and they were unaware of the consequences of deriving such benefits from Benazir Income Support Program (BISP) cash grant.

4- Admittedly the respondent No.5 has issued Show cause notices to the petitioners for getting benefit from the BISP of their wives which is against the SOP. No adverse action has been taken against the petitioners hence the case is at pre mature stage. On

ATTESTED

ATTESTED

(14)

the mere facts of apprehension that the petitioners would not be treated in accordance with law, the Writ Petition could not lie.

5- In view of the above, this Writ Petition is disposed of with the direction that after providing them the opportunity of hearing and conducting proper inquiry the petitioners should be treated in accordance with law, rules and policy. Order accordingly.

Sd/ Justice Ms.Musarrat Hilali,J
Sd/ Mr.Justice Sahibzada Asadullah,J

Announced.
28-04-2020

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Ordinance 1984

BETTER COPY "D"

DEPUTY COMMISSIONER

Lakki Marwat (Khyber Pakhtunkhwa) Ph#: 0969-538330, Fax: 4538333

No: 1126/DC/LM/Estab Dated: 24-06-2020

ORDER:

My this order will dispose off the Departmental proceedings initiated against Mr. Sami Ullah Khan, Driver (BPS-07) Deputy Commissioner Lakki Marwat whereas found to indulge in the following alligations.

1. That he being a Government Servant, his spouse was recipient of (BPS 07). Each stand for destitute.
2. Such act on his part is prejudicial to good order / service discipline.

He was issued show cause notice to this effect. His explanation to the Show Cause Notice was not received by this office.

Therefore, I, Abdul Haseeb Khan, Deputy Commissioner Lakki Marwat exercise of the power vested upon me under Rules-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, hereby impose upon him major punishment of "REMOVAL FROM SERVICE" with immediate effect:-

(ABDUL HASEEB KHAN)
Deputy Commissioner
Lakki Marwat

Even No & Date:

Copy forwarded to the:

1. Commissioner Bannu Division, Bannu for information with reference to his letter no. 1390/F.B.I.S.P (LM) dated: 06-03-2020.
2. Additional Deputy Commissioner, Lakki Marwat.
3. Official Concerned.

Deputy Commissioner
Lakki Marwat

D (15)

OFFICE OF THE
DEPUTY COMMISSIONER
LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph# 0969-538330-31 Fax: 538333
email: dclakkimarwat@hotmail.com facebook.com/deputycommissionerlakkimarwat website: www.lakki.gov.pk

No. 1126 /DC/LM/Estab: Dated: 26 / 06 / 2020

OFFICE ORDER

My this order will dispose off the Departmental proceedings initiated against Mr. Sami Ullah Khan Driver (BPS-07) Deputy Commissioner Office Lakki Marwat who was found to indulge in the following allegations:

1. That he being a Government Servant, his spouse was recipient of BISP cash grant for destitute.
2. Such act on his part is prejudicial to good order / service discipline.

He was issued show cause notice to this effect. His explanation to the Show Cause Notice was not received by this office.

Therefore, I, Abdul Haseeb Khan, Deputy Commissioner Lakki Marwat in exercise of the power vested upon me under Rules -4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, hereby impose upon him major punishment of "REMOVAL FROM SERVICE" with immediate effect. -

(ABDUL HASEEB KHAN)
Deputy Commissioner
Lakki Marwat

Even No & Date.

Copy forwarded to the:

1. Commissioner Bannu Division Bannu for information with reference to his letter No. 1390/F.B.IS.P(LM) dated 05.03.2020
2. Additional Deputy Commissioner Lakki Marwat
3. Official concerned.

Deputy Commissioner
Lakki Marwat

E

BEFORE THE COURT OF COMMISSIONER, BANNU DIVISION

DEPARTMENTAL APPEAL NO _____

Mr. Samiullah, Ex. Driver
Deputy Commissioner office Lakki Marwat.

Versus ..... Appellant

The Deputy Commissioner Lakki Marwat ..... Respondent

DEPARTMENTAL APPEAL/REPRESENTATION UNDER RULE 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER NO. 1121 DATED 24.04.2020 PASSED BY THE RESPONDENT VIDE WHICH APPELLANT HAS BEEN REMOVED FROM THE GOVERNMENT SERVICE AGAINST RULES/ POLICY

Respectfully Sheweth:-

The appellant being aggrieved from the order dated 24.04.2020 passed by Respondent , hereby submit departmental appeal/ representation as provided in Rule 4 of Service Tribunal Act, 1974, as under:-

FACTS:-

1. That the appellant has been served in the Respondent Department as a Ex-Driver since June 2005 having completed about 15 years of meritorious services.
2. That the appellant has served to the entire satisfaction of his superiors officers uptil now.
3. That a Show Cause Notice was served by respondent upon the appellant vide letter No. 605 dated 17.04.2020 handed over on 20.04.2020, given 7-15 days for reply (Photocopy attached as Annexure A).
4. That as per content of show cause notice, spouse of the appellant shown recipient of BISP Cash Grant.
5. That the respondent dispensed with the inquiry in violation of rules and no opportunity of personal hearing given as provided in Rule 7 ((d) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.
6. That the respondent passed the impugned order before submission of reply to show cause notice by the appellant nor any personal hearing opportunity given in violation of Rule 7 (b) and (d).

P/2

(17)

7. That the respondent order is illegal, malafide and in violation of Supreme Court of Pakistan Judgement published vide 2005 PD Supreme Court Page 78) as no one shall be punished on the fault of the other.

8. However, the appellant also filed a Writ Petition No. 418-B in Peshawar High Court Bench Bannu on 22.04.2020 and the court passed the order on 28.04.2020 which is as under (Photocopy enclosed as Annexure B:-

> "Writ Petition is disposed off with the direction that after providing them the opportunity of hearing and conducing proper inquiry the petitioner should be treated in accordance with law, rules and policy.

9. The appellant is aggrieved from the order passed by the respondent in violation of natural as well as settled law, hence the instant appeal on the following grounds:-

GROUNDS:-

A. That the appellant is served as a Patwari for a long period with clean conduct.

B. That the employee is a low paid government servant having large number of dependents.

C. That the BISP Cash Grant has not been drawn by the appellant but drawn by souse of the appellant through a proper survey conducted by the team of BISP with no intention of the appellant.

D. That the employees of other departments alleged grant of BISP have been allowed in service and recovery in installment is to be made.

E. That sufficient grounds of innocence of the appellant exist as per provision of Supreme Court of Pakistan Judgement quoted in (2005 PD Supreme Court Page 78).

F. However, the allegation leveled against the appellant if proved, the spouse of the appellant will refund the amount so drawn.

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order No. 1121 Dated 24.04.2020 passed by the respondent, may kindly be set aside and the appellant may be re-instated into government served with all back benefits.

Appellant.

Samiullah

Ex. Driver.

F (18)

IN THE COURT OF COMMISSIONER BANNU DIVISION BANNU

Mr. Sami Ullah Ex-Driver, Office of DC, Lakki Marwat (Appellant)

Versus Attested

Deputy Commissioner, Lakki Marwat (Respondent)

Reader to Commissioner
Bannu Division 19/08/2020

ORDER:

Mr. Sami Ullah Ex-Driver of the office of the Deputy Commissioner, Lakki Marwat has moved an appeal against the impugned order No. 1126/DC/LM/Estab, dated 24/04/2020 issued by the Deputy Commissioner Lakki Marwat, the respondent department herein, whereby the appellant has been removed from service.

Brief history of the case is that Establishment Department Khyber Pakhtunkhwa asked all the departments to take action against all those government servants whose family members were the recipient of cash grant from BISP. Pursuant to the directions, the Deputy Commissioner Lakki Marwat issued a show-cause notice to the appellant and imposed major penalty of removal from service vide the impugned order. Hence the instant appeal was filed.

Aggrieved from which the appellant preferred an appeal against the impugned order of Deputy Commissioner Lakki Marwat taking the plea that in the instant case his spouse was recipient of the BISP grant, not him. The survey team of BISP recommended his spouse for the subject relief taking their financial condition into account without his consent. Similarly, the respondent department did not conduct formal inquiry before issuance of the impugned order which is a pre-requisite under the E&D Rules-2011.

Parties present and heard in detail.

Mr. Amin Ullah Additional Assistant Commissioner-II Lakki Marwat is present on behalf of the Deputy Commissioner, Lakki Marwat.

Perusal of the record as well as defense offered by the appellant, it has been transpired that the BISP survey teams duly recommended the wife of the appellant for the financial assistance keeping in view their

poverty. At that time there was no clarity whether the government servant may avail the grant or not.

For what has been observed and stated above the impugned order of the Deputy Commissioner, Lakki Marwat is set aside. The appellant is re-instated in service with all back benefits with retrospective effect by with-holding of one (01) annual increment for the period of two years only. The Deputy Commissioner Lakki Marwat will ensure recovery of the total amount received from BISP by the family members of the appellant from him in the monthly installments equal to the amount received from BISP per month after confirmation from the BISP office Lakki Marwat.

Announced
13/08/2020

COMMISSIONER
BANNU DIVISION

Reader

19/08/2020

ATTESTED

OFFICE OF THE
DEPUTY COMMISSIONER
LAKKI MARWAT (KHYBER PAKHTUNKHWA) Ph: # 0969 [illegible]330 [illegible] Fax: # 0[illegible]0-59[illegible]
email: dclakkimarwat@hotmail.com facebook: www.facebook.com/dcl[illegible] website: www.lakkimarwat.gov.pk

No. 1824 /DC/LM/Estab:/2020/F.12 Dated: 24 / 08 / 2020

OFFICE ORDER

In compliance with the orders of worthy Commissioner Bannu Division Bannu dated 13.08.2020, conveyed through his letter No. 2540/Reader dated 19.08.2020, Mr. Sami Ullah Khan Driver (BPS-07) Deputy Commissioner Office Lakki Marwat is hereby reinstated into Government service with all back benefits with retrospective effect by with-holding of one (01) annual increment for the period of two years.

NOTE: Assistant Director BISP Lakki Marwat is directed to provide total amount received from BISP by the Family member of Mr. Sami Ullah Khan Driver (BPS-07) to start monthly installment equal to the amount received from BISP per month.

Deputy Commissioner
Lakki Marwat.

Even No & Date.

Copy forwarded to the:

1. Commissioner Bannu Division Bannu for information with reference to his letter cited above.
2. Additional Deputy Commissioner Lakki Marwat
3. Assistant Commissioner Lakki Marwat.
4. Assistant Director BISP Lakki Marwat with the directions to provide the detail in respect of above official.
5. Official concerned.

Deputy Commissioner
Lakki Marwat.

ATTESTED

H (8) (21)

BEFORE THE SENIOR MEMBER, BOARD OF REVENUE, KHYBER PAKHTUNKHWA PESHAWAR

(Departmental Appellate Authority)

PS/SMBR
Dy No 4114
Date 08/9/2020
Govt: of Khyber Pakhtunkhwa

DEPARTMENTAL APPEAL NO_____

Sami Ullah S/O Niamat Ullah, Driver, Deputy Commissioner Office Lakki Marwat. .....Appellant

Versus

1. The Commissioner Bannu Division Bannu.)
2. The Deputy Commissioner Lakki Marwat) .....Respondents

DEPARTMENTAL APPEAL/REPRESENTATION UNDER RULE 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 13.08.2020 PASSED BY RESPONDENT NO. 1 VIDE WHICH PENALTY IMPOSED BY APPELLANT BY WITHHOLDING OF ONE ANNUAL INCREMEENT FOR THE PERIOD OF TWO YEARS AND RECOVERY OF TOTAL AMOUNT RECEIVED FROM BISP BY THE FAMILY MEMBERS OF THE APPELLANT IN MONTHLY INSTALEMENTS EQUAL TO THE AMOUNT RECEIVED FROM BISP AND IMPLEMENTED BY RESPONDENT NO. 2 VIDE OFFICE ORDER NO. 1824/DC/LM/ESTAB:/2020/F.12 DATED 24.08.2020.

Respectfully Sheweth:-

The appellant being aggrieved from the order dated 13.08.2020 passed by Respondent No. 1 and order dated 24.08.2020 passed by respondent no. 2, hereby submit departmental appeal/ representation as provided in Rule 4 of Service Tribunal Act, 1974, as under:-

FACTS:-

1. That the appellant is the bonafide resident of Village Jhang Khel Tehsil and District Lakki Marwat and has been served/serving as a Driver having been completed about 28 years of meritorious services.
2. That the appellant has served/serving to the entire satisfaction of his superior's officer's uptil now.
3. That a Show Cause Notice was served by respondent upon the appellant vide letter dated 17.04.2020 by respondent No. 2 handed over on 20.04.2020, given 7-15 days time limit for reply (Photocopy attached as Annexure A).
4. That as per content of show cause notice, spouse of the appellant shown recipient of BISP Cash Grant.
5. That the respondent dispensed with the inquiry in violation of rules and no opportunity of personal hearing given as provided in Rule 7 ((d) of the Khyber Pakhtunkhwa, Government Servants (Efficiency and Discipline) Rules, 2011.
6. That the respondent No. 2 removed the appellant from service on 24.04.2020 before submission of reply to show cause notice by the appellant nor any personal hearing opportunity given as provided in Rule 7 (b) and (d) on (Annexure B)
7. That aggrieved from the orders dated 24.08.2020 passed by respondent No. 2, the appellant preferred a departmental appeal before the respondent No. 1 and after hearing imposed two penalties upon the appellant by:-

P/2

ATTESTED

(22)

c. Withhold of one annual increment for a period of two years.

d. Recovery of all cash grant received by wife of the appellant from BISP.

8. That the appellant further aggrieved from the orders dated 13.08.2020 conveyed vide letter No. 2540/Reader dated 19.08.2020 (Annexure C), hereby submit a departmental appeal/representation on the following grounds:-

GROUNDS

A. That the appellant has been served/serving as a Patwari for a long period with clean conduct.

B. That the appellant is a low paid government servant having large number of dependents.

C. That the BISP Cash Grant has not been drawn by the appellant but alleged drawn by souse of the appellant through a proper survey conducted by the team of BISP with no intention of the appellant nor known.

D. That the employees of other department's alleged grant of BISP have been re-instated into government service with only recovery of BISP Cash Grant in monthly installments.

E. That sufficient grounds of innocence of the appellant exist as per provision of Supreme Court of Pakistan Judgement quoted in (NLR 2005 TD Supreme Court Page 78).

F. That the orders of respondents are illegal, malafide and in violation of Supreme Court of Pakistan Judgement published vide NLR 2005 TD Supreme Court Page 78) as no one shall be punished on the fault of the other.

G. That the appellant also filed a Writ Petition No. 418-B in Peshawar High Court Bench Bannu on 22,04.2020 and the court passed the order on 28.04.2020 which is as under (Photocopy enclosed as (Annexure D):-

"Writ Petition is disposed off with the direction that after providing them the opportunity of hearing and conducing proper inquiry the petitioner should be treated in accordance with law, rules and policy" but respondent no. 2 has neither conducted any enquiry nor any opportunity of personal hearing given.

H. That the appellant is further aggrieved from the orders of the respondent No. 1 and 2 on account of withholding of one annual increment and recovery of all amount drawn by the spouse of the appellant from BISP Cash Grant which is against the Supreme Court judgement quoted above.

It is, therefore, humbly prayed that on acceptance of the instant appeal, the impugned order dated 13.08.2020 passed by respondent No. 1 and order No.1824 Dated 24.08.2020 passed by the respondent No. 2 may kindly be set aside and the annual increment of the appellant may be restored and recovery may not be made from the appellant.

(SAMI ULLAH DRIVER)
APPELLANT

I 8 (23)

GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

No. Estt:II/D.Appeals/Samiullah/ 24350

Peshawar dated the 21/09/2020.

To

Mr. Sami Ullah,
Driver office of the
Deputy Commissioner Lakki Marwat.

SUBJECT: DEPARTMENTAL APPEAL / REPRESENTATION.

Your Departmental Appeal has been examined in light of Appeal Rules 1986 and filed by the Competent Authority as you have already availed, the chance of appeal before the Commissioner Bannu Division. Therefore, you are directed to approach the proper forum for the purpose if you so desire.

Assistant Secretary (Estt:)

ATTESTED

Estt:II-2-3-B
1214

PC 1

بعدالت

KP Service Tribunal

مورخہ	2ء منجانب Samiullah Khan
مقدمہ	بنام
دعویٰ	V/S
جرم	Review Deptt

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام پشاور کیلئے [illegible] مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہٰذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم ماہ 20ء

العبد گواہ العبد

مقام کے لئے منظور ہے۔

Attested & Accepted

[illegible]

GS&PD.KP.SS-1777/2-RST-20,000 Forms-09.05.18/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Regd

Appeal No. 13565 To 13572 *of 2020*

Mr. Samiullah & (7) Others *Appellant/Petitioner*

Versus

SMBR Peshawar *Respondent*

Respondent No. 2

Notice to: The Commissioner, Bannu Division Bannu.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 15/3/2021 **at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.**

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 6th **Day of** Jan **20** 21

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

GS&PD.KP.SS-1777/2-RST-20,000 Forms-09.05.18/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

R&I

Appeal No. 13565 to 13572 *of 2020*

Mr. Samiullah & (7) others *Appellant/Petitioner*

Versus

SMBR Posh: *Respondent*

3

Respondent No......

Notice to: The Deputy Commissioner Lakki Marwat.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 15/3/2021 **at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.**

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 6th

Day of Jan 20 21

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

GS&PD.KP.SS-1777/2-RST-20,000 Forms-09.05.18/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

SB

No.

Appeal No. 13565 to 13572 *of 202°*

Mr. Samiullah & (7) Others ...*Appellant/Petitioner*

Versus

SMBR Peshawar ...*Respondent*

Respondent No. 1

Notice to: The SMBR KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 15/3/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you~~ vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 6th

Day of Jan 202'.

19/1/21

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note. 1 The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2 Always quote Case No. While making any correspondence.

BOR: 54-1432-20117

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 13565/2020

Mr.Samiullah (Driver) office of the Deputy Commissioner Lakki Marwat

(Appellant)

Versus

1. The Senior Member Board of Revenue KP Peshawar
2. The Commissioner Bannu Division
3. The Deputy Commissioner Lakki Marwat

(Respondents)

JOINT PARA-WISE REPLY/COMMENTS ON BEHALF OF RESPONDENTS:

Respectfully Sheweth:

RESPONDENTS SUBMITTED AS UNDER:

PRELIMINORY OBJECTIONS:

1. The Appeal in hand is badly time barred.
2. The appellant has no cause of action and locus standi to bring the present appeal.
3. The appeal is barred by law and not maintainable in the present form.
4. The appeal is bad for mis-joinder and non-joinder of necessary and proper parties.
5. The appellant is estopped by his own conduct.
6. That this August Tribunal has no jurisdiction to adjudicate upon the matter.

REPLY ON FACTS

1. Correct only to the extent that the appellant is permanent government servant in this office and working as driver.
2. In reply to Para-2, it is submitted that show cause dated 17-04-2020 (Annexure-A) was correctly served to the appellant as his spouse was recipient of BISP cash grant.
3. Pertains to record.
4. In reply it is submitted that the Government of Khyber Pakhtunkhwa Establishment and Administration Department Peshawar letter bearing No.SOR-I (E&AD)4-17/2020 dated 14-02-2020 (Annexure-B) circulated through Commissioner Bannu Division, a list of officers/official, who either themselves or their spouses were receiving BISP cash grant. In this context the competent authority has therefore, decided to issue direct Show Cause Notices upon the accused civil servants as provided in Rule-7 of the Rules ibid dispensing with the formal inquiry.
5. Respondent No.2 being competent authority, rightly issued order dated 13-08-2020 (Annexure-C), in accordance with Law/Rules.
6. Correct to the extent that appellant had lodged 2nd departmental appeal before the Senior Member Board of Revenue Govt. of Khyber Pakhtunkhwa Peshawar, but the appeal was filed vide order dated 24-08-2020 (Annexure-D), that since the appellant has once availed the chance of departmental appeal before the Commissioner Bannu Division, because there is no provision of filling 2nd department appeal in the service law.
7. That the instant service appeal is baseless and barred by law.

BOR: 54-1432-20117

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 13565/2020

Mr.Samiullah (Driver) office of the Deputy Commissioner Lakki Marwat

(Appellant)

Versus

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REPLY ON FACTS

1. Correct only to the extent that the appellant is permanent government servant in this office and working as driver.
2. In reply to Para-2, it is submitted that show cause dated 17-04-2020 (Annexure-A) was correctly served to the appellant as his spouse was recipient of BISP cash grant.
3. Pertains to record.
4. In reply it is submitted that the Government of Khyber Pakhtunkhwa Establishment and Administration Department Peshawar letter bearing No.SOR-I (E&AD)4-17/2020 dated 14-02-2020 (Annexure-B) circulated through Commissioner Bannu Division, a list of officers/official, who either themselves or their spouses were receiving BISP cash grant. In this context the competent authority has therefore, decided to issue direct Show Cause Notices upon the accused civil servants as provided in Rule-7 of the Rules ibid dispensing with the formal inquiry.
5. Respondent No.2 being competent authority, rightly issued order dated 13-08-2020 (Annexure-C), in accordance with Law/Rules.
6. Correct to the extent that appellant had lodged 2nd departmental appeal before the Senior Member Board of Revenue Govt. of Khyber Pakhtunkhwa Peshawar, but the appeal was filed vide order dated 24-08-2020 (Annexure-D), that since the appellant has once availed the chance of departmental appeal before the Commissioner Bannu Division, because there is no provision of filling 2nd department appeal in the service law.
7. That the instant service appeal is baseless and barred by law.

REPLY ON GROUNDS:

a. Incorrect, both the orders are based on fact/law and issued after all codal formalities.
b. The guilt was very clear as the appellant or his wife was receiving BISP fund, as such in pursuance of Govt. instructions, a direct Show Cause Notice was issued under Rule-7 of KPK Government Servant E&D Rules-2011. Detail reply is given in Para-4 ibid.
c. Detail reply already given in paras ibid.
d. Pertains to record and subject to proof.
e. The penalty imposed over the appellant is in according with law and rules. The referred judgment of August Supreme Court of Pakistan is not applicable to the appellant case, as he is depositing illegally received BISP grant (Annexure-E). Detail reply already given above.
f. Incorrect. Already explained above.
g. As explained paras ibid.
h. The instant appeal is not maintainable. Proper preliminary objections have been raised.
a. That other grounds shall be explained during the arguments with permission of Hon'ble Tribunal.

It is therefore, most humbly prayed that this appeal may be dismissed with cost.

Commissioner Bann Division
Respondent No.2

Deputy Commissioner
Lakki Marwat
Respondent No.3

Senior Member Board of Revenue
Govt. of Khyber Pakhtunkhwa
Respondent No.1

(3)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 13565/2020

Mr.Samiullah (Driver) office of the Deputy Commissioner Lakki Marwat

(Appellant)

Versus

1. The Senior Member Board of Revenue KP Peshawar
2. The Commissioner Bannu Division
3. The Deputy Commissioner Lakki Marwat

(Respondents)

****

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13-08-02020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN ACCEPTED AND AGAINST THE ORDER DATED 24-08-2020 WHEREBY THE APPELLANT HAS BEEN RE-INSTATED IN TO SERVICE BY WITHOLDING OF ONE ANNUAL INCREMENT FOR THE PERIOD OF TWO YEARS AND ALSO ORDER FOR RECOVERY AND AGAINST THE REJECTION ORDER DATED 17-09-2020 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

AUTHORITY

Muhammad Sajjad Litigation Officer of this office is hereby authorized to submit parawise comments on behalf of Respondent No.1,2, and 3, to defend the case titled above, till it is decided.

Deputy Commissioner
Lakki Marwat

(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 13565/2020

Mr.Samiullah (Driver) office of the Deputy Commissioner Lakki Marwat

(Appellant)

Versus

1. The Senior Member Board of Revenue KP Peshawar
2. The Commissioner Bannu Division
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AFFIDAVIT

Muhammad Sajjad Litigation Officer of this office do hereby solemnly affirm and declare that all the contents of these parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

LITIGATION OFFICER
Deputy Commission
Office Lakki Marwat