



15.02.2023

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment for preparation of arguments. Adjourned. To come up for arguments on 14.04.2023 before the D.B.

SCANNED
KPST
Peshawar


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

2nd Nov., 2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. Advocate General for the respondents present.

Learned counsel for the appellant requests for adjournment in order to further prepare the brief. Adjourned. To come up for arguments on 02.12.2022 before the D.B.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman

2nd Dec. 2022

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Naseem Ullah Khan, Asst: Commissioner Revenue for respondents present.

Appellant seeks adjournment on the ground that his counsel is not available today. Last chance is given to the appellant to argue the case on the next date and ensure presence of his counsel. To come up for arguments on 15.02.2023 before the D.B.

(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman

SCANNED
KPST
Peshawar

14.02.2022


Due to retirement of the Worthy-Chairman, the Tribunal is defunct, therefore, case is adjourned to 06.06.2022 for the same as before.

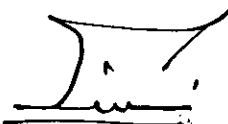

Reader

06.06.2022

Appellant in person present. Mr. Noman Shah, Reader alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

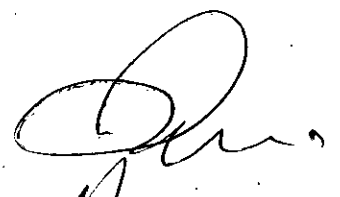
Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments on 17.08.2022 before the D.B.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

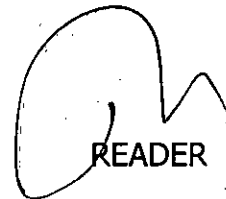
17/08/2022

Due to summer vacation the case is adjourned 02/11/2022 for the same.


Reader

06.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.


READER

14.07.2021

Junior to counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Gul Rehman, AAC and Muhammad Saggad Litigation Officer for the respondents present.

Respondents have furnished reply/comments. The appeal is entrusted to D.B for arguments on 02.12.2021.


Chairman

2-12-21

Proposed O.B. on Tact, therefore, case is adjourned to 14-2-22 for same.


Reader

26.11.2020

Appellant in person alongwith Mr. Nasir Mehmood, Advocate, are present.

To summarize what has been agitated at the bar is that appellant was unaware of the fact that his wife is a recipient of Benazir Income Support Program, inquiry was made into the matter in which a major penalty of removal from service was imposed upon the appellant, the departmental appeal moved was allowed converting the removal from service into penalty of withholding of one increment for a period of two years without specifying the exact period for which it has to remain efficacious and the recovery of received amount. As regard limitation involved in the appeal according to the appellant the impugned order dated 03.07.2020 was received by him on 22.08.2020 the burden of proof lies on his shoulder to discharge.

The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.02.2021 before S.B.

Appellant Deposited
Security & Process Fee

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

22.02.2021

Junior to senior counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present.

Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, learned Additional Advocate General is directed to contact the respondents and furnish written reply/comments on the next date of hearing. Adjourned to 06.04.2021 on which date file to come up for written reply/comments before S.B.

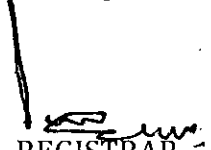


(Muhammad Jamal Khan)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 11470 /2020

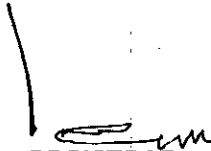
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/10/2020	<p>The appeal of Mr. Shahid Nawaz resubmitted today by Mr. Nasir Mehmood Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>21/10/2020</u>.</p> <p> CHAIRMAN</p>
21.10.2020		<p>Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today therefore, the case is adjourned to 26.11.2020 on which date to come up for preliminary hearing before S.B.</p> <p> (Muhammad Jamal Khan) Member (Judicial)</p>

The appeal of Mr. Shahid Nawaz Naib Qasid Commissioner office Bannu received today i.e. on 21.09.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Annexures of the appeal may be attested.
- 3- Memorandum of appeal may be got signed by the appellant.

No. 25768 /S.T,

Dt. 24/09 /2020


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Nasir Mehmood Adv. Pesh.

Resubmitted After doing
the need full.



01-10-2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 11470 /2020

Shahid Nawaz Appellant

VERSUS

SMBR & Others Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal <i>with Stay Application</i>		1- 8
2.	Affidavit		9
3.	Copy of Appointment Order, Show Cause Notice and reply	A	10-12
4.	Copy of the Statement & inquiry report	B	13-15
5.	Copy of the order dated 30.04.2020	C	16
6.	Copy of the Departmental Appeal, Comments and order dated 03.07.2020	D	17-21
7.	Copy of order dated 11.08.2020	E	22
8.	Wakalat nama		23

Appellant,
Through:

NASIR MAHMOOD

Advocate, Supreme Court
Of Pakistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. ____/2020

Shahid Nawaz, Naib Qasid BPS-03, Commissioner
Office Bannu Division

..... Appellant

VERSUS

1. Senior Member Board of Revenue KPK Peshawar.
2. Commissioner Bannu Division Bannu.

..... Respondents

APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 AGAINST THE
ORDER OF RESPONDENT NO. 1
DATED 03.07.2020, WHEREBY
ORDER OF THE RESPONDENT NO 2
DATED 30.04.2020 WAS SET ASIDE
WHILE CONVERTING REMOVAL
FROM SERVICE INTO MINOR
PENALTY OF WITHHOLDING ONE
INCREMENT FOR A PERIOD OF TWO
YEARS AND RECOVERY OF

**RECEIVED AMOUNT IN MONTHLY
INSTALLMENT.**

Prayer:

On acceptance of this Appeal the impugned Orders dated 03.07.2020 may kindly be set aside and the order of withholding of an increment for a period of two years and recovery of process of received amount may be declared as illegal and this set aside, consequently the appellant may be held entitled to all back benefit.

Respectfully Sheweth:-

1. That the appellant on the recommendation of Departmental Selection Committee was appointed as Naib Qasid vide order dated 09.01.2020 in the office of respondent no 2 and was serving as such was issued show cause notice dated 17.03.2020

on the ground that the **appellant's wife** was receiving BISP Cash Grant, the appellant filed reply to the Show Cause Notice. **(Copy of Appointment Order, Show Cause Notice and reply is attached as annexure A)**

2. That thereafter inquiry was held wherein the appellant submitted statement before the inquiry officer. **(Copy of the Statement & inquiry report is attached as annexure B)**
3. That in the light of the inquiry report major penalty of removal from service was imposed upon the appellant vide order dated 30.04.2020. **(Copy of the order dated 30.04.2020 is attached as annexure C)**
4. That the appellant filed departmental appeal before the Respondent No 1 and respondents filed Para wise comments and thereafter the respondent No 1 through order dated 03.07.2020 while allowing the departmental appeal converted removal from service into penalty of withholding of

one increment for the period of 2 years and recovery of received amount was also ordered from the appellant. **(Copy of the Departmental Appeal, Comments and order dated 03.07.2020 is attached as annexure D)**

5. That in the light of order dated 03.07.2020 passed by Respondent no 1 the appellant was re-instated into service vide order dated 11.08.2020 and the impugned order dated 03.07.2020 was received by the Appellant on 22.08.2020. **(Copy of order dated 11.08.2020 is attached as annexure E)**
6. That the Appellant having aggrieved wherefrom approaches this Hon'ble Tribunal, for setting aside the impugned order dated 03.07.2020, inter alia on the following grounds:-

GROUND S:-

- A. That the impugned order dated 03.07.2020 of Respondent No 1 is illegal, unlawful, without

(15)

authority as well as based on the malafide intentions *and discrimination.*

- B. That since from the date of his appointment the appellant is having clean service record and ever since not a single explanation has been given to the appellant.
- C. That the Appellant being illustrate was not aware of the cash received by her wife from BISP Grant.
- D. That even the spouse of the appellant herself has not approached BISP rather her name was including during survey by the BISP authorities, so the appellant cannot be punished for the same.
- E. That the very act of the BISP is not having any baring provision to the effect that the dependents of government servant cannot avail the grant from BISP if otherwise found eligible.
- F. That it is celebrated principle of law that no one can be punished for the wrong committed by other person, so applying the same the appellant cannot

be punished for the wrong committed by her spouse.

- G. That the appellant belongs to poor family was otherwise entitled for the grant of BISP Cash and at the time of start of BISP program there was confusion as to whether the govt servant can received cash from BISP or not.
- H. That the inquiry was not held in accordance with the provision contained in E&D Rules, so the impugned order is liable to be set aside.
- I. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

It is, therefore, respectfully prayed that On acceptance of this Appeal the impugned Orders dated 03.07.2020 may kindly be set aside and the order of withholding of on implement for a period of two years and recovery of process of received amount may be declared as illegal and this set

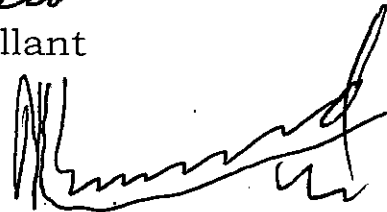
aside, consequently the appellant may be held entitled to all back benefit.

Any other relief deemed proper and fit in the circumstances of the case may also very graciously be granted to the appellant.

لیا علیہ قاضی

Appellant

Through:

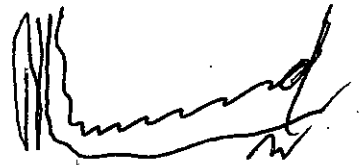


NASIR MAHMOOD

Advocate, Supreme Court
Of Pakistan.

CERTIFICATE:-

Certified that as per instructions of my client no such Service Appeal on behalf of the petitioner has earlier been filed in this Hon'ble Tribunal on the subject matter.



ADVOCATE

②

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. ____/2020

Shahid NawazAppellant

VERSUS

SMBR & OthersRespondents

APPLICATION FOR SUSPENSION OF
IMPUGNED ORDER DATED 03.07.2020 OR IN
THE ALTERNATIVE SUSPENSION OF
RECOVERY OF RECEIVED AMOUNT
PROCEEDING FROM THE APPELLANT, TILL
THE FINAL DECISION OF THE INSTANT
SERVICE APPEAL

Respectfully Sheweth:

1. That the above noted Service Appeal is being filed before this hon'ble court, in which no date of hearing has yet been fixed.
2. That the applicant has got a good prima facie case in his favour besides having balance of convenience in his favour and will suffer irreparable loss if the recovery proceedings are not suspended.

It is, therefore, respectfully prayed that on acceptance of this application, the relief sought for in the heading of the application may kindly be granted in favour of the Appellant.

Shahid Nawaz
Appellant

Through:

Nasir Mahmood
NASIR MAHMOOD
Advocate, Supreme Court
Of Pakistan

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Shahid Nawaz
DEPONENT



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. ____/2020

Shahid Nawaz Appellant

VERSUS

SMBR & Others Respondents

A F F I D A V I T

I, Shahid Nawaz, Naib Qasid BPS-03, Commissioner Office Bannu Division, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Shahid Nawaz

DEPONENT

Ammed - A

10

11201-8532980-7
11201-8532980-7

COMMISSIONER BANNU DIVISION

P.O. Box. 12, Postal Code 28-100, Bannu.
Phone: 0928 - 9270044 & 621144
Fax: 0928 - 9270041
e-mail: commissioner-bannu@hotmail.com

No. 81-87

Date: 09-01-2010

OFFICE ORDER :

On the recommendations of Departmental Promotion/Selection Committee vide minutes of the meeting dated 16.12.2009. Mr. Shahid Nawaz S/o Khan Wali Khan R/o Nar Sahib Dad Maidad Khel, Tehsil & District Lakki Marwat, (CNIC #: 11201-8532980-7), is hereby appointed as Nait Qasid in BPS-01 in this office against the vacant post on contract basis as per Government policy:

The services of the above will be liable to termination with or without any reason on two months notice from either side. In case of termination without notice by the employers or two months notice from the employee for resignation, two months pay and allowances shall be paid by the Government or refunded by the employee as the case may be. The above appointment will be subject to the following terms & conditions:

- i. He will not be entitled of pension/gratuity benefits.
- ii. He will not contribute towards G.P Fund, however, they will contribute to C.P fund @ 10% of minimum of pay scale and an equal amount of 10% contribution will be made by the Government as per rules.
- iii. The above appointments will be purely on temporary basis and will not confer upon them any right for regular appointment.
- iv. He will be allowed Conveyance, Medical, House Rent Allowances, Leave and T/A/D.A as per Government rules.
- v. He will be considered for higher appointment against higher post if found eligible and due for promotion.
- vi. He will be entitled to facility of Benevolent Fund as per new recruitment policy.
- vii. He shall produce a medical certificate of fitness from Medical Superintendent, Civil Hospital of their Districts.
- viii. He shall report for duty to this office by 15th January 2010 failing which appointment order in respect of that person would stand withdrawn.
- ix. The above persons will remain on probation for a period of Six (06) months and shall be governed by the rules and regulations of NWFP Government.

[Signature]
Commissioner
Bannu Division

Dated. 9 /01/2010.

No. 81-87 /GB/AG-I/F.10/Vol-II.
Copy to be:-

1. Secretary Board of Revenue NWFP, Peshawar.
2. District Comptroller of Accounts Bannu.
3. Manager, Employment Exchange Bannu w/r to Registration No. 1086/0/09.
4. PS to Commissioner Bannu Division.
5. Accountant, Commissioner Office Bannu.
6. Official concerned.
7. Office File.

[Signature]
Commissioner,
Bannu Division

[Signature]
Attested
[Signature]

Received by
Bannu Division
6/5/2020



OFFICE OF THE
COMMISSIONER
BANNU DIVISION

P.O. Box. 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: acr.bannu@yahoo.com

No. 1223-1AG-I/E-26
Dated: 17-23-2020

Mr. Shahid Nawaz, Naib Qasid (BPS-03),
Commissioner Office Bannu Division.

Subject: **SHOW CAUSE NOTICE**

I, **Adil Saddique, Commissioner Bannu Division** as Competent Authority, under Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, as follows:-

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the specified rules:-

a. That your spouse was receiving BISP Cash Grant.

1. In terms of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, I, as Competent Authority, dispense with the inquiry and serve you with a show cause notice under Rule-7 of the ibid Rules.
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:-

i. Removal from service

3. 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.
4. If no reply to this notice is received within seven days or not more than of fifteen days of its delivery, it shall be presumed that you have no defense to put in, and in that case and ex-parte action shall be taken against you.

Attested

-sd-
Commissioner
Bannu Division

Even no. & date:

Copy forwarded to the

1. Additional Secretary-cum-PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Aziz Ullah Jan, Assistant to Commissioner (Rev), Bannu Division to conduct inquiry within 07 days positively.
3. Section Officer (R-I), Establishment & Administration Department, Peshawar w/r to above for information.
4. PS to Secretary (Establishment) E&AD, Peshawar.
5. PS to Commissioner, Bannu Division.

17/08/2020

Secretary to Commissioner
Bannu Division

Received by
[Signature]
126

محترم جج - گمشدہ سہولتوں کے بارے میں

دفاعی نمبر 173/2017 AG-I-F-26

ضامی

میں دو ذیلی غریبوں کو چاہتا ہوں

یہ کہ BISP والوں نے ملکی سطح پر غریب اور لاچار خواتین کیلئے گاؤں گاؤں سرور کی ہے، اور جو
سختی قرار پائے گئے ان کیلئے امدادی رقم منظور کروائی ہے۔ ^{وہ} جرحاً یہ امداد سال سے کم کر دیا
گیا ہے، کہ BISP والوں نے بند کر دیا ہے۔ یعنی اب سہولتیں والے نہیں لے رہے ہیں،
مذکورہ مذکورہ آفس کلاس فور ملنگ ہے اور سہولتیں تنخواہ کے عدوہ سال کے ہال کوئی
اور دوسرا ذریعہ حاش نہیں ہے جس پر بندہ گزارا کر سکے، یعنی گھری ساری ذمہ داری حالت بندہ
کے کندھوں پر ہے، کہیں بیوی بچے لڑکے ہاں باب بھائی ہیں جو کہ 14 افراد کا گھرانہ ہے سہولت
ان سب کیلئے روٹی کیٹروں کا بندوبست کرنا ہے نہ کوئی زرعی کھلیت ہے نہ زالی کھان ہے
صرف اب تنخواہ ہے جس پر بندہ زندگی کے انا کاٹتے ہیں یعنی اپنی تنخواہ سے بندہ گھوکا
سارا خرچہ پورا کر دیتا ہے۔

اسکے عدوہ سہولت نے والد راجی کا ڈو دفعہ اپریشن کیا ہے، اور دوران اپریشن والد
صوبہ میں کینسر کے عدومات پائے گئے ہیں جسکی علاج سبھی وقفے وقفے سے کرنا پڑا ہے
اور کافی رقم خرچ کرنا پڑا ہے۔

مذکورہ سہولتوں کو یہ سہولتیں ہیں تھا کہ مذکورہ اندر غریب خواتین کے، تاہم یہ معلوم تھا کہ یہ سہولت
غریبوں اور لاچاروں کیلئے مختص ہے، جبکہ غریبی اور لاچار کی سہولتیں نہیں ہے
اصحابان سہولتوں کو سہولت ہے۔

Place on file
24/3/2020

مذکورہ اصحابان سے عاجزانہ استدعا ہے کہ سہولتوں کو درج فرمائیں۔

Attest
[Signature]

Reader to Commissioner
Bajaur Division
شاہد لہو زینت صاحبہ
والد صاحبان سے عاجزانہ استدعا ہے کہ سہولتوں کو درج فرمائیں۔

سہولتیں
صوبہ
مذکورہ

(13) = 6 = Annex
 بیان آدن شہد ہواز والد قان ولی خان ساکن نارہ صاحب دار میداد ضلع جلال
 نائٹ قاصد دفتر کستریوں ڈورن ہون

حلفاً بیان کیا کہ میں نے ثابت شوکار نوٹس 1223/AG-3/F-26 مورخہ 22/3/2008 کا

تحریری جواب دے دیا ہے جس پر دست طہ پر میرے دست امزدان اٹلوتھا
 درج ہے میں جنوری 2010 میں بطور نائٹ قاصد ماڈرن ٹیکنیکل

ہیون بھرتی ہوا اور میری شادی 2008 کو ہوئی جو کہ BISP سے
 شادی شدہ لوگ سے مستفید ہو سکتے تھے اس وجہ سے میری شادی

صیات کو شادی کے بعد بھی BISP سے بھی ملنا شروع ہوئی ہے
 میری شادی صیات کا BISP کٹے سروا ہونے کے بعد پتہ چلا کہ اس کا

نام BISP میں شامل ہے میں نے اپنی شادی صیات کے BISP سے
 فائدہ اٹھانے کے سلسلے میں کوئی دوا دھوئی ہے سروا والوں

خود میں اس کا نام BISP میں شامل کیا تھا میرے والدین
 بقید صیات رہے والد انتہائی ظریف اور بوڑھا ہے کام کاج

کرنے کی صلاحیت نہیں رکھتا اور کینسر کا مریض ہے لیکن میرے
 پاس اس کے بیماری کے کوئی دستاویزات نہیں ہے

میں اپنے چار بھائیوں اور والدین کی کفالت کرتا ہوں
 جگہ میری تنخواہ صرف 22000/- ملانے ہے مجھے یہ معلوم نہ تھا

کہ اس سرکاری ملازم کی شادی صیات کا BISP سے مستفید
 ہونا چاہیے اور نہ ہی مجھے اس کا کوئی نوٹس ملتا ہے

میرے والد گرامی مزدوری کرتا تھا میری کوئی زرعی زمین نہیں ہے
 ما سوائے 25 ہیکٹار گورنمنٹ جو کہ میرے والد کے نام پر ہے میرے نام

پر کوئی زمین نہیں ہے میری غربت کو مدنظر رکھتے ہوئے

Attest

P.T.O

Amjad

13A

محمد عارف فرزند صاحب میرزا اسد خان ہے کہ محمد عارف احمدی

جمعہ ذی الحجہ ۱۳۸۵ھ بمطابق ۲۴/۳/۱۹۶۵ء

محمد عارف احمدی
۲۴/۳/۱۹۶۵ء

محمد عارف احمدی

شاہد گلدار ولد خان ولی خان
نائب ماحد گستر آفس بھون

Nic - 11201 - 8532980-7

INQUIRY REPORT.

14

Vide Commissioner Bannu Division Show Cause Notice No. 1223/AG-I/F.26 dated 17-03-2020, the undersigned was directed to conduct inquiry into the show cause notice issued to Shahid Nawaz, Naib Qasid (BPS-03) of the Commissioner Office Bannu Division having been charged with that "his spouse was receiving BISP cash grant".

BACKGROUND.

The Establishment & Administration Department, Khyber Pakhtunkhwa vide No. SOR-1(E&AD)4-17/2020 dated 14-02-2020 enclosed list of officials who either themselves or their spouses were receiving BISP cash grant for initiation of disciplinary action, their conduct being pre-judicial to good order/service discipline as provided in Rule-5 (a) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. The list so provided to the Commissioner Bannu Division included the name of Shahid Nawaz s/o Khan Wali Khan, CNIC No. 11201-8532980-7 for his spouse being beneficiary of Benazir Income Support Program.

In compliance thereof, Shahid Nawaz was summoned, who submitted reply to the show cause notice and recorded his statement on 24-03-2020.

GIST OF HIS (SHAHID NAWAZ) REPLY TO SHOW CAUSE NOTICE.

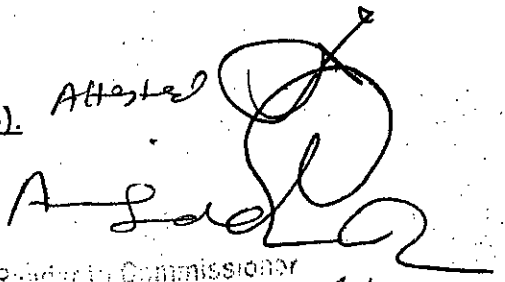
He submitted reply to show cause notice on 24/03/2020.

1. During Nationwide survey of the poor, eligible women were enlisted by the BISP.
2. He is poor Class-IV servant and have no source of income except monthly salary.
3. His wife, four children, parents, brothers & Sisters – total 14 persons – are dependent on his monthly pay.
4. That his father has under gone surgery for two times during which symptoms of cancer were found and he spent a lot of money on his treatment.
5. He came to know about his wife being beneficiary of BISP very late.
6. He was not in the knowledge that taking benefit from BISP by a spouse of a government servant was illegal, however, he knew that BISP was meant for poor & needy people.
7. He may be pardoned.

STATEMENT OF SHAHID NAWAZ, NAIB QASID (BPS-03).

His Statement was recorded on 24/03/2020.

He stated that:-

Attested

Undersigned
Commissioner

15

1. He entered into Government service as Naib Qasid in the office of the Commissioner Bannu Division in the year 2010 while he got married in 2008.
2. As BISP was meant for married people, that why his wife started benefits from it.
3. He came to know about his wife being beneficiary of BISP after survey.
4. He has not played any role in listing of his spouse in BISP, instead the survey team itself enlisted her name in BISP.
5. His father is very old and a cancer patient but he has no documentary proof of his father illness.
6. His four children, wife and parents are dependent on his monthly pay amounting to Rs: 22000/- per month.
7. He was not in the knowledge that a spouse of a government servant receiving benefit from BISP was illegal, in this regard he has not been served any notice by any department/agency.
8. That he has no personal landed property.
9. That he wish to be heard in person by the competent authority.
10. Keeping in view his poverty, he may be pardoned.

CONCLUSION.

Keeping the above in view, Shahid Nawaz, Naib Qasid (BPS-03) has admitted that his wife has been a beneficiary of Benazir Income Support Program (BISP).

Handwritten signature and date: 20/4/2020

Assistant to Commissioner (Rev/GA)
Bannu Division /IO

Handwritten signature: Ahsan

Handwritten signature: Ahsan

Assistant to Commissioner
Bannu Division

Handwritten date: 6/5/2020



(16) Annex - C
**OFFICE OF THE
COMMISSIONER
BANNU DIVISION**

P.O. Box. 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: acr.bannu@yahoo.com

No. 1551-SS/AG-I/B
Dated: 30-07-2020

OFFICE ORDER.


In pursuance of the letter No. SOR-I(E&AD)4-17/2020, dated 14th February 2020 received from Establishment Department Khyber Pakhtunkhwa, showcause notice was served upon the accused official named Shahid Nawaz, Naib Qasid of this office by appointing Mr. Aziz Ullah Jan ACR of this office as Inquiry Officer (I/O) vide this office letter No. 1223/AG-I/I-26, dated 17/03/2020 regarding his alleged involvement in the monthly receipts of the BISP.

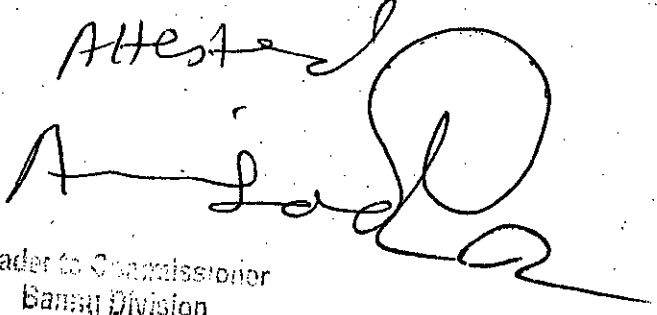
As proved by the Inquiry Officer and in light of the confession statement, major penalty of removal from service under the E&D Rules 2011 is hereby imposed upon Mr. Shahid Nawaz, Naib Qasid of this office with immediate effect.

-sd-
**Commissioner
Bannu Division**

Copy Forwarded to the:

1. Senior Member, Board of Revenue Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Peshawar.
3. Director BISP Khyber Pakhtunkhwa, Peshawar.
4. District Comptroller of Accounts Bannu.
5. Mr. Shahid Nawaz, Naib Qasid of this office.


**Secretary to Commissioner
Bannu Division**

Attested

**Reader to Commissioner
Bannu Division**

6/5/2020

(17) Annex = P

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

Departmental Appeal / Presentation No. _____ Dt: _____

Shahid Nawaz (CNIC No. 11201-8532980-7) s/o Khan Wali Khan r/o Naar Sahib
Dad Maidad khel, Tehsil & District Lakki Marwat.

.....Appellant

VERSUS

Commissioner Bannu Division.

.....Respondent

**Departmental Appeal / Presentation against the impugned order No. 1551-
55/AG-I/Inquiry, dated 30-04-2020 passed by the learned Commissioner
Bannu Division.**

Respectfully Sheweth:-

Prayers.

- a. It is humbly requested that the impugned order No. 1551-55/AG-I/Inquiry, dated 30-04-2020 (**Annex A**) regarding "Removal from Service" of the appellant issued by the Commissioner Bannu Division may very graciously be set-aside being mala fide and against the prevailing rules & regulations.
- b. Interim Relief of status quo may also be granted to the appellant to safeguard my due rights.

Grounds.

1. That the appellant was appointed as Naib Qasid (BPS-01) now (BPS-03) vide order dated 09-01-2010 (**Annex B**).
2. That since then the appellant has worked up to the entire satisfaction of his high-ups. No inquiry /Show Cause Notice even a single explanation has not been issued to the

- appellant except Show cause of the impugned order in his entire 10 years' service.
3. That appellant was served upon by a Show Cause notice dated 17-03-2020 (**Annex C**) by the Commissioner Bannu Division alleging therein that the appellant being recipient of the aid from BISP in respect of his spouse.
 4. That the appellant was summoned by the Inquiry officer, vide summon (**Annex D**).
 5. That the appellant appeared before the Inquiry Officer and submitted his rebuttal (**Annex E**) to the Show Cause notice based on fact and figures.
 6. That the appellant had clarified to the I/O that being poor, lacking high qualification was unaware of the cash received by his spouse in the form of BISP.
 7. That the very Act of BISP did not carry the instructions that dependents of the Govt. Servants can not avail the opportunity if otherwise found eligible.
 8. That according to the provision contained in the rules and in light of the judgments passed by the apex court (2005 PLD page.78) no other person can be punished for the fault /crime of others.
 9. That in such case the defaulter were the illiterate-cum-poor wife of the appellant and not he himself.
 10. That after inquiry report (**Annex F**) the appointing authority directly issued his termination order / the impugned order (**Annex A**) without giving the opportunity of personal

1
(20)

MEMBER PAKHTUNKHWA PROVINCE
THE HONORABLE SENIOR MEMBER BOARD OF REVINUE

PARAWISE COMMITTEE

CHAND AWAZ (KHAIB QASID)
VERSUS
COMMISSIONER BANNU (RESPONDENT)
(APPELLANT)

PARAWISE COMMENTS OF BHALP OF COMMISSIONER BANNU
DIVISION

Respectfully Shown
COMMENTS

1. Correct to the extent that he was appointed as Khid Qasid.
2. Correct.
3. Correct to the extent that he was served upon a show-cause Notice in light of the Establishment Department Khayber Pakhtunkhwa letter No. SOR-I(E&AD)-4-172020, dated 14-02-2020 (Annex-A).
4. Correct to the extent that the appellant was summoned by the Inquiry Officer in pursuance of the Show-cause Notice.
5. Correct to the extent that he appeared before the Inquiry Officer and submitted reply to the show-cause notice and recorded his written statement.
6. He took plea that he was a poor fellow.
7. Action was taken against him in light of the Establishment Department Khayber Pakhtunkhwa letter No. SOR-I(E&AD)-4-172020, dated 14-02-2020.
8. As stated in para-7 above.
9. Correct to the extent that his spouse was a beneficiary of BISP.
10. The Appellant was heard by the Inquiry Officer as well as Secretary to Commissioner Bannu Division in light of the Undertaking.
11. The Inquiry Officer was not required to put forward his recommendations, the termination order was issued in compliance of the Establishment Department Khayber Pakhtunkhwa letter No. SOR-I(E&AD)-4-172020, dated 14-02-2020.
12. In-Correct. His termination order was issued after adopting a costal termination in compliance of the Establishment Department Khayber Pakhtunkhwa letter No. SOR-I(E&AD)-4-172020 dated 14-02-2020.

It is therefore respectfully submitted that the above appeal may be decided in favor of the appellant.

[Handwritten signature and stamp]
BANNU

(21)

10

BEFORE THE SENIOR MEMBER, BOARD OF REVENUE
KHYBER PAKHTUNKHWA

Mr. Shahid Nawaz Ex-Naib Qasid office of the Commissioner
Bannu.....Appellant

Versus

Commissioner Bannu Division Bannu.....Respondent

ORDER.

This is an appeal filed by Mr. Shahid Nawaz Ex-Naib Qasid office of the Commissioner Bannu against the order dated 30.04.2020 passed by Commissioner Bannu Division whereby the appellant was removed from service on the basis of involvement in monthly receipt of the Benazir Income Support Program (BISP) fund.

The appellant was called for personal hearing on 03.07.2020. During arguments, the appellant stated that he was serving as Cook in Commissioner office Bannu since the last 10 years and receiving total Rs.22000/- as monthly Salary. He is a low paid government servant and there is no source of income except monthly salary. He further stated his wife is beneficiary of Benazir Income Support Program (BISP) since the last 05 years and received a total amount of Rs. 58000/- uptill now, but he was unaware of the government policy to the effect that receiving the said amount is pre-judicial to good order/service. In the last, the appellant being a low paid Government servant requested for setting aside the order of Commissioner Bannu and re-instatement in service.

After perusal of the record and hearing of the appellant as well as Mr. Zia-Ur-Rehman, Secretary to Commissioner Bannu (Representative of Commissioner Bannu) it reveals that there is no clear guidelines for stating that Government Servant cannot access this support. It is a poverty support programme and the applicant was also brought in the survey net by the survey team of BISP on poverty basis. Given this lack of clarity earlier and now the decision of Government to take punitive action against the receiving Government servants, the Commissioner Bannu has awarded harsh punishment in the shape of removal from service to the appellant.

Keeping in view the above, the major penalty of removal from service is converted into minor penalty of withholding of one increment for a period of 2 years upon the appellant and the recovery of received amount of Rs. 58000/- in monthly installments.

The order of the Commissioner Bannu dated 30.04.2020 is set aside and the appellant is re-instated into service w.e.f the date of his removal from service. Commissioner Bannu may make sure the recovery from the appellant. Appeal is accepted to this extent.

Syed Zafar Ali Shah
Senior Member

Announced.

Estt-II-2-3-8
1154

03.07.2020

مجلس سنی
بانی و نواز
22/07/20



Amended - E
**OFFICE OF THE
COMMISSIONER
BANNU DIVISION**

12
P.O. Box. 12, Postal Code 28100, Bannu.
Phone: 0928-9270044 & 621144
Fax: 0928-9270041
E-mail: acr.bannu@yahoo.com

No. 2451/A.E./F-3

Dated: 11-08-2020

OFFICE ORDER.

In pursuance of the order dated 03/07/2020 passed by the Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar in the service appeal/presentation titled "Shahid Nawaz Ex-Naib Qasid Vs Commissioner Bannu Division", Mr. Shahid Nawaz is hereby re-instated in service against his post of Naib Qasid (BPS-03) with all back benefits with retrospective effect by with holding of one (01) annual increment for a period of two (02) years.

The amount received in lieu of BISP grant by the family members of the official will be recovered from him in monthly installments equal to the amount received per mensem from the BISP.

COMMISSIONER
BANNU DIVISION
Am

Even No and Date:-

Copy forwarded to the:-

1. Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (R-I), Establishment Department, Khyber Pakhtunkhwa, Peshawar.
3. District Comptroller of Accounts, Bannu.
4. Assistant Director, BISP, Bannu.
5. Accounts Officer, Commissioner Office Bannu Division.
6. Official concerned for compliance.

COMMISSIONER
BANNU DIVISION
Am

بعدالت جناب سرویس ٹریبیونل ۱۹۲۱ بشار



۲۰۱۰ء منجانب لیسٹنر
بنام S.M.B.R

شمارہ نمبر

موزخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ
آن مقام بشار کیلئے ٹریبیونل کے لئے ٹریبیونل کے لئے
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 ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار 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 باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہانہ التوائے مقدمہ کے واسطے سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

۲۰
ماہ

المترقوم

واہ الع

بمقام ٹریبیونل بشار کے لئے منظور ہے۔

کھدالت جناب چیرمین سرویس ٹریبیونل KPK پشاور

منابذ لغزاد بناام S.M.B.R

درخواست لبراد اجازت دینے بابت جمع کرنے مکیورٹی و پرو سس فیس:-



جناب عالی!

ماہر مس ذیل عرضیوں میں

- 1) یہ مقدمہ عنوان بالا / سرویس اپیل / جس میں آئندہ پیشی 22/02/21 تقریباً - کو ایدہ مت موقوف ہے
- 2) یہ مقدمہ عنوان بالا اپیل میں مکیورٹی و پرو سس فیس لوجہ دالہ نہ ہوئے
- 3) یہ مسائل مکیورٹی فیس / پرو سس فیس جمع کرنا چاہتا ہے

اپیلانٹ جمع نہ ہوئے ہے

اس کے لئے استدعا ہے کہ لہذا منظوراً درخواست بنام مال / اپیلانٹ کو مکیورٹی / پرو سس فیس جمع کرنے کی اجازت مرحمت فرمائی جائے۔

اپیلانٹ

بذریعہ:- نامہ محمد ایدہ ولایت سپر لبر ٹریبونل آف پاکستان

Period for requisite deposit is extended for 03 days.

1/2/21

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No. 11470 of 2020

Shahid Nawaz, Naib Qasid BPS-03, Commissioner Office Bannu Division

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

Versus

- 1. Senior Member Board of Revenue KPK Peshawar.**
- 2. Commissioner Bannu Division Bannu.**

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

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO.1 & NO.2

Respectfully Shewith:

Respondents submit as under:-

PRELIMINARY 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 Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.

REPLY ON FACTS:

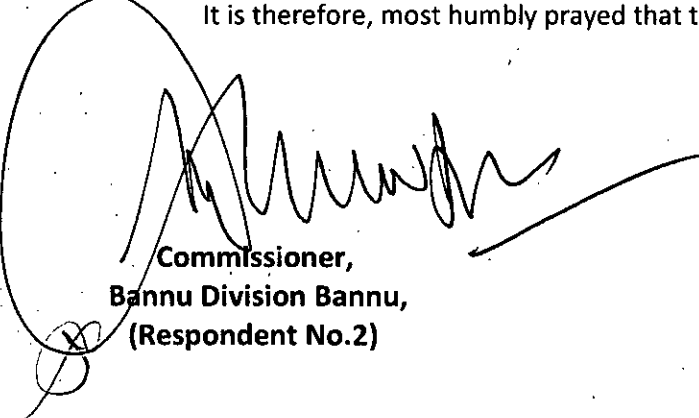
1. Correct. To the extent that the appellant date of appointment is 09-01-2010 and further submitted that show cause notice dated 17-03-2020 (Annexure-A) was correctly served to the appellant as his spouse was recipient of BISP cash grant.
2. Pertains to record. However, the statement of appellant was not satisfactory.
3. Correct.
4. Respondent No.1 being a competent authority, rightly issued order dated 03-07-2020 in accordance with Law/Rules.
5. Pertains to record. Moreover, the appellant was well aware about the order dated 03-07-2020 as he was also personally heard on the said date.
6. That the instant service appeal is baseless and barred by law.

REPLY ON GROUNDS:


- a. Incorrect. The order is based on law and issued after fulfilling all codal formalities.
- b. Pertains to record.
- c. Incorrect. The appellant was well aware of the fact that his spouse was taking cash grant from BISP.
- d. Pertains to record. Detail reply have been given above.
- e. Subject to proof.

- f. Incorrect. 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 Respondent No.2 a list of officer/official, who either themselves or their spouse were receiving BISP cash grant. In this context the competent authority has therefore, decided to issue direct Show Cause Notices to the accused civil servants as provided in Rule-7 of the Rules ibid dispensing with the formal inquiry. (Annexure-C).
- g. That the instant Para is contradictory to Para D & F. The spouse of appellant illegally received case grant form BISP.
- h. Incorrect. The appellant was treated in accordance with the prevailing Government Civil servant policy/rules. Detail reply have been given in Para (F) ibid.
- i. That other ground shall be explained during the arguments with permission of Honorable Tribunal.

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



**Commissioner,
Bannu Division Bannu,
(Respondent No.2)**



**Senior Member,
Board of Revenue, Khyber Pakhtunkhwa,
(Respondent No.1)**

3

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

Shahid Nawaz, Naib Qasid BPS-03, Commissioner Office Bannu Division

..... (Appellant)

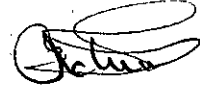
Versus

1. Senior Member Board of Revenue KPK Peshawar.
2. Commissioner Bannu Division Bannu.

..... (Respondents)

AFFIDAVIT

I, Gull Rehman Assistant to Commissioner (Pol/Dev) (PMS BPS-17) do hereby solemnly affirm and declare on oath that the contents of the accompanying parawise comments/report on behalf of Commissioner Bannu Division Bannu are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.



DEPONENT

C.N.I.C. No. 17301-8897816-7

Identified by

Additional Advocate General,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar.

5

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

Appeal No. 11470 of 2020

Shahid Nawaz, Naib Qasid BPS-03, Commissioner Office Bannu Division

..... (Appellant)

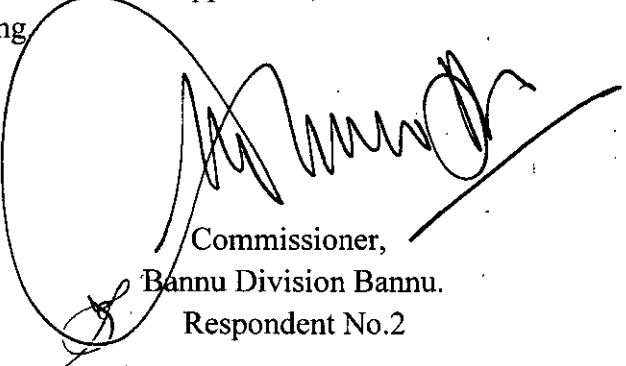
Versus

1. Senior Member Board of Revenue KPK Peshawar.
2. Commissioner Bannu Division Bannu.

..... (Respondents)

AUTHORITY

Mr. Gull Rehman Assistant to Commissioner (Pol/Dev) (PMS BPS-17) is hereby authorized to attend the Court on behalf of (Respondent no.2) Commissioner Bannu Division Bannu in the case titled "Shahid Nawaz versus SMBR etc." in "Appeal No,11470/2020" on the date fixed 06-04-2021 and subsequent dates of hearing


Commissioner,
Bannu Division Bannu.
Respondent No.2