



15.02.2023

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Painsdakhel, 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

2<sup>nd</sup> 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.

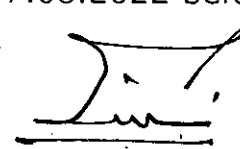
  
Reader

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)

17-8-22

*due to summer vacation the case is adjourned to 2-11-22 for the same.*



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


*Proper D.B as per T.O., this appeal case is adjourned to 14.2.22 for hearing.*

  
Reader

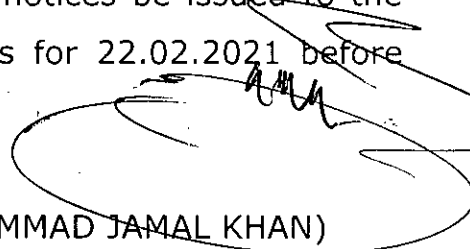
26.11.2020

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.

  
Appellant Deposited  
Security & Process Fee

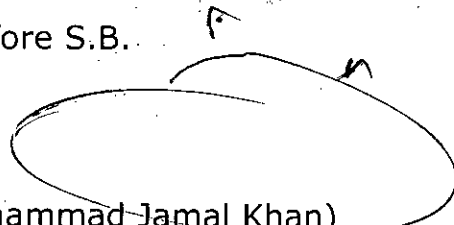
The point so agitated at the bar needs consideration. The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 22.02.2021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

  
(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.- 11473 /2020

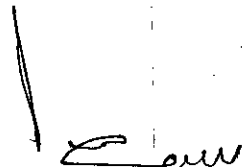
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/10/2020	<p>The appeal of Mr. Muhammad Shaideen resubmitted today by Mr. Nasir Mehmood Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</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. Muhammad Shahideen Mali ~~At Peshawar~~ 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. 2770 /S.T,

Dt. 24/09 /2020

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Nasir Mehmood Adv. Pesh.

Resubmitted  
doing the need full  


01-10-2020

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 11473/2020

**Muhammad Shahideen** .....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 Show Cause Notice and reply	A	10-11
4.	Copy of the Inquiry report & Statement	B	12-14
5.	Copy of the order dated 30.04.2020	C	15
6.	Copy of the Departmental Appeal and order dated 03.07.2020	D	16-19
7.	Copy of order dated 11.08.2020	E	20
8.	Wakalat nama		21

Appellant  
Through:

  
**NASIR MAHMOOD**  
Advocate, Supreme Court  
Of Pakistan



BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR

Service Appeal No. \_\_\_\_/2020

Muhammad Shahideen, Mali 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

(2)

**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 on 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 while serving as Mali in the office of respondents No 2 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.

3

**(Copy of 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 Inquiry report & Statement 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**

4

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 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.

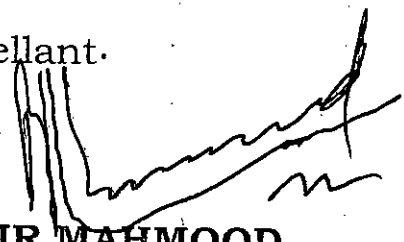
- G. That the appellant belongs to poor family was otherwise entitled for the grant of BISP Cash and at the time of start of BISP program there was confusion as to whether the govt servant can received cash from BISP or not.
- H. That the inquiry was not held in accordance with the provision contained 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.

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**

(8)

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

Service Appeal No. \_\_\_\_/2020

**Muhammad Shahideen .....Appellant**

**VERSUS**

**SMBR & Others .....Respondents**

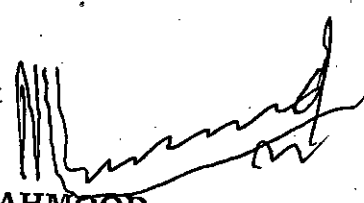
**APPLICATION FOR SUSPENSION OF**  
**IMPUGNED ORDER DATED 03.07.2020 OR IN**  
**THE ALTERNATIVE SUSPENSION OF**  
**RECOVERY OF RECEIVED AMOUNT**  
**PROCEEDING FROM THE APPELLANT, TILL**  
**THE FINAL DECISION OF THE INSTANT**  
**SERVICE APPEAL**

**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.

Appellant  
Through:

  
**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.

  
**DEPONENT**



9

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

Service Appeal No. \_\_\_\_/2020

**Muhammad Shahideen .....Appellant**

**VERSUS**

**SMBR & Others .....Respondents**

**A F F I D A V I T**

I, Muhammad Shahideen, Mali 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.

  
**DEPONENT**



10  
Ames.  
A

**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](mailto:acr.bannu@yahoo.com)

No. 1225/AGI/F-26  
Dated: 17-03-2020

Mr. Muhammad Shahideen, Mali (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 (02) 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.

-sd-  
Commissioner  
Bannu Division

Even no. & date

Copy forwarded to the

1. Additional Secretary-cum-PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Azam 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/ info above for information.
4. PS Secretary (Establishment) E&AD, Peshawar.
5. PS Commissioner, Bannu Division.

17/03/2020  
Secretary to Commissioner  
Bannu Division

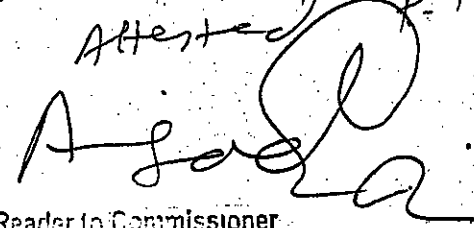
بیان آراء محمد ستایدین (مالی) (BS-05) دفتر کمشنر آفس ہون ڈویژن

حلقہ بیان کیا کہ مجھے شوکار نوٹس اچھی طرح سمجھنا چاہیے جو کہ مجھے کمشنر ہون آفس سے ملا تھا۔ میں 2008 میں بطور مالی بوری ہوا ہوں میری وہ بیویاں تھیں جو پہلی بوری تھا تھا 1991 میں ہوا جبکہ دوسری بوری تھا تھا 1997 میں ہوا ہے۔ میرا تعلق ایک غریب گھرانے سے ہے۔ میری پہلی بوری سے بچے اور ایک بیٹی تھیں۔ ہمیں ایک بچہ ہذا ہے۔ بعد میں میری بوری کی دعائی حالت تبدیل نہیں تھی۔ صحت آسن کا کافی علاج کیا ہے۔ لیکن کوئی خاص آفاقہ نہیں رہا۔ پھر پہلی بوری کی خواہش پر میں دوسری ان کی وفات کرتا ہوں۔ میری حوصلہ شکنی جو کہ 15 اگست تقریباً بتی ہے لیکن ہم دوسرے بیویوں سے لگنا قابل ممانعت نہیں رہا۔ اور میری تعویذ سے متعلقہ میں مشکل سے گھر مانگا رہا ہوں۔

مجھے یہ معلوم کیا تھا کہ میری دونوں کتب سے BISP سے مستفید ہو رہے ہیں۔ اس لیے میں خدا کو حاضر و ناظر جان کر حلف اٹھاتا ہوں کہ اپنے بیویوں کو BISP سے پیسے دلوانے میں میرا کوئی کردار نہیں نہ میں نے کی نہیں کو اپنے بیویوں کے نام دینے میں اور نہ اس سے کچھ کوئی کوشش کی ہے۔ مجھے کافی عرصہ بعد جب ان کو BISP سے پیسے آنا شروع ہوئے تو معلوم ہوا کہ سروس کے دوران غریب لوگوں کو مالی امداد دینے کیلئے میری بیویوں کے نام بھی سروس والوں نے ریکارڈ میں درج کیے تھے۔ کچھ تین آفاقہ سے میرا بیویوں کو BISP سے پیسے نہیں ملے رہے۔ مجھے یہ معلوم نہ تھا کہ سروس کے دوران میں نے اپنی بیویوں کو BISP سے پیسے لینا مانوٹا منع ہے۔

میں بنیاداً غریب سرکاری ملازم ہوں BS-3 میں نوڑے رہا ہوں اور 23000 تنخواہ سالانہ میں جس میں بچوں کی تعلیم اور دیگر اخراجات بوری کرنا بنیاداً مشکل ہے۔ لہذا میری آمدنی ہے کہ BISP سے میری بیویوں سے مستفید ہونا چاہیے توڑے سے نہ نکلے اور میری مال رکھوں پر درج ہونے سے

میرا مزید استدعا ہے کہ مجھے جائز اختیارات ذاتی طور پر سننے کا موقع

Attested  
  
Reader to Commissioner  
Bannu Division  
615/2020



11A

غصابتِ عطا فرزند نور

من کوه دست لیل  
۳۰۰۰  
۳۰۰۰  
۳۰۰۰



محمد شایان

محمد شایان ولد

عیدہ عالی 3-35

محمد زین نور



INQUIRY REPORT.

Reader to Commissioner  
Bannu Division,

(12) Ahmad = B (E) -  
6/5/2020

Vide Commissioner Bannu Division No. 1225/AG-I/F.26 dated 17-03-2020 the undersigned was directed to conduct inquiry into the show cause notice issued to Mr. Muhammad Shahideen, Mali (BPS-03) of the Commissioner Office Bannu Division having been charged with that "his 02 spouse were 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 Muhammad Shahideen s/o Moulvi Zahir Din, CNIC No. 11101-1454562-3 for his spouse being beneficiary of Benazir Income Support Program.

In compliance thereof Mr. Muhammad Shahideen was summoned and his statement recorded on 24-03-2020.

GIST OF HIS (MUHAMMAD SHAHIDEEN) REPLY TO THE SHOW CAUSE NOTICE.

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

1. He entered into Govt; service in 2008 as Mali (BPS-03) and working there till date.
2. That he has 13 children (06 female, 07 male) from his both wives.
3. He is facing this instant inquiry/disciplinary proceedings as their two wives are beneficiary of BISP cash grant scheme.
4. The P survey was conducted by the officials/teams of BISP themselves and neither he had been informed as his two wives are taking cash grant from BISP authorities nor file any application to become beneficiary of the said scheme.
5. He not in the knowledge as to how since long his 02 wives are beneficiary of BISP scheme.
6. He agreed to take on oath that he has no role to enlist his spouses as beneficiary of BISP scheme.
7. He has no other source of income except salary to fulfill their childrens/wives daily needs.

- 8. He has not in the knowledge that BISP scheme was not meant for spouse of a Govt; servants and that the BISP authorities has not issue any single notice to the official till date in this regard.
- 9. It is difficult for him to feed his family in his meager pay. He may be pardon and may not be terminated from service.
- 10. He requested to be heard in person by the competent authority.

**STATEMENT OF MUHAMMAD SHAHIDEEN.**

He stated that:-

- 1. He entered into Government service as Mali in the office of the Commissioner Bannu Division in the year 2008.
- 2. He has two wives – married with one in 1991 and other in 1997.
- 3. His first wife was not mentally fit, therefore he married with another one.
- 4. He has 07 sons and 06 daughter from his both wives.
- 5. He has no other source of income except his monthly salary.
- 6. He was not in the knowledge of his spouses being beneficiaries of BISP until the installment/cash payment received by them.
- 7. He has not played any role in listing of his spouses in BISP.
- 8. The names of his wives were enlisted by the Survey teams of BISP while enlisting the names of poor people.
- 9. He has no source of income except his monthly pay i.e. Rs. 23000/- per month.
- 10. It is difficult for him to look after and feed his family in such meager pay, therefore he may not be terminated from service.
- 11. That he wish to be heard in person.

**CONCLUSION.**

Keeping the above in view, Muhammad Shahideen, Mali (BPS-03) has admitted that his 02 wives has been beneficiaries of Benazir Income Support Program (BISP).

Attested

Reader to Commissioner  
Bannu Division.

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

6/5/2020

عنوان: دفاعی طریقہ میں از اظہار رجوع لوٹن (سوق کار لوٹن)

نمبر 1225/AG-7/F-26

تاریخ: 17-03-2020

صاحب والد

سائل زیل گذشتہ اشارات راجحاً تھا ہوں۔

1. یہ کہ سائل 2008 میں لہور عالی کسٹریشن ڈویژن میں لوٹن پر اہل تامل اپنے وکیل صاحبی کو روک دیا ہے۔

2. یہ کہ سائل نے جواب میں ہے جن سے کل (13) لاکھ (6 ہجرتی 7 بجے) ہیں۔

3. یہ کہ سائل کو بوجہ BISP کسٹریشن ڈویژن وصول کرنے کا پاداش میں قانون کارڈ میں کامیابی حاصل ہے۔

4. یہ کہ BISP پروگرام کارڈ BISP ٹیم والوں نے بخود نہیں چھوڑا اور سائل نے علم میں نہ ہے۔

یہ سائل نے پاداش کے طور پر کوئی درخواست دے کر سکیم کیلئے خود اہلیوں میں کیا۔

5. سائل کو یہ علم نہ ہے کہ کتنے طرح سے سائل کو بھروسہ BISP پروگرام سے مستفید ہو سکتا ہے۔

6. سائل خلیفہ انجمن میں رہا ہے کہ BISP سکیم میں سائل کا کوئی کردار نہیں ہے۔

7. یہ کہ سائل بھروسہ انجمن کا دائرہ کفیل ہے اور کارڈ کے ساتھ ساتھ اسے کوئی دوسرا ازبہ حاصل نہیں ہے۔

8. یہ کہ سائل کو قانون کا پتہ نہیں ہے کہ یہ سکیم صرف بھروسہ کے لئے نہیں ہے بلکہ اس میں سکیم سے کوئی اطلاع انجمن دیا ہے بلکہ خود ہی سائل نے بھروسہ سے نام داخل کیا ہے۔

9. یہ کہ سائل بھروسہ کے ساتھ ساتھ بھروسہ میں بھروسہ انجمن کے قلمی، طبی اور دیگر درخواستیں پیش کر رہا ہے۔

10. سائل بھروسہ کے ساتھ ساتھ درخواست کرتا ہے کہ بندہ کو کوئی اور بہتر سہولت کا موقع فراہم کریں۔

لہذا آپ صاحبان سے التجا ہے کہ BISP سکیم سے میری بھروسہ سے مستفید ہونے پر مجھے کوئی بہتر سہولت نہ دی جائے اور میرے بھروسہ انجمن پر اہلیوں کے طور پر اس کے طور پر

دعم فرمائیں۔

سائل احسان نذیر

Attested

محمد شکیل

محمد شکیل ولد حاجی عبدالرحمن

ٹیلی فون (03-895)

کسٹریشن ڈویژن ٹیوٹریل

24.3.2020

Reader to Commissioner, Bannu Division

6/3/2020



Ammer = c  
15  
**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](mailto:acr.bannu@yahoo.com)

No. 1561-65/AG-I/P&W  
Dated: 30-04-2020

**OFFICE ORDER.**

In pursuance of the letter No. SOR-I(E&AD)4-17/2020 . dated 14<sup>th</sup> February 2020. received from Establishment Department Khyber Pakhtunkhwa, showcause notices was served upon the accused official named Muhammad Shahideen, Mali of this office by appointing Mr. Aziz Ullah Jan ACR of this office as Inquiry Officer (I/O) vide this office letter No. 1225 /AG-I/F-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. Muhammad Shahideen, Mali 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 ISP Khyber Pakhtunkhwa, Peshawar.
4. District Comptroller of Accounts Bannu.
5. Mr. Muhammad Shahideen, Mali of this office .

H

Secretary to Commissioner  
Bannu Division

Attested

Asad

Reader to Commissioner  
Bannu Division

6/5/2020



(16) Annex = 13

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

Departmental Appeal / Presentation No. \_\_\_\_\_ Dt: \_\_\_\_\_

Muhammad Shahideen (CNIC No. 11101-1454562-3) s/o Moulvi Zahir Din r/o  
Khanzada Mughul Khel P/O Goriwala, Tehsil & District Bannu.

.....Appellant

**VERSUS**

Commissioner Bannu Division.

.....Respondent

**Departmental Appeal / Presentation against the impugned order No. 1561-  
65/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. 1561-65/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 malafide 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 Mali (BPS-1) now (BPS-03) vide order dated 26-05-2008 (**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

(17)

appellant except Show cause of the impugned order in his entire 12 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 two spouses.
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 spouses 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 wives 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

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hearing to the appellant as provided in Rule. 7(d) of the Khyber Pakhtunkhwa E&D Rules, 2011.

11. That the inquiry report (Annex F) did not carry any recommendation to the appointing authority.

12. That the impugned order is not vivid carrying the clear cut orders of termination.

In view of the above it is humbly prayed that the impugned order dated 30-04-2020 may very graciously be set-aside, the appellant may be reinstated into Govt: service with all service back benefits and operation of the impugned order may be suspended till the final decision of the case.

**Muhammad Shahideen**  
s/o Moulvi Zahir Din r/o  
District Bannu (Ex-Mafi BPS-  
03 Commissioner Office  
Bannu Division)  
(Appellant)

Dated: \_\_\_\_/\_\_\_\_/2020

(19) 7

BEFORE THE SENIOR MEMBER, BOARD OF REVENUE  
KHYBER PAKHTUNKHWA.

Mr. Muhammad Shahideen Ex-Mali office of the Commissioner  
Bannu.....Appellant

Versus

Commissioner Bannu Division Bannu.....Respondent

ORDER.

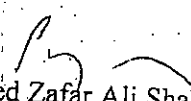
This is an appeal filed by Mr. Muhammad Shahideen Ex-Mali office of the Commissioner Bannu against the order dated 30.04.2020 passed by Commissioner Bannu Division whereby the appellant was removed from service on the basis of involvement in monthly receipt of the Benazir Income Support Program (BISP) 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 6-7 years and received a total amount of Rs. 110000/- 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. 110000/- 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.

03.07.2020

Annex = E 13  
20

**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](mailto:acr.bannu@yahoo.com)

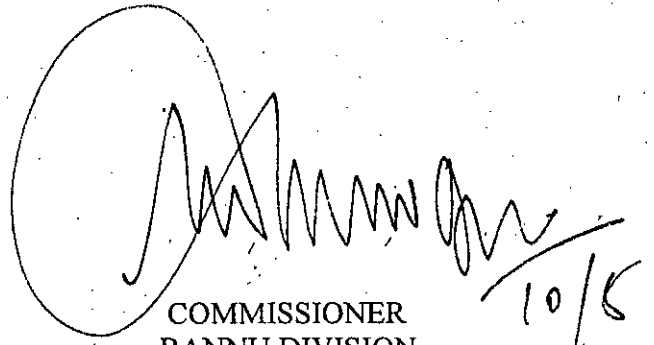
No. 2452 /A.E./F.3

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 " Muhammad Shahideen Ex-Mali Vs Commissioner Bannu Division", Mr. Muhammad Shahideen is hereby reinstated in service against his post of Mali (BPS-03) with all back benefits with reterospetive effect by with holding of one (01) annual increment for a period of two (02) years.

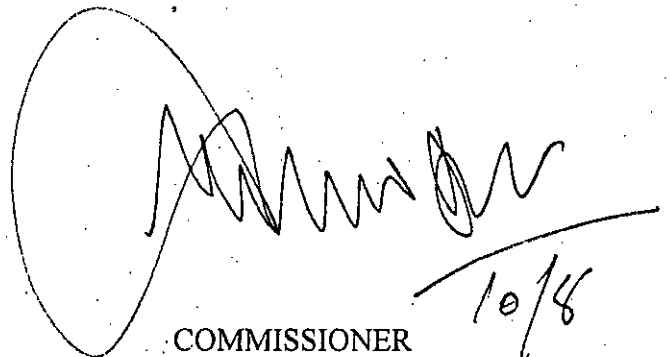
The amount received in lieu of BISP grant by the family members of the official will be recovered from him in monthly installments equal to the amount received per mensum from the BISP.

  
COMMISSIONER  
BANNU DIVISION  
AR 10/8

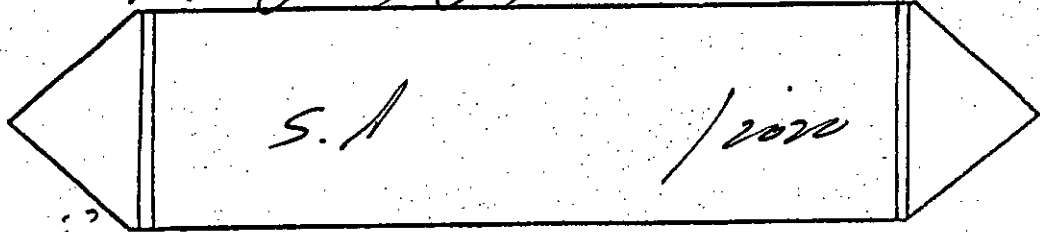
**Even No and Date:-**

**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  
10/8

بعد الت جانا۔ سرویس ٹرانسپونل آپریٹنگ سٹاؤ



بنام S.M.B.R 2020ء منجانب سٹیشنر

محمد شہباز

مورخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
 آن مقام ریشما کور کیلئے ناہر محمد رفیق صاحب کے نام سے  
 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 ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
 بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
 زراں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے کھلے سے وہ ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ وہ اس کے لئے  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20  
 واہ الب

المقوم

محمد شہباز بن سٹیشنر کے لئے منظور ہے۔

کھدالت جناب چیرمین سرویس ٹریبیونل KPK پشاور

محمد شایب  
نام SMBR



درخواست لبراد اجازت دینے کیلئے جمع  
کرنے کیلئے وپرو سس فیس:-

جناب عالی!

ماتر میں ذیل عرضی دسائی ہے۔

(1) یہ مقدمہ عنوان بالا / سرویس ایپل 26/11/2020 کو ایڈمٹ ہوئی ہے جس میں آئندہ پیشی 22/02/21 تقریباً۔  
(2) یہ مقدمہ عنوان بالا ایپل میں سلیوری وپرو سس فیس لوجہ والے نہ ہوئے

ایپل انٹ جمع نہ ہوئے ہے۔

(3) یہ مسائل سلیوری فیس / پراسس فیس جمع کرنا چاہتا ہے

اس کے لئے استدعا ہے کہ لہذا منظوراً درخواست

بذامائل / ایپل انٹ کو سلیوری / پراسس فیس جمع کرنے

کی اجازت مرحمت فرمائی جائے۔

ایپل

بذریعہ:- نام محمد محمود ایڈولٹ  
سیکرٹری ٹریبونل آف پاکستان

Period for requisite report is extended for 03 days.

17/2/21

①

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

**Appeal No. 11473 of 2020**

**Muhammad Shahideen ,Mali 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 is permanent government servant in this office working as a cook 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:**

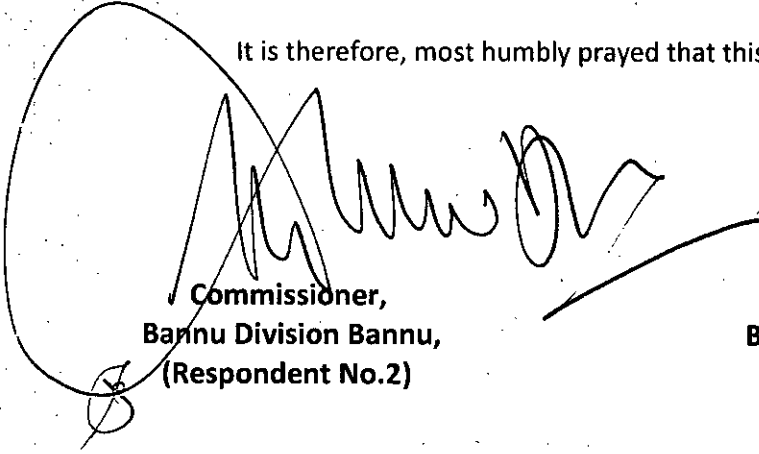
- a. Incorrect. The order is based on law and issued after fulfilling all codal formalities.
- b. Pertains to record.
- c. Incorrect. The appellant was well aware of the fact that his spouse was taking cash grant from BISP.
- d. Pertains to record. Detail reply have been given above.




(2)

- 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)

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

**Appeal No. 11473 of 2020**

Muhammad Shahideen, Mali BPS-03, Commissioner Office Bannu Division

..... (Appellant)

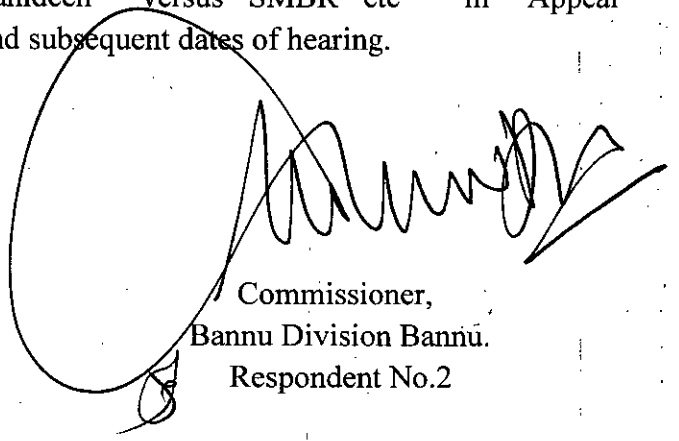
Versus

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 "Muhammad Shahideen versus SMBR etc " in "Appeal No,11473/2020" on the date fixed 06-04-2021 and subsequent dates of hearing.



Commissioner,  
Bannu Division Bannu.  
Respondent No.2

104

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

Muhammad Shahideen, Mali 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.