

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">D amir</p>	<p>11.07.2017</p>	<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p style="text-align: center;">Appeal No. 434/2015</p> <p style="text-align: center;">Date of Institution ...11.05.2015 Date of Decision ...11.07.2017</p> <p style="text-align: center;">Manzoor Alam Khan (Assistant Public Prosecutor BPS-17 ) Son of Ghulam Hussain, Advocate Office Of District Public Prosecutor, Peshawar.</p> <p style="text-align: right;">-----Appellant</p> <p style="text-align: center;">VERSUS</p> <p>1. The Estate Officer, Esate Office, Administration Department of Govt of Khyber Pakthunkhwa Peshawar.</p> <p>2. The Secretary Administration of Govt of Khyber Pakhtunkhwa Peshawar.</p> <p style="text-align: right;">-----Respondents</p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER: -</u></b> Appellant</p> <p>and Learned Deputy District Attorney for the respondents present.</p> <p>3. The present Appeal under Section-4 of the Service Tribunal Act, 1974 filed by Manzoor Alam Assistant Public Prosecutor Peshawar against respondents with the prayer of restoration of House Subsidy Allowance from the date of his posting at Peshawar i.e. 17.04.2014.</p>

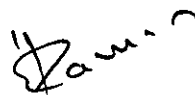
4. Learned counsel for the appellant stated that earlier in the year 2009 when the appellant was posted at District Peshawar, the house subsidy allowance was allowed to him, however later on the same was cut off as he was transferred out to District Nowshera. The appellant further stated that in the month of April 2014 he was again transferred to Peshawar and he applied for restoration of house subsidy allowance from the month of May 2014, but the application of appellant was dismissed by the respondent No. 1 on the ground that the house is co-owned. Learned counsel for the appellant contended that the house in respect of which the house subsidy allowance is claimed is the same one and exclusively owned and in possession of the appellant. Learned counsel for the appellant further argued that the house visit report of the representative of respondent No. 1 is false one.

5. Conversely the Deputy District Attorney while relying upon the house visit report of the representative of respondent department and referring the letter bearing No. SO(SR-III)/FD/1-27/2008 Dated Peshawar the 10.06.2013 of the Government of Khyber Pakhtunkhwa Finance Department (Regulation Wing) argued that to the house in respect of which house subsidy allowance was claimed is a joint house, therefore the appellant is not entitled to the grant of house subsidy allowance.

Peshawar

6. Arguments of learned counsel for the appellant and learned Deputy District Attorney heard. File perused.

7. It is not disputed that house subsidy is not allowed in case where house is co-owned/ shared by others. However, perusal of house inspection report available on file shows that the same is utterly vague in as much as the reporting official has not disclosed in his report that upon checking of the house how he came to know that the house is joint one. Consequently the present appeal is partially allowed, the order dated 18.12.2014 whereby the respondent No. 1 regretted to restore house subsidy allowance to the appellant is set aside. The application of the appellant for the grant/restoration of house subsidy allowance shall be deemed pending and the respondent No. 1 shall decide the same strictly on merits in accordance with law and rules on the subject. Respondent No. 1 is also directed to appoint a responsible officials for the spot/house inspection, who shall prepare comprehensive spot/house inspection report. Parties are left to bear their own costs. Copy of this order be sent to respondent No. 1 for compliance. File be consigned to the record room after its completion.



(MUHAMMAD HAMID MUGHAL)  
MEMBER



(GUL ZEB KHAN)  
MEMBER

ANNOUNCED  
11.07.2017

11. 07.07.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondent present. Arguments heard. To come up for final order on 11.07.2017 before D.B.

(Gul Zeb Khan)  
Member

(Muhammad Hamid Mughal)  
Member

Order

12. 11.07.2017

~~Respondent~~ Appellant, Learned Deputy District Attorney for the respondents present. Vide separate judgment of today of this Tribunal placed on file, the present appeal is partially allowed, the order dated 18.12.2014 whereby the respondent No. 1 regretted to restore house subsidy allowance to the appellant is set aside. The application of the appellant for the grant/restoration of house subsidy allowance shall be deemed pending and the respondent No. 1 shall decide the same strictly on merits in accordance with law and rules on the subject. Respondent No. 1 is also directed to appoint a responsible official for the spot/house inspection, who shall prepare comprehensive spot/house inspection report. Parties are left to bear their own costs. Copy of this order be sent to respondent No. 1 for compliance. File be consigned to the record room after its completion.

ANNOUNCED  
11.07.2017

(Gul Zeb Khan)  
Member

(Muhammad Hamid Mughal)  
Member

25.01.2017


Appellant in person and Addl:AG alongwith Mr. Israr Ahmad, Litigation Clerk for respondents present. Appellant seeks adjournment as he wants to submit further documents in his appeal. Adjourned. To come up for arguments on 04.05.2017 before D.B.

  
Member

  
Chairman

04.05.2017

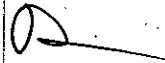
Appellant in person present. Mr. Musdiq Shah (Junior Clerk) alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Appellant requested for adjournment. Request accepted. To come up for arguments on 7.7.2017 before D.B.

  
(Gul Zeb Khan)  
Member

  
(Ahmad Hassan)  
Member

12.04.2016

Counsel for the appellant and Burhan-Ud-Din, Assistant  
alongwith Addl: AG for respondents present. Rejoinder on behalf  
of the appellant submitted copy of which is placed on file. To  
come up for arguments on 08.08.2016.

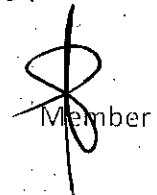
  
Member

  
Member

08.08.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for  
respondents present. It was brought into notice of Tribunal  
about incident of unfortunate terror of today happened in  
Balochistan, the Bar has declared strike after 12:00 noon.  
Hence the case is adjourned for arguments to 31-10-16  
before D.B.

  
Member

  
Member

31.10.2016

Appellant in person and Mr. Mohammad Jan, GP  
alongwith Mr. Israr Ahmad, Junior Clerk for the  
respondents present. Appellant requested for adjournment.  
To come up for arguments on 25.01.2017.

  
(ABDUL LATIF)  
MEMBER

  
(PIR BAKHSH SHAH)  
MEMBER

25.08.2015

Counsel for the appellant and Addl: A.G for respondents present. The appeal was deferred for appearance of representatives of respondents since morning and Mr. Israr Ahmed, Junior Clerk, appeared before the Court at 1: 00 PM. It is noted with concern that the case was called on many a times since morning but none on behalf of Estate Officer and Secretary Administration appeared before the Court. Representative present in Court informed the Tribunal that he was in Hospital when directed on phone to attend the Court, who attended the Court after finishing his assignment at Hospital. The Representative also informed the Court that he has no knowledge of the appeal and not in a position to assist the Tribunal or submit written statement. The attitude of the respondents i.e Estate Officer and that of Secretary Administration of Government of KPK is hardly appreciable. Let it be conveyed by the office of the Registrar to both the respondents that they shall take due interest in the cases on behalf of Government of KPK. Since the representative is not in a position to facilitate the Tribunal in respect of the grievances of the appellant regarding house subsidy allowance as such it is directed that the Estate Officer shall appear in person on the next date and that the written statement be also submitted by both the respondents on 23.11.2015 before S.B.

  
Chairman

23.11.2015




Appellant in person, M/S Usman Ali Shah, Assistant Estate Officer and Israr Ahmed, Junior Clerk alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 12.4.2016.

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 434/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.05.2015	<p>The appeal of Mr. Mr. Manzoor Alam Khan resubmitted today by Mr. Ashfaq Ahmad Daudzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p> REGISTRAR</p>
2	13-5-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>15-5-2015</u>.</p> <p> CHAIRMAN</p>
3	15.05.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 28.5.2015 before S.B.</p> <p> Chairman</p>



28.05.2015

Appellant Deposited  
Security & Process Fee

Appellant in person present. Argued that the appellant was serving as Assistant Public Prosecutor at Peshawar and was allowed House Subsidy Allowance against his own house where-after the same was discontinued due to transfer of the appellant to Nowshera. That the appellant is now again transferred to Peshawar and is serving at District Headquarter Peshawar since 17.4.2014. That the appellant applied for the house subsidy allowance but the same was illegally refused by the respondents vide impugned order dated 18.12.2014 regarding which the appellant preferred departmental representation which was not responded and hence the service appeal on 13.5.2015.

That the appellant is entitled to the house subsidy allowance on the same lines which was allowed to him earlier while serving at Peshawar.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 25.8.2015.

  
Chairman

The appeal of Mr. Manzoor Alam Khan Assistant Public Prosecutor received to-day i.e. on 11.05.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.


- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Address of respondent No.1 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Annexures of the appeal may be attested.

No. 702 /S.T,

Dt. 12/5/2015

*sin, Resubmitted after Compliance.*

Mr. Ashfaq Ahmad Daudzai Adv. Pesh. 

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

*12/5/15*

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

Service Appeal No. 434 of 2015

Manzoor Alam Khan ..... Appellant

**VERSUS**

Estate Officer, Peshawar & another  
..... Respondents

**Index**

S.No.	Description of documents	Annexure	Pages
1.	Appeal		1-5
2.	Affidavit		6
3.	Copy of Mutation, Fard and order dated 18/07/2009	"A,B&C"	7-9
4.	Copy of order dated 18/12/2014	"D"	10
5.	Copy of Departmental appeal	"E"	11-13
6.	Wakalat Nama	In original	14

Dated 08/05/2015

*Manzoor Alam Khan*  
Appellant  
Through

*Ashfaq Ahmed Dauzai*  
Ashfaq Ahmed Dauzai  
Advocate, High Court,  
Peshawar.

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

Service Appeal No. 434 of 2015

**K.P. Province  
Service Tribunal**  
Entry No. 471  
Date 11-5-2015

**Manzoor Alam Khan (Assistant Public Prosecutor  
BPS-17) Son of Ghulam Hussain, Advocate Office  
of District Public Prosecutor, Peshawar**

..... Applicant

**VERSUS**

**1- Yasir Estate Officer, Estate Office,  
Administration Deptment Govt of KPK  
Peshawar.**

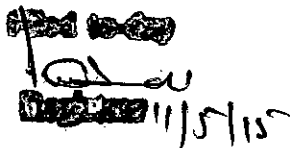
**2- Secretary Administration of Govt of Khyber  
Pakhtunkwa Peshawar**

..... Respondents

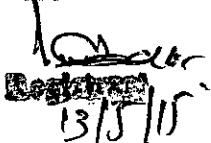
**APPEAL UNDER SECTION 4 OF THE  
SERVICE TRIBUNAL ACT 1974 AGAINST  
THE ORDER of respondent NO.2  
WHEREBY DEPARTMENTAL APPEAL  
AGAINST THE ORDER DATED 18/12/2014  
WAS FILED.**

**Prayer in appeal;**

On acceptance of this appeal the order of the Estate Officer may be declared as illegal, unlawful and ineffective and house subsidy allowance may kindly be restored to the appellant from the date of his posting i.e. 17/04/2014 with all back benefits and onward.



Re-submitted to-day  
and filed.



**Respectfully Sheweth:**

**1- That the appellant is serving as Assistant  
Public Prosecutor (BPS-17) since May, 2008,**

and is posted in District Public Prosecutor Office, Peshawar.

- 2- That the appellant has his own residence in Peshawar on the basis of which the appellant applied for house subsidy allowance in the year 2009 during his posting in Peshawar which was allowed to the appellant by the respondents after due inquiry. (Copy of Mutation, Fard and order of Estate Officer/Respondent No.1 are annexed as Annexure "A, B&C" respectively).
- 3- That on 22/07/2013, the appellant was transferred to District Nowshera and the house subsidy allowance was cutoff from August 2013, the appellant was again transferred to Peshawar on 17/04/2014, and since then working in District Public Prosecutor Office, Peshawar.
- 4- That the appellant again applied to the Estate Office for restoration of house subsidy allowance from the month of May 2014 on the basis of his own house/ residence at Peshawar, but the matter was kept pending for six months on the pretext that the department has no convince to visit the spot.

- 5- That the appellant at last provided the convince facility and visit of the house was made by one Hameed Ullah.
- 6- That surprisingly on 18/12/2014 the application of the appellant was dismissed on the ground that the house is co-owned. (Copy of Letter dated 18/12/2014 is Annexure "D").
- 7- That the approached to the Estate Officer and tried to convince him on the ground that the house of the appellant is situated in a big compound comprising of about 60 Marlas, in which four brothers have separate buildings but being brothers inter-se have no parda-wall in between buildings. But the Estate Officer insisted on construction a wall in between houses of appellant and his brother building and refused to revisit his order.
- 8- Being extremely aggrieved and dissatisfied from the action and inaction of the Estate Officer appellant sought relief from departmental authority through departmental representation but the same was filed and the appellant was informed in this respect. (Copy of departmental appeal is attached as Annexure "E").

**9- That now the appellant has no way but to knock to the door of this Hon'ble Tribunal on the following grounds:**

**GROUNDS:**

- A) That the act of the respondents is illegal, perverse, against the law of land and natural justice.**
  
- B) That refusal of restoration of house subsidy allowance to the appellant is without any reasonable ground and is against the policy and prevailing rules.**
  
- C) That the appellant is the lawful sole owner of the house consisting of 10 Marlas in village Pawaka.**
  
- D) That the appellant has not been treated in accordance with law and rules of the subject.**

**E) That the reasons given by the Estate Officer are baseless, incorrect and misleading one.**

**F) That the action and inaction of Estate Officer is against the norms of justice and principles of responsibility. Moreover, his owned order has been set at naught, which shows the malafide and irresponsibility on the part of respondents.**

**It is, therefore, humbly prayed that on acceptance of this appeal, the impugned order of the respondents may be declared as illegal, unlawful and ineffective and house subsidy allowance may kindly be restored to the appellant from the date of his posting i.e. 17/04/2014 with all back benefits till his posting in Peshawar.**

**Any other relief which deemed fit and proper may also be granted.**

**Dated 08/05/2015**

*Ashfaq Ahmed Dausai*  
**Appellant**  
**Through** *A*

**Ashfaq Ahmed Dausai  
Advocate, High Court,  
Peshawar.**



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

Service Appeal No. \_\_\_\_\_ of 2015

**Manzoor Alam Khan** ..... **Applicant**

**VERSUS**

**Estate Officer, Peshawar & another**  
..... **Respondents**

**AFFIDAVIT**

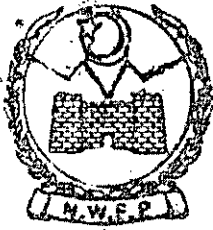
I, **Manzoor Alam Khan** (Assistant Public Prosecutor BPS-17) Son of Ghulam Hussain, Advocate Office of District Public Prosecutor, Peshawar do hereby solemnly affirm and declare on oath that the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*Manzoor Alam Khan*  
**DEPONENT**  
17301-1660712-92





9



GOVERNMENT OF NWFP  
ADMINISTRATION DEPARTMENT

Dated Peshawar the 18.07.2009

**ORDER.**

**NO. E.O(ADMN) R-5093.**

In pursuance of Government of NWFP Finance Department letter No. SOSR-III/FD/1-27/2008, dated 11/08/2008, housing subsidy amounting to Rs. 7440/- (Rupees Seven thousand Four Hundred and Forty only) is hereby sanctioned in favour of Mr. Manzoor Alam Khan, Assistant Public Prosecution (BPS-16) Directorate of Prosecution NWFP Peshawar in respect of his own House No.nil, Moh: Utmanzai Vill: Pawaka Peshawar with immediate effect.

SECRETARY TO GOVT OF N.W.F.P.  
ADMINISTRATION DEPARTMENT

Endst. EVEN NO. & DATE

Copy forwarded to: -

1. The Accountant General, NWFP, Peshawar.
2. The Director General (Audit), NWFP, Peshawar.
3. PS to Secretary Finance, Finance Department with reference to his letter No.SOSR-III/FD/1-27/2008, dated 11/08/2008.
4. Section Officer 9(Prosecution), Home Department with reference to his letter No. SO(Pros)HD/1-1/B/2009 Vol-VIII dated 19.05.2009.
5. The Excise & Taxation Officer-II, Peshawar.
6. PA to Deputy Secretary (Admn), Administration Department.
7. Officer concerned.

*Attested to be true copy*

*13/5/015*

**ATTESTED**

*[Signature]*

ESTATE OFFICER



(10)

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ADMINISTRATION DEPARTMENT

No. EO(Admn) R-5093  
Dated Peshawar the 18.12.2014

To

The District Public Prosecutor,  
Peshawar.

Subject: **APPLICATION FOR GRANT OF FRESH SANCTION FOR HOUSE  
SUBSIDY ALLOWANCE.**

I am directed to refer your letter No. 765/DPP dated 07-07-2014 on the subject noted above and to inform that this Department regrets its inability to restore housing subsidy allowance in respect of Mr. Manzoor Alam Khan, Assistant Public Prosecutor due to his house found co-owned.

  
ESTATE OFFICER


**Endst of Even No and Date**

Copy forwarded to:-

PA to Deputy Secretary (Admn), Administration Department.

**ATTESTED**

*Attested to be true copy.*

  
13/5/15

ESTATE OFFICER

To

The Secretary Administration,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: DEPARTMENTAL REPRESENTATION AGAINST THE ORDER  
OF ESTATE OFFICER DATE 18/12/2014.

Respected Sir,

Short facts giving rise to instant representation/appeal are as under;

1. That the appellant is serving as Assistant Public Prosecutor (BPS-17) since May 2008, and is posted in District Public Prosecutor office, ~~Pesh~~ **now**.
2. That the appellant has his own residence in Peshawar on the basis of which he applied for house subsidy allowance in the year 2009 during his posting in Peshawar, which was allowed to the petitioner by the respondents after due inquiry. (copy of mutation, fard and order of estate office are annexed as annexure "A, B & C" respectively).
3. That on 22/07/2013, the appellant was transferred to District Nowshera and the house subsidy allowance was cutoff from August 2013, and the petitioner was again transferred to Peshawar on 17/04/2014, and since then working in District Public Prosecutor Office, Peshawar.
4. That the appellant applied to the Estate Office for restoration of house subsidy allowance from the month of May 2014 on the basis of his own house/residence at Peshawar, but the matter was kept pending for six

**ATTESTED**

*A. U. M.*  
13/8/015

months on the pretext that the department has no convince to visit the spot.

5. That the appellant at last provided the convince facility and visit of the house was made by one Hameed Ullah.
6. That surprisingly on 18/12/2014 the application of the appellant was dismissed on the ground that the house is co-owned. (letter dated 18/12/2014 is annexed).
7. That the appellant approached to the Estate Officer and tried to convince him on the ground that the house of the appellant is situated in a big compound comprising of about 60 Marlas, in which we four brothers have separate buildings but being brothers inter-se we have no parda-wall in between our buildings. But the Estate Officer insists on constructing a wall in between our brothers' buildings, and refused to revisit his order.
8. Being extremely aggrieved and dissatisfied from the action and inaction of the Estate Officer appellant seeks relief from this good office on the following grounds. *disproportionate authority on the part of the Estate Officer.*

### GROUNDS

- A. That the act of the Estate Officer is illegal, perverse against the law of land.
- B. That refusal of restoration of house subsidy allowance to the appellant is without any reasonable grounds against the policy and prevailing rules.
- C. That the appellant is the lawful sole owner of the house consisting of 10 marlas in village Pawaka.
- D. That the appellant has not been treated in accordance with law and rules of the subject.

- E. That the reasons given by the Estate Officer are baseless, incorrect and misleading one.
- F. That the action and inaction of Estate Officer is against the norms of justice and principles of responsibility.

It is therefore, humbly prayed that on acceptance of representation/appeal, the order of the Estate Officer may be declared as illegal, unlawful, and ineffective and house subsidy allowance may kindly be restored to the appellant from the date of his posting i.e. 17/04/2014.

**ATTESTED**

*Attested to be true copy*

*[Signature]*

*13/5/15*

Appellant.,

*Manzoor Alam Khan*

**Manzoor Alam Khan,**  
s/o Ghulam Hussain, Advocate,  
Office of District Public  
Prosecutor, Peshawar.  
Contact #: **0333-9186520**



بعد التفتت - جسٹس ڈیوٹی کو اس پر دس لکڑیوں کی سزا



سید منجانب فقیر صاحب  
بنام اسٹیٹ آفیس

موضوع: 2015-5-8  
مقدمہ منظور عالم خان  
دعویٰ اہل  
جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی در جواب وہی دکل کارروائی متعلقہ آن مقام تشاور کے لئے اسحاق احمد داؤد زئی اڈو کے مقرر کر کے اترا گیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقریرات و فیصلہ بر حلف دیے جواب وہی اور اقبال دعویٰ اور بصورت دیگر کرنے اجراء اور دوسری چیک و روپیہ اور مرضی دعویٰ اور درخواست برہم کی تصدیق ذرا میں پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا دیگر کیفر یا اپیل کی برآمدگی اور سزا نیز دائر کرنے اپیل ٹکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جلد مذکورہ بالا اختیارات حاصل ہو جائے اور اس کا ساتھ پرداخت منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب سے ہوگا۔ اگلے مستحق وکیل صاحب موصوف ہوں گے۔ نیز تقیاد خرچہ کی ذمہ داری کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیش مقام دورہ پر ہو یا عدسے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا ذکرات نامہ لکھ دیا کہ مستند رہے۔

Amir A. Khan

المترجم  
منظور عالم خان  
کام 2015

بقام سزا اور کے لئے منظور ہے۔

