

FORM OF ORDER SHEET

Case No. _____
Date of filing _____ 318/2024

Serial No. of proceedings _____
Date of other proceedings with signature of judge _____

2

3

26/02, 2024

The appeal of Mr. Sher Amin resubmitted today by Mr. Kabeer Imam Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat

at:

By the order of Chairman


REGISTRAR

The appeal of Mr. Sheranin Khan received today i.e on 19.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1 ✓ Index of the appeal be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2 ✓ Appeal has not been flagged/marked with annexures marks.
- 3 ✓ Annexures of the appeal are unattested.
- 4 (4) Memorandum of appeal is not signed by the counsel.
- 5 (5) Affidavit is not attested by the Oath Commissioner.
- 6 (6) Address of appellant is incomplete be completed according to rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 7 (7) Annexures of the appeal are not in sequence be annexed serial wise as mentioned in the memo appeal.
- 8 (8) In each and every document the name of the appellant be highlighted.
- 9 (9) Copy of departmental appeal and its rejection order in respect of appellant are not attached with the appeal be placed on it.
- 10 (10) Copies of show cause notice, reply to show cause notice and impugned order dated 28.07.2020 mentioned in the memo appeal in respect of appellant are not attached with the appeal be placed on it.
- 11 (11) One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 172 /S.T.

DL 24/1 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Kabeer Inam Adv.
High Court at Peshawar.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Sher arneen VS Registration Peshawar High Court 9 others.

S#	CONTENTS	YES	NO
1	This Appeal has been presented by <u>Kabeer Imam Adv</u>		
2	Whether counsel / appellant/ respondent/ deponent have signed the requisite document?	/	
3	Whether appeal is within time?	/	
4	Whether the enactment under which the appeal is filed mentioned?	/	
5	Whether the enactment under which the appeal is filed is correct?	/	
6	Whether affidavit is appended?	/	
7	Whether affidavit is duly attested by competent oath commissioner?	/	
8	Whether Appeal / Annexures are properly paged?	/	
9	Whether Certificate regarding filing any earlier appeal on the subject, furnished?	/	
10	Whether annexures are legible?	/	
11	Whether annexures are attested?	/	
12	Whether copies of annexures are readable/ clear?	/	
13	Whether copy of appeal is delivered to AG/ DAG?	/	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by Petitioner/ Appellant / Respondents?	/	
15	Whether number of referred cases given are correct?	/	
16	Whether appeal contains cutting / overwriting?	/	
17	Whether list of books has been provided at the end of the appeal?	/	
18	Whether case relate to this Court?	/	
19	Whether requisite number of spare copies are attached?	/	
20	Whether complete spare copy is filed in separate file cover?	/	
21	Whether addresses of parties given are complete?	/	
22	Whether index filed?	/	
23	Whether index is correct?	/	
24	Whether security and process fee deposited? On _____	/	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, Notice along with copy of Appeal and annexures has been sent to Respondents? On _____	/	
26	Whether copies of comments / reply / rejoinder submitted? On _____	/	
27	Whether copies of comments/ reply/ rejoinder provided to opposite party? On _____	/	

It is certified that formalities /documentations as required in the above table, have been fulfilled.

Name:- Kabeer Imam

Signature: - 

Dated: - _____

BEFORE THE HONBLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL PESHAWAR

In Re S.A 318 /2024

Sher amin

VERSUS

Registrar high court Peshawar and others

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6	Copies of letters along with list	A	10-15
7	Copy of show cause notice along with order & reply of show-cause notice	B&C	16-19
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9	Additional documents		28-34
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Appellant

Through


KABEER IMAM

Advocate High Court
Peshawar.

&


Sayyed Zia Ur Rehman,
Advocate High Court
Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 318 /2023

Sheramin khan s/o Muhammad Gul r/o Dir Tehsil Dir District Dir Upper,
clerk (BPS-17) District Judiciary Dir Upper..... Appellant

Muhammad Asad
Junior
Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10672

Dated 19-1-2024

VERSUS

1. Registrar Peshawar High Court Peshawar.
2. District & Session Judge, Dir Upper..... Respondents

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974, AGAINST THE ORDER DATED 14.10.2023 PASSED BY THE HON'BLE PESHAWAR HIGH COURT PESHAWAR, WHEREBY THE APPEAL WAS PARTIALLY ALLOWED AGAINST THE ORDER DATED 28.07.2020 PASSED BY THE RESPONDENT NO.2 WHILE TO THE EXTENT OF RECOVERY OF RS. ¹⁰⁷⁰⁰⁰ ~~1,16,400/-~~ WAS DISMISSED.

Prayer

On acceptance of this appeal the impugned order dated 14.10.2023 to the extent of recovery Rs 131000/- may kindly be set aside and any other remedy which this August Tribunal deems fit and appropriate that, may also be awarded in favour of the appellant.

Respectfully Sheweth:

1. That the Appellant is working in District Judiciary Since 2008 in District Dir Upper and after appointment the appellant performed his duty with full devotion and dedication and no complaint whatsoever has been made against the appellant.

Re-submitted to-day
and filed.

Registrar

2. That on initiative of government a letter bearing No. SOR-I(E&AD) 4-17/2020 dated 07.02.2020 was circulated which included a list of government officers/official whose spouses were the beneficiaries of the Benazir Income Support Program, hence in compliance of the same the Peshawar High Court Peshawar vide letter bearing No. 6154-206/Admn: dated 23.04.2020 addressed to all District & Sessions Judges of Khyber Pakhtunkhwa to take disciplinary action against those Govt. Servants who either himself or through spouse, received income support from BISE. **(Copies of letters alongwith list are attached as Annexure-A).**
3. That in compliance of the same a show cause notice dated 04.05.2020 was issued by the respondent No.2 to the appellant in response of which, the appellant properly replied and denied all the allegations. After hearing without conducting proper inquiry passed the impugned order dated 14.09.2020, whereby the accused was imposed and awarded the following penalties i.e.
 - i. With holding of increment for one year non-accumulative effects.
 - ii. Recovery of Rs. 131000/- from the appellant which was received by the appellant's spouse. (Copy of Show Cause notice alongwith order dated 28.07.2020 and reply of show cause notice are attached as annexure B, C).
3. That the appellant aggrieved from the said orders of the respondent No.2 and filed Departmental Appeal under Sub Rule (1) of rule 3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 before the Appellate forum Peshawar High Court Peshawar. After hearing on 14.10.2023, the appeal was partially allowed and set aside the order to the extent of 1 year holding of increments while to the extent of recovery of Rs 125000/- was dismissed. (Copy of the said departmental appeal alongwith consolidated judgment in Appeal No.09 of 2021 (^{Shevaran} Saifullah Vs) DSJ Dir Upper is attached as Annexure-D).
4. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following ground inter alia:

GROUND S:-

- A. That the appellant has not been treated in accordance with law and rules and hence his rights secured and granted under the constitution of Islamic republic of Pakistan, 1973 were badly violated.
- B. That no departmental or regular inquiry was conducted against the appellant by the respondent No.2 and no chance of personal hearing has been provided to the appellant and in this respect the appellant relied upon the judgment dated 2008 SCMR page-1369.
- C. That it is a well settled maxim that no one can be condemned unheard because it is against the natural justice of law and in this respect the appellant relied upon a judgment reported on 2008 SCMR page-678.
- D. That no charge sheet or statement of allegation has been issued against the appellant.
- E. That the appellant never applied to the BISP for Financial Support nor received the said amount from the BISP. The BISP programme was launched in the year 2010 which was based on fixed ratio of poverty. At that time there was no any clear policy or rules that Govt. servant or their spouses were not entitled to take benefits from the said income support program. Now the Govt. has changed its policy on 23.12.2019. In this regard Article 12 of the constitution of Islamic Republic of Pakistan is very much clear. Hence, the appellant has not committed any misconduct and is not liable to be punished because neither appellant nor his spouse personally appeared before the interview/officials of the BISP.
- F. That the benchmark/score based/point based was correctorized by the BISP and a general survey was conducted throughout the country in which my spouse was also declared eligible for the support program.
- G. That the appellant has not personally received the amount rather his wife had held eligible for the BISP grant. During BISP survey, my wife had disclosed to the official of the BISP with regard to my govt. service, yet his wife had held entitle for the scheme.
- H. That according to article 12 of the constitution of Islamic Republic of Pakistan, a person cannot be punished retrospectively. when from 20-10-

2012 a person is eligible for a grant till 22-12-2019 how he can be penalized for it.

- I. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the time of full arguments on the instant service appeal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned order dated 14.10.2023 to the extent of recovery Rs. 131000/- may kindly be set aside and any other remedy which this August Tribunal deems fit and appropriate that, may also be awarded in favour of the appellants.

Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed.

Smt

Appellant

Through

Kabeer imam

3

S. Zia-ur-Rahman

Advocates

Dated:

NOTE

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. _____ /2023

Sheramin khan..... Appellant

VERSUS

Registrar Peshawar High Court Peshawar etc....Respondents

AFFIDAVIT

I, Sheramin khan s/o Muhammad Gul r/o Dir Tehsil Dir Dist; Dir Upper (BPS-3) District Judiciary Dir Upper, 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.

identified
by
Kabeer Imam,
Advocate



[Handwritten signature]

DEPONENT

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

C.M No. _____/2023

In

Service Appeal No. _____/2023

Sheramin khan.....Appellant

VERSUS

Registrar Peshawar High Court Peshawar etc....Respondents

**APPLICATION FOR SUSPENSION OPERATION OF THE
IMPUGNED ORDER DATED 14.10.2023 PASSED BY THE
HONORABLE PESHAWAR HIGH COURT PESHAWAR, TO THE
EXTENT OF RECOVERY, TILL THE FINAL DISPOSAL OF THE
MAIN SERVICE APPEAL.**

Respectfully Sheweth:

1. That the titled Service Appeal is being filed before this Hon'ble Tribunal in which no date of hearing is fixed.
2. That the grounds of main appeal may be considered as integral part of this application.
3. That the balance of convenience also lies in favour of the appellant.
4. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
5. That if the operation of the impugned order dated 14.10.2023 to the extent of recovery is not suspended then the appellant would suffer irreparable loss.

It is, therefore, most humbly prayed that by accepting this application, the operation of the impugned order dated 14.10.2023 to the extent of recovery may please be suspended to the extent of the appellant, till the final disposal of the main appeal.

Dated:


Appellant

Through
Kabeer Imam
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

C.M No. /2023
In
Service Appeal No. /2023

Sheramin khan.....Appellant
VERSUS

Registrar Peshawar High Court Peshawar etc....Respondents

AFFIDAVIT

I, Sheramin khan s/o Muhammad Gul r/o Dir, Tehsil Dir District Dir Upper (BPS-3) District Judiciary Dir Upper, do hereby solemnly affirm and declare on oath that the contents of the accompanying Suspension Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

identified
by
Kabeer imam
Advocate



[Signature]
DEPONENT

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

C.M No. /2023
In
Service Appeal No. /2023

Sheramin khan..... Appellant

VERSUS

Registrar Peshawar High Court Peshawar etc.....Respondent

APPLICATION FOR CONDONATION OF DELAY IN FILING THE INSTANT SERVICE APPEAL.


Respectfully Sheweth:

1. That the accompanying service appeal is being filed before this Hon'ble Tribunal, which is yet to be fixed for its hearing.
2. That the delay if any in filing the captioned service appeal is neither intentional nor deliberate but due reason that the appellant approached for the copies of the impugned judgment from the appellate forum but the said copies were issued to the appellant after lapse of long time.
3. That the appellant is belongs to the backward and for-flung area of District Dir Upper wherefrom the appellant proceeded for the composing of instant appeal in time but the appellant was unable to complete all the needful formality for submission of the instant appeal
4. That valuable rights of the applicant/appellant are involved, therefore, it is just, fair as well as in the larger interest of justice that the delay in filing the instant appeal be condoned.

It is, therefore, prayed that by accepting this application, the delay in filing the instant appeal may please be condoned in the best interest of justice.

Dated:


Appellant

Through 
Kabeer imam
Advocate

(3A)

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

In Re S.A _____/2024

Sher ameen

VERSUS


Registrar high court peshawar and others

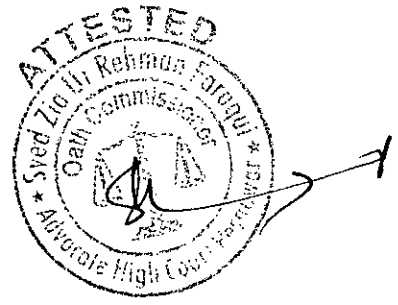
AFFIDAVIT

I ,sher amin s/o Muhammad Gul R/o Dir tehsil Dir District Dir upper do hereby solemnly affirm and declare that all the contents of the accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.



DEPONENT

Identified By:

KABEER IMAM
Advocate High Court
Peshawar.



(9)

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

In Re S.A _____/2024

Sher Amin

VERSUS

Registrar high court peshawar and others

ADDRESSES OF PARTIES

APPELLANT.

sher amin s/o Muhammad Gul R/o Dir tehsil Dir District Dir
upper *Naib Qasid (BPS 03)*

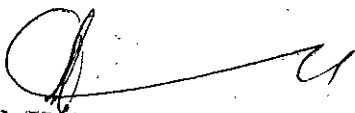
RESPONDENTS:

1. Registrar Peshawar Highcourt Peshawar.
2. District & Session Judge ,Upper Dir


dated:6-01-2024

Appellant

Through


KABEER IMAM
Advocate High Court
Peshawar.

&


Sayyed Zia Ur Rehman
Advocate Highcourt
Peshawar



The
PESHAWAR HIGH COURT
Peshawar

All communications should be addressed to the Registrar Peshawar High Court, Peshawar and not to any official by name.

Exch: 9210149-58
Off: 9210135
Fax: 9210170

www.peshawarhighcourt.gov.pk
info@peshawarhighcourt.gov.pk
phcpsz@gmail.com

No. 6/54-2/1 ADMN:

Dated Pesh the 23/09/2020

To:

1. All the District & Sessions Judges/ZQs in the Khyber Pakhtunkhwa.
2. All the Judges of Anti-Terrorism Courts in the Khyber Pakhtunkhwa.
3. All the Senior Civil Judges/AIQ in the Khyber Pakhtunkhwa.
4. The Presiding Officers, Labour Courts, Swat & Mardan.

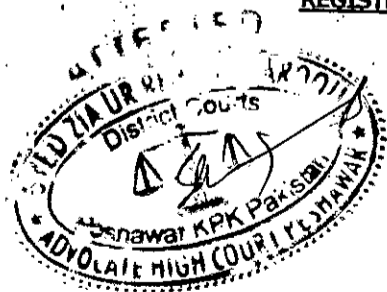
Subject: **GOVERNMENT OF KHYBER PAKHTUNKHWA EMPLOYEES OR THEIR SPOUSES WHO WERE BENEFICIARIES OF BENAZIR INCOME SUPPORT PROGRAMME (BISP).**

Sir,

I am directed to refer to the subject noted above and to forward herewith list of employees of your respective establishments, who either themselves or their spouses were receiving BISP cash grant with the remarks that Hon'ble the Chief Justice has been pleased to direct that disciplinary proceedings be initiated against the delinquent officials by dispensing inquiry, by adopting shorter procedure as per rule-7 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011, issuing show cause notices, as ample evidence is available on file, under intimation to this Court, please.

Sincerely yours,

(KHAWAJA WAJIB-UD-DIN)
REGISTRAR

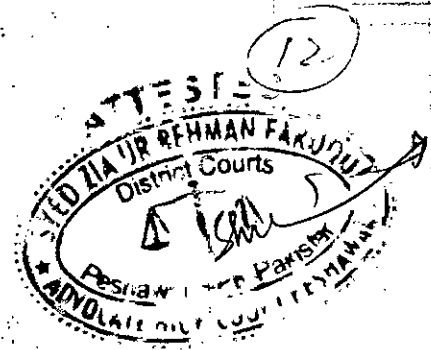


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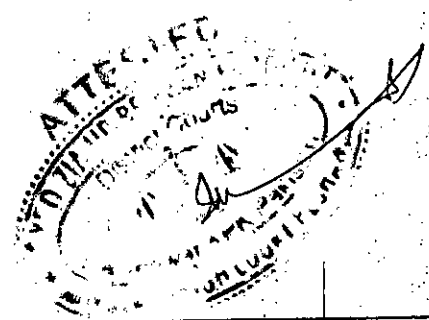
LIST OF EMPLOYEES OF CIVIL COURTS, THROUGHT OUT KPK WHO WERE BENEFICIARY OF BISP

S No.	Name with Pay Scale	F/Name	NIC	Cost Center
1	Zer Rehman (BPS-04)	Muhammad Luqman	11101-1457479-5	SCJ B-----
2	Zakirullah (BPS-16)	Sabir Khan	15505-0209199-7	SCJ, Shangla
3	Zahoor Khan (BPS-03)	Abdul Jabbar	14301-1921825-9	SCJ, Kohat
4	Zahirullah (BPS-11)	Mir Janan	14203-2036522-7	SCJ-----
5	Zahidullah Khan (BPS-03)	Muhammad Akbar	11101-8245247-5	SCJ-----
6	Wari's Khan (BPS-03)	Roshan Khan	13504-7864737-5	SCJ, Mansehra
7	Wali Rahman (BPS-03)	Fazal Rahman	15602-7076416-5	SCJ, Swat
8	Usman Ghani (BPS-11)	Mir Sahib Khan	11201-3366685-5	SCJ, Peshawar
9	Umer Ayaz (BPS-04)	Sher Dad	11201-0396766-7	SCJ-----
10	Umar Janan (BPS-06)	Sakhi Janan	14202-1329398-7	SCJ-----
11	Tariq Ali (BPS 05)	Khewa Noor	15101-2132812-7	SCJ-----
12	Suleman Shah (BPS-11)	Mir Badshah	14301-1990764-1	SCJ, Kohat
13	Shamsul Qamar (BPS-06)	Shah Nazar	15501-1209371-3	Process Serv----
14	Shah Dawran (BPS-06)	Johar	15602-8039587-1	SCJ, Swat.
15	Samiullah (BPS-05)	Sakhi Jan	15601-1006682-1	SCJ, Swat
16	Salimullah (BPS-11)	Saidullah	15701-1229525-5	SCJ-----
17	Saleem Khan (BPS-11)	Sikandar Khan	12201-0985463-3	SCJ-----
18	Salahuddin (BPS-03)	Sarfraz	15501-2235703-3	SCJ, Shangla
19	Sajid Masih (BPS-04)	Sadiq Musih	11101-3653114-7	SCJ, B-----
20	Sajidullah (BPS-03)	Mustafa Kamal	17301-7444731-7	SCJ, Peshawar
21	Saifullah Almas (BPS-18)	Ayub Gul	14301-8629128-3	SCJ, B-----
22	Saiful Islam (BPS-03)	Muhammad Iqbal	16202-0904980-5	SCJ, S-----
23	Said Nazar (BPS-04)	Gul Nazar	15602-1330326-3	SCJ, Swat.
24	Sabar Jameel (BPS-16)	Noor ul Huda	13401-1503435-7	SCJ K C-2----
25	Sabar Zada (BPS-04)	Nassarai	15501-2996084-7	SCJ, Shangla

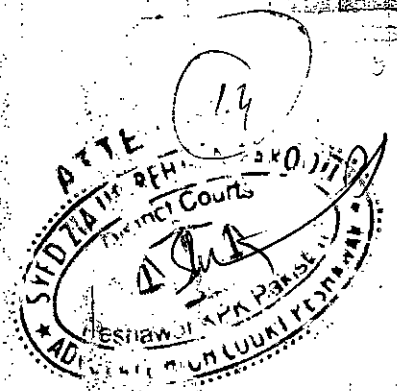


S No.	Name with Pay Scale	F/Name	NIC	Cost Center
26	Sabir Ali (BPS-11)	Muhammad Qayum	15501-2246161-1	SCJ, Shangla
27	Riaz Ahmad (BPS-11)	Rahimdad Khan	16101-8093741-9	SCJ, M-----
28	Raj Wali Khan (BPS-06)	Chaman Gul	17101-0307654-3	SCJ, C-----
29	Rahmatullah (BPS-04)	Samin Gul	17301-1636503-5	SCJ, Peshawar
30	Pashmin Khan (BPS-04)	Jafoor Khan	15602-6152658-9	SCJ, Swat
31	Obaidullah Jan (BPS-06)	Said Khan	12201-1899467-9	SCJ-----
32	Paida Khan (BPS-04)	Gul Zamin	15502-6155213-9	SCJ, Shangla
33	Noor Akbar Khan (BPS-11)	Noor Hamad Khan	15101-6154369-5	SCJ, B-----
34	Nizam Din (BPS-06)	Shams ud Din	13401-1504912-9	Pr.Ser.Agen:---
35	Namos Khan (BPS-11)	Amir Zada	15505-5165534-5	SCJ, Shangla
36	Naib Khan (BPS-04)	Mazeef Khan	11101-9709073-9	SCJ, B-----
37	Naeem Ali (BPS-11)	Muhammad Unas	15501-4442219-3	SCJ, Shangla
38	Muhammad Zada (BPS-04)	Nasray Mian	15501-4702424-5	SCJ, Shangla
39	Muhammad Yousaf (BPS-03)	Muhammad Jan	12102-7971028-5	SCJ, C-----
40	Muhammad Saleem (BPS-11)	Nassrullah Jan	12201-2903012-5	SCJ, P.S.-----
41	Muhammad Ramzan (BPS-06)	Ahmad Din	12101-2226103-1	SCJ, D.I.Khan
42	Muhammad Raheem (BPS-06)	Islam Mir	14101-9637997-1	SCJ, H-----
43	Muhammad Naeem (BPS-11)	Ghulal Rafique	14301-1145693-3	SCJ, Kohat
44	Muhammad Khalid (BPS-11)	Wali Muhammad	13101-0952211-5	SCJ, Abbottabad
45	Muhammad Ishaq (BPS-05)	Bazgul Khan	14101-9273563-1	SCJ, H-----
46	Muhammad Ilyas (BPS-06)	Sher Amin Khan	15306-3924086-5	SCJ, T-----
47	Muhammad Ijaz (BPS-05)	Noor Hussain	13101-9567932-3	SCJ, Abbottabad
48	Muhammad Hanif (BPS-16)	Muhammad Zamin	42501-2412727-5	SCJ, Shangla
49	Muhammad Didar (BPS-11)	Taj Bakht Sultan	15501-2241099-9	SCJ, Shangla
50	Muhammad Ayaz (BPS-05)	Hazrat Jee	15602-0431124-3	SCJ, Swat
51	Muhammad Astam (BPS-06)	Muhammad Zaman	13101-0992972-1	SCJ, Abbottabad

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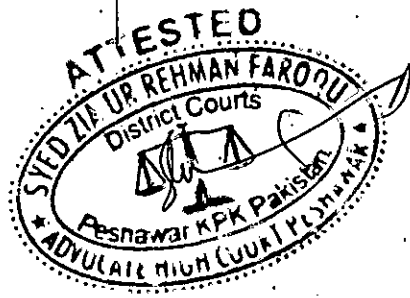
S No.	Name with Pay Scale	F/Name	NIC	Cost Center
52	Muhammad Amin (BPS-11)	Sazah	15602-5652341-5	SCJ, Swat
53	Muhammad Afsar (BPS-14)	Abdul Khaliq	15501-9352704-7	SCJ, Shangla
54	Muhammad Javed Akhtar (BPS-04)	Mir Afzal	13302-5235370-3	SCJ-----
55	Muhammad Ismail (BPS-14)	Mohammad Anwar	15501-5818692-9	SCJ, Shangla
56	Mehdi Hassan (BPS-04)	Allah Bakhsh	12101-0478751-9	SCJ, D.I.Khan
57	M. Saleem (BPS-16)	Gul Azam	17101-0284480-3	SCJ, Haripur
58	Liaqat Ullah (BPS-16)	Hamidullah	12201-9006481-5	SCJ-----
59	Kiramat Khan (BPS-14)	Sher Muhammad Khan	17301-1398718-1	SCJ, Charsadda
60	Jan Alam Khan	Umat Khan	15301-1941982-9	SCJ-----
61	Itbar Gul (BPS-04)	Ali Haider	15501-2252541-7	SCJ, Shangla
62	Inayatullah (BPS-14)	Said Hussain	15702-2483811-9	SCJ-----
63	Ihsan Muhammad (BPS-06)	Nazir Muhammad	15101-6611164-1	SCJ, B-----
64	Hifazat Hussain (BPS-05)	Israf Gul	17301-4315309-9	SCJ, Peshawar
65	Hazrat Ali Chaman (BPS-05)	Chinar	13401-3823863-7	Pr.Ser.Agency--
66	Hasham Khan (BPS-05)	Mohammad Zahir	13202-0719996-7	SCJ, Peshawar
67	Gul Anwar (BPS-06)	Sherbat Khan	12201-3784687-1	SCJ, Charsadda
68	Ghulam Qasim (BPS-04)	Faizullah	11201-5400536-7	SCJ, Charsadda
69	Ghulam Nabi (BPS-16)	Abdul Khaliq	13202-0757320-3	Proc. Ser.Agency
60	Fida Hussain (BPS-04)	Iqbal Hussain	17301-1264256-1	SCJ, Peshawar
61	Fidaullah (BPS-06)	Najeebullah Khan	11201-0362964-1	SCJ, Charsadda
62	Fazal Rabi (BPS-11)	Ghulam Nabi	17301-7001361-1	SCJ, Peshawar
63	Faridullah (BPS-11)	Khairullah	15701-1528698-9	SCJ-D,-----
64	Faizul Haq (BPS-06)	Fazal Haq	15602-8155520-5	SCJ, Swat
65	Ejaz Ahmad (BPS-05)	Raziq Khan	61101-2625933-9	SCJ, Haripur
66	Dost Muhammad (BPS-04)	Muhammad Gul	14301-2061942-9	SCJ, Kohat
67	Bahramand (BPS-04)	Said Ahmad	15601-1021300-9	SCJ, Swat



S No.	Name with Pay Scale	F/Name	NIC	Cost Center
68	Azat Gul (BPS-14)	Sahib Gul	15602-0336226-5	SCJ, Swat
69	Asmatullah Khan (BPS-16)	Amir Sahib Khan	11201-3048856-1	SCJ, Charsadda
70	Aslam Khan (BPS-04)	Saif ullah Khan	11201-7090454-7	SCJ, Charsadda
71	Arshad (BPS-03)	Abdul Kamal Khan	15402-7693442-1	SCJ, B-----
72	Aqeel Ahmad (BPS-05)	Muhammad Yousif	13101-5887245-1	SCJ, Abbottabad
73	Anwar ullah (BPS-03)	Yousaf Khan	16202-0126366-5	SCJ, S-----
74	Amir Zeb (BPS-11)	Jan Muhammad	17201-0873944-9	SCJ, Nowshera
75	Ali Zar (BPS-03)	Sher Goli	15202-0818158-1	SCJ, Charsadda
76	Alamgir Khan (BPS-05)	Jehangir Khan	12103-1498384-7	SCJ, D.I.Khan
77	Akhtar Nawaz Khan (BPS-04)	Rabnawaz Khan	11101-1461157-7	SCJ, B-----
78	Akbar Ali (BPS-19)	Hazrat Jan	17301-8978164-7	SCJ, Nowshera
79	Akbar Ali (BPS-05)	Jehangir Khan	17101-0392643-1	SCJ, Charsadda
80	Akbar Ali (BPS-03)	Gul Jamal	15602-0494942-3	SCJ, Swat
81	Akbar Nawaz Khan (BPS-11)	Gul Nawaz Khan	11101-4902417-3	SCJ, B-----
82	Abdur Rashid (BPS-04)	Shah Roz	15602-0532176-9	SCJ, Swat
83	Abdur Rashid (BPS-07)	Muhammad Farid	13503-9299954-5	SCJ, Mansehra
84	Abdul Samad (BPS-03)	Murad Khan	15202-0809978-1	SCJ, Charsadda
85	Abdul Manan (BPS-06)	Mir Baz Khan	11201-0377729-9	SCJ, Peshawar
86	Abdul Ghaffar (BPS-14)	Sher Murad Khan	15201-0554842-1	SCJ, Charsadda
87	Abdul Akbar (BPS-03)	Muhammad Umar	15602-5522109-5	SCJ, Swat
88	Ajab Khan (BPS-14)	MR Khawaja	11101-1432259-9	SCJ, B----
89	Shaman Ali (BPS-05)	Elman Ali	21603-8899592-5	Civil Court
90	Shah Faisal (BPS-11)	Zareef Khan	13403-8137414-3	Civil Court
91	Shafiullah (BPS-03)	Gul Saleem Khan	12201-6033286-5	Civil Court
92	Muhammad Younis (BPS-05)	Noor Muhammad	12201-2233263-7	Civil Court
93	Muhammad Ismail (BPS-05)	Muhammad Taib	14101-7044515-9	Civil Court
94	Khan Alam (BPS-06)	Haji Pukhtoon	13403-9817005-1	Civil Court

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S No.	Name with Pay Scale	F/Name	NIC	Cost Center
95	Abdul Wahid Khan (BPS-03)	Shamshad Khan	17301-1617458-7	Civil Court



Office of the

DISTRICT & SESSIONS JUDGE/ ZILLA QAZI DIR UPPER

No. 306/44
Office # 0944-880721,

/DSJ/ZQ Dir Upper dated 04/05/2020

Fax# 0944-880721,

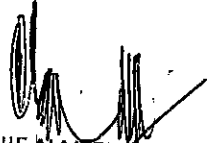
Email: dc_diru@yahoo.com

SHOW CAUSE NOTICE

I, Kashif Nadeem, District & Sessions Judge/ Zilla Qazi, Dir Upper, as Competent Authority, under The Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you, Mr. Sher Amin, Naib Qasid BPS-03, District Judiciary Dir Upper as follows;

1. Whereas, information received vide letter No. 6134-206/Admn: Dated: 23/04/2020 of the august Peshawar High Court Peshawar, with an enclosed list showing names of the Govt: officials who are beneficiaries of the Benazir Income Support Program; it appears that your name is listed in the said list of beneficiaries; which is an act unbecoming of a good official on your part.
2. Your above act and omission makes it evident that you are guilty of misconduct, which is a valid ground for initiation of disciplinary action as prescribed under Rule-03 of The Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011. Furthermore, the documentary evidence of listing of your name in the beneficiaries of BISP, makes your misconduct, sufficiently palpable, that being competent Authority, I hereby dispense with an inquiry against you under Rule-07 of The Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011 and tentatively decide to impose upon you one or more penalties as provided under Rule-04 of The Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011.
3. You are therefore, served with this show cause notice, as to why the aforementioned penalties be not imposed upon you, and also to intimate whether you desire to be heard in person.
4. If no reply to this show cause notice is received within fifteen days of its delivery, it shall be presumed that you have no defense to put up, and in that case, an ex-parte action shall be taken against you.




KASHIF NADEEM
District & Sessions Judge/ Zilla Qazi
Dir Upper

To,

The Honorable District & Session Judge
District Dir Upper.

Respected Sir,

Reference Show Cause Notice No.306/44/DSJ/ZQ dated
04/05/2020

Before replying to the show cause notice I would humbly request to look at the circumstances I faced in the past because the case in which I have to reply the show cause notice pertains to my past.

یہ کہ میں نے بذات خود نہ تو بینظیر انکم سپورٹ پروگرام سے رقم کی وصولی وغیرہ نہ کوئی درخواست دائر کیا ہے اور نہ کسی سے مطالبہ کیا ہے۔ بینظیر انکم سپورٹ پروگرام کی ایک ٹیم مہر کیا گیا تھا جنہوں نے از خود گھر گھر سروے کی اور ہر بندے کے گھر کے اخراجات وغیرہ کی معلومات حاصل کر کے اس کے مطابق بینظیر انکم سپورٹ پروگرام سے امداد کی وصولی کیلئے سروے کے مطابق انتخاب کیا ہے۔ یہ کہ مجھے یہ بھی ہرگز علم نہ تھا کہ بینظیر انکم سپورٹ پروگرام سے ملنے والے رقم ہر کاری ملازمین کی بیوی حاصل نہیں کر سکتے۔ بلکہ سروے کرتے وقت میں نے متعلقہ اہلکار کو یہ امر واضح کیا تھا کہ میں سرکاری ملازم ہوں اور جملہ حقائق متعلقہ حکام کو بیان کی تھی۔ یہ کہ بعدہ جب میں نے پاسپورٹ حاصل کیا اس کے بعد میری بیوی کا بینظیر انکم سپورٹ پروگرام کارڈ بلاک ہوا ہے۔ یہ کہ میں گرووں کی بیماری میں مبتلا ہوں اور کڈنی سٹونز اور انشاء ہسپتال اسلام آباد سے مسلسل کئی سالوں سے علاج کر رہا ہوں نیز میں نے اپنے کنبے کے 10 افراد کے اخراجات بھی برداشت کر رہا ہوں۔ بیماری کی وجہ سے سائیل پر لاکھوں روپے کا قرض بھی چڑھا ہے۔ (علاج کی نسبت دستاویزات لف ہے)۔

While replying to show cause notice, I would humbly submit that In the year 2012, a survey team of BISP visited our village and asked the women of our village for their CNIC by saying that government through BISP program is paying income support to women of the rural areas throughout Pakistan. On this like other women of the village, my wife also gave them her CNIC. The survey team did not ask from my wife and other women of the village about government service etc of their husbands. At that time I was not present at home and when I came home, my wife told me about the visit of BISP Survey Team.

I never applied BISP for income support in fact they themselves enrolled my wife in BISP.

• Neither I nor my wife was in knowledge that government employees and their families are not eligible for BISP grant, nor the BISP ever asked about this fact.

• In fact this condition was implicated in the cabinet meeting held on 24th December 2019 and 0.8 million people including government employees were excluded from BISP. Before this no such conditions were implicated and there is no documentary evidence that government servants or their families were not entitled before cabinet meeting held on 24th December 2019. In fact at the time of survey in 2012, BISP had fixed a ratio of poverty in which the people who came in score of 16.17 or less were included in their program and at that time, there were no prohibitions for government employees and the score was fixed on social poverty status. But now the government changed its policy and government employees who came under score of poverty during the survey could not be blamed for misconduct etc. Besides this, no government employee can hide his personal information or data from any other government department because his personal information or data can easily be accessed from NADRA and this fact is evident from the act taken by government by getting personal information of people and removing them from BISP.

POF
[Signature]

• Sir my previous service record either is quite clear and I humbly request that E. & D proceedings against me may kindly be dropped and I will be careful in future.

[Signature]
[Circular Stamp]

[Signature]

Sher Amin
Naib Qasid

District Judiciary Dir Upper

Office of the
DISTRICT & SESSIONS JUDGE/ ZILLA QAZI
DIR UPPER

Office # 0944-880721, Fax # 0944-880721, Email: dc_diru@yahoo.com

ORDER

WHEREAS, vide letter No.6154-206/Admn dated 23/04/2020, august Peshawar High Court, Peshawar Shared list of officials including you Mr. Sher Amin son of Muhammad Gul posted as Naib Qasid BPS-03 at District Judiciary Dir Upper who either himself or through spouse were receiving the BISP cash grant.

AND WHEREAS disciplinary proceedings against the accused/official under Government of Khyber Pakhtunkhwa, Civil Servant (E&D) Rules, 2011, were initiated by dispensing with the inquiry under Rule 07 of the Khyber Pakhtunkhwa, Civil Servant (E&D) Rules, 2011 and accordingly show cause notice dated 04/05/2020 was issued to the accused/official on the charges of being guilty of misconduct under Rule 03 of the rules *ibid*. The accused/official submitted reply and was heard in person. During personal hearing, he admitted the receipt of the amount through his spouse.

AND WHEREAS after confirmation of the amount due against the accused/ official from the Assistant Director B.I.S.P District Dir Upper, vide letter No. AD/BISP/Dir-Sub/Admin/2-1/2012/Volume-III/92, dated 16 July, 2020, the charges leveled against the accused/official stands sufficiently proved.

(10) (20) (12) (14) (19)

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NOW, THEREFORE, I being competent authority impose the following penalties upon the accused/official as enumerated in Rule-4(1)(a)(ii)(iii) of the Government of Khyber Pakhtunkhwa Civil Servant (E&D) Rules, 2011.

1. It is ordered that, Rs. 1,31,500/- be recovered from the pay of the accused/ official and be deposited in the State Exchequer under Ruel-4(1)(a)(iii) of the *ibid* Rules, 2011.
2. He is also awarded a penalty of withholding increment for one year with non-accumulative effect under Rule-4(1)(a)(ii) of the *ibid* Rules, 2011.

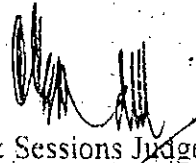
The office is directed to recover Rs, 1,31,500/- from the pay of the accused/ official in and be deposited in the state Exchequer and submit a detailed report in that respect.


KASHIF NADEEM
District & Sessions Judge/ZQ
Dir Upper

No. 618-23 /DSJ/ZQ Dir Upper dated 28/07 2020

Copy of the above is forwarded to;

1. The worthy Registrar, Peshawar High Court, Peshawar.
2. The Senior Civil Judge/AIQ (Admn) Dir Upper
3. The District Accounts Officer Dir Upper.
4. The Assistant Director, B.I.S.P District Dir Upper.
5. Budget & Accounts Assistant Sessions Court Dir Upper.
6. The Official concerned by name.


District & Sessions Judge/ZQ
Dir Upper

In respect of The Registrar Peshawar High Court Peshawar.

Appeal / Mercy petition against order of the learned District Judge Competent Authority Dir upper dated 28-7-2020 in connection with the penalty imposed under Benzair income support program(BISEP)

Respectfully submitted;

FACTS;

1. That the undersigned is currently working against the post of Naib Qasid (BPS) 11 in District Judiciary Dir Upper.
2. That an inquiry was initiated against the undersigned on dated 23-4-2020 on account of the fact that the wife of undersigned has received financial assistance from BISP w-e-f(17-3-2014) to 08-11-2019.
3. That the said inquiry culminated in an order dated: 28/07/2020, whereby the undersigned along with other (number) officials were exposed to Disciplinary Action under Rule 04 (I)(a)(iii) of Government of Khyber Pakhtunkhwa Civil Servant (E&D) Rules 2011, on imposition of penalty for the recovery of an amount of R's. (107,800/-) and withholding of increment for one year with non-accumulative effect.
4. Aggrieved from the said order, the instant appeal/mercy petition for the setting aside of the order dated: 28/07/2020 and exoneration of undersigned from the imposition of penalty on sympathetic and humanitarian grounds is submitted for your kind consideration please.

GROUNDS

- i. That the BISP, has devised an eligibility criterion on the basis of point based marking, of the deserving candidates, under rule 11 of BISP through a Board and in this connection to pinpoint eligible candidates a detailed field survey is carried out by the officials of BISP of their own accord
- ii. The wife of the undersigned has never filed any application to the BISP, nor has approached their officials for receiving any financial assistance, however the field officials of the BISP had come to the house of the undersigned of their own accord, during Office hours and in my absence for the registration of my wife as a candidate for financial assistance. The officials of the BISP in accordance with their rules, held my wife entitled after I having been interviewed, wherein no fact was suppressed by my wife

iii. Revered sir, we are poor people, living hand to mouth in tough economic conditions and cannot spend on any needs of the members except food and the basic necessities. Therefore, the BISP officials while taking into consideration all the relevant facts and circumstances, allowed financial assistance to the wife of undersigned without the knowledge of the undersigned. ____

iv. There were no conditions publicized that the members of a Government servant of menial scale, cannot receive the financial assistance, therefore the financial assistance received by the wife of undersigned was not in violation of any law or rules, and furthermore should not adversely affect the service and career of the undersigned.

The undersigned has neither applied for, nor ever received any financial assistance from BISP whatsoever, nor has committed any other act Reflecting misconduct on my part, but for the negligence committed by the officials of BISP, the undersigned has received illegal penalty from the competent authority.

vi. That the new rules of BISP were devised in the year 2019, wherein the criterion of financial assistance stood revised, and they do not carry any retrospective effect, therefore cannot be legally and morally applied to the financial assistance received prior to year 2019.

vii. That the delay in filing the instant Appeal/Merry petition may very Graciously be condoned, as technicalities must be awarded in the interest of Justice.

viii. For the reasons mentioned above, since the financial Assistance if any, has not been received by the undersigned therefore, the undersigned should not be punished for an act not committed by him. My wife did not apply or demand any financial assistance, rather the officials of the BISP program during their survey held by wife entitled to the financial. I assistance, if at all due to their own negligence. The undersigned has most certainly not violated any law or rules and therefore cannot be held accountable for misconduct on account of mistake committed by the Officials of BISP or my wife.

Therefore, it is very humbly prayed that, keeping in view the poor financial status of the undersigned and the economic crises that we all are going through post Covid-19 pandemic, the illegal penalty imposed against the undersigned may very mercifully and kindly be set-aside, adhering to the norms of justice and purely on humanitarian and sympathetic grounds, while condoning the delay in filing of the instant Appeal / Mercy Petition.

I shall remain eternally obliged and compliant as always.

Yours most obediently,

Sher Amin 



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Judgment Sheet

**PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT**

Departmental Appeal No.10 of 2021

Sher Amin

Versus

District and Sessions Judge/ Zilla Qazi Dir Upper.

Appellant in person.

Date of hearing : 14.10.2023

ORDER

ISHTIAQ IBRAHIM, J.- For reasons recorded in connected

Departmental Appeal No.10 of 2020 titled "Zakirullah

Assistant/COC (BPS-16) District Judiciary Shangla Vs.

District & Sessions Judge/Zilla Qazi, Shangla", this

Departmental Appeal is disposed of in terms thereof. Office is

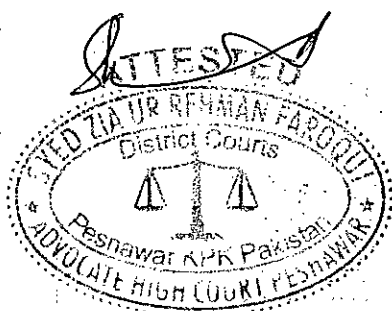
directed to place copy of the judgment on this file.

Announced.

14.10.2023.

**Senior Puisne Judge/
Appellate Authority.**

Hon'ble Mr. Justice Ishaq Ibrahim,
(Asst Jan Sr.S.S)



D-2

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR**

(Judicial Department)

Departmental Appeal No.10/2020

**Zakirullah Assistant/COC (BPS-16) District
Judiciary Shangla**

Versus

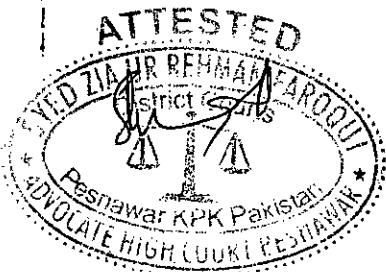
District & Sessions Judge/Zilla Qazi, Shangla

JUDGMENT

Date of hearing: 14.10.2023

ISHTIAQ IBRAHIM, J.- This single judgment is meant to decide the instant Departmental Appeal as well as the connected Departmental Appeals, list of which is attached with the judgment as Annexure-A (consisting 02 pages)

2. Brief facts leading to instant Departmental Appeals are that Benazir Income Support Programme (BISP) was launched with two main objectives; to cushion the adverse impact of the food, fuel and financial crisis on the poor; and a longer terms objective of providing a minimum income support package to the unprivileged and to those most vulnerable to future shocks. The Government unearthed a scam relating to Benazir Income Support Programme (BISP). It was found that the amount was received by such persons/employees of the subordinate judiciary who were



not entitled to BISP. In this regard a list of illegal recipients was shared with Peshawar High Court Peshawar which was further transmitted to all the District & Sessions Judges/ZQs/Judges of Anti-Terrorism Courts/Senior Civil Judges/AIQ and the Presiding Officers of Labour Courts in the Khyber Pakhtunkhwa with directions that disciplinary proceedings be initiated against the delinquent officials by dispensing with inquiry and adopting shorter procedure under rule-7 of the Khyber Pakhtunkhwa Civil Servants (Efficiency and Discipline) Rules, 2011. Disciplinary action was initiated against the illegal recipients/employees and the following penalties were imposed upon them.

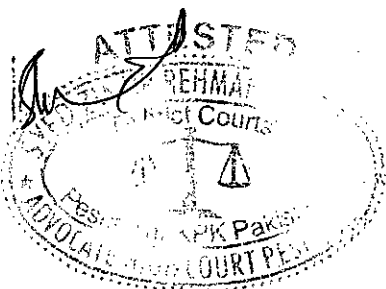
- i. *Penalty of withholding of increments.*
- ii. *Recovery of the amount/aid received in BISP.*

3. Feeling aggrieved the employees have filed these Departmental Appeals under Sub Rule (1) of Rule 3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.

4. Heard.

5. On record there is an office order dated 26.09.2020, passed by Hon'ble the then Chief Justice Mr. Waqar Ahmad Seth (late), wherein, identical matters/departmental appeals of the employees of Peshawar High Court Peshawar were accepted and decided in the following manners;

- i. *The penalty of stoppage of increment is set aside/recalled/reviewed.*



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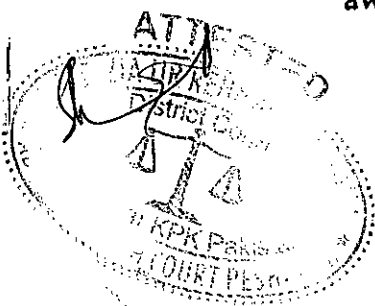
- II. Office shall recover in 10 equal installments from these Officials the amount received from BISP either by the Official himself or through his spouse. The target date to reckon while calculating the installments is the date the official was employed in this Court. Thus, the amount received earlier thereto would not come within the ambit of this recovery.
- III. The Director Budget & Account and the respective Account Officers of the District Judiciary (as the case may be) shall make necessary calculation after verification of record and shall issue necessary vouchers for payment of the said amount.
- IV. If for any reason there is a default in payment of installment, then the amount shall be recoverable from the salary of the concerned officials.

6. The cases of the present appellants are no more different from the cases of the appellants/employees dealt with in the order supra, therefore, following the ratio of order *ibid* these appeals are partially accepted and disposed of in the terms that;

- a. The penalty of stoppage of increment is set aside.
- b. Recovery of amount received by the appellants or their spouses from BISP (if not already recovered) shall be made from the appellants in monthly installments in the following manner;

BPS-1 to 5	Rs.4000/- per month.
BPS-6 to 11	Rs.7000/- per month.
BPS-11 and above	Rs.8000/- per month.
- c. If the appellants want to deposit the entire amount, he may deposit the same with the concerned authority. The determination/calculation of the amount to be recovered from the employees should be reckoned from the date of entry into service/appointment. Thus, the amount received earlier thereto would not come within the ambit of this recovery.

7. So for as Departmental Appeal No.10/2020, titled "Zakirullah Vs. District & Sessions Judge, Shangla", is concerned, Superintendent, District & Sessions Judge, Shangla, appeared and stated that the appellant has passed away in the year 2020, and his widow is receiving his

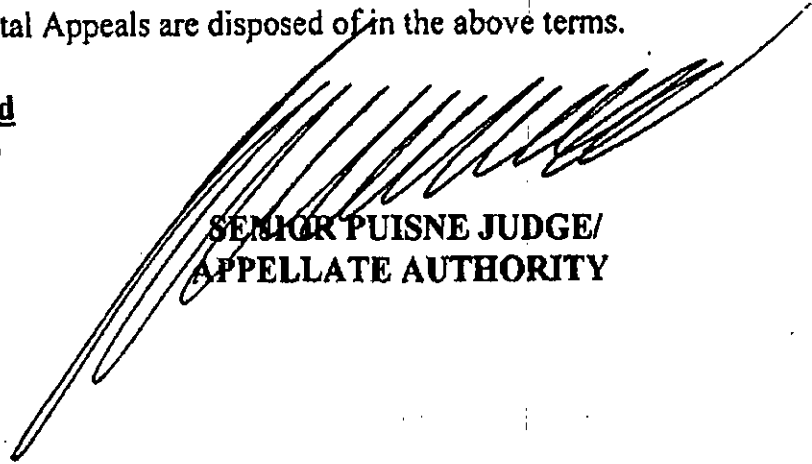


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pension which is the only source of their bread and butter. Therefore, keeping in view the special circumstances Rs.3000/- per month shall be recovered from her pension to make the recovery good.

8. In view of above, the instant and the connected Departmental Appeals are disposed of in the above terms.

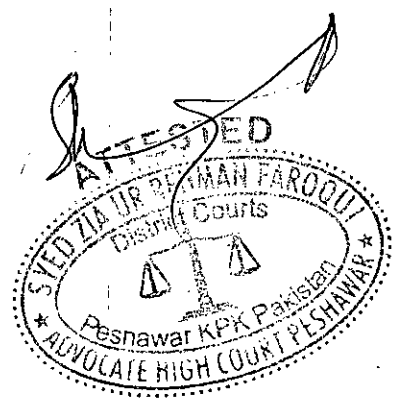
Announced
14.10.2023



**SENIOR PUISNE JUDGE/
APPELLATE AUTHORITY**

Hon'ble Mr. Justice Ishaq Ibrahim, Senior Puisne Judge/Appellate Authority.

(M.A. 850)



Office of the
DISTRICT & SESSIONS JUDGE/ZQ DIR UPPER

No 660 /DSJ/ZQ Dir Upper

Dated: 19/07/2021

FROM:

**DISTRICT & SESSIONS JUDGE/ZQ
DIR UPPER**

TO:

**THE HONOURABLE,
ADDITIONAL REGISTRAR (ADMN),
PESHAWAR HIGH COURT,
PESHAWAR**



Subject: COMMENTS IN DEPARTMENTAL APPEAL

DA No. 10/2021 filed by Mr. Sher Amin.

Respected Sir,

Reference Letter No. 10297/Admn, dated: 05/07/2021,
the comments on the subject matter in the departmental appeal subject
above are submitted as under;

1. Vide letter No. 6154-206/ADMN: dated 23/04/2020, of the august Peshawar High Court, Peshawar, list of the beneficiaries of BISP program received with the directions to proceed against the accused official by dispensing with inquiry and by adopting shorter procedure as per Rule-07 of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. In wake thereof, disciplinary action was initiated against the

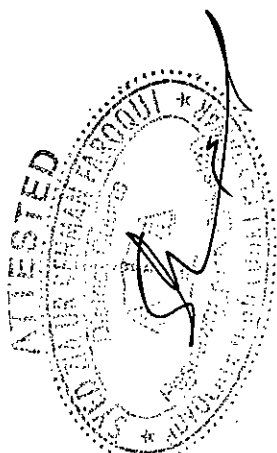
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official; and accordingly show-cause notice was issued to the accused official. The accused official was directed to submit his reply within 15 days. Reply of the accused official to the show cause notice was received. Personal hearing was conducted. The proceedings of the disciplinary action against the accused/official were completed; and the accused/official was awarded minor penalty of withholding of increment for one year and also proceeded against for the recovery of the amount received by him through his spouse.



2. The accused official in the *ibid* appeal approached this office by filing review petition. In the said review petition, petitioner/accused made reference to the favorable orders passed by the learned District & Sessions Judges of other districts in respect of the matter in hand. Furthermore, accused official vehemently agitated that, he has not personally received the BISP amount rather his wife was held eligible for the BISP grant; and that, in the relevant form used for the purpose of BISP survey, the accused official was accordingly mentioned as government servant, yet his wife was held entitled for the scheme. The review petition of the accused official was turned down on account of maintainability, however, he

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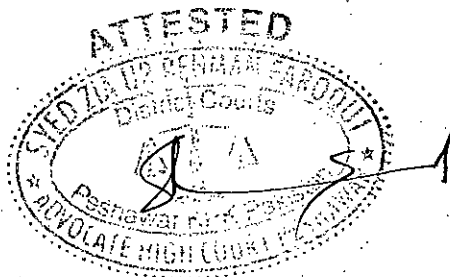
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was directed to approach proper forum, under the rules, in order to address his grievances.

The above comments are thus submitted for your kind consideration, please. Furthermore, copies of inquiry conducted along with subsequent review petition are hereby attached.

R. 19/7/21

(RASHIDA BANO)
DISTRICT & SESSIONS JUDGE/ZQ
DIR UPPER



Annex (9)

27



بعدالت ڈسٹرکٹ اینڈ سیشن جج / ضلع و تاقی دیر بالا۔

Review مقدمہ نمبر 01/ سال 2021 رجوعہ 17/3/21
بنام ایسٹریٹڈ بیسپ بیسپ فیصلہ: 22/4/21
کیفیت: 26/7/21

کل اوراق	تفصیل اوراق	تفصیل کاغذات	نمبر
24	24	ATTESTED 21.12.2021	(1)
24	24		

Countersigned

[Signature]

رہنمائی: تصدیق کی جاتی ہے کہ اس پر
واحد و صواب کے مطابق مرتب ہو کر انڈکس ہے

محسوس

[Signature]

ڈسٹرکٹ سیشن جج 7 ضلع و تاقی دیر بالا

R.No 463/16 2021

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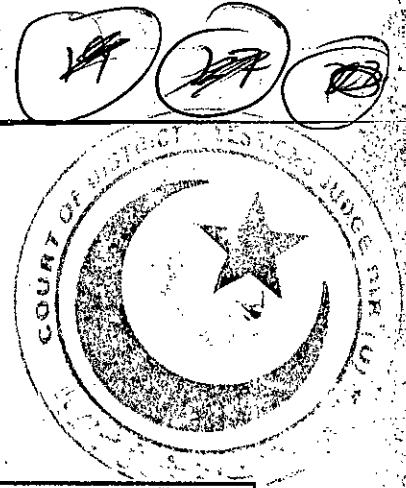


In the court of
RASHIDA BANO
DISTRICT JUDGE/ZILLA QAZI
DIR UPPER

---versus---

Serial No. and Date of order of proceedings	Order or other Proceedings with Signature of Judge or Magistrate & that of parties or counsel when necessary.
1.	2.
<p>17/ 3 2021</p>	<p>درخواست لفافہ بندی / رقم کر کے فراہم کرنا / اجالت کی درخواستیں کے ساتھ تقویرات مندرجہ ذیل کے لئے آئیڈیل لکھائی گئی ہیں جو مندرجہ ذیل ہے۔</p> <p>Or-----01 17.03.2021</p> <p>سائل اصالتاً حاضر۔ جملہ مندرجات درخواست درست تسلیم کرتا ہے۔ درج رجسٹر متعلقہ ہو کر درخواست لہذا برائے بحث نسبت قابل رفتار و پزیرائی آئندہ مورخہ 09.04.2021 کو پیش ہو۔</p> <p>رشیدہ بانو ڈسٹرکٹ جج اضلع قاضی، در بالا</p> <p>ATTESTED 21.12.2023</p> <p>ریڈر نوٹ 09.04.2021</p> <p>حاضری حسب سابق۔ آفیسر جلیس صاحبہ رخصت اتفاق پر ہے لہذا اسل آئندہ مورخہ 19.04.2021 کو برائے سابقہ کاروائی پیش ہو۔</p> <p>ریڈر نوٹ 19.04.2021</p> <p>حاضری حسب سابق۔ آفیسر جلیس صاحبہ رخصت اتفاق پر ہے لہذا اسل آئندہ مورخہ 22.04.2021 کو برائے سابقہ کاروائی پیش ہو۔</p>

In the court of
RASHIDA BANO
DISTRICT JUDGE/ZILLA QAZI
DIR UPPER



Review Petition filed by Sher Amin, Naib Qasid.

(3)

Serial No. and Date of order of proceedings	Order or other Proceedings with Signature of Judge or Magistrate & that of parties or counsel when necessary.
1.	2.
<p>OR 02 22/04/2021</p>	<ol style="list-style-type: none"> 1. Petitioner in person present and heard on maintainability of instant petition. 2. Petitioner through instant petition seeks review of order dated 28/07/2021 passed by my learned predecessor in office, vide which, being competent authority, after completion of disciplinary proceedings against the accused/official hereinafter called the petitioner under Government of Khyber Pakhtunkhwa, Civil Servant (E&D) Rules, 2011, imposed penalty upon the petitioner in the shape of recovery of BISP amount from the pay of the petitioner; and was also awarded penalty of withholding increment for one year with non-accumulative effect. 3. Perusal of relevant rules of Government of Khyber Pakhtunkhwa, Civil Servant (E&D) Rules, 2011 would reveal that, under Rule 17 of the rules <i>ibid</i>, remedy of appeal is provided to a accused/official on whom a penalty is imposed. The relevant rule <i>ibid</i> is reproduced verbatim herein below for ready reference; <p style="margin-left: 20px;">17. Departmental appeal and review.—(1) <i>An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:</i></p>

ATTESTED
21.12.023

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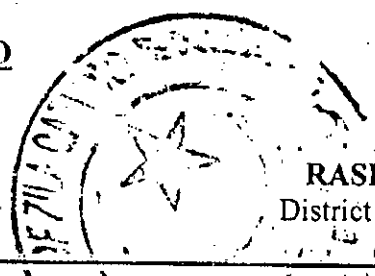
In the court of
RASHIDA BANO
DISTRICT JUDGE/ZILLA QAZI
DIR UPPER



Review Petition filed by Sher Amin, Naib Qasid.

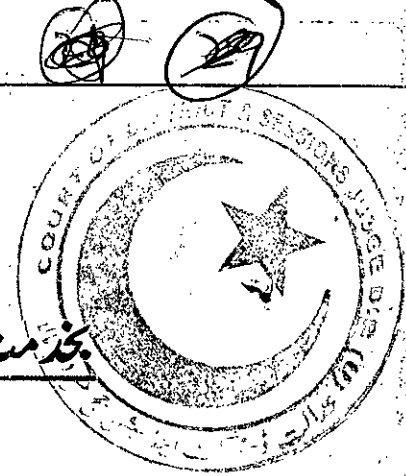
Serial No. and Date of order of proceedings	Order or other Proceedings with Signature of Judge or Magistrate & that of parties or counsel when necessary.
1.	2.
<p>OR <u>02</u> Continued..</p>	<p><i>Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.</i></p> <p>4. Seeking guidance from the rules <i>ibid</i>, the provision of review is only limited to the extent of an order passed / penalty imposed by the Chief Minister. Furthermore, in the case of petitioner, the order has been passed by my learned predecessor in office, therefore it is said that, there is no mention of or remedy of review provided to be filed on an order passed against an accused/official on whom a penalty is imposed; and the petitioner in order to address his grievances, should have preferred an appeal before the appellate authority as defined in the 2(b) of the Government of Khyber Pakhtunkhwa, Civil Servant (E&D) Rules, 2011. In view of the above, the instant petition is not maintainable. However, the petitioner may approach proper forum, under the rules, in order to address his grievances, if so desired. File be consigned to record room after its necessary completion and compilation.</p>
<p>No <u>8065</u> Dated of Application <u>21.12.23</u> Name of Applicant <u>Muhammad Sher Amin</u> Ward <u>600</u> Fee <u>Free of cost</u> Signature of Applicant <u>[Signature]</u> Date of Preparation <u>21/12/23</u> Date of Delivery <u>21.12.23</u></p>	<p>ANNOUNCED 22/04/2021</p> <p>RASHIDA BANO District Judge/Zilla Qazi Dir Upper</p>

ATTESTED
21.12.23



[Signature]

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5

بخدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحبہ / ضلع قاضی دیر بالا

درخواست برادرہم کرنے / نظر ثانی کرنے برحکم

فاضل عدالت حضور محرمہ 28/07/2020-

جناب عالی!

سائیل مندرجہ ذیل عرض گزار ہے۔

یہ کہ سائیل ضلعی عدلیہ میں کافی عرصہ سے کلاس فور کے پوسٹ پر تعینات ہے اور اپنی ڈیوٹی احسن طریقے سے سرانجام دے رہا ہے۔

یہ کہ سائیل کی زوجہ کے نام BISP کے اہلکاروں نے حقدار ٹھہرا کر کچھ رقم ادا کی ہے جسکی پاداش میں سائیل کو مؤردالزام ٹھہرا کر ایک سال کیلئے انکریمینٹ اور ادا شدہ رقم

کی ریکوری کا حکم معزز ڈسٹرکٹ اینڈ سیشن جج صاحب نے صادر کیا ہے

یہ کہ سیشن جج صاحب نے 28/07/2020 کو ایک حکم جاری کیا کہ سائیل سے ایک سال کیلئے انکریمینٹ اور ادا شدہ رقم کی ریکوری کا حکم صادر کیا ہے۔

یہ کہ بعدہ معزز عدالت عالیہ پشاور کے معزز مرحوم چیف جسٹس صاحب نے متاثرہ ملازمین پر رحم فرما کر انکریمینٹ روکنے کا حکم واپس لیا ہے۔ (اس نسبت مذکورہ آرڈر لف

درخواست ہذا ہے۔)

ATTESTED

21/12/23

یہ کہ صوبہ کے اکثر معزز جج صاحبان نے اپنی اپنی ملازمین پر رحم فرما کر معاف کیے ہیں۔ (اس نسبت فیصلہ فاضل عدالت ڈسٹرکٹ اینڈ سیشن جج صاحب چار سدہ اور ڈسٹرکٹ

اینڈ سیشن جج صاحب تیمرگرہ لف درخواست ہذا ہے۔)

یہ کہ بدوران سروس BISP کے نمائندہ گان کو ہماری گھر والوں نے باقاعدہ طور پر ہماری نوکری کے بارے بتایا تھا لیکن اس کے انہیں حقداران کی لسٹ میں ڈال دیے تھے۔

یہ کہ بدوران سروسے اور بعدہ ادائیگی کے دوران سرکاری نوکری یا دیگر کاروبار کے حامل افراد کے بارے میں کسی قسم کے شرائط موجود نہ تھے، اور اگر موجود بھی ہوتا تو یہ BISE

کے متعلقہ اہلکاروں کی ذمہ داری تھی کہ وہ ہمارے گھر والوں کو حقداران کے فہرست میں درج نہ کرتے۔

یہ میں ایک غریب تنخواہ دار اہلکار ہوں اور اپنی ڈیوٹی منصبی احسن طریقے سے ادا کر رہا ہوں۔ اس لیے موجودہ کمزور معاشی صورت حال کے پیش نظر کسی بھی مالی بوجھ

براشت کرنے سے نہایت عاجز ہوں۔ مزید یہ کہ صوبہ کی دیگر محکموں کے سربراہان نے اپنی اپنی اہلکاروں ملازمین کے خلاف کسی قسم کی کاروائی نہیں کی ہے۔



یہ کہ گھر کے اخراجات اور اپنی بیماری کی وجہ سے ساری تنخواہ خرچ ہوتی ہے اور میں ہر مہینہ سرکاری خزانہ میں مبلغ 5000 روپے جمع کرتا ہوں جو میں ہر مہینہ ادھار پر لیتا ہوں۔

یہ کہ سائیل گردوں اور خون کی بیماری میں کافی عرصہ سے مبتلا ہے اور الشفاء ہسپتال اسلام آباد زیر علاج ہے۔

لہذا نہایت ادب اور عاجزی کیساتھ عرض کیجاتی ہے
کہ میرے حال پر رحم فرما کر نا کردہ جرم سے معاف
فرمائیں تو سائیل اور سائیل کی بیوی بچے تاحیات دعا
کو رہینگے اور جناب والی کی ترقی و دراز عمری کیلئے
تاحیات دعا گو رہینگے۔

R. Khan
22.4.2021

یور نم: 17/103/2021

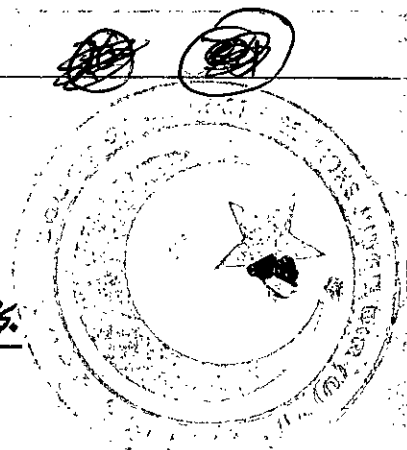
S. Khan

العارض

سائیل شیر امین عدالت حضور

ATTESTED

21.12.2023



بخدمت جناب ڈسٹرکٹ اینڈ سیشن جج صاحبہ / ضلع قاضی ویر بالا

درخواست برادرہ کرنے بر حکم فاضل عدالت

حضور محرمہ 28/07/2020-

جناب عالی!

Rahim
22.12.2021

سائیل مندرجہ ذیل عرض گزار ہے۔
یہ کہ سائیل ضلعی عدلیہ میں کافی عرصہ سے کلاس فور کے پوسٹ پر تعینات ہے اور اپنی ڈیوٹی احسن طریقے سے سرانجام دے رہا ہے۔

یہ کہ سائیل کی زوجہ کے نام BISP کے اہلکاروں نے حھدار ٹھہرا کر کچھ رقم ادا کی ہے جسکی پاداش میں سائیل کو مورد الزام ٹھہرا کر ایک سال کیلئے انگریمنٹ اور ادا شدہ رقم کی ریکوری کا حکم معزز ڈسٹرکٹ اینڈ سیشن جج صاحب نے صادر کیا ہے۔ یہ کہ سیشن جج صاحب نے 28/07/2020 کو ایک حکم جاری کیا کہ سائیل سے ایک سال کیلئے انگریمنٹ اور ادا شدہ رقم کی ریکوری کا حکم صادر کیا ہے۔

کہ بعدہ معزز عدالت عالیہ پشاور ہائی کورٹ کے معزز مرحوم چیف جسٹس صاحب نے مندرجہ ملازمین پر رحم فرما کر انگریمنٹ روکنے کا حکم واپس لیا ہے۔ (اس نسبت مذکورہ آرڈر لف درخواست ہے۔)

یہ کہ صوبہ کے اکثر معزز جج صاحبان نے اپنی اپنی ملازمین پر رحم فرما کر معاف کیے ہیں۔ (اس نسبت فیصلہ فاضل عدالت ڈسٹرکٹ اینڈ سیشن جج چار سدہ اور ڈسٹرکٹ اینڈ سیشن جج تیرگرہ لف درخواست ہذا ہے۔)

ATTESTED
21.12.2023

یہ کہ بدوران سروے BISP کے نمائندہ گان کو ہماری گھر والوں نے باقاعدہ طور پر ہماری نوکری کے بارے بتایا تھا لیکن اس کے انہیں حھدار ان کی لسٹ میں ڈال دیے تھے۔

یہ کہ بدوران سروے اور بعدہ ادائیگی کے دوران سرکاری نوکری یا دیگر کاروبار کے حامل افراد کے بارے میں کسی قسم کے شرائط موجود نہ تھے، اور اگر موجود بھی ہوتا تو یہ BISP کے متعلقہ اہلکاروں کی ذمہ داری تھی کہ وہ ہمارے گھر والوں کو حھدار ان کے فہرست میں درج نہ کرتے۔

یہ میں ایک غریب تنخواہ دار اہلکار ہوں اور اپنی ڈیوٹی منہمی احسن طریقے سے ادا کر رہا ہوں۔ اس لیے موجودہ کمزور معاشی صورت حال کے پیش نظر کسی بھی مالی بوجھ برداشت کرنے سے نہایت عاجز ہوں۔ مزید یہ کہ صوبہ کی دیگر گھنوں کے سربراہان نے اپنی اپنی اہلکاروں ملازمین کے خلاف کسی قسم کی کاروائی نہیں کی ہے۔

یہ کہ گھر کے اخراجات اور اپنی بیماری کیوجہ سے ساری تنخواہ خرچ ہوتی ہے۔

یہ کہ سائیل مردوں اور خون کی بیماری میں کافی عرصہ سے مبتلا ہے اور الشفاء ہسپتال اسلام آباد زیر علاج ہے۔

لہذا نہایت ادب اور عاجزی کیساتھ عرض کیجاتی ہے کہ میرے حال

پر رحم فرما کر ناکردہ جرم سے معاف فرمائیں تو سائیل اور سائیل کی

بیوی بچے تاحیات دعا گو رہینگے اور جناب والی کی ترقی و دراز عمری کیلئے

تاحیات دعا گو رہینگے۔

العارض

Smt

سائیل شیر امین عدالت حضور

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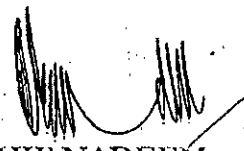
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Office of the
DISTRICT & SESSIONS JUDGE/ ZILLA QAZI
DIR UPPER

OFFICE ORDER

In pursuance of inquiry conducted against BISP beneficiaries and penalty imposed on them vide orders dated: 28/07/2020 and 14/09/2020, all of the accused/officials of District Judiciary Dir Upper are directed to deposit installment of Rs. 5000/- per month regularly in the state Treasury till full recovery of the amount due against them under the Rule-4(I) (a) (ii) of the *ibid* Rules, 2011, and deposit the challan receipt copy regularly with the Budget & Accounts Assistant Session Court Dir Upper on or before 5th of each Month.

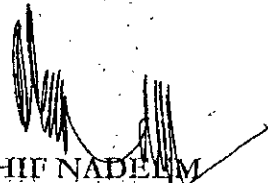






KASHIF NADEEM
District & Sessions Judge/ZQ
Dir Upper

No. 988-92 /B&A/DSJ/ZQ Dir Upper dated 03/10/2020

Copy forwarded for information to:

1. Senior Civil Judge (Admn) Dir Upper.
2. District Accounts Office Dir Upper.
3. The Assistant Director BISP District Dir Upper.
4. Budget & Accounts Assistant Sessions Court Dir Upper.
5. The Accused officials by name.


KASHIF NADEEM
District & Sessions Judge/ZQ
Dir Upper

قیمت 50 روپے	29055	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویکٹ: کبیر ایماک، خداداد الرحمن	بار کونسل ایسوسی ایشن نمبر: BC-14-4780	  
رابطہ نمبر: 0346-9085949		

بعدالت جناب: سرسٹریٹن فیبرنختون فحیہ سرتاور

مخانب: اپیلانٹ	دعوی:
سیرامین	علت نمبر:
بنام	مورخہ:
رجسٹرارٹ کورپوریشن	جرم:
0346	تھانہ:

بابت تحریر آتکہ

سیرامین صاحب محکمہ

SMHA

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سرتاور کیلئے کبیر ایماک، سیدضیاء الرحمن کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و فیصلہ برحلف دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگہبانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جائے التوائے مقدمہ کے سبب سے ہوگا کوئی تازہ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 1/2024

العواہ شد العابد

مقام سرتاور کے لیے منظور ہے۔
 accept
 9
 نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔