

(7)

IN THE COURT OF FARMAN ULLAH,
SENIOR CIVIL JUDGE, ORAKZAI AT BABER MELA

Case File No. 5/9
Date of Institution: 03/06/2020
Date of Order: 27/07/2020

State

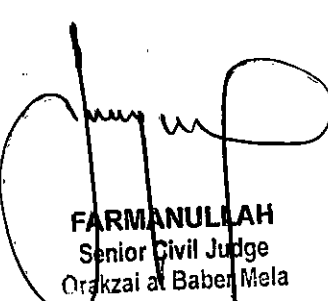
VERSUS

Muhammad Ismail s/o Muhammad Tayyeb,
Process Server (BPS-05) in the establishment of Senior Civil
Judge, Orakzai at Baber Mela, Hangu.
(Accused/delinquent official).

Order
27/07/2020

1. The background of initiation of instant proceedings are such that Registrar Peshawar High Court, Peshawar, vide letter No. 6154-206 dated: 23/04/2020, communicated a list of employees of Civil Courts throughout Khyber Pakhtunkhwa, who are the beneficiary of BISP. The name of accused/delinquent official was reflected at Serial No. 93 of list and indicated that accused, being Government Servant, is receiving cash grant through his spouse under Benazir Income Support Program (BISP). As such directions were issued for disciplinary proceedings against the accused/delinquent official under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

2. On such information proceedings were initiated against the accused/delinquent official by dispensing the inquiry and a show-cause notice was issued to him on 03.06.2020. Reply to which was submitted by the accused/delinquent official on


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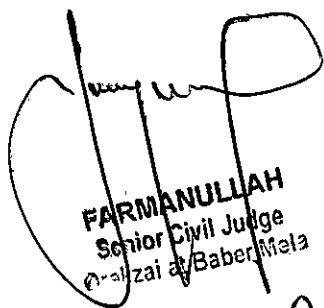
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16.06.2020, wherein he contended that a survey was conducted by BISP before his appointment and his wife was held eligible for grant as at that time he was jobless. He also contended that he was appointed on 29.04.2019 and at the time of appointment he was unaware about the policy of government.

3. To clarify and ascertain the stance of accused/delinquent official, notice was issued to the Assistant Director, BISP Orakzai at Hangu with direction to produce the relevant record. Pursuant to which, Mudasir Hussain (Field Supervisor BISP District Orakzai) appeared alongwith the record. His statement recorded on 20.07.2020. He produced the record as Ex.PW-1/1 and Ex.PW-1/2.

4. Opportunity of personal hearing was provided to accused and he was personally heard on 27.07.2020.

5. Perusal of Ex.PW-1/1 divulges that a survey was conducted by BISP in year 2011 and the spouse of accused was held entitled to the grant. Ex.PW-1/2 is the detail of grant received by the wife of accused. The perusal of same depicts that she received grant from year 2014 to November 2019. Even the accused has not denied that he through his wife is not beneficiary of BISP grant and receiving such grant rather he has admitted that his wife is the beneficiary of BISP and has received the amount under BISP. Though as per record the survey was conducted by the BISP and the spouse of accused was held entitled for grant before the appointment of accused as the accused was appointed on 29.04.2019 yet record depicts that

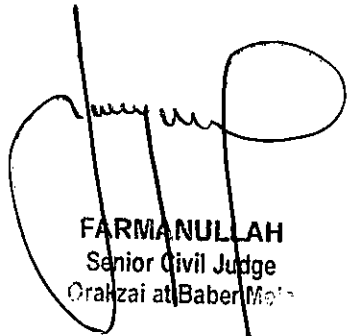

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even after the appointment of accused, the grant amounting Rs. 11,000/- (Eleven thousand) was deposited from May, 2019 to September, 2019 in favour of wife of accused under the BISP grant and out of which Rs. 10,000/- (Ten thousand) were also withdrawn by her. So, the available record clearly establishing that accused/delinquent official through his wife has received Rs. 11,000/- grant under BISP during his service.

6. The purpose, object and spirit of BISP as envisaged in Benazir Income Support Programme Act, 2010 is to enhance the financial capacity of poor people and provide financial support to under privileged and vulnerable people.

7. The accused/delinquent official after appointment as government servant, cannot be termed as unprivileged, vulnerable and poor as he is receiving salary from government exchequer, through which he and his spouse can meet basic necessities of life. The delinquent official/accused after his appointment was required to abandon his status through his wife as beneficiary of BISP but he continued to be the beneficiary of BISP and his wife received grant during his service. Such omission on the part of accused/delinquent official amounts misconduct as well as he has caused loss to the government exchequer. Hence it is established on the record that accused/delinquent official is guilty of misconduct as well as caused financial loss to the government exchequer. However, a lenient view is taken in the background of accused/delinquent official, being newly appointed, his wife was held entitled to the


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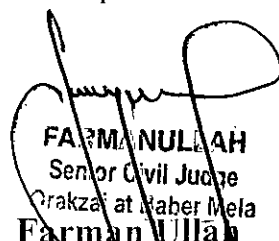
grant before his appointment and having no other previous record of involvement in such like cases. Therefore, I being the competent authority, impose minor penalties on the accused under Rule 4(1)(a)(ii)(iii) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 as under:

i. Withholding one annual increment with non-accumulative effect.

ii. Direct the accused/delinquent official to deposit Rs.11,000/- (Eleven thousand) in the government exchequer, which his spouse received after his appointment and produce the receipt to the undersigned within 10 days from today.

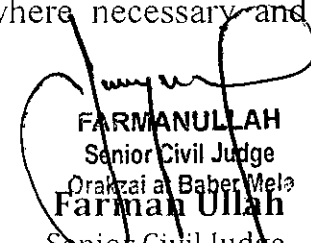
8. File be consigned to record room after its completion and compilation.

Announced
27.07.2020


FARMANULLAH
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Farman Ullah
Senior Civil Judge,
Orakzai at Baber Mela.

CERTIFICATE

Certified that this order of mine consists of 04 (four) pages, each has been checked, corrected where necessary and signed by me.


FARMANULLAH
Senior Civil Judge
Orakzai at Baber Mela
Farman Ullah
Senior Civil Judge,
Orakzai (at Baber Mela).