

THE OFFICE OF DISTRICT & SESSIONS JUDGE,
ORAKZAI AT BABER MELA

REVIEW PETITION NO. : _____ OF 2021

DATE OF INSTITUTION : 26.05.2021

DATE OF ORDER : 02.06.2021

STATE

------(Complainant)


VS

MR. SHAHID ALI S/O AMEEN ALI, COMPUTER OPERATOR (BPS-16), ATTACHED TO THE ESTABLISHMENT OF DISTRICT & SESSIONS JUDGE, ORAKZAI AT BABER MELA HANGU

------(Accused/Official)

ORDER
02.06.2021

In order to support the poorest segment of society, the Government of Pakistan launched a program in the name of Benazir Income Support Program "BISP". A survey was conducted, and on the basis of Score-Based/Point-Based criteria, people were held entitled for compensation. Spouse of the petitioner was also held entitled, and an amount of Rs. 85,805/- was disbursed to the spouse of the petitioner from 06.05.2015 till 22.09.2019.


Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela
02/06/21

(2). On 23.12.2019, Poverty Elevation and Social Safety Division of the Government of Pakistan prepared

a summary containing the list of those beneficiaries whose financial status was elevated which also include the names of the employees of Federal and Provincial Governments and it was proposed to exclude the names of all those persons from the list of beneficiaries. The summary was approved on 23.12.2019. Resultantly, besides excluding the names of those persons from the list of beneficiaries, the list was also sent to the concerned departments including the Hon'ble Peshawar High Court, Peshawar for making disciplinary proceedings against those employees who have remained beneficiaries of the BISP. In this backdrop of the matter, the Hon'ble Peshawar High Court, Peshawar vide letter no. 6154-206/ADMN: dated Pesh of the Registrar Peshawar High Court, Peshawar, it was communicated that the petitioner being Government Servant was found to have had received, through his spouse, handsome amount under Benazir Income Support Program which was pre-judicial to the conduct of Government Servants. As such, directions were issued for initiating disciplinary proceedings against the petitioner under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011.


Shaukat Ahmad Khan
 District & Sessions Judge,
 Orakzai at Baber Mulla
 03/07/21

(3). Accordingly, a show cause notice was issued to the petitioner, and on 08.07.2020, my learned predecessor in

office being the competent authority, imposed the following penalty;

“Therefore, I, being the competent authority impose, on the accused/official minor penalty under Rule 4 (1) (a) (II) and Rule 4 (1) (a) (III) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and thereby withheld three annual increments with non-accumulative effect besides direct the accused/official to redeposit amount of Rs. 85805/- in the Government Exchequer and receipt to this effect be produced before the undersigned within 07 days from today.”

(4). The petitioner did not file any representation or appeal against the aforementioned order; however, he came up with the present mercy petition for review of the order mentioned above for the reasons mentioned therein.


*Shariat Ali Khan
District & Sessions Judge,
Orakzai of Khyber Pakhtunkhwa
02/06/21*

(5). I heard the petitioner in person and perused the available record. Perusal of case file shows that as per form T-1 Ex. P1, the survey has been conducted from Sharbat Khan, the father of the spouse of the petitioner, and the petitioner has neither applied nor participated in the survey, and as such there is no allegation of providing false information. Second, the spouse of the petitioner was held entitled by the BISP team on the basis of Score/Point-based criteria, and the petitioner has never

pretended himself as entitled and this criteria was prevalent till 23.12.2019. Third, the decision of the non-entitlement of the petitioner neither makes him liable to be proceeded under The Efficiency and Disciplinary Rules nor the effect of the decision regarding non-entitlement of the petitioner can be given retrospective effect. Above all, the Hon'ble Peshawar High Court, Peshawar vide office order dated 26.09.2020 has also reviewed the cases of employees of the Hon'ble Peshawar High Court, Peshawar against whom similar penalties were imposed and the following order was passed;

The staff, facing these proceedings, of this court are as good Government servants as those of the other departments. They both share the same pedestal to stand. It would be unjust to penalize the officials of this court harshly vis-à-vis the officials of other departments who had illegally received the aid from BISP. Thus, with this equitable consideration instant appeals are accepted and appeals decided on 07th July, 2020 are reviewed. The following directives are issued in the instant appeals/reviews:

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


 Shaukat Ali Khan
 District & Sessions Judge,
 District of Faisalabad
 07/06/21

- ii. *Office shall recover in 10 equal instalments 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 instalments 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 and 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 instalment, then the amount shall be recoverable from the salary of the concerned officials."*

Shaukat Ali Khan
 District & Sessions Judge,
 Gakzai at Baber, Fatah
 09/06/21

(6). In the light of what has been discussed above, the present review petition is accepted. The order dated 08.07.2020 of this office is set aside and the following order is passed:

- I. The penalty of stoppage of increments is set aside/recalled/reviewed.

II. The amount received by the petitioner prior to his entry in the government service would be reimbursed by issuance of necessary vouchers for payment of the said amount.

(7). File be consigned to Record Room after its completion and compilation.

Announced
02.06.2021



(Shaukat Ahmad Khan)
District & Sessions Judge,
Orakzai, at Baber Mela