

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

WRIT PETITION NO. 4035 OF 2019

Tahir Lal

Versus

Benazir Income Support Programme

Petitioner by : **M/s Ali Shaharyar and Kashifa Niaz Awan, Advocates.**

Respondent by : **Ch. Shafiq ur Rehman, Advocate.**

Dates of Hearing : **22-11-2019, 12-10-2020, 06-11-2023, 19-12-2023, 27-11-2024, 17-2-2025, 23-4-2025, 19-5-2025, and 23-10-2025.**

Date of Decision : **23-10-2025.**

SAMAN RAFAT IMTIAZ, J.

1. The Petitioner [Tahir Lal], by way of the instant petition, seeks setting aside of the Office Order dated 23-9-2019 (“**Impugned Office Order**”) passed by the Respondent [Benazir Income Support Programme] whereby the Petitioner has been removed from the service. He also prays for reinstatement with all back benefits.

2. The brief facts as per the Memorandum of Petition are that the Petitioner was appointed as Naib Qasid (SPS-1) on 15-3-2011 on contract basis by the Respondent. On 21-5-2013 the services of the Petitioner were regularized. On 13-3-2019 the Petitioner was charge sheeted with the allegations of misconduct and corruption which was dully replied to by the Petitioner on 25-3-2019. Thereafter, an inquiry was conducted by the Inquiry Officer. On 30-7-2019, Show Cause Notice was issued to the Petitioner with the direction to reply to the same within seven days. The Petitioner replied to the Show Cause Notice and denied the allegations with vehemence and

requested withdrawal of the Show Cause Notice. However, vide the Impugned Office Order major penalty of removal from service was imposed on the Petitioner. The Petitioner preferred departmental appeal before the Competent Authority but the same was declined. Hence, the instant petition.

3. At the very outset, the learned counsel for the Respondent has raised a preliminary objection with regard to the maintainability of the instant petition as the Benazir Income Support Programme (Employees' Service) Regulations, 2018 ("BISP Service Regulations") of the Respondent are non-statutory.

4. On the other hand, the learned counsel for the Petitioner relies upon judgment dated 1-7-2024 passed in *Munir Ahmed vs. Ministry of Science and Technology and another, W.P.No.467 of 2023* whereby this Court has held that even in case of non-statutory rules a writ may be maintainable in light of *Pakistan Defence Officers' Housing Authority Vs. Lt. Col. Syed Jawaid Ahmed, 2013 SCMR 1707; Muhammad Rafi and another Vs. Federation of Pakistan and others, 2016 SCMR 2146;* and *Pakistan Defence Officers Housing Authority Vs. Mrs. Itrat Sajjad Khan and others, 2017 SCMR 2010.* She argued that the instant case is also maintainable in view of the violations of the procedure provided for the inquiry in the BISP Service Regulations. In this regard she submits that despite request for copy of inquiry the same was not provided by the Respondent and that no details of the alleged abetment by the Petitioner have been provided in the charge sheet or the Show Cause Notice. She further submits that although the main accused was terminated from service the criminal proceedings initiated against him resulted in his acquittal in which it has specifically noted by the Trial Court that no action was taken against the present Petitioner. In answer to a question the learned counsel for the Petitioner submits that an Appeal was filed against the Impugned Office Order dated 23-9-2019 pursuant to Regulation 19 of the BISP Service Regulations which has been dismissed. It is noted that although the order passed in appeal has not been included in the prayer it has been mentioned in the Memo of the Petition.

5. The learned counsel for the Respondent relied upon unreported judgments passed by this Court in *Masood Ahmed Soomro Vs. Benazir Income Support Programme (BISP)*, W.P. No. 3361/2020; *Sadia Fatima Vs. Chairperson, B.I.S.P.*, W.P. No. 4109 of 2019; *Rohail Ishtiaq Vs. Benazir Income Support Programme (BISP)*, W.P. No. 1360/2015; unreported judgment of the Lahore High Court passed in *Mesum Abbas Vs. Secretary, BISP*, W.P. No. 24385 of 2021; and unreported judgment of the Peshawar High Court passed in *Taimur Ali Vs. Director General BISP*, W.P. No. 5253-P/2020 that writ petitions against the Respondent are not maintainable as the BISP Service Regulations are non-statutory. In respect of the reliance of the Petitioner upon *Munir Ahmed (Supra)* he submits that the only violation of the BISP Service Regulations pointed out by the Petitioner is that despite request for copy of inquiry same was not provided by the Respondent. He submitted that the Show Cause Notice dated 30-7-2019 specifically notes in paragraph 2 that the inquiry report is enclosed and that there is no letter of the Petitioner available on the record since such Show Cause Notice alleging that inquiry report was not enclosed and has not been provided.

6. I have heard the learned counsel for the parties and have also perused the record.

7. It is undisputed that the BISP Service Regulations of the Respondent are non-statutory. The reliance upon *Munir Ahmed (Supra)* is misplaced as in such case this Court held that the petition is maintainable despite non-statutory rules as the termination was carried out in violation of procedural requirements and because there was no adequate efficacious alternate remedy against such termination. However, in the instant case, no procedural impropriety has been pointed out as the record reflects that the inquiry report was indeed provided to the Petitioner vide the Show Cause Notice despite which if the Petitioner alleges that it was not received the same constitutes a disputed question of fact which cannot be adjudicated upon in exercise of Constitutional jurisdiction. The Petitioner alleges that he wrote letter dated 19-09-2019 requesting copy of the Inquiry report but there is no proof that the

same was actually submitted. Moreover, the BISP Service Regulations under Regulation 19 provides for a departmental appeal which was also availed.

8. In view of the foregoing, the instant petition is **dismissed**.

(SAMAN RAFAT IMTIAZ)
JUDGE

M. JUNAID