

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 06/2022

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Muhammad Ashfaq, Ex-District Food Controller (BS-17) Buner,
R/O Sehat Medicos, Malakand Road, Takhtbhai, District Mardan.
.... (Appellant)

Versus

1. Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
 2. Secretary Food Department, Government of Khyber Pakhtunkhwa,
Peshawar.
 3. Director Food Department/Directorate Government of Khyber
Pakhtunkhwa, Peshawar.
- (Respondents)

Mr. Muhammad Zafar Tahirkheli,
Advocate ... For appellant

Mr. Muhammad Jan,
District Attorney. ... For respondents

Date of Institution.....05.01.2022.
Date of Hearing.....29.09.2022
Date of Decision..... 29.09.2022

JUDGEMENT

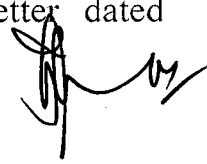
FAREEHA PAUL, MEMBER (E): The service appeal in hand has
been instituted under Section 4 of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974, against the order dated 08.09.2021, whereby the



penalty of removal from service was imposed upon the appellant against which his departmental appeal dated 04.10.2021 was not decided within the statutory period of limitation.

2. Through this single judgment, this appeal as well as connected service appeal No.07/2022, titled Muhammad Azam Khan, Ex-Assistant Food Controller (BPS-16) Buner Versus Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others, are decided.

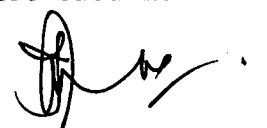
3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was selected and appointed as District Food Controller (BPS-16) in the Food Department on 25.10.2013 through Khyber Pakhtunkhwa Public Service Commission, which was later on upgraded to BPS-17. While serving as District Food Controller, Buner, the appellant was suspended vide order dated 18.03.2020 and was served with charge sheet and statement of allegations, wherein certain charges were leveled against him. An inquiry committee consisting of Mr. Zubair Ahmad, Director Food, Khyber Pakhtunkhwa and Mr. Shareef Hussain, Additional Secretary, Home Department was constituted to inquire into the matter. The inquiry committee submitted its report, wherein no solid or concrete allegation of any sort stood proved against the appellant, however, he was served with show cause notice dated 23.07.2020 to which he submitted his reply on 08.08.2020. He was provided with an opportunity of personal hearing on 15.12.2020. In consequence of his personal hearing, the Special Secretary, Establishment Department remitted the case back to the inquiry committee with certain observations communicated vide letter dated



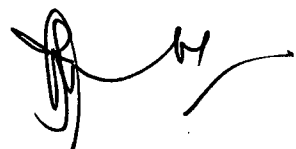
08.04.2021. The inquiry committee submitted their findings with reference to objections raised by the competent authority vide letter dated 05.07.2021. The competent authority in complete disregard to the findings of the inquiry committee, instead of recalling the disciplinary proceedings against the appellant or serving him with second show cause notice in view of the fresh findings of the inquiry committee, passed the impugned order of removal from service dated 08.09.2021. Feeling aggrieved, the appellant submitted departmental appeal dated 04.10.2021 which was not decided till the lapse of statutory period of limitation; hence this service appeal.

4. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General and perused the case file with connected documents in detail.

5. Learned counsel for the appellant presented the case in detail and informed about the matter behind initiating the inquiry. According to him, 4000 Metric tons of PASSCO wheat was allocated to District Buner, which was to be supplied through a Government Carriage Contractor namely M/S Javid & Co. The contractor was directed by the Director Food, Khyber Pakhtunkhwa vide letter dated 27.11.2019 to lift 4000 Metric tons of FAQ wheat from six dispatching centers of PASSCO from Punjab within stipulated period of 15 days and supply it to PRC District Buner. As per agreement, the contractor was bound to deliver the entire allocation within the stipulated time expiring on 11.12.2019. In case of violation of terms & conditions of agreement, the procedure and penalties were provided in



clause 6.3 & 7 of the said agreement. Initially the appellant was telephonically directed by the Director Food, Khyber Pakhtunkhwa Peshawar to nominate a Food Inspector for dispatches of PASSCO wheat from Punjab to be delivered at PRC Buner, to which he submitted his inability through letter dated 28.11.2019 due to non-availability of executive staff i.e FGI and FGS at his office at Buner. The contractor supplied only 380.088 M.Tons quantity of PASSCO wheat at Buner and was thus served with a letter dated 10.12.2019 by the appellant to dispatch and deliver the remaining wheat to PRC Buner within the stipulated time. The appellant served 06 reminders to the contractor vide letters dated 11.12.2019, 13.12.2019, 16.12.2019, 19.12.2019, 24.12.2019 and 26.12.2019 to expedite the delivery of PASSCO wheat, but to no avail. During that, the stipulated period expired on 11.12.2019. Similarly, the appellant addressed two letters to Director Food, Khyber Pakhtunkhwa dated 11.12.2019 and 26.12.2019, wherein it was categorically informed that the Carriage Contractor for supply of PASSCO wheat from Punjab to PRC Buner had failed to deliver the wheat within the stipulated time of 15 days expiring on 11.12.2019. The Director Food also addressed two letters dated 04.12.2019 and 11.12.2019 to M/S Javid & Co. about their slow lifting and delivery of wheat and directed them to complete the supply within the stipulated period expiring on 11.12.2019. Learned counsel for the appellant contended that letters addressed to the contractor by Director Food, Khyber Pakhtunkhwa were testament to the fact that he was duly informed by the appellant in his capacity as DFC Buner well within time



about the slow lifting and supply of PASSCO wheat to District Buner. Learned counsel further argued that inspite of intimation by the appellant before time about the reckless attitude of the carriage contractor, the Director Food vide office order dated 27.12.2019 appointed Mr. Muhammad Iqbal, Divisional Assistant Director Food, Malakand to conduct inquiry in respect of wheat dispatches from Multan and Alipur zones to PRC Buner and fix responsibility. The inquiry officer submitted his recommendations, in the light of which the appellant was suspended vide order dated 18.03.2020. He was served with a charge sheet and statement of allegations and an inquiry committee was constituted. Learned counsel for the appellant contended that Director Food, Khyber Pakhtunkhwa, who was in fact party to the whole proceedings, was made one of the members of the inquiry committee. He further invited the attention to the point that the matter of loading of wheat from collection points, its dispatch to different districts and delivery did not fall within the competence of District Food Controller. He mentioned about the letter dated 29.11.2019 and 31.12.2019 addressed to G.M (Field) PASSCO, Lahore where the Director Food, Khyber Pakhtunkhwa had categorically mentioned officials of Food Department Khyber Pakhtunkhwa deputed for different dispatching zones in Punjab under the strict supervision of Mr. Gulab Gul, Assistant Food Controller Bannu for smooth dispatches of PASSCO wheat to the destination stations of Khyber Pakhtunkhwa. They were directed to report the daily lifting position to the respective zones to Mr. Ibrahim, Assistant Director Food (S), Food Directorate and Mr. Niaz



Ali, Assistant STO on daily basis. All the officials were further directed to resolve disputes, if any, regarding weight and quality of the dispatched wheat as per standard in the allocation order and MOU. The learned counsel referred to a statement of Muhammad Ibrahim before the Anti-Corruption Department, wherein he had frankly conceded to all the omissions regarding lifting, carriage and delivery of PASSCO wheat. After presenting all the details of the case he prayed for setting aside the impugned order dated 08.09.2021 and reinstating the appellant in service with all back benefits.

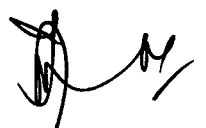
6. Learned District Attorney, on the other hand, strongly rebutted the points presented by learned counsel for the appellant and stated that out of the allocated 4000 M.Tons to Buner only 1891.263 M. Tons was delivered to PRC Buner and the remaining 2108.747 M.Tons remained undelivered. He referred to the report of inquiry committee, according to which there was no delay of 38 days as mentioned in allegation No. "a", rather more than 50% of the allocated wheat had not reached/delivered to PRC Buner and hence the charge against the appellant was proved. He stated that the inquiry report clearly mentioned that the DFC did not inform the Director Food, Khyber Pakhtunkhwa and Assistant Director, Malakand Division about the non-delivery of government wheat to PRC Buner. The letter addressed to Director Food on 11.12.2019 had reached the Directorate of Food on 31.12.2020 and it seemed that it was issued with back date on it and hence the allegation that the appellant did not inform his high ups in time was proved. He further contended that the appellant had shown



negligence in performance of his duty and hence he was rightly proceeded against as per Government of Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011.

7. From the arguments and record presented before us, it transpires that the appellant was District Food Controller at Buner. During the year 2019, 4000 metric tons of PASSCO wheat was allocated to District Buner and M/S Javed & Co, Carriage Contractor, Batkhela, District Malakand was hired for its handling and transportation from the Punjab to Provincial Reserve Centre. An agreement dated 04.11.2019 was signed between the Director Food, Khyber Pakhtunkhwa and the Contractor. Various officials of Food Directorate, Khyber Pakhtunkhwa were deputed for different zones under the supervision of Gulab Gul, Assistant Food Controller, Bannu for smooth dispatches of PASSCO wheat from Punjab to Khyber Pakhtunkhwa. They were directed to report the daily lifting position for respective zones to Muhammad Ibrahim, Assistant Director Food (S), Food Directorate, Khyber Pakhtunkhwa on whatsapp number and Niaz Ali, Assistant STO Section on his cell phone number on daily basis without fail. They were further directed to resolve disputes, if any, regarding weight and quality of the dispatched wheat as per standard in the allocation order and MOU. Name of the appellant was not mentioned in any of the two lists shared by the Director Food, Khyber Pakhtunkhwa with the General Manager Field, PASSCO, Lahore.

8. Record presented before us further reveals that an inquiry was conducted by an Inquiry Committee. It was noted that one of the members



of Inquiry Committee was the Director Food who himself was a party in the entire matter, in one way or the other. The Inquiry Committee itself proved that there was no delay of 38 days rather 50% of wheat did not reach its destination i.e. PRC Buner. They did not bother to associate the officials deputed for smooth dispatch of wheat from Punjab to Khyber Pakhtunkhwa. It was further noted that the Contractor was also not associated with the inquiry. The agreement signed with him clearly mentioned penalty for not lifting the quantity specified in the work order within the stipulated time.

9. One of the points of inquiry before the inquiry committee that the appellant did not inform his high ups about non-delivery of wheat raises a question that whether the wheat was dispatched from PASSCO warehouses in Punjab? Whether it was confirmed from the officials deputed there for its smooth dispatch? The Inquiry Report did not touch this aspect.

10. The Inquiry Committee admits in its report that the District Food Controller, Assistant Food Controller and officers of Food Department recovered the cost of major chunk of non-delivered wheat from the contractor. This indicates that the appellant and his team were vigilantly pursuing the matter; they brought it to the notice of their high ups and made efforts on their part also. Letters of Director Food dated 04.12.2019 and 11.12.2019 to the contractor proved that he was aware of slow lifting and non-delivery of wheat from Punjab to Khyber Pakhtunkhwa. When the recovery of cost of non-delivered wheat was made from the contractor and



deposited in government treasury and there was no loss to the government exchequer, then it is strange to note that why the appellant, who himself made it happen, was removed from service?

12. In view of the above discussion, the appeal in hand, as well as connected service appeal No. 07/2022, is allowed. Impugned order dated 08.09.2021 is set aside and the appellants are reinstated in service with all back benefits including salary and allowances and other benefits of service. Parties are left to bear their own costs. Consign.

13. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 29th day of September, 2022.


(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

Service Appeal No.06/2022

1. Mr. Muhammad Zafar Tahirkheli, Advocate for appellant present. Mr. Muhammad Jan, District Attorney for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement of today containing 09 pages, the appeal in hand is allowed. Impugned order dated 08.09.2021 is set aside and the appellant is reinstated in service with all back benefits including salary and allowances and other benefits of service. Parties are left to bear their own costs. Consign.

03. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 29th day of September, 2022.


(FAREEHA PAUL)
Member(E)


(ROZINA REHMAN)
Member (J)

23rd June, 2022

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional AG for respondents present.

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. To come up for written reply/comments on 16.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

16.08.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Asif Ali Shah, Deputy Director for the respondents present.

Reply/comments on behalf of respondents submitted which are placed on file. Copy of the same is handed over to the appellant. Adjourned. To come up for rejoinder, if any, and arguments on 29.09.2022 before D.B.



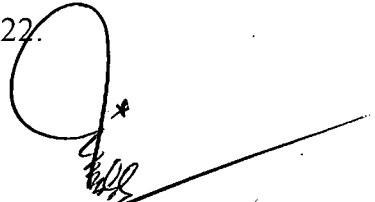
(Mian Muhammad)
Member (E)

17.05.2022

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant was working as District Food Controller (BS-17) since 25.10.2013. He was proceeded against departmentally under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and awarded major penalty of removal from service vide impugned order dated 08.09.2021. The appellant preferred departmental appeal against the impugned order on 04.10.2021 which was not responded/decided within the stipulated statutory period whereafter the Service Tribunal was approached through the instant service appeal on 05.01.2022. It was further argued that certain observations had been raised on the report of inquiry committee therefore fresh *show cause notice* should have been issued to the appellant to which he would have responded accordingly. Legally and technically the then Director Food to whom correspondence with regard to the alleged lapses, had been addressed, was made member of the inquiry committee. He was therefore, not appropriate to have been made as judge in his own cause. Additionally, it was a joint inquiry but the appropriate and responsible officials like Mr. Ibrahim Assistant Director Food and Nazir Ali Assistant STO Section who had been assigned the duty to check, weight, quality of dispatched wheat as per standard in the allocation order and MOU, were not proceeded against and only the appellant was made an easy scapegoat negating fair chance of trial/proceedings to him.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 23.06.2022.


(Mian Muhammad)
Member(E)

Rs-500/-
Appellant Deposited
Security & Process Fee




A. J. 17/5/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 06 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	05/01/2022	<p>The appeal of Mr. Mohammad Ashfaq presented today by Mr. Mohammad Zafar Tahirkheli Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 5/1/2022</p> <p>2-</p>	21.02.2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>21/02/22</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 17.05.2022 for the same as before.</p> <p style="text-align: right;"> Reader.</p>

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. 06 / 2022

Muhammad Ashfaq

VERSUS

Govt of Khyber Pakhtunkhwa etc.

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I N D E X

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S.No	Particulars	Annexure	Dates	Pages
1	Memo of Petition			1-5
2	Order	"A"	08-09-2021	6
3	Departmental Appeal	"B"	04-10-2021	7-11
3	Appointment Order	"C"	25-10-2013	12-13
4	Notification	"D"	18-03-2020	14
5	Charge Sheet	"D1"	-	15
6	Statement of Allegation	"D2"	-	16
7	Inquiry Report	"E"	-	17-19
8	Show Cause Notice	"E1"	23-07-2020	20-21
9	Reply to Show cause	"E2"	08-08-2020	22-28
10	Letter	"E3"	14-12-2020	29
11	Letter	"F"	08-04-2021	30-31
12	Letter	"F1"	05-07-2021	32-37
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14	Agreement	"H"	04-11-2019	41-46
15	Letters	"I"	28-11-2019	47
16	Letters	"J"	10-12-2019	48
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18	Letters	"K" & "K5"	16-12-2019	49-54
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19	Letters	"L"&"L1"	26-12-2019	55-56
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20	Letters	"M"&"M1"	11-12-2019	57-58
21	Letter	"N"	27-12-2019	59
22	Inquiry Report	"N1"	03-02-2020	60-61
23	Letters	"O"&"O1"	29-11-2019	62-63
24	Vakalatnama		31-12-2019	64

Date:- 05-01-2022

(Muhammad Zafar Tahirkheli)

Advocate,
High Court Peshawar

(Ansar Ullah Khan)

Advocate

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. _____/2022

Muhammad Ashfaq,
Ex-District Food Controller (BS-17) Buner
r/o Sehat Medicos, Malakand road, Takhtbahi, District Mardan

..... Appellant

Versus

1. Chief Secretary,
Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary Food Department, Government of KPK, Peshawar.
3. Director Food Department / Directorate, Government of KPK,
near Haji Camp Adda, GT road Peshawar, Peshawar. Respondents

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**SERVICE APPEAL U/S 4 OF NWFP SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 08-09-2021 (ANNEX-A), WHEREBY THE
PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED UPON THE
APPELLANT AND HIS DEPARTMENTAL APPEAL DATED 04-10-2021
(ANNEX-B) WAS NOT DECIDED WITHIN THE STATUTORY PERIOD OF
LIMITATION**

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"Prayer"

- (a) By accepting this appeal and setting aside the impugned order dated 08-09-2021 and reinstating the appellant in service with all the benefits of service due.
- (b) Any other relief deemed appropriate may also be allowed in addition to the relief claimed above.

Respectfully Sheweth,

1. That the appellant was selected and appointed as District Food Controller (BPS-16) in the Food Department on 25th October, 2013 through KP-PSC, which was later on upgraded to BPS-17. The appellant served at different places of posting during his service to the best of his abilities and satisfaction of his superiors.

(Copies annexed marked "C")
2. That while serving as District Food Controller at Buner, the appellant was suspended vide order dated 18-03-2020 and was served with charge sheet and statement of allegations; wherein the charges leveled against the appellant are as under;
 - a. The Carriage Contractor with your connivance with-held government wheat for ulterior motives for 38 days.
 - b. You did not inform the Director Food Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
 - c. You issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.

An inquiry Committee consisting of Mr. Zubair Ahmad Director Food Khyber Pakhtunkhwa and Mr. Shareef Hussain, Additional Secretary Home Department was constituted to enquire the matter. **(Copies annexed marked "D" to "D2")**

3. That the Inquiry Committee submitted its report, wherein no solid or concrete allegation of any sort stood proved against the appellant, however the appellant was served with show cause notice dated 23-07-2020, to which he submitted his reply dated 08-08-2020. The appellant was also provided with an opportunity to be heard in person, scheduled on 15-12-2020, vide letter dated 14-12-2020. **(Copies annexed marked "E" to "E3")**
4. That in consequence of appellant's personal hearing, the worthy special Secretary remitted the case back to the Inquiry Committee with certain observations communicated vide letter dated 08-04-2021. The Inquiry Committee submitted their findings with reference to objections raised by the competent authority vide letter dated 05-07-2021. **(Copies annexed marked "F" & "F1")**
5. The worthy authority in complete disregard to the findings of the Inquiry committee instead of recalling the disciplinary proceedings against the appellant, or serving the appellant with the 2nd show cause notice in view of the fresh findings of the Inquiry committee, passed the impugned "Removal from Service" order dated 08-09-2021. **(Annexed "A")**
6. The appellant submitted his departmental appeal dated 04-10-2021 before the worthy authority, which was not decided till the lapse of statutory period of limitation. **(Annexed "B")**
7. Feeling aggrieved and finding no other remedy, the appellant has been constrained to approach the Hon'ble Services Tribunal for the redress of his grievance, inter-alia on the following:

Grounds

- a. That the respondent department has acted in a most arbitrary manner while issuing the impugned removal from service order, in spite of the fact that he came out clean in his departmental inquiry initiated by the respondent department, which needs to be set right by this Hon'ble tribunal.
- b. That 4000 Metric tons of PASSCO wheat was allocated to district Buner, which was to be supplied through a Government Carriage Contractor, known as Ms. Javid & Co. The contractor was directed by the Director Food Khyber Pakhtunkhwa vide letter dated 27-11-2019 to lift 4000 Metric tons of FAQ wheat from 6 dispatching centers of PASSCO from Punjab within stipulated period of 15 days and supply it to PRC district Buner. **(Copy annexed "G")**
- c. That an agreement dated 04-11-2019 for supply of wheat was also signed between Director Food and Contractor Ms. Javid & Co. Carriage Contractor Batkhela, district Malakand.

The contractor was bound to deliver the entire allocation within the stipulated time expiring on 11-12-2019. In case of violation of terms and conditions of agreement, the procedure and penalties have been provided in clause 6.3 and 7 of the said agreement. **(Copy annexed "H")**

- d. That initially the appellant was telephonically directed by the Director Food Khyber Pakhtunkhwa Peshawar to nominate a Food Inspector for dispatches of PASSCO wheat from Punjab to be delivered at PRC Buner.

The appellant submitted his inability to nominate such official vide his reply letter No. 616/Allocation/DFC-BNR dated 28-11-2019 due to the non-availability of executive staff i.e FGI and FGS at his office at Buner. **(Copy annexed "I")**

- e. The contractor Ms. Javid & Co. only supplied 380.088 M.Tons quantity of PASSCO wheat at Buner and was thus served with a letter dated 10-12-2019 by the appellant to dispatch and deliver the remaining wheat to PRC Buner within the stipulated time. **(Copy annexed "J")**

- f. That the appellant served 06 reminders to Ms. Javid & Co. vide letter No. 633 dated 11-12-2019, 641 dated 13-12-2019, dated 16-12-2019, 646 dated 19-12-2019, 647 dated 24-12-2019 and 648 dated 26-12-2019 to expedite his delivery of PASSCO wheat, wherein the stipulated period expired on 11-12-2019. No head or attention was paid to all these letters by the transport company. **(Copy annexed "K", to "K5")**
- g. Similarly, the appellant addressed 02 letter to Director Food Khyber Pakhtunkhwa No. 632 & 649 dated 11-12-2019 & 26-12-2019 respectively, wherein the authority was categorically informed that the Carriage Contractor for supply of PASSCO wheat from Punjab to PRC Buner has failed to deliver the wheat within the stipulated time of 15 days expiring on 11-12-2019. **(Copy annexed "L" & "L1")**
- h. Needless to mention that the Director Food Khyber Pakhtunkhwa also vide letter No. 3942 dated 04-12-2019 & No. 4082 dated 11-12-2019 had addressed Ms. Javid & Co. about their slow lifting and delivery of wheat and directing them to complete the supply within the stipulated period expiring on 11-12-2019.

These letters addressed to the company Ms. Javid & Co. carriage Contractor are testament to the fact that the Director Food KPK was duly informed by the appellant in capacity of DFC Buner well within time about the slow lifting and supply of the PASSCO wheat. **(Copy annexed "M" & "M1")**

- i. In spite of being intimated by the appellant, before time, about the reckless attitude of the carriage Contractor, the Director Food KPK vide office order dated 27-12-2019 appointed Mr. Muhammad Iqbal, Divisional Assistant Director Food Malakand to conduct inquiry in respect of wheat dispatches from Multan and Ali pur zones to Provisional Reserve Center Buner and to fix responsibility viz-a-viz.

The Inquiry Officer submitted the following recommendations in view of his findings dated 03-02-2020;

- a) **The carriage contractor Ms. Javid & Co. should be proceeded against as per provision of the contract agreement. The firm Ms. Javid & Co, directors and management of the company in any other firm or Company may not be considered for future tendering process.**
- b) **The District Food Controller Buner Mr. Ashfaq and Assistant Food Controller Mr. Azam Khan have shown negligence and inefficiency in performance of their duties, therefore, they may be proceeded against as per E&D Rules 2011.**

(Muhammad Iqbal)
Inquiry Officer,
Assistant Director Food,
Malakand Division.

(Copies annexed "N" & "N1")

- j. The appellant was suspended vide order dated 18-03-2020 followed by service of charge sheet and statement of allegations upon him. The Inquiry Committee consisting of Mr. Zubair Ahmad Director Food Khyber Pakhtunkhwa and Mr. Shareef Hussain, Additional Secretary Home Department submitted its report, wherein it was concluded that;

- a. **It can safely be construed that the wheat i.e. 2108.747 Metric ton has not been withheld by the Contractor for 38 days rather it has never been delivered to PRC Buner, which speaks loudly about the negligence on the part of Mr. Azam Khan, Ex- Assistant Food Controller Buner.**

(Annex "D" to "D2")

- k. In response to the appellant's reply to show cause, he was served with letter dated 14-12-2020, wherein he was provided with an opportunity to be heard in person and directed to attend the officer Special Secretary Establishment on 15-12-2020. (Annex "E" to "E3")
- l. That being dissatisfied with the Inquiry report, the worthy Special Secretary remitted the case back to the inquiry committee with the observations that;

"The assistant Director in question is the same person who was entrusted with the inquiry on 27-12-2019, and who reported "as per record, whole quantity of 4000 tons has been received at PRC, Buner and taken on stock register accordingly. No financial loss occurred to the exchequer". This aspect of the matter also needs a scrutiny by the Inquiry Committee."

On above observations the Inquiry Committee revisited their report and submitted their finding afresh. (Annex "F")

- m. The worthy authority in complete disregard to rules regulating the matter, instead of serving the appellant with fresh show cause notice in view of de-novo finding of the inquiry committee, passed the impugned "Removal from Service" order dated 08-09-2021. (Annex "A")
- n. That as discussed above the appellant not only brought the matter into the notice of Director Food Khyber Pakhtunkhwa well within time but the worthy DF KPK also acted upon the same while issuing separate letter to the carriage company.
- o. That all the letters regarding the delay on the part of Transport Company were properly dispatched from the office of DFC Buner to DFC KPK and proper diary dispatch register was maintained. The allegation of connivance is completely refuted and rebutted in view of all the letters addressed to the carriage company and worthy DFC KPK.

These communication letters were however completely ignored by the inquiry committee without any sound reasons. The allegation of connivance and failure to inform the DF KPK as mentioned in paras "a" and "b" of the charge sheet and statement of allegation and issuance of those letters in back dates, in para "c" were never proved through solid or cogent evidence and in-fact were fully rebutted beyond the shadow of any reasonable doubt, but not taken into consideration without plausible explanation.

- p. That ironically the Director Food Khyber Pakhtunkhwa who was in-fact a party to the whole proceedings was made one of the members of Inquiry Committee.

It is well established principle of law that, **no one can be a Judge in his own cause**. The appointment of DF KPK as member inquiry committee had sealed the fate of the appellant before the commencement of the inquiry proceedings, which is not only illegal and unlawful but is liable to be rescinded as such.

- q. Apart from what has been discussed above the matter of loading of wheat from collection points, its dispatch to different districts and delivery does not fall within the competence of District Food Controller.

The DF KPK vide letters dated 29-11-2019 and 31-12-2019 addressed to GV field PASSCO Lahore had categorically mentioned that Mr. Ibrahim, Assistant Director Food (S), Food Directorate KPK No. 0333-5937759 and Niaz Ali, Assistant STO, Cell No. 0346-9711182 were responsible to report daily lifting position to the respective zones. (Copies annexed "O" & "O1")

- r. That both the officers responsible for monitoring the lifting, weight, quality of the dispatched wheat were neither charged nor proceeded against being the blue eye of the Directorate.

Muhammad Ibrahim had recorded his statement dated 11-03-2000 before the Anti-corruption Department, wherein he has frankly conceded to all the omissions regard to lifting, carriage and delivery of PASSCO wheat. This omission on the part of the Directorate is not only arbitrary but also discriminatory, wherein the appellant has been specifically targeted.

- s. The impugned action of removal from service is thus a very harsh action against the appellant, which is not only arbitrary, discriminatory but also against the principles of equity, law, justice, propriety and fairness, calling for interference by the august authority.
- t. The impugned order of removal from service cannot be justified under any circumstances as there is no findings or recommendations against the appellant, made by the Inquiry Committee.

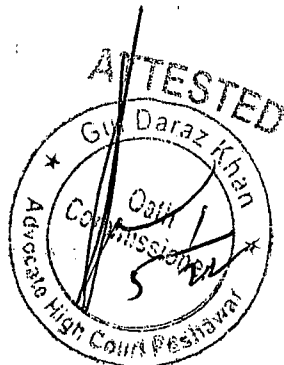
In absence of any direct evidence, the appellant has been vexed without any lawful or factual justification, subject to rectification by this Hon'ble Service Tribunal.

- u. That above all, no loss of any sort has been incurred upon the Government exchequer by the appellant. That the sole liability rests upon the Carriage Contractor Ms Javid and Co, wherein a huge sum is lying with government in the shape of securities and unpaid bills. The appellant has been subjected to harsh punishment for no crime committed either intentionally or inadvertently on his part.
- v. The impugned action is thus arbitrary, discriminatory, against the principles of equity, justice, law and proprietary, subject to correction by this worthy appellate Service Tribunal.

In view of the above, it is humbly requested that,

- a. By accepting this appeal the impugned order dated 08-09-2021 may kindly be set aside and the appellant may be reinstated in service with all the consequential benefits.
- b. Any other relief deemed appropriate may also be allowed in addition to the relief claimed above.

Peshawar, dated
05-01-2022



Through,

Appellant,

(Muhammad Zafar/Tahirkheli)
Advocate

(Ansar Ullah Khan)
Advocate

Affidavit:

I the appellant state on oath that contents of the above appeal are true and correct and nothing has been concealed or withheld from this Hon'ble Tribunal

Deponent

Certificate:

Certified that no other appeal has been filed prior to instant appeal on the subject matter before.

Appellant



FOOD DEPARTMENT

Dated Peshawar, the 10th September, 2021.

091-9225073 M fooddepartmentkpk@gmail.com foodsecretary fooddepartmentkpk

OFFICE ORDER

NO.SOG/Food Deptt /B-1/2020/4/BS/1: Whorans, disciplinary proceedings under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) 2011, were initiated against Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17) Buner, on account of non-reporting of the undollarated government allocated wheat at the Provincial Reserve Contor, Buner, because of being in connivance with the carriage contractor in illicit sale of the said wheat, And, whorans, upon submission of the Inqui Report, the major penalty of "Removal from Service" was tentatively imposed upon the accused officer.

2. Now therefore, upon affording Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17), Buner, an opportunity of personal hearing, the tentatively imposed penalty of "Removal from Service" is hereby confirmed.


CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA

Endst: No. & date even.

Copy for information and necessary action to the:

1. Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director Food Khyber Pakhtunkhwa, Peshawar.
4. Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17), Buner.

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(MURAD AHMAD HOTI)
SECTION OFFICER (GENERAL)

To,

The Hon'ble Chief Secretary,
Khyber Pakhtunkhwa,
Peshawar.

7

Subject: DEPARTMENTAL APPEAL / REVIEW / REPRESENTATION AGAINST THE IMPUGNED ORDER DATED 08-09-2021, WHEREBY THE PENALTY OF "REMOVAL FROM SERVICE" WAS IMPOSED UPON THE APPELLANT.

Respectfully Sheweth:

Muhammad Ashfaq, Ex- District Food Controller (BS-17) Buner, the appellant, submits most respectfully, the following for your kind consideration and favor of acceptance.

On Facts:

1. That while serving as District Food Controller, posted at Buner, the appellant was telephonically directed by the Director Food Khyber Pakhtunkhwa Peshawar to nominate a Food Inspector for dispatches of PASSCO wheat from Punjab to be delivered at PRC Buner.

The appellant submitted his inability to nominate such official vide his reply letter No. 616/Allocation/DFC-BNR dated 28-11-2019 due to the non-availability of executive staff i.e FGI and FGS at his office at Buner.

2. The PASSCO wheat supply from Punjab to District Buner was carried out through a Government Carriage Contractor, known as Ms. Javid & Co. The contractor was directed by the Director Food Khyber Pakhtunkhwa vide letter dated 27-11-2019 to lift 4000 Metric tons of FAQ wheat from 6 dispatching centers of PASSCO from Punjab within stipulated period of 15 days.
3. The contractor Ms. Javid & Co. only supplied 380.088 M. Tons quantity of PASSCO wheat at Buner and was thus served with a letter dated 10-12-2019 by the appellant to dispatch and deliver the remaining wheat to PRC Buner within the stipulated time.
4. That the appellant served 06 reminders to Ms. Javid & Co. vide letter No. 633 dated 11-12-2019, 641 dated 13-12-2019, 646 dated 19-12-2019, 647 dated 24-12-2019 and 648 dated 26-12-2019 to expedite his delivery of PASSCO wheat, wherein the stipulated period expired on 11-12-2019. No head or attention was paid to all these letters by the transport company. Needless to mention that copies of all the letters were also dispatched to Directorate of Food.
5. Similarly, the appellant addressed 02 letter to Director Food Khyber Pakhtunkhwa No. 632 & 649 dated 11-12-2019 & 26-12-2019 respectively, wherein the authority was categorically informed that the Carriage

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Contractor for supply of PASSCO wheat from Punjab to PRC Buner has failed to deliver the wheat within the stipulated time of 15 days expiring on 11-12-2019.

6. Needless to mention that the Director Food Khyber Pakhtunkhwa also vide letter No. 3942 dated 04-12-2019 & No. 4082 dated 11-12-2019 had addressed Ms. Javid & Co. about their slow lifting and delivery of wheat and directing them to complete the supply within the stipulated period expiring on 11-12-2019.

These letters addressed to the company Ms. Javid & Co. carriage Contractor are testament to the fact that the Director Food KPK was duly informed by the appellant in capacity of DFC Buner well within time about the slow lifting and supply of the PASSCO wheat.

7. In spite of being intimated by the appellant, before time, about the reckless attitude of the carriage Contractor, the Director Food KPK vide office order dated 27-12-2019 appointed Mr. Muhammad Iqbal, Divisional Assistant Director Food Malakand to conduct inquiry in respect of wheat dispatches from Multan and Ali pur zones to Provisional Reserve Center Buner and to fix responsibility viz-a-viz.
8. The Inquiry Officer submitted the following recommendations in view of his findings dated 03-02-2020;

- a) The carriage contractor Ms. Javid & Co should be proceeded against as per provision of the contract agreement. The firm Ms. Javid & Co, directors and management of the company in any other firm or Company may not be considered for future tendering process.
- b) The District Food Controller Buner Mr. Ashfaq and Assistant Food Controller Mr. Azam Khan have shown negligence and inefficiency in performance of their duties, therefore, they may be proceeded against as per E&D Rules 2011.

(Muhammad Iqbal)
Inquiry Officer, Assistant
Director Food, Malakand
Division.

9. The appellant was suspended vide order dated 18-03-2020 and was served with charge sheet and statement of allegations, wherein the charges leveled against the appellant as under;

i. **Mr. Muhammad Ashfaq DFC Buner (Annex-II)**

- a. The Carriage Contractor with his connivance with-held government wheat for ulterior motive for 38 days.
- b. He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food,

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Malakand at Swat about non-delivery of government wheat.

- c. He issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.

An inquiry Committee consisting of Mr. Zubair Ahmad Director Food Khyber Pakhtunkhwa and Mr. Shareef Hussain, Additional Secretary Home Department was constituted to enquire the matter.

10. The inquiry committee submitted its report, wherein it was concluded that;

a. There was no delay of 38 days as mentioned in the allegation No. "a" against District Food Controller but more than 50% of the allocated wheat has not reached / delivered to PRC Buner. Hence Charge "a" against District Food Controller is proved.

b. District Food Controller did not inform Director Food Khyber Pakhtunkhwa and Assistant Director Food Malakand Division about the non delivery of government wheat to PRC Buner. The letter addressed to Director Food on 11/12/2019 which is attached to his statement has reached Directorate of Food on 31.12.2020 which seems to be issued in back date. Because inquiry in the issue was already initiated on 27-12-2020. Hence allegation No. b against District Food Controller is proved.

c. The notices issued by District Food Controller to the carriage contractor were endorsed to Director Food but astonishingly only two notices issued on different dates about slowly lifting of wheat has reached Directorate of Food at a very later stage on the same date as evident from the statement of diary dispatch section of Directorate of Food (Annex-X). So it corroborates that fact that these notices were issued in back date only to fulfill the formality.

11. As a result of the above finding a show cause notice dated 23-07-2020, which was replied by the appellant vide 08-08-2020. The appellant was served with letter dated 14-12-2020, wherein he was provided with an opportunity to be heard in person and directed to attend the officer Special Secretary Establishment on 15-12-2020.

12. The worthy Special Secretary remitted the case back to the inquiry committee with the observations that;

"The Assistant Director in question is the same person who was entrusted with the inquiry on 27-12-2019, and who reported "as per record, whole quantity of 4000 tons has been received at PRC, Buner and taken on stock register accordingly. No financial loss occurred

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to the exchequer". This aspect of the matter also needs a scrutiny by the Inquiry Committee."

The enquiry committee revisited their report and submitted vide letter No. PDMA/PStoDG/2020-21 dated 05-07-2021. It is worth mentioning that no charge stood proved against him even through second enquiry report.

13. The worthy authority in complete disregard to rules regulating the matter, instead of serving the appellant with fresh show cause notice in view of de-novo finding of the inquiry committee, passed the impugned "Removal from Service" order dated 08-09-2021.
14. That as discussed above the appellant not only brought the matter into the notice of Director Food Khyber Pakhtunkhwa well within time but the worthy DF KPK also acted upon the same while issuing separate letter to the carriage company.
15. That all the letters regarding the delay on the part of transport company were properly dispatched from the office of DFC Buner to DFC KPK and proper diary dispatch register was maintained in respect of the same, wherein the proof of such communication exist in actual. The allegation of connivance is completely refuted and rebutted in view of all the letters addressed to the carriage company and worthy Director Food KPK.

These communication letters were however completely ignored by the inquiry committee without any sound reasons. The allegation of connivance and failure to inform the DF KPK as mentioned in paras "a" and "b" of the charge sheet and statement of allegation and issuance of those letters in back dates, in para "c" were never proved through solid or cogent evidence and in-fact were fully refuted beyond the shadow of any reasonable doubt, but not taken into consideration without plausible explanation.

16. That ironically the Director Food Khyber Pakhtunkhwa who was in-fact a party to the whole proceedings was made one of the members of Inquiry Committee.

It is well established principle of law that, no one can be a Judge in his own cause. The appointment of DF KPK as member inquiry committee had sealed the fate of the appellant before the commencement of the inquiry proceedings, which is not only illegal and unlawful but is liable to be rescinded as such.

17. Apart from what has been discussed above the matter of loading of wheat from collection points, its dispatch to different districts and delivery does not fall within the competence of District Food Controller.

The DF KPK vide letters dated 29-11-2019 and 31-12-2019 addressed to GM field PASSCO Lahore had categorically mentioned that Mr. Ibrahim, Assistant Director Food (S), Food Directorate KPK No. 0333-5937759 and Niaz Ali, Assistant STO, Cell No. 0346-9711182 were responsible to report daily lifting position to the respective zones.

18. Both the officers responsible for monitoring the lifting, weight, quality of the dispatched wheat were neither charged nor proceeded against being the blue eye of the Directorate.

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Muhammad Ibrahim had recorded his statement dated 11-03-2000 before the Anti-corruption Department, wherein he has frankly conceded to all the omissions regard to lifting carriage and delivery of PASSCO wheat. This omission on the part of the Directorate is not only arbitrary but also discriminatory, wherein the appellant has been specifically targeted.

19. The impugned action of removal from service is thus a very harsh action against the appellant, which is not only arbitrary, discriminatory but also against the principles of equity, law, justice, propriety and fairness, calling for interference by the august authority.

In view of the above, it is humbly submitted that by accepting this departmental appeal, the appellant humbly requests the Hon'ble competent authority may kindly be pleased to set aside the major penalty of removal from service awarded vide impugned order dated 08-09-2021, while exonerating the appellant of the charges leveled against him and reinstating him in service with all the benefits due.

Dated. 04-10-2021



Muhammad Ashfaq,
Ex- District Food Controller, Buner.
Cell No. 0314-6893931



FOOD DIRECTORATE
KHYBER PAKHTUN KHWA,
PESHAWAR.
No. 8336 /AC-240-PSC
Dated 25 / 10 / 2013

ANNEXURE C

(12)

APPOINTMENT ORDER

Consequent upon the acceptance of appointment Offer bearing No. 8083/AC-240-PSC dated 04-10-2013, and in pursuance to the Government of Khyber Pakhtunkhwa, Establishment & Administration Department Circular letter bearing No. SOSR-III/D/12-1/2005 dated 27-02-2013, and on the recommendation of the Khyber Pakhtunkhwa Public Service Commission, the below mentioned recommendees are hereby appointed as District Food Controller/ Storage & Enforcement Officer / Rationing Controller (BS-16) against temporary posts in Food Department Khyber Pakhtunkhwa on the terms and conditions laid down in their appointment offer referred to above:-

S.No.	Name with Father, Name/ Permanent Home Address	From Appointed as /Posted as	To Attached with
1.	Ijaz Mahsood S/O Mir Zaman Khan Village Zardran, Tehsil Ladha, South Waziristan Agency.	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Lakki Marwat against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Lakki Marwat, he is attached with DFC Bannu for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
2.	Noor Hayat Khan S/O Umara Khan Post Office Umarzai Village Mehmoed Abad Batta Korona Charsadda	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Swabi against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Swabi, he is attached with DFC Nowshera for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
3.	Muhammad Shahab ud Din S/O Muharram Gul Village & Post Office Sardheri, Mohallah Shekhan, Dheri Korona, Tehsil & District Charsadda	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Dir Upper against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Dir Upper, he is attached with DFC Charsadda for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
4.	Muhammad Ashfaq S/O Muhammad Safdar Village Chamgy Tehsil Lal Qilla District Dir	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Malakand at Dargai against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Malakand at Dargai, he is attached with DFC Mardan for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
5.	Abu Bakr Mehmood S/O Syed Mehmood House No.2772, Post Office Shah Qabool, Dabgari Jogian Shah, Peshawar	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Turghar against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Turghar, he is attached with DFC Abbottabad for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
6.	Khan Zaman S/O Atlas Khan Village Loghari Rajab Khel Post Office Khajaki Tehsil Takhti Nasrati District Karak	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Hangu against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Hangu, he is attached with DFC Kohat for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
7.	Muhammad Asif DFC	DFC Hangu	DFC Kohistan against the vacant post.

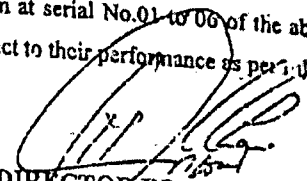
AC-240 Public Service Commission Appointment Order dated 11-10-2013.doc

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8.	Mr. Shehwar Tariq AFC	Presently working against the post of DFC Swabi in his own pay & scale	Posted as AFC Turghar
9.	Mr. Amanullah Mohmand AFC	Presently working against the post of DFC Darnai in his own pay & scale	Posted as AFC Dargai
10.	Mr. Sabz Ali FOI	Presently working as AFC Turghar in his own pay & scale	Posted as AFC Mardan in his own pay & scale.

The newly appointees DFCs/S&EOs/ RC (BS-16) given at serial No.01 to 06 of the above table shall be on probation for a period of one year which can be extended subject to their performance as per rules.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Endorsement No. & Date Even

Copy is forwarded to

- 1) PS to Advisor for Food to Chief Minister Khyber Pakhtunkhwa
- 2) PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa
- 3) The Accountant General of Pakistan Islamabad.
- 4) The Secretary Federal Public Service Commission Islamabad for information with reference to Certificate of Department Permission dated 19-06-2013. He is requested that Mr. Abu Bakar Mehmood Assistant (BS-14) of your Office has been appointed as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar (BS-16) in Food Department Khyber Pakhtunkhwa. You are therefore requested to kindly relieve the Officer concerned and directed to report for further duties in the new place of appointment. Also provide copies of service record along with original ACRs/ Assets etc complete in all respect for record of Food Directorate, Khyber Pakhtunkhwa.
- 5) The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 6) The Director Recruitment Khyber Pakhtunkhwa Public Service Commission Peshawar for information with reference to his letter No. KPK-PSC-SR-VI/0703 dated 18-07-2013. He is requested to kindly furnished photo copies of Merit List of the recommendee to proceed further in the matter.
- 7) All District Accounts Officers in Khyber Pakhtunkhwa.
- 8) The Section Officer Food Government of Khyber Pakhtunkhwa Food Department Peshawar for information with reference to his letter No.SOF/1-16/13/P-III/779 dated 23-07-2013.
- 9) All Assistant Director Food at Divisional level in Food Department Khyber Pakhtunkhwa.
- 10) All District Food Controllers in Khyber Pakhtunkhwa.
- 11) The S&EOs PRC Peshawar/ NRC Azakhel.
- 12) The Rationing Controller, Peshawar.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

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ANNEXURE D
GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Dated Peshawar the 18-03-2020 (14)

091-9225373

fooddepartmentkpk@gmail.com



@fooddepartmentkpk



@foodsecretariat

NOTIFICATION

NO.SOG/Food/18-1/2019/ 6711 :-In order to conduct an Inquiry into the embezzlement/ non delivery of wheat stock during dispatches from Multan and Aji Pur Zones to the Provincial Reserve Center, Buner and to fix responsibility, the Competent authority is pleased to place Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner (now at Food Directorate, Peshawar) under suspension for a period of 90 days under Rule-06 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 with immediate effect.

Sd/-

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Endst: No. and Date even.

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. The Commissioner Malakand, Division at Saidu Sharif, Swat.
3. The Deputy Commissioner, Buner
4. Director Food Khyber Pakhtunkhwa.
5. PSO to to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Minister Food, Khyber Pakhtunkhwa.
7. PS to Secretary Food, Khyber Pakhtunkhwa.
8. Assistant Director Food, Malakand Division at Saidu Sharif, Swat.
9. District Food Controller, Buner.
10. Officer concerned,
11. Personal file.

SECTION OFFICER (GENERAL)

18/3/20

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CHARGE SHEET

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner (now posted in Directorate of Food, Khyber Pakhtunkhwa) as follows:

2. That you, while posted as District Food Controller Buner committed the following irregularities:-
- The Carriage Contractor with your connivance withheld government wheat for ulterior motives for 38 days.
 - You did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
 - You issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.
3. By reason of the above, you appear to be guilty of inefficiency and misconduct under rule 3 (a) (b) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 4 of the ibid rules.
4. Your written defense, if any, should reach the Inquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A statement of allegations is enclosed.

Kazim Niaz
COMPETENT AUTHORITY

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DISCIPLINARY ACTION

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner (now posted in Directorate of Food, Khyber Pakhtunkhwa) rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011:-

STATEMENT OF ALLEGATIONS

- a. The Carriage Contractor with his connivance with-held government wheat for ulterior motives for 38 days.
 - b. He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
 - c. He issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.
2. For the purpose of inquiry against the said accused, with reference to the above allegations, an Inquiry Officer/Committee, consisting of the following, is constituted under rule 10(1)(a) of the ibid rules.

- 1) Mr. Sharief Hussain (PMS-19)
- 2) Mr. Zubair Ahmad Director Food (PMS-19)

3. The Inquiry Officer/Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well-conversant representative of the Department shall join the proceedings on the date, time and place fixed by the Inquiry Officer/Committee.

Kazim Niaz
COMPETENT AUTHORITY

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(12)

ENQUIRY REPORT

Subject: JOINT DISCIPLINARY PROCEEDINGS AGAINST M/S MUHAMMAD ASHFAQ, EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM, ASSISTANT FOOD CONTROLLER, BUNER.

We both the undersigned were appointed as enquiry committee under rule 10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 vide Food Department letter No.SOG/F.D/8-1/2016/6714 dated 19-03-2020 to probe into the charges against Mr. Muhammad Ashfaq Ex-District Food Controller Buner and Mr. Muhammad Azam Ex-Assistant Food Controller Buner and submit inquiry report accordingly (Annex-I).

2. The following charges were leveled against the two officer/officials:-

i. **Mr. Muhammad Ashfaq DFC Buner (Annex-II)**

- a. The Carriage Contractor with his connivance with-held government wheat for ulterior motives for 38 days.
- b. He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
- c. He issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.

ii. **Mr. Muhammad Azam AFC Buner (Annex-III)**

"He did not report non-delivery of allocated government wheat at PRC Buner because of being in connivance with carriage contractor in with-holding the government wheat for ulterior motives."

3. In pursuance of the Food Department order both the alleged were asked to submit a written statement in their defense. Both of them submitted their statement which is available at (Annex-IV & V). On perusal of their statement, preliminary enquiry and other relevant documents, two questionnaires were prepared. They were called for personal hearing to office of the undersigned on 18-05-2020 and were asked to respond to each question honestly. The questionnaires alongwith their responses are available at (Annex VI & VII). In order to get further clarity on the issue, Mr. Muhammad Iqbal Assistant Director Food, Malakand Division (now retired) was also called for interview who did not give a written statement but stated that the preliminary enquiry report submitted by him may be considered as his statement (Annex-VIII). Furthermore, the enquiry report submitted by Commissioner Malakand and a joint report submitted by Director Food, Additional Deputy Commissioner Buner, Deputy Secretary Finance Department etc at (Annex - IX & X) was also perused.

[Handwritten signature]

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4. From perusal of their statements, responses to their questionnaires and other relevant record we found that:-

- i. After perusal of the enquiry report of Commissioner Malakand (Annex-IX) and report of Director Food (Annex-X) it came to the fore that out of 4000 Matric Ton wheat allocated to Buner, only 1891.253 Matric Ton has been delivered to PRC Buner and the remaining 2108.747 Matric Ton has not been delivered. So there was not delay of 38 days in transportation of wheat but more than 50% of allocated wheat for District Buner has not at all reached/delivered to PRC Buner.
- ii. Although various letters of District Food Controller Buner addressed to the contractor and endorsed to Director Food Khyber Pakhtunkhwa and Assistant Director Food Malakand Division are attached to the statement of Mr. Muhammad Ashfaq District Food Controller (Annex-II) but its non receipt both in the offices of Director Food and Assistant Director Food in this era of modern communication is beyond understanding. When checked from the diary / dispatch section of the Directorate of Food, only three of the letters have reached the Directorate on 31-12-2019 (Annex-XI) quite later than the initiation of enquiry against them (which was initiated on 27-12-2019). It clearly shows that those letters were issued just to fulfill the formality and actually both the offices were not informed of the happening timely.
- iii. The Assistant Food Controller in his statement (Annex-III) has tried to prove that he has reported to District Food Controller the non-delivery of allocated quantity of wheat to PRC Buner and has attached few letters to his statement. But those are not proper letters, with no official letter head, Diary Dispatch No. and are just information reports on plain paper. When Assistant Food Controller was asked about the fact that why the reports were sent on plain paper instead of official letter pad, he responded that official letter pad is used under the signature and seal of District Food Controller. Therefore he submitted reports to District Food Controller on plain paper.
- iv. It seems that no proper reporting happened but to fulfill the formality and in order to substantiate their statement before the enquiry committee, these reports/letters were attached.
- v. The Assistant Food Controller at a very belated stage i.e. on 24-02-2020 reported the non delivery of 2108.747 Matric Ton of wheat to PRC Buner and the District Food Controller forwarded that report to Director Food but by then much water has flown under the bridge and it was at time when the Commissioner Malakand has submitted his enquiry report, wherein it was established that the total allocated wheat has not been delivered to PRC Buner. For understanding of the whole episode below is chronology of events.

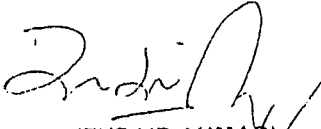
S#	Action/letter/Notification	Date
1	Allocation of wheat quota for districts by Director Food	27-11-2019
2	The stipulated 15 days period of transportation expired	11-12-2020
3	Director Food assigned enquiry in the issue to Assistant Director Food Malakand Division	27-12-2019
4	Assistant Director Food Malakand Division submitted his report	03-02-2020
5	Commissioner Malakand submitted enquiry report	04-02-2020
6	District Food Controller was transferred from Euner	07-02-2020
7	Assistant Food Controller was transferred from Buner	14-02-2020
8	DFC and AFC reported non-delivery of 2108.747 Matric Ton of wheat to PRC Buner	24-02-2020


- (19)
- vi. The above chronology shows that the non-delivery of wheat was reported at a very belated stage when it was a broad day fact and both the District Food Controller and Assistant Food Controller were posted out of District Buner.
- vii. One commendable performance on the part of District Food Controller / Assistant Food Controller and officers of Food Department is the recovery of cost of major chunk of non-delivered wheat from the contractor. As their statements and report of Director Food revealed that out of the total 2108.747 Metric ton non-delivered wheat, the release price of 1866.747 Metric Ton wheat (an amount of Rs. 66,960,215) has been recovered and deposited in the government treasury. For the remaining 242 Metric Tons wheat which amounts to Rs. 8,680,650/- security and some unpaid bills of the contractor is lying with department which can be forfeited to make up the loss to the government exchequer.

CONCLUSION:

- a. There was no delay of 38 days as mentioned in the allegation No. "a" against the District Food Controller but more than 50% of the allocated wheat has not reached/delivered to PRC Buner. Hence charge "a" against District Food Controller is proved.
- b. District Food Controller did not inform Director Food Khyber Pakhtunkhwa and Assistant Director Food Malakand Division about the non-delivery of government wheat to PRC Buner. The letter addressed to Director Food on 11-12-2019, which is attached to his statement, has reached Directorate of Food on 31-12-2020 which seems to be issued in back date. Because enquiry in the issue was already initiated on 27-12-2020. Hence allegation No. "b" against District Food Controller is proved.
- c. The notices issued by District Food Controller to the carriage contractor were endorsed to Director Food but astonishingly only two notices issued on different dates about slow lifting of wheat has reached Directorate of Food at a very later stage on the same date as evident from the statement of diary dispatch section of Directorate of Food (Annex-XI). So it corroborates the fact that these notices were issued in back date only to fulfill the formality.
- d. It can safely be construed that the wheat i.e. 2108.747 Metric Ton has not been withheld by the contractor for 38 days rather it has never been delivered to PRC Buner which speaks louder about the negligence on the part of Mr. Azam Khan Ex-Assistant Food Controller Buner.

The enquiry consists of 03 pages and 11 Annexure.


(ZUBAIR AHMAD)
DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
MEMBER ENQUIRY COMMITTEE

TRUE COPY

(SHARIF HUSSAIN)
ADDITIONAL SECRETARY
HOME DEPARTMENT,
MEMBER ENQUIRY COMMITTEE

ANNEXURE



GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

20

NO.SOG/Food/8-1/2019/7197
Dated Peshawar the 23-07-2020

091-9225373 M fooddepartmentkpk@gmail.com @fooddepartmentkp @foodsecretariat

TO

Mr. Muhammad Ashfaq,
Ex-District Food Controller, Buner.

Subject:- SHOW CAUSE NOTICE.

I am directed to refer to the subject noted above and to state that the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) has served upon you Show-Cause Notice tentatively imposing a major penalty of 'Removal from Service'.

02. You are therefore directed to submit your reply within stipulated time from the date of issuance of this letter. Also intimate whether you want be heard in person or otherwise.

(Show Cause Notice duly signed by the Chief Secretary, Khyber Pakhtunkhwa and copy of the inquiry report are enclosed herewith).

Encl: As above.

(TAUSEEF ULLAH)
SECTION OFFICER (GENERAL)

Copy for information to the:-

1. Director Food, Khyber Pakhtunkhwa.
2. PS to Secretary Food, Khyber Pakhtunkhwa, Peshawar.

(TAUSEEF ULLAH)
SECTION OFFICER (GENERAL)

TRUE COPY

SHOW CAUSE NOTICE

21

I, Dr. Kazim Niaz, Chief Secretary, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Disciplinary) Rules, 2011, do hereby serve you, Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner, as follows:

- i. that consequent upon the completion of inquiry conducted against you by the inquiry committee, and
- ii. after going through the findings and recommendations of the inquiry committee, the material on record and other connected papers, I am satisfied that you have committed the following acts/ omissions specified in rule 3 of the said rules:
 - a. inefficiency;
 - b. guilty of misconduct.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the following penalty under rule 4 of said rules:

Removal from Service.

3. You are, therefore, required through this Show Cause Notice to explain as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer is enclosed

Kazim Niaz
COMPETENT AUTHORITY

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ANNEXURE E2

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Chief Secretary
Government of Khyber Pakhtunkhwa
KPK Secretariat
Peshawar

8th August 2020

Show Cause Notice No. SOG/Food/8-1/2019/7192, Dated Peshawar the 23.07.2020

RE: SHOW CAUSE NOTICE

Dear Sir,

I have been served with Show Cause Notice No. SOG/Food/8-1/2019/7192, Dated Peshawar the 23.07.2020 (Hereinafter referred to as "Show Cause Notice") wherein I have been tentatively recommended for major penalty by removal from service. It is averred that the instant Show Cause Notice is bad in law and facts and based on mala fide, ulterior motives, colorful exercise of power, favoritism and to make the undersigned a scape goat so as to protect the actual culprits who were responsible for the instant case.

The real facts and the background of the instant case is set out as under:

27.11.2019

On 27.11.2019 KPK Food Directorate circulated a notification whereby PASSCO wheat was allocated to the different stations of KPK and District Buner was allocated 4000 MT of PASSCO wheat which was to be lifted within 15 days from various districts of Punjab to FRC Buner through Government Approved Wheat Carriage Contractor (Hereinafter referred to as "Contractor"). It is averred that it has been specifically mentioned in the notification that the Statistical Officer of Food Department will keep close watch on the daily lifting and its receipt on the destination center. Statistical Officer was to monitor/responsible for the process of transportation of the wheat from PASSCO Punjab to FRC Buner. It is pertinent to mentioned here that Muhammad Ibrahim, Assistant Director Food, who was Statistical Officer at that time, failed to perform his obligations however he has not been charged in the instant case with mala fide intention and ulterior motives, favoritism and in result of colorful exercise of power.

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28.11.2019

On 28.11.2019 the undersigned wrote a letter to Director Food and asked him to nominate the Food Inspector for the dispatches of PASSCO wheat from Punjab to PRC Buner as the undersigned communicated him that there is no executive staff i.e. FGI & FGS available at his office and the same was reminded to the Director time and again via telephonic mode. It is averred the Director Food failed to nominate Food Inspector for the said purpose and did not even bother to reply the letter of the undersigned. This grave negligence on the part of Director Food has been protected and the undersigned has been made scape goat for no fault on his part.

11.12.2019

On 11.12.19 the undersigned wrote a letter to Director Food and informed him about the expiry of stipulated time i.e. 15 days within which the Contractor had to transport the wheat from PASSCO Punjab to PRC Buner. It is pertinent to mentioned here that the undersigned specifically communicated to the Director Food that even after the expiry of stipulated period the only 452.226 M.T. of wheat have been received at the PRC Buner and taken on FG3 register. The same was communicated to the Director via telephonic conversation where after, the Director wrote a letter dated: 11.12.2019 to the Contractor and directed him to immediate lift the allocated wheat and further transportation to the destination station within time.

It is averred that the Director was communicated well in time about the slow transportation and of wheat by the Contractor time and again and finally through the letter dated: 11.12.2019 that still the allocated wheat has not yet been delivered. It is pertinent to mention here that during all this period the Statistics Officer, Food remained silent spectator to the whole operation and failed to perform his duties whereby he conveys the Contractor in his illegal design.

11.12.2019

After several telephonic and personal communication on various occasions with the Contractor when the undersigned did not receive any positive response and progress despite Contractor's assurance and undertakings the immediately wrote a letter dated: 11.12.2019 about the expiration of stipulated time period and his failure to transport the wheat as per the requirement and assignment and he was further conveyed that in case of further delay he has to face the consequences however he very cleverly delayed the matter and thereafter replied the letter but at a very belated stage.

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13.12.2019, 16.12.2019 & 19.12.2019

On 13.12.2019, 16.12.2019 & 19.12.2019 the undersigned wrote several reminders to the Contractor however he remained silent and responded the same at a very belated stage. It is averred that the Directorate was apprised with situation constantly.

26.12.2019

On 26.12.2019 the undersigned wrote a letter to the Contractor and apprised him about the lifting of wheat at various occasions i.e. 22, 23 & 24.12.2019 from PASSCO Multan and Ali Pur Zone and their non-delivery at PRC Buner and he was further directed that in case of his failure to transport/ deliver the wheat as per the requirement and assignment he has to face the consequences and he shall solely be responsible for the delay.

26.12.2019

On 26.12.2019 the undersigned wrote a letter to the Director Food regarding the lifting of 621.225 MT wheat from Multan Zone and 787.000 M.Ts of wheat from Ali Pur Zone and their non-delivery/ receiving at PRC Buner till date. The Director was further asked to take necessary legal actions as required. It is averred that the same communication/ letter of the undersigned is established /proved on record. It is further averred that the undersigned apprised the Director Food in time, of each and every event occurred during the Wheat Transportation Operation and has never delayed/neglected his responsibilities.

27.12.2019

Upon the letter no 649/Wheat Allocation /DFS-DFS/BNR dated 26.12.2019 the Director Food issued office order No 4359/FG-433/PASSCO dated 27.12.2019 (hereinafter referred to as "Office Order" whereby, Mr. Muhammad Iqbal Divisional Assistant Director Food, Malakand was appointed as an Inquiry Officer so as to conduct inquiry regarding wheat dispatches from Multan & Ali Pur zone to PRC Buner and he was further tasked to fix responsibility of person responsible. In the said office order the Division assistant Director food was further directed to have a look at wheat dispatches from PASSCO to his division being the monitoring officer.

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It is pertinent to mention here that Divisional Assistant Director Food, Malakand was being scolded for his not sending the report regarding any discrepancy of dispatches of wheat from PASSCO, to the concerned directorate. It is averred that from the office order it is cleared and it manifests that the director food had apparently made Divisional Assistant Director Food, Malakand liable for his failure to perform his duty even then he was nominated as Inquiry Officer which means that he was made "judge in his own cause" which is against the law and principal of natural justice. Further from the bear reading of the office order it is cleared that the undersigned had performed his duties with almost diligence and sincerity and honesty which shows his conduct and intentions that he had never conveyed or became part to the illegal design of the Contractor and others in the wheat operation.

02.01.2020

On 02.01.2020 one Muhammad Zahid, AS, DEO filed an Application before the DDAC Committee regarding the non-transportation/arrival of the wheat at PRC Buner and nominated Muhammad Azam, AFC Buner and Muhammad Tariq, Head Clerk and asked for investigation of the matter. It is pertinent to mention here that the undersigned was not nominated in the application.

08.01.2020

On Application dated: 02.01.2020 the Commissioner (REV/GEN) Malakand Division formed a Facts Finding Inquiry Committee and nominated Deputy Commissioner Buner and Additional Deputy Commissioner Swat so as investigate and conduct a facts finding inquiry regarding the matter intended in the application dated: 02.01.2020. It is pertinent to mention here that the undersigned was not heard in by Committee nor his statement was recorded by the same as he had not been nominated in the Application and the undersigned was not provided an opportunity of being heard which is against the Constitution and the law laid down by the Superior Judiciary. It is averred that the Inquiry Committee on 05.03.2020 sent their findings to the Commissioner (REV/GEN) Malakand Division and recommend for an investigation of the matter through Anti-Corruption Agency where after the Agency started the investigation.

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03.02.2020

On 03.02.2020 Mr. Muhammad Iqbal Divisional Assistant Director Food, Malakand who was appointed inquiry officer so as to conduct inquiry regarding wheat dispatches from Multan & Ali Pur zone to PRC Buner and he was further tasked to fix responsibility, and to submit his report before the Director Food. It is averred that the Inquiry Officer with consent of Secretary Food assume the role of a recovery officer and take every step and also compel the undersigned to do whatsoever so as ensure the recovery of amount from the Contractor.

It is pertinent to mention here that the Inquiry Officer in his report stated that there has no financial loss occurred to nation exchequer and recommended to take legal action against the Contractor and further recommended to take action against the Muhammad Azam, AFC and the undersigned under E&D Rules, 2011. It is averred that the Inquiry Officer who responsible of the monitoring of whole operation of wheat transportation was made judge in his own cause so he did everything so as to protect himself. It further worth mentioning that the Inquiry Officer did not investigate/inquire Muhammad Ibrahim, Assistant Director Food, who was Statistical Officer at that time, and remained silent spectator to the whole operation and failed to perform his duties whereby he convenes the Contractor in his illegal design however, he has not been recommended for legal action against him with malafide intention and ulterior motives, favoritism and in result of colorful exercise of power. Further Muhammad Tariq, Head Clerk is also given clean chit so as to protect all the accomplices involved in the whole scam and very cleverly out of malice undersigned was made scape goat.

06.03.2020

On 06.03.2020 the Assistant Director (Complaints), Anti-Corruption Establishment authorised the enquiry against the undersigned and Muhammad Azam, AFC Buner on the allegation of corruption and embezzlement in PRC Buner and misuse of official power. Where after on 18.03.2020 FIR No. 01/2020 under section 408, 419, 420 468, 471, 477A, 109 PPC & 5(2) PCA and on the same day the undersigned was arrested. The undersigned was released on bail on 04.04.2020. The trial of the said case is pending adjudication before the Anti-Corruption Court, Peshawar.


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It is pertinent to mention here that the trial has not yet been concluded and the court has yet to decide the authenticity/genuineness of the allegation levelled against the undersigned however some black ships in the Department with the connivance of the actual culprits are adamant to dismiss the undersigned and make him scape goat and to make him suffer for their wrong doings and are not ready to even wait for the decision of the trial pending before the Court of Law.

It is averred that the undersigned is charged on the same grounds in the Anti-Corruption Establishment as well as by the Inquiry authorised by the Food Department on 19.03.2020 whereas, it is the basic principal of natural justice that no person should be vexed twice for the same cause however the undersigned is going through punishment from two parallel forces.

19.03.2020

Food Department via letter No. SOG/FD/8-1/2016/6714 Dated: 19.03.2020 authorised Joint Disciplinary Proceeding against the undersigned and Muhammad Azam, AFC Buner and to submit the inquiry report accordingly. The undersigned was charged with the following charges:

- a. The Carriage Contractor with his connivance with-held government wheat for ulterior motives for 38 days.
- b. He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
- c. He issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.

It is averred that in view of the facts and merits of the case as is mentioned above it is crystal clear that the captioned charges are false, frivolous, vexatious, bad in law and facts. The very formation/authorization of Enquiry Committee under the Rule 10 (1)(a) of Khyber Pakhtunkhwa Governments Servants (E & D) Rules 2011 (Hereinafter referred to as "Committee")

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for taking disciplinary proceeding against the undersigned is against the law, rules and the law laid down by the Superior Courts of Pakistan and further the whole process carried out by the Committee was against the law, rules and the directions set out by the Superior Court of Pakistan in this regard and further the whole process was based on malafide, ulterior motives, colorful exercise of power and favoritism ignoring all the relevant and substantial material/record/evidence provided by the undersigned.

It is pertinent to mentioned here that the finding and recommendations of the Committee is not based on any reason, cogent documentary or other evidence as the same is based on presumptions, surmises, conjectures and is also based on malafide, ulterior motives and against the law, rules and the directions set out by the Superior Court of Pakistan.

WHEREFORE in the premise it is requested to immediately withdraw the instant Show Cause Notice which has been issued on the basis of biased, illegal and void ab initio inquiry and to immediately initiate action against the actual culprits.

Best regards,


Muhammad Ashfaq
Ex-District Food Controller, Baner


TRUE COPY

MOST IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

ANNEXURE E3

29

No. SOR-III (E&AD)/9-263/2020
Dated Peshawar the December 14th, 2020

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Food Department.

Subject: - DISCIPLINARY PROCEEDINGS AGAINST M/S MUHAMMAD ASHFAQ,
EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM,
ASSISTANT FOOD CONTROLLER, BUNER.

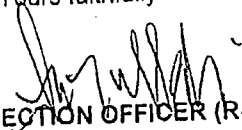
Dear Sir,

I am directed to refer to the subject noted above and to inform that the Chief Secretary, Khyber Pakhtunkhwa has empowered Special Secretary, Establishment Department to give personal hearing to the following accused, on his behalf. The Special Secretary Establishment has fixed 15.12.2020 at 11.00 AM for personal hearing in her office:-

- i. Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner.
- ii. Mr. Muhammad Azam, Ex-Assistant Food Controller, Buner.

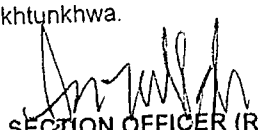
2. I am, therefore, directed to request that the accused officer may be informed to attend the office of Special Secretary Establishment on the date, time & venue mentioned above and also nominate an officer of your department well versant to the case to attend the personal hearing with complete record.

Yours faithfully


SECTION OFFICER (R-III)
Phone No. 9211793

Copy for information:-

1. Director Food Department, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.


SECTION OFFICER (R-III)

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ANNEXURE F
PROVINCIAL DISASTER MANAGEMENT AUTHORITY,
KHYBER PAKHTUNKHWA

No. PDMA/PstoDG/Misc 2020-21

dated 08.04.2021

To

1. Mr. Muhammad Ashfaq, Ex-District Food Controller Buner.
- ✓ 2. Mr. Muhammad Azam, Ex-Assistant Food Controller, Buner.
3. Mr. Muhammad Shakeel, Deputy Director Food, Food Directorate Peshawar.
4. Mr. Abdul Jalil Deputy Director Food, Food Directorate Peshawar.
5. Mr. Muhammad Iqbal Ex-Assistant Director Food Malakand Division.

Subject:-

**DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD ASHFAQ
EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM,
ASSISTANT FOOD CONTROLLER, BUNER.**

Memo:

Reference letter No. PDMA/PstoDG/Misc 2020-21 dated 01.04.2021 on the subject cited above.

Enclosed find herewith observations of competent authority on the inquiry report conducted by the undersigned on the above subject. You are directed to submit your reply to the observations to proceed further in the matter.

(SHARIF HUSSAIN)
DIRECTOR GENERAL / INQUIRY OFFICER

Endt No. & Date Even.

A copy is forwarded to:-

1. PSO to Chief Secretary Khyber Pakhtunkhwa.
2. PS to Special Secretary (Estt), Establishment Department Khyber Pakhtunkhwa.
3. PS to Secretary Food Khyber Pakhtunkhwa.

SHARIF HUSSAIN
DIRECTOR GENERAL / INQUIRY OFFICER

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The Inquiry Committee has concluded that the letter addressed to Director Food on 11.12.2019 reached Directorate on 31.12.2019 which seems to be issued in back date. However, while the findings state that no letter was received by the Directorate prior to 31.12.2019, the inquiry order dated 27.12.2019 indicates that it was instituted in response to a letter of the DFC dated 21-12-2019.

The report focuses on non-delivery of the wheat at Buner, but the correlative issue of lifting of wheat has been ignored. Was there any mechanism for monitoring the lifting of wheat, and if so, who was responsible? Further, record needs to be checked to confirm or deny the allegations of the accused officers that the contractor sold the wheat in Rawalpindi. That can be done through checking of record of lifting of wheat from PASSCO.

On referring reporting by the AFC to DFC on plain paper, the AFC explained that there was no practice of communicating formally using letter heads with Diary/Dispatch number and plain papers were used for passing information within the office. The Inquiry Committee did not dispute the reports but questioned the reports being on plain paper. Besides, the DFC, during personal hearing and in his response to question No. 6 of the questionnaire, acknowledged having been informed by the AFC.

The statement of the AF in his written defence, which he reiterated during personal hearing, that "as per the advice of the Food Directorate conveyed through the then Assistant Director Food, Malakand Division, a temporary arrangement was devised to misguide the carriage contractor in order to recover the amount/sale price of non-delivered wheat" needs to be commented upon by the inquiry committee.

Assistant Director in question is the same person who was entrusted with the inquiry on 27-12-2019, and who reported "as per record, whole quantity of 4000 tons has been received at PRC, Buner and taken on stock register accordingly. No financial loss occurred to the exchequer". This aspect of the matter also needs a scrutiny by the Inquiry Committee.


TRUE COPY



AMINIA ADI...
Provincial Disaster Management Authority
Khyber Pakhtunkhwa (Headquarter)
Plot 46 A, Sector B-2, Hayatabad Phase-5, Peshawar.
Phone: (091) 9211854, 9213959 Fax: (091) 9214025
www.pdma.gov.pk



32

Dated: 05.07.2021

No. PDMA/PStoDG/2020-21

To

The Secretary to Government of Khyber Pakhtunkhwa,
Food Department.

Subject:

DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD ASHFAQ,
EX-DISTRICT FOOD CONTROLLER BUNER AND MUHAMMAD AZAM
ASSISTANT FOOD CONTROLLER BUNER

Dear Sir,

Please refer to your letter No. SOG/Food Deptt:/8-1/2020/8846 Dated 17th March, 2021 on the subject noted above and to enclose herewith an addendum with reference to the observations raised by the Competent Authority on the enquiry report already submitted by the Enquiry Committee, is submitted for perusal and further necessary action, please.

Sharif Hussain
DG PDMA
Member Enquiry

TRUE COPY

ADDENDUM TO THE ENQUIRY ALREADY CONDUCTED

In response to the observations raised by Establishment Department vide Annex-I, the accused officer/officials were directed to appear before the committee along with all relevant record. In addition, Officers of Directorate of Food i-e Mr. Abdul Jalil, the then Deputy Director (Food & Inspection), now serving as Deputy Director (Admn and Coordination), Mr. Muhammad Shakeel, Deputy Director (Food & Inspection), the then Deputy Director (Admn & Coordination) and Mr. Muhammad Iqbal, the then Divisional Assistant Director Food, Malakand Division (now retired from service) were also called and their statements were recorded regarding observations raised by the competent authority.

2. Based on the statement, response to the questionnaires (Annexure II, III, IV, V and VI) and perusal of record, the following addendum is submitted for perusal of the competent authority.

SR. #	OBSERVATIONS	STATEMENTS	Commentary By Enquiry Committee
i.	The enquiry committee has concluded that the letter addressed to Director Food on 11-12-2019 reached Directorate on 31-12-2019 which seems to be issued in back date. However, while the finding state that no letter was received by the Directorate prior to 31-12-2019, the inquiry ordered dated <u>27-12-2019</u> indicates that it was instituted in response to a letter of the DFC dated <u>26-12-2019</u> .	As per statement of Mr. Muhammad Ishfaq, the then District Food Controller (DFC) Buner, Mr. Muhammad Azam Khan, the then Assistant Food Controller (AFC) Buner and concerned officers of Directorate of Food affirmed that the letter dated 26-12-2019 issued by District Food Controller Buner has been brought and delivered by hand in Directorate of Food.	It is proved that the previous letters issued before 26-12-2019 were received at Directorate of Food on 31-12-2019 while letter dated 26-12-2019 has been delivered by the concerned District Food Controller (DFC) in Directorate of Food by hand upon which an enquiry was entrusted to Ex-Divisional Assistant Director Food Malakand. Furthermore, the enquiry report mentions about only three letters which were issued earlier and received in the Directorate on 31.12.2019. These letters are clearly mentioned in Annexure-XI of the enquiry report already submitted.
ii.	The report focuses on non-delivery of the wheat at Buner, but the correlative issues of lifting of wheat has been ignored. Was there any mechanism for monitoring the lifting of wheat, and if so, who was responsible? Further, record needs to	As per statement of Mr. Muhammad Ishfaq, the then District Food Controller Buner that Directorate of Food was responsible for monitoring of wheat while Mr. Muhammad Iqbal, Ex. Divisional Assistant Director Food Malakand has informed	As per allocation order no. 3835/FG/433/PASSCO, dated 27-11-2019, clear responsibilities were assigned to consigner (DFC) and Divisional Assistant Director Food Malakand. Moreover, a per contract agreement the carriage contracto

[Handwritten signature]

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or deny the allegation of accused officers that the contractor sold the wheat in Rawalpindi. That can be done through checking of record of lifting of wheat from Pakistan Agricultural Storage and Services Corporation (PASSCO).

monitoring of wheat from Pakistan Agricultural Storage and Services Corporation (PASSCO) to destination has been assigned to him but practically it was not possible for him to monitor each and every truck right from dispatching center to the receiving centers. As he was unable to monitor truck movements carrying wheat in eight districts of Malakand Division. Beside this, the Officers of Directorate of Food explained the monitoring mechanism was clearly indicated in allocation order no. 3835/FG/433/PASSCO, dated 27-11-2019 wherein CONSIGNEE (District Food Controller Buner) and Divisional AD Malakand were responsible for monitoring of wheat movement from PASSCO. On the other hand, Mr. Muhammad Iqbal, Ex. Divisional Assistant Director Food Malakand has categorically stated that the carriage contractor was wholly solly responsible to deliver entire allocation to the destination with Fair Average Quality (FAQ) and accurate weight of PASSCO wheat.

of wheat from Pakistan Agricultural Storage and Services Corporation (PASSCO) and its safe transportation to the destination point i.e. Provincial Reserve Centre (PRC) Buner. It is also revealed from statements of concerned that the whole allocated quantity of wheat has been lifted from Pakistan Agricultural Storage and Services Corporation (PASSCO) for Provincial Reserve Centre (PRC) Buner and a quantity of 2108.747 MT has been sold out on way to PRC Buner.

It is pertinent to mention here that both Deputy Directors of food directorate i-e Food & Inspection (F&I) and Admn & Coordination (A&C) are silent about the lifting and monitoring of wheat from PASSCO. With regard to the query regarding lifting of wheat from Pakistan Agricultural Storage and Service Corporation (PASSCO) the then District Food Controller (DFC) an Assistant Food Controller (AFC) have stated that the allocated quantity was lifted from PASSCO by the concerned contractor. Moreover, the report Anti-Corruption Establishment submitted to Food Department affirms that the allocated quantity of wheat has been lifted from PASSCO (Annex-VII).

As per statement of Mr. Muhammad Azam, the then AFC Buner, the said carriage contractor verbally stated that the quantity of 681.749 Metric Ton of Bahawalnagar Zone (PASSCO) was sold out by him at Rawalpindi (verbal statement on 12 or 13

It is inferred from above discussion, that consignee and concerned AD are responsible for monitoring of wheat

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		immediately brought into the notice of DFC Buner about embezzlement of said quantity of wheat. The concerned DFC and AFC affirmed that all the allocated wheat has been lifted from PASSCO.	allocation order. Furthermore, the contractor is also responsible for safe transportation of wheat as per allocation order (Annex-VIII) and agreement (Annex-IX).
iii.	As for reporting by AFC to DFC on plain paper, the AFC explained that there was no practice of communication formally using letter heads with diary dispatch numbers and plain papers were used for passing information within the office. The enquiry committee did not dispute the reports but questioned the reports being on plain papers. Besides, the DFC, during personal hearing and in his response to question no.6 of the questionnaire, acknowledged having being informed by AFC	As per statements of field officers, there was no practice of maintaining diary/dispatch registers internally within the same offices for official correspondence.	The enquiry committee has found the contents of report, submitted by AFC to DFC, correct, therefore has not disputed it. The fact that why he submitted the report on plain paper, is explained by the AFC.
iv.	The statement of AFC in his written defense which he reiterated during personal hearing, that "as per advice of food directorate conveyed through the then Assistant Director Food Malakand Division a temporary arrangement was devised to misguide the carriage contractor in order to recover the amount/sale price on non-deliver wheat". Needs to be commented upon the enquiry committee.	As per statements of Deputy Directors (Admn & Coordination) and (Food & Inspection), they were unaware about any such temporary arrangements devised to misguide the carriage contractor in order to recover the amount/sale price of non-delivered wheat. On the other hand, Ex-Divisional Assistant Director Malakand, the then DFC Buner and the then AFC Buner stated affirmly that a mechanism has been devised to recover the amount of embezzled wheat from contractor. Such mechanism was devised to save huge losses to Govt. exchequer while the amount recovered	Both the Deputy Directors have stated that they were not aware of any temporary arrangements/mechanism devised to mislead the carriage contractor for recovery of amount of embezzled wheat. However, the Ex-AD Food Malakand Division, the then DFC Buner and the then AFC Buner have affirmed in their statement that a temporary arrangement/mechanism was devised to mislead the carriage contractor. The accused officers as well as the Ex-Divisional AD were of the view that the aim was to recover the amount of embezzled wheat first and to take action against carriage contractor later

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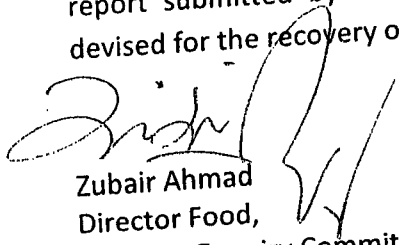
		<p>government treasury. The then AFC also narrated that the mechanism was devised to maintain a parallel record at district level to recover the amount of embezzled wheat and AD Food Malakand Division has conveyed the directions for the temporary arrangements and mechanism. The Ex-AD Food Malakand Division in his response pointed out that our priority was first to recover the amount of embezzled wheat and then to take action against the delinquent carriage contractor. Moreover, he also submitted that there are certain examples available on record that the contractors have sold out thousands of wheat bags and a single penny couldn't be recovered from the defaulters. This was for the first time in the history of Food Department in KP that such a huge amount of stolen wheat has been recovered and deposited in the govt. treasury. In his reply he also stated that a parallel record was maintained to mislead the carriage contractor or recovery of amount of embezzled wheat.</p>	<p>parallel record was maintained at district level to misguide the carriage contractor.</p> <p><u>It is pertinent to mention here that the mechanism/temporary arrangements have been chalked out for recovery of amount of embezzled wheat but procedural lapses were there i-e lodging of FIR and other actions against carriage contractor.</u></p>
<p>v.</p>	<p>The Assistant Director is the same person who was entrusted with the enquiry on 27-12-2019, and who reported "as per record whole quantity of 4000 MT has been received at PRC Buner and taken on stock register accordingly. No financial loss occurred to the exchequer" this aspect of matter also needs a</p>	<p>As per statement of Mr. Muhammad Iqbal, EX Divisional Assistant Director Malakand region, that the said enquiry report was also a part of the mechanism devised to mislead the carriage contractor for recovery of amount of sold out wheat. The then DFC Buner has also stated the same version.</p>	<p>As per record and statements of all concerned including dealing hands of Food Directorate, no mechanism/temporary arrangements were devised in black and white and if such a mechanism was made up, it was against the provisions of contract agreement with the carriage contractor and practice in vogue</p>

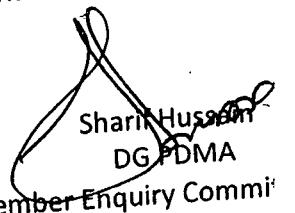
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	scrutiny by the enquiry committee.	The enquiry committee has already questioned the enquiry report submitted by Ex-AD Food Malakand Division and has categorically recorded in the findings that a quantity of 2108.717 MT of wheat has not been delivered to PRC Buner. This finding was reiterated in the conclusion of enquiry report already submitted by the enquiry committee that 2108.747 MT has not been withheld by contractor for 38 day rather it has never been delivered to PRC Buner which speaks loudly about criminal negligence on part of the concerned
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3. In view of the above discourse, the enquiry committee stands by the conclusion already drawn in the earlier enquiry report submitted to the Competent Authority. Additionally, The Enquiry Committee is of the considered opinion that the enquiry report submitted by Ex-AD Malakand was not based on facts and the mechanism devised for the recovery of amount of embezzled wheat was flawed and illegal.


 Zubair Ahmad
 Director Food,
 Member Enquiry Committee


 Sharif Hussain
 DG PDMA
 Member Enquiry Committee



2-1-11

FOOD DIRECTORATE
KHYBER PAKHTUNKHWA
PESHAWAR

No. 3835/FG-AD/PASSCO

Dated 27/11/2019

To: Col (Retd) Fawaz Hussain,
General Manager (Field),
11-Kashmir Road, PASSCO,
Lahore.

Subject: ALLOCATION OF 100,000 M. TONS OF PASSCO WHEAT FOR THE YEAR 2019-20.

Message: Reference MOU signed between PASSCO and Food Department Khyber Pakhtunkhwa for supply of 150,000 M. Tons FAQ wheat in three phases to various destination stations of Khyber Pakhtunkhwa.


2. A quantity of 100,000 (One Lnc only) M. Tons indigenous wheat may kindly be released to the approved carriage contractors of Food Department Khyber Pakhtunkhwa for transportation to various destination stations of Khyber Pakhtunkhwa as per detail given below:

S/No	Destination stations in KPK.	Name of Carriage Contractors.	Name of Despatching Zones/Centres.	Qty: of wheat to be lifted (M.T).	Stipulated period.
1.	Peshawar	Hamayun & Co	Burewala	1867	15 days
			Vehrai	3100	
			Khanewall	1147	
			Multan	3240	
			Bahawalnagar	3593	
			Alipur	2753	
			Total	14000	
2.	Duner	Javed & Co	Burewala	533	15 days
			Vehrai	600	
			Khanewall	413	
			Multan	640	
			Bahawalnagar	1027	
			Alipur	787	
			Total	4000	
3.	Dannu	Haji Banoor	Burewala	533	15 days
			Vehrai	600	
			Khanewall	413	
			Multan	640	
			Bahawalnagar	1027	
			Alipur	787	
			Total	4000	
4.	Kohat	Haji Banoor	Burewala	800	15 days
			Vehrai	900	
			Khanewall	620	
			Multan	960	
			Bahawalnagar	1540	
			Alipur	1180	
			Total	6000	
5.	Itangu	Haji Banoor	Burewala	400	15 days
			Vehrai	450	
			Khanewall	310	
			Multan	480	
			Bahawalnagar	770	
			Alipur	590	
			Total	3000	
6.	Charsadda	Muhammad Zahir Khan	Burewala	800	15 days
			Vehrai	900	
			Khanewall	620	

A. Tessed
Assistant Director
Food Directorate
Khyber Pakhtun Khy
Peshawar

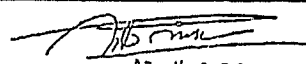
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			Multan	260	
			Bahawalnagar	1540	
			Alipur	1180	
			Total	6000	
7.	Mardan	Ayaz & Brothers	Burewala	1067	15 days
			Vehrai	1200	
			Khanewall	827	
			Multan	1280	
			Bahawalnagar	2053	
			Alipur	1573	
			Total	8000	
8.	Swabi	Ayaz & Brothers	Burewala	667	15 days
			Vehrai	750	
			Khanewall	517	
			Multan	800	
			Bahawalnagar	1283	
			Alipur	983	
			Total	5000	
9.	Nowshera	Evergreen Trading Co	Burewala	667	15 days
			Vehrai	750	
			Khanewall	517	
			Multan	800	
			Bahawalnagar	1283	
			Alipur	983	
			Total	5000	
10.	Dargai	Muzaffar Khan & Co	Burewala	667	15 days
			Vehrai	750	
			Khanewall	517	
			Multan	800	
			Bahawalnagar	1283	
			Alipur	983	
			Total	5000	
11.	Dir Lower	Muzaffar Khan & Co	Burewala	800	15 days
			Vehrai	900	
			Khanewall	620	
			Multan	960	
			Bahawalnagar	1540	
			Alipur	1180	
			Total	6000	
11.	Dir Upper	Muzaffar Khan & Co (1000+1000 each for both PRCs i.e. Dir Upper & Wari)	Burewala	267	15 Days
			Vehrai	300	
			Khanewall	207	
			Multan	320	
			Bahawalnagar	513	
			Alipur	393	
			Total	2000	
12.	Shaogla	Ghaus Ud Din & Sons	Burewala	267	15 days
			Vehrai	300	
			Khanewall	207	
			Multan	320	
			Bahawalnagar	513	
			Alipur	393	
			Total	2000	
13.	Swat	Muzaffar Khan & Co	Burewala	1067	15 days
			Vehrai	1200	
			Khanewall	827	
			Multan	1280	
			Bahawalnagar	2053	
			Alipur	1573	
			Total	8000	
14.	Haripur	Sardar Wali	Burewala	533	15 days
			Vehrai	600	
			Khanewall	413	
			Multan	640	
			Bahawalnagar	1027	
			Alipur	787	
			Total	4000	
15.	Havelian	Pak Carriage	Burewala	800	15 days
			Vehrai	900	
			Khanewall	620	
			Multan	960	
			Bahawalnagar	1540	

Attested

 Assistant Director
 Food Directorate,
 Khyber Pakhtoon Khwa,
 Peshawar

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Sl. No.	District	Station	Quantity		Days
			QTY	Value	
16	Mansehra	Sardar Wali	Allpur	1180	15 days
			Total	4000	
			Daryawala	1067	
			Vehal	1200	
			Khanevall	827	
			Mulim	1780	
			Dahawalnagar	2053	
17	Dattagram	Pak Carriago	Allpur	1571	15 days
			Total	4000	
			Daryawala	400	
			Vehal	450	
			Khanevall	310	
			Mulim	480	
			Dahawalnagar	770	
18	Srai Naurang	Haji Danour	Allpur	590	15 days
			Total	3000	
			Daryawala	133	
			Vehal	150	
			Khanevall	103	
			Mulim	160	
			Dahawalnagar	257	
G.Total:-			10000		

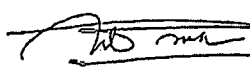

 27-11-2019
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Encls: No. & date each

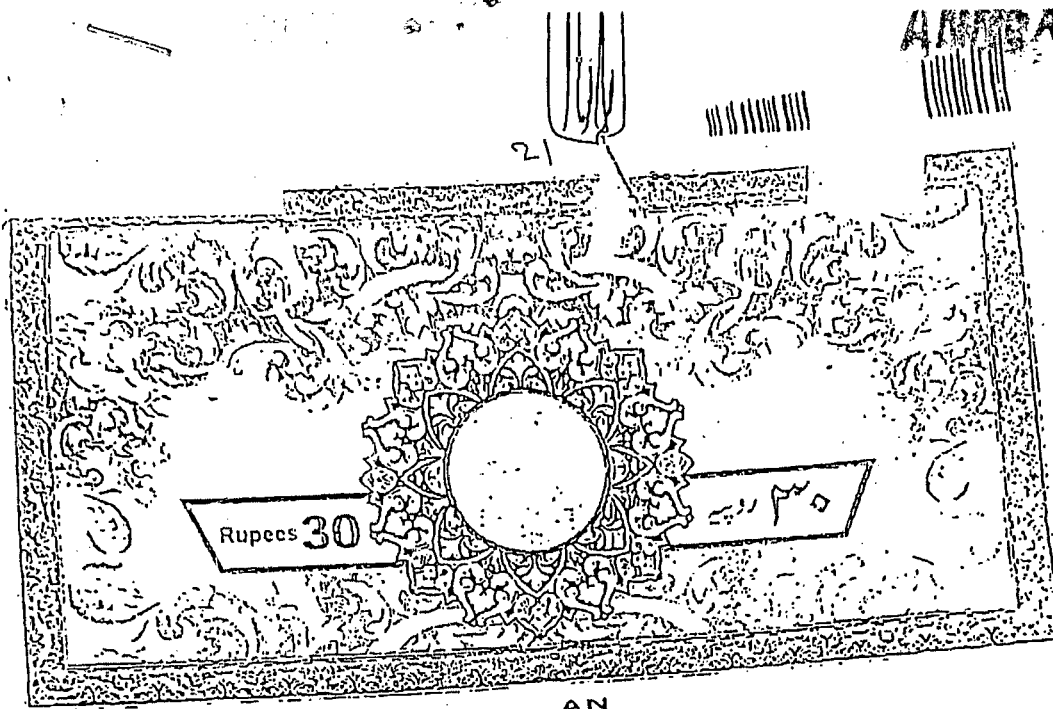
A copy is forwarded to:-

- The PS to Minister Food, Khyber Pakhtunkhwa, Peshawar.
- The PS to Secretary Food, Khyber Pakhtunkhwa, Peshawar.
- The Deputy Director Accounts, Food Directorate, Khyber Pakhtunkhwa, Peshawar. He is directed to send attested specimen signatures of the contractors to PASSCO Head Office, Lahore immediately.
- All Divisional Assistant Directors Food in Khyber Pakhtunkhwa for information and necessary action. They are directed to keep constant monitoring on movement of wheat right from despatches till arrival at the destination stations of their respective jurisdiction.
- All Constables in Khyber Pakhtunkhwa for information and necessary action. They are directed to depute their authorized representative/approved carriage contractor or his authorized representatives for lifting and transportation of the allocated quantity from PASSCO to the destination stations after full satisfaction in respect of weight and quality and ensure that only standard quality wheat (FAQ) packed in new/sound jute bags is despatched and the entire allocation is completed within the stipulated period, three days are included in the stipulated period for documentation. They are further directed to reconcile despatches of wheat made during the year 2019-20 from PASSCO Punjab to their respective centres without fail and send the report to the Accounts branch of this Directorate for further action on their part.
- The Regional Audit Officer, Food Directorate, Khyber Pakhtunkhwa, Peshawar.
- The Statistical Officer, Food Directorate, Khyber Pakhtunkhwa, Peshawar. He will keep close watch on the daily lifting and its receipt at the destination station.
- All Carriage Contractors in Khyber Pakhtunkhwa with the direction to report to PASSCO Head Office, Lahore immediately for lifting of allocated wheat stock. Authorized carriage contractor may detail their own representative for different wheat lifting locations of PASSCO on their letter head with intimation to Food Directorate Khyber Pakhtunkhwa. They are further directed to ensure that only good quality wheat (FAQ) packed in new/sound jute bags of correct weight of ns per ratio in MOU of the 2019/2017 crop shall be lifted and delivered at destination stations within stipulated period.

Attested

Assistant Director
Food Directorate,
Khyber Pakhtunkhwa,
Peshawar


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

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AN AGREEMENT

This Agreement made on this day of 04 / 11 / 2019 between the Governor of the Khyber Pakhtunkhwa through the Secretary to Government of Khyber Pakhtunkhwa Food Department (hereinafter referred to as the "Employer"), which expression shall include his successor in office and assign of the first party and M/S Javed & Co, Carriage Contractor Bulkhela District Malakand (hereinafter referred to as the "Contractor"), which expression shall include his successors, legal representative and assign of the second party;

ATTES/ED

WHEREAS the Employer requires the services in connection with the handling and transportation of wheat for the Khyber Pakhtunkhwa (hereinafter referred to as the Province) from Punjab to Provincial Reserve Centre, including all connected services and staking upto eighteen layers and whereas the Contractor has agreed to render the requisite services on the terms and conditions mentioned hereinafter;

Assistant Accounts Officer, PW, THEREFORE, both the parties hereby mutually agree as follows:

for Food Directorate
Khyber Pakhtunkhwa

VALIDITY

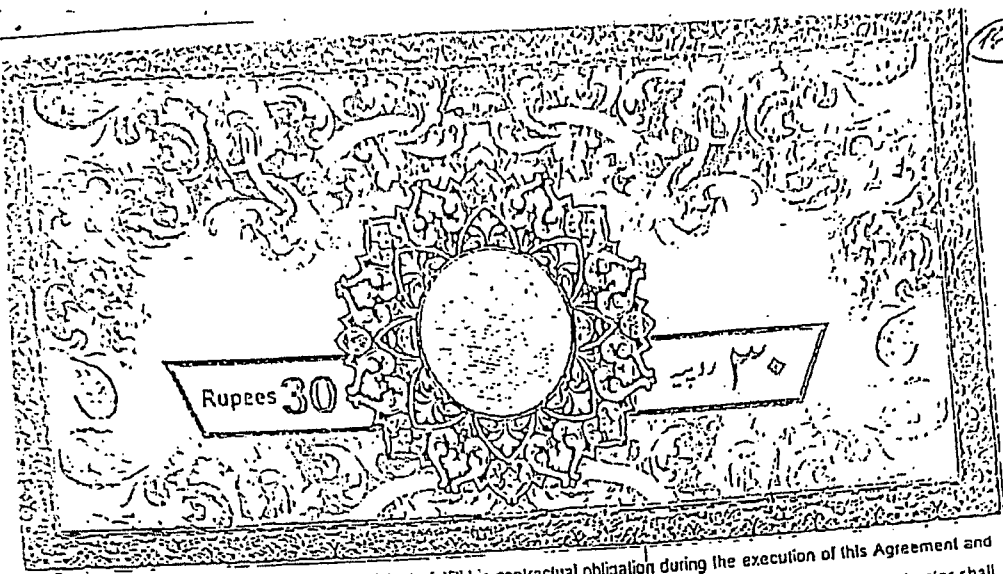
1.1 The validity of this Agreement will be from the date of signing of this Agreement till 30.06.2020. However, the period of this Agreement will be extendable for a maximum period of thirty days in case of non finalization of tender for the next financial year.

2. SECURITY

- 2.1 The Contractor will produce security amounting to Rs.1,000,000/- (Rupees One Million) in the shape of Term Deposit Receipt (TDR) / Security Deposit Receipt (SDR) issued by any Scheduled Bank in the account of the Director Food Khyber Pakhtunkhwa No.BOK 229600-4SDA as a token and in case of non satisfactory fulfillment of the terms and conditions of this Agreement, the earnest money shall stand forfeited in favour of the Government of Khyber Pakhtunkhwa.
- 2.2 The Contractor should have to provide ten percent amount of transportation charges of wheat on freight value at the time of quantity allocated will be deposited in the account of the Director Food Khyber Pakhtunkhwa No.BOK 229600-4SDA, in the shape of Term Deposit Receipt/Security Deposit Receipt which will be refunded to the Contractor after the delivery of allocated quantity of wheat at destination station.
- 2.3 The deposits under clauses 2.1 and 2.2 or any part thereof may be forfeited/confiscated by the Employer or an Officer authorized by him for any breach of the terms and conditions of this Agreement by the Contractor or any person acting on his behalf, including making good of any damage or loss caused to the Employer in any manner in the performance of his obligations under this Agreement.

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- 2.4 If the Contractor fails to fulfill his contractual obligation during the execution of this Agreement and resultantly the Employer decides to call fresh tender, the security deposited by the Contractor shall automatically stand forfeited in favour of the Employer.
- 2.5 Subject to the conditions referred to in clauses 2.2 and 2.3, the security deposits will be refunded to the Contractor after expiry of a period of one month from the date of expiry, or date of termination, as the case may be, of this Agreement, subject to an undertaking to be furnished on stamp paper to the effect that any outstanding dues if dig out at a later stage, the Contractor would be bound for its repayment without any litigation.

ATTACHED 3.

RATES/PAYMENTS

3.1 Transportation charges shall be allowed on per ton per kilometer (Net Weight) basis as per following rate:-

Assistant Accounts Officer
for Food Directorate
Khyber Pakhtunkhwa

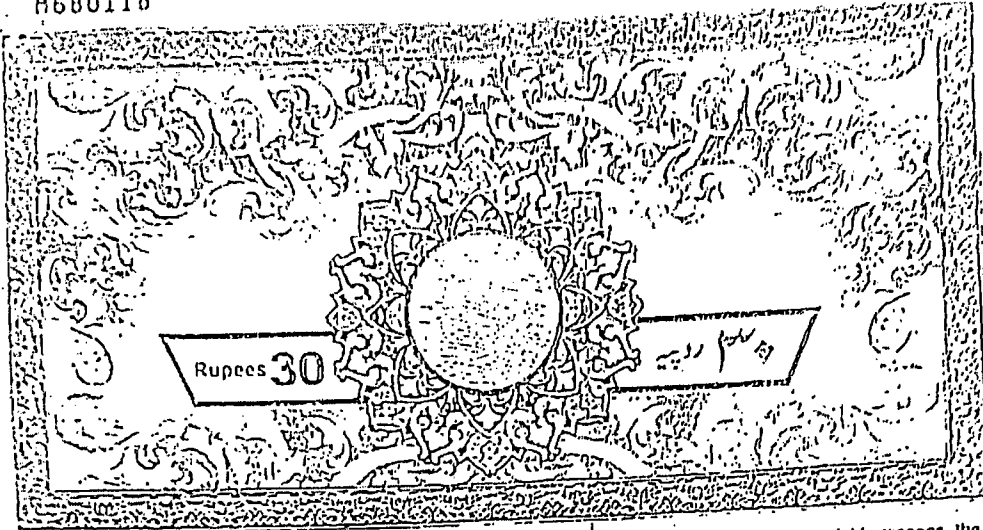
Nature of Services	Approved Rate (PTPK) (Net weight) (Rs)
From Punjab to Provincial Reserve Centre, Buner	5.2300 ✓

- 3.2 The effect of change in the POL will be reconsidered on quarterly basis. The increase or decrease in the POL rates will be calculated at the rate of fifty per cent (50%) for the POL. However, the impact below ten per cent (10%), will not be considered.
- 3.3 The Contractor will be bound to pay the Khyber Pakhtunkhwa Revenue Authority Taxes on services, Income Tax, Professional Tax, Stamp Duty and Disable Person Rehabilitation Funds.

4. TRANSPORTATION

4.1 Transportation of wheat by road shall include all connected services and other means including sewing out, stitching of cul or torn bags with Contractor own new stuff after putting spoiled wheat therein so as to bring the bags to standard weight, unloading of trucks at destination station and stacking in countable form upto eighteen layers in godowns after ten per cent to hundred per cent weightment at the discretion of the respective consignee with all connected services from any destination or point in the Province of Punjab to the any destination in the Khyber Pakhtunkhwa.

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4.2 If reasons for slow lifting are beyond the control of the Contractor and there are viable reasons, the stipulated period may be extended by the Employer for a period not exceeding thirty days at a time provided that in case the period is required to be extended further, the Employer may extend the period for another thirty days.

4.3 The Contractor shall transport wheat allocated to the Provincial Reserve Centre as specified above and shall also provide cartage or labour facilities at such places as may be required by the Employer or an officer authorized by the Employer in this behalf.

4.4 The Contractor shall clear the stock in time from the designated centre in Punjab and shall lift the quantity allocated to him during the period specified work orders for delivery of wheat to the required receiving station in the Province and shall stack it in eighteen layers in countable form. The specified period shall commence on the day following the day on which the work order is delivered to the Contractor.

ATTESTED

Assistant Accounts Officer
Food Directorate
Khyber Pakhtunkhwa

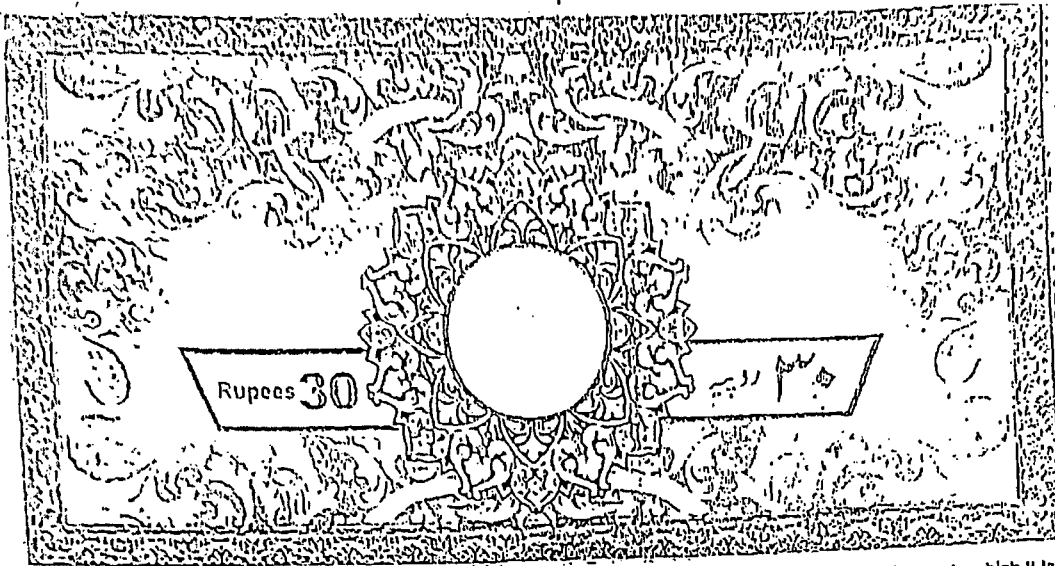
If on the close of the period specified in the work order the Contractor has failed to deliver at the receiving station the quantity of wheat allocated to him for that work order, the Employer or any Officer authorized by the Employer may make alternate arrangements for the lifting and delivery of the remaining quantity at the cost and risk of the Contractor through National Logistic Cell or through the respective Cartage Contractor of the Provincial Reserve Centre to other nearest Provincial Reserve Centre at the approved rate. The extra charges, if any, will be recoverable from the defaulting Contractor from the pending transportation bill or security of the defaulting Contractor.

4.5 The Contractor shall have no right to question or challenge the alternate arrangements, if any, applied by the Employer under the preceding clause 4.4, nor shall he have any right to object any recovery there under.

4.6 In addition, if the Contractor or his nominee or handling agent fails to lift the required quantity allocated for the specific destination in specified period of time, the Employer shall have a right to blacklist the Contractor permanently or otherwise.

4.7 If the security of the Contractor furnished under clause 2.2 is not adequate to cater for transportation charges of the short lifted quantity, the Employer will have right to stop payment to the extent from the pending transportation bills of the Contractor.

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4.0 The Contractor shall be bound to transport wheat to the Provincial Reserve Centre to which it is allocated. In case of wrong delivery to any other stations the Contractor shall be bound to deliver the wheat to the proper place mentioned in the work order, for which he shall not be paid any additional charges.

4.0 Financial charges if any imposed or charged by the Punjab Food Department or Pakistan Agriculture Storage and Services Cooperation due to the slow lifting by the Carriage Contractor, shall be born by the Contractor, without any hesitation.

4.10. The Contractor shall maintain truck-wise detail and furnish it to the concerned District Food Controllers along with demand bill. In case of transshipment of long trucks into small body the detail of both the trucks will be maintained and shall keep the record for any subsequent inspection.

ATTESTED
Assistant Accounts Officer
Food Directorate
Khyber Pakhtunkhwa

TERMINATION OF AGREEMENT

Notwithstanding anything to the contrary in clause 1.1, or without prejudice to the provisions contained in clause 2.2, the Employer may terminate this Agreement at any time, if the Contractor fails to fulfill any of his obligations under this Agreement or violates or disregards any of the terms and conditions of this Agreement. The damage or loss, if any, caused to the Employer as a result of such termination shall be recoverable from the Contractor, and the Contractor shall have no right to claim any compensation as a result of such termination.

5.2 The Employer may terminate this Agreement without any compensation to the Contractor if the Contractor offers any commission, gift or other illegal gratification to any officer, servant or any person acting on behalf of the Employer in relation to operation of this Agreement.

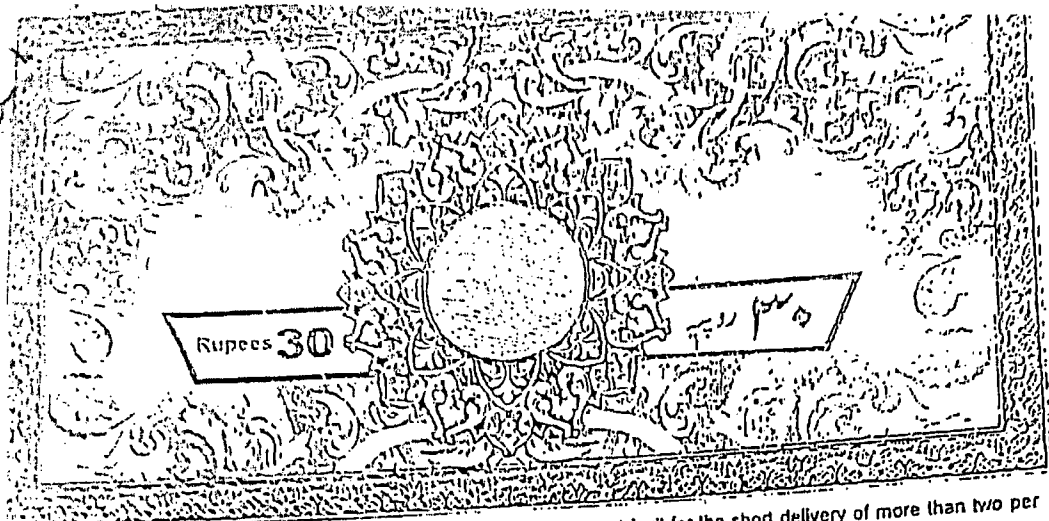
6. TRANSIT SHORTAGES

6.1 The Contractor shall ensure lifting of the wheat from the dispatching station and its delivery to the receiving station in such quantity, in such manner and within such times as may be determined by the Employer.

6.2 In the process of lifting and delivery of wheat, the shortage of wheat upto two per cent of the total weight of wheat loaded on a truck will be temporarily acceptable to the Employer, provided that the shortage is made good within fifteen days after the delivery falling which the Contractor will make good the loss at the rate of the Landed Cost. In case the shortage is more than two per cent, and the Contractor has no justified or cogent reason, he shall be liable to pay to the Employer compensation of a rate double than the Landed Cost of the wheat delivered short at

Agree 210-2018-20-11 dated 11.11.2018

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destination. In case the Contractor is not found at fault for the short delivery of more than two per cent and that rather it was beyond his control, the short delivered quantity will be made good at the rate of landed cost.

Note:- landed cost will be calculated as
Landed Cost:- the sum of cost of wheat, (+) Punjab incidental, (+) Khyber Pakhtunkhwa Food Department incidental

ATTESTED

6.3 The Contractor will arrange to deliver the wheat at the recipient station within the stipulated period. In case the truck loaded with wheat is lost while on the way to its destination, the Contractor will ensure its delivery within fifteen days of its loading, failing which the Contractor will make good the loss in kind within one month from the date of loading. In case, the quantity is not delivered within one month, double than the landed cost will be recoverable from the Contractor, for which no excuse will be acceptable to the Employer.

Assistant Accounts Officer
Food Directorate
Khyber Pakhtunkhwa

6.4 The Employer or an Officer authorized by the Employer may recover from the Contractor, as compensation, such sum as he may consider reasonable, or deduct the sum from his security deposits or the payments to be made to the Contractor under this Agreement, in case of damage or loss caused to the Employer under this Agreement.

7. PENALTY

7.1 If the Contractor does not lift the quantity specified in the work order within the stipulated time, the Director Food Khyber Pakhtunkhwa (Contract Operating Officer) may impose a penalty of one per cent of the freight value per day of the quantity, which has not been transported. In case the transportation of remaining quantity is not resumed within twenty days of the last date, the Agreement shall be cancelled and the remaining quantity will be transported at the risk and cost of the Contractor.

7.2 The Contractor, on whom penalty is imposed under clause 7.1 may prefer an appeal to the Chief Secretary Government of the Khyber Pakhtunkhwa within fifteen days of the order, whose decision shall be final.

8. FORCE MAJEURE

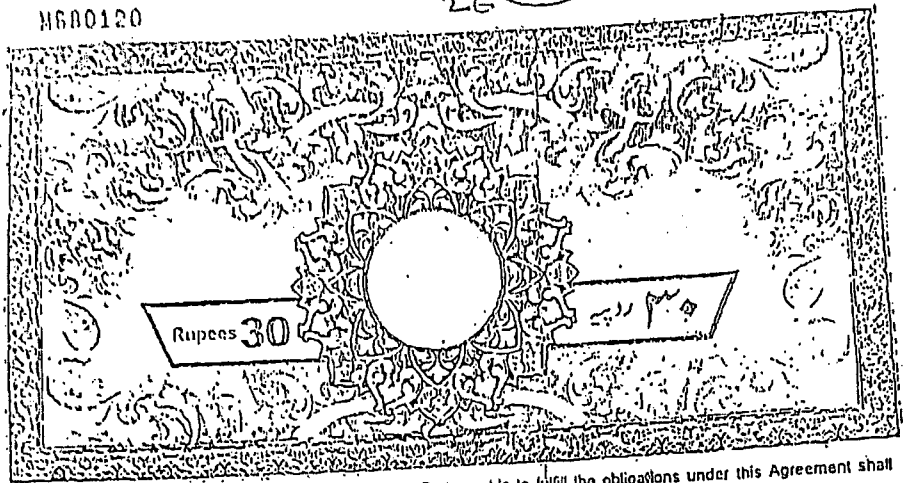
Both the Parties shall not be responsible for any delay in fulfillment of the obligations under this Agreement due to circumstances of Force Majeure; such as acts of God, war, riots, civil commotion, strike, lock outs and other circumstances and disturbances, which are beyond the

Agree-12-2019-15-11.doc 5/11/2019 doc

TRUE COPY

MGRO120

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control of both the Parties. Any Party unable to fulfill the obligations under this Agreement shall immediately within one week inform other Party of the beginning and discontinuation of such circumstances. In the case of fulfillment of the obligations, the time of limit shall be extended for a corresponding period of time.

9. RESOLUTION OF DISPUTE

All disputes between the parties hereto arising out of this Agreement or in relation thereto or regarding the interpretation of any clause of this Agreement shall be referred to the Chief Secretary for decision. The parties have agreed that the decision of the Chief Secretary shall be final and binding upon both the parties.

IN WITNESS THEREOF, the parties to this Agreement have here to set their hands on the day and the year written above.

ATTESTED

Assistant Accounts Officer
Food Directorate
Khyber Pakhtunkhwa

For and on behalf of the Employer

[Signature]

Director Food
Khyber Pakhtunkhwa,
Peshawar

Signature *[Signature]*

Witness Name Shokat Ali

NIC No. 17101-8581701-8

Signature *[Signature]*

Witness Name ROHAF ZAMAN

NIC No. 17301-1553919-9

Agre-PH-2019-30-Board 5 11 2019.doc

For and on behalf of the Contractor

Signature *[Signature]*

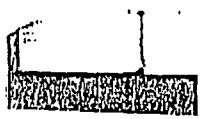
Name Javeed Khan

NIC No. 42501-7580482

PH # 0345-6004564

[Handwritten mark]

[Handwritten text]





OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER Fax#0939530165

No: 616. /Allocation/DFC-BNR

Dated 28 / 11 /2019

Mdfcbuner@gmail.com

@dfcbuner

@dfcbuner

47

To
The Director Food
Khyber Pakhtunkhwa Peshawar

Subject: NOMINATION OF FOOD GRAIN INSPECTOR FOR DISPATCHES W.R.T 2nd
ALLOCATION OF PASSCO WHEAT FROM PUNJAB TO PRC BUNER

Dear Sir,

Reference to the subject cited above, the undersigned have been telephonically contacted by Food Directorate to nominate a Food Inspector for Dispatches of PASSCO wheat from Punjab to PRC Buner.

Due to Non Availability of Executive staff i.e , FGI and FGS at this office, nomination of executive official for the aforesaid purpose is impossible.

It is, therefore requested to guide the undersigned in this matter please.

District Food Controller Buner

Endorsement No & Date Even

Copy for information is forwarded to Assistant Director Malakand Division please

District Food Controller Buner

Attention
to Mr. Ibrahim Khan

TRUE COPY

No: 624 /Allocation/DFC-BNR

Dated 10 / 12 /2019

dfcbuner@gmail.com

@dfcbuner

@dfcbuner

ANNEXURE

To

Ms. Javed & Co
Government Carriage Contractor.

Subject: SLOW LIFTING OF GOVERNMENT WHEAT FROM PASSCO PUNJAB
memo:

Reference to the Food Directorate Khyber Pakhtunkhwa Peshawar official letter No 3835/FG-433/PASSCO Dated 27.11.2019 in which you were directed by the worthy Director Food Khyber Pakhtunkhwa to lift 4000.000 M.Tons of FAQ wheat from six dispatching centers of PASSCO Punjab within stipulated period of 15 days. Till date only 380.088 M.Tons quantity of PASSCO wheat has been received at PRC Buner. Your lifting from PASSCO Punjab and its delivery to the PRC Buner is at snail's pace which is highly embarrassing.

You are, therefore, directed to dispatch and deliver the remaining allocated wheat quantity from PASSCO to PRC Buner within the stipulated period.



District Food Controller Buner

Endorsement No Date Even

Copy for information is forwarded to

1. Director Food Khyber Pakhtunkhwa Peshawar please
2. Divisional Assistant Director Food Malakand Division at Swat please



District Food Controller Buner

TRUE COPY

ANNEXURE



Our motto: "Uzraa Aiman, Karishen Tary Pakistan"

بیارا ایمان، کرپشن تری پاکستان

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER
NO 633 /Wheat Allocation /DFC-BNR

Fax#0939530165
DATED 11/12/2019

99

dfcbuner@gmail.com

@dfcbuner

@dfcbuner

To

Javed & Co
Government Wheat Carriage Contractor

Subject: RECEIPTS OF PASSCO WHEAT FROM BAHAWALNAGAR TO PRC BUNER
AGAINST 2nd ALLOCATION

Memo:

In reference to the above, you were directed to lift 1027,000 M.Tons of PASSCO Punjab FAQ Wheat from Bahawalnagar Zone/Center and deliver it to PRC Buner vide Food Directorate Official Letter No 3810/FG-433/PASSCO dated 27.11.2019.

You have delivered 345,251 M.Tons of PASSCO Bahawalnagar zone Wheat to PRC Buner upto 09.11.2019 against the target of 1027,000 M.Tons. You have been regularly and repeatedly contacted by this office to deliver the remaining wheat from Bahawalnagar to PRC Buner but you are beating about the bush.

You are directed to deliver the outstanding quantity of 681,749 M.Tons PASSCO Wheat of Bahawalnagar to PRC Buner within the stipulated period. In case you fail to deliver it, being the approved carriage contractor for PRC Buner, whole of the responsibility will be shouldered upon you as you are responsible for late delivery of the PASSCO wheat.

District Food Controller Buner

Endorsement No & Date Even:

Copy for information is forwarded to

- ✓ 1. Director Food Khyber Pakhtunkhwa Peshawar.
- 2. Divisional Assistant Director Food Malakand Division at swat.

District Food Controller Buner

ONE COPY

10/12/19

Reminder

ANNEXURE K1

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER
NO 641 /Wheat Allocation /DFC-BNR

FORM 09395301
DATED 13/12/2019

80

dfcbuner@gmail.com

dfcbuner

dfcbuner

To

Javed & Co

Government Wheat Carriage Contractor

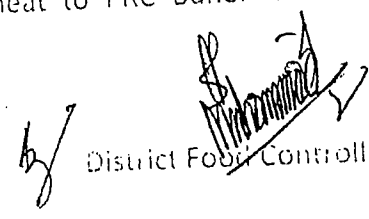
Subject: RECEIPTS OF PASSCO WHEAT FROM BAHAWALNAGAR TO PRC BUNER
AGAINST 2nd ALLOCATION

Memo:

In Continuation of this office letter No 633/wheat Allocation/DFC-BNR,
Dated 11.12.2019

You are once again informed that you have delivered 345.251 M.Tons of
wheat of PASSCO Punjab Bahawalnagar Zone to PRC Buner upto 09.11.2019
against the target of 1027.000 M.Tons.

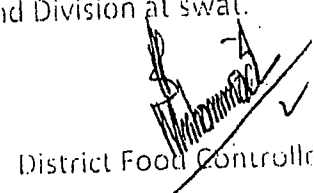
You are once again directed to deliver the outstanding quantity of 681.749
M.Tons of PASSCO Bahawalnagar wheat to PRC Buner instantly without any
further delay.


District Food Controller Buner

Endorsement No & Date Even:

Copy for information is forwarded to

- ✓ 1. Director Food Khyber Pakhtunkhwa Peshawar.
- 2. Divisional Assistant Director Food Malakand Division at swat.


District Food Controller Buner



Our faith. "Corruption free Pakistan" بنارا ایمان. "کریشن فری پاکستان"

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER Fax#10939530165
NO 645 /Wheat Allocation /DFC-BNR DATED 16/12/2019

dfcbuner@gmail.com @dfcbuner @dfcbuner

K2
51


To
Javed & Co
Government Wheat Carriage Contractor
Subject: RECEIPTS OF PASSCO WHEAT FROM BAHAWALNAGAR TO PRC BUNER
AGAINST 2nd ALLOCATION 2019

Memo:
In Continuation of this office letter No 633/wheat Allocation/DFC-BNR, Dated 11.12.2019 and 641/wheat Allocation/DFC-BNR Dated 13.12.2019 on the subject noted above.

You are once again reminded that you have delivered 345.251 M.Tons of wheat of PASSCO Punjab Bahawalnagar Zone to PRC Buner upto 09.11.2019 against the target of 1027.000 M.Tons.


You are once again directed to deliver the outstanding quantity of 681.749 M.Tons of PASSCO Bahawalnagar wheat to PRC Buner instantly without any further delay.

The matter may be treated as most urgent.


District Food Controller Buner

Endorsement No & Date Even:

- Copy for information is forwarded to
1. Director Food Khyber Pakhtunkhwa Peshawar.
 2. Divisional Assistant Director Food Malakand Division at swat.


District Food Controller Buner

TRUE COPY

ANNEXURE K3

Our faith, "Corruption free Pakistan"

بیزارا ایمان، "کریشن فری پاکستان"

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER

Fax#0939530165

NO 646 /Wheat Allocation /DFC-BNR

DATED 19/12/2019

dfcbuner@gmail.com

@dfcbuner

@dfcbuner

To

Javed & Co

Government Wheat Carriage Contractor

Subject: RECEIPTS OF PASSCO WHEAT FROM BAHAWALNAGAR TO PRC BUNER AGAINST 2nd ALLOCATION, 2019.

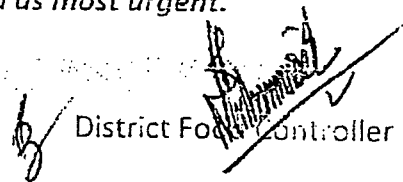
Memo:

In Continuation of this office letter No 633/wheat Allocation/DFC-BNR, Dated 11.12.2019 , 641/wheat Allocation/DFC-BNR Dated 13.12.2019 and 645/wheat Allocation/DFC-BNR , Dated 16.12.2019 on the subject noted above.

You are once again reminded that you have delivered 345.251 M.Tons of wheat of PASSCO Punjab Bahawalnagar Zone to PRC Buner upto 09.11.2019 against the target of 1027:000 M.Tons.

You are once again directed to deliver the outstanding quantity of 681.749 M.Tons of PASSCO Bahawalnagar wheat to PRC Buner instantly without any further delay.

The matter may be treated as most urgent.


District Food Controller Buner

Endorsement No & Date Even:

Copy for information is forwarded to

1. Director Food Khyber Pakhtunkhwa Peshawar.
2. Divisional Assistant Director Food Malakand Division at swat.


District Food Controller Buner

TRUE COPY

ANNEXURE K₄
(53)

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER
NO 647 /Wheat Allocation /DFC-BNR
DATED 24 /12/2019
dfcbuner@gmail.com @dfcbuner @dfcbuner

To
Javed & Co
Government Wheat Carriage Contractor

Subject: RECEIPTS OF PASSCO WHEAT FROM BAHAWALNAGAR TO PRC BUNER
AGAINST 2nd ALLOCATION, 2019.

Memo:

In Continuation of this office letter No 633,641,645 and 646/Wheat Allocation/DFC-BNR on dated 11.12.2019, 13.12.2019, 16.12.2019 and 19.12.2019 respectively on the subject noted above.

Despite the fact that frequent correspondence through official letters have been made by the undersigned on the subject matter but you do not even bother to explain the reason as to why the outstanding quantity of PASSCO Bahawalnagar wheat has not been delivered to PRC Buner.

You are once again directed to deliver the outstanding quantity of 681.749 M.Tons of PASSCO Bahawalnagar wheat to PRC Buner instantly otherwise strict action against you will be recommended to the Director Food Khyber Pakhtunkhwa Peshawar for the late delivery of PASSCO Bahawalnagar wheat.

The matter may be treated as most urgent

[Signature]
District Food Controller Buner

Endorsement No & Date Even:

- Copy for information is forwarded to
1. Director Food Khyber Pakhtunkhwa Peshawar.
 2. Divisional Assistant Director Food Malakand Division at swat.

[Signature]
District Food Controller Buner

TRUE COPY

ANNEXURE K5

154

Our faith, "Corruption free Pakistan" "کریشن فری پاکستان"

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER
NO 648 /Wheat Allocation /DFC-BNR Fax#0939530165
DATED 26/12/2019

dfcbuner@gmail.com @dfcbuner @dfcbuner

To


M/S Javed & Co
Government Wheat Carriage Contractor

Subject: WHEAT DISPATCHES FROM MULTAN ZONE AND ALIPUR ZONE TO
PROVINCIAL RESERVE CENTER BUNER

memo:

Reference to the subject noted above, a quantity of 621.225 M.Tons of PASSCO Multan Zone Wheat has been dispatched from Khudai Center Crore Pakka against allocated target of 640.000 M.Tons (18.775 M.Tons remaining) and 787.065 M.Tons of PASSCO Alipur Zone wheat has been dispatched on dated 22.12.2019, 23.12.2019 and 24.12.2019 . The mentioned quantity of wheat has not been received at PRC Buner till date.

You are directed to deliver the said quantity of wheat as soon as possible. Being approved carriage contractor for PRC Buner, you will be responsible for late delivery of PASSCO wheat as your stipulated period has already been expired on 11.12.2019.


District Food Controller, Buner

Endorsement No: & Date Even

Copy forwarded to the:-

1. Director Food Khyber Pakhtunkhwa Peshawar for information please
2. Divisional Assistant Director Food Malakand at Swat for information please


District Food Controller, Buner


TRUE COPY

Our faith, "Corruption free Pakistan" "سورجین کوئی پاکستان"
OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER Fax#0939530165
NO 632/Wheat Allocation /DFC-BNR DATED 11/12/2019
dfcbuner@gmail.com @dfcbuner @dfcbuner

To

The Director Food
Khyber Pakhtunkhwa Peshawar

Subject: PASSCO, PUNJAB WHEAT RECEIPT AT PRC BUNER DURING 2nd
ALLOCATION 2019 WITHIN THE STIPULATED PERIOD


Memo:

Reference to the subject noted above, it is stated that M/S Javed & Co, Government Approved Wheat Carriage Contractor from PASSCO Punjab to PRC Buner had been directed to lift 4000.000 M.Tons of PASSCO Wheat and deliver it to the PRC Buner within the stipulated time of 15 days vide Food Directorate official Letter No 3835/FG-433/PASSCO, Dated 27.11.2019.

The stipulated time period of 15 days has been expired today on 11.12.2019 and a total quantity of 452.226 M.Tons of PASSCO Wheat has been received and taken on FG3 stock register till date.

Report Submitted for your kind perusal and further necessary action please.


District Food Controller Buner


TRUE COPY

Our path: "Corruption free Pakistan"

بیمارا ایمان، "کریشن فری پاکستان"

OFFICE OF THE DISTRICT FOOD CONTROLLER BUNER
NO. 649 /Wheat Allocation /DFC-BNR

Fax#0939530165

DATED 26/12/2019

dfcbuner@gmail.com

@dfcbuner

@dfcbuner

To

The Director Food
Khyber Pakhtunkhwa Peshawar

Subject: WHEAT DISPATCHES FROM MULTAN ZONE AND ALIPUR ZONE TO
PROVINCIAL RESERVE CENTER BUNER

Memo:

Reference to the subject noted above, as per report of our representative, a quantity of 621.225 M.Tons of PASSCO wheat of Multan Zone (Khudai Center Crore Pakka) and 787.065 M.Tons of PASSCO wheat of Alipur zone have been dispatched against the Allocated target of 640.000 M.tons and 787.000 M.Tons respectively. The said quantity of PASSCO Wheat has been dispatched on dated 22.12.2019, 23.12.2019 and 24.12.2019. The said quantity has not been received at PRC Buner till date.

Report submitted for your kind perusal and further necessary action please.

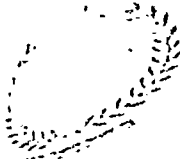

District Food Controller Buner

Endorsement No & Date Even

Copy for information is forwarded to

1. Divisional Assistant Director Food Malakand Division.
2. M/S Javed & Co Carriage Contractor for PRC Buner.


District Food Controller Buner



GOVERNMENT OF KHYBER PAKHTUNKHWA
DEPARTMENT OF FOOD
PESHAWAR

FLOW CHARTING OF ALLOCATED WHEAT SPEEDY TRANSPORTATION

Directorate allocation order No 3335.FG-21/PASSCO dated 27-11-19

... of all ... of ... from PASSCO, ... destination ...
... therefore ... to ensure immediate ...
... 12-2019 on war footing basis so that apprehension of break down
... down in any District, you will be held personally responsible and
... agreement executed with you, sh to be initiated

[Signature]
104-12-2019
Director Food,
Khyber Pakhtunkhwa

Date: _____

A copy is forwarded to the:-
1. General Manager (Field) PASSCO Head quarter office, 11-Kashmir Road, Lahore.
2. Director Food, Khyber Pakhtunkhwa, Peshawar.
3. Director Accounts, Food Directorate, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Directors Food Khyber Pakhtunkhwa. They are directed to
instruct the contractors to make delivery of balance allocated wheat within time.
5. The Director of PASSCO as well as concerned carriage contractors and ensure that the
wheat is received at the destination stations without any discrepancy.
6. A change of representatives of Food Department, Khyber Pakhtunkhwa
to the carriage contractors and ensure immediate lifting of allocated
wheat from PASSCO to various destination stations of Khyber Pakhtunkhwa so
that no attention may not occurred.

[Signature]
TRUE COPY
Director Food,
Khyber Pakhtunkhwa

11 Tested
[Signature]

ANNEXURE M1

FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA,
PESHAWAR.

No 40 B2, G. 433/PASSCO

Dated 11/12/2019

58

- 1. M/S. ... & Co Carriage Contractor
- 2. M/S. ... & Co Carriage Contractor
- 3. M/S. ... Carriage Contractor
- 4. M/S. ... Khun Carriage Contractor
- 5. M/S. ... & Brother, Carriage Contractor
- 6. M/S. ... Trading Co Carriage Contractor
- 7. M/S. ... & Co Carriage Contractor
- 8. M/S. ... & Sons Carriage Contractor
- 9. M/S. ... Carriage Contractor
- 10. M/S. ... Carriage Contractor

DISPATCHES OF PASSCO WHEAT.

Reference this Directorate letter No.3749/FG-433/PASSCO dated 19-11-19 and No.40-B2-PASSCO (KC) dated 04-12-2019 on the subject.

You are once again directed to lift only FAQ wheat packed in sound bardana from ... the same is your prime responsibility. Moreover the pace of ... wheat to various destination station is very slow. You are directed to ... PASSCO FAQ wheat and its further transportation to the ... before stipulated period.

[Signature]
11-12-2019
Director Food,
Khyber Pakhtunkhwa.

CCs & Date Even.

A copy is forwarded to the:-

- 1. The General Manager (Field) PASSCO Head quarter office, 11-Kashmir Road, Lahore for information and necessary action. He is requested to direct his field formations for the ... FAQ wheat as per MOU.
- 2. The Secretary Food, Khyber Pakhtunkhwa, Peshawar.
- 3. Deputy Director Accounts, Food Directorate, Khyber Pakhtunkhwa, Peshawar.
- 4. The Divisional Assistant Directors Food Khyber Pakhtunkhwa for ensuring strict ... as per directions conveyed to you.
- 5. The ... They are directed to keep close contact with ... as well as concerned carriage contractors and ensure that the ... is also received at the destination stations without any discrepancy.
- 6. The ... AFC Incharge of representatives of Food Department, Khyber Pakhtunkhwa, for information and necessary action.

4 tested
[Signature]

[Signature]
Director Food,
Khyber Pakhtunkhwa.

TRUE COPY

(62)

(59)



FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA
PESHAWAR

No. 4359 /FC-133/PASSCO.

Dated 27 /12/2019

OFFICE ORDER

Mr. Muhammad Iqbal, Divisional Assistant Director Food, Malakand is hereby appointed inquiry officer to conduct inquiry in wheat despatches from Mullan & Ali Pur Zones to Provincial Reserve Centre Buner and fix responsibility via-via District Food Controller Buner letter No.649/Wheat Allocation/DFC/DFC/BNR dated 26-12-2019 (Copy enclosed). He is directed to submit report within three days positively.

[Signature]
27-12-2019

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
PESHAWAR.

dst:No.& date even.

A copy is forwarded to the.

1. The PS to Minister Food, Khyber Pakhtunkhwa.
 2. The PS to Secretary Food, Khyber Pakhtunkhwa, Peshawar.
 3. The Assistant Director Food, Malakand Division for information & n/ action.
- He is directed to submit his report on Monday dated 30-12-2019 positively without fail. He is further directed to have a look at the wheat despatches from PASSCO to his Division being the monitoring officer. No such report of any discrepancy regarding despatches of wheat from PASSCO Zones has been received from your office.
- The District Food Controller Buner with the direction to submit full details to the inquiry officer as per contents of his letter referred to above.

[Signature]
Director Food,
Khyber Pakhtunkhwa,
Peshawar

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Inquiry Report

ANNEXURE N

REPORT REGARDING WHEAT DISPATCHES FROM MULTAN ZONE AND ALI PUR ZONE TO PROVINCIAL RESERVE CENTRE BUNER

60

The Director Food, Khyber Pakhtunkhwa vide his Office Order dated 27.12.2019 appointed the undersigned as Inquiry Officer to conduct inquiry in wheat dispatches from Multan and Ali Pur Zones of PASSCO Punjab to PRC Buner and fix responsibility viz a viz DFC Buner dated 26.12.2019 Annex-II wherein he reported about the delay in dispatches of wheat from above mentioned PASSCO zones to PRC Buner.

Proceedings:

In pursuance to the Director Food order, I Muhammad Iqbal Assistant Director Food Malakand Division (Inquiry Officer) visited PRC Buner on 28.12.2019 and found that the wheat receipt was in progress from Multan Zone. I informed the Director Food about the situation telephonically. The Director Food ordered me to monitor the wheat receipt and ensure the complete allocation to District Buner. As per stock register, 640 tones allocation of Multan zone was completed on 31.12.2019. Relevant pages of FG-3 register Annex-III. Allocation of 787 tones from Ali Pur zone started on 01.01.2020 and completed on 03.01.2020. Relevant pages of FG-3 Annex-IV.

Findings

I checked the record of DFC Office Buner and found that:-

- i- Director Food Allocated 4000 tones to District Buner from 06 different zones of PASSCO Punjab on 27.11.2019 with a stipulated completion period of 15 days Annex-V.
- ii- Stipulated period expired on 11.12.2019.
- iii- Allocation was completed 23 days after the stipulated period.
- iv- No application of Carriage Contractor regarding extension in stipulated period was found in the record of DFC office Buner.
- v- The Contractor at no stage approached Directorate of Food, Assistant Director Food Malakand Division or DFC Office Buner regarding any difficulty in transportation of wheat to destination station.
- vi- The Carriage Contractor in his statement has stated that the dispute among the transporters has caused delay in transporting the wheat to PRC Buner Annex-VI.
- vii- The DFC Buner vide his letter dated 11.12.2019 Annex-VII reported to Director Food that the stipulated period for the completion of subject wheat allocation has expired today and only a quantity of 452.266 tones has been received against the allocation of 4000 tones. But the letter has not been received at Food Directorate. Moreover the letter was neither endorsed to Assistant Director Food Malakand Division nor informed telephonically.

FLAED
300
4.2.2020

Attested

CA.

W

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- vii- After the expiry of stipulated period, DFC Buner issued several notices to carriage contractor for transportation of wheat but copies of notices were not received in the Directorate of Food and ADP Office Malakand Division.
- viii- No notice was given to Carriage Contractor for acceleration of dispatches before the expiry of stipulated period which is otherwise a must practice by consignees.
- ix- Assistant Food Controller PRC Buner has also not reported about slow lifting of wheat before the expiry of the stipulated period.
- x- As per record whole quantity of 4000 tones has been received at PRC Buner and taken on stock register accordingly. No financial loss occurred to the Govt exchequer.

Conclusion

The reasons put forth by carriage contractor for delay in dispatches of wheat is not genuine. The contractor unlike other contractors neither applied for extension in the stipulated period nor informed Food Directorate about any difficulty in transportation of wheat. The other contractors transported wheat amicably from same zones and loading points to their destinations stations during the same period. The contractor in fact withheld the Govt. property for ulterior motives best known to him.

The District Food Controller Buner showed negligence in monitoring the dispatches of wheat. He did not maintain efficient liaison with his representative and PASSCO authorities at dispatch centres. He could not push the contractor for in time delivery of wheat.

Recommendations

- a) The carriage contractor M/S Javed & Co should be proceeded against as per provision of contract agreement. The firm M/S Javed & Co, directors and management of the company in any other firm or Company may not be considered for future tendering process.
- b) The District Food Controller Buner Mr. Ashfaq and Assistant Food Controller Mr. Azam Khan have shown negligence and inefficiency in performance of their duties, therefore, they may be proceeded against as per E&D Rules 2011.

3rd February 2020

Director Food
Khyber Pakhtunkhwa

Attested
[Signature]
Superintendent,
Food Directorate,
Khyber Pakhtunkhwa,
Peshawar

(Muhammad Inbal)
Inquiry Officer,
Assistant Director Food,
Malakand Division

TRUE CC

FOOD DIRECTOR
KHYBER PAKHTUNKHWA
PESHAWAR

ANNEXURE C

No. 3885 / 14-137/PASSCO

Date: 27/11/2019

(62)

To: The General Manager Field,
PASSCO Lahore

Subject: DESPATCHES OF WHEAT FROM VARIOUS ZONES OF PASSCO TO KHYBER PAKHTUNKHWA.

Memo: I have the honour refer to the subject noted above and the discussion regarding deputing of Food Dept. Khyber Pakhtunkhwa executive staff to the dispatching zones of PASSCO.

The following officials of Food Department of Khyber Pakhtunkhwa are hereby deputed for the zones of PASSCO wheat to the destination stations of Khyber Pakhtunkhwa as per allocation.

S.No.	Name of Official	Name of Dispatching Zone
1	1. Mr. Sajid Ali, FGI, DFC office Mardan 2. Mr. Saad Khan Shah, FGI DFC office Haripur	Alipur
2	1. Mr. Yamin Yasin, FGI DFC office Dera Ismail Khan 2. Mr. Shahid Wajid, FGI, DFC office Kohat	Multan
3	1. Mr. Iqbal Hussain, FGI, DFC office Bannu 2. Mr. Iqbal Hussain, FGI, DFC office Swat	Bahawalnagar
4	1. Mr. Mubashir Ishaq, FGI, DFC office Miansehra 2. Mr. Iqbal Hussain, FGI, DFC office Charsadda	Rangwalla
5	1. Mr. Saad Khan, FGI office of NRC Azakhel 2. Mr. Saad Khan, FGI DFC office Swabi	Vehari
6	1. Mr. Saad Khan, FGI office of DFC Abotabad 2. Mr. Saad Khan, FGI DFC office Malakand	Khanewal

27-11-2019
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Encls: No. & date even.

A copy is forwarded to the:

- 1. PS to Secretary Food Khyber Pakhtunkhwa
- 2. P. A to Director Food Khyber Pakhtunkhwa
- 3. All the Deputy General Manager's of the above zones for information and action.
- 4. All the above officials. They are directed to report the daily lifting position to the respective zones to Additional Director, Assistant Director Food (SI), Food Directorate Khyber Pakhtunkhwa Peshawar on WhatsApp Number 0331-8937759 on daily basis with cut fail. They are further directed to resolve disputes if any regarding weight, quality of the dispatched wheat as per standard in the attached order and MOU.
- 5. All the above officers. They are directed to report any discrepancy in weight and quality of wheat to be lifted by you (Representatives) to the above named official for resolution according to the standard mentioned in attached order.

27-11-2019
DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

TRUE COPY



ANNEXURE C
FOOD DIRECTORATE
Despatches of wheat by various zones dated 29-11-2019

FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR

No 4383 /FG-433/PASSCO

(63)

Dated 31 /12/2019

To,

The General Manager Field,
PASSCO Lahore.

Subject:

DESPATCHES OF WHEAT FROM VARIOUS ZONES OF PASSCO TO KHYBER PAKHTUNKHWA.

Memo:

In continuation of this directorate letter No.3883/FG-433/PASSCO dated 29-11-2019 on the subject noted above.

2. The following officials of Food Department of Khyber Pakhtunkhwa are hereby deputed for the remaining four zones mentioned against each under the strict supervision of Mr. Gulab Gul Assistant Food Controller Bannu for the smooth despatches of PASSCO wheat to the destination stations of Khyber Pakhtunkhwa as per allocation orders:

S.No	Name of Official	Name of Dispatching Zone
1.	1. Mr. Abdul Ghafar, Assistant, DFC Office Nowshera.	Sahiwal
2.	1. Mr. Muhammad Nasir, FGI, DFC Office Dir Lower 2. Mr. Akbar Ali FGI, DFC Office Mardan.	Okara
3.	1. Mr. Iftikhar Ahmad FGS S&EO, Office Azakhel. 2. Mr. Muhammad Sajid FGS, DFC Office D.I.Khan	Hafizabad
4.	1. Mr. Asmatullah Computer Operator DFC Office Malakand. 2. Mr. Shahid Khan Senior Clerk DFC Office Malakand.	Laynh
5.	1. Muhammad Saleem, AFC, S&EO, Office Azakhel.	TobaTek Singh

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Endst: No. & date even.

A copy is forwarded to the:

1. PS to Secretary Food Khyber Pakhtunkhwa
2. P. A to Director Food Khyber Pakhtunkhwa.
3. All the Deputy General Manager's of the above zones for information and n/action.
4. All the above officials. They are directed to report the daily lifting position to the respective zones to Muhammad Ibrahim Assistant Director Food (S), Food Directorate Khyber Pakhtunkhwa Peshawar on whatsapp Number 0333-5937759 & Naiz Ali, Assistant STO Section cell No.03-46-9711182 on daily basis with out fail. They are further directed to resolve disputes if any regarding weight, quality of the dispatched wheat as per standard in the allocation order and MOU.
5. All carriage contractors. They are directed to report any discrepancy in weight and quality of wheat to be lifted by you (Representative) to the above names official for resolution according to the standard mentioned in allocation order.
6. Mr. Gulab Gul, Assistant Food Controller Bannu, for information and n/action.

TRUE COPY

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

64

VAKALATNAMA

In the Court of **Khyber Pakhtunkhwa Service Tribunal, Peshawar**

Service Appeal No. ____/2022

Petitioner
Plaintiff
Applicant
Appellant
Complainant

Muhammad Ashfaq

Decree-Holder

VERSUS

In the
Service

Respondent
Defendant
Opponent
Accused

Govt of Khyber Pakhtunkhwa etc.

Judgment-Debtor

I / We **Muhammad Ashfaq** the above noted ~~Respondent~~ ^{Appellant} do hereby appointed and constitute, **Muhammad Zafar Tahirkheli & Ansar Ullah Khan, Advocates High Court**, to appear, plead, act, compromise, withdraw or refer to arbitration for me / us as my / our counsels / advocates in the above noted matter, without any liability for his default and with the authority to engage any other Advocate / Counsel at my / our cost.


The Client / Litigant will ensure his presence before the Court on each and every date of hearing and the counsel would not be responsible if the case is proceeded ex-parte or is dismissed in default of appearance. All cost awarded in favour shall be the right of Counsel or his nominee, and if awarded against shall be payable by me/us.


I / We authorize the said Advocates to withdraw and receive on my / our behalf all sums and amounts payable or deposited on my / our account in the above noted matter.

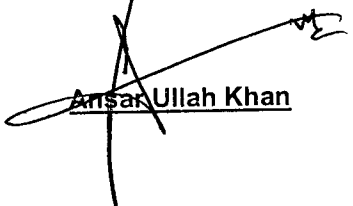
Dated 07/01-2022

Office
Date

ATIQ LAW ASSOCIATES,
87, Al-Falah Street, Besides State Life Building,
Peshawar Cantt, Phone: 091-5279529
E-mail : zafartk.advocate@gmail.com



Client


M. Zafar Tahirkheli
Attested & Accepted (Advocates)


Ansar Ullah Khan

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

Case Number	06/2022			
Case Title	Mohammed Asfaq Vs Govt			
Date of Institution	05-01-2022			
Bench	SB	<input checked="" type="checkbox"/>	DB	<input type="checkbox"/>
Case Status	Fresh	<input checked="" type="checkbox"/>	Pending	<input type="checkbox"/>
Stage	Notice	<input type="checkbox"/>	Reply	Argument
Urgency to clearly stated.	The first date of preliminary hearing not yet fixed.			
Nature of the relief sought.	Reinstatement.			
Next date of hearing	17-05-2022			
Alleged Target Date	25-04-2022			
Counsel for	Petitioner	<input checked="" type="checkbox"/>	Respondent	<input type="checkbox"/>
			In person	<input type="checkbox"/>

Mohammad Zafar
 Counsel/Party
 Signature of counsel/party
 [Signature]

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing 477 -p/2022

In case No. 06 -p/2022

Muhammad Ashfaq Vs Govt

Presented by Muhammad Raja on behalf of Appellant. Entered in the relevant register.

Put up alongwith main case _____


REGISTRAR

Last date fixed	<u>21-2-22</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>Tribunal Non functional</u>
Date(s) fixed in the similar matter by the Branch Incharge	<u>NFA</u>
Available dates Readers/Assistant Registrar branch	<u>NFA</u>


Assistant Registrar

REGISTRAR

BEFORE THE SERVICE TRIBUNAL, KHYBER PUKHTOONKHWA
PESHAWAR

Service Appeal No. 06 /2022

Muhammad Ashfaq,



Versus

Government of K. P and others.

=====
APPLICATION FOR EARLY DATE OF HEARING
=====

Respectfully Sheweth:

1. That the above titled appeal is pending before this Hon'ble Tribunal and is fixed for preliminary hearing on 17-05-2022.
2. That the appellant filed the instant appeal on 05-01-2022 before this Hon'ble Tribunal, but due to being non-functional and non availability of Chairman, the appellant case was fixed for 17-05-2022 for preliminary hearing.
3. That the appellant has been removed from service and seeks his reinstatement and has a strong prima facie case on merits requests the leave of this Hon'ble Tribunal to fix his case for preliminary hearing for an early date in the month of April.

It is therefore, requested that by accepting this application an early date of hearing may kindly be fixed for preliminary arguments for the just conclusion of the appeal on merits.


Appellant,

Through,

Peshawar, dated
13-04-2022


(Muhammad Zafar Tahirkheli)
Advocate

Affidavit:

I the appellant, state on oath that the contents of the above application are true and correct and nothing has been concealed from this Hon'ble Tribunal.


Deponent

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

S.B

Appeal No..... of 20 ..

06 & 07

22

Appellant/Petitioner

Recd I

M- Ashfaq & Others

Respondent

Chief Secy KPK Pesh:
Respondent No.....

2

Notice to:

Secretary Food Dept: Govt, of KPK

WHEREAS an ~~appeal~~ ^{Peshawar} petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

Day of.....20 ..

25th

May 22

(For Reply)

[Signature]
Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B
PESHAWAR.

No.

06 & 07

22

Regd

Appeal No. M. Ashfaq & Others of 20

Appellant/Petitioner

Chief Secy KPK ^{Versus} Pesh:

Respondent

Respondent No. Director Food Dept. / Directorate, Govt. of KPK

Notice to: Near Haji Camp Adda Git Road Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

25th

Given under my hand and the seal of this Court, at Peshawar this.....

May 22

Day of.....20

(For Reply)

[Signature]

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. S.B

No.

Appeal No. 06 & 07 of 20 22

Muhammad Ashfaq & Others Appellant/Petitioner

Versus

Chief Secy KPK Pesh. Respondent

Respondent No. 1

Chief Secretary Govt. of KPK

Peshawar.

Notice to: —

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 23/6/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 25th

Day of May 20 22

(For Reply)

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

- Note:
1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
 2. Always quote Case No. While making any correspondence.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Appeal No. 06/2022

Muhammad Ashfaq,
Ex-District Food Controller (BS-17),
Buner R/O Sehat Medicos,
Malakand Road, Takhtbahi,
District Mardan.....

PETITIONER

Versus

1. The Chief Secretary of Government
Of Khyber Pakhtunkhwa, Peshawar

2. The Secretary Food, Khyber Pakhtunkhwa Peshawar

3. The Director Food,
Khyber Pakhtunkhwa, near Haji Camp Adda,
G.T. Road Peshawar.....

RESPONDENTS

INDEX

S.No.	Description of documents	Annexure	Pages
1	Affidavit		1
2	Para Wise Comments		02-04
3	Appointment Order	I	05-06
4	Suspension Notification	II	07
5	Enquiry Report Disciplinary Action	III	08-10
6	Personal Hearing letter.	IV	11
7	Letter of Director General/ Inquiry Officer	V	12
8	The inquiry committee submitted addendum dated 05-07-2021	VI	13
8	Office Order Removal from Service	VII	14
9	Appeal rejected dated 20-01-2022	VIII	15

Asif Ali Shah,
Deputy Director Food
For:- Respondent 01 to 03

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No. 06/2022

Muhammad Ashfaq Ex-District Food controller (BS-17) Buner R/O
Sehat Medicos, Malakand Road, Takhtbahi, District Mardan.

APPELLANT

Versus

1. The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar
2. The Secretary Food Khyber Pakhtunkhwa Peshawar
3. The Director Food Khyber Pakhtunkhwa, near Haji Camp Adda, GT Road Peshawar, Peshawar.

RESPONDENTS

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

NO. 01 TO 03

Respectfully Sheweth

Preliminary objections.

1. That the appeal is not maintainable as it is not in proper form.
2. That the appellant is estopped to file the present Appeal.
3. That the appellant has got no cause of action against the respondents.
4. That the issue invoked in present appeal is purely administrative and needs to be dealt with as such.
5. That the appellant has not come to the Tribunal with clean hands. Material facts have been concealed from this Honourable Tribunal. Thus, the appellant is not entitled any relief.
6. That the appellant has got no locus standi to prefer the appeal against respondents.
7. That the appellant is neither aggrieved person nor does he has locus standi to file the instant Appeal.
8. That the appeal of the appellant is badly time barred.
9. That the appeal is bad for miss joinders and non joinder of necessary parties.

ON FACTS:

- 1) On the recommendations of the Khyber Pakhtunkhwa, Public Service Commission, Mr. Muhammad Ashfaq with others were appointed as District Food Controller (BS-16) and posted as District Food Controller, Malakand at Dargai vide appointment Order No. 8336/AC-240-PSC dated 25-10-2013, later on the recommendation of Up-gradation Committee of Finance Department Khyber Pakhtunkhwa, the post of District Food Controller (BS-16) up-graded as BS-17 (**Annex-I**)
- 2) As per record of Directorate of Food Khyber Pakhtunkhwa, Peshawar, during the year-2020 total 4000 M. Tons wheat allocated to Buner, by Directorate of Food Khyber Pakhtunkhwa Peshawar out of which only 1891.263 M. Tons was delivered to PRC Buner and the remaining 2108.747 M. Tons was not delivered. In order to conduct Inquiry into the embezzlement/ non delivery of wheat stock during the dispatches from Multan and Ali Pur Zones to the Provincial Reserve Centre, Buner and to fixe responsibility, Mr. Muhammad Ashfaq DFC (appellant) and Mr. Muhammad Azam AFC Incharge PRC Buner were placed under suspension vide Government of Khyber Pakhtunkhwa, Food Department Notification No. SOG/Food/8-1/2019/6711 dated 18-03-2020(**Annex-II**). Formal Inquiry Committee consisting on Mr.Zubair Ahmad Director Food Khyber Pakhtunkhwa and Mr. Shareef Hussain Additional Secretary Home Department was ordered to conduct inquiry against the appellant with AFC concerned, on the following allegations:-

- 2
- a) The Carriage Contract with his connivance withheld government wheat for ulterior motives for 38 days.
 - b) He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non delivery of government wheat.
 - c) He issued notices to Carriage Contractor in back dates only to fulfil the formality and did not provide copies of notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.

3) The Inquiry Committee in its Inquiry Report / conclusion say that:

- a) There was no delay of 38 days as mentioned in the allegation No."a" against the District Food Controller but more than 50% of the allocated wheat has not reached / delivered to PRC Buner. Hence charge "a" against District Food Controller is proved.
- b) The District Food Controller did not inform Director Food Khyber Pakhtunkhwa and Assistant Director Malakand Division about the non-delivery of government wheat to PRC Buner. The letter addressed to Director Food on 11-12-2019, which is attached to his statement, has reached Directorate of Food on 31-12-2020 which seems to be issued in back dat. Because Inquiry in the issue was already initiated on 27-12-2020. Hence allegation No. "b" against District Food Controller is proved.
- c) The Notices issued by the District Food Controller to the Carriage Contractor were endorsed to Director Food, but astonishingly only two notices issued on different date about slow lifting of wheat has reached Directorate of Food at a very later stage on the same date as evident from the statement of dairy dispatch section of Directorate of Food (Anne-). So it corroborates the fact that these notices were issued in back date only to fulfil the formality.
- d) It can safely be construed that the wheat i.e. 2019.747 Metric Tons has not been withheld by the Contractor for 38 days rather it has never been delivered to PRC Buner which speaks louder about the negligence on the part of Mr. Azam Khan Ex-Assistant Food Controller, Buner(**Annex-III**).

As per above report the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) issued Show Cause Notice tentatively imposing a major penalty of Removal from Service vide letter No. SOG/Food/8-1/2019/7191 dated 23-07-2020. The Special Secretary Establishment Department empowered for personal hearing of the appellant vide letter No. SOR-III (E&AD)/9-263/2020 dated 14-12-2020 to attend the Office of Special Secretary Establishment on 15-12-2020 (**Annex-IV**) Further added that the Competent authority also made observation on the Inquiry Committee which was communicated to the appellant with others vide letter No. PDMA/PSTO DG/Misc 2020-21 dated 08-04-2021 (**Annex-V**). In response to the observations raised by Establishment Department, the Inquiry Committee submitted addendum vide letter No. PDMA/PS to DG/2020-21 dated 05-07-2021 that the Inquiry Committee stands by the conclusion already drawn in the earlier Inquiry report submitted to the Competent Authority Additionally, the Inquiry Committee is of the considered opinion that the Inquiry Report submitted by the Ex-Assistant Director: Food Malakand Division was not based on fact and the mechanism devised for the recovery of amount of embezzled wheat was flawed and illegal (**Annex-VI**)

After completion of all codal formalities on account of non-reporting of the undelivered government allocated wheat at the Provincial Reserved Centre, Buner, because of being in connivance with the Carriage Contractor in illicit sale of the said

3

wheat, and whereas, upon submission of the Inquiry Report the major Penalty of "Removal from Service" was tentatively imposed upon the appellant was confirmed vide Government of Khyber Food Department Office Order No. SOG/Food Deptt/8-1/2020/9886 dated 08-09-2021 (Annex-VII).

- 4) As per reply given in Para-03 above
- 5) As per reply given in Para-03 above.
- 6) The appellant filed an appeal before the appellate authority against the punishment of removal from service. The appellate authority examined his appeal under Rule-17(2) of Khyber Pakhtunkhwa government Servant (E&D) Rules, 2011 and up-holed the already confirmed major penalty i.e. removal from service and reject his appeal vide Office Order No. SO (G) / Food Deptt:/ 8-1/ 2020/ 0625 dated 20-01-2022 (Annex-VII).
- 7) Incorrect.

GROUND.

- A. Incorrect, the appellant has tread in accordance with law and rules.
- B. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- C. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- D. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- E. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- F. Incorrect. As per reply given in Paras-2 to 3 of the facts
- G. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- H. Incorrect. As per reply given in Paras-2 to 3 of the facts
- I. In-correct. Mr. Muhammad Iqbal Assistant Director Food Malakand Division was directed to conduct fact findings Inquiry and submit report to the authority. The Inquiry Officer submitted his report that the Carriage contractor Ms. Javid & Co should be proceeded against as per provision of the contract agreement. The firm Ms Javid & Co Directors and Management of the company in ay other firm or Company may not be considered for future tendering process, while the appellant Mr. Muhammad Ashfaq ex-DFC Buner and Muhammad Azam ex-AFC Buner have shown negligence and inefficiency in performance of their duties, therefore, they may be proceeded against as per E&D Rules,2011. As per report the appellant with others were served charge sheet / statement of allegation under E&D Rules, 2011 as explained in Paras-02 to 03 of the fact.
- J. Incorrect. As per reply given in Paras-2 to 3 of the facts
- K. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- L. Incorrect. As per reply given in Paras-2 to 3 of the facts. The Competent authority made observation on the Inquiry Committee which was communicated to the appellant with others vide letter No. PDMA/PSTO DG/Misc 2020-21 dated 08-04-2021 In response to the observations raised by Establishment

4

Department, the Inquiry Committee submitted addendum vide letter No. PDMA/PS to DG/2020-21 dated 05-07-2021 that the Inquiry Committee stands by the conclusion already drawn in the earlier Inquiry report submitted to the Competent Authority. Additionally, the Inquiry Committee is of the considered opinion that the Inquiry Report submitted by the Ex-Assistant Director Food Malakand Division was not based on fact and the mechanism devised for the recovery of amount of embezzled wheat was flawed and illegal.

- M. Incorrect. After completion of all codal formalities on account of non-reporting of the undelivered government allocated wheat at the Provincial Reserved Centre, Buner, because of being in connivance with the Carriage Contractor in illicit sale of the said wheat, and whereas, upon submission of the Inquiry Report the major Penalty of "Removal from Service" was tentatively imposed upon the appellant was confirmed vide Government of Khyber Food Department Office Order No. SOG/Food Deptt/8-1/2020/9886 dated 08-09-2021.
- N. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- O. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- P. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- Q. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- R. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- S. Incorrect, the appellant has tread in accordance with law and rules, as explained at paras-02-03 of the facts.
- T. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- U. Incorrect. As per reply given in Paras-2 to 3 of the facts.
- V. Incorrect. As per reply given in Paras-2 to 3 of the facts.

It is therefore, most respectfully prayed that on acceptance of the Para-wise comments, appeal of the appellant may kindly be dismissed.

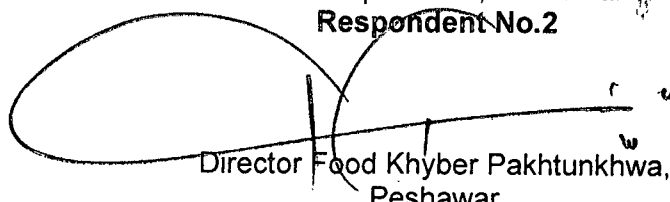
RESPONDANTS



Chief Secretary through Secretary Food,
Government of Khyber Pakhtunkhwa,
Food Department, Peshawar
Respondent No.1



Secretary Food,
Government of Khyber Pakhtunkhwa,
Food Department, Peshawar
Respondent No.2



Director Food Khyber Pakhtunkhwa,
Peshawar
Respondent No.3



FOOD DIRECTORATE
KHYBER PAKHTUN KHWA,
PESHAWAR.
No. 8336 /AC-240-PSC
Dated 25 / 10 / 2013

ANNEXURE C

12

APPOINTMENT ORDER

Consequent upon the acceptance of appointment Offer bearing No. 8083/AC-240-PSC dated 04-10-2013, and in pursuance to the Government of Khyber Pakhtunkhwa, Establishment & Administration Department Circular letter bearing No. SOSR-III/TD/12-1/2005 dated 27-02-2013, and on the recommendation of the Khyber Pakhtunkhwa Public Service Commission, the below mentioned recommendees are hereby appointed as District Food Controller/ Storage & Enforcement Officer / Rationing Controller (HS-16) against temporary posts in Food Department Khyber Pakhtunkhwa on the terms and conditions laid down in their appointment offer referred to above:-

S.No.	Name with Father, Name/ Permanent Home Address	From Appointed as /Posted as	To Attached with
1.	Ijaz Mahsood S/O Mir Zaman Khan Village Zardran, Tehsil Ladha, South Waziristan Agency.	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Lakki Marwat against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Lakki Marwat, he is attached with DFC Bannu for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
2.	Noor Hayat Khan S/O Umara Khan Post Office Umarzai Village Mehmood Abad Batta Korona Charsadda	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Swabi against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Swabi, he is attached with DFC Nowshera for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
3.	Muhammad Shahab ud Din S/O Muhammad Gul Village & Post Office Sardheri, Mohallah Shekhan, Dheri Korona, Tehsil & District Charsadda	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Dir Upper against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Dir Upper, he is attached with DFC Charsadda for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
4.	Muhammad Ashfaq S/O Muhammad Safdar Village Chamgy Tehsil Lal Qilla District Dir	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Malakand at Dargai against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Malakand at Dargai, he is attached with DFC Mardan for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
5.	Abu Bakr Mehmood S/O Syed Mehmood House No.2772, Post Office Shah Qabool, Dabgari Jogian Shah, Peshawar	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Turghar against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Turghar, he is attached with DFC Abbottabad for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
6.	Khan Zaman S/O Atlas Khan Village Loghari Rajab Khel Post Office Khajaki Tehsil Takhti Nasrati District Karak	On appointment as District Food Controller/ Storage & Enforcement Officer /Rationing Controller (BS-16), he is posted DFC Hangu against the vacant post with immediate effect.	On taking the charge assumption of the post of DFC Hangu, he is attached with DFC Kohat for a period of 03 months to work under his supervision and to receive preliminary training and to acquaint himself with the working of the Department
7.	Muhammad Asif DFC	DFC Hangu	DFC Kohistan against the vacant post.

AC-240 Public Service Commission Appointment Order dated 11-10-2013.doc

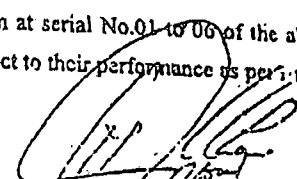
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13

8.	Mr. Shehbaz Tariq AFC	Presently working against the post of DFC Swabi in his own pay & scale	Posted as AFC Turghar
9.	Mr. Amanullah Mohmand AFC	Presently working against the post of DFC Darai in his own pay & scale	Posted as AFC Dargai
10.	Mr. Sabz Ali FGI	Presently working as AFC Turghar in his own pay & scale	Posted as AFC Mardan in his own pay & scale.

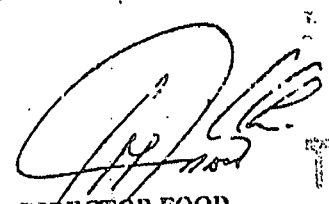
The newly appointed DFCs/S&EOs/ RC (BS-16) given at serial No.01 to 06 of the above table shall be on probation for a period of one year which can be extended subject to their performance as per rules.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Endorsement No. & Date Even

Copy is forwarded to

- 1) PS to Advisor for Food to Chief Minister Khyber Pakhtunkhwa
- 2) PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa
- 3) The Accountant General of Pakistan Islamabad.
- 4) The Secretary Federal Public Service Commission Islamabad for information with reference to Certificate of Department Permission dated 19-06-2013. He is requested that Mr. Abu Bakar Mehmood, Assistant (BS-14) of your Office has been appointed as District Food Controller/ Storage & Enforcement Officer /Rationing Controller, Peshawar (BS-16) in Food Department Khyber Pakhtunkhwa. You are therefore requested to kindly relieve the Officer concerned and directed to report for further duties in the new place of appointment. Also provide copies of service record along with original ACRs/ Assets etc complete in all respect for record of Food Directorate, Khyber Pakhtunkhwa.
- 5) The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 6) The Director Recruitment Khyber Pakhtunkhwa Public Service Commission Peshawar for information with reference to his letter No. KPK-PSC-SR-VI/0703 dated 18-07-2013. He is requested to kindly furnish photo copies of Merit List of the recommendee to proceed further in the matter.
- 7) All District Accounts Officers in Khyber Pakhtunkhwa.
- 8) The Section Officer Food Government of Khyber Pakhtunkhwa Food Department Peshawar for information with reference to his letter No. SOF/1-16/13/P-III/779 dated 23-07-2013.
- 9) All Assistant Director Food at Divisional level in Food Department Khyber Pakhtunkhwa.
- 10) All District Food Controllers in Khyber Pakhtunkhwa.
- 11) The S&EOs PRC Peshawar/ NRC Azakhel.
- 12) The Rationing Controller, Peshawar.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

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GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

ANNEXURE D

Dated: Peshawar, the 18-03-2020

14

☎ 091-9226373 ✉ fooddepartmentkpk@gmail.com 🌐 @fooddepartmentkpk 📠 @foodsecretariat

NOTIFICATION

NO.SOG/Food/8-1/2019/ 6711 :-In order to conduct an inquiry into the embezzlement/ non delivery of wheat stock during dispatches from Multan and Ali Pur Zones to the Provincial Reserve Center, Buner and to fix responsibility, the Competent authority is pleased to place Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner (now at Food Directorate, Peshawar) under suspension for a period of 90 days under Rule-06 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 with immediate effect.

Sd/-
SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Endst: No. and Date even.

Copy forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. The Commissioner Malakand, Division at Saidu Sharif, Swat.
3. The Deputy Commissioner, Buner
4. Director Food Khyber Pakhtunkhwa.
5. PSO to to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Minister Food, Khyber Pakhtunkhwa.
7. PS to Secretary Food, Khyber Pakhtunkhwa.
8. Assistant Director Food, Malakand Division at Saidu Sharif, Swat.
9. District Food Controller, Buner.
10. Officer concerned,
11. Personal file.

SECTION OFFICER-(GENERAL)

[Handwritten Signature]
18/3/20

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8

ENQUIRY REPORT

(2)

Subject: JOINT DISCIPLINARY PROCEEDINGS AGAINST M/S MUHAMMAD ASHFAQ, EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM, ASSISTANT FOOD CONTROLLER, BUNER.

We both the undersigned were appointed as enquiry committee under rule 10 (1) (a) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 vide Food Department letter No.SOG/F.D/8-1/2016/6714 dated 19-03-2020 to probe into the charges against Mr. Muhammad Ashfaq Ex-District Food Controller Buner and Mr. Muhammad Azam Ex-Assistant Food Controller Buner and submit inquiry report accordingly (Annex-I).

2. The following charges were leveled against the two officer/officials:-

- i. Mr. Muhammad Ashfaq DFC Buner (Annex-II)
 - a. The Carriage Contractor with his connivance withheld government wheat for ulterior motives for 38 days.
 - b. He did not inform the Director Food, Khyber Pakhtunkhwa and Divisional Assistant Director Food, Malakand at Swat about non-delivery of government wheat.
 - c. He issued notices to Carriage Contractor in back dates only to fulfill the formality and did not provide copies of the notices to Food Directorate, Peshawar and Divisional Assistant Director Food Malakand at Swat.
- ii. Mr. Muhammad Azam AFC Buner (Annex-III)

"He did not report non-delivery of allocated government wheat at PRC Buner because of being in connivance with carriage contractor in withholding the government wheat for ulterior motives."

3. In pursuance of the Food Department order both the alleged were asked to submit a written statement in their defense. Both of them submitted their statement which is available at (Annex-IV & V). On perusal of their statement, preliminary enquiry and other relevant documents, two questionnaires were prepared. They were called for personal hearing to office of the undersigned on 18-05-2020 and were asked to respond to each question honestly. The questionnaires alongwith their responses are available at (Annex VI & VII). In order to get further clarity on the issue, Mr. Muhammad Iqbal Assistant Director Food, Malakand Division (now retired) was also called for interview who did not give a written statement but stated that the preliminary enquiry report submitted by him may be considered as his statement (Annex-VIII). Furthermore, the enquiry report submitted by Commissioner Malakand and a joint report submitted by Director Food, Additional Deputy Commissioner Buner, Deputy Secretary Finance Department etc at (Annex - IX & X) was also perused.

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(18)

FINDINGS:

4. From perusal of their statements, responses to their questionnaires and other relevant record we found that:-

- i. After perusal of the enquiry report of Commissioner Malakand (**Annex-IX**) and report of Director Food (**Annex-X**) it came to the fore that out of 4000 Metric Ton wheat allocated to Buner, only 1891.253 Metric Ton has been delivered to PRC Buner and the remaining 2108.747 Metric Ton has not been delivered. So there was not delay of 38 days in transportation of wheat but more than 50% of allocated wheat for District Buner has not at all reached/delivered to PRC Buner.
- ii. Although various letters of District Food Controller Buner addressed to the contractor and endorsed to Director Food Khyber Pakhtunkhwa and Assistant Director Food Malakand Division are attached to the statement of Mr. Muhammad Ashfaq District Food Controller (**Annex-II**) but its non receipt both in the offices of Director Food and Assistant Director Food in this era of modern communication is beyond understanding. When checked from the diary / dispatch section of the Directorate of Food, only three of the letters have reached the Directorate on 31-12-2019 (**Annex-XI**) quite later than the initiation of enquiry against them (which was initiated on 27-12-2019). It clearly shows that those letters were issued just to fulfill the formality and actually both the offices were not informed of the happening timely.
- iii. The Assistant Food Controller in his statement (**Annex-III**) has tried to prove that he has reported to District Food Controller the non-delivery of allocated quantity of wheat to PRC Buner and has attached few letters to his statement. But those are not proper letters, with no official letter head, Diary Dispatch No. and are just information reports on plain paper. When Assistant Food Controller was asked about the fact that why the reports were sent on plain paper instead of official letter pad, he responded that official letter pad is used under the signature and seal of District Food Controller. Therefore he submitted reports to District Food Controller on plain paper.
- iv. It seems that no proper reporting happened but to fulfill the formality and in order to substantiate their statement before the enquiry committee, these reports/letters were attached.
- v. The Assistant Food Controller at a very belated stage i.e. on 24-02-2020 reported the non delivery of 2108.747 Metric Ton of wheat to PRC Buner and the District Food Controller forwarded that report to Director Food but by then much water has flown under the bridge and it was at time when the Commissioner Malakand has submitted his enquiry report, wherein it was established that the total allocated wheat has not been delivered to PRC Buner. For understanding of the whole episode below is chronology of events.

S#	Action/letter/Notification	Date
1	Allocation of wheat quota for districts by Director Food	27-11-2019
2	The stipulated 15 days period of transportation expired	11-12-2020
3	Director Food assigned enquiry in the issue to Assistant Director Food Malakand Division	27-12-2019
4	Assistant Director Food Malakand Division submitted his report	03-02-2020
5	Commissioner Malakand submitted enquiry report	04-02-2020
6	District Food Controller was transferred from Euner	07-02-2020
7	Assistant Food Controller was transferred from Buner	14-02-2020
8	DFC and AFC reported non-delivery of 2108.747 Metric Ton of wheat to PRC Buner	24-02-2020

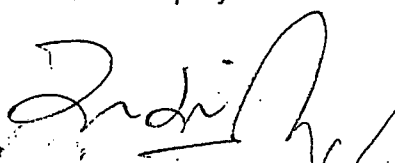
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- vi. The above chronology shows that the non-delivery of wheat was reported at a very belated stage when it was a broad day fact and both the District Food Controller and Assistant Food Controller were posted out of District Buner.
- vii. ★ One commendable performance on the part of District Food Controller / Assistant Food Controller and officers of Food Department is the recovery of cost of major chunk of non-delivered wheat from the contractor. As their statements and report of Director Food revealed that out of the total 2108.747 Matric ton non-delivered wheat, the release price of 1866.747 Matric Ton wheat (an amount of Rs. 66,960,215) has been recovered and deposited in the government treasury. For the remaining 242 Matric Tons wheat, which amounts to Rs. 8,680,650/- security and some unpaid bills of the contractor is lying with department which can be forfeited to make up the loss to the government exchequer.


CONCLUSION:

- a. There was no delay of 38 days as mentioned in the allegation No. "a" against the District Food Controller but more than 50% of the allocated wheat has not reached/delivered to PRC Buner. Hence charge "a" against District Food Controller is proved.
- b. District Food Controller did not inform Director Food Khyber Pakhtunkhwa and Assistant Director Food Malakand Division about the non-delivery of government wheat to PRC Buner. The letter addressed to Director Food on 11-12-2019, which is attached to his statement, has reached Directorate of Food on 31-12-2020 which seems to be issued in back date. Because enquiry in the issue was already initiated on 27-12-2020. Hence allegation No. "b" against District Food Controller is proved.
- c. The notices issued by District Food Controller to the carriage contractor were endorsed to Director Food but astonishingly only two notices issued on different dates about slow lifting of wheat has reached Directorate of Food at a very later stage on the same date as evident from the statement of diary dispatch section of Directorate of Food (**Annex-XI**). So it corroborates the fact that these notices were issued in back date only to fulfill the formality.
- d. It can safely be construed that the wheat i.e. 2108.747 Matric Ton has not been withheld by the contractor for 38 days rather it has never been delivered to PRC Buner which speaks louder about the negligence on the part of Mr. Azam Khan Ex-Assistant Food Controller Buner.

The enquiry consists of 03 pages and 11 Annexure.


(ZUBAIR AHMAD)
DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
MEMBER ENQUIRY COMMITTEE


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(SHARIF HUSSAIN)
ADDITIONAL SECRETARY
HOME DEPARTMENT,
MEMBER ENQUIRY COMMITTEE

MOST IMMEDIATE



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT
(REGULATION WING)

ANNEXURE E3

29

No. SOR-III (E&AD)/9-263/2020
Dated Peshawar the December 14th, 2020

To

The Secretary to Govt. of Khyber Pakhtunkhwa,
Food Department.

Subject: -

DISCIPLINARY PROCEEDINGS AGAINST M/S MUHAMMAD ASHFAQ,
EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM,
ASSISTANT FOOD CONTROLLER, BUNER.

Dear Sir,

I am directed to refer to the subject noted above and to inform that the Chief Secretary, Khyber Pakhtunkhwa has empowered Special Secretary, Establishment Department to give personal hearing to the following accused, on his behalf. The Special Secretary Establishment has fixed 15.12.2020 at 11.00 AM for personal hearing in her office:-

- i. Mr. Muhammad Ashfaq, Ex-District Food Controller, Buner.
- ii. Mr. Muhammad Azam, Ex-Assistant Food Controller, Buner.

2. I am, therefore, directed to request that the accused officer may be informed to attend the office of Special Secretary Establishment on the date, time & venue mentioned above and also nominate an officer of your department well versant to the case to attend the personal hearing with complete record.

Yours faithfully

SECTION OFFICER (R-III)
Phone No. 9211793

Copy for information:-

1. Director Food Department, Khyber Pakhtunkhwa.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. PS to Secretary Establishment Department, Khyber Pakhtunkhwa.

SECTION OFFICER (R-III)

TRUE COPY



ANNEXURE A
12
30
PROVINCIAL DISASTER MANAGEMENT AUTHORITY,
KHYBER PAKHTUNKHWA

No.PDMA/PstoDG/Misc 2020-21

dated 01.04.2021

to

1. Mr.Muhammad Ashfaq, Ex-District Food Controller Buner.
- ✓ 2. Mr.Muhammad Azam, Ex-Assistant Food Controller, Buner.
3. Mr.Muhammad Shakeel, Deputy Director Food, Food Directorate Peshawar.
4. Mr.Abdul Jalil Deputy Director Food, Food Directorate Peshawar.
5. Mr.Muhammad Iqbal Ex-Assistant Director Food Malakand Division.

Subject:-

**DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD ASHFAQ
EX-DISTRICT FOOD CONTROLLER, BUNER AND MUHAMMAD AZAM,
ASSISTANT FOOD CONTROLLER, BUNER.**

Memo:

Reference letter No.PDMA/PstoDG/Misc 2020-21 dated 01.04.2021 on the subject cited above.

Enclosed find herewith observations of competent authority on the inquiry report conducted by the undersigned on the above subject. You are directed to submit your reply to the observations to proceed further in the matter.

(SHARIF HUSSAIN)
DIRECTOR GENERAL INQUIRY OFFICER

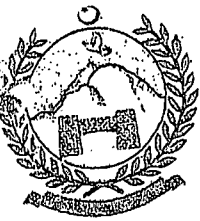
Endt No. & Date Even.

A copy is forwarded to:-

1. PSO to Chief Secretary Khyber Pakhtunkhwa.
2. PS to Special Secretary (Estt), Establishment Department Khyber Pakhtunkhwa.
3. PS to Secretary Food Khyber Pakhtunkhwa.

SHARIF HUSSAIN
DIRECTOR GENERAL INQUIRY OFFICER

TRUE COPY



Provincial Disaster Management Authority
Khyber Pakhtunkhwa (Headquarter)
Plot 46 A, Sector B-2, Hayatabad Phase-5, Peshawar.
Phone: (091) 9211854, 9213959 Fax: (091) 9214025
www.pdma.gov.pk



13
32

Dated: 05.07.2021

No. PDMA/PStoDG/2020-21

To

The Secretary to Government of Khyber Pakhtunkhwa,
Food Department.

Subject:

DISCIPLINARY PROCEEDINGS AGAINST MR. MUHAMMAD ASHFAQ,
EX-DISTRICT FOOD CONTROLLER BUNER AND MUHAMMAD AZAM
ASSISTANT FOOD CONTROLLER BUNER

Dear Sir,

Please refer to your letter No. SOG/Food Deptt:/8-1/2020/8846 Dated 17th March, 2021 on the subject noted above and to enclose herewith an addendum with reference to the observations raised by the Competent Authority on the enquiry report already submitted by the Enquiry Committee, is submitted for perusal and further necessary action, please.

Sharif Hussain
DG PDMA
Member Enquiry

TRUE COPY



GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Dated Peshawar, the 8th September, 2021.

091-9225373



fooddepartmentkpk@gmail.com

foodsecretari

@fooddepartmentkpk

OFFICE ORDER

NO.SOG/Food Deptt /8-1/2020/ 9886: Whereas, disciplinary proceedings under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline), 2011, were initiated against Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17), Buner, on account of non-reporting of the undelivered government allocated wheat at the Provincial Reserve Center, Buner, because of being in connivance with the carriage contractor in illicit sale of the said wheat, And, whereas, upon submission of the Inquiry Report, the major penalty of "Removal from Service" was tentatively imposed upon the accused officer.

2. Now therefore, upon affording Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17), Buner, an opportunity of personal hearing, the tentatively imposed penalty of "Removal from Service" is hereby confirmed.

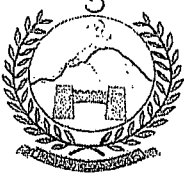
CHIEF SECRETARY
GOVT: OF KHYBER PAKHTUNKHWA

Endst: No. & date even.

Copy for information and necessary action to the:

1. Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director Food Khyber Pakhtunkhwa, Peshawar.
4. Mr. Muhammad Ashfaq, Ex-District Food Controller (BS-17), Buner.

(MURAD AHMAD HOTI)
SECTION OFFICER (GENERAL)



GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Peshawar dated, the 20-01-2022

☎ 091-9225373 ✉ fooddepartmentkpk@gmail.com 📠 foodsecretariat @fooddepartmentkpk

OFFICE ORDER

No.SO(G)/Food Deptt:/8-1/2020/ 10625: Whereas, disciplinary proceedings under the provisions of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, were initiated against Mr. Muhammad Ashfaq, Ex. District Food Controller (BS-17) Buner, on account of non-reporting of the undelivered government allocated wheat at the Provincial Reserve Centre, Buner, because of being in connivance with the carriage contractor in illicit sale of the said wheat.

2. And, whereas, upon affording Mr. Muhammad Ashfaq, Ex. District Food Controller (BS-17) Buner an opportunity of personal hearing, the tentatively major penalty of "Removal of Service" was imposed and the same was hereby confirmed by the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa).

3. Now, therefore, in exercise of powers conferred upon Chief Minister, Khyber Pakhtunkhwa being Appellate Authority under Rule-17(2) of Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 upheld the already confirmed major penalty i.e "Removal from Service" and reject the appeal.

CHIEF MINISTER

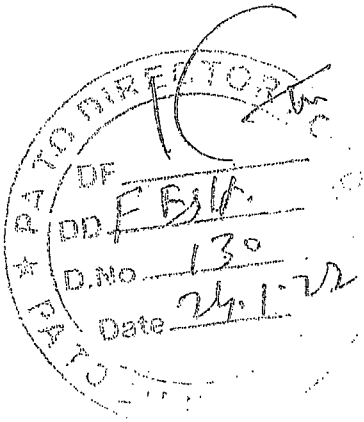
GOVT: OF KHYBER PAKHTUNKHWA

Endst. No. & Date Even.

Copy for information/necessary action to the:

1. Director Food Khyber Pakhtunkhwa, Peshawar.
2. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PS to Secretary Establishment Department Khyber Pakhtunkhwa, Peshawar.
4. Muhammad Ashfaq, Ex. District Food Controller (BS-17) Buner

(MURAD AHMAD HOTI)
SECTION OFFICER (GENERAL)



482
25/01/22

25/1

RK
25/11

**MOST IMMEDIATE
COURT MATTER**



TIME LIMITE CASE

OUT TODAY

**GOVERNMENT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT**

No. SO(Lit)/FOOD/7-4/2021 11524
Dated Pesh: The 29-07-2022

091-9225373

fooddepartmentkpk@gmail.com

@ FoodKPGovt

@ foodkpgovt

To

The Secretary Establishment,
Government of, Khyber Pakhtunkhwa
Peshawar

**Subject:- PARA WISE COMMENTS ON BEHALF OF RESPONDENTS
NO. 01 TO 03**

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith joint para wise comments duly prepared and signed by the Secretary Food, Govt of Khyber Pakhtunkhwa, in Writ Petition No. 06/2022 Titled "Muhammad Ashfaq VS Secretary Food Govt of Khyber Pakhtunkhwa & others".

It is therefore requested that joint para wise comments may kindly be placed for the perusal and signature of the Worthy Chief Secretary Establishment, & Administration Department, Peshawar (**Respondent No. 1**), please.

Encl: as above.

Yours faithfully,


SECTION OFFICER (LITIGATION)

Copy to:-

1. PS to Secretary Food, Khyber Pakhtunkhwa
2. PA to Director Food, Khyber Pakhtunkhwa


SECTION OFFICER (LITIGATION)

Original
Received
MK

21/08/2022

**COURT MATTER/
MOST IMMEDIATE**

TIME LIMIT CASE

OUT TODAY



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(JUDICIAL WING)**

No. SO(Lit-III)E&AD/3-145/2022
Dated: Peshawar, the 01-08-2022

To

The Section Officer (Lit.),
Food Department,
Peshawar.

Duty No. 1174
Dated 01-8-22
SO (Lit-III) Food Department

Subject: - **PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 03.**

I am directed to refer to your office's letter nos. SO(Lit)/FOOD/7-4/2021 dated 28.07.2022 and 29.07.2022 on the subject noted above and to state that the Administrative Secretary is hereby authorized to sign parawise comments on behalf of the worthy Chief Secretary, Khyber Pakhtunkhwa in cases of service appeals filed by the Civil Servants before the Khyber Pakhtunkhwa Services Tribunal. A copy thereof is enclosed for ready reference, please.

(Encl: As Above:)


Section Officer (Lit-III)

Endst: of Even No. & Date:

Copy forwarded to the:-

1. P.S to Secretary, Establishment Department
2. P.S to Special Secretary, Establishment Department.
3. P.S to Special Secretary, (Regulation)., Establishment Department.
4. P.S to Additional Secretary (Judicial), Establishment Department.
5. P.S to Deputy Secretary (Judicial), Establishment Department.
6. Master file.


Section Officer (Lit-III)

3. P.S. to Secretary
4. P.S. to Secretary S&GAD.

Better Copy

Govt. of NWFP,
Services and General Admn: Deptt;
(Regulation Wing)

No. SOR-I (S&GAD)4-2/82,
Dated: 15.01.1999.

To

1. All Administrative Secretaries to Government of NWFP.
2. Secretary to Governor, NWFP.
3. Secretary to Chief Minister, NWFP.
4. All Divisional Commissioners in NWFP.
5. All Heads of attached Departments in NWFP.
6. All Heads of Autonomous/Semi-Autonomous Bodies in NWFP.
7. All Deputy Commissioners/Political Agents In NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. All District and Session Judges in NWFP.
10. The Registrar, NWFP Services Tribunal, Peshawar.
11. The Secretary, NWFP Public Service Commission.
12. The Director, Anti-Corruption Establishment, Peshawar.
13. The Secretary, Board of Revenue, NWFP.

SUBJECT: - SIGNING OF PARA-WISE COMMENTS ETC. IN SERVICE APPEALS FILED IN THE NWFP SERVICES TRIBUNAL BY CIVIL SERVANTS.

Sir,

I am directed to refer to the subject noted above and to say that pursuant to Rule-12(2) of NWFP Services Tribunal Rules, 1974, the competent authority has been pleased to authorize the Administrative Secretaries concerned or a subordinate officer to be nominated by the Administrative Secretary to sign para-wise comments etc. on behalf of the Chief Minister, NWFP and Chief Secretary, NWFP, as the case may be in cases of service appeals filed by the Civil Servants before the NWFP Services Tribunal.

Yours Obedient Servant,

Sd/xxx

SECTION OFFICER (REGULATION-I)
S&GAD.

Endst: Even No. and date.

A copy is forwarded for information to the: -

1. All Addl: Secretaries/Dy: Secretaries in S&GAD.
2. All Section Officers/Estate Officers in S&GAD.
3. P.S. to Chief Secretary, NWFP.
4. P.S. to Secretary S&GAD.