

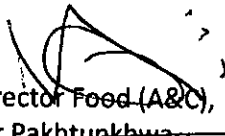


GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD,
PESHAWAR

☎ 091-9225378 ✉ fooddirectoratkpk@gmail.com 📺 fooddirectoratkpk 📺 fooddirectoratkpk

AUTHORITY

Muhammad Saleem Iqbal, District Food Controller, Upper Chitral is hereby authorized to submit the Para wise comments in the appeal No. 1891/2022 titled Usman Khan VS Government of Khyber Pakhtunkhwa Chief Secretary & Others in the Honorable Khyber Pakhtunkhwa Service Tribunal.


Deputy Director Food (A&C),
Khyber Pakhtunkhwa
Deputy Director Food
Food Directorate,
Khyber Pakhtunkhwa,
Peshawar

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

APPEAL NO. 1891/2022

Mr. Usman Khan,
Foodgrain Supervisor (BS-07),
DFC office District Upper.....

APPELLANT

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6496

Dated 14/7/2022

1. Government of Khyber Pakhtunkhwa
Through Secretary Food, Civil Secretariat,
Peshawar
2. Director Food, Food Directorate
Khyber Pakhtunkhwa Peshawar
3. The District Food Controllers,
Chitral Lower and Upper.....

RESPONDENTS

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DEPONENT

M. Usman Khan
DFC, Chitral

①

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.APPEAL
NO.1891/2022

Usman Khan, Foodgrain Supervisor (BS-07), District Food
Controller Office, District Upper Chitral

Appellant

Versus

- 1 Secretary Food, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 2 Director Food, Pakhtunkhwa Peshawar.
- 3 The District Food Controllers, Chitral Lower and Upper

Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03.

Preliminary Objections

1. The appellant has neither got locus-standi nor has he come to this Hon'able Tribunal with clean hands.
2. The instant appeal is not maintainable in its present form.
3. The appellant is estopped by his own conduct to file this appeal.
4. The appeal is based on malafide intention and ulterior motives.
5. The appellant has no cause of action
6. That the appellant is barred by Law and limitation.

RESPECTFULLY SHEWETH:

ON FACTS:

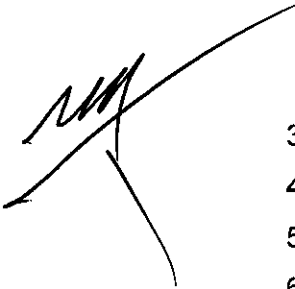
1. On the recommendation of Departmental Selection Committee, Directorate of Food Khyber Pakhtunkhwa Peshawar Mr. Usman Khan was initially appointed as Foodgrain Supervisor (BS-06) vide Directorate of Food Khyber Pakhtunkhwa, office order No. 261121/ET-542 dated 24-11-2008 and posted in the office of District Food Controller, Chitral now Upper vide Office Order bearing No. 27336/ET-542 dated 28-11-2008. (Annex-A)
2. The District Food Controller, Chitral reported vide letters No.1554-58/Usman Khan dated 06-06-2014, No.1561-65/Usman Khan dated 06-06-2014. No.1591/Usman Khan FGS, dated 10-06-2014 and office order No.2535-39/4/3-ET, dated 02-10-2014 that during physical verification of wheat stock carried out of the godown in his custody a quantity of 789 bags (78.9) M. Tons wheat valuing Rs.2761500/ was short detected in PRC Booni and Kushum. An amount of Rs.350000/ on account of cost of wheat/ empty gunny bags was recovered from the accused and deposited into Government treasury through proper Challan leaving behind, a balance of Rs.2411500/- He was served last notice by the DFC Chitral with the direction to deposit the remaining balance into Government treasury and produce Original Treasury Challan within one weak time, but he failed to deposit the outstanding amount. Therefore, disciplinary proceedings were initiated against him under E&D Rules 2011

After completion of all codal formalities, the appellant was removed from service vide Office Order No. 2037/PF-1123 dated 21-04-2015 (Annex-B) and case was also forwarded to the Anti-Corruption Establishment Department for recovery

from him. The Anti-Corruption Establishment initiated Open Inquiry and FIR was lodged against the accused on 12-04-2017. At present the case is subjudice and the appellant is on bail (**Annex-C**).

The appellant filed Service Appeal No. 1029/2016 in Khyber Pakhtunkhwa Service Tribunal against the order No. 2037/PF-1123 dated 21-04-2015. His Service Appeal No. 1029/2016 was partially accepted by the Khyber Pakhtunkhwa Service Tribunal Peshawar vide its Judgment dated 26-01-2022 with the direction to the respondents to re-instate the appellant and conduct De-novo Inquiry within 90 days of the receipt of this Judgment (**Annex-D**). In compliance of Judgment the accused was re-instated into Service vide Office Order No. 916/PF-11223 dated 14-03-2022 (**Annex-E**). To ascertain the charges, proper formal de-novo Inquiry was ordered vide Food Directorate letter No.1461/PF-1123 dated 05-04-2022 (**Annex-F**).

After the de-novo Inquiry (**Annex-G**) the accused was awarded minor penalty of stoppage of 03 Annual Increments for a period of 03 years with immediate effect by the Competent Authority. Moreover, the intervening period has been treated as extra ordinary leave vide Food Directorate, Office Order No. 3290/PF-1123 dated 01-09-2022. (**Annex-H**)

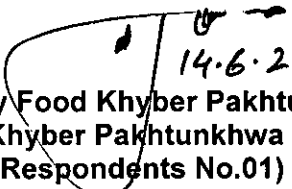
- 
3. As per reply given at Para-02 above.
 4. As per reply given at Para-02 above.
 5. As per reply given at Para-02 above.
 6. As per reply given at Para-02 above.
 7. As per reply given at Para-02 above.
 8. Para No. 08 pertains to record.
 9. Para No. 09 pertains to record.
 10. Para No. 10 pertains to record.
 11. Para No. 11 pertains to record.
 12. Incorrect.

ON GROUNDS

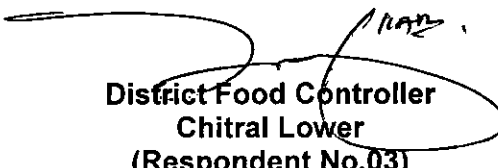
- A. Incorrect. The appellant herein has been treated in accordance with due procedure and relevant laws / rules, as explained at para-02 of the facts.
- B. Incorrect. As per reply given at Para-A of the grounds.
- C. Incorrect. During the proceedings of de-novo Inquiry proper statement of the appellant along with District Food Controllers Chitral Upper and Lower were recorded by the Inquiry Officer (**Annex-I**).
- D. The appellant herein has been treated in accordance with due procedure and relevant laws / rules, as explained at para-02 of the facts
- E. Incorrect. As per reply given at Para-02 of the facts. On the recommendation of the Inquiry Officer the accused was awarded the minor penalty of stoppage of 03 Annual Increments for a period of 03 years with immediate effect. Moreover, the intervening period was treated as extra ordinary leave vide Food Directorate, Office Order No. 3290/PF-1123 dated 01-09-2022.


F. Incorrect. As per reply given at Para-02 of the facts. The appellant herein has very astutely misrepresented the facts to create an impression of being subject to vindictiveness. It is therefore, humbly prayed that the Hon,able Court may graciously dismiss the instant appeal of the appellant with cost being devoid of merit.

It is therefore, requested that the appeal of the appellant may kindly be dismissed.


14.6.23
Secretary Food Khyber Pakhtunkhwa
Khyber Pakhtunkhwa
(Respondents No.01)


14/6/23
Director Food
Khyber Pakhtunkhwa
(Respondent No.02)


14/6/23
District Food Controller
Chitral Lower
(Respondent No.03)


District Food Controller
Chitral Upper
(Respondent No.03)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

APPEAL NO. 1891/2022

Mr. Usman Khan,
Foodgrain Supervisor (BS-07),
DFC office District Upper.....

APPELLANT

VERSUS

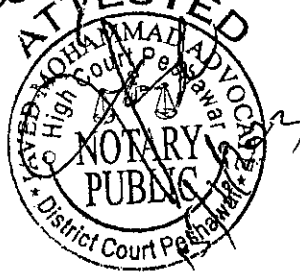
1. Government of Khyber Pakhtunkhwa
Through Secretary Food, Civil Secretariat,
Peshawar
2. Director Food, Food Directorate
Khyber Pakhtunkhwa Peshawar
3. The District Food Controllers,
Chitral Lower and Upper.....

RESPONDENTS

AFFIDAVIT

I Muhammad Saleem Iqbal, District Food Controller, Upper Chitral, do hereby solemnly affirm and declare that all the contents are true & correct to the best of my knowledge and belief and nothing have been concealed or withheld from this Honorable Tribunal.

answaring
respondents have neither been placed ex-parte nor their defence has been struck off
It is further stated on oath that this appeal, the



DEPONENT

CNIC No. 17301-1611493-7
Cell No. 0308-5418969



OFFICE ORDER

8
15 408
FOOD DIRECTORATE, NWFP,
PESHAWAR.

No. 27336 /ET-542

Dated 28 /11/2008

Consequent upon the acceptance of appointment offer bearing No.261121/ ET-542 dated 24-11-2008 and in pursuance of NWFP, Establishment & Administration Department Circular letter No.SOR-VI (E&A)1-13/2005 dated 10-08-2005 Mr. Usman Khan S/O Kameen Khan Mohallah Batti Koroona Village & Post Office Hathian Tehsil Takht Bhai District Mardan is hereby appointed as Foodgrain Supervisor , (BPS-06) on temporary basis on the terms and conditions laid down in his appointment offer referred to above.

2 On appointment as Foodgrain Supervisor (BPS-06), he is hereby posted in District Food Controller Office Chitral. against the vacant post.

3. He shall be on probation for a period of one year which can be extended subject to his performance as per rules.

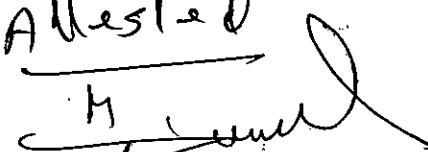

DIRECTOR FOOD NWFP,
PESHAWAR.


Dated 28 /11/2008

E.No. 27337-42 /ET-542

Copy forwarded to :-

1. P.S. to Minister Food for information of the Minister Food, NWFP Peshawar.
2. P.S. to Secretary Food, NWFP for information of the Secretary Food, NWFP Peshawar.
3. Accountant General, NWFP, Peshawar.
4. The District Accounts Officer Chitral / *DFC Chitral*
5. The Budget Officer Food Directorate NWFP Peshawar.
6. The District Food Controller, Chitral.
7. Mr. Usman Khan S/O Kameen Khan Mohallah Batti Koroona village & Post Office Hathian Tehsil Takht Bhai District Mardan
8. ET-542/Personal File

Attested


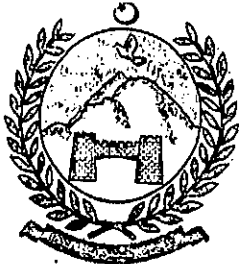

DIRECTOR FOOD NWFP,
PESHAWAR.

9

Annex-I

309

43



**FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA
PESHAWAR**

No. 2037 /PF-1123

Dated 21/04/2015

OFFICE ORDER

Where as the District Food Controller, Chitral reported vide letters No.1554-58/Usman Khan dated 06-06-2014, No. No.1561-65/Usman Khan dated 06-06-2014, No.1591/Usman Khan FGS, dated 10-06-2014 and office order No.2535-39/4/3-ET, dated 02-10-2014 (copy enclosed) that during physical verification a quantity of 789 bags (78.9) M. Tons wheat valuing Rs.2.76 Million was short detected against Mr. Usman Khan Foodgrain Supervisor Incharge Provincial Reserve Centres Booni and Kushum. An amount of Rs.350000/ on account of cost of wheat/ empty gunny bags has been recovered from the official and deposited into Government treasury through proper Challan leaving behind, a balance of Rs.2411500/-. He was upon with notice by the DFC Chitral to deposit the remaining balance into Government treasury and produce Original treasury Challan, but he have failed to deposit the outstanding amount.

2 The District Food Controller Chitral has worked out the cost of wheat on the basis of issue price ie. 3500 per bags however the landed cost of the embezzled quantity comes out to be Rs.3.353 Million out of which the accused has deposited Rs.0.35 Millions while Rs.3.003 Millions are still outstanding against you.

3 Mr. Usman Khan Foodgrain Inspector (incharge of PRC Booni & Kushum Chitral) was served with Show Cause Notice vide Food Directorate letter No. 6533/PF-1123 dated 06-11-2014, No. 6793/PF-1039 dated 21-11-2014 and No. 1258/PF-1039 dated 27-02-2015, for appearance before the competent authority along with reply to the Show Cause Notice for personal hearing on 19-03-2015 to proceed further but he not only failed to appear before the authority to be heard in person, depositing the outstanding amount but rather absented himself from the office.

4 After full consideration of the case, the said official is held responsible for embezzlement/ misappropriation of 789 bags (78.9 Tons wheat costing Rs.3.003 Millions, ill discipline and hereby awarded the major penalty of removal from service with immediate effect.

5 The embezzlement / misappropriation quantity which are still outstanding against him will be recovered from his moveable / immoveable property as per Rules.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

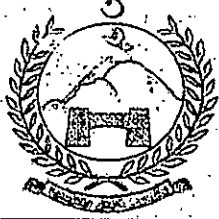
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Endstt: of even No & Date

Copy is forwarded to:-

- 1 The Deputy Commissioner Chitral.
- 2 The Director Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar.
- 3 The District Accounts Officer Chitral.
- 4 The District Revenue Officer Chitral
- 5 The Assistant Director Food Malakand Division at Saidu Sharif Peshawar.
- 6 The Circle Officer Anti-Corruption Establishment Chitral.
- 7 The District Food Controller Chitral.
- 8 Mr. Usman Khan FGS Chitral.
- 9 Personal File.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA



10

Annex-II

310

GOVERNMENT OF
KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

NO.SOG/FD/7-23/2015-16/6050-
Dated Pesh: the 10-10-2017

To



The Director Food,
Khyber Pakhtunkhwa, Peshawar:

Subject: INITIAL REPORT

Dear Sir,

I am directed to enclose herewith copies of Initial Reports No. 15215-20/ACE and 15209-14/ACE both dated 06-10-2017 received from Assistant Director Crimes, Anti-Corruption Establishment Peshawar along copies of FIR's lodged by DFC Chitral against Usman Khan, Ex-Food Grain Supervisor and Dinar Wali, Food Grain Inspector, for information and further necessary action, please.

Encl: as above.

Yours faithfully,

SECTION OFFICER (GENERAL)

CC:-

- 1. PS to Secretary Food, Khyber Pakhtunkhwa.

FLASO
1128
12-10-17

Attested

DD (Admin & Coordination)
Immediate

Supdt (E) H
DF
2
13/12

Rehman
Please put up
on file

13/12/17

ADC

Peshawar

(11)

7-23

31119

INITIAL REPORT

10073

06-10-1

Name of Police Station
FIR No. and date
Section of Law
Name of complainant
Name of accused involved

PS. ACE. Chitral
FIR No.2 dated 12.04.2017
409, 5(2) Pc, Act.
Sher Fayaz EX- DFC, Food Department.
Usman Khan Ex-Food Grain Supervisor
Food Department Chitral.

Brief facts of the case are that on the complaint of DFC Sher Fayaz that huge loss to Govt, has been occurred in Food Department Chitral. An open enquiry No.14/2014 has been initiated which Audit has been got conducted and a loss to the tune of Rs.3033715/- has been detected and hence above stated FIR has been registered against Usman Khan Food grain Supervisor.

The Circle Officer, ACE, Chitral is investigating the case. Further follow-up will be communicated soon.

[Signature]
Aslam Nawaz Khan,
Assistant Director Crimes,
Anti-Corruption Establishment
Peshawar

No. 1521520 /ACE, dated 6 /10/2017.

Copy forwarded for information and necessary action to the:-

1. PS to Secretary Food Department Peshawar.
2. Director Food Department Peshawar.
3. Director ACE, KP, Peshawar.
4. DFC Chitral.
5. CO, ACE, Chitral for follow up.
6. SA, ACE, Peshawar for record

AS *[Signature]* 06/10/17

Share with D.F; MZ

Supdt *[Signature]*

9/11/12

[Signature] 06/10/17

ROM :

FAX NO. :

11 Apr 2017 11:27PM

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156

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نام نمبر 2-50 دا

انسپیکٹر جنرل پولیس سرحد قندھار

ابتدائی اطلاعی رپورٹ

DAE

تاریخ و وقت: ابتدائی اطلاع نسبت مجرم نالی است اندازی پولیس رپورٹ شدہ زیر دفعہ 154 مجرمہ منابطہ قندھاری
تاریخ و وقت: 16 دسمبر 2014ء وقت: 12:09:00
نام و سکونت اطلاع دہندہ و مستفید: سیر فیاض سائتہ DFC کاندھارک جہال
مقام کیفیت مجرم (موجودہ) حال اگر کوئی لیگی ہو: PR کمنڈ برنی، کٹہ بنامہ کمرید، 75 امڈ 85 کلمبر جانب شمال از قطنہ ACE کوال
نام و سکونت ملزم: عثمان خان فرزند گریا سیر و انزر بون، کٹہ بنامہ کمرید کاندھارک جہال - (6) کوال
کارروائی جو تفتیش کے متعلق کی گئی اطلاع درج کرنے میں ترقی ہوا ہو تو وہ بیان کرے۔
تفتیش سے روایت کی تاریخ و وقت: بذریعہ فکس و ڈاک

تاریخ و وقت رپورٹ	16 دسمبر 2014ء	وقت	12:09:00
نام و سکونت اطلاع دہندہ و مستفید	سیر فیاض سائتہ DFC کاندھارک جہال		
مقام کیفیت مجرم (موجودہ) حال اگر کوئی لیگی ہو	PR کمنڈ برنی، کٹہ بنامہ کمرید، 75 امڈ 85 کلمبر جانب شمال از قطنہ ACE کوال		
نام و سکونت ملزم	عثمان خان فرزند گریا سیر و انزر بون، کٹہ بنامہ کمرید کاندھارک جہال - (6) کوال		
کارروائی جو تفتیش کے متعلق کی گئی اطلاع درج کرنے میں ترقی ہوا ہو تو وہ بیان کرے۔	مردگی حکم زیر دفعہ 154 مجرمہ 4882/ACE کوال مقام DACE کوال بذریعہ فکس و ڈاک		
تفتیش سے روایت کی تاریخ و وقت			

ابتدائی اطلاع ہے درج کردہ ذات عالی! مستعد مذکورہ ظاہر ہے بالاکمی شہادت پر دستخط کر
 دی 58171/PF-1123 صرف 16 بجاریہ ڈائریکٹ کاندھارک تیار دربارہ کمی گندم مقدار 789 ٹری
 وزنی 78.9 ٹریٹ میں مالیتیں 2761500 روپے ریاضتہ AGI کو النام علیہ بالا عثمان خان
 چارج دیتے وقت فرزند گریا کیم دتے نہیں موصول ہو کر دینا پڑا وہیں انکو گریا بھی 14 لٹر بری
 10270/AC صرف 11 شروع کر کے حقیقتہ وقت درجہ میں کیمی نہ بدریہ کیم 14 لٹر بری
 یحییٰ شاہ صاحب ایڈٹ انسپشن کر کے حکومت کو گندم کی کمی میں پہنچنے والی نقصان مالیتیں 2761500
 10249-53/ACB صرف 2 موصول ہو کر مالیتیں بالائے قطنہ 350000 روپے موصول
 ہزارے لکھے جبکہ گندم اور خالی بریاں کھلی ستیا قطنہ 3033715 روپے حاجت اللہ صاحب
 ملزم کے خلاف نمونہ انکو گریا ہر ملزم سے بھی چھایا گیا ہے ملزم کے خلاف نمونہ انکو گریا 30
 و تیز ہو کر بند رہے ADL کامی قذاب ڈاکر صاحب ACE کوال کوال 4882/ACB کوال صرف 16
 ملزم کے خلاف نمونہ رہے اور کورٹری کا حکم صادر فرمایا ہے ملزم نے کال سان سابق فرزند گریا
 کو کوال کٹہ خالی بری کالی مالیتیں 3033715 روپے فرزند گریا کوال سان سابق فرزند گریا
 قذاب ڈاکر صاحب انکو گریا شہادت ملزم سے ملزم نے کال سان سابق فرزند گریا کوال سان
 ملزم کو کوال کٹہ خالی بری کالی مالیتیں 3033715 روپے فرزند گریا کوال سان سابق فرزند گریا
 قذاب ڈاکر صاحب انکو گریا شہادت ملزم سے ملزم نے کال سان سابق فرزند گریا کوال سان
 ملزم کو کوال کٹہ خالی بری کالی مالیتیں 3033715 روپے فرزند گریا کوال سان سابق فرزند گریا
 قذاب ڈاکر صاحب انکو گریا شہادت ملزم سے ملزم نے کال سان سابق فرزند گریا کوال سان

11 Apr. 2017 11:27A

No 66-67
12/12/17

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نام نمبر ۲۲-۵۱ (۱)

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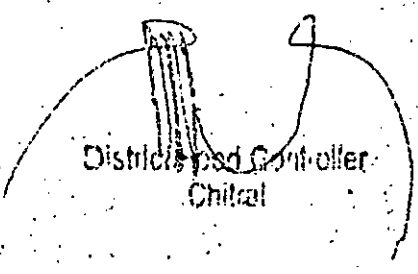
ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت برسر نابل است اندازی پولیس رپورٹ شدہ زیر دفعہ ۱۵۲ مجرمہ منابطہ فرجاری
نمبر (۲) ۲۲
تاریخ وقت دفتر شمال ۲۰۱۴ء وقت ۶ بجے صبح

1	تاریخ وقت رپورٹ 16/10/14	وقت حاکم کی پرحہ 12/4/17	وقت 09:00 بجے
2	نام دستکوت اطلاع دہندہ و تفتیش	مستری فیاض سابقہ DF	مکمل طور پر بحال
3	تفصیلات برسر (موجودہ) حال اگر کوئی لپگی ہو	409/522/PCA	تعمیر مالیاتی = 30,337/5 روپے
4	جائے وقوعہ حاصل تھا جس سے اور صحت	PR سنہا بونی	کشمیر لنگھو 75 اور 85 کلومیٹر جاہل
5	نام دستکوت ملزم	عشمان	ان فرد گریبا سرور از بونی، کتھے مکمل طور پر بحال (۶) رہا ہے
6	کارروائی بر تفتیش کے نتیجے کی کئی اطلاع درج کرنے میں ترقی پراہم ہو تو وجہ بیان کرو۔	مقامی DACE	کے پاس 16/17/17
7	تھانہ سے روانگی کی تاریخ وقت	بدریغ نکلتا و خالی کرے۔	

ابتدائی اطلاع سے درج کردہ خالی استیفاء شدہ جہانگیر جی بالاکھی شکایت پر مشتمل برسر
 برسر 58171/PF-1123 دفعہ 16/10/14 بجاریہ خالی کر کے درج کردہ ہزارہہ کسی گندم مقدار 789 بونی
 روزی 78.9 ٹن کے مالکیت میں 2761500 روپے ریاضہ احدہ PCA کو الٹا ملد بلا عشمان خان
 نے چارج دینے وقت خود برد کر کے کم دینے میں مہول ہر کجی پراوینا انکار کر کے برسر 14/12/17
 ACE 10270/53 دفعہ 11/12/17 شروع کر کے متعلقہ وقت آڈٹ سے سید کر کے جو بذریعہ دفعہ 14/12/17
 کے نتیجے میں شہان صاحب ریڈٹ انسپشن کر کے حکومت کو شکایت کی گئی میں لیکچر والی عشمان مالکیت 2761500
 روپے 10249-53/ACE دفعہ 2/10/17 مہول ہر کجی ملزم بالاکھی نے دفعہ 3/5/17 روپے داخل
 گزار دیے جس کے گندم اور خالی بوریوں شکل ستا قبیلے 30337/5 روپے واجب الزما میں
 ملزم کے خدوں سے لیکھا ہے انکار کر کے ہر ملد زحمت میں چھٹا یا لیکھا ہے ملزم کے خدوں کے پاس 30337/5
 کے برسر ہر کجی روپے 30337/5 روپے واجب الزما میں ACE لیکھا ہے برسر 4882/ACE دفعہ 17/3/17
 ملزم کے خدوں سے ملنے کے لئے اور ہر کجی روپے 30337/5 روپے واجب الزما میں عشمان خان سابق ملزم برسر 17/3/17
 PR کوئی کتھے ملزم خالی بوریوں میں مالکیت = 30337/5 روپے خود برد کرنے کا پانچواں میں ملزم
 دفعہ لیکھا ہے دروران تفتیش اگر درج کردہ شہان صاحب ملزم پانچواں کے خدوں کے پاس لیکھا ہے ہر کجی
 کے تمام کتھے ملزم کے خدوں سے لیکھا ہے بالاکھی ملزم کے پاس درج کردہ لیکھا ہے 660 کی سیاسرور ہے
 ہوں۔ ہر کجی گزارش ہے

ATTESTED
12/11/17



District and Controller
Chitral

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Annex III

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Khyber Pakhtukhwa Service Tribunal

Service Appeal No. 1029 /2016

Diary No. 1036

Dated 24-10-2016



Usman Khan S/o Kamin Khan R/o Mohallah Bhatari Korona Village Hathain Batkhela, District Mardan.

.....(Appellant)

VERSUS

1. Secretary to Govt; of K.P.K Food Department, Civil Secretariat Peshawar.
2. Director (Food) K.P.K Food Department Peshawar.
3. Dy: Director (A&C).
K.P.K Food Department Peshawar.
4. District Food Controller, District Chitral.

.....(Respondents)

APPEAL U/S 4 OF K.P.K SERVICE TRIBUNAL ACT- 1974
AGIANST THE IMPUGNED ORDER NO. 2037-PP 1123
DATED 21/04/2015

PRAYERS:

ON ACCEPTANCE OF THE INSTANT APPEAL THE ORDER FOR SETTING ASIDE OF THE IMPUGNED ORDERS AND REINSTATMENT OF THE APPELLANT ON HIS SERVICES WITH ALL BACK BENEFITS MAY KINDLY BE PASSED.

Filed to-day

Registrar

4/10/16

RESPECTFULLY SHEWETH,

Attested

M

The appellant submits as-under:-

Re-submitted to -day
and filed.

Registrar

5/10/16

That the appellant was appointed as Food, Grain Supervisor (BPS-06) vide order No. 261122-2, ET-54 dated 20/11/2008, on the recommendation of Departmental Selection Committee. Copy of appointment order is annexed as annexure 'A'.

(15)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1029/2016.



Date of Institution ... 04.10.2016
Date of Decision ... 26.01.2022

Usman Khan S/O Kamin Khan, R/O Mohallah Bhatai Korona
Village Hathian Batkhela, District Mardan.

(Appellant)

VERSUS

Secretary to Government of Khyber Pakhtunkhwa Food
Department, Civil Secretariat Peshawar and three others.

(Respondents)

Noor Muhammad Khattak,
Advocate

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

Ahmad Sultan Tareen
Rozina Rehman

... Chairman
... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the
prayer as copied below:

**"On acceptance of this appeal, the order for
setting aside the impugned orders and
reinstatement of the appellant on his services
with all back benefits may kindly be passed".**

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2. The relevant facts leading to filing of instant appeal are that appellant was appointed as Food Grain Supervisor (BS-06) on 24.11.2008 on the recommendation of Departmental Selection Committee. During service, the District Food Controller, Chitral reported the matter that during physical verification, quantity of 789 bags (78.9) M.Tons wheat was short detected against the appellant. A two Member Inspection Commission Team was constituted but respondent No.4 did not wait for the report of Inspection Commission rather imposed the responsibilities upon the appellant and directed him to deposit the Government dues and one Riaz Ahmad Food Grain Supervisor was directed to take the charge of PR Centers Booni and Kushum from appellant. Accordingly, show cause notice was issued, whereby, the appellant was charged for embezzlement and major penalty i.e. removal from service was tentatively imposed upon appellant without inquiry and lastly, he was removed from service without fulfilling the legal and codal formalities, he, therefore, preferred departmental appeal which was turned down, hence, the present service appeal.

3. We have heard Noor Muhammad Khattak Advocate for appellant and Kabir Ullah Khattak, learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Noor Muhammad Khattak Advocate, learned counsel appearing on behalf of appellant, inter-alia, contended that impugned order was

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passed in haste and cursory manner without observing all the legal and codal formalities which order is, therefore, illegal and without lawful authority; that the impugned order is against the principles of natural justice because no opportunity of personal hearing was afforded to the appellant. Learned counsel further contended that the alleged damage caused was the result of poor storage system and rough weather which was properly reported to the respondent No.4 by the appellant while the allegation of embezzlement is wrong, baseless being concocted. It was further submitted that the impugned order was kept concealed and the appellant was kept in dark which order was not communicated to the appellant when he requested for his future posting time and again. Learned counsel further argued that no full-fledged inquiry was conducted before issuance of the impugned order and that the same was passed before the detailed report of the Inspection Commission. He, therefore, requested for setting aside of the impugned order.

5. Conversely learned AAG contended that District Food Controller Chitral reported that during physical verification, a quantity of 789 bags wheat valuing Rs.2.76 Million was short detected against appellant and an amount of Rs. 350000/- on account of cost of wheat/empty gunny Bags were recovered from the official/appellant and deposited into Government Treasury through proper Challan leaving behind a balance of Rs.2411500/-. He was, therefore, served with a notice by the DFC Chitral to deposit the remaining balance but

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he failed. He contended that appellant was served with a show cause notice, but he did not submit his reply and that an opportunity of personal hearing was also given but he failed to appear and he did not deposit the remaining outstanding amount rather absented himself from office. He submitted that after full consideration of the case, he was held responsible for embezzlement/misappropriation of 789 bags and violation of Service Rules, therefore, major penalty was imposed under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. He contended that the appellant was punished according to law which does commensurate with the gravity of guilt.

6. From the record, it is evident that appellant Usman Khan was appointed as Food Grain Supervisor (BS-06) vide Director Food Khyber Pakhtunkhwa office order dated 24.11.2008 in Food Department and initially was posted in the office of District Food Controller, Chitral. The District Food Controller, Chitral reported vide letter dated 10.06.2014 reported the matter that during physical verification carried out in the current financial year, a quantity of 789 bags wheat valuing Rs.2761500/- was short detected against appellant and the Director Food was apprised by the District Food Controller, Chitral to forward the case to Director Anti-Corruption Establishment Khyber Pakhtunkhwa, Peshawar for further necessary action. The appellant was also directed vide letter No.1553 dated 06.06.2014 to deposit Government dues within a week time. It merits a mention here that in order to have the factual position of stock of

ATTESTED




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wheat, Mr. Arshid Hussain, Assistant Food Controller, Mastuj and Mr. Riaz Ahmad, Food Grain Inspector were appointed to conduct physical verification of wheat at PR Centre Boni and Kushum with direction to submit authentic report regarding stock of wheat and other dead articles. One Riaz Ahmad Food Grain Supervisor/Incharge PR Center Mulkoh was directed to take over the charge of PR Centers Booni and Kushum from appellant in addition to his own vide order dated 02.10.2014. The present appellant then submitted an application to the Director Food for further posting but to no avail and it was on 06.11.2014 when the competent authority dispensed with the inquiry and directly served him with a show cause notice. From the above, it is evident that the competent authority while invoking jurisdiction of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensed with the inquiry and directly served him with a show cause notice dated 06.11.2014. Rule-5(1) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provides that reasons are required to be recorded in writing in case the inquiry is dispensed with but the respondents while dispensing with the inquiry, failed to show any such reasons. The respondents have very candidly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the appellant was kept deprived of affording appropriate opportunity of defense. No regular inquiry was conducted as is required under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. It is a well settled legal



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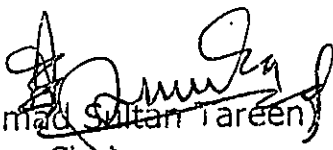
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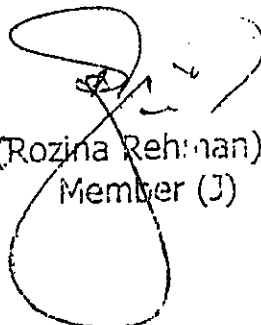
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proposition duly supported by numerous judgments of the Apex Court that for imposition of major penalty, regular inquiry is a must. We smack malafide on the part of respondents as no inquiry was conducted, no charge sheet with statement of allegations were issued and no evidence was recorded. The case is still lying in the Anti-Corruption Court which has not been decided so far but this aspect of the issue was also not taken care of. The trial is still pending and the appellant's guilt has not yet been proved.

7. The preceding discussion vividly transpires that the appellant was not treated in accordance with law. As such, the instant service appeal is partially accepted. Appellant is reinstated into service. Case is remitted to the Department with direction to conduct de-novo inquiry within 90 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
26.01.2022


(Ahmad Sultan Tareen)
Chairman


(Rozina Rehman)
Member (J)

(21)

Annex-IV

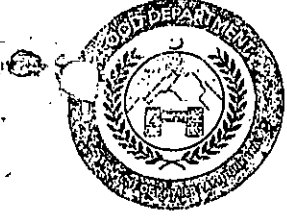
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Our faith, "Corruption free Pakistan"

GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD, PESHAWAR

No: 916 /PF-1123

Dated: 14/03/2022



☎091-9225378M fooddirectorategkpk@gmail.com 📧foodKPGovt 📧@foodkpgovt

OFFICE ORDER

In compliance with Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated 26-01-2022, in case of Service Appeal No. 1029/2016, wherein the Hon,able Service Tribunal partially accepted the Service Appeal that Mr. Usman Khan Foodgrain Supervisor office of District Food Controller, Chitral Upper

2 Therefore, he is re-instated into Government Service for the purpose of de-novo Enquiry with immediate effect.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Endstt: of even No & Date

Copy is forwarded to:-

- 1 The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 2 The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to noted above.
- 3 The District Account Officer, Chitral Upper.
- 4 The Assistant Director Food, Malakand Division at Dargai.
- 5 The District Food Controllers, Chitral Upper.
- 6 PS to Minister Food Khyber Pakhtunkhwa.
- 7 PS to Secretary Food Khyber Pakhtunkhwa.
- 8 Personal File.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

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GOVERNMENT OF KHYBER PAKHTUNKHWA

DIRECTORATE OF FOOD, PESHAWAR

No: 1460 /PF-1123

Dated: 05/04/2022

Annex-18

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091-9225378 M fooddirectoratkpk@gmail.com foodKPGovt @foodkpgovt

STATEMENT OF ALLEGATIONS

I, Kashif Iqbal Jillani, Director Food Khyber Pakhtunkhwa, being competent authority, am of the opinion that Mr. Usman Khan, Foodgrain Supervisor Office of District Food Controller, Chitral now Upper has rendered himself liable to be proceeded against, as he committed the following act /omission, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:-

- The District Food Controller, Chitral reported vide letters No.1554-58/Usman Khan dated 06-06-2014, No.1561-65/Usman Khan dated 06-06-2014, No.1591/Usman Khan FGS, dated 10-06-2014 and office order No.2535-39/4/3-ET, dated 02-10-2014 that during physical verification carried out in the current financial year a quantity of 789 bags (78.9) M. Tons wheat valuing Rs.2761500/ was short detected against Mr. Usman Khan Foodgrain Supervisor Incharge Provincial Reserve Centres Booni and Kushum. An amount of Rs.350000/ on account of cost of wheat/ empty gunny bags has been recovered from him and deposited into Government treasury through proper Challan leaving behind, a balance of Rs.2411500/- he was served last notice by the DFC Chitral with the direction to deposit the remaining balance into Government treasury and produce Original treasury Challan within one week time, but he has failed to deposit the outstanding amount.
- The District Food Controller Chitral has worked out the cost of wheat on the basis of issue price i.e. 3500 per bag however the landed cost of the embezzled quantity at the present rate comes out to be Rs.3.353 Million out of which the accused has deposited Rs.0.35 Millions while Rs.3.003 Millions are still outstanding against him.

2 After completion of all codal formalities the official was removed from service vide Office Order No 2037/PF-1123 dated 21-04-2015. Now in compliance with Khyber Pakhtunkhwa Service Tribunal Peshawa Judgment dated 26-01-2022, in case of Service Appeal No. 1029/2016, wherein in the Hon'able Service Tribunal partially accepted the Service Appeal to re-instate the appellant and the Department is directed to conduct the de-novo Enquiry within 90 days of the receipt of this Judgment. Therefore, for the purpose of inquiry against the said accused with reference to the above-cited allegations, Mr. Hafeez ur Rehman Assistant Director (Litigation) Food Directorate Khyber Pakhtunkhwa Peshawar is hereby appointed as an Inquiry Officer under rule 10 (1) (a) of the ibid rules.

3 The Inquiry Officer shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record his statement and submit the inquiry report within thirty days of the receipt of this order.

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.

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
PESHAWAR

Endorsement No & date Even

A copy of the above is forwarded to:-

- Mr. Hafeez ur Rehman Assistant Director (Litigation) Food Directorate Khyber Pakhtunkhwa Peshawar for initiating proceedings against the accused under the provisions of the Khyber Pakhtunkhwa E&D Rules 2011 (Copies of Charge Sheet and Statement of Allegations are enclosed)
- The Assistant Director Food Malakand Division for information with the direction to submit / provide complete record to the Inquiry Officer for the purpose of the enquiry proceedings
- The District Food Controllers, Chitral Upper and Lower for information with the direction to submit / provide complete record to the Inquiry Officer for the purpose of the enquiry proceedings.
- Mr. Usman Khan, Foodgrain Supervisor Office of District Food Controller, Chitral Upper with the direction to appear before the Inquiry Officer on the date/time/ place fixed by him for the purpose of inquiry proceedings.

Attested
M

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA,
PESHAWAR

(23)

DIRECTOR FOOD,
KHYBER PAKHTUN KHWA,
PESHAWAR

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GOVERNMENT OF KHYBER PAKHTUNKHWA

DIRECTORATE OF FOOD, PESHAWAR

No: 1461 /PF-1123

Dated: 25/04/2022



091-9225378

fooddirectoratekpk@gmail.com

foodKPGovt

@foodkpgovt

CHARGE SHEET

I, Kashif Iqbal Jillani, Director Food Khyber Pakhtunkhwa, as competent authority hereby charge you (Mr. Usman Khan Foodgrain Supervisor) as follows:-

2. That you, while posted as Foodgrain Supervisor office of District Food Controller, Chitral now Upper Dir, have committed the following irregularity:-

- a) The District Food Controller, Chitral reported vide letters No.1554-58/Usman Khan dated 06-06-2014, No. No.1561-65/Usman Khan dated 06-06-2014. No.1591/Usman Khan FGS, dated 11-06-2014 and office order No.2535-39/4/3-ET, dated 02-10-2014 (copy enclosed) that during physical verification carried out in the current financial year a quantity of 789 bags (78.9) MTons wheat valuing Rs.2761500/ was short detected against you (Mr. Usman Khan Foodgrain Supervisor Incharge Provincial Reserve Centres Booni and Kushum). An amount of Rs.35000/- on account of cost of wheat/ empty gunny bags has been recovered from you and deposited in Government treasury through proper Challan leaving behind, a balance of Rs.2411500/- You were served last notice by the DFC Chitral with the direction to deposit the remaining balance into Government treasury and produce Original treasury Challan within one week time, but you have failed to deposit the outstanding amount.
- b) The District Food Controller, Chitral has worked out the cost of wheat on the basis of issue price i.e. 3500 per bags however the landed cost of the embezzled quantity at the present rate comes out to be Rs.3.353 Million out of which you have deposited Rs.0.35 Millions while Rs.3.00 Millions are still outstanding against you.

3. By reason of the above, you appear to be guilty of misconduct under rule-3 of the Khyber Pakhtunkhwa Government Servant Efficiency & Discipline Rules 2011 which rendered you liable to all or any of the penalties specified in rule-4 of the ibid rules. Mr. Kamal Ahmad Khan AFC Food Directorate was appointed as Enquiry Officer, wherein he submitted an application dated 17-03-2022 that his name may be replaced with a more versed and expert officer, therefore Mr. Hafeez ur Rehman AD is hereby appointed as an Inquiry Officer.

4. Your written defence, if any, should reach the Inquiry Officer within the specified period, failing which, it shall be presumed that you have no material in your defence and, in that case, ex-parte action shall be taken against you.

5. Please also intimate whether you desire to be heard in person.

6. A statement of allegations is enclosed.

DIRECTOR FOOD,
KHYBER PAKHTUN KHWA,
PESHAWAR

(24)

Annex-VI

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FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR

No. 1733/C-6-(S.T)

Dated 09/05/2022

To

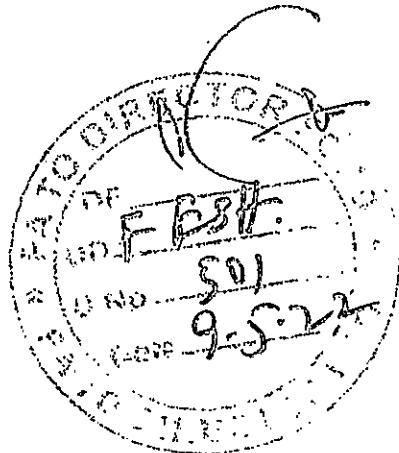
The Director Food,
Khyber Pakhtunkhwa,
Peshawar.

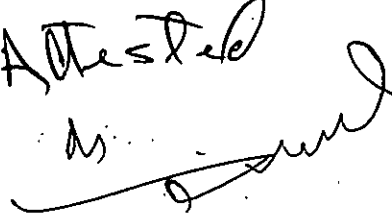
Subject:- INQUIRY REPORT AGAINST MR. USMAN KHAN EX-FOOD
GRAIN SUPERVISOR OFFICE OF DISTRICT FOOD
CONTROLLER, CHITRAL UPPER REGARDING ALLEGED
CHARGES OF EMBEZZLEMENT/MISAPPROPRIATION OF 789
(78.9 M.TON) WHEAT BAGS VALUING RS.2.7615 MILLION AT
PRC CENTERS BOONI & KHUSUM, DISTRICT CHITRAL UPPER.

Reference to charge sheet/statement of allegations dated
05.04.2022 on the subject noted above.

In this regard inquiry conducted by the undersigned containing 05 pages
and 23 Annexures are submitted for perusal and further necessary action,
please.


ASSISTANT DIRECTOR LITIGATION
FOOD DIRECTORATE
KHYBER PAKHTUNKHWA



Attested


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INQUIRY REPORT

INQUIRY REPORT AGAINST MR. USMAN KHAN EX- FOOD GRAIN SUPERVISOR OFFICE OF DISTRICT FOOD CONTROLLER, CHITRAL UPPER REGARDING ALLEGED CHARGES OF EMBEZZLEMENT/ MISAPPROPRIATION OF 789 (78.9 M.TON) WHEAT BAGS VALUING RS.2.7615 MILLION AT PRC CENTERS BOONI & KHUSUM, DISTRICT CHITRAL UPPER.

The Director Food, Khyber Pakhtunkhwa /competent authority vide a letter No.1460/PF-1123 dated 05.04.2022 has appointed the undersigned as Inquiry Officer to conduct formal inquiry against Mr. Usman Khan, accused official, ex-Food Grain Supervisor, DFC Chitral (upper) on account of allegations contained in the charge sheet, served upon him in this regard (Annex- I & II).

BACKGROUND

Mr. Usman Khan joined Food Department as Food Grain Supervisor, FGS (BS-06) vide Director Food Khyber Pakhtunkhwa, office order no.261121/ET-542 dated 24.11.2008 and was assigned the charge of Provincial Reserve Centers, Booni and Kushum, District Chitral (Annex III & IV). District Food Controller, Chitral reported vide a letter no.1553/Usman khan dated 6.6.2014, letter No.1560/Usman Khan dated 6.6.2014, letter No.1591/Usman Khan FGS dated 10.6.2014 that during physical verification a quantity of 789 bags 78.9 (M. Tons) wheat valuing Rs.2.7615 Million was short detected against Mr. Usman Khan, FGS, Incharge Provincial Reserve Centers Booni and Khusum (Annex-V, VI & VII). An amount of Rs.350000/- on account of cost of wheat/empty gunny bags had been recovered from the official and deposited into Government treasury through proper Challan. Regarding the balance of Rs.2411500/-, the accused official was served with a notice to deposit the outstanding balance amount into government treasury and produce Original treasury Challan but he failed to deposit the outstanding amount till date.

The District Food Controller Chitral had worked out the cost of wheat on the basis of issue price i.e Rs.3500 per bag, and thus the total amount including landed cost of the embezzled quantity comes out to be Rs.3.353 Million, out of which, the accused official has already deposited Rs.0.35 Million while Rs.3.003 Million are still outstanding against the accused official.

Prior to this, Mr. Usman Khan ex-FGS was served with a show Cause Notice vide Food Directorate letter No.6533/PF-1123 dated 06.11.2014, letter No.6793/PF-1039 dated 21.11.2014 and letter no.1258/PF-1039 dated 27.02.2015 but he did not submit his reply. An opportunity of personal hearing was also given to the accused official on 19.03.2015 by competent authority, but he failed to appear before the competent authority to be heard in person (Annex-VIII, IX & X). The accused official did not deposit the outstanding amount of Rs.3.003 million into government treasury rather absented himself time and again. By doing such delaying tactics, the said ex-official was held responsible for embezzlement/misappropriation of 789 bags (78.9M. tons wheat costing Rs.3.003 million). Consequently, the competent authority while exercising his powers vide Food Directorate letter No.2037/PF-1123 dated 21.04.2015 had directed to this effect that the embezzled /misappropriated amount outstanding

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INQUIRY REPORT

INQUIRY REPORT AGAINST MR. USMAN KHAN EX- FOOD GRAIN SUPERVISOR OFFICE OF DISTRICT FOOD CONTROLLER, CHITRAL UPPER REGARDING ALLEGED CHARGES OF EMBEZZLEMENT/ MISAPPROPRIATION OF 789 (78.9 M.TON) WHEAT BAGS VALUING RS.2.7615 MILLION AT PRC CENTERS BOONI & KHUSUM, DISTRICT CHITRAL UPPER.

The Director Food, Khyber Pakhtunkhwa /competent authority vide a letter No.1460/PF-1123 dated 05.04.2022 has appointed the undersigned as Inquiry Officer to conduct formal inquiry against Mr. Usman Khan, accused official, ex-Food Grain Supervisor, DFC Chitral (upper) on account of allegations contained in the charge sheet, served upon him in this regard (Annex- I & II).

BACKGROUND

Mr. Usman Khan joined Food Department as Food Grain Supervisor, FGS (BS-06) vide Director Food Khyber Pakhtunkhwa, office order no.261121/ET-542 dated 24.11.2008 and was assigned the charge of Provincial Reserve Centers, Booni and Kushum, District Chitral (Annex III & IV). District Food Controller, Chitral reported vide a letter no.1553/Usman khan dated 6.6.2014, letter No.1560/Usman Khan dated 6.6.2014, letter No.1591/Usman Khan FGS dated 10.6.2014 that during physical verification a quantity of 789 bags 78.9 (M. Tons) wheat valuing Rs.2.7615 Million was short detected against Mr. Usman Khan, FGS, Incharge Provincial Reserve Centers Booni and Khusum (Annex-V, VI & VII). An amount of Rs.350000/- on account of cost of wheat/empty gunny bags had been recovered from the official and deposited into Government treasury through proper Challan. Regarding the balance of Rs.2411500/-, the accused official was served with a notice to deposit the outstanding balance amount into government treasury and produce Original treasury Challan but he failed to deposit the outstanding amount till date.

The District Food Controller Chitral had worked out the cost of wheat on the basis of issue price i.e Rs.3500 per bag, and thus the total amount including landed cost of the embezzled quantity comes out to be Rs.3.353 Million, out of which, the accused official has already deposited Rs.0.35 Million while Rs.3.003 Million are still outstanding against the accused official.

Prior to this, Mr. Usman Khan ex-FGS was served with a show Cause Notice vide Food Directorate letter No.6533/PF-1123 dated 06.11.2014, letter No.6793/PF-1039 dated 21.11.2014 and letter no.1258/PF-1039 dated 27.02.2015 but he did not submit his reply. An opportunity of personal hearing was also given to the accused official on 19.03.2015 by competent authority, but he failed to appear before the competent authority to be heard in person (Annex-VIII, IX & X). The accused official did not deposit the outstanding amount of Rs.3.003 million into government treasury rather absented himself time and again. By doing such delaying tactics, the said ex-official was held responsible for embezzlement/misappropriation of 789 bags (78.9M. tons wheat costing Rs.3.003 million). Consequently, the competent authority while exercising his powers vide Food Directorate letter No.2037/PF-1123 dated 21.04.2015 had directed to this effect that the embezzled /misappropriated amount outstanding

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against the accused official be recovered from his movable/immovable property as per law/Rules (Annex-XI).

Moreover, vide a letter No.1554-58/usman khan dated 06.06.2014, the DFC Chitral addressed a letter to Mr. Usman khan ex-FGS, with its copy endorsed to Director Food KP and other concerned officers directing him to deposit the Government amount into government treasury and produce its original challan to his office within a week failing which his case shall be forwarded to Director Anti-corruption, Establishment Peshawar for necessary action. Since the accused official did not comply with the letter dated 6.6.2014, therefore, the Director Food KP Peshawar vide a letter no.587/PF-1123 dated 16.10.2014, addressed to Director Anti-Corruption Establishment Govt of KP, Peshawar requested thereof that the matter be investigated and complete recovery be effected from the accused official (Annex-XII). Finally an FIR No.2 dated 16.10.2014 was registered against the accused official in the anti-corruption police station Chitral by District Food Controller, Sher Fayyaz and now a case no.63 of 2017 is pending in the court of Special Judge Anti-Corruption KP at Swat and next date fixed for hearing is 13.5.2022. (Annex-XIII)

PROCEEDINGS

The undersigned requisitioned the relevant record from the Mr. Sher Fayyaz DFC Chitral lower, Mr. Arshid Hussain DFC Chitral Upper, Mr. Riaz Ahmad AFC Chitral Lower and Mr. Usman Khan, the accused official was directed to appear before the undersigned on 19.4.2022 at 11.am along with the relevant record for recording their statements but they didn't appeared on the date fixed. However Mr. Usman Khan accused official though appeared before the undersigned on 19.4.2022 at 11 am yet no reply to the charge sheet served upon him was submitted by him and sought some time for submission of reply to the charge sheet. Subsequently the undersigned through registered letter dated 20.04.2022 addressed to DFC Sher Fayyaz, DFC Arshid Hussain, AFC Riaz Ahmed and Usman Khan was issued asking them to appear before the undersigned on 22.4.2022 at 11 am for recording their statements. On 22.4.2022, the following officers/officials came to Directorate Food Peshawar and recorded their statements as under:

Statement of Sher Fayyaz Khan, District Food Controller, Lower chitral

On 22.4.2022, Mr. Sher Fayyaz Khan District Food Controller, Lower Chitral recorded his statement as follows:

- i. During his tenure, working as District Food Controller, physical verification of PRC Booni and PRC Kushum was carried out vide letter No.1093-99/1/1-AC dated 16.4.2014 by Mr. Arshid Hussain, Assistant Food Controller and Riaz Ahmad, Food Grain Inspector
- ii. During physical verification conducted by the team, shortage of wheat and Empty Gunny Bags were detected short amounting to Rs.3033715/-
- iii. The Incharge of both PRCs Mr. Usman Khan, accused official was directed time and again by DFC Chitral to deposit the said amount into government

- treasury but he was reluctant to do so and finally flatly refused to deposit the same amount.
- iv. Later on his case was referred to Anti-corruption Establishment Peshawar and also an FIR was lodged against him for recovery of the said government outstanding amount.
- v. Presently the case is pending in the court of Anti-Corruption Judge KP at Swat and next date of hearing is 13.5.2022.
- vi. As per statement of DFC, lower Chitral, a sum of Rs.350000/- has been recovered from Mr. Usman Khan accused official till this date. (Annex-XIV)

Statement of Arshad Hussain AFC, (now DFC Upper Chitral) and Riaz Ahmad FGI, (now AFC Lower Chitral)

Both stated before the undersigned that on the order of DFC Chitral, vide No.1093-99/1/1-AC dated 16.04.2014, they conducted physical verification of the PRC Booni and Kushum. During physical verification shortage of wheat and EG bags amounting to Rs.3033715/- was detected. DFC Chitral directed Usman Khan ex-Incharge PRC Booni & PRC kushum to deposit the said amount into government treasury but the accused official flatly refused to deposit the same amount. Later on this case was referred to Anti-Corruption Establishment, Peshawar for recovery of Government outstanding amount and FIR was registered against him in the anti-corruption police station Chitral for recovery of the said amount. This case is under trial before the special judge anti-corruption court KP at swat and the next date fixed is 13.5.2022. (Annex-XV)

Arshad

Statement of Mr.Usman Khan, ex-FGS, Incharge PRC Booni/Kushum

Mr. Usman Khan ex-FGS, accused official while appearing before the undersigned on 22.4.2022 did not record his statement but submitted already typed reply to the charge sheet/statement of allegations already served upon him by the Competent Authority.

Perusal of the reply submitted by the accused official reveals that he has refuted and denied all the allegations levelled against him in the charge sheet. The accused official mainly focused on this fact that he was untrained and freshly appointed and was assigned the charge of Godown without any training and guidance by the department in this regard.

Moreover, the accused official stated in para (iii) of his reply that detection of 789 bags is incorrect but in the same breath he also stated thereon that a sum of Rs.350000/- has been deposited against actual sale of 100 wheat bags into government treasury.

Mr. Usman Khan, the accused official was afforded full opportunity to cross examine the officials/officers who recorded their statements against him but no substantial objections were raised by accused official during inquiry proceedings nor any concrete evidence was produced by accused official to confront their statements which were recorded against him. The accused official was given sufficient time to produce evidence in his defense but he failed to produce any evidence in this behalf. (Annex-XVI)

FINDINGS & ANALYSIS

After perusal of the relevant record and statements of the concerned officials/officers-namely Mr. Sher Fayyaz DFC, Mr. Arshid Hussain DFC and Mr. Riaz Ahmad AFC, it is clear that after taking over charge of the post of DFC Chitral by Mr Sher fayyaz khan, he issued office order No.1093-99/1/1-AC dated 16.4.2014 to Incharge, Assistant Food Controller, sub division Mastuj and Chitral to conduct physical verification of wheat at PR Center Booni and Kushum under the charge of Mr. Usman khan ex-FGS. After carrying out physical verification of the stock of wheat by the inspection team, a quantity of 775 bags at PR center Booni and 14 bags at PR center Kushum, costing Rs.2411500/- was short detected against accused official (Mr.Usman Khan) (Annex-XVII, XVIII, XIX, XX & XXI). The DFC issued notice to accused official to deposit the cost of the above mentioned quantity into government treasury within 7 days vide letter No.1553/Usman Khan dated 6.6.2014, letter No.1660/Usman Khan dated 6.6.2014 with its copy endorsed to Director Food KP, Peshawar, PS to Minister Food, Secretary Food, KP and others. The Director Food, KP was also informed to forward the case to Director Anti-Corruption Establishment KP, Peshawar vide letter No.1591/Usman Khan dated 10.6.2014. The accused official was also given an opportunity to deposit the cost of short quantity of wheat into government treasury. However in the meantime the accused official (Mr. Usman Khan) deposited an amount of Rs. 350000/- into government treasury (Annex-XXII & XXIII). Furthermore the Director Food KP, Peshawar also forwarded the case of accused official to Director Anti-Corruption Establishment KP, Peshawar to investigate the matter for effecting complete recovery from the accused official vide letter no.5817/PF-1123 dated 16.10.2014. All relevant records pertaining to this case were sent to circle officer anti-corruption chitral by the DFC Chitral. Presently the case of the accused official is pending in the court of Special Judge Anti-Corruption Establishment, KP at camp court, Swat titled "State vs Usman Khan". As per statement of the DFC Sher Fayyaz, the next date fixed for hearing in this case is 13.5.2022.

Handwritten initials

Perusal of the statements of DFC Sher Fayyaz, and joint report submitted by DFC Arshid Husain & AFC Riaz Ahmad coupled with relevant record obtained from DFC Chitral, it seems that the charges levelled against the accused official (Mr. Usman Khan) are partially proved, but in this episode the role of supervising officers cannot be ignored; the statements given by the DFC and AFC are the only proves available against the accused official.

CONCLUSION/RECOMMENDATION

After having gone through the relevant record as well as written statements recorded by the concerned officials/officers based on documentary proofs, the undersigned recommends that:

- i. The accused official (Mr. Usman khan) may be inflicted any minor penalty for his negligence and carelessness as laid down under Rule 4(1)(b) of the KP Government Servants (Efficiency and Discipline) Rules, 2011.
- ii. As the Director Food Khyber Pakhtunkhwa, Peshawar already forwarded the case of accused official to Director Anti-Corruption

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Establishment KP, Peshawar to investigate the matter for effecting complete recovery from the accused official vide letter no.5817/PF-1123 dated 16.10.2014. FIR already launched and case is subjudice. Therefore, decision regarding recovery of any amount from the accused official shall be subject to the outcome of the criminal case.

- iii. As regards the issue of back benefits it is suggested that it is settled principle of law that where there is work, there is pay. Since the accused official (Mr. Usman khan) has not rendered any duty, therefore, he is not entitled to back benefits in this regard and the intervening period may be converted into leave without pay.

Submitted, please.

(The inquiry consists of 05 pages and 23 Annexures)

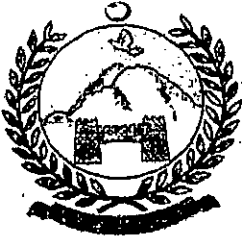


(HAFAEEZ UR REHMAN)
Assistant Director Litigation
Food Directorate, KP, Peshawar

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Annex VII

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GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE OF FOOD,
PESHAWAR

No 3290 / PF-1123

Dated Peshawar, the 1st September, 2022

☎ 091-9225378 ✉ fooddirectoratekpk@gmail.com 📺 @fooddirectoratekpk 🐦 @fooddirectorate


OFFICE ORDER

Whereas, The District Food Controller, Chitral reported vide letters No.1554-58/Usman Khan dated 06-06-2014, No. No.1561-65/Usman Khan dated 06-06-2014, No.1591/Usman Khan FGS, dated 10-06-2014 and office order No.2535-39/4/3-ET, dated 02-10-2014 that during physical verification carried out a quantity of 789 bags (78.9) M. Tons wheat valuing Rs.2761500/ was short detected against Mr. Usman Khan Foodgrain Supervisor Incharge PRC Booni and Kushum. An amount of Rs.350000/ on account of cost of wheat/ empty gunny bags was recovered from the accused and deposited into Government treasury through proper Challan leaving behind, a balance of Rs.2411500/- He was served last notice by the DFC Chitral with the direction to deposit the remaining balance into Government treasury and produce Original treasury Challan within one weak time, but he has failed to deposit the outstanding amount.

And whereas, after completion of all codal formalities the official was removed from service vide Office Order No. 2037/PF-1123 dated 21-04-2015. In compliance with Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated 26-01-2022, in case of Service Appeal No. 1029/2016, wherein in the Hon,able Service Tribunal partially accepted the Service Appeal to re-instate the appellant and the Department was directed to conduct the de-novo Inquiry within 90 days of the receipt of this Judgment. To ascertain the charges, proper formal de-novo Inquiry was ordered vide Food Directorate letter No.1461/PF-1123 dated 05-04-2022. The Inquiry Officer in its report recommended that :-

- The accused official (Mr. Usman Khan) may be inflicted any minor penalty for his negligence and carelessness as laid down under Rule 4(1)(b) of the KP Government Servant (E&D) Rules,2011.
- As the Director Food Khyber Pakhtunkhwa, Peshawar already forwarded the case of the accused official to Director Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar to investigate the matter for effecting complete recovery from the accused official vide letter No. 5817/PF-1123 dated 16-10-2014.FIR already launched and case is subjudice. Therefore, decision regarding recovery of any amount from the accused official shall be subject to the outcome of the criminal case.
- As regards the issue of back benefit, it is suggested that it is settled principle of Law, that where there is work, there is pay. Since the accused official (Mr. Usman Khan) has not rendered any duty, therefore, he is not entitled to back benefit in this regard and the intervening period may be converted into leave without pay.

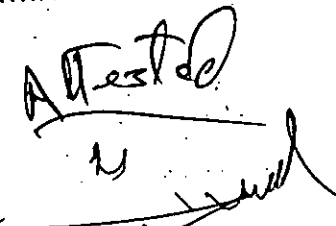
Therefore, I, Kashif Iqbal Jilani, Director Food, Khyber Pakhtunkhwa, exercise of the powers conferred upon me under the Rule 4 (a) (ii) of Khyber Pakhtunkhwa, Government Servants E&D, Rules, 2011 hereby impose upon the accused official the minor penalty of stoppage of 03 Annual Increments for a period of 03 years with immediate effect. Moreover, the intervening period shall be treated as extraordinary leave.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR

Endorsement No & Date Even

Copy is forwarded to:

- 1) The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 2) The District Accounts Officers, Chitral Lower and Upper.
- 3) The Deputy Directors Food, Malakand Division.
- 4) The District Food Controllers, Chitral Lower and Upper.
- 5) The Pay Bill Assistant Food Directorate, Peshawar.
- 6) PS to Secretary Food Khyber Pakhtunkhwa.
- 7) Official concerned/ Personal File.


DIRECTOR FOOD
KHYBER PAKHTUNKHWA
PESHAWAR

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Annex - XVI

To,

Mr. Hafeez ur Rehman (Inquiry Officer)
Asstt: Director (Litigation)
Directorate of Food
Govt of KPK, Peshawar

Subject: REPLY TO CHARGE SHEET

Respected Sir,

1: That undersigned had been issued charge sheet No 1461/PFZ-1123 dated 05.04.2022 received by hand on 20.04.2022 vide memo No 1598/C-06(ST) wherein the undersigned has been directed to appear with statement and relevant record.

2. That undersigned strongly rebut the charge sheet and statement of allegations with following reasons:

(i) That I was transferred to PRC Booni and Kushum in August 2011. At this venue the Godown premises was an old building with damage walls and roof less exposed to nature and animal creatures. There was no proper management system available so much so even the measurement / weightage equipments were not available. It was common practice that new consignments were placed upon the old ones. As a result thereof the gunny bags were either rusted or crashed. There were no extra gunny bags available nor any men power was there to repute the wheat into the bags.

A. H. H. H.
M. H. H.

This practice and problem was in vague since decades.

- (ii) I was newly and freshly appointed and was never undergone any training nor any guidance for my assignment. As a result thereof I was handed over the Godowns without any physical weight or handing over by the undersigned in presence of my boss AFC Booni namely Arshad Hussain, hence I cannot be blamed for the shortage of wheat.
- (iii) Similarly alleged detection of 789 bags is also incorrect and not as per actual record. Similarly the cost of 350000 has been deposited against actual sale of 100 bags available at that time it will not be out of place to mention here that the all. Infact I have been trapped due to fresh untrained appointment / assignment and being outsider transferred to Chitral Valley as all the persons posted in the office were locals and belong to Chitral.
- (iv) The alleged calculations of 3500 per bags is also incorrect based on whims and conjectures. The alleged calculations as well as price too are incorrect and without any support of record with landed cost.

- (v) The alleged quantity of the shortage of wheat its weight, and No;s of bags are incorrect and without any support of documents / record.
- (vi) That the Applicant was neither associated in any proceedings during the physical verification at site nor was ever invited or asked to join. The alleged calculations facts mentioned in the charge sheet and statement of allegations are baseless, fabricated, one sided and untenable in the eyes of law.
- (vii) That Applicant is innocent, falsely implicated in the whole affair with melafide intention and is required to be exonerated all back benefits.
- (viii) That Applicant has never been provided copies of the any official record of incriminating material so that Applicant put at more defence.
- (ix) The Applicant after assuming charge had also inform the office about the site situation and physical shortages.
- (x) The office has never conducted any physical verification at site neither prior to the assumption of charge, nor even after assumption of my charge.
- (xi) The calculation given in the charge sheet is exorbitant, exaggerated by adding extra amount in

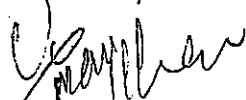
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the said quantum of money which is beyond the legal authority.

- (xii) The amount so calculated is again incorrect as the concerned officer has failed to clarify and add the actual cost of auction poor damaged quality wheat and its gunny bags, this aspect requires the attention of the worthy inquiry officer.
- (xiii) It will not be out of place to mention here that undersigned has been pressurized by the AFC Booni and DFC Chitral for dire consequences.
- (xiv) Since short time has been given therefore the undersigned will require time to annex few supporting documents relating to reports and letters sent to the high ups about the situation which are available on the record and shall be produced accordingly.
- (xv) **That Applicant would like to be heard in person. It is therefore requested that the charges against the Applicant in the charge sheet and statement of allegations may graciously be dropped and Applicant be exonerated from the charges and be also allowed to serve along with the grant of all back service benefits.**

Applicant / undersigned



USMAN KHAN

FGS, Booni & Kushum
Chirtal Upper.

Statement Recorded before ^① ^{g.w.}
 Inquiring officer in case of
 Charge sheet / statement of
 allegation against Mr. Usman Khan
 Ed: Food Grain Supervisor

I, Sher Fajaz Khan District Food
 Controller Nowshah Chitral do
 hereby record my statement
 before Inquiring Officer today
 on 22.4.2014.

- ① During my tenure as District
 Food Controller, physical verification
 of PRC Booni and PRC Kushom
 carried out vide No 1093-99/11-AC
 dated 16.4.2014. Physical verification
 carried ^{out} by Mr. Asad Hussain
 Assistant Food Controller and
 Rizq Ahmad Food Grain Inspector
- ② During physical verification shortage
 of wheat and F.G. bags detected
 amounting to Rs 3033715/-
- ③ The Incharge of both PRCs Mr.
 Usman Khan since and again
 directed by DFC Chitral to deposit
 the said amount into Govt. Treasury (DTN)

but he was reluctant and unfortunately remained failed to deposit the same

(4) Matter on his case was referred to Anti-Corruption and FIR was lodged against him for recovery of the said Government outstandings

(5) At present, the said case is under trial in the Anti-Corruption Court and next hearing date is fixed on 13/5/2022.

(6) The undersigned remain present in each and every date of hearing.

At last but not atleast the Ex: Official has only recovered RS 350000/-

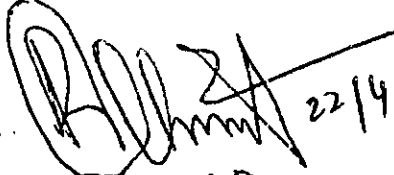
~~SABER PATAZ KHAN
DISTRICT FOOD CONTROL
LOWER CHITRA~~

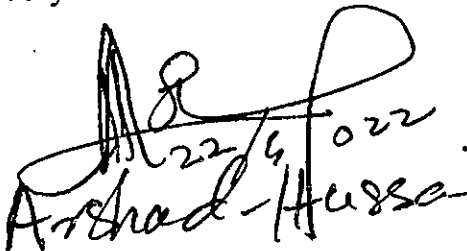
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Annex - XV

BREFING REGARDING USMAN KHAN EX-INCHARGE PRC BOONI/KUSHUM.

On the order of DFC Chitral, vide No.1093-99/1/1-AC dated 16/04/2014 I Mr. Arshad Hussain Assistant Food Controller Chitral along with Mr. Riaz Ahmed FGI of the office of DFC Chitral, conducted physical verification of the PRC Booni and Kushum. In light of physical verification of the said Godowns, the shortage of wheat and E.G bags was detected amounting to Rs.3033715/-. He was time and again directed by the DFC Chitral to deposit the said amount into government treasury, but he was reluctant and unfortunately remained failed to deposit the same. Later on his case was referred to Anti-Corruption department Chitral and FIR was lodged against him for the recovery of the said amount. At present, the said case is under trial in the Anti-Corruption court Swat, next hearing date is fixed as 13/05/2022. It is worth mentioning here that the case is attended by the undersigned in every date as fixed by the court. (relevant documents are attached).


RIAZ AHMAD
AFC Lower Chitral
22/4/22


Arshad Hussain
District Food Controller,
Upper Chitral.

... bags.