

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

**SERVICE APPEAL NO. 1215/2016**

Date of institution ... 02.12.2016

Date of judgment ... 12.02.2018

Zafarullah Khan Ex-DFC, D.I.Khan Torghar.

... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
  2. Government of Khyber Pakhtunkhwa through Secretary Food & Information Khyber Pakhtunkhwa Peshawar.
  3. Director Food, Food Directorate Khyber Pakhtunkhwa Peshawar.
- ... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 09.08.2016, WHEREBY THE APPELLANT HAS BEEN AWARDED MAJOR PUNISHMENT OF COMPULSORY RETIREMENT FROM SERVICE AGAINST WHICH HIS DEPARTMENTAL APPEAL DATED 23.08.2016 WHICH WAS REJECTED VIDE ORDER DATED 17.11.2016.

Mr. Yasir Saleem, Advocate.

.. For appellant.

Mr. Riaz Pinda Kheil, Assistant Advocate General

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Learned counsel

for the appellant present. Mr. Riaz Pinda Kheil, Assistant Advocate General

for the respondents also present. Arguments heard and file perused.

*M. Amin*  
*12-2-2018*

2. Brief facts of the case as per appeal are that the appellant was serving as District Food Controller in Food Department. During service departmental proceeding was initiated against him on the allegation that he allowed the distribution of empty gunny bags by the supplier directly to the farmers and after codal formalities he was awarded minor penalty of stoppage of two annual increments with non-accumulative effect vide order dated 15.02.2013 by the competent authority. The appellant submitted departmental appeal against the order dated 15.02.2013 but the same was not pursued by the appellant. Hence, the same attained finality. That after considerable long time the NAB took cognizance of the said allegation and referred the matter to department to proceed under the E&D Rules, 2011 and again after departmental proceeding the appellant was imposed major penalty of compulsory retirement from service with immediate effect vide order dated 09.08.2016. The appellant submitted departmental appeal on 23.08.2016 but the same was rejected on 17.11.2016 and was communicated to the appellant on 21.11.2016. Hence the present service appeal on 02.12.2016.

3. Learned counsel for the appellant contended that the appellant was imposed minor penalty of stoppage of two annual increments with non-accumulative effect vide order dated 15.02.2013 by the competent authority on the allegation that he allowed the distribution of empty gunny bags by the suppliers directly to the farmers. Then the competent authority was debarred to impose other penalty on the same allegation. Therefore, the impugned order dated 09.08.2016 of compulsory retirement of appellant ~~therefore, the same~~ is illegal, void and liable to be set-aside.

4. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that earlier the competent authority awarded minor penalty of

*M. Anwar*  
12.2.2018

stoppage of two annual increments with non-accumulative effect vide order dated 15.02.2013 but the supplier firm had filed Writ Petition No. 390-P/2013 before the august Peshawar High Court, Peshawar for liquidation of its outstanding dues. However, the worthy High Court referred the matter to National Accountability Bureau for objective investigations and the NAB referred the matter to department for stern penalty through departmental proceeding. It was further contended that since the appellant was earlier imposed minor penalty vide order dated 15.02.2013 therefore, reference was made to Establishment Department for opinion regarding stern departmental proceeding and it was opined by the Establishment Department that the competent authority could invoke the provision of rule 14 (6) of the Khyber Pakhtunkhwa Government Servant Efficiency & Disciplinary Rules, 2011 therefore, the appellant was rightly imposed major penalty of compulsory retirement after fulfilling all codal formalities vide order dated 09.08.2016 and prayed for dismissal of appeal.

5. Perusal of the record reveals that the appellant was imposed minor penalty of stoppage of two annual increments with non-accumulative effect vide order dated 15.02.2013 on the allegation that he allowed the distribution of empty gunny bags by the supplier directly to the farmers. The record further reveals that after imposing the aforesaid minor penalty again the competent authority on the basis of rule 14 (6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Disciplinary Rules, 2011 initiated second departmental proceeding and again imposed major penalty of compulsory retirement vide order dated 09.08.2016. Therefore, the only question for determination is that as to whether the competent authority can initiate second departmental proceeding and imposed a major penalty on the basis of afore said rule 14 (6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Disciplinary Rules, 2011

*M. Amin*  
12.7.2018

particularly when the civil servant was already imposed minor penalty by the competent authority on the same allegation. Therefore, it will be better to reproduce rule 14 (6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Disciplinary Rules, 2011

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee. – (1) On receipt of

report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) .....

(3) .....

(4) .....

(5) .....

(6) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.

(7) .....

(8) .....

6. From perusal of provision of rule 14 (6) it is clear that the competent authority is not competent to initiate second departmental proceeding and


*M. Amin*  
*12.2.2014*

impose a major penalty where the civil servant was already imposed minor penalty on the same allegation. As such we accept the appeal, set-aside the impugned order dated 09.08.2016 passed by the competent authority as well as order dated 17.11.2016 passed by departmental authority and direct the respondents to reinstate the appellant from the date of major penalty of compulsory retirement with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.02.2018



(MUHAMMAD HAMID MUGHAL)  
MEMBER



(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

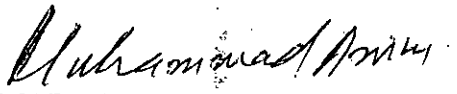
12.02.2018

Learned counsel for the appellant present. Mr. Riaz Ahmed Painsa Khel, Assistant Advocate General for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, as such we accept the appeal, set-aside the impugned order dated 09.08.2016 passed by the competent authority as well as order dated 17.11.2016 passed by departmental authority and direct the respondents to reinstate the appellant from the date of major penalty of compulsory retirement with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
12.02.2018

  
(MUHAMMAD HAMID MUGHAL)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

26.07.2017


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Abdul Hameed, Senior Clerk for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for and arguments on 11.10.2017 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Hamid Mughal)  
Member

11.10.2017

Appellant with counsel present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Latif Khan, Superintendent for the respondents present. Learned Deputy District Attorney seeks adjournment. Adjourn. To come up for arguments on 01.12.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member


01.12.2017


Since 1<sup>st</sup> December, 2017 has been declared as Public Holiday on account of Rabbi-ul-Awal. To come up for arguments on 31.01.2018 before the D.B.

  
Reader

31.01.2018

Learned counsel for the appellant and Mr. Riaz Pinda Kheil, learned Assistant Advocate General for the respondents present. Arguments heard. To come up for order on 07.02.2018 Before D.B

  
(Muhammad Amin Kundi)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

07.02.2018


The present case was fixed for today for order but due to non availability of proper D.B the present case is adjourned. To come up for order before proper D.B on 12.02.2018

  
(Muhammad Hamid Mughal)  
MEMBER

1215/2016

27.02.2017

Appellant in person and Mr. Abdul Hameed, Junior Clerk Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents not submitted. Respondents requested for further time for filing written reply. Request accepted. To come up for written reply/comments on 28.03.2017 before S.B.

  
(ASHFAQUE TAHIR)  
MEMBER


28.03.2017

Counsel for the appellant and Mr. Muhammad Tahir, Accountant, alongwith Addl: AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 10.05.2017 before S.B.

  
(AHMAD HASSAN)  
MEMBER

10.05.2017

Appellant in person and Mr. Muhammad Jan, GP for the respondents present. Rejoinder submitted. Due to transfer of one of the undersigned as reported in daily "Aaj" dated 10.05.2017, arguments could not be heard. To come up for final hearing on 26.07.2017 before D.B.

  
Member

  
Chairman



13.12.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as District Food Controller when subjected to inquiry on the allegations of mis-conduct and compulsorily retired from service vide impugned order dated 09.08.2016 where-against he preferred departmental appeal on 23.08.2016 which was rejected on 17.11.2016 and hence the instant service appeal on 2.12.2016.

That the impugned order is against facts and law as the appellant was earlier subjected to inquiry on the same allegations and penalty in the shape of stoppage of two increments without accumulative effect was passed vide order dated 15.02.2013 and hence the impugned orders are against the provisions of Article-3 of the constitution of Islamic Republic of Pakistan and, furthermore, the inquiry was not conducted in the mode and manners prescribed by rules and the appellant was not associated with the same and no opportunity of cross-examination of the witnesses was afforded to him.

Appellant Deposited  
Security & Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.01.2017 before S.B.

Chairman

24.01.2017

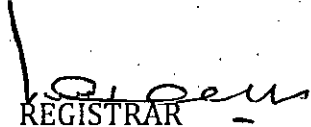
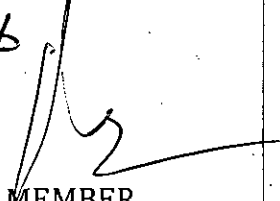
Clerk to counsel for the appellant and Addl: AG alongwith Mr. Abdul Hameed, Junior Clerk for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 27.02.2017 before S.B.

(M.Aamir Nazir)  
Member

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1215/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/12/2016	<p style="text-align: center;">The appeal of Mr. Zafarullah resubmitted today by Mr. Ijaz Anwar Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	8-12-16	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13-12-2016</u></p> <p style="text-align: right;"> MEMBER</p>

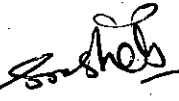
*Ijaz*

The appeal of Mr. Zafarullah Khan Ex-DFC D.I.Khan received today i.e. on 02.12.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copies of enclosures of the letter bearing No. SOF/8-I/7/2016/3414 dated 17.11.2016 (Annexure-O) are not attached with the appeal which may be placed on it.

No. 2635/S.T,

Dt. 5/12/2016

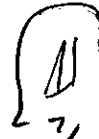
  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

the mentioned letter (Annexure-O) is available on Page No. 41

Re (above) appeal completed

Since Appeal is returned now may please be placed before the Tribunal.





**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1215/2016

Zafarullah Khan Ex DFC, D.I Khan Torghar.

(Appellant)

**VERSUS**

Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber  
Pakhtunkhwa Peshawar and others.

(Respondents)

**INDEX**

	Description of Documents	Attachments	Page No.
1	Memo of Appeal and Affidavit		1-4
2	Copies of charge sheet, reply to charge sheet, show cause notice, reply to show cause, inquiry report and order dated 15.2.2013	A to F	5-20
3	Copy of the letters dated 17.3.2016 and 20.5.2016	G	21-22
4	<i>Copy of the inquiry report</i>	H	23-25
5	Copy of the show cause notice and reply	I&J	26-28
6	Copy of the show cause notice dated 12.7.2016 and reply	K&L	30-34
7	copy of order dated 9.8.2016	M	35
8	Copies of appeal and rejection order	N&O	36-41
9	Vakalatnama		42

Appellant

Through

(IJAZ ANWAR)

Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa

Appeal No. 12-15/2016

Dist. No. 1253

Dated 02-12-2016

Zafarullah Khan Ex DFC, D.I. Khan Torghar.

(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Govt of Khyber Pakhtunkhwa through Secretary Food & Information Khyber Pakhtunkhwa Peshawar.
3. Director Food, Food Directorate Khyber Pakhtunkhwa Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 9.8.2016, whereby the appellant has been awarded major punishment of Compulsory Retirement From Service against which his Departmental appeal dated 23.8.2016 which was rejected vide order dated 17.11.2016.

**Prayer in Appeal: -**

On acceptance of this appeal the impugned order dated 9.8.2016 and 17.11.2016 may please be set-aside and the appellant may be re-instated in service with all back benefits of service.

**Respectfully Submitted:**

1. That the appellant while posted at D.I Khan as District Food Controller was proceeded departmentally for the allegation that he allowed the distribution of empty Gunny bags by the supplier directly to the former. He was however awarded minor penalty of stoppage of two annual increment with non accumulative effect vide office order dated 15.2.2013. (Copies of charge sheet, reply to charge sheet, show cause notice, reply to show cause, inquiry report and order dated 15.2.2013 are attached as annexure A to F).

**Filed to-day**  
*Somesh*  
**Registrar**  
02/12/16

Re-submitted to -day  
and filed.

*Q. A. A. A.*  
**Registrar**

6/12/16

2. That he submitted departmental appeal against the said order, however did not pursue further and thus the order attained finality.
3. That after considerable long time the NAB took cognizance of the said allegation and duly investigated the matter, however, did not find any thing on the basis of which the case under the NAB laws could be proceeded and as such while closing the case, simply referred the matter to departmental authorities to proceed under the E&D Rules, 2011 as they were never informed that the appellant has been proceeded departmentally and already awarded penalty in this matter. (Copy of the letters dated 17.3.2016 and 20.5.2016 are attached as annexure G).
4. That unfortunately in a very mechanical manner and without realizing this fact that the department has already initiated and finalized the departmental proceedings, re-initiated proceedings against the appellant. An inquiry was conducted to this effect by Inquiry Committee. The inquiry committee was cognizant of the fact that the appellant has already been awarded penalty on the same allegations therefore, while concluding the inquiry gave the following recommendations.

*"The penalty imposed by competent authority may be revised/enhanced to major penalty of demotion of Mr. Zafrullah the then DFC D.I Khan to lower scale under Rule-4, Sub Rule (1), Clause (b) (i) of Khyber Pakhtunkhwa E&D Rules, 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC". (Copy of the inquiry report is attached as annexure H).*

5. That the appellant was served with a show cause notice, wherein the penalty of demotion from the post of ~~D.I Khan~~ Food Controller BPS-16 to the post of Assistant Food Controller BPS-14 has been proposed and the appellant was directed to reply within period of 7 days. (Copy of the show cause notice and reply are attached as annexure I&J).
6. That though the appellant has submitted reply to the show cause notice, albeit he was served with another show cause notice dated 12.7.2016 wherein it was alleged wherein again the penalty of removal from service was proposed, while narrating the same allegations in the show cause notice. The appellant submitted reply to the show cause notice. (Copy of the show cause notice dated 12.7.2016 and reply are attached as annexure K&L).
7. That the competent authority without considering the facts of the case that already he has awarded penalty on the same allegations, which were never withdrawn albeit mechanically considering it a direction from the NAB vide an order dated 9.8.2016 awarded the major penalty of compulsory retirement from service with

immediate effect. (copy of order dated 9.8.2016 is attached as annexure M).


8. That the appellant submitted appeal dated 23.8.2016 against the order of compulsory retirement from service, however, the appellant was conveyed a note from the office of competent authority dated 17.11.2016 communicated on 21.11.2016 whereby the appeal has been rejected. (Copies of appeal and rejection order are attached as annexure N&O).
9. That the appellant prays for the acceptance of the instance appeal inter alia on the following grounds:-

**GROUND OF APPEAL**

- A. That the appellant has not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That unfortunately the appellant was allowed additional charge of the post of DFC w.e.f 26.4.2010 to 2.7.2010 on account of leave of the then DFC, and during that period the appellant was roped into the said allegation, it was never inquired that who mis-conducted himself and who committed irregularity.
- C. That the whole proceedings conducted against the appellant was a mere eyewash as a proper legal departmental proceedings was initiated and finalized culminating minor award of stoppage of two annual increments vide order dated 15.2.2013, however, the respondents should have shown the courage for simply responding to the NAB authorities that a departmental inquiry has already been conducted and finalized, however they acted mechanically, illegal and in violation of law while awarding the major penalty of compulsory retirement from service.
- D. That the respondents have not conducted any proper inquiry as required under the Khyber Pakhtunkhwa Civil Servant Efficiency & Disciplinary Rules, 2011, the appellant was not afforded opportunity to cross examined the witnesses those who may have deposed against him, thus the proceedings so conducted are illegal and violation of the law.
- E. That the charges leveled again the appellant have never been proved in the departmental inquiry. The concerned staff posted at the Godown were scot free while the appellant has made the scape board.

- F. That the charge for stopping MI Enterprises for direct distribution of EG Bags directly to the growers have no concern with the appellant because the contractor himself was bound to comply with the terms and conditions laid down in the letter dated 23.4.2012 and also issue to them from time to time of the Director Food Khyber Pakhtunkhwa. if the said contractor had violated the terms and conditions, it was his own risk and the said contractor himself was responsible of any loss involved and thus the appellant had never given any direction either in writing or verbally to the MI therefore, the allegation leveled against the appellant are concocted and baseless one.
- G. That the appellant seeks the permission of this Honorable Tribunal to rely on additional grounds at the hearing of this appeal.

It is, therefore, humbly prayed that on acceptance of this appeal the original order dated 9.8.2016 and 17.11.2016, may please be set-aside and the appellant be re-instated in service with all back benefits of service.

  
Appellant

Through

  
**IJAZ ANWAR**  
Advocate Peshawar

### AFFIDAVIT

I, Zafarullah Khan Ex DFC, D.I Khan Torghar, do hereby solemnly affirm and declare that the contents of the above appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



  
Deponent





(5) Approved: A

**FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR**

CHARGE SHEET

I, Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa, as competent authority hereby charge you (Muhammad Zafrullah Khan AFC working was as DFC D.I.Khan ) as follows:-

2. That you, while posted were as DFC D.I.Khan in your own Pay & Scale during performance of duties committed the following irregularities:-.

It has been reported by the Provincial Inspection Team that whole of the mess have been created due to inefficiency and negligence by you while you were posted as DFC D.I.Khan. You have accepted under weight and substandard empty gunny Bags from the suppliers and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. You were duty bound to act then and their by rejecting substandard bags and returning it to the suppliers but all the episode happened directly under your nose and failed to perform your duties. You also failed to stop M.I. enterprises from direct distribution of E.G Bags to the growers. You were required to report the said issue to the higher authorities of Food Department, but you remained silent.

3. By reasons 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 rules ibid

4. Your written defence if any should reach the inquiry officer / inquiry committee 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 desired to be heard in person.

A statement of allegation is enclosed.

  
**DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.**





(6)

**FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR**

No 7859 /PF-

Dated 14/09/2012

**DISCIPLINARY ACTION**

I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa, being competent authority, am of the opinion that (Muhammad Zafrullah Khan AFC working as DFC D.I.Khan) have rendered himself liable to be proceeded against, as he committed the following acts/omissions, with in the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011

**STATEMENT OF ALLEGATIONS**

It has been reported by the Provincial Inspection Team that whole of the mess have been created due to inefficiency and negligence by you while you were posted as DFC D.I.Khan. You have accepted under weight and substandard empty gunny Bags from the suppliers and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. You were duty bound to act then and their by rejecting substandard bags and returning it to the suppliers but all the episode happened directly under your nose and failed to perform your duties. You also failed to stop M.I. enterprises from direct distribution of E.G Bags to the growers. You were required to report the said issue to the higher authorities of Food Department, but you remained silent.

3 For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer /inquiry committee, consisting of the foilowing, is constituted under rule 10 (1) (a) of the ibid rules.

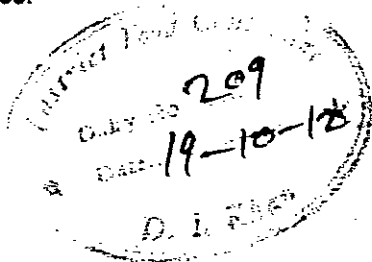
Mr. Iftikhar Hussain Qureshi Assistant Director Food (Estt) Food Directorate, Peshawar

Mr. Abdul Jalil Assistant Director Food Malakand Division at Saidu Sharif Swat

4 The Inquiry 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 of punishment or other appropriate action to be taken against the accused

5 The accused shall join the proceedings on the date, time and place fixed by the inquiry committee.

*Musa*



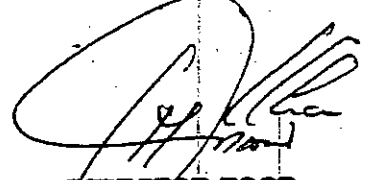
**DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.**

7

Endorsement No & date Even

A copy of the above is forwarded to:-

1. Mr. Iftikhar Hussain Qureshi Assistant Director Food (Estt) Food Directorate, Peshawar for initiating proceeding against the accused under the provisions of the Khyber Pakhtunkhwa E&D Rules.2011 (Copy of Charge Sheet along with Statement of Allegation is enclosed)
2. Mr. Abdul Jalil Assistant Director Food Malakand Division at Saidu Sharif Swat for initiating proceeding against the accused under the provisions of the Khyber Pakhtunkhwa E&D Rules.2011 (Copy of Charge Sheet along with Statement of Allegation is enclosed)
3. Muhammad Zafrullah Khan DFC Tank for information with the direction to appear before the Enquiry Committee on the date/time place fixed by the committee for the purpose of the enquiry proceedings.
4. DFC - D. H. Khan.

  
**DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.**

*Alleged*  
*D*

8

ANNEX B

Page: 1-3

From

The District Food Controller  
Tark

No: 687/DFC

Dated: 18-10-2012

To

The Director Food  
Khyber Pakhtoon Khwa  
Peshawar

Subject: - Disciplinary action/ charge sheet

Kindly refer to your No 7859/PF dated: 14-09-012 received on 11-10-1202 on the subject cited above.

I have the honour to submit my defence reply on the subject as under:-

1) That I was working as AFC H/Q D.I.Khan to the entire satisfaction of my superiors and no adverse remarks etc were conveyed to my inefficiency and negligence etc.

2) That Mr. Mehboob Alam permanent DFC D.I.Khan proceeded on earned leave W.E.F 26-4-010 to 2-7-010 (66 days) vide notification No 9029/PF 647 dated: 3-5-010 issued by Director Food Khyber Pakhtoon Khwa Peshawar (photo copy is attached as annexure A for ready reference) while the procurement season was to be started in the near future. In the said notification referred to above the undersigned was assigned additional duty to look after the seat of DFC in addition to my duty till arrival of DFC D.I.Khan.

3) The undersigned took over additional charge of the post of DFC on 3-5-010 (photo copy is attached as annexure B).

4) It is worth mentioning to say that Mr.Mehboob Alam DFC had been visiting the godown regularly despite the fact the above named officer was on earned leave. The motive behind the gun for visiting the godown on daily basis is required to be explained by the above named officer.

5) The undersigned handed over the complete charge on 6-7-010 on the expire of leave of the above named officer (photo copy of the charge report of handing over is enclosed as annexure C for ready reference). The question arises, if there was any discrepancy with regard to accept the underweight and substandard EG Bags from the supplier these facts could have been pointed out by the said officer but the said officer submitted statement showing the detail of EG Bags after the procurement, season vide his letter No 6333/DFC D.I.Khan dated: 27-7-010 (photo copy is attached as annexure D). However the detail of the statement is again appended below:-

i) Old stock	1, 43,655	A class
ii) Supplied by Dilawar & Co	4,123	B class
iii) M I	80,200	As per entry made in FG13
	<u>20,500</u>	Do
Total	2, 48,478	

Alisa

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- iv) Total wheat purchased in jute bags 3, 71,620 jute bags
- v) Balance 13,993
- vi) Received from growers/dealers 1,37,135

In which 70% to 80% are B class

6) It is further added that the following contractors/ growers are claiming with regard to the supply E.G Bags as per detail given below:-

- i) Dilawar & Co 40,000 additional
- ii) Mi 2, 98,000
- iii) Haji Yamin 40,000  
S/o M.shafi
- iv) Taj Muhammad 1,000

v) Others whom applications are pending with Yamin vide claiming letter No 6925-26/DFC D.I.Khan dated 22-11-2010 (photo copy are enclosed as annexure E .Along with the undersigned replied as annexure F)

The question raised if the above named have any solid proof with regard to the supply of E.G Bags in accordance with the terms and conditions of tenders, the said proof are required to be produced to your honour for further proceedings in the matter.

7) I would like to mention here that all the process with regard to receipt of E.G Bags to ensure the capacity, quality and quantity, there of is/was made by the AFC / FGI any how the deficiency of receipt EG Bags of the contractor and making entry there of by the FG 13 Maintainer . the matter had already been decided by the honourable high court Peshawar in its decisions dated 22-5-2012 in accordance with para 2 of the said decision (photo copy is attached for ready reference as annexure G).

8) In response to the letter of Mi enterprise No nil dated 28-6-2010 (photo copy is enclosed as annexure H).

The undersigned visited the godown in order to verify quality, quantity, and weight etc. it was noticed that EG Bags B class were lying but no one was ready to accept ownership of these bags. Which were included in the growers list. The staff concerned was directed to put sample from the old stock as well as newly stock the said stock were weighted and found that average of these EG Bags was 850 grams. The undersigned stated clear picture of the matter vide letter No 6559 dated 3-9-2010 (photo copy is enclosed as annexure I) for your kind perusal, in order to save the Govt for sustaining any loss of money, on account of efficiency of the concerned AFC/Others and also be clarified EG Bags B class.

During the moments of PIT Office on dated 10-4-2012 in my presence vide PIT calling letter No 378 dated 3-4-2012 as annexure J.

The appropriate action are required to be initiated against the defaulters, Who Are Playing Rote practices with regard to receive the EG Bags of below standards and average weight 850 grams.

9) I don't accept the charge levell against me for accepting under weight and substandard Because of all the process was made by the godown staff of the period, hence the said

*Attest*  
*[Signature]*

charge is baseless and fabricated one due to found all EG Bags substandard Laying in the premises of the godown consisted on old stock and newly one.

10) in order to conceal the fault for the receipt of EG Bags and also substandard Bags of old stock and also new one. some persons are putting pressure for accepting these Bags and making entry in FG13, on my refusal the said persons are playing role to defame me in the eyes of high ups as well as in public whereas the undersigned had performed my duties as acting DFC for the period 3/5/2010 to 6/7/2010 (66 days) honestly dedicatedly and efficiently.

11) As far as charge for stopping Mi enterprise for direct distribution of EG Bags directly to the growers are concerned to the undersigned had no concern with its because the contractor himself was bound to comply with the terms and conditions laid down in the letter No S689 dated 23-4-2012 (as annexure K) and also issue to them from time to time of the Director food KPK. If the said contractor had violated the terms and conditions, it was his own risk and the said contractor himself is responsible of any loss involved in this regard the undersigned had never given my direction either in writing or verbally to the Mi in this regard therefore the allegation levelled against me is concocted and baseless one.

At the end it is graciously requested in the name of justice and equity that the undersigned may kindly be exonerated from all the charges levelled against me as there is no delinquency on my part and performed my duties as acting DFC for the period 3-5-010 to 6-7-010 dedicatedly, efficiently and the GOVT has not sustained any loss of money during the said period referred to above.

Muhammad Zafrullah Khan  
Acting DFC D.I.Khan  
Now Working As D F C Tank

Copy to the:-

- 1) Mr. Iftikhar Hussain Qureshi Assistant Director Food Khyber Pakhtoon Khwa Peshawar.
- 2) Mr. Abdul Jalil Assistant Director Food Malakand Division at Saidu Sharif Swat

*Spar*

Muhammad Zafrullah Khan  
Acting DFC D.I.Khan  
Now Working As D F C Tank

*Allego*  
*D*



(11)

Jawid Khan C

**FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR.**

No. 887 /PF-1079

Dated 28/01/2013

To

✓  
Mr. Zafarullah Khan  
District Food Controller  
Tank

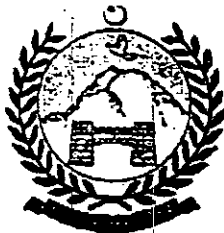
Subject:- **SHOW CAUSE NOTICE**  
Memo:-

Reference this Directorate Show Cause Notice vide No. 187/PF-1079 dated 03-01-2013 and your reply to the Show Cause Notice dated 09-01-2013, on the subject noted above.

2 You are directed to attend the office of worthy Director Food Khyber Pakhtunkhwa Peshawar on 08-02-2013 at 10:00 A.M for personal hearing in the subject reference disciplinarily proceeding.

  
**DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

*Alisa*  
*[Signature]*



F A X T O M K

FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No 187 /PF-1079

Dated Peshawar the 03/01/2013

12

**SHOW CAUSE NOTICE**

I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve Mr. Zafarullah Khan the then DFC D.L.Khan now posted as DFC Tank as follows:

- (i) That you while posted as DFC D.L.Khan allowed the distribution of empty gunny bags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared you. Personally responsible for the mess created during the procurement season-2009-10.
- (ii) That an enquiry committee was constituted to conduct proper enquiry against you under Efficiency & Discipline Rules 2011.
- (iii) That committee conducted the enquiry under the E&D Rules 2011 for which you were given opportunity of hearing communicated to you on vide letter No.89012/ PF-1079 dated 05-11-2012 and submitted its report vide dated 591/ dated 20-11-2012 found you guilty of misconduct and recommended in position of major penalty against you.
- (iv) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

I am satisfied that you have committed the following atc/omissions specified in rule-3 of the said rules.

- a) You have committed negligence in duties thereby allowing the Government supplier to distribute bags amongst the farmers directly.
- b) You have taken substandard (under weight) Jute Bags on the stock.
- c) You have allowed unloading of B- Class bags in the Godown.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of demotion from the post of District Food Controller / Storage & Enforcement Officer / Rationing Controller Peshawar (BS-16) to the post of Assistant Food Controller (BS-11) under rule (4) (b) (i) Efficiency & Discipline Rules 1973 amended / revised 2011.

3. You are, thereof, required to this Show Cause Notice 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, it shall be presumed that you have no reply to put in your defence and in that case an ex-parte action shall be taken against you.

Case No. 187/ PF-1079 dated 03-01-2013

DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR



From

The District Food Controller

Tank

No:833/DFC Tank

Dated: 9/1/2013

To

The Director Food

Khyber PakhtonKhwa

Peshawar

**Subject:-Defence reply of Show Cause notice.**

~~Memo:- Kindly refer to your letter no-187/PE-1079 dated 3/1/2013 received through DEC D.I.Khan on 7/1/2013 at 5pm.~~

In this regard I have the honour to submit that detailed reply has already been submitted vide the office No 687 dated 18/10/2012. Any how I submit my defence reply with regard to the charges shown at i, to ,iii on the subject cited above.

- i) That I have not committed any negligence in the duties and not allowed the govt: supplier to distribute E.G Bags among the formers either in writing or verbally which can be verified from the record. If the government supplier ~~MI~~ distributed directly at his own risk by violating the terms and condition of the tender resulting in the said Firms has already been black listed vide your No SOF(Food Dept.) 2-4/704 dated 28/11/2012 copy attached for ready reference as annexure(A). Hence there is no delinquency on my part. Therefore I do not accept the charge levelled against me.
- ii) I would like to mention here that comprehensive and clear picture has already been explained at S-No 8 of my reply bearing No 687 dated 18/10/2012. However I once again add here that in response to MI letter No nil dated 28/6/2010. The undersigned visited the godown in order to verify quality, quantity and weight. It was noticed that some empty gunny bags were lying but no one was ready to accept their ownership. Thus the said bags were shown in the farmer list to save the government for sustaining any loss. ~~Some sample out of old stock and new one were checked and found that their weight was 850gm. It was brought to my notice that this practice is in vogue for the last 05 years for which necessary enquiry is required to be made for taking appropriate action against the defaulters, the undersigned has not taken (under weight) jute bags on the stock.~~

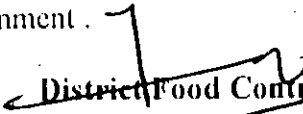
If any entry has been made in the stock register, the concerned staff of the godown are held responsible of this deficiency.

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III) I have not allowed unloading of B class Bags in the godown if any discrepancy is involved. the godown staff of that period are responsible and necessary actions are required to be taken against them because of the undersigned was posted as incharge DFC for the period of 66 days and performed my duties honestly and government has not sustained any loss of money during this period.

At the end it is earnestly requested that the undersigned may kindly be exonerated from the charge's levelled against me as there is no delinquency on my part because of the undersigned had performed my duties in the best interest of the government.

  
District Food Controller  
Tank





GOVERNMENT OF KHYBER PAKHTUNKHWA

ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NO. SOR.III (E&AD) 3-2/2013(Vol-III)  
Dated Peshawar the March 17, 2016.

264  
22/3/16

Diary No. 5418  
Dated 21-3-2016  
Secy: Food Office KPK

To


The Secretary Govt. of Khyber Pakhtunkhwa,  
Food Department

Subject: INQUIRY UNDER THE EFFICIENCY & DISCIPLINE RULES, 2011

Dear Sir,

I am directed to refer to the Food Department letter NO. SOF (FOOD DEPTT)/2-23/1836 dated 26-1-2016 on the subject and to advise the Administrative Department to go for implementation of the NAB's suggestions as contained in its report by adopting procedural mechanism as provided in sub-rule-6 of Rule-14 of Khyber Pakhtunkhwa Govt Servants E&D Rules, 2011.

Yours faithfully,

  
(Muhammad Salim Shah)  
Section Officer (R-III)  
Phone # 9210367

So (G)

Pe. division

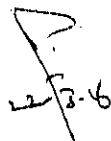
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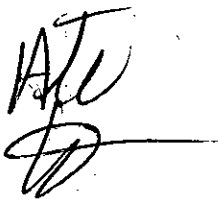
21-03-16

E&D Rules 2011

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GOVERNMENT OF PAKISTAN  
NATIONAL ACCOUNTABILITY BUREAU  
PDA COMPLEX BLOCK III PHASE V HAYATABAD  
KHYBER PAKHTUNKHWA PESHAWAR

**SAY NO TO CORRUPTION**

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28-5-066

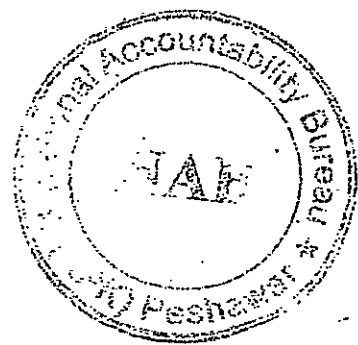
No. 1/472/IW-II/NAB:(KP)/165  
20 May 2016

Section Officer (General)  
Govt of Khyber Pakhtunkhwa  
Food Department  
Peshawar

Subject: Inquiry Under The Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011

Reference: Your letter No.SOF/FD/2-23/2015/P.XII/2412 dated 03.05.2016.

It is to inform you that since the inquiry has already been closed at the bureau and sent to your Deptt for necessary action at your end, therefore, you may proceed as per rules.



*[Signature]*  
Addl Dir (Staff)  
For Director General  
(Zahir Shah)  
Ph No.091-9217545

*[Handwritten notes and signatures]*  
A/C  
P/C  
23/5/16  
J/c  
26.5.16

INQUIRY REPORT ON IRREGULARITIES IN SUPPLY OF EMPTY  
JUTE BAGS IN FOOD DEPARTMENT D.I.KHAN IN THE YEAR,  
2009-2010.

The following Inquiry Committee constituted vide Notification No.SOF/2-6/2001/P-II/965 dated 6-8-2015. was assigned to inquire into purchase/supply of substandard and underweight jute bags and acceptance thereof by the official concerned during 2009-2010 in DI Khan and fix responsibility upon the defaulter (Annex-A).

(1) Mr. Umar Farooq, DS (Food) - Chairman

(2) Mr. Asmatullah, Dy: Director (F&I) Food Directorate- Member.

2. The committee obtained relevant record from the Directorate of Food for its examination and finalize its findings/recommendation. The Committee also visited DI Khan on 8-10-2015 to verify official record and record statement of the following officials who remained posted at DI Khan during that period:-

1. Mr. Zafrullah, DFC.
2. Peer Hashmat AFC
3. Mr. Fakhar Zaman, Inspector.

3. Statement of the above official were recorded as under:-

- (i) Mr. Zafrullah DFC:- The officer submitted his statement in a closed envelope in shape of a letter addressed to the Director Food on 6-10-2005, prior to this hearing (Annex-B).
- (ii) Pir Hashmat AFC (Retired):- The official in his statement claimed that empty Bags of "A" Class provided by the supplier were entered by him in the FG-13 register and issue was made according to orders of the then DFC. (Annex-C).
- (iii) Mr. Fakhr Zaman Inspector:- The official totally denied any responsibility as according to him he was not concerned with the issue and that he was assigned the duty alongwith another junior clerk named Tahir Raza on temporary basis and he obeyed orders of the sitting DFC (Annex-D).

4. Going through the record the committee observed that the Provincial Inspection Team (PIT) in its detailed report has given its findings that:-

*ATC*

- (i) the concerned DFC also confirmed that M/S MI Enterprises entirely supplied these bags and these bags were issued to the growers on the written instruction of the same DFC. Hence quantity of 47,250 bags supplied by the supplier is proven through record and circumstantial evidence. Again no payment has been made to the supplier against this consignment and DFC has illegally accepted the substandard quantity (B-Class) without returning it to the supplier. As per view of Provincial Inspection Team there is no other option at this belated stage except to pay the supplier at the reduced rate. (Annex-E).
- (ii) to ascertain the fact, PIT held an exercise, through the Province which transpired that no free E.G bags were received at any of the centres prior or after this procurement. Further, circumstantial evidence surfaced during the statement of concerned official transpire that M/S. M.I Enterprises directly issued E.G bags to farmer without obtaining security amount, which was in the knowledge of the then DFC who neither bothered to stop this illegal practice nor reported the matter to highup (this was admitted by the DFC in his statement) (Annex-F)

5. PIT further made its recommendation that:-

“whole of the mess had been created due to inefficiency and negligence of the then DFC DI Khan Mr.Zafrullah Khan, who accepted underweight and substandard E.G bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. All the episode happened directly under his nose and he failed to perform his duties. He was also failed to stop MI Enterprises from direct distribution of EG bags to the growers. He was required to at least report the said issue to the high Authorities of the Food Department but he remained silent therefore, strict disciplinary action may be taken against the said officer under E&D Rules” (Annex-G).

- 6. (i) The enquiry committee constituted in compliance with recommendation of the PIT consisting of M/S Abdul Jalil and Iftikhar Hussain Qureshi, Assistant Directors Food has also found Mr.Zafrullah, the then DFC DI Khan as guilty of misconduct.(Annex-H).
- (ii) National Accountability Bureau has also concluded their enquiry with the including that the authority responsible for the issue of jute bags has misused the power and deserves to be proceeded against under the relevant rules.(Annex-I).

19



7. **Findings:-** Based on above explanation the committee is of the view that:-

- (i) Stern disciplinary action under the Efficiency & Discipline Rules is to be taken against the defaulter; and
- (ii) Despite recommendation of the Committee referred to above the competent authority has imposed minor penalty of stoppage of 02 Annual Increments.

8. **Recommendations:-** The penalty imposed by competent authority may be revised/enhanced to major penalty of demotion of Mr. Zafrullah the then DFC DI Khan to lower scale under Rule-4, sub-rule (1), clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules, 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC.

(ASMATULLAH)

Member of Inquiry Committee  
Deputy Director (F&I) Food  
Directorate, Peshawar.

(UMAR BAROQ)

Chairman of Inquiry Committee  
PMS BS-18, Deputy Secretary,  
Govt. of Khyber Pakhtunkhwa.

(Registered)



Approved: F (20)

FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR

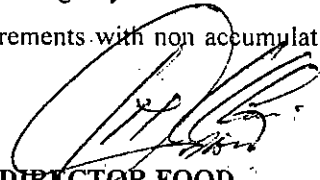
No 1440 /PF-1079

Dated 15/02/2013

**OFFICE ORDER**

Where as Mr.Zafarullah Khan District Food Controller was posted as District Food Controller D.I.Khan. He allowed the distribution of Empty Gunny Gags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared him, personally responsible for the mess created during the procurement Season 2009. An Enquiry committee was constituted to conduct enquiry against him under Efficiency & Disciplinary Rules 2011. The committee found him responsible and suggested penalty under the said rules. In light of the recommendation of the committee proper show cause notice was issued and the officer was given the opportunity of personal hearing.

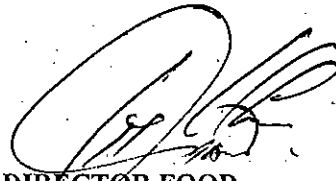
2. Now after full consideration of the case, I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa, the authority hold the said officer guilty of misconduct and award him the minor penalty for stoppage of two annual increments with non accumulative effect from the date of issuance of office order.

  
DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

**Endorsement Even No & Date**

Copy is forwarded to:-

1. The District Accounts Officers Tank and D.I.Khan.
2. The Deputy Director Accounts, Food Directorate Khyber Pakhtunkhwa Peshawar.
3. The Regional Audit Officer, Food Directorate Khyber Pakhtunkhwa Peshawar.
4. The Assistant Director Food D.I.Khan Division.
5. The District Food Controllers D.I.Khan and Tank
6. Officer concerned / Personal file.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

Att  
A





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NO. SOR.III (E&AD) 3-2/2013(Vol-III)  
Dated Peshawar the March 17, 2016.

264  
22/3/16

Disty No. 5618  
Date: 21-3-2016  
Secy: Food Office KPK

To

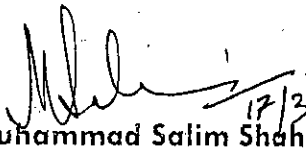
The Secretary Govt. of Khyber Pakhtunkhwa,  
Food Department

Subject: INQUIRY UNDER THE EFFICIENCY & DISCIPLINE RULES, 2011

Dear Sir,

I am directed to refer to the Food Department letter NO. SOF (FOOD DEPTT)/2-23/1836 dated 26-1-2016 on the subject and to advise the Administrative Department to go for implementation of the NAB's suggestions as contained in its report by adopting procedural mechanism as provided in sub-rule-6 of Rule-14 of Khyber Pakhtunkhwa Govt Servants E&D Rules, 2011.

Yours faithfully,

  
(Muhammad Salim Shah)  
Section Officer (R-III)  
Phone # 9210367

So (G)

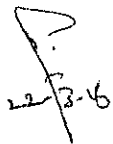
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E&D Rules 2011

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GOVERNMENT OF PAKISTAN  
**NATIONAL ACCOUNTABILITY BUREAU**  
PDA COMPLEX BLOCK-III PHASE-V HAYATABAD  
KHYBER PAKHTUNKHWA PESHAWAR

**SAY NO TO CORRUPTION**

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28-5-06

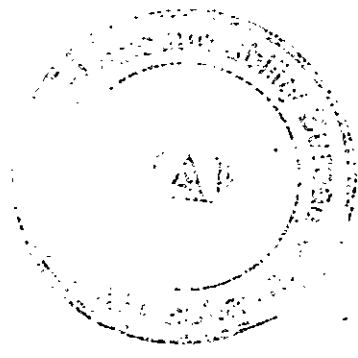
No. 1/472/IW-II/NAB (KP),  
2 May 2016

Section Officer (General)  
Govt of Khyber Pakhtunkhwa  
Food Department  
Peshawar

Inquiry Under The Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011

Reference: Your letter No.SOF/FD/2-23/2015/P.XII/2412 dated 03.05.2016.

It is to inform you that since the inquiry has already been closed at Bureau and sent to your Deptt for necessary action at your end, therefore, you may proceed as per rules.



*[Signature]*  
Addl Dir (Staff)  
For Director General  
(Zahir Shah)  
Ph No.091-9217545

*[Handwritten signature]*

Pu P1  
23/5/16  
J/c 26.5.16

(23)

Approved, H

CONFIDENTIAL

87/

INQUIRY REPORT ON IRREGULARITIES IN SUPPLY OF EMPTY JUTE BAGS IN FOOD DEPARTMENT D.I.KHAN IN THE YEAR, 2009-2010.

The following Inquiry Committee constituted vide Notification No.SOF/2-6/2001/P-II/965 dated 6-8-2015, was assigned to inquire into purchase/supply of substandard and underweight jute bags and acceptance thereof by the official concerned during 2-09-2010 in DI Khan and fix responsibility upon the defaulter (Annex-A).

- (1) Mr. Umar Farooq, DS (Food) - Chairman
- (2) Mr. Asmatullah, Dy. Director (F&I) Food Directorate- Member.

2. The committee obtained relevant record from the Directorate of Food for its examination and finalize its findings/recommendation. The Committee also visited DI Khan on 8-10-2015 to verify official record and record statement of the following officials who remained posted at DI Khan during that period:-

- 1. Mr. Zafrullah, DFC.
- 2. Peer Hashmat AFC
- 3. Mr. Fakhar Zaman, Inspector.

3. Statement of the above official were recorded as under:-

- (i) Mr. Zafrullah DFC:- The officer submitted his statement in a closed envelope in shape of a letter addressed to the Director Food on 6-10-2005, prior to this hearing (Annex-B).
- (ii) Pir Hashmat AFC (Retired):- The official in his statement claimed that empty Bags of "A" Class provided by the supplier were entered by him in the FG-13 register and issue was made according to orders of the then DFC. (Annex-C).
- (iii) Mr. Fakhr Zaman Inspector:- The official totally denied any responsibility as according to him he was not concerned with the issue and that he was assigned the duty alongwith another junior clerk named Tahir Raza on temporary basis and he obeyed orders of the sitting DFC (Annex-D).

*Alte*

4. Going through the record the committee observed that the Provincial Inspection Team (PIT) in its detailed report has given its findings that:-

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~~24~~

- (i) the concerned DFC also confirmed that M/S MI Enterprises entirely supplied these bags and these bags were issued to the growers on the written instruction of the same DFC. Hence quantity of 47,250 bags supplied by the supplier is proven through record and circumstantial evidence. Again no payment has been made to the supplier against this consignment and DFC has illegally accepted the substandard quantity (B-Class) without returning it to the supplier. As per view of Provincial Inspection Team there is no other option at this belated stage except to pay the supplier at the reduced rate. (Annex-E).
- (ii) to ascertain the fact, PIT held an exercise, through the Province which transpired that no free E.G bags were received at any of the centres prior or after this procurement. Further, circumstantial evidence surfaced during the statement of concerned official transpire that M/S. M.I Enterprises directly issued E.G bags to farmer without obtaining security amount, which was in the knowledge of the then DFC who neither bothered to stop this illegal practice nor reported the matter to highup (this was admitted by the DFC in his statement) (Annex-F).

5. PIT further made its recommendation that:-

"whole of the mess had been created due to inefficiency and negligence of the then DFC DI Khan Mr. Zafrullah Khan, who accepted underweight and substandard E.G bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. All the episode happened directly under his nose and he failed to perform his duties. He was also failed to stop MI Enterprises from direct distribution of EG bags to the growers. He was required to at least report the said issue to the high Authorities of the Food Department but he remained silent therefore, strict disciplinary action may be taken against the said officer under E&D Rules" (Annex-G).

6. (i) The enquiry committee constituted in compliance with recommendation of the PIT consisting of M/S Abdul Jalil and Ifikhar Hussain Qureshi, Assistant Directors Food has also found Mr. Zafrullah, the then DFC DI Khan as guilty of misconduct. (Annex-H).

(ii) National Accountability Bureau has also concluded their enquiry with the including that the authority responsible for the issue of jute bags has misused the power and deserves to be proceeded against under the relevant rules (Annex-I).

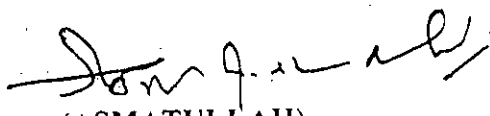
ATC

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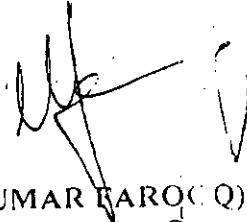
7. Findings:- Based on above explanation the committee is of the view that:-

- (i) Stern disciplinary action under the Efficiency & Discipline Rules is to be taken against the defaulter; and
- (ii) Despite recommendation of the Committee referred to above the competent authority has imposed minor penalty of stoppage of 02 Annual Increments.

8. Recommendations:- The penalty imposed by competent authority may be revised/enhanced to major penalty of demotion of Mr. Zafrull H the then DFC DI Khan to lower scale under Rule-4, sub-rule (1), clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules, 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC.

  
(ASMATULLAH)

Member of Inquiry Committee  
Deputy Director (F&I) Food  
Directorate, Peshawar.



(UMAR BAROOQ)  
Chairman of Inquiry Committee  
PMS BS-18, Deputy Secretary,  
Govt. of Khyber Pakhtunkhwa.





FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR  
No. 3577 /PP-1079

Dated Peshawar the 24 / 06 / 2016

### SHOW CAUSE NOTICE

I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve Mr. Zafarullah Khan the then DFC D.I.Khan now posted as DFC Turghar as follows:

- (i) That you while posted as DFC D.I.Khan allowed the distribution of empty gunny bags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared you. Personally responsible for the mess created during the procurement season-2009-10.
- (ii) That an enquiry committee was constituted to conduct proper enquiry against you under Efficiency & Discipline Rules 2011, where in the committee found you guilty of misconduct and recommended in position of major penalty against you.
- (iii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

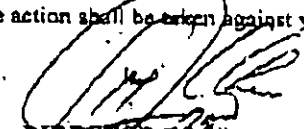
I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules.

- a) You have committed negligence in duties thereby allowing the Government supplier to distribute bags amongst the farmers directly.
- b) You have taken substandard (under weight) Jute Bags on the stock.
- c) You have allowed unloading of B- Class bags in the Godown.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of demotion from the post of District Food Controller / Storage & Enforcement Officer / Rationing Controller Peshawar (BS-16) to the post of Assistant Food Controller (BS-14) under rule (4) (b) (i) Efficiency & Discipline Rules 1973 amended / revised 2011.

3. You are, thereof, required through this Show Cause Notice 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, it shall be presumed that you have no reply to put in your defence and in that case an ex-parte action shall be taken against you.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR

c 7/2/16



28/06/2016

11:21

D.I. Khan GPO

UMS4190548

(27)

*Approved*

MUHAMMAD ZAFRULLAH KHAN  
DFC TOR GHAR DIK

P/S TO SECRETARY FOOD  
KPK PESHAWAR

03468995135

09193931934

Dera Ismail Khan

Peshawar

Receipt Diary No 1320 =  
dt 29-06-2016 P/S to  
Secretary Food PESHAWAR.  
through Wahid SB.

SADIQ

28/06/2016

11:18

D.I. Khan GPO

UMS41905481

MUHAMMAD ZAFRULLAH KHAN  
DFC TOR GHAR DIK

DIRECTOR FOOD  
KPK PESHAWAR

03468995135

0919239678

Dera Ismail Khan

Peshawar

Receipt Diary No 7017 =  
dt 29-06-2016  
Food Directorate PESHAWAR.  
through Hooor Muhammad SB.

SADIQ

*Plc to*

58

Office of the District Food Controller Torghar

No 320-321

Dated 28/06/2016

To

The Director Food  
KhyberPakhtun Khwa  
Peshawar

Subject:- Show cause notice.

Kindly refer to your No 3572/PF-1079 dated 24/06/2016 received through fax on 27/06/2016 on the subject cited above.

With due respect and humble submission -I beg to submit that comprehensive/detailed parawise defence reply of the charges (again repeated) has already been given vide this office No 687 dated 18/10/2012 photo stat copy of the same is attached as Annexure A for ready reference, which may kindly be considered as final one. It is further stated that on the recommendation of enquiry committee, the punishment for the stoppage of two annual increments has already been given to the appelland vide your No 1440/PF-1079 dated 15/02/2013 photo copy is attached as Annexure B for your kind perusal please. As required under the provision of rules, the appelland has already made appeal to the authority (C) and the decision thereof is still awaited.

It is astonishing to note that after the lapse of three years (after having been repeated the same charges) a fresh show cause notice is again sent vide your No and dated referred to above, which clearly depicts that in order to give benefits of promotion to his favourite

Person, this role is being played to stop my promotion as AD Food which is due near future and is required to be investigated by high ups for undue torture to the appelland and trying to show favouritism with a person, who is junior from the appelland.

I would like to request that competent authority to appoint the enquiry committee consisting upon those person who are not involved in any scandal of wheat during the entire period of his services in the Food department, nor deposited any amount in the government treasury if proved and competent authority who had appointed involved person in any scandal, would be held responsible for any consequences in this regard.

Atte  
TD



(29)

2/2

The appellant would appear for personal hearing, I may add here that although a letter for personal hearing is written, but the delay in this regard is made attentionally so that the accused if any may not be able to reach in the office on stipulated date/time fixed for the purpose.

It is therefore earnestly requested in the name of justice and equity that the appellant may kindly be exonerated from the charges as there is no delinquency on my part.

o/c

Yours obediently,

Muhammad Zafrullah Khan

District Food Controller

Torghar

Copy to:-

P/S to Secretary Food Khyber Pakhtun Khwa Peshawar.

o/c

Yours obediently,

Muhammad Zafrullah Khan

District Food Controller

Torghar

Atc  
to



FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No 3745 /PF-1079

Dated Peshawar the 12/07/2016

*ZAFAR K*  
*30*

SHOW CAUSE NOTICE

I, Mr. Asmatullah Khan, General Director Food Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve Mr. Zafarullah Khan the then DEC D.I.Khan now posted as DFC Turghar as follows:

- (i) That you while posted as DFC D.I.Khan allowed the distribution of empty gunny bags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared you, personally responsible for the mess created during the procurement season-2009-10.
- (ii) That an enquiry committee was constituted to conduct proper enquiry against you under Efficiency & Discipline Rules 2011, where in the committee found you guilty of misconduct and recommended in position of major penalty against you.
- (iii) On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you have committed the following act/omissions specified in rule-3 of the said rules.

- a) You have committed negligence in duties thereby allowing the Government supplier to distribute bags amongst the farmers directly.
- b) You have taken substandard (under weight) Jute Bags on the stock.
- c) You have allowed unloading of B- Class bags in the Godown.

1. Previously you were served with Show Cause Notice (vide No.3572/PF-1079 dated 24-06-2016), but you failed to respond within the stipulated period of 07 days.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from Service under rule (4) (b) (iii) Efficiency & Discipline Rules 1973 amended / revised 2011.

3. You are, thereof, required through this Show Cause Notice, to show cause why the 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, it shall be presumed that you have no reply to put in your defence and in that case an ex-parte action shall be taken against you.

*Acc*  
*D*

*Asmat*  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR

*11-07-16*



FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No. 3713 / PF-1079-III

Dated 21/07/2016

(31)

To,

Mr. Muhammad Zafullah Khan  
District Food Controller, D.I. Khan  
now posted as DFC Tank

Subject: SHOW CAUSE NOTICE / PERSONAL HEARING  
Memo

Reference this Directorate letter No. 3745/PF-1079 dated 17/07/2016 and your reply to the Show Cause Notice dated 15-07-2016 received on 15-07-2016, on the subject noted above.

You are directed to appear before the competent authority for personal hearing on 28/07/2016 with relevant record to proceed further in the matter.

DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR

Endorsement No. & Date Even

Copy is forwarded to:

- 1) The Assistant Directors Food Hazara & D.I. Khan Divisions.
- 2) The District Food Controller, D.I. Khan.
- 3) Personal File.

DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR

ATC  
[Signature]

## Office of the District Food Controller Torghar

No 357-358Dated 15/07/2016

To

The Director Food  
Khyber Pakhtun Khwa  
Peshawar

Subject:- Show cause notice.

Kindly refer to your No 3745/PF-1079 dated 12/07/2016 received on 14/07/2016 on the subject cited above.

With due respect and humble submission I beg to submit that comprehensive/detailed parawise defence reply of the charges (again repeated) has already been given vide No 687 dated 18/10/2012 photo stat copy of the same is attached as Annexure (A) for ready reference, which may kindly be considered as final one. It is further stated that on the recommendation of enquiry committee, the punishment for the stoppage of two annual increments has already been given to the appellant vide your No 1440/PF-1079 dated 15/02/2013 photo copy is attached as Annexure (B) for your kind perusal please. As required under the provision of rules, the appellant has already made appeal to the authority Annexure (C) and the decision thereof is still awaited.

It is astonishing to note that after the lapse of three years (after having been repeated the same charges) a fresh show cause notice is again sent vide your No and dated referred to above, which clearly depicts that in order to give benefits of promotion to his favourite Person this role is being played to stop my promotion as AD Food which is due near future and is required to be investigated by high ups for undue torture to the appellant and trying to show favouritism with a person who is junior from the appellant.

- 1) That the appellant was assigned extra duties to look after the post of DFC D.I.Khan on account of proceeding on earned leave of the permanent DFC

*Signature*

33

with effect from 26/04/2010-02/07/2010 during this period I performed my duties honestly, dedicatedly and efficiently and no complaints what so ever poured against the undersigned during the above mentioned period.

I do not accept the charges levelled against the undersigned that the charges regarding the distribution of empty gunny bags is concerned the appellatant had never given any directions either in written or in verbal to suppliers to issue empty gunny bags directly to the growers. The said charges are concocted, baseless and fabricated one. It is not out of place to mention here that if the department had any solid proof on the subject the same may be produced for perusal of your kind honour for further proceedings/decision please.

The undersigned don not accept the charge for mess created during the procurement season as there is no fault on my part and the government has not sustained any loss of money during my services for the period 03/05/2010-06/07/2010.

- 2) The undersigned performed my duties in the best interest of the government and not sustained any loss of money during this period.

The enquiry officers having prejudice mind had not investigated the matter thoroughly and wrongly fixed responsibility of guilty on my shoulder and become me scapegoat in the Food Department due to wanted undue benefits to the suppliers.

3)

i) The appellatant do not accept the charges as the question raised if the proof with regard to the supply of empty gunny bags in accordance with the terms and conditions of tenders. The said proof are required to be proceeded to your good honour for further proceedings in the matter.

ii) The undersigned do not accept the charges levelled against me for accepting under weight and substandard because of all the process was made by the godown staff of the period, so the said charge is baseless and fabricated one due to found all empty gunny bags substandard

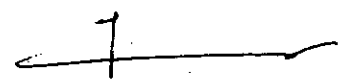


(34)

lying in the godown jurisdiction consisted on old stock and newly one i.e. 2009/10 and 2010/11.

- iii) The appellants do not accept the charge to allowed unloading B class bags in the godown as the undersigned visited the godown only in question to verify quality, quantity and weight etc. it was noticed that empty gunny bags B class were lying but no one ready to accept ownership of these bags which were included in the grower list. The undersigned do not accept the charge levelled against vide your NO 3572/PF-1079 dated 24/06/2016 and replied was sent to your good self on 28/06/2016 through UMS copy enclosed as Annexure (D).

It is therefore earnestly requested in the name of justice and equity that the appellants may kindly be exonerated from all the charges as there is no delinquency on my part and the government has not sustained any loss of money during my services performed in the Food Department till now.


  
Yours obediently,

*Spur*

Muhammad Zafrullah Khan  
District Food Controller  
Torghar

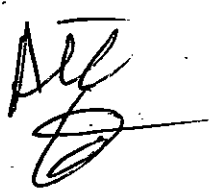
Copy to:-

P/S to Secretary Food Khyber Pakhtun Khwa Peshawar.

  
Yours obediently,

*Spur*

Muhammad Zafrullah Khan  
District Food Controller  
Torghar





Registered

FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR

No 4416 /PF-1079-II

Dated 19 /08/2016

Approved, M

35

**OFFICE ORDER**

Consequent upon the proceedings under Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 and order of the competent authority dated 01-08-2016 against Mr. Zafarullah Khan the then DFC D.I. Khan now Torghar, the above named officer is hereby compulsorily retired from service with immediate effect.

*Amat*

**DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.**

**Endorsement No & Date Even**

A copy is forwarded to:-

1. PS to Minister Food for information of the Minister Food Government of Khyber Pakhtunkhwa.
2. PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. The Section Officer General Government of Khyber Pakhtunkhwa Food Department Peshawar.
5. The Assistant Director Food Hazara Division at Abbottabad
6. The District Accounts Officer Torghar
7. The District Food Controller, Torghar.
5. Officer concerned / Personal File.

*Amat*

**DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.**

*ATC*

(36)

Amir Ali

To

The Honourable Chief Secretary,  
Govt: Khyber Pakhtun Khwa,  
Peshawar.

Subject:

Appeal against impugned and illegal order regarding compulsory retirement from service with immediate effect.

R/Sir,

With due reverence and humble submission I beg to submit my appeal regarding compulsory retirement as under:-

Annexure  
"A"

1) That appellant has been compulsory retired from service with immediate effect vide Director Food-cum-Secretary Food Khyber Pakhtoon Khwa Peshawar his Notification No 4416/PF-1079-11 dated 09-08-2016 without any fault on my part. Photo stat copy is attached as Annexure "A" for ready reference.

Annexure  
"B"

2) That the appellant was assigned additional charge in place of permanent DFC who proceeded on leave WEL 26-04-2010 to 02-07-2010 (66 days) as already stated by appellant in my defence reply vide para 2 submitted to the Director Food KPK vide No 687 dated 18-10-2012 photo stat copy is attached as Annexure "B" for ready reference as the appellant was working as AFC H/Q D.I.Khan.

3) As already stated in my defence reply No 687 dated 18-10-2012 vide para No 4 that Mr Mehboob Alam permanent DFC used to visit the Godown on daily basis despite the fact that the said officer was on earned leave vide Director Food letter No 9029 dated 03-05-2010 which clearly indicates that motive behind the gun was that said officer sub-standard quality B-Class and also for making entry in the FG-13 Register as the said officer and AFC had made conspiracy with MI Enterprise to fulfill his nefarious desire and continued their practices as in vogue 2009.

Amir Ali

Amir Ali





1

2

3

(40)

Amid - 0



**GOVERNMENT OF KHYBER PAKHTUNKWA  
DIRECTORATE OF FOOD  
PESHAWAR**

No 6803 /PF-1079-IV

Dated Peshawar the 21 /November, 2016

A Copy of letter of Section Officer General Government of Khyber Pakhtunkhwa, Peshawar vide No. SOF/8-1/7/2016/3414 dated 17-11-2016, along with copy of its enclosures are forwarded to Mr. Muhammad Zafrullah Khan Ex-District Food Controller, Torghar C/O DFC Office D.I.Khan with reference to his appeal dated 1<sup>st</sup> August, 2016

*Amid*  
21-11-2016

**ASSISTANT DIRECTOR FOOD (E)  
KHYBER PAKHTUN KHWA  
PESHAWAR**

*Amid*



411

118

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT**

NO.SOF/8-1/2016/ 3414  
Dated Pesh: the 17-11-2016

To,  
The Director Food,  
Khyber Pakhtunkhwa, Peshawar.

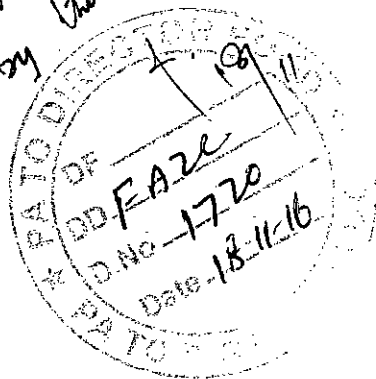
Subject:- **APPEAL OF MUHAMMAD ZAFARULLAH KHAN, EX-DISTRICT  
FOOD CONTROLLER, FOOD DIRECTORATE.**

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith a copy of approved Note for Chief Secretary, Khyber Pakhtunkhwa, with the request to inform the ex-Officer accordingly.

**Encl: As above.**

*P.c. informs him  
reg. rejection of his  
approval by the App. Auth.*



Yours faithfully,

SECTION OFFICER (GENERAL)

*ADP  
Supdt (C).  
Please do accordingly / Y.  
21/11/2016*

*Recd/2016  
But w/P please  
21/11/2016*

up, *inter alia*, with the following recommendations:

POWER OF ATTORNEY

In the Court of \_\_\_\_\_

Muhammad Zafrullah Khan

} For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt of Pk etc etc

} Defendant  
} Respondent  
} Accused  
}

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_

Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

Yasir Elam Khan

my true and lawful attorney, for me in my same and on my behalf to appear at Pesh to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_ the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_

Executant/Executants \_\_\_\_\_

Accepted subject to the terms regarding fee \_\_\_\_\_

*[Signature]*

*[Signature]*

**Ijaz Anwar**

Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-3 &4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt  
Ph.091-5272154 Mobile-0333-9107225



77374

ایڈووکیٹ/دستخط: \_\_\_\_\_

بار کونسل ابار ایسوسی ایشن نمبر: \_\_\_\_\_

رابطہ نمبر: ۰۳۳۱-۸۸۹۶۸۸۴

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: \_\_\_\_\_ K.P.K. \_\_\_\_\_

منجانب: ایڈووکیٹ	دعویٰ:
مخبر: _____	علت نمبر: _____
مخبر: _____	موضوع: _____
مخبر: _____	جرم: ۲۸/۳/۱۷
مخبر: _____	تھانہ: _____

**باعت تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام دہلی پہلے ساکر لیم ڈپارٹمنٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برطرف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: ۲۸/۳/۱۷

\_\_\_\_\_ گواہ شد \_\_\_\_\_

مقام \_\_\_\_\_ کے لئے منظور ہے۔

نوٹ: اس بات نام کی ذمہ داری قابل قبول ہوگی۔

Accepted  
\_\_\_\_\_

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.**  
**APPEAL NO.1215/2016**

Mr. Zafrullah Khan Ex-DFC, D.I.Khan/Torghar.

**Appellant**

Versus

1 Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar.

2 Government of Khyber Pakhtunkhwa, Secretary Food & Information Khyber Pakhtunkhwa Peshawar.  
Khyber Pakhtunkhwa, Peshawar.

**Respondents**

3 The Director Food, Food Directorate Khyber Pakhtunkhwa, Peshawar.

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS.**

**Preliminary Objections**

1. That the appellant has no cause of action.
2. That the appellant has twisted the facts with an ambitious attempt to mislead this Hon'able Tribunal and pre-empt / avert the clutches of law.
3. That the appellant has neither got locus standi nor has he come up with clean hands.
4. That the instant appeal is not maintainable in its present form.
5. That the appellant is estopped by his own conduct to lodge this appeal.
6. That the disputed question of facts is involved in the present case.
7. That the appeal is based on malafide and ulterior motives.

**RESPECTFULLY SHEWETH:**

**ON FACTS:**

- 1) The crux of the facts giving rise to the case in hand is that in the year 2009-10 Food Department inked an agreement with a firm M/S M.I Enterprises Ltd. for the supply of 7,50,000 A-Class empty gunny bags @ Rs.112.90 per bag with the specification of 1100 grams weight ahead of wheat procurement drive during the harvest season. As per the General Financial Rules, procured items were supposed to be properly taken over and entered into a stock register. But Mr. Zafrullah Khan, the then District Food Controller, D.I.Khan, manifesting extreme irresponsibility tacitly allowed the supplier firm to issue those jute bags directly to the farmers/ growers without any handing/taking over process and maintaining proper record thereof. As per the prescribed procedure, he had to receive the stock and then issue to the intending suppliers of wheat as his other colleagues did so throughout the Province. This procedural irregularity created a mess, because the questions of specification of bags supplied (A Class or B Class) in conformity with the agreement as well as total quantity thereof by the firm became contentious and complex issues, resulting in litigations and series of correspondence between the Food/Finance/Law Departments.

In order to ascertain ins & outs of the matter, at the instance of the Food Department, the competent authority tasked the Provincial Inspection Team to probe into the issue, which came up, inter alia, with the following recommendations:

*“Whole of the mess had been created due to inefficiency and negligence of the then DFC D.I.Khan Mr. Zafrullah Khan who accepted underweight and substandard EG Bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. The entire episode happened directly under his nose and he failed to perform his duties. He also failed to stop M.I. Enterprises from direct distribution of EG Bags to the growers. He was required to at least report the said issue to the high authorities of the Food Department, but he remained silent, therefore, strict disciplinary action may be taken against the said officer under E&D Rules” (Annex-A)*

Against the aforesaid backdrop, the appellant herein was proceeded against under the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 and upon receipt of report of the Inquiry Committee so constituted earlier, the competent authority, vide Order bearing No.1440/PF/1079 dated 15-02-2013, awarded him the minor penalty of "stoppage of two annual increments with non-accumulative effect" (**Annex-B**).

Meanwhile, the supplier firm had lodged Writ Petition No.390-P/2013 before the august Peshawar High Court Peshawar for the liquidation of its outstanding dues claiming huge number of bags purportedly supplied to the Food Department. Due to conflicting contentions of two side of the divide, the Honorable Court referred the case to the National Accountability Bureau for objective investigations vide order dated 03-03-2013. The latter subsequently, concluded its inquiry with the remarks that although no losses had been caused to the Government kitty due to non-payments to the supplier firm, however, owing to their irresponsibility, the delinquent officials should be proceeded against departmentally for stern penalty vide its letter bearing No.1/472/IW-II/NAB(KP)513 dated 30-04-2015 (**Annex-C**).

Thereupon, the then Secretary Food Department (Sahibzada Fazal Amin) vide Notification No.SOF/2-6/2001/P.II/965 dated 06-08-2016, notified a denovo inquiry and constituted an Inquiry Committee comprising of M/S Umar Farooq, Deputy Secretary Food and Asmatullah Khan, Deputy Director Food. The Inquiry Committee adduced the following recommendations:-

*"The penalty imposed by competent authority may be revised /enhanced to major penalty of demotion of Mr. Muhammad Zafrullah, the DFC D.I.Khan to lower scale under Rule-4, sub Rule (1) clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC" (**Annex-D**).*

Since the question of axing twice was apprehended, a reference was made to the Establishment Department, vide Food Department letter No. SOF (Food Deptt) 2-23/1836 dated 26-01-2016, in response to which vide letter No. SOR-III (E&AD) 3-2/2013 (Vol-III dated 17-03-2016, it was opined that the competent authority could invoke the provisions of Rule-14- (6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 (**Annex-E**). Resultantly, the accused-officer was served with the Final Show Cause Notice tentatively imposing upon him the major penalty of 'reduction in grade'. As the ex-officer did not submit his rejoinder within the stipulated period, the Show Cause Notice was modified and major penalty of 'removal from service' was tentatively contemplated. There-after, he submitted his reply and was extended an opportunity of exhaustive personal hearing.

The ex-officer could put-forth nothing plausible in his defence and flatly expressed that it was left to the competent authority to take an appropriate decision. He just added that he sustained extreme political pressure, but did not falter in saving the Government exchequer from losses. He, however, could not substantiate his standpoint with cogent & convincing tangible evidence and contended in a round about manner. Therefore he was compulsorily retired from service with immediate effect vide Food Directorate Office Order No.4416/PF-1079-II dated 09-08-2016 (**Annex-F**).

- 2) Incorrect. The appellant herein filed an appeal to the appellate authority against his major penalty of compulsory retirement from service awarded by the competent Authority. The appellate authority examined the appeal and dismissed it (**Annex-G**).
- 3) As elaborated at Para-01 above. The competent Authority ordered a denovo inquiry, as provided under the E&D Rules, 2011 on the basis of which validly imposed the impugned penalty.
- 4) As per reply given at Para-01 & 03 above
- 5) The accused-officer was served with a Final Show Cause Notice tentatively imposing upon him the major penalty of 'reduction in grade'. As the ex-officer did not submit his rejoinder.

within the stipulated period, the Show Cause Notice was modified and major penalty of 'removal from service' was tentatively contemplated (**Annex-H**). There-after, he submitted his reply and was extended on opportunity of personal hearing.

- 6) As per reply given at Para-05 above.
- 7) As explained at Para-01 to 05 above.
- 8) Incorrect. However, detail given at Para-02 above.

**ON GROUNDS**

- A. Incorrect. The impugned order is in accordance with Law and Rules.
- B. Correct to the extent that as the then DFC, DI Khan proceeded on 66 days long leave, so, the appellatant herein being second-in-command was given the officiating charge of DFC D.I.Khan. However, the rest of the para is denied.
- C. Incorrect. As dwelt upon herein before at Para-1 of the facts, in consultation with the Establishment Department (**Annex-C** ibid), major penalty was imposed being in consonance with the degree of his guilt in accordance with Law.
- D. Incorrect. The appellatant herein has been treated following due procedure in accordance with law. Upon Inquiry report, the appellatant herein was extended an opportunity of personal hearing. The competent authority imposed the major penalty of compulsory retirement from service under Rule-04 of the Khyber Pakhtunkhwa Government servants (E&D) Rules, 2011 after having found the accused official/ the appellatant herein guilty of misconduct. No deviation was made from the rules ibid.
- E. Incorrect. The appellatant has been proved to have committed the charges levelled against the appellatant in Departmental Inquiry.
- F. Incorrect. As highlighted in the PIT's report, such distribution activities were undertaken with tacit understanding of the appellatant herein.
- G. No Comments. However, the respondents also seek permissions of this Hon,able Tribunal to advance further grounds during enquiry.

The appellatant has very astutely misrepresented facts and depicted a scenario to create an impression of being subjected to vindictiveness. All concerned (the PIT, the NAB & the twin Departmental inquiries conducted in this context) fixed responsibility upon the appellatant herein. It is, therefore, humbly prayed that this august Court may graciously dismiss the instant appeal with cost being devoid of cogent & convincing grounds.

*Ali Iqbal*  
27.2.2017

Chief Secretary,  
Khyber Pakhtunkhwa  
(Respondent No.01)

*Samir*

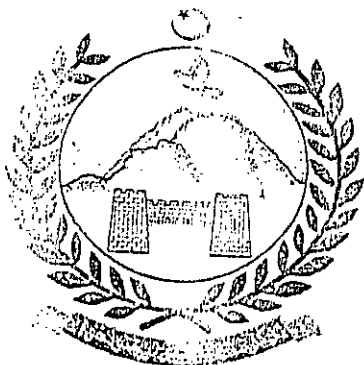
Secretary Food/ Director Food, 22.02.17.  
Khyber Pakhtunkhwa  
(Respondents No.02 & 03)



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Provincial Inspection Team, Khyber Pakhtunkhwa

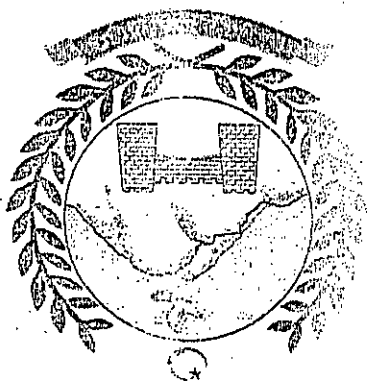
**Inquiry Report**

**Inquiry Regarding Breach of  
Contract by M.I Enterprises  
For Supply Of E.G Bags For  
The Year 2009-10**

Inquiry Regarding Breach of  
Contract by M.I Enterprises  
For Supply of E.G Bags For  
The Year 2009-10

Inquiry Report

Provincial Inspection Team, Khyber Pakhtunkhwa



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2) Background

The Director Food Khyber Pakhtunkhwa entered into an agreement for purchase of empty gunny bags (E.G bags) for the year 2009-10 with M/S M.I Enterprises Rawalpindi. The agreement was signed on 26.4.2010. The supplier failed to supply the required quantity of E.G bags to the stations indicated in the agreement. Under clause 2.2 of the agreement the contractor's security was liable to be forfeited for any breach of terms & conditions by the supplier. The department agitated the following irregularities committed by the supplier:

- a) Supplier has not delivered the required quantities of E.G bags as per supply order.
- b) Audit conducted during Financial year 2009-10, have raised serious observations on the breach of terms & conditions of the contract agreement. Furthermore, the Audit has also observed that the department has failed to forfeit the security deposit and blacklisting of the firm for violation of the contract agreement (Annex: D)

A dispute between the contractor & D.F.C, D.I.Khan was raised and the case in hand was referred to Chief Secretary, Khyber Pakhtunkhwa for decision under clause 8.2 of the contract agreement.



3) Proceedings

After receiving the orders of inquiry PIT asked Food department to submit all the relevant record along with the self contained brief. The department was also requested to nominate a departmental representative not below the rank of Deputy Secretary (BS-18) vide letter dated 03.12.2011 (Annex: E). The matter was reminded for necessary action vide P.I.T reminders dated 28.12.2011 and dated 14.01.2012. In this connection District Food Controller D.I.Khan and departmental representative, Mr. Dilawar Khan Marwat, Dy. Director

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(Accounts) was requested to attend a meeting to be held on 24.01.2012 for discussion vide letter dated 19.01.2012 (Annex: F). The said officers attended the meeting and after lengthy discussions a proforma was framed for having details of E.G bags issued during the year 2009-10 (Annex: G). On 24.01.2012, the contractor presented a written statement (Annex: H). The Director Food Khyber Pakhtunkhwa was reminded to provide the information as per proforma indicated above vide letter dated 13.02.2012 (Annex: J). After perusal of the record PIT visited the office of the District Food Controller, D.I.Khan from 14.3.2012 to 17.3.2012 (Annex: K). Provincial Inspection Team asked all district food controllers in the Province to provide information on the format given in the letter dated 17.3.2012 (Annex: L). Mr. Zafarullah District Food Controller, D.I.Khan was asked to attend PIT on 10.4.2012 for recording his statement vide letter dated 03.4.2012 (Annex: M). On 18.4.2012 Director Food was requested that the replies of the storage and enforcement officer PRC Peshawar, District Food Controller D.I.Khan, Mardan & Nowshera were not received after lapse of more than two months (Annex: N).

Mr. Zafarullah the then D.F.C, D.I.Khan recorded his statement on 10.4.2012 (Annex: O) Mr. Fakhr Zaman, Food Inspector, D.I.Khan also recorded his statement on the same date (Annex: P). Moreover, Mr. Pir Hashmat Ali Shah, Ex-AFC Godowns D.I.Khan also submitted his written statement on the same date (Annex: Q). The incumbent DFC D.I.Khan presented a written statement showing receipt / issue of E.G bags during year 2009-10 at PRC D.I.Khan. Similarly Director Food also informed about quantity of bags supplied by both supplier vide letter No. 831/AC-117/EGB dated 28-05-2012 (Annex: R). The Director Food Khyber Pakhtunkhwa was requested to furnish the requisite information on the format given in the letter dated 17.4.2012 (Annex: S).

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substandard quality in all the centers. The detail of empty jute bags supplied by MI enterprises Rawalpindi is enclosed.

iv) During delivery of empty jute bags by the above suppliers, submitted their demands bills at the agreed rate of Rs. 112.90 per bag. The demand bill, AC bill, actual payee receipt and the laboratories results are available on record. On expiry of the contract period of MI enterprises submitted for release of security worth Rs. 40,00,000. The concerned S&EO/DFC's were asked for issuance of NOC (if nothing was due against the firm) which have been received. As far as the substandard bags are concerned, the payment was withheld. Being aggrieved, M/S Dilawar Khan & Co, Peshawar filed a writ petition bearing number 3145/2010 in the Peshawar High Court Peshawar which remained under trial. During the trial, both the private counsels argued the matter and after lengthy discussion the learned Judge Peshawar High Court, decided to refer the case to Chief Secretary Khyber Pakhtunkhwa under Clause 8.2 of the contract agreement. The matter was placed before the Chief Secretary as per High Court decision and it was also defended by the Department. In compliance with the order of Chief Secretary, all the District Food Controllers were directed to return the substandard bags to the supplier.

v) The petitioner along with the other supplier was directed to lift their (substandard) empty jute bags, whereas concerned consignees were also directed for release. M/S M.I Enterprises submitted an application for release of security (say Rs.40,00,000/-). The matter was therefore, placed before the Secretary, Food Department Khyber Pakhtunkhwa explaining all facts and figures. It is worth mention here that the M.I enterprises had appointed various persons through Power of Attorney for supply of bags. One Mr. Haji Shahkirullah (attorney holder) also submitted an application to the Secretary Food for withholding of securities till settlement of their supply made by them on behalf of the supplier M/S M.I Enterprises. The concerned attorney holder has also filed a civil suit in the court of Senior Civil Judge Peshawar. The security of both the supplier was withheld. The Audit has also observed the non forfeiture of security, as per Para 36, 37, 38, 39 and 40. It is also to add here that M/S Dilawar Khan & Co again filed another writ petition bearing

M/S M.I Enterprises

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No. 3032/2011 in the Peshawar High Court Peshawar which is also being defended and comments will be filed in the Peshawar High Court after visiting by the Advocate General, Peshawar High Court Peshawar.

- b) The representative of M/S M.I enterprises, in his written statement, presented his grievances related to various Districts of the province ( Annex: H), where he has supplied the bags. Since, case in hand relates to his supply of bags to D.I.Khan only, therefore only relevant supply would be discussed in the succeeding Paragraphs. He stated that at D.I.Khan 2,50,000 E.G bags were supplied to District Food Controller D.I.Khan and the payment has not yet been made to the supplier. According to his statement he has shown gross grievances over the role of District Food Control (DFC), D.I.Khan.
- c) The representative of the said firm further claimed that the DFC D.I.Khan has shown the E.G bags supplied by him as free of cost due to the fear of NAB who conducted inspection during the procurement year 2009-10. Due to this act he sustained a loss of Rs. 2,82,25,000/-. He also pointed out that no body can provide such huge nos. of E.G bags as free of cost and complained that for the last two years he is daily visiting the Food department for the payment of his claims but no body was bothered to resolve his problem.
- d) Mr. Zafarullah Khan the then DFC D.I.Khan (now DFC Tank) stated in his statement at (Annex: O) that he was posted as DFC D.I.Khan during the period from 05.5.2010 to 06.7.2010. He further stated that according to the record

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M.I enterprise provided 10,500 E.G bags during May 2010 and subsequently another 10,000 E.G bags were also supplied during the month of June 2010. He denied that no more E.G bags were supplied as per laid down procedure of the contract. The said officer was reminded by P.I.T that according to the supply order M.I enterprises was bound to provide 2,50,000/- E.G bags to his godowns in the prescribed period but as per his statement the said supplier provided only 20,500 E.G bags out of total 2,50,000/- E.G bags. In this connection, he was also reminded that the record shows that he had not informed his Authorities about the failure of the supplier, and was asked to elaborate the reasons. In response, he failed to record any cogent reasons for this lapse as mentioned above. He was further told that during the visit of P.I.T to D.I.Khan it came to knowledge through reliable sources that the Rep. of MI enterprises distributed a number of E.G bags in Circuit House D.I.Khan directly to the Growers without obtaining its cost security and record of receipt. It was further pointed out to him that question arises that the place where the activity reportedly took place was situated near to his office but he had neither warned the supplier nor reported this issue to the higher Authorities of the Department. He

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replied that he had verbally warned the said supplier but he did not obey and continued distributing E.G bags of B-Class. He also admitted that he did not bring this matter in writing in the notice of the Authority of his Department. He was further asked that during the procurement season 2009-10 he faced a shortage of 2,29,500/- E.G bags, then how he managed procurement of wheat even after huge shortage of E.G bags. He admitted that according to the record, a number of E.G bags of about 1,37,000 were received in surplus through growers. Moreover, 98,836 plastic bags of (50 KG) were also received free of cost. He was further asked whether he can identify that the surplus bags of 1,37,000 were provided by growers or through other source. He replied that apparently the said E.G bags were provided by growers / dealers. He was further asked whether the growers / dealers received these E.G bags from his office or otherwise. He replied that he did not issue any empty E.G bags to these grower's he also declared that the same bags were of B-class. A cross examination between Mr. Zafarullah ex-DFC D.I.Khan and Mr. Fakhr Zaman, Food, Inspector D.I.Khan was also held due to the reason that Mr. Fakhr Zaman Inspector, Food D.I.Khan stated in his statement (Annex: P) in presence of Mr.

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Zafarullah (DFC, D.I.Khan) that Mr. Zafarullah had ordered Mr. Fakhr Zaman to accept 27,240 E.G bags of B-class standard provided by MI enterprises. He also stated that Mr. Zafarullah the then D.F.C, D.I.Khan has also issued orders for its distribution as available on the record, which was presented by Mr. Fakhr Zaman (Annex: U). In this connection Mr. Zafarullah, Ex-DFC was asked to pinpoint the reason regarding acceptance of low quality E.G bags. He failed to provide any cogent reasons and termed the above mentioned statement of Mr. Fakhr Zaman Inspector, Food D.I.Khan as correct. Mr. Zafrullah, the then DFC, D.I.K further certified that E.G bags numbering 27,240 were surplus bags and the quantity of such bags belongs to the total of 137000 bags as received as surplus. The record of the distribution of 27,240 E.G bags presented by Mr. Fakhr Zaman, Food Inspector, D.I.Khan is annexed at Annex: U. The above discussion clearly shows that Mr. Zafarullah Khan ex-DFC D.I.Khan admitted the receipt and distribution of 27,240 E.G bags supplied by MI enterprises but the concerned DFC did not bother to enter the same in the Stock Register of the Godowns and to submit bill for payment well in-time.

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e) Mr. Fakhr Zaman, Food Inspector, D.I.Khan, stated in his statement (Annex: P) that during the procurement season of wheat 2009-10, he was working in the office of DFC, D.I.Khan as Inspector. DFC D.I.Khan ordered him to look after the process of procurement of E.G bags. He further stated that according to his knowledge MI enterprises provided 20,500 E.G bags which were duly entered in the Stock Register by AFC Godowns. The same E.G bags were examined by NAB and were declared under weight i.e. 850 gm, on average. He also clarified that the whole D.I.Khan was aware at that time that the MI enterprises directly distributed E.G bags to the growers in the Circuit House D.I.Khan and it was talk of the town. With regard to supply of 27,240 E.G bags of B-class, he stated that the same were dumped in the premises of the D.I.Khan godown, but AFC, godowns refused to enter the same in the stock register due to the reason that the same were of B-class standard. He claimed that Mr. Zafarullah Khan ex-DFC D.I.Khan directed him in writing to issue these bags to the growers therefore, he obeyed the orders and issued the same to the growers. He presented issue record which is placed at (Annex: U). He also confirmed that the cost of these bags were deposited in the Khyber Bank D.I.Khan by

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the concerned growers. He promised that he will provide the same record duly attested by the incumbent DFC through Courier service. Later on, the same were received and are placed at (Annex: V). He further stated that after receipt of these bags from the growers the security costs were released to the concerned growers as per laid down procedure.

- f) Mr. Zafarullah Khan Ex-DFC, D.I.Khan has already admitted the contents of the statement of Mr. Fakhr Zaman during his cross statement as indicated in the abovementioned statement of Mr. Zafarullah Ex-DFC, D.I.Khan.
- g) Pir Hashmat Ali Shah ex-AFC godowns D.I.Khan stated in his statement placed at (Annex: Q) that he was posted as AFC godowns during the procurement season 2009-10 and was retired on 14.8.2011 from the said post. He further stated that according to his job / duties he was responsible to enter the number of E.G bags of Class-A in Register No. FG13. Further the same E.G bags were issued on the written orders of D.F.C to these growers who properly deposited the cost of E.G bags (Rs. 115/- per bag). On return of the same bags (full of wheat) cost of these bags were released to the concerned growers. He admitted that

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during the said season M.I. enterprises, provided 20,500 E.G bags to the godowns and were duly entered in the Stock Register. Besides, some bags were also supplied by M.I enterprises which were of B-class, therefore, he did not enter the same in the Stock Register. He further pointed out that the same E.G bags were dumped in the vicinity of godowns. He further clarified that he received 1,37,000 E.G bags of B-class as surplus which were received through wheat growers/ dealers. He was asked that did he receive any surplus E.G bag before or after wheat procurement season 2009-10, he replied that no E.G bags (jute) were received as surplus/ free of cost except plastic bags.

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- h) The perusal of the record shows that Director Food Khyber Pakhtunkhwa issued supply order / work order dated 26.4.2010 to M.I enterprises after signing of the contract agreement and other codal formalities for the supply of 7,50,000 E.G bags to various stations of Food department (Annex: W). The quantity of E.G bags for each station / center of the Food department was also indicated in the said supply order. Similarly, the Food department also issued supply order dated 26.4.2010 to M/S Dilawar Khan & Co., Peshawar for the supply of 2,50,000 E.G bags to prescribed stations/ centers of Food department (Annex: X).

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E.G bags were also confirmed by the concerned staff during their statements but the weight of the same E.G bags was told to be 850 gm, on average. But no documentary evidence regarding weight of 850 gm was presented to the team.

- l) With regard supply of the below weight E.G bags Director Food Khyber Pakhtunkhwa asked Law department Khyber Pakhtunkhwa for advice that whether the deficiency of 150 gm is covered under Clause 4.1(ii) of the contract agreement vide his letter dated 25.8.2010 (Annex: Z). In this connection the Law department advised that under Clause 4.1(ii) of the agreement requirement of per bag is 1100 gm which may be reduced or increased by 7.5%, thus the weight of bag may either be 1017.5 gm or 1182.5 gm or between these specification vide Law department letter dated 30.11.2010 (Annex: AA).
  
- m) The statistic regarding procurement of the E.G bags full of Wheat given at Para-3(J) above shows that D.F.C, D.I.Khan received 1,37,000 E.G bags as surplus / free of cost as well as plastic bags during the wheat season 2009-10. The concerned staff clarified that no E.G bags was received as surplus or free of cost before or after wheat season 2009-10. As there were 02 Nos. contractors namely, M.I enterprises Rawalpindi & Dilawar & Sons, Peshawar who were bound to supply E.G bags to various Food centers as well as D.I.Khan. The circumstances show that MI enterprises distributed E.G bags directly to the growers on the direction of the ex-DFC D.I.Khan Mr. Zefarullah Khan. According to the contractor he supplied 2,50,000 E.G bags to the D.I.Khan center as per

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agreement which were not entered in the record due to fear of NAB, who raided at that time. But the supply of the said quantity of E.G bags could not be ascertained only 1,37,000 E.G Bags were proven to be supplied by M.I Enterprise on the following grounds. The cost of these bags had not yet been paid by the Department.

- i) As earlier mentioned in this report that 20,500 E.G bags were duly received from M.I enterprises and entered in the Stock Register by AFC godowns D.I.Khan, which were further distributed to the growers as per laid down procedure. The same quantity of bags were duly utilized and disposed of to the Flour Mills and received Rs. 115/- per bag as its cost. As stated by D.F.C and AFC, D.I.Khan these (20,500 bags) were of average weight of 850 gms, which is 350 gms, less than the specified weight.

Specified rate for a bag was 1100 grms but the supplier provided the bag of average weight 850 grams which is 250 grms less than the specified weight of a bag. Cost for deficient weight @ of 1100 grms for Rs. 112.90, proportionate cost for deficient weight comes out to be Rs. 87.24 per bag.

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- ii) The statements of the DFC, AFC godowns, Inspector Food and cross examination of both the officers shows that they accepted 27,240 E.G bags supplied by M.I enterprises and were distributed by the Food Inspector on the direction of Ex-D.F.C having

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Documentary evidence which is annexed at (Annex: U). The Inspector distributed the same after depositing the cost security Rs. 115/- per bag from the growers and the same were released as & when received same bags full of wheat. This shows that the substandard E.G bags of quantity 27240 were duly utilized by the Food department D.I.Khan and received its cost @ Rs. 115/- from the Flour Mills. But no amount was paid to the supplier. In this case DFC illegally accepted B-class bags from the supplier and principally the same were required to be returned to the supplier on the spot but the same were further utilized and cost of these bags @ Rs. 115/- per bag was received from the Flour Mills. Although the same bags were not entered in the stock register due to the stated deficiency but the supplier have the right of the cost of the B-class E.G bags to be paid.

Moreover, Provincial Inspection Team visited the market of D.I.Khan and obtained the rate of B-Class E.G bags as Rs. 90 - 95 per bag during the year 2009-10. Average cost Rs.92/- per bag cost of B-class bags, would be appropriate.

iii) As explained at above mentioned Paras of this report, Food department D.I.Khan received 1,37,000 surplus (unpaid) E.G bags from the growers. Out of which  $20,500 + 27,240 = 47,740$  E.G bags were proven to be supplied by MI enterprises. The remaining surplus/unpaid E.G. bags  $89,260 = (13700 - 47740)$  were also received through growers and its cost has not yet been claimed by any supplier except M.I enterprises. In this connection Mr. Zafarullah

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Khan Ex-DFC, D.I.Khan, Mr. Fakhr Zaman & Contractor confirmed that M.I enterprises Rawalpindi distributed E.G bags directly to the growers against laid down procedure. The concerned DFC neither warned the concerned supplier nor reported the same issue to the Director Food department regarding illegal distribution of E.G bags by the supplier. The statistics regarding quantity of bags issued to growers and No of bags received back from grower's shows a difference of 89,260 bags as surplus. E.G bags which is still unpaid and its ownership is claimed only by the MI enterprises Rawalpindi on the grounds already explained. The distribution of these bags were made on the verbal direction of Mr. Zafarullah the then DFC, D.I.Khan.

n- To gauge the possibility of supply of free E.G bags through the growers, PIT considered the following evidences;

i- The record of the office of DFC, D.I.Khan did not shows supply of any Free E.G bags by growers/ dealers during the procurement year of wheat 2009-10 except plastic bags of 50 kg capacity. Further scrutiny of the record also shows that no E.G bags before procurement year 2009-10 and after this year was provided by growers/ dealers except growers provided plastic bags (50 kg) free of cost. The same point of view was also confirmed by Ex-AFC Godowns, D.I.Khan vide his statement annexed at (Annex: Q).

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ii- In this connection all the DFC and Azakhel, Peshawar Storage incharge were asked to provide information with regard of supply of unpaid/ free bags vide PIT letter dated 18.4.2012 annexed at (Annex: S) In response, the following DFC, Storage incharge reported requisite information vide their letters annexed at (Annex: CC). The perusal of all these letters (given below) did not show supply of any free Jute bags/E.G bags except plastic bags (50 kg) as free of cost.

S.No.	Name of District of D.F.C	Letter No. & Date
1.	Mansehra	No. 600-601 dated 20.3.2012
2.	Abbottabad	No. 811-12/AC-03(A) dated 20.3.2012
3.	Swabi	No. 208/DFC Swabi dated 02.4.2012
4.	Kohat	No. 273/DFC/F.G.60 dated 20.3.2012
5.	Hangu	No. 210/DFC/HG dated 19.3.2012
6.	Nowshera	No. 400/DFC/NSR dated 21.3.2012
7.	Battagram	No. 378-79/ET/DFC dated 27.3.2012
8.	Charsadda	No. 4029/DFC dated 20.3.2012
9.	Bannu	No. 955/DFC dated 21.3.2012
10.	Dir Upper	No. 160/AC-60 dated 20.3.2012
11.	Swat	No. 602/E.G dated 19.3.2012
12.	Haripur	No. Nil dated Nil
13.	D.I.Khan	No. 799/DFC/DIK dated 22.3.2012
14.	Mardan	No. 803/DFC/MDN dated 5.4.2012
15.	National Reserve Center Azakhel	No. ____ dated 03.4.2012

*Mansur*

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iii- Thus the above discussion clearly leads to the opinion that no free E.G bags were supplied to any wheat station during wheat procurement year 2009-10. It leads to the possibility that M.I enterprises directly distributed E.G bags to the growers with the connivance of Mr. Zafarullah Khan the then D.F.C D.I.Khan as he remained silent on the issue explained.

p- As the contractor has also committed irregularity therefore, a penalty of Rs. 2.90 per beg is required to be imposed as punishment. Which comes to Rs.2,58,854=(89260x2.90).

*Masheer*

Furthermore the contractor M.I enterprises has also committed minor breach of contractor and only supplied 391851 out of 7,5000. Therefore, penalty of Rs. one million will be appropriate to be imposed and be forfeited from security amount as per contract agreement.

q- Similarly M/S Dilawar & Co, Peshawar was required to supply 250,000 E.G, bags but actually supplied 213764 E.G bags. Out of these bags 157,097 were declared Sub-standard. Being aggrieved the said supplier filed a write petition in the Peshawar High Court which was disposed of with the decision that "Director Food, Govt. of Khyber Pakhtunkhwa to personally supervise the entire process of returning gunny bags to the petitioner of the area where majority of

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these bags are lying while for the rest of the centers he shall depute a senior officer to supervise the entire process and the same must be completed positively within a month (Annex: BB).

r- It is also evident from the preceding Paras of the report that procurement of E.G bags has created a new easy opportunity for corruption which is committed in shape of rate and return of Sub-standard bags to the supplier.

s- it was also noticed that during the wheat procurement year 2010-11, no E.G bags were purchased and Food Department completed procurement of wheat without any hurdle as the wheat were provided by growers in plastic bags which were free of cost.

t- During the proceedings of the case another aspect of the issue was also surfaced that District Food Controller Swabi obtained 19789 EG bags on loan basis from Flour Mills as reported vide his letter dated 2-04-2012. Similarly D.F.C Haripur has also informed that he received 1,17,300/ E.G bags on loan basis from the Local Flour Mills during the year 2010-11 vide his letter Annexed at annexure: T.

*malani*

u- During course of inquiry most of the growers complained that during the procurement season of wheat the distribution of E.G bags is always made on influence, like/dislike, pick & choose basis and most of the growers did not get E.G bags from the Food Department.

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5- Findings:

Based on the observations, of this report, Provincial Inspection Team findings are as under.

- a- That during procurement season of 2009-10, Food Department entered into agreements with two contractors M/S, M.I enterprises and M/S Dilawar Khan & Co for supply of Empty Gunny Bags ( E.G bags) of quantity 7,50,000 and 2,50,000 respectively for various stations in the province. Negotiated rate for supply of one bag was Rs. 112.90 and specified weight was 1100 gms per bag. Since, the case in hand only pertain to claim of M/S , MI enterprises supply in D.I.Khan centre only, therefore the findings are relevant to the dispute only.
- b) No Payment was released to the supplier against his supply in D.I.Khan, therefore, he approached the Food Department for resolving his problem. Under clause-8.2 of terms and conditions of the contract agreement, Food Department requested Chief Secretary Khyber Pakhtunkhwa to grant approval to the proposal that Provincial Inspection Team may conduct inquiry into the case and advice appropriate action by Food Department.
- c) The supplier, M/S M.I enterprises claims that he had supplied 2,50,000/- E.G bags to D.I.Khan and did not received any payment against the supply. Facts and figures emerging after thorough perusal of the

*M/S*

record, statement of all concerned and circumstantial evidence are as follows;

- i) A total of 2,34,485 E.G bags were issued to the farmers and 3,71,620 E.G bags were received full of wheat from the farmers. Out of 2,34,485 E.G bags, 1,47,778 bags were issued from the store, while 20,500 E.G bags were supplied by M.I enterprises and 80,200 from M/S Dilawar & Co. Remaining balance after procurement has been shown as 13,993/-.
- ii) 3,71,620 E.G bags were received full of wheat against issued quantity of 2,34,485, therefore, a quantity of 1,37,135 E.G bags were surplus.
- iii) The actual issue pertains to these 1,37,135 E.G surplus bag and question arises how such a huge quantity of costly bags costing about Rs. 1,54,82,541/-on the supply rate were received surplus. It would be unlikely that such huge quantity and cost was not claimed by any person either grower or supplier. The only claimant in this regard happens to be M/S M.I enterprises.

*M/S M.I*

d- Claim of M/S M.I enterprises for a quantity of 2,50,000 E.G bags supplied at D.I.Khan is analyzed as under.

- i. Claim of supply 2,50,000 bags at D.I.Khan is technically not correct, because the supplier had only order for supply of 1,50,000 bag at



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D.I.Khan, therefore, he was not allowed to cross the ceiling of 1,50,000 in D.I.Khan.

ii. The supplier has provided 20,500 bags during the months of May/June 2010 (10,500+10,000) respectively, which had been entered in the stock register, but he had not been paid any amount against the supply, due to the reported reason that these bags were under weight i.e of 850 gms (average) against specified weight of 1100 gms. As per laid down procedure the Food Department staff was required to return these bags to the supplier. But they did not opt to do so, hence concerned D.F.C. Mr. Zafarullah Khan was responsible for negligence of accepting underweight bags fairly and squarely. Alongside, the supplier could not be absolved of the responsibility for supplying under specification bags, since, these bags were utilized and the Department had already disposed of these bags to the Mill owners/store at the rate of Rs.115 per bag, therefore, it would be prudent to pay the supplier at the reduced cost of the bag on the pro-rata basis e.g cost of 1100 gms of bags was fixed as Rs.112.90 per bag, therefore reduced cost of 850 gms (underweight bag) is suggested to be Rs 87.24.

Mahar

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iii. A quantity of 47,250 bags were dumped in the godown but according to statement of AFC D.I.Khan, Pir Hashmat Ali who refused to enter this in stock register due to B-class quantity (supply order was A-Class quantity). Infact, statement of Mr. Fakhar Zaman, Food Inspector D.I.Khan and cross examination of Mr. Fakhar Zaman and Mr. Zafarullha, the then DFC also confirmed that M/S MI enterprise entirely supplied these bags, and these bags were issued to the growers on the written instruction of the same DFC. Hence quantity of 47,250 bags supplied by the supplier is proven through record and circumstantial evidence. Again no payment has been made to the supplier against this consignment and D.F.C has illegally accepted the substandard quantity (B-class) without returning it to the supplier. As per view of Provincial Inspection Team there is no other option at this belated stage except to pay the supplier at the reduced rate. In this regard PIT made an exercise to determine average rate of B-class bag at the time of procurement, which was assessed as Rs.92-95 per bag (Rs.92 can be taken as average rate per bag).

*M. S. Khan*

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iv. Another disputed quantity happens to be of 89260 E.G bags. The Department pleads that these bags were supplied by farmers free of cost but their plea seems to be unrealistic. In view of the fact that cost of these bags runs into millions. To ascertain the fact, PIT held an exercise, throughout the Province which transpired that no free E.G bags were received at any of the centres prior or after this procurement. Further, circumstantial evidence surfaced during the statement of concerned officials transpire that M/S, M.I enterprises directly issued E.G bags to farmer without obtaining security amount, which was in the knowledge of the then D.F.C, who neither bothered to stop this illegal practice nor reported the matter to highup ( this was admitted by the DFC in his statement). In PIT view the quantity of 89,260 E.G bag belongs to M/S M.I enterprises, who happens to be the only claimant for the quantity. Since the supplier violated the laid down procedure in this regard, therefore, he held himself liable to penalty, which is suggested to be Rs. 2.90 per bag in this case. Therefore, Rs. 110 per bag can be taken reduced rate for 89,260 E.G bags.

*M/S M.I*

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6- Recommendations.

Based on the observations and findings, P.I.T recommends the Followings.

- 1) Whole of the mess had been created due to inefficiency and negligence of the then D.F.C, D.I.Khan Mr. Zafarullah Khan, who accepted underweight and substandard E.G bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. All the episode happened directly under his nose and he failed to perform his duties. He was also failed to stop M.I enterprises from direct distribution of E.G bags to the growers. He was required to at least report the said issue to the high Authorities of the Food Department but he remained silent therefore, strict disciplinary action may be taken against the said officer under E&D Rules.
- 2) Although the Food Department has reimbursed the amount of 1,37,000 E.G bag at the rate of Rs. 115 per bags either from Flour Mills or from the storage centre but the supplier did not get any payment against the supply even after lapse of two years, therefore, PIT suggests the following reduced rates for the supplier.

- Quantity of 20,500/- At the reduced rate of Rs. 87.24 Per-bag against the supply order rate of Rs.112.90.
- Quantity of 27,240/- At the reduced rate of Rs. 92 Per bag against the Supply order rate of Rs. 112.90.
- Quantity of 89,260/- At the reduced rate of Rs. 110.00 against the rate of Rs. 112.90. ( 2.90 per bag was imposed as fine, being involved in illegal distribution of E.G bags).

*[Handwritten signature]*

in case

- 3) Since, the supplier, M/S M.I enterprises is guilty of breach of terms & conditions of contract agreement for failure to supply full quantity as per supply order, therefore, amount of Rs.1.00 million may be deducted from his security deposit. Besides, <sup>4</sup> In addition of fine of Rs. 2.90 per bag for 89260/- bags, contractor may further be fined for Rs.0.5 million for irregularities of issuing bags directly to the farmers/grower. The suppliers M/S MI enterprises and M/S Dilawar & Co may also be blacklisted from the Food Department as suppliers.
- 4) To minimize the opportunity of corrupt practices and nepotism in issuance of empty bags, an alternate strategy be chalked out by the Food Department. i.e, one proposed option by Provincial Inspection Team would be supply of wheat in plastic bags (100 kg) by the farmers free of cost.
- 5) Purchase of wheat involving billions of rupees had been left to the lower grade officer of (BS-16), which happens to be unable to sustain pressure and there exist chances of corrupt practices. It is, therefore, recommended that Senior Officer of BS-17/18 may be deputed in the heavy District where wheat procurement is involved.

*Liaqut Ali*  
 Liaqut Ali  
 Secretary  
 Provincial Inspection Team  
 Khyber Pakhtunkhwa

*Engr. Muhammad Yaqoob*  
 Engr. Muhammad Yaqoob  
 Member (Technical)  
 Provincial Inspection Team  
 Khyber Pakhtunkhwa

*Ahsanullah Khan*  
 Ahsanullah Khan  
 Chairman  
 Provincial Inspection Team  
 Khyber Pakhtunkhwa



Annex-B

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28-23



FOOD DIRECTORATE,  
KHYBER PAKHTUNKHWA  
PESHAWAR

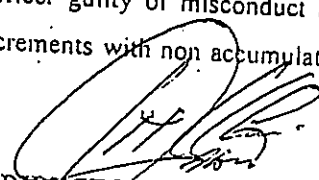
No. 44/0 /PF-1079

Dated 15/02/2013

OFFICE ORDER

Where as Mr. Zafarullah Khan District Food Controller was posted as District Food Controller D.I.Khan. He allowed the distribution of Empty Gunny Gags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared him, personally responsible for the mess created during the procurement Season 2009. An Enquiry committee was constituted to conduct enquiry against him under Efficiency & Disciplinary Rules 2011. The committee found him responsible and suggested penalty under the said rules. In light of the recommendation of the committee proper show cause notice was issued and the officer was given the opportunity of personal hearing.


2. Now after full consideration of the case, I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa, the authority hold the said officer guilty of misconduct and award him the minor penalty for stoppage of two annual increments with non accumulative effect from the date of issuance of office order.

  
DIRECTOR FOOD,  
KHYBER PAKHTUNKHWA,  
PESHAWAR

Endorsement Even No & Date

Copy is forwarded to:-

1. The District Accounts Officers Tank and D.I.Khan.
2. The Deputy Director Accounts, Food Directorate Khyber Pakhtunkhwa Peshawar.
3. The Regional Audit Officer, Food Directorate Khyber Pakhtunkhwa Peshawar.
4. The Assistant Director Food D.I.Khan Division.
5. The District Food Controllers D.I.Khan and Tank
6. Officer concerned / Personal file.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA  
PESHAWAR

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06-5-15



GOVERNMENT OF PAKISTAN  
NATIONAL ACCOUNTABILITY BUREAU  
PDA COMPLEX BLOCK-III PHASE-V HAYATABAD  
KHYBER PAKHTUNKHWA PESHAWAR

SAY NO TO CORRUPTION

No. 1/472/IW-II/NAB (KP) 513  
30 April 2015

To: The Secretary Food Deptt:  
Govt of Khyber Pakhtunkhwa  
Civil Secretariat,  
Peshawar

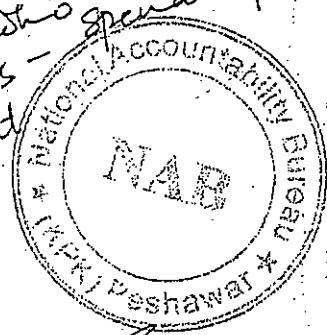
Subject: Inquiry into Embezzlement / Misappropriation of Govt Funds In Procurement / Supply of Empty Gunny Bags By Officers / Officials of Food Department, Contractor And Others

The subject Inquiry has been completed by this Bureau. M/s Dilawar & Company and M.I Enterprises have supplied underweight bags to Food Deptt D.I.Khan in 2009-10 in connivance with the officials as established from the PCSIR Lab result (copy enclosed). Officials concerned have misused their authority as they have accepted the procurement of underweight bags. Although no loss has caused to the state exchequer, yet possibility of misusing of authority and acceptance of the sub-standard underweight bags in question cannot be ruled out. The case is therefore, referred to you for taking strict disciplinary action against the responsible (s) involved officials.

*10 p 100515  
DGF  
Send to Deptt  
quick response pl  
K/S/15*

2. Kindly take necessary action and communicate result thereof to this Bureau at the earliest.

*Dir/DB  
Director Food may submit  
Complete documents, history of the  
Case and individuals who were  
Involved in the process - specially those  
who accepted underweight bags - in screen days.*



*Adnan*  
Addl Dir (Staff)  
For Director General  
(Adnan Abbas)  
091-9217545

*6/5/2015*

*Ps to PE note  
I will personally investigate the  
Case  
6/5/2015*





# KHYBER PAKHTUNKHWA FOOD DEPARTMENT

Dated Peshawar the 06/01/2015

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*Amara - D*

## NOTIFICATION

No. SOF/2-6/2001/P.II/965 Consequent upon investigation by the National Accountability Bureau Khyber Pakhtunkhwa, in the case embezzlement/misappropriation of government funds in procurement/supply of empty gunny bags during 2009-10 which has recommended disciplinary action against the responsible(s) involved officials for misuse of power the Competent Authority is pleased to constitute a committee consisting of the following officers of Food Department to probe into the matter.

1. Mr. Umar Farooq, Deputy Secretary Food      **Chairman**
2. Mr. Asmat Ullah, Deputy Director.              **Member**

2. The above committee is directed to inquire into the purchase/supply of substandard and underweight jute bags and acceptance thereof by the official concerned during 2009-10, D.I.Khan and fix responsibility upon the defaulter and submit report within 30 days.

Sd/-

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT, PESHAWAR

Endst. No. & date even

Copy of the above is forwarded for information to:

1. Director Food, Khyber Pakhtunkhwa.
2. Additional Director (Staff), National Accountability Bureau, Khyber Pakhtunkhwa, Peshawar.
3. P.S to Secretary Food, Khyber Pakhtunkhwa.

*DS*  
*22/8*  
*Pl. put up in file w/ copies of best papers immediately*  
*As directed above*  
*11/2/15*  
*11-8-15*

SECTION OFFICER FOOD

INQUIRY REPORT ON IRREGULARITIES IN SUPPLY OF EMPTY  
JUTE BAGS IN FOOD DEPARTMENT D.I.KHAN IN THE YEAR  
2009-2010.

The following Inquiry Committee constituted vide Notification No.SOF/2-6/2001/P-II/965 dated 6-8-2015, was assigned to inquire into purchase/supply of substandard and underweight jute bags and acceptance thereof by the official concerned during 2009-2010 in DI Khan and fix responsibility upon the defaulter (Annex-A).

(1) Mr. Umar Farooq, DS (Food) - Chairman

(2) Mr. Asmatullah, Dy: Director (F&I) Food Directorate- Member.

2. The committee obtained relevant record from the Directorate of Food for its examination and finalized its findings/recommendation. The Committee also visited DI Khan on 8-10-2015 to verify official record and record statement of the following officials who remained posted at DI Khan during that period:-

1. Mr. Zafrullah, DFC.
2. Peer Hashmat AFC
3. Mr. Fakhar Zaman, Inspector.

3. Statement of the above official were recorded as under:-

- (i) Mr. Zafrullah DFC:- The officer submitted his statement in a closed envelope in shape of a letter addressed to the Director Food on 6-10-2015, prior to this hearing (Annex-B).
- (ii) Peer Hashmat AFC (Retired):- The official in his statement claimed that empty Bags of "A" Class provided by the supplier were entered by him in the FG-13 register and issue was made according to orders of the then DFC. (Annex-C).
- (iii) Mr. Fakhr Zaman Inspector:- The official totally denied any responsibility as according to him he was not concerned with the issue and that he was assigned the duty along with another junior clerk named Tahir Raza on temporary basis and he obeyed orders of the sitting DFC (Annex-D).

4. Going through the record the committee observed that the Provincial Inspection Team (PIT) in its detailed report has given its findings that:-

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- (i) the concerned DFC also confirmed that M/S MI Enterprises entirely supplied these bags and these bags were issued to the growers on the written instruction of the same DFC. Hence quantity of 47,250 bags supplied by the supplier is proven through record and circumstantial evidence. Again no payment has been made to the supplier against this consignment and DFC has illegally accepted the substandard quantity (B-Class) without returning it to the supplier. As per view of Provincial Inspection Team there is no other option at this belated stage except to pay the supplier at the reduced rate. (Annex-E).
- (ii) to ascertain the fact, PIT held an exercise, through the Province which transpired that no free E.G bags were received at any of the centres prior or after this procurement. Further, circumstantial evidence surfaced during the statement of concerned official transpire that M/S. M.I Enterprises directly issued E.G bags to farmer without obtaining security amount, which was in the knowledge of the then DFC who neither bothered to stop this illegal practice nor reported the matter to highup (this was admitted by the DFC in his statement) (Annex-F)

5. PIT further made its recommendation that:-

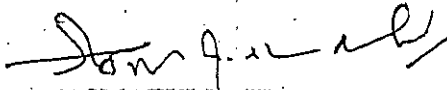
"whole of the mess had been created due to inefficiency and negligence of the then DFC DI Khan Mr. Zafrullah Khan, who accepted underweight and substandard E.G bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty-bound to act then and there by rejecting sub-standard bags and returning it to the supplier. All the episode happened directly under his nose and he failed to perform his duties. He was also failed to stop MI Enterprises from direct distribution of EG bags to the growers. He was required to at least report the said issue to the high Authorities of the Food Department but he remained silent therefore, strict disciplinary action may be taken against the said officer under E&D Rules" (Annex-G).


- (i) The enquiry committee constituted in compliance with recommendation of the PIT consisting of M/S Abdul Jalil and Iftikhar Hussain Qureshi, Assistant Directors Food has also found Mr. Zafrullah, the then DFC DI Khan as guilty of misconduct. (Annex-H).
- (ii) National Accountability Bureau has also concluded their enquiry with the including that the authority responsible for the issue of jute bags has misused the power and deserves to be proceeded against under the relevant rules. (Annex-I).

7. Findings:- Based on above explanation the committee is of the view that:-

- (i) Stern disciplinary action under the Efficiency & Discipline Rules is to be taken against the defaulter; and
- (ii) Despite recommendation of the Committee referred to above the competent authority has imposed minor penalty of stoppage of 02 Annual Increments.

8. Recommendations:- The penalty imposed by competent authority may be revised/enhanced to major penalty of demotion of Mr. Zafrull H. the then DFC DI Khan to lower scale under Rule-4, sub-rule (1), clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules, 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC.

  
 (ASMATULLAH)  
 Member of Inquiry Committee  
 Deputy Director (F&I) Food  
 Directorate, Peshawar.

  
 (UMAR BAROQ)  
 Chairman of Inquiry Committee  
 PMS BS-18, Deputy Secretary,  
 Govt. of Khyber Pakhtunkhwa.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NO. SOR.III (E&AD) 3-2/2013(Vol-III)  
Dated Peshawar the March 17, 2016.

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22/3/16

To

The Secretary Govt. of Khyber Pakhtunkhwa,  
Food Department

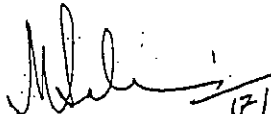
Disty No. 5418  
Date: 21-3-2016  
Secy, Food Office KPK

Subject: INQUIRY UNDER THE EFFICIENCY & DISCIPLINE RULES, 2011

Dear Sir,

I am directed to refer to the Food Department letter NO. SOF (FOOD DEPTT)/2-23/1836 dated 26-1-2016 on the subject and to advise the Administrative Department to go for implementation of the NAB's suggestions as contained in its report by adopting procedural mechanism as provided in sub-rule-6 of Rule-14 of Khyber Pakhtunkhwa Govt Servants E&D Rules, 2011.

Yours faithfully,

  
(Muhammad Salim Shah)  
Section Officer (R-III)  
Phone # 9210367

So (G)

Pe. dislms

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21-03-16

E&D Rules 2011

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FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR

No 4416 /PF-1079-II

Dated 09 /08/2016

**OFFICE ORDER**

Consequent upon the proceedings under Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 and order of the competent authority dated 01-08-2016 against Mr. Zafarullah Khan the then DFC D.I.Khan now Torghar, the above named officer is hereby compulsorily retired from service with immediate effect.

*Amat*  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.

**Endorsement No & Date Even**

A copy is forwarded to:-

1. PS to Minister Food for information of the Minister Food Government of Khyber Pakhtunkhwa.
2. PS to Secretary Food for information of the Secretary Food Government of Khyber Pakhtunkhwa.
3. The Accountant General, Khyber Pakhtunkhwa.
4. The Section Officer General Government of Khyber Pakhtunkhwa Food Department Peshawar.
5. The Assistant Director Food Hazara Division at Abbottabad
6. The District Accounts Officer Torghar
7. The District Food Controller, Torghar.
5. Officer concerned / Personal File.

*Amat*  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR.



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**FOOD DEPARTMENT,  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

**PROCEEDINGS UNDER KHYBER PAKHTUNKHWA  
GOVERNMENT SERVANTS EFFICIENCY & DISCIPLINE  
RULES, 2011 AGAINST MR. ZAFRULLAH KHAN,  
EX-DISTRICT FOOD CONTROLLER, D.I.KHAN.**

**ORDER.**

The crux of the facts giving rise to the case in hand is that in the year 2009-10 Food Department inked an agreement with a firm M/s M.I Enterprises Ltd. for the supply of 750,000 A-class empty gunny bags @ Rs.112.90 per bag with the specification of 1100 grams weight ahead of the wheat procurement drive during the harvest season. As per the General Financial Rules, procured items are supposed to be properly taken over and entered into a stock register, but Mr. Zafrullah Khan, the then District Food Controller D.I.Khan, manifesting extreme irresponsibility tacitly allowed the supplier firm to issue those jute bags directly to the farmers / growers without any handling / taking over processes and maintaining proper record thereof. As per the prescribed procedure, he had to receive the stock and then issue to the intending suppliers of wheat as his other colleagues did so throughout the Province. This procedural irregularity created a mess, because the questions of specification of bags supplied (A class or B class) in conformity with the agreement as well as total quantity thereof by the firm became contentious and complex issues, which persists to-date, resulting in litigations and series of correspondence in between the Food / Finance / Law Departments.

In order to ascertain ins & outs of the matter, at the instance of the Food Department, the competent authority tasked the Provincial Inspection Team to probe into the issue which came up, *inter alia*, with the following recommendations:

*"Whole of the mess had been created due to inefficiency and negligence of the then DFC D.I.Khan Mr. Zafrullah Khan who accepted under-weight and sub-standard EG bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. The entire episode happened directly under his nose and he failed to perform his duties. He was also failed to stop M.I Enterprises from direct distribution of EG bags to the growers. He was required to at least report the said issue to the high authorities of the Food Department, but he remained silent, therefore, strict disciplinary action may be taken against the said officer under E & D Rules."*

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Against the aforesaid backdrop, the accused-officer herein was proceeded against under the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 and upon receipt of report of the Inquiry Committee so constituted, the competent authority, vide order bearing No.1440/PF/1079 dated 15.02.2013, awarded him the minor penalty of "stoppage of two annual increments with non-accumulative effect".

Meanwhile, the supplier firm had lodged a Writ Petition # 390-P / 2013 before the august Peshawar High Court Peshawar for the liquidation of its outstanding dues claiming huge number of bags purportedly supplied to the Food Department. Due to conflicting contentions of two side of the divide, the Honorable Court referred the case to the National Accountability Bureau for an objective investigation, vide order dated 03.10.2013. The latter subsequently concluded its inquiry with the remarks that although no losses had been caused to the government kitty, however, owing to their irresponsibility, the delinquent officials should be proceeded against departmentally for stern penalty vide its letter bearing No. 1/472/IW-II/NAB(KP)513 dated 30.04.2015.

Thereupon the Secretary Food Department, vide Notification No.SOF/2-6/2001/P.II/965 dated 06.08.2015, notified a *denovo inquiry* and constituted an Inquiry Committee comprising of M/s Umar Farooq Deputy Secretary Food & Asmatullah Khan Deputy Director Food. The Inquiry Committed adduced the following recommendations:

"The penalty imposed by competent authority may be revised / enhanced to major penalty of demotion of Mr. Zafrullah, the then DFC D.I.Khan to lower scale under Rule-4, sub-rule (1), clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC."

Since the question of axing twice was apprehended, a reference was made to the Establishment Department, vide Food Department letter No. SOF (FOOD DEPTT)2-23/1836 dated 26.01.2016, in response to which, vide letter No. SOR.III (E&AD) 3-2/2013(Vol-III) dated 17.032016, it was opined that the Competent Authority could invoke the provisions of Rule-14(6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011. Resultantly, the accused-officer was served with a Final Show Cause Notice tentatively imposing upon him the major penalty of 'reduction in grade'. As the accused-officer did not submit his rejoinder within the stipulated period, the Show Cause Notice was modified and major penalty of 'removal from service' was tentatively contemplated. There-after, he submitted his reply and was extended an opportunity of personal hearing.

The accused-officer could put forth nothing plausible in his defense and flatly expressed that it was left to the Competent Authority to take an appropriate decision. He just added that he sustained extreme political pressure, but did not falter in saving the government exchequer from losses. He, however, could not establish his stand-point with cogent & convincing tangible



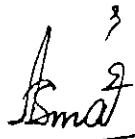
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evidence and contended in a round-about manner. He also termed the case against him as a conspiracy of his colleagues in the Directorate of Food Khyber Pakhtunkhwa.

Conversely, it is abundantly clear from the facts brought on record that the accused-officer bitterly failed to discharge his obligations entailing huge financial implications efficiently. The way he conducted the procurement drive amply speaks of his apathy, slackness, obliviousness & inefficiency. The cross discussions between the accused officer herein and his erstwhile subordinate Mr. Fakhr Zaman Food-grains Inspector arranged by the PIT confirm the fact that he not only accepted the supply of B-class gunny bags from the supplier out of the way, but also personally issued them to various farmers / growers. Even his demeanor would show that he lacks administrative capabilities and his posting against the post of DFC was not based on the principle of 'a right man for the right job'. His previous track record as District Food Controller Tank too vindicates the fact that he is an inefficient officer, as formerly he was also awarded the minor penalty of 'stoppage of his four annual increments', because of his feeble approach as a District Head. Under the given circumstances, there is every justification to review the 'minor penalty of stoppage of two annual increments' formerly imposed upon him, being not in consonance with the degree of misconduct proved against him.

For what has been dwelt upon above, I, Mr. Asmatullah Khan Gandapur, Director Food-cum-Secretary Food Department Khyber Pakhtunkhwa, in exercise of the powers conferred upon me under Rule-4 (b) (ii) read with sub-rule (6) of Rule-14 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules 2011 as the Competent Authority in this case, having found Mr. Zafrullah Khan ex-District Food Controller D.I.Khan (now DFC Toreghar) guilty of misconduct, impose upon him the major penalty of 'compulsory retirement from service' with immediate effect.

**ANNOUNCED**  
1<sup>st</sup> August, 2016

  
01.08.16  
Director Food-cum-Secretary Food  
Khyber Pakhtunkhwa / Competent Authority



Amra-C

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
FOOD DEPARTMENT

NO.SOF/8-1/2016/ 3414  
Dated Pesh: the 17-11-2016

To,

The Director Food,  
Khyber Pakhtunkhwa, Peshawar.

Subject:- APPEAL OF MUHAMMAD ZAFARULLAH KHAN, EX-DISTRICT  
FOOD CONTROLLER, FOOD DIRECTORATE.

Dear Sir,

I am directed to refer to the subject noted above and to forward  
herewith a copy of approved Note for Chief Secretary, Khyber Pakhtunkhwa,  
with the request to inform the ex-Officer accordingly.

Encl: As above.

*Re. inform him  
reg. rejection of his  
appeal by the App. Auth.*



Yours faithfully,

SECTION OFFICER (GENERAL)

*AD/E  
Supdt (E).  
Please do accordingly.*

*Mum  
21/11/2016*

*Recd/21/11/16  
But W.P. please  
21/11/2016*



19

**FOOD DEPARTMENT,  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

**NOTE FOR THE CHIEF SECRETARY KHYBER PAKHTUNKHWA**

Subject: **APPEAL BY MR. ZAFRULLAH KHAN EX-EFC D.I.KHAN AGAINST AN ORDER OF THE COMPETENT AUTHORITY / SECRETARY FOOD UNDER KHYBER PAKHTUNKHWA GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 - COMMENTS BY THE FOOD DEPARTMENT.**

Mr. Zafrullah Khan, ex-District Food Controller D.I.Khan has preferred an appeal (Annex-A) against an order dated 1<sup>st</sup> August, 2016 passed by the Secretary Food / Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, whereby he has been awarded major penalty of 'compulsory retirement from service' with immediate effect (Annex-B). Since Secretary Food Department Khyber Pakhtunkhwa has passed the impugned order in his capacity as Director Food (dual charge), so in term of Rule-2 (b) of the Rules *ibid* (Annex-C), the instant appeal has been lodged with the Chief Secretary Khyber Pakhtunkhwa being the next higher authority.

2. The crux of the facts giving rise to the case in hand is that in the year 2009-10 Food Department inked an agreement with a firm namely M/s M.I Enterprises Ltd. for the supply of 750,000 A-class empty gunny bags @ Rs.112.90 per bag with the specification of 1100 grams weight ahead of the wheat procurement drive during the harvest season. As per the General Financial Rules, procured items are supposed to be properly taken over and entered into a stock register, but Mr. Zafrullah Khan, the then District Food Controller D.I.Khan, manifesting extreme irresponsibility tacitly allowed the supplier firm to issue those jute bags directly to the farmers / growers without any handing / taking over processes and maintaining proper record thereof. As per the prescribed procedure, he had to receive the stock and then issue to the intending suppliers of wheat as his other colleagues did so throughout the Province. This procedural irregularity created a mess, because the questions of specification of bags supplied (A class or B class) in conformity with the agreement as well as total quantity thereof by the firm became contentious and complex issues, which persists to-date, resulting in litigations and series of correspondence in between the Food / Finance / Law Departments.

In order to ascertain ins & outs of the matter, at the instance of the Food Department, the competent authority tasked the Provincial Inspection Team to probe into the issue which came up, *inter alia*, with the following recommendations:

12-00  
20-9-16  
Sd/-

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3606  
92-9-16

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"Whole of the mess had been created due to inefficiency and negligence of the then DFC D.I.Khan Mr. Zafrullah Khan who accepted under-weight and sub-standard EG bags from the supplier and after start of probe by various agencies acted further negligently by not entering these bags in the stock register, which caused the dispute in hand. He was duty bound to act then and there by rejecting sub-standard bags and returning it to the supplier. The entire episode happened directly under his nose and he failed to perform his duties. He was also failed to stop M.I Enterprises from direct distribution of EG bags to the growers. He was required to at least report the said issue to the high authorities of the Food Department, but he remained silent, therefore, strict disciplinary action may be taken against the said officer under E & D Rules" (Annex-D).

Against the aforesaid backdrop, the accused-officer herein was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and upon receipt of report of the Inquiry Committee so constituted (Annex-E), the competent authority, vide order bearing No.1440/PF/1079 dated 15.02.2013, awarded him the minor penalty of "stoppage of two annual increments with non-accumulative effect" (Annex-E).

Meanwhile, the supplier firm had lodged a Writ Petition # 390-P / 2013 before the august Peshawar High Court Peshawar for the liquidation of its outstanding dues claiming huge number of bags purportedly supplied to the Food Department. Due to conflicting contentions of two side of the divide, the Honourable Court referred the case to the National Accountability Bureau for an objective investigation, vide order dated 03.10.2013. The latter subsequently concluded its inquiry with the remarks that although no losses had been caused to the government kitty, however, owing to their irresponsibility, the delinquent officials should be proceeded against departmentally for stern penalty vide its letter bearing No. 1/472/IW-II/NAB(KP)513 dated 30.04.2015 (Annex-F).

Thereupon the Secretary Food Department, vide Notification No.SOF/2-6/2001/P.II/965 dated 06.08.2015, notified a *denovo inquiry* and constituted an Inquiry Committee comprising of M/s Umar Farooq Deputy Secretary Food & Asmatullah Khan Deputy Director Food. The Inquiry Committed adduced the following recommendations:

"The penalty imposed by competent authority may be revised / enhanced to major penalty of demotion of Mr. Zafrullah, the then DFC D.I.Khan to lower scale under Rule-4, sub-rule (1), clause (b) (i) of the Khyber Pakhtunkhwa E&D Rules 2011, as the officer has proved to be inefficient of performing duties on a responsible post of DFC" (Annex-G).

Since the question of axing twice was apprehended, a reference was made to the Establishment Department, vide Food Department letter No. SOF (FOOD DEPTT) 2-23/1836 dated 26.01.2016, in response to which, vide letter No. SOR.III (E&AD) 3-2/2013(Vol-III) dated 17.032016, it was opined that the Competent Authority could invoke the provisions of

121

Rule-14(6) of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules, 2011 (Annex-H).

Resultantly, the accused-officer was served with a Final Show Cause Notice tentatively imposing upon him the major penalty of 'reduction in grade' (Annex-I). As the accused-officer did not submit his rejoinder within the stipulated period, the Show Cause Notice was modified and major penalty of 'removal from service' was tentatively contemplated (Annex-J). There-after, he submitted his reply and was extended an opportunity of personal hearing.

The accused-officer could put forth nothing plausible in his defence and flatly expressed that it was left to the Competent Authority to take an appropriate decision. He just added that he sustained extreme political pressure, but did not falter in saving the government exchequer from losses. He, however, could not establish his stand-point with cogent & convincing tangible evidence and contended in a round-about manner. He also termed the case against him as a conspiracy of his colleagues in the Directorate of Food Khyber Pakhtunkhwa.

Conversely, it is abundantly clear from the facts brought on record that the accused-officer bitterly failed to discharge his obligations entailing huge financial implications efficiently. The way he conducted the procurement drive amply speaks of his apathy, slackness, obliviousness & inefficiency. The cross discussions between the accused officer herein and his erstwhile subordinate Mr. Fakhr Zaman Food-grains Inspector arranged by the PIT confirm the fact that he not only accepted the supply of B-class gunny bags from the supplier out of the way, but also personally issued them to various farmers / growers. Even his demeanour would show that he lacks administrative capabilities and his posting against the post of DFC was not based on the principle of 'a right man for the right job'. His previous track record as District Food Controller Tank too vindicates the fact that he is an inefficient officer, as formerly he was also awarded the minor penalty of 'stoppage of his four annual increments', because of his feeble approach as a District Head (Annex-K).

Therefore, the Competent Authority, in exercise of the powers conferred upon him under Rule-4 (b) (ii) read with sub-rule (6) of Rule-14 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, awarded the major penalty of 'compulsory retirement from service' upon the appellant herein (Annex-B *ibid*).

3. The contentions advanced by the appellant are devoid of any plausible facts. He has just reproduced his earlier stance, already considered by the PIT and the twin inquiries conducted under the Khyber Pakhtunkhwa Government Servants (Efficient & Discipline) Rules, 2011. The appeal in hand being devoid of any material substance is worth dismissal, please.

  
Secretary Food / Competent Authority

CHIEF SECRETARY / APPELLATE AUTHORITY

4. Examine please.

Sd/-  
Chief Secretary  
22.09.2016

Secretary Establishment

CMS No. 3606  
No. 22/9/16  
Date 22/9/16

1773  
22-08-16

Chief Secretary

5. Note for Chief Secretary submitted by Food Department regarding appeal of Mr. Zafarullah Khan, Ex-District Food Controller D.I. Khan against the major penalty of "compulsory retirement from service" has been examined. Food Department has explained the case in detail in the preceding paras.

6. The appeal of Mr. Zafarullah Khan, Ex-District Food Controller does not contain convincing grounds hence, Establishment Department endorses the view point/proposal of Food Department contained in para 3 of the note.

Chief Secretary Khyber Pakhtunkhwa

(Dr. Syed Akhtar Hussain Shah)  
Secretary Establishment

Ali Akbar

09/11/2016

Chief Secretary  
Govt. of Khyber Pakhtunkhwa

SECRETARY FOOD

Pe. Pooas

DS (Food)

10-11-16

Take further n/a, please

SO(6)

Singh

\*KWR  
10-11-2016

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11/11/2016

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9-11-16



184  
GOVERNMENT OF KHYBER PAKHTUNKWA  
DIRECTORATE OF FOOD  
PESHAWAR

No 6803 /PF-1079-IV  
Dated Peshawar the , 21 /November, 2016

A Copy of letter of Section Officer General Government of Khyber Pakhtunkhwa, Peshawar vide No. SOF/8-1/7/2016/3414 dated 17-11-2016, along with copy of its enclosures are forwarded to Mr. Muhammad Zafrullah Khan Ex-District Food Controller, Torghar C/O DFC Office D.I.Khan with reference to his appeal dated 1<sup>st</sup> August, 2016

*Annid*  
*28-11-2016*  
ASSISTANT DIRECTOR FOOD (E)  
KHYBER PAKHTUN KHWA  
PESHAWAR





Amir H

FOOD DIRECTORATE  
KHYBER PAKHTUNKHWA,  
PESHAWAR

No 3745 /PF-1079

Dated Peshawar the 12/07/2016

87

**SHOW CAUSE NOTICE**

I, Mr. Asmatullah Khan Gandapur Director Food Khyber Pakhtunkhwa as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve Mr. Zafarullah Khan the then DFC D.I.Khan now posted as DFC Turghar as follows:

- 1 (i) That you while posted as DFC D.I.Khan allowed the distribution of empty gunny bags by the supplier to the farmers directly and the Provincial Inspection Team (PIT) after carrying out the enquiry declared you, personally responsible for the mess created during the procurement season-2009-10.
- (ii) That an enquiry committee was constituted to conduct proper enquiry against you under Efficiency & Discipline Rules 2011, where in the committee found you guilty of misconduct and recommended imposition of major penalty against you.
- (iii) On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee;

I am satisfied that you have committed the following act/omissions specified in rule-3 of the said rules.

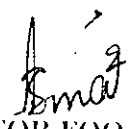
- a) You have committed negligence in duties thereby allowing the Government supplier to distribute bags amongst the farmers directly.
- b) You have taken substandard (under weight) Jute Bags on the stock.
- c) You have allowed unloading of B- Class bags in the Godown.

3 Previously you were served with Show Cause Notice (vide No.3572/PF-1079 dated 24-06-2016), but you failed to respond within the stipulated period of 07 days.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the **penalty of Removal from Service** under rule (4) (b) (iii) Efficiency & Discipline Rules 1973 amended / revised 2011.

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

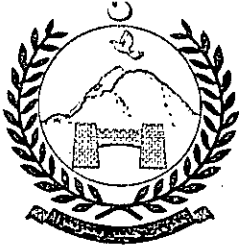
4. If no reply to this notice is received within seven days, it shall be presumed that you have no reply to put in your defence and in that case an ex-parte action shall be taken against you.

  
DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR

11-07-16

(Registered)

Annex-I



FOOD DIRECTORATE  
KHYBER PAKHTUN KHWA  
PESHAWAR

No 5891-14 /PF-457

Dated 20 /10/2014

To

1. All Assistant Directors Food at Divisional level in Food Department Khyber Pakhtunkhwa
2. All District Food Controllers in Khyber Pakhtunkhwa.
3. The Storage & Enforcement Officer, NRC Azakhel & PRC Peshawar.
4. The Rationing Controller Peshawar.

Subject:-

JOB DESCRIPTION OF DISTRICT FOOD CONTROLLER /STORAGE & ENFORCEMENT OFFICER /RATIONING CONTR-OLLER PESHAWAR / ASSISTANT FOOD CONTROLLER/FOODGRAIN INSPECTOR & FOOD GRAIN SUPERVISOR,

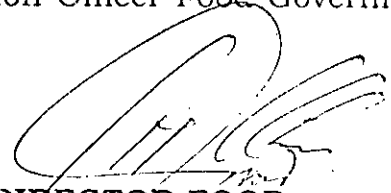
Memo:-

Enclosed please find herewith a copy of Job Description of DFC/ S&EOs / RC/ AFCs / FGIs & FGS for circulation / information amongst the concerned staff.

  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR

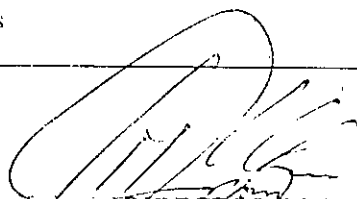
**Endorsement No. & Date Even**

Copy is forwarded to PS to Section Officer Food Government of Khyber Pakhtunkhwa, Peshawar for information.

  
DIRECTOR FOOD  
KHYBER PAKHTUN KHWA  
PESHAWAR

**JOB DESCRIPTION OF DISTRICT FOOD CONTROLLER /STORAGE & ENFORCEMENT OFFICER /  
ATIONING CONTRTOLLER PESHAWAR / ASSISTANT FOOD CONTROLLER/FOODGRAIN  
INSPECTOR & FOOD GRAIN SUPERVISOR.**

S. No.	Name of posts	Grade / PBS	Job description
	District Food Controller / Storage & Enforcement Officer /Rationing Controller	(BS-16)	<ol style="list-style-type: none"> <li>1. Custodian of Government Wheat stocks.</li> <li>2. Head of the District Office</li> <li>3. Receipt, storage &amp; issue of wheat.</li> <li>4. Monitoring by both District Food Controllers/ Storage &amp; Enforcement Officers i.e of dispatching as well as receiving end of Dispatches /Receipt of wheat transported from one PRC to another PRC and make transportation mechanism foolproof against transit losses/pilferage also to monitor the transportation of wheat from Punjab / Karachi to make it full proof against losses / pilferage.</li> <li>5. Drawing &amp; Disbursing Officer</li> <li>6. Monitoring of Price Control, availability of essential commodities and taking legal action against the defaulters under foodstuff act 1958</li> <li>7. To act ex-officio Food Inspector under pure food act 1960</li> <li>8. Implementation of orders issued under food laws at district level.</li> <li>9. .</li> <li>10. Distribution of atta to dealers from flour Mills according to allotted quota.</li> <li>11. Ensuring quality control by drawing samples of foodstuff being sold in market</li> <li>12. Inspection and draw samples of att from flour mills located in the district.</li> <li>13. Act as member of district price review committee.</li> <li>14. Assists District Administration in appointing atta dealer as per policy and attend to complaints received against them</li> <li>15. Assesses market condition regarding availability of atta /other essential foodstuff.</li> </ol>
B	Assistant Food Controller	(BS-14)	<ol style="list-style-type: none"> <li>1 In charge of Provincial Reserve Centre/Food grain godowns.</li> <li>2 Assist the District Food Controllers/ Storage &amp; Enforcement Officer in his assigned job with regard to all kind of transactions in respect of transportation, receipt, storage and issue of wheat to make it foolproof against losses/pilferage during transportation and storage.</li> <li>3 Assist, District Food Controller/ Storage &amp; Enforcement Officer /Rationing Controller, in day to day office work.</li> <li>4 Inspection of market and checking of prices.</li> </ol>
	Food grain Inspector	(BPS-09)	<ol style="list-style-type: none"> <li>1 Assist, District Food Controller/ Storage &amp; Enforcement Officer/ Rationing Controller / Assistant Food Controller in the performance of their duties assigned</li> <li>2 Supervision of dispatches of wheat from one PRC to another PRC and Punjab..</li> </ol>
	Food grain Supervisor	(BPS-07)	<ol style="list-style-type: none"> <li>1 Assist, District Food Controllers/Storage &amp; Enforcement Officer / Rationing Controller Peshawar / Assistant Food Controllers/ Foodgrain Inspector in the performance of their duties assigned</li> <li>2 Supervision of dispatches of wheat from one PRC to another PRC and Punjab.. mentioned duties</li> </ol>

  
**DIRECTOR FOOD  
KHYBER PAKHTUNKHWA,  
PESHAWAR**

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**

In the matter of  
 Appeal No. 09/2017

**M.**  
 Mr. Zafirullah Khan Ex-DFC, D.I Khan Torghar.....  
*(Appellant)*

**VERSUS**

Govt of Khyber Pakhtunkhwa through Chief Secretary &  
 others.....*(Respondents)*

<b><u>REJOINDER TO THE PARA WISE REPLY ON</u></b> <b><u>BEHALF OF THE APPELLANT</u></b>
--

Respectfully submitted:

The appellant submits his rejoinder as under:

**ON PRELIMINARY OBJECTIONS:**

1. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of compulsory retirement from service, thus he being, aggrieved civil servant, has got the necessary cause of action to file the instant appeal.
2. Contents incorrect and misleading, all facts necessary for the disposal of appeal are brought before this honorable court and nothing has been concealed and no attempt to mislead the Tribunal.
3. Contents incorrect and misleading, the appellant has illegally been awarded the penalty of compulsory retirement from service, thus he being, aggrieved civil servant, has got the locus standi to file the instant appeal. Moreover the appellant has come to this Honorable Tribunal with clean hands.
4. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rule and procedure hence maintainable in its present form and also in the present circumstances of the case.
5. Contents incorrect and misleading, no rules of estoppel is applicable to the instant case.

6. Contents misleading and incorrect, question of law is involved in the instant appeal.
7. Contents misleading and incorrect, no malafide and ulterior motive is there on the part of the appellant.


### **ON FACTS**

1. Contents of Para-1 of the appeal are correct, the reply submitted to the Para is incorrect and misleading. In fact at the relevant time the appellant was given additional charge of DFC D.I. Khan, as the then DFC DI Khan was proceeded on leave for 66 days, beside his own duty as AFC Head quarters. During the period of additional charge, the govenement has not sustained any loss on money during the entire period of my services. The keeping of the stock register is the job description of the AFC storage as per his job description.
2. Contents of Para-2 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
3. Contents of Para-3 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
4. Contents of Para-4 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
5. Contents of Para-5 of the appeal are correct, the reply submitted to the Para is incorrect and misleading. The appellant duly submitted his reply to the show cause notice through UMS and received by the office of the Secretary Food vide receipt diary No. 1320 dated 29.06.2016, while the Director Food office received vide receipt No. 7017 dated 29.06.2016. But malafidly just to modify and enhance the proposed penalty the competent authority issued subsequent show cause notice, which is illegal. The appellant however duly reply the subsequent show cause notice as well. (Copies of the receipts are attached as Annexure A)
6. Contents of Para-6 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.
7. Contents of Para-7 of the appeal are correct, the reply submitted to the Para is incorrect and misleading. The appellant has already been minor penalty on the same charges, however the competent authority quite illegally awarded the major penalty.
8. Contents of Para-8 of the appeal are correct, the reply submitted to the Para is incorrect and misleading.

**GROUNDS**

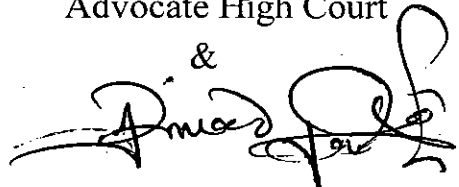
The Grounds (A to G) taken in the memo of appeal are legal and will be substantiated at the time of arguments.

*It is therefore humbly prayed that the appeal of the appellant may please be accepted as prayed for.*

  
**Appellant**

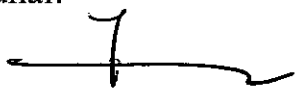
Through

  
**YASIR SALEEM**  
Advocate High Court

&  
  
**JAWAD-UR-REHMAN**  
Advocate Peshawar

**AFFIDAVIT**

I do, hereby solemnly affirm and declare on oath that the contents of the above rejoinder as well as titled appeal are true and correct and nothing has been kept back or concealed from this Honorable Tribunal.

  
**Deponent**

