BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 433 of 2024

Mukhtar Ahmad.....**Appellant**

VERSUS

Government of Khyber Pakhtunkhwa & Others.....**Respondents**

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26-06-24

DEPONENT

BEFORE THE HONOURABLE KHYBER PAKHTUKHKWA SERVICE TRIBUNAL PESHAWAR

In Appeal No.433 / 2024

Mukhtar Ahmad ----------**Appellant**

Versus

Government of Khyber Pakhtunkhwa and others ----------**Respondents**

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01 TO 04

Respectfully Sheweth
Preliminary objections:

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

FACT

1. The District Food Controller Chitral reported that Mr. Mukhtar Ahmed ex-FGI took over the charge of PRC Drosh on 23-06-2010. He received a stock of 27279 bags from Mr. Rehmat Wali ex-AFC. While handing over the charge of PRC Drosh to his successor, a quantity of 58838 Kgs amounting to Rs. 1,470,950/- was found short in the stock under his control /custody **(Annex-I).**

   Inquiry was conducted to investigate the matter vide Food Directorate Office Order No. 10455/ET-Enquiry dated 24-10-212. The Enquiry Committee recommended that being in-charge of PRC, Mr. Mukhtar Ahmed was required to adopt all possible precautionary measures to control infestation through application of fumigants. He failed to protect the stock from losses / deteriorations while the ex-official demanded more and more wheat despite the fact, that huge quantity over and above the accommodation was dumped in the Godowns under his control. He did not put the demand according to the requirements of the feeding sale points and stations. He while indicating to the seriousness of the situation suggested to impose ban on influx of atta from down Districts vide letter No. 473/2-1/FG dated 22-04-2010. As per enquiry report the shortages occurred due to negligence of the said official, so recovery of Government wheat stock was due against him, but instead of clearing the outstanding amount he lingered on /delayed recovery on one or other pretext **(Annex-II)**.

   The ex-official had been held responsible for shortage of Government wheat stock by the enquiry committee. Subsequently, Mr. Mukhtar Ahmed FGI was served with Show Cause Notice vide Food Directorate letter No. 6885/PF-1036 dated 26-11-2014 and directed for appearance before the competent authority for personal hearing, along with reply of the

Show Cause Notices vide No. 7227/PF-1036 dated 24-12-2014, No. 352/PF-1036 dated 13-01-2015 and No. 1251/PF-1036 dated 27-02-2015 on 19-03-2015 to proceed accordingly. During his personal hearing the official not only committed to deposit the outstanding arrear but also confessed about taking money from his predecessor during handing / taking over the charge of Godown during 2010. He requested for clearing his dues before the next hearing but never turn up to notice in black & white **(Annex-III)**.

After full consideration of the case, the said ex official was held responsible for embezzlement/ misappropriation of Government stocks worth Rs. 2.500 Million. He was awarded major penalty of removal from service vide Office Order No. 2038/PF-1036 dated 21-04-2015 **(Annex-IV).**

2. The ex-official filed an Appeal No. 1078/2015 in Khyber Pakhtunkhwa Service Tribunal against his removal from service. The Honourable Tribunal decided the case on 03-11-2017 and the removal order of the department was declared as illegal and was set aside. The department was directed to hold de-novo proceedings in accordance with the rules within a period of four months from the date of receipt of judgment **(Annex-V)**. In compliance of Judgment, the removal order dated 21-04-2015 was set aside and the appellant was re-instated into service vide Office Order No. 375/PF-1036 dated 19-01-2018 **(Annex-VI).** The Inquiry Committee forwarded its report and stated that the charges/ allegations against the accused Mr. Mukhtar Ahmad Foodgrain Inspector office of DFC Chitral are proved and he was held responsible for the loss of the Government wheat stocks / empty gunny bags. Therefore, the official may be proceeded under the relevant law / rules **(Annex-VII)**.
3. As explained in Para-2 above.
4. The DFC Chitral Lower forwarded letter No. 739/4/ET dated 28-07-2021 alongwith application of Mr. Mukhtar Ahmad FGI for retirement from service on attaining the age of superannuation with effect from 07-08-2021 **(Annex-VIII).** As per Inquiry reports, the ex-official was found negligent in his conduct for the occurrence of the shortage, but in the meantime, he was retired from Government Service and further disciplinary proceedings were stopped. The ex-official is still defaulter. Therefore, his promotion to the next higher scale during his service period was not considered.
5. Against the decision of Khyber Pakhtunkhwa Service Tribunal, dated 03-11-2017 CPLA was also filed in the Supreme Court of Pakistan. The Supreme Court of Pakistan decided the case as below:

> "We have noted from the Inquiry Report that though the respondent has been found negligent in his conduct for the occurrence of the shortage but perhaps some other employees also seem to be responsible and against them also proceedings need to be initiated by the petitioner. Consequently, while dismissing this petition, we observe that the petitioner shall conduct de novo inquiry and while doing so examine the implication of other employees also" **(Annex-IX).**

6. Incorrect the official was found negligent in his conduct, but in the meantime, he was retired from Government Service and further disciplinary proceedings were stopped. The ex-official is still a defaulter, therefore, his promotion to the next higher scale during his service period was not considered.
7. As per reply given at Para-04 above.

8. As per reply given at Para-04 above.
9. No comments.

GROUNDS

A. Incorrect. As per reply given at the above Para's of the facts, the appellant have been treated in accordance with law.
B. Incorrect. As per reply given at Para-04 of the facts.
C. Incorrect. As per reply given at Para-04 of the facts.
D. Incorrect. As per reply given at the preceding Paras.
E. Incorrect. As per reply given in the above Paras of the facts.
F. Incorrect. As per reply in facts.
G. This Honourable Tribunal lacks jurisdiction to consider the present service appeal, given that the appellant retired from Government service on 07-08-2021 and is therefore no longer a Government employee.
H. The respondents seek leave to raise additional grounds at the time of arguments.

In view of the above, it is therefore, humbly prayed that the instant Appeal No.433/2024 being frivolous and devoid of cogent & convincing reasons may very graciously be dismissed with costs, please.

(Zarif Ul Maani)
Secretary Food Khyber Pakhtunkhwa
Peshawar
Respondent No. 01

(Muhammad Yasir Hassan)
Director Food Khyber Pakhtunkhwa
Peshawar
Respondent No. 02

(Arshad Hussain)
District food controller
Chitral
Respondent No. 03

(Amer Sultan Tareen)
Secrteary Finance Khyber Pakhtunkhwa,
Peshawar
Respondent No. 04

(4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

In Service Appeal No. 433 of 2024

Mukhtar Ahmed.....**Appellant**

VERSUS

Government of Khyber Pakhtunkhwa & Others.....**Respondents**

AFFIDAVIT

I **Arshad Hussain, District Food Controller Lower Chitral (Respondent No.03)**, do hereby solemnly affirm and declare that all the contents are true & correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Honorable Tribunal.

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

DEPONENT
CNIC No. 15201-0561738-5
Cell No. +92 333 5032744

ATTESTED

Azmat Ali Qureshi
Notary Public
Judicial Complex Peshawar.

24-06-2024

(5)

FOOD DIRECTORATE
KHYBER PAKHTUNKHWA
PESHAWAR

AUTHORITY LETTER

Mr Wajdan Rahmat, Assistant Director Food, Food Directorate Khyber Pakhtunkhwa is hereby authorized to submit Parawise comments in **Service Appeal No. 433 of 2024** titled **"Mukhtar Ahmad VS Govt. of Khyber Pakhtunkhwa & others"** on behalf of Respondents No. 01 to 04.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

SECRETARY FOOD
GOVT: OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

Annex-I

6

OFFICE OF THE DISTRICT FOOD CONTROLLER CHITRAL

NO._____/Mukhtar Ahmd, Dated Chitral the____/11/11.

To,

The Circle Officer,
Anti Corruption Estt:
Chitral.

Subject: RECOVERY OF GOVERNMENT DUES AMOUNTING TO RS.1470950/- AGAINST MR.MUKHTAR AHMAD FOOD GRAIN INSPECTOR.

Memo:

Mr.Mukhtar Ahmad FGI of this office was serving as Incharge in Godown Drosh with effect from 27/06/2010 to 15/08/2011. During his tenure as Incharge of the said Godown, a quantity of 58858 Kgs. wheat a tune of Rs.1470950/- was found short as his part after handing/taking over of the Godown on 15/08/2011.

He was directed time and again to make good the lose, but he was completely failed in crediting the government money.

Therefore, it is requested to probe the case against the said official and lodge FIR against the official, so that the recovery can be made possible.

(FAZAL BARI)
Distt: Food Controller,
Chitral.

NO.5993-96/Mukhtar Ahmd, Dated Chitral the 31/10/2011.

Copy forwarded to:

Required 1/ The Director Food, Khyber Pukhtunkhwa, Peshawar for information Please.
2/ Distt: Coordination Officer, Chitral for information.
3/ Distt: Officer, (R&E) Chitral for information.
4/ Government Pleader (Public Prosecutor) Chitral for information.

Distt: Food Controller,
Chitral. 31/10

Mukhtar case

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OFFICE OF THE DISTRICT FOOD CONTROLLER CHITRAL

NO._____/Mukhtar, Dated Chitral the_____/11/2011.

To,

The District Officer,(R&E)
Collector, Chitral.

Subject: RECOVERY OF GOVERNMENT DUES AMOUNTING TO RS.1470950/- FROM MUKHTAR AHMAD FOODGRAIN INSEPECTOR EX-GODOWN INCHARGE PR CENTRE BROSH.

Memo:

Kindly reference this office letter No.5847/Mukhtar, dated 25/10/2011.

2/ The defaulted quantity of wheat is calculated 58838 kgs: neither 58883 kgs: and its cost is Rs.1470950/- instead of 1472075/-, after checked detail report of the Assistant Food Controller, vide No. nil dated 10/09/2011.

Therefore, it is requested that Mr. Mukhtar Ahmad Food grain Inspector may kindly be declared as defaulter of Rs.1470950/- under land revenue act, and recovery of government money should be recovered from the official.

Distt: Food Controller,
Chitral.

NO. 5998-6000 /Mukhtar, Dated Chitral the 31 /10/2011.

Copy forwarded to:

Registered 1/ The Director Food, Khyber Pukhtunkhwa, Peshawar for information please.
2/ Distt: Coordination Officer, Chitral for information & necessary action.
3/ AFC (HQ) Chitral for information & n/action.

Distt: Food Controller,
Chitral.

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Annex-III

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FOOD DIRECTORATE
KHYBER PAKHTUN KHWA
PESHAWAR
No 10455 /ET-Enquiry
Dated 24/10/2012

OFFICE ORDER

In continuation of this Directorate Office Order No. 8704/ET-Enquiry dated 30-10-2012, Mr. Muhammad Jehangir Assistant Director Food (Mardan Division) at Mardan .is hereby appointed as member of the enquiry committee in place of Mr. Sher Fayaz Assistant Food Controller presently working as DFC Dir (Upper).

As reported by the DFC Chitral vide his letter No. 5992/Mukhar Ahmed dated 31-01-2011, that Mr. Muhammad Mukhtar Ahmed FGI remained Incharge PRC Dorosh with effect from 27-06-2010 to 15-08-2011. On handing over / taking over the charge of PRC Dorosh on 15-08-2011, a quantity of 58838 Kgs wheat a tune of Rs.1470950/- was found short on his part.

2. In order to investigate the matter against Mr. Mukhtar Ahmed FGI regarding embezzlement of wheat quantity of 58838 Kgs wheat amounting to Rs.1470950/- in PRC Dorosh, Mr. Muhammad Jehangir ADF Mardan Division and Mr. Ghulam Haider Assistant Director Food (Inspection), Food Directorate Khyber Pakhtunkhwa, Peshawar to conduct enquiry and submit his findings with fact & figures within Seven (07) days positively.

DIRECTOR FOOD
KHYBER PAKHTUN KHWA,
PESHAWAR.

Endorstt: Even No & Dates

Copy is forwarded to:-..

1. Mr. Abdul Jalil Assistant Director Food Malakand Division at Saidu Sharif Swat for information and necessary action.
2. Members of the enquiry committee for information & necessary action.
3. The Circle Officer, Anticorruption Department Chitral for information and necessary action
4. The District Food Controller Chitral
5. Mr. Mukhtar Ahmed FGI office of DFC Chitral for information & necessary action.
6. Concerned File.

DIRECTOR FOOD
KHYBER PAKHTUN KHWA,
PESHAWAR

Office Order for enquiry dated 23-10-2012.doc

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To

The Director Food,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **ENQUIRY REPORT REGARDING SHORTAGES OF WHEAT AGAINST MR. MUKHTAR AHMAD FGI, THE THEN I/C PR CENTRE DAROSH (CHITRAL).**

R/Sir.

Reference your office order No.9107-08/PF-1036- dated 26-11-2013.

Enquiry report, on the above title case is submitted for further proceedings please.

Encl: (50 pages)

(GHULAM HAIDAR) 13/12/2013
Assistant Director Food (Inspection)
Food Directorate,
Khyber Pakhtunkhwa,
Peshawar

(JEHANGIR KHAN)
Assistant Director Food
Bunnu Division,
Bannu
12/12/13

Pumpfile

DDF A&C

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ADF(E)
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13/12/13

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ENQUIRY REPORT REGARDING SHORTAGS OF WHEAT AGAINST MR MUKHTAR AHMAD FGI, THE THEN I/C PR CENTRE DAROSH (CHITRAL).

In order to probe into the shortages of wheat detected during the course of handing/taking over charge of wheat stock in r/o PRC Darosh between Nizamul Mulk and the alleged Mukhtar Ahmad culminating to the quantity of 58838 kgs. The enquiry team Comprising Muhammad Jahangir Assistant Director Food Bannu Division and Ghulam Haidar Assistant Director Food Inspection Food Directorate Peshawar proceeded to Chitral on 28-11-2013 and remained there till 5-12-2013.

The said enquiry was ordered to be conducted vide Director Food order No.9107-08/PF-1036- dated 26-11-2013.

PROCEEDING: - To thrash out the actual position as well as to unveil the root causes of the damages, thorough study of the relevant record and ground reality was examined.

BRIEF PAST HISTORY:- According to the available record Mr. Mukhtar Ahmad was posted as I/C PRC Darosh on 23-6-2010, he took over the charge of wheat from Mr.Rahmat Wali FGI, on 26-6-2010 with 27279 bags containing 2613.811 Mton as existing stock there at. He remained there at till 15-8-2011. During this tenure the following quantity of stock was received.

Stock received from down district from 27-6-2010 to 30-6-2011, 5393 bags weighing 538.379 M.tons, which was stored in open, stock received from PRC Arandu from 5-12-2010 to 29-12-2010 =3308 bags equal to 300.000 M.ton, 1-4-2011 to 4-4-2011=400 bags equal to 40.000 M.ton, 28-6-2011=125 bags equal to 11.500, total stock received 3833 bags containing 351.500 M.ton.

Hence total stock received afresh apart from already available stock 9226 bags containing 889.879 M.ton.

Average of stock at the time of taking over charge 27279 = 2613.811 (95.817%) total stock together with fresh receipt 36505 =3503.690 (95.978% average)

According to FG 3 register the issue/transfer position stands as under.

Month	Bags	Weight
8/2010 to 4/2011	23897	2305.450 M.ton 96.471%)
5/2011	9637	897.533
6/2011	2128	195.164
Total	**11765**	**1092.697 (92.87%)**
G.Total	**35662**	**3398.147 (95.28%)**

From the above calculations it transpires that issue ratio from 7/2010 to 4/2011, stands 96.471% while average of previous available stock (+) fresh receipt i.e. 36505 bags was 95.97%, all of sudden the average dropped by 92.87% during 5/2011 and 6/2011.

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The most important point at this very stage arises that when on 4/6/2011, 339 EG bags were transferred from FG 3 register to FG 13 register without proper justification. On that very day total 661 bags wheat were issued at the average of 97.76 per bag. Hence the enquiry team felt that how 339 bags get emptied in even a single day.

Here the significant question arises, that either the official at fault was not fully conversant about the godown transaction or he willfully, exercised the practice to justify the issue transfer on higher average?

To reach to perceivable condition, statements were obtained in written form from all concerned, also served upon them a questioner to reply the asked questions.

In reply to the questioner Mr. Rahmat Wali FGI, who delivered wheat stock to the alleged official Mr. Mukhtar FGI, told that he had not committed any type of deal in written or verbal, regarding compensation of shortages to be occurred after the disposal of stock so handed over by him. He however pointed out that damages could occur in the stock, stored in open just received from down district and PRC Arandu in infested condition (reply attached) on the other hand the alleged official Mukhtar Ahmad stated that he had not committed any corruption or miss appropriation in the wheat stock but the stock viz 58838 kgs exposed to loss due to abnormal scal of infestation as the stock was old pertaining to 2008-09 period.

He disclosed that he could not weighed the stock at the time of taking charge because of non-availability of space; he however took the charge on the basis of average giving, Rs.18/- per bag by Mr. Rahmat Wali to cover the less weight if occurred at latter stage. He further stated that Mr. Rahmat Wali might have collected more money from the relevant contractor in exchange of less delivery of wheat. This transaction of Rs:18/- per bag was also admitted verbally by the then AFC Mr.Bashir Ahmad before the Enquiry Committee. Mr. Mukhtar Ahmad further stated that to protect the stock Mr.Rahmat Wali also demanded fumigants E.T.C on 21/6/2010, before of his taking over charge which projects that the stock was at risk of vivals. He referred some letters to highlight his efforts regarding noticing the issue of vulnerability of infestation to the stock, for instance report of Rahmat Wali on dated 21-6-2010. Findings of enquiry conducted by DDOR, Darosh vide No 16904/DCO/ACO- dated 25/4/2010 with the suggestion to shift the stock to areas of Upper Chitral, due to growing infestation over there, because of hot climate rather than Upper Chitral, other reports to highlight the problem of infestation, statement of reps of contractors, also testifying the existence of vivals in the stock who witnessed these at the time of lifting.

DFCs efforts to clear the dumped stock, as huge quantity of wheat flour was being received during winter season on opening of lowari tunnel temporarily, which put rather negative impact on the issue of wheat locally. As such to make arrangement of shifting of stock to upper area, DFC forwarded a letter No.1057/1/5-AC. Dated 29/6/2010 to Food Directorate to approve local rates

AFC Darosh stood

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from Darosh to various destinations at upper chitral, listing 8 in numbers. Written statement from Nizamul Mulk, also collected who took over charge from Mukhtar Ahmad FGI, confirmed shortage of 58838 kgs in weight, stating that Book balance was 504 bags weighing 105543 kgs, while on the ground the position was 504 bags with weight 46705 kgs, with clear difference of 58838 kgs was found.

It is however expedient to bring to notice that the remarks recorded during charge handing between Mukhtar and Nizamul Mulk seems very important, high lighting wheat condition to some extent, which is reproduced as "65 bags weighing 6305 kgs not consumable and the remaining ones also striked by insects" In the statement of Mukhtar he contended that the old stock pertained to 2008-09. Whereas on the report of Rahmat Wali, submitted on 24-7-2009, expressing about the receipt of substandard wheat from NRC Azakhel, the DFC Chitral Mr. Mushtaq Ahmad clearly directed the FGI, Rahmat Wali not to accept such like substandard wheat, and these to be retransported by carriage contractor, these directions were issued on the back of report vide DFC Chitral No.2672 dated 25/7/2009.

iii. The covered storage capacity of Darosh godown is 500.000 M.tons, while huge stock had been accommodated in opensky. When asked about the phenomena, of demanding too much stock, which had to be stored in open with major quantity, the then DFC Mr. Fazli Bari told that stock was demanded catering the population as per last year requirements. But unluckily the same could not be utilized due to nominal demand in the feeding stations, fall under the jurisdiction of PRC Darosh.

In another question that, what was the reasons of shifting of wheat from PRC Arandu towards PRC Darosh, despite of the fact that there was already lying huge quantity, Mr. Bari replied, approved local rates were not available from PRC Arandu to various PRCs in upper Chitral and further that the stock at Arandu was also in infested condition so its speedy disposal was also necessary and its only solution was to shift the stock first to PRC Darosh and then to be retransported to Upper Chitral.

FINDINGS:- From the perusal of the relevant record and statements of the concerned officials that wheat stock on the charge of FGI Mukhtar Ahmad, sustained loss by 58838 kgs costing to Rs.1470950/- (calculated at that time rate of issue/sale proceed) despite repeated requests to evolve strategy for its protection and early disposal, indicating susceptibility of insects and other hazardous vivals.

In 2009-10, the following quantities were demanded and supplied to PRC Darosh.

I. 2000 M.ton demanded vide No.860 dated 12-5-2009.
II. 3000 M.ton demanded vide No.3058-60 dated 2-7-2009.
1600 M.ton demanded Vide No.3058-60 dated 2-7-2009.

While 800 M.ton was supplied. Record indicates that on 30-6-2009, closing balance of PRC darosh stood as 155 M.tons besides 351 M.tons were also

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supplied from PRC Arandu, this total receipt comes to 6110 M.ton on the other hand 4004 M.ton wheat have been supplied in the month of 7-2009, while 155 M.ton wheat were on the closing of 30-6-2009. On the other side total issue of the year 2009-10 was 2607 M.ton, it means that huge quantity of wheat remains in the godowns, for at least two years.

RECOMMENDATIONS:- As per policy of the Food Department I/charge PRC was required to adopt all possible precautionary measures to control infestation through apply fumigants but in the instant case the official could not apparently protect the stock from infestation and rain water. The shortages occurred due to his negligence, so recovery is liable to be made from him.

Secondly the officials who were demanding more and more wheat despite of the fact, that there had already been dumped huge quantity over and above the accommodation of the godowns, and its non-disposal will in time are also somehow responsible. They should have put the demand according to the requirements of the feeding sale points and stations. However letter No.73/2-1 FG- dated 22-4-2010, indicating the seriousness of the situation suggesting to be imposed ban on influx of atta from down Districts. So they may also be asked about the reasons of demanding huge wheat supply, and non-issue in time which resulted stagnant situation of the wheat in godowns.

Note: - The case is under trial in the Anti-corruption Court Peshawar against Mr.Mukhtar Ahmad, after lodging FIR by A.C.E Chitral.

Submitted for further proceedings please.

Enclosures: - (All relevant documents from Page 1 to 46).

12/12/2013

(GHULAM HAIDAR)
Assistant Director Food (Inspection)
Food Directorate
Khyber Pakhtunkhwa,
Peshawar

(MUHAMMAD JAHANGIR)
Assistant Director Food Bannu Division
Bannu

12-12-2013

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Annex-III

14

FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR
No 6867 /PF-1036

Dated 26/11/2014

SHOW CAUSE NOTICE

I Muhammad Anwar Khan Director Food Khyber Pakhtunkhwa being competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve Mr. Mukhtar Ahmad FGI posted as Incharge of PRC DAROSH as follows:

a) You have took over the charge of PRC Drosh on 23-06-2010 and a stock of 27279 bags from your predecessor Mr. Rehmat Wali Foodgrain Supervisor now Foodgrain Inspector Chitral

b) While leaving charge after his transfer it was found that a quantity of. 58838 Kgs @ 25/- amounting to Rs.1470950/- from PRC Drosh were short in the stock under your control /custody.

c) An enquiry was conducted vide Food Directorate Office Order No. 10455/ET-Enquiry dated 24-10-212. The Enquiry Committee recommended that being inchage of PRC he was required to adopt all possible precautionary measures to control infestation through apply fumigants but you have not apparently protected the stock from infestation and rain water.

d) You were also demanding more and more wheat despite the fact, that there was dumped huge quantity over and above the accommodation of the Godowns, and its non disposal well in time. You have not put the demand according to the requirements of the feeding sale points and stations. letter No.473/2-1/FG. dated 22-04-2010,rather indicating the seriousness of the situation suggesting to impose ban on influx of atta from down Districts. You had demanded huge, wheat supply and not issued in time the same which resulted stagnant situation of the wheat in Godowns. The shortages occurred due to your negligence, so recovery of Government wheat stock amounting to Rs.1470950/- is liable to be effected from you .

e) The District Food Controller Chitral has worked out the cost of wheat on the basis of issue price ie. 2500 per bags at that time, however the landed cost of the embezzled quantity at the present @ of 100 Kgs for 4249.90 = 42.499 Per Kg 2.500 Millions for 58838 Kgs are still outstanding against him .Thus you found guilty of misconduct and recommended imposition of major penalty against you.

On going through the material on record provide by the DFC Chitral, I am satisfied that you have committed the above atc/omissions specified in rule-3 of the said rules.

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

3. You are, therefore, required to Show Cause 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 with in 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

Endorsement No & Date Even

Copy is forwarded to

1) The Assistant Director Food Malakand Division at Saidu Sharif Swat for information & necessary action.
2) The District Food Controller, Chitral for information & necessary action.

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To

The Director Food,
KPK Peshawar

Subject: Show Cause Notice

Sir,

With reference to your memo No. 6885/PF-1036 date 26-11-2014, my parawise reply is as under.

a) That pera No: (a) is correct. To the extent that I had taken over the charge of 27279 bags from my predecessor but due to non-availability of funds with department to weight wheat before taking over charge and your honour know that for low paid employee, it is not possible to bear Rs: 10 per bag expense for weighing from his own pocket. The other main hurdle was the space problem in Godown premises;therefore the bags were not weighed and were taken over charge at the average of 95.817 KG per bag.
b) That – para No (b) is correct
c) That- para No (c) is not correct. The fact is that the stock was too old and already infested prior to my taking over charge; the Repot of my predecessor Mr. Rehmat Wali FGI dated 21-06-2010 is self-explanatory. The capacity of Godown Drosh was 500 Metric Ton while the stock was 2727.90 metric ton more over in addition to the above mentioned stock, my predecessor had stocked 1935 bags outside the Godown in open air in accordance with the instruction of the then DFC Chitral. After taking charge, I also continue to stock in the said place in accordance with work order issued before my charge. All possible precautionary arrangements were made e.g the plastic was placed under the stock and was covered by tarpal but it was damaged due to holes made by rates in plastic and the floody water had entered from these holes and damaged the stock. As for as fumigation is concerned, I had fumigated inside the Godown and the result was conveyed to DFC Chitral vide my report dated 29-9-2010. Copy enclosed for ready reference.
d) That para No. (d) is not correct. The fact is that huge quantity of stock was already in Godown prior to my taking over charge. The letter of DFC, Chitral in the para No (d)is dated 22-04-2014 while I had taken over charge on 23-06-2010 how I can be held responsible for the act prior to my period. In this connection report of DFC Chitral No: 1057/115-AC dated 29-06-2010 is worth perusal please. I have not demanded any more wheat, if I had demanded then the complainant would have referred to it. The names of those, who were responsible for the allegation referred to in Para No: (d) are crystal clear in the report of Mr. Shah Jahan Khan Senior Auditor Anti-corruption No: 7854-57 Dated

16/12

DF	
DD Estt	
Diary No	10357
Dated	10-12-14

ADF E

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09-08-2012, those sacred cows are trying to falsely implicate me in order to save themselves. The story of wolf and the lamb is repeated with me and I am being made scape goat.

e) That para No: (e) is in-consistent and contradictory "the case is of infestation and on other hand it has been said the embezzled quantity of wheat etc" these are separate things. It is humbly requested that I have neither embezzled any amount nor committed any negligence or mis-conduct. In this connection, the report of Circular officer Anti- corruption Chitral Dated 04-08-2012, 06-10-2012 and 10-10-2012 are worth perusal please. The report of the committee constituted by the secretary food vide notification No: SOF (Food Deptt) 2-28/742 Dated 12-12-2012 and SOF (Food Deptt) 2-28/395 Dated 29-04-2012 for disposal of infested and poor quality wheat at District Chitral is also worth perusal please. Wherein 2400 bags in Drosh Godown have been shown infested/poor quality and recommended 75% write off after my handing over charge.
Photo copies of the above referred documents are attached herewith for ready reference please.

2. That the DFC Chitral is complainant in FIR case; I have no knowledge as what kind of records he has submitted to your honor. However I had produced the above mentioned documents before departmental enquiry. I want to be personally being heard, before your honour in order to explain my position and produce the documents which I rely.

Hence prayed that I may kindly be exonerated from the allegation/charges mentioned in your memo referred to above and any other relief may kindly be granted keeping in view the circumstances of the case.

Dated 01-12-2014

Yours obediently
Mukhtar Ahmad
FGI PR center Mastuj Chitral

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FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,,
PESHAWAR

No 7227 /PF-1036
Dated Peshawar the 24/12/2014

TO

Mr. Mukhtar Ahmed FGI
Office of District Food Controller,
Chitral.

Subject:- **SHOW CAUSE NOTICE / PERSONAL HEARING**
Memo

Reference your reply to Show Cause Notice dated 01-12-2014, on the subject noted above.

3 You are directed to appear before the competent authority for personal hearing on 2/12/2014 for personal hearing to proceed further action in the matter.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Endorsement No & Date Even
Copy is forwarded to

1) The Assistant Director Food Malakand Division at Saidu Sharif Swat for information & necessary action.

2) The District Food Controller, Chitral for information & necessary action.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

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18

FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR

No 352 /PF-1036
Dated Peshawar the 13 /01/2015

TO

Mr. Mukhtar Ahmed FGI
Office of District Food Controller,
Chitral.

Subject:- **SHOW CAUSE NOTICE / PERSONAL HEARING**
Memo

Reference your reply to Show Cause Notice dated 01-12-2014 and application dated 02-01-2015, on the subject noted above.

3 You are directed to appear before the competent authority for personal hearing on 19-01-2015 to proceed further ~~action~~ in the matter.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Endorsement No & Date Even

Copy is forwarded to

1) The Assistant Director Food Malakand Division at Saidu Sharif Swat for information & necessary action.

2) The District Food Controller, Chitral for information & necessary action.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

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FOOD DIRECTORATE
KHYBER PAKHTUNKHWA,
PESHAWAR
No 1251 /PF-1036
Dated Peshawar the 27 /02/2015

TO

Mr. Mukhtar Ahmed FGI
Office of District Food Controller,
Chitral.

Subject:- **SHOW CAUSE NOTICE / PERSONAL HEARING**
Memo

Reference this Directorate letter No. 352/PF-1036 dated 13-01-2015, on the subject noted above.

3. You are directed to appear before the competent authority for personal hearing on 19/03/2015 to proceed further in the matter.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

Endorsement No & Date Even

Copy is forwarded to

1) The Assistant Director Food Malakand Division at Saidu Sharif Swat for information & necessary action.

2) The District Food Controller, Chitral for information & necessary action.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR.

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Annex-IV

20

FOOD DIRECTORATE,
KHYBER PAKHTUNKHWA
PESHAWAR

No. 2038 /PF-1036

Dated 21/4/2015

OFFICE ORDER

As reported by the DFC Chitral Mukhtar Ahmed FGI took over the charge of PRC Drosh on 23-06-2010 and a stock of 27279 bags were received form the predecessor Mr. Rehmat Wali Foodgrain Supervisor now Foodgrain Inspector Chitral. While leaving charge after his transfer from Drosh Centre, It was found that a quantity of. 58838 Kgs amounting to Rs.1470950/- was short in the stock under control /custody of the said official.

2 An enquiry was conducted vide Food Directorate Office Order No. 10455/ET-Enquiry dated 24-10-212. The Enquiry Committee recommended that being inchage of PRC Mr. Mukhtar Ahmed was required to adopt all possible precautionary measures to control infestation through apply of fumigants but he failed to protect the stock from losses / deteriorations.

3 The official had been demanding more and more wheat despite the fact, that huge quantity over and above the accommodation was dumped in the Godowns. He did not put the demand according to the requirements of the feeding sale points and stations, He while indicating to the seriousness of the situation suggested to impose ban on influx of atta from down Districts vide letter No. 473/2-1/FG dated 22-04-2010. As per enquiry report the shortages occurred due to negligence of the said official, so recovery of Government wheat stock was due against him, but instead of the clearing the outstanding amount lingered on /delayed recovery on one or other pretext.

4 The District Food Controller Chitral has worked out the cost of wheat on the basis of issue price ie. 2500 per bags at that time, however the landed cost of the embezzled quantity at the present rate of 42.499/- Per Kg an amount of Rs. 2.500 Millions for 58838 Kgs is outstanding against him . The official been held responsible for peculation from Government stock by the enquiry committee. Subsequently Mr. Mukhtar Ahmed FGI served with Show Cause Notice vide Food Directorate letter No. 6885/PF-1036 dated 26-11-2014 and directed for appearance before the competent authority along with reply to the Show Cause Notice for personal hearing vide letters No. 7227/PF-1036 dated 24-12-2014, No. 352/PF-1036 dated 13-01-2015 and No. 1251/PF-1036 dated 27-02-2015 on 19-03-2015 to proceed accordingly. During his personal hearing the official not only committed to deposit the outstanding but also confessed about taking money from his predecessor during handing / taking over of Godown during in 2010. He requested for clearing his position in the next hearing but never turn up ~~deposit of~~ despite notice is black & white.

5 After full consideration of the case, the said official is hold responsible for embezzlement/ misappropriation of Government stocks worth Rs. 2.500 Millions and hereby awarded the major penalty of removal from service with immediate effect.

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

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Endstt: of even No & Date

Copy is forwarded to:-.

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

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Office Order for removal from service Mukhtar Ahmed FGI dated 19-03-2015.doc

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Annex-V

21/9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUAL

Appeal No. 1078/2015

Date of Institution ... 14.09.2015

Date of Decision ... 03.11.2017

Mukhtiar Ahmad son of Quli Khan (Late) R/O village Tehsil Mastuj, District Chitral. ... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat, Peshawar and 4 others. ... (Respondents)

MR.SYED GHUFRAN ULLAH SHAH, Advocate ... For appellant

MR. ZIAULLAH, Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service vide order dated 21.04.2015, against which he filed departmental appeal on 11.05.2015 which was not responded to and hence the present service appeal on 14.09.2015. The allegations against the appellant were poor quality wheat in the godown and the extra demand of wheat.

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22

ARGUMENTS.

3. The learned counsel for the appellant argued that the whole proceedings were undertaken against the rules. That the enquiry committee did not enquire into the matter rather suggested to keep it pending till the decision of the Special Court of Anti Corruption in which a criminal case regarding the same matter was pending adjudication. The learned counsel for the appellant further argued that in the second charge it has been mentioned that the appellant had requested for supply of more wheat vide letter dated 22.04.2010 but the appellant at that time was not posted in the seat as he assumed the charge on 23.06.2010. The learned counsel for the appellant further argued that the Special Judge, Anti Corruption has acquitted the appellant and now the appellant should be reinstated in service. He relied upon a judgment reported as 2007-SCMR-537 and 1998-SCMR-1993.

4. On the other hand, the learned Deputy District Attorney argued that an enquiry was conducted in the year, 2012 in which the appellant was held responsible which was followed by another enquiry on 12.12.2013 in which too the appellant was held responsible. He further argued that the acquittal in criminal case has got no bearing on the disciplinary proceedings and in this regard he relied upon a judgment reported as 2006-SCMR-1005.

CONCLUSION.

5. After issuance of charge sheet the enquiry committee had not enquired into the matter and had given its report dated 21.1.2014 and proposed that the matter be kept pending till the decision of the case by the Special Court of Anti Corruption. But the authority without appointing another enquiry officer or committee passed the final order dated 21.04.2015 by removing the appellant from service. This action on the part of the authority is illegal as no regular enquiry was conducted against the appellant rather it was proposed by the enquiry committee that the matter be kept pending till the decision of the Court of Anti Corruption. Preliminary

enquiry as referred to by the learned Deputy District Attorney cannot be taken into consideration. So far as the judgment referred to by the learned counsel for the appellant regarding acquittal in criminal case is concerned both these judgments have got no bearing on the present case as in both these judgments the issue was arrears/financial benefits.

6. It is now settled jurisprudential principles of administrative law that acquittal in criminal case has no concern with the departmental proceedings as per judgment relied upon by the learned Deputy District Attorney.

7. In view of the above discussion, this Tribunal is of the view that the present removal order is illegal which is set aside and the department is directed to hold denovo proceedings in accordance with rules within a period of four months from the date of receipt of this judgment, failing which the appellant shall be deemed to have been reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

(NIAZ MUHAMMAD KHAN)
CHAIRMAN

(GUL ZEB KHAN)
MEMBER

ANNOUNCED
03.11.2017

Date of Presentation of Application 24/7/23
Number of Words 1600
Copying Fee 18.00
Urgent 4.00
Total 22.00
Name of Copyist
Date of Completion of Copy 24/7/2023
Date of Delivery of Copy 24/7/2020

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Annex-VI 24

(7)

GOVENMENT OF KHYBER PAKHTUNKHWA,
DIRECTORATE OF FOOD,
PESHAWAR

No 375 /PF-1036-II

Dated 19 /January,2018

OFFICE ORDER

In compliance of Khyber Pakhtunkhwa Service Tribunal decision dated 03-11-2017 in case of acceptance of appeal No.1078/2015 against the removal from service in respect of Mr. Mukhtar Ahmad Ex-Foodgrain Inspector Office of District Food Controller, Chitral this Directorate Office Order No2038/PF-1036 dated 21-04-2015 is hereby set aside.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

Endstt: of even No & Date

Copy is forwarded to:-

1. The Deputy Commissioner Chitral.
2. The Director Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar.
3. The Registrar Khyber Pakhtunkhwa Service Tribunal with reference to the decision dated 03-11-2017 in case of appeal No.1078/2015 of Mr. Mukhtar Ahmad Ex-Foodgrain Inspector
4. The District Accounts Officer Chitral.
5. The District Revenue Officer Chitral.
6. The Assistant Director Food Malakand Division at Saidu Sharif Swat.
7. The Circle Officer Anti-Corruption Establishment Chitral.
8. The District Food Controller Chitral.
9. Mr. Mukhtar Ahmad FGI Chitral.
10. Personal File.

DIRECTOR FOOD
KHYBER PAKHTUNKHWA,
PESHAWAR

IHC Appeal pl. 20/2/01

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D.No	4094
R.Dt.	26/1/18
F.No.	[illegible]
Town Mark	IHC

GOVERNMENT OF KHYBER PAKHTUNKHWA,
DIRECTORATEOF FOOD
PESHAWAR.

No 1261 /PF
Dated 12 /March, 2018

Annex VII 25

To,

The Director Food,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **INQUIRY REPORT REGARDING SHORTAGE OF WHEAT AGAINST MR. DINAR WALI FOODGRAIN INSPECTOR CHITRAL**

Reference Food Directorate statement of allegation /charge sheet letter No.378/PF dated 19-01-2018.

2 Inquiry report, on the above title case is submitted for further proceeding please.

(Abdul Jalil)
ASSISTANT DIRECTOR FOOD
MALAKAND DIVISION AT
SWAT

(Imtiaz Muhammad Khan)
ASSISTANT DIRECTOR FOOD
HAZARA DIVISION

ADF(E) Estb Pesh
Immediate
DF

Supdt (E)
13/3/18

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ENQUIRY REPORT

In compliance of Food Directorate, letter vide Statement of allegation / Charge Sheet No. 376/PF dated 19-01-2018 **(Annex-I)**, we the under signed called the accused with District Food Controller Chitral to attend Food Directorate Peshawar on 12-03-2018 and submit all the records mentioned in the charge sheet/ statement of allegations for conducting enquiry against Mr. Mukhtar Ahmad Foodgrain Inspector Office of the District Food Controller Chitral

2 The DFC Chitral submitted all relevant documents with the report to the committee against Mukhtar Ahmed FGI. He took over the charge of PRC Drosh on 23-06-2010 and a stock of 27279 bags was received form his predecessor Mr. Rehmat Wali Foodgrain Supervisor now AFC Chitral. While leaving charge after his transfer from Drosh Centre, it was found that a quantity of. 58838 Kgs amounting to Rs.1470950/- was short in the stock under control /custody of the accused and no insect attack was detected at that time of Inspection by the then DFC Chitral Mr. Fazli Bari **(Annex-II)**

3 As per personal hearing / written reply to the statement of allegations of the accused before the enquiry committee the shortages occurred due to his negligence / incompetency of, Mr. Mukhtar Ahmed FGI **(Annex-III)**. It is evident that all kinds of possible measure were adopted by him but the short in wheat stock appeared at the end of handing over charge, so recovery of a quantity of. 58838 Kgs amounting to Rs.1470950/- of Government wheat stock is due against him.

conclusion

We, the enquiry committee arrived at the conclusion, that the charges /allegations against the accused Mr. Mukhtar Ahmad Foodgrain Inspector Office of District Food Controller, Chitral are proved and he is held responsible for the loss to Government wheat stocks / empty gunny bags. Therefore, the official may be preceded under the relevant law / rules.

Abdul Jalil
Assistant Director Food
Malakand Division.
Member of Enquiry Committee

Imtiaz Muhammad Khan
Assistant Director Food
Hazara Division.
Member of Enquiry Committee

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GOVERNMENT OF KHYBER PAKHTUN KHWA
DIRECTORATE OF FOOD
PESHAWAR
No 376 /PF-

Dated 16/January, 2018

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STATEMENT OF ALLEGATIONS

I, Nisar Ahmed, Director Food Khyber Pakhtunkhwa, being competent authority, am of the opinion that Mr. Mukhtar Ahmed Foodgrain Inspector Office of District Food Controller, Chitral has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011:-

As reported by the DFC Chitral that Mukhtar Ahmed FGI took over the charge of PRC Drosh on 23-06-2010 and a stock of 27279 bags were received form the predecessor Mr. Rehmat Wali Foodgrain Supervisor now AFC Chitral. While leaving charge after his transfer from Drosh Centre, it was found that a quantity of. 58838 Kgs amounting to Rs.1470950/- was short in the stock under control /custody of the said official.

An enquiry was conducted vide Food Directorate Office Order No. 10455/ET-Enquiry dated 24-10-212. The Enquiry Committee recommended that being Incharge of PRC Mr. Mukhtar Ahmed was required to adopt all possible precautionary measures to control infestation through apply of fumigants but he failed to protect the stock from losses / deteriorations.

The official had been demanding more and more wheat despite the fact, that huge quantity over and above the accommodation was dumped in the Godowns. He did not put the demand according to the requirements of the feeding sale points and stations, He while indicating to the seriousness of the situation suggested to impose ban on influx of atta from down Districts vide letter No. 473/2-1/FG dated 22-04-2010. As per enquiry report the shortages occurred due to negligence of the said official, sp recovery of Government wheat stock was due against him, but instead of the clearing the outstanding amount lingered on /delayed recovery on one or other pretext.

The District Food Controller Chitral has worked out the cost of wheat on the basis of issue price ie. 2500 per bags at that time, however the landed cost of the embezzled quantity at the rate of 42.499/- Per Kg an amount of Rs. 2.500 Millions for 58838 Kgs is outstanding against him . The official been held responsible for peculation from Government stock by the enquiry committee. Subsequently Mr. Mukhtar Ahmed FGI served with Show Cause Notice vide Food Directorate letter No. 6885/PF-1036 dated 26-11-2014 and directed for appearance before the competent authority along with reply to the Show Cause Notice for personal hearing vide letters No. 7227/PF-1036 dated 24-12-2014, No. 352/PF-1036 dated 13-01-2015 and No. 1251/PF-1036 dated 27-02-2015 on 19-03-2015 to proceed accordingly. During his personal hearing the official not only committed to deposit the outstanding but also confessed about taking money from his predecessor during handing / taking over of Godown during in 2010. He requested for clearing his position in the next hearing but never turn up deposit of notice is black & white.

The official was held responsible for embezzlement/ misappropriation of Government stocks worth Rs. 2.500 Millions and awarded the major penalty of removal from service with immediate effect vide Food Directorate Office Order No.2038/PF-1036 dated 21-04-2015

Whereas on appeal to the Khyber Pakhtunkhwa Service Tribunal by Mr. Mukhtar Ahmad Ex-Foodgrain Inspector against the penalty of his removal from service and acceptance of appeal as per Court decision dated 03-11-2017, Food Directorate office order for removal from service in respect of Mr. Mukhtar Ahmad FGI was set aside and approved de-novo proceeding under Khyber Pakhtunkhwa, Government Servants (Efficiency & Disciplinary) Rules, 2011 (Copy of decision dated 03-11-2017 is enclosed)

2 For the purpose of transcript inquiry against the said accused with reference to the above allegations and per Khyber Pakhtunkhwa Service Tribunal conclusion of the decision dated 03-11-2017 in case of Appeal No. 1078/2015 M/s Abdul Jalil Assistant Director Food, Malakand Division and Imtiaz Muhammad Khan Assistant Director Food, Hazara Division at Abbottabad are appointed as Inquiry Officers under rule 10 (1) (a) of the ibid rules.

3 The Inquiry Officers shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and within thirty days of the receipt of this order, put forth its findings so that appropriate action could be taken against the accused.

4 The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry committee.

DIRECTOR FOOD,
KHYBER PAKHTUNKHWA

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28

Endorsement No & date Even
A copy of the above is forwarded to:-

1) 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)

2) Mr. Imtiaz Muhammad Khan Assistant Director Food Hazara Division at Abbottabad 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) The District Food Controller, Chitral for information with the direction to produce all relevant record to the Enquiry Committee on the date/time place fixed by the committee for the purpose of the enquiry proceedings.

4) Mr. Mukhtar Ahmad Foodgrain Inspector Office of DFC Chitral 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.

DIRECTOR FOOD,
KHYBER PAKHTUN KHWA,
PESHAWAR.

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Annex-VIII

29

OFFICE OF THE
DISTRICT FOOD CONTROLLER,
UPPER CHITRAL.

No. 739 /3/4-ET
Dated: 28 /07/2021

To

The Director Food,
Khyber Pakhtunkhwa
Peshawar.

Subject: **RETIREMENT ORDER/APPLICATION.**
Memo:

Enclosed please find herewith a copy of application in respect to Mr. Mukhtar Ahmad Food Grain Inspector, of the undersigned office is sent for favorable consideration of retirement order with effect from 07-08-2021.

District Food Controller,
Upper Chitral.

Ends: No. & Date Even

Copy forwarded to Mr. Mukhtar Ahmad Food Grain Inspector, DFC Office Upper Chitral.

District Food Controller,
Upper Chitral.

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30

بخدمت جناب ڈائریکٹر صاحب محکمہ فوڈ KPK

بواسطہ: جناب DFC صاحب اپر چترال

جناب عالی۔ گزارش ہے کہ فدوی محمد
کہ مورخہ 8/7/2021 کو اپنے 60 سال پورے ہونے پر سروس سے ریٹائر ہو رہا
ہوں۔ لہذا گزارش ہے کہ میرے پنشن کا کاغذات داخل
کیا جائے۔

عین نوازش ہوگی۔

M Ahmad

ممتاز احمد
FG1
اپر چترال
7/1/2021

Attested to be true copy

Annex-X

31

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
Mr. Justice Gulzar Ahmed
Mr. Justice Maqbool Baqar

2. C.P.No.29-P of 2018

[Against the judgment dated 03.11.2017, passed by the Khyber Pakhtunkhwa Service Tribunal, Peshawar in Appeal No.1078 of 2015]

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar and others. ...*Petitioner(s)*

Versus

Mukhtar Ahmad. ...*Respondent(s)*

For the Petitioner(s) : Barrister Qasim Wadood, Addl.A.G. KP

For the Respondent(s) : Mr. Khalid Mehmood, ASC

Date of Hearing : 26.11.2019

ORDER

Gulzar Ahmed, J:- The respondent was given charge Wheat-stock by the petitioners and an amount of 58,838 KG of Wheat was found less in the stock, while the stock being in custody of the respondent. A preliminary enquiry was held in which certain observation regarding shortage of stock was made and the respondent was found negligent and it was also observed that recovery is also to be made from him. The department issued charge-sheet to the respondent, to which reply seems to have been submitted by the respondent, wherein he denied the charge. However, the competent authority proceeded to impose penalty upon the respondent that of removal from service and recovery of Rs.2.5 million. A criminal case was also initiated against the respondent regarding the shortage in the stock of Wheat, however,

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it is admitted that in the said case the respondent was acquitted. Tribunal, however, in the impugned judgment, has observed mere acquittal in the criminal case will not confer any right upon the respondent to seek exoneration in the departmental proceeding and thus, ordered the petitioner to hold *de novo* enquiry, where all matters relating to shortage of Wheat is threshed out.

2. We have noted from the enquiry report that though the respondent has been found negligent in his conduct for the occurrence of the shortage but perhaps some other employees also seem to be responsible and against them also proceedings need to be initiated by the petitioner. Consequently, while dismissing this petition, we observe that the petitioner shall conduct *de novo* enquiry and while doing so, examine the implication of other employees also.

Sd/-J

Sd/-J

Certified to be True

Senior Court Asso
Supreme Court of Pa
Islamabad

Bench-II
ISLAMABAD
26.11.2019
NOT APPROVED FOR REPORTING
Rabbani*/

SEAL OF THE SUPREME COURT OF PAKISTAN

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