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BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA, PESHAWAR

SECRET
KPST Peshawar

In Service Appeal No. 258/ 2024

Umer Saeed Chowkidar, District Food Office, Mansehra.....**APPELLANT**

VERSUS

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

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22-7-2024



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

In Service Appeal No. 258/ 2024

SCANNED
KPST Peshawar

Umer Saeed, Chowkidar, District Food Office, Mansehra.

.....APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Food
Department Peshawar
2. Director Food Khyber Pakhtunkhwa, Peshawar.
3. Deputy Director Food Hazara Division, Abbottabad.
4. District Food Controller, Mansehra.
5. Assistant Food Controller PRC, Centre Abbottabad Road,
Mansehra.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14393

Dated 19-07-2024

....RESPONDENTS

**PARA WISE COMMENTS ON BEHALF OF
RESPONDENTS NO. 1 TO 5**

Respectfully Sheweth;-

PRELIMINARY OBJECTIONS;-

- i. That the instant service appeal against order dated
25/07/2023 is time barred under section 4 of NWFP
Service Tribunal Act, 1974, hence, liable to be dismissed.

- ii. That the assertions of appellant are false, frivolous, concocted, fabricated and misleading.
- iii. That appellant has got no cause of action / locus standi to file the instant appeal.
- iv. That the instant service appeal is not maintainable in present circumstance of the issue hence not maintainable in eyes of the law.
- v. That appellant has not disclosed the facts in order to camouflage the guilt of theft of stealing 40 wheat bags from Govt. Godown, misleading the Honourable Service Tribunal.
- vi. That appellant has concealed material facts and has not come to the Honourable Tribunal with clean hands.
- vii. That instant appeal is groundless, based on mala fide assertions to mislead the Honourable Service Tribunal.
- viii. That appellant is estopped by his own conduct & is barred by law and limitations.

ON FACTS:-

The Parawise reply is submitted here under;

1. Pertains to record.
2. Pertains to record.
3. Incorrect & denied. The respondent No.5 never took any signature on blank papers from the appellant.
4. Incorrect & denied. The respondent No. 5 (AFC) caught the appellant and another accomplice red handed with 40 bags of stolen wheat bags (50 KG each) carrying in two Suzuki Ravi bearing No. Cr-5303 and C-5700 moving out of the Provincial Reserve Centre (PRC) Mansehra on 01/04/2023. Copy of report is (Annex-A).
5. Incorrect & denied. The appellant gave confessional statement of theft of wheat bags before respondent No.5 (AFC) in presence of the witnesses voluntarily, without any coercion and / or undue influence (Annex-B). Besides, video recording of confession is also available as evidence on record.

6. The respondent No. 5 (AFC) prepared a report of the incident & reported the matter to high ups. Consequently, respondent No.3 (Deputy Director Food) suspended the appellant and constituted an inquiry committee to probe the matter in detail (**Annex-C & D**).

7. The respondent No. 3 (DDF) issued & served charge sheet to the appellant on 01/04/2023 (**Annex-E**) and the inquiry committee was constituted upon the recommendation of respondent No. 4 (DFC Mansehra) (**Annex-F**). However, due to refusal of one committee member and to give a chance of fair trial to appellant as enshrined in the constitution of Islamic Republic of Pakistan, 1973, the inquiry committee was reconstituted on 14/04/2023 to meet the ends of justice to the entire satisfaction of appellant.

8. Incorrect. The contents of the statement pertain to record, however the statement given is fabricated, story based on surmises and conjectures. The appellant himself confessed the theft. Additionally, Muhammad Ishaq and Muhammad Ilyas, both working as Chowkidars in office of respondent No. 4 are witness to the theft and submitted their written statement regarding the events (**Annex-G**)

(48)

(5)

9. That the show cause notice was issued by respondent No. 3 (Deputy Director Food) as per rules, containing charge of theft of 40 bags of wheat (50 KG each) loaded in two Suzuki Ravi bearing No. CR-5303 & C-5700 moved out of the premises of PRC Mansehra. The respondent No.5 (AFC) chased the vehicles and caught the appellant red-handed at Shinkiari Road Mansehra. The vehicles were moved back to PRC premises with all stock of "stolen wheat" was recovered by the respondent No.5 (AFC).

10. That content of Para-10 is partially correct to the extent that reply of show cause notice dated 17-07-2023 by the appellant was false, incorrect, collusive and evasive just to conceal and camouflage his guilt of theft.

11. Incorrect & denied. The appellant was given a chance of personal hearing, production of evidence and proper opportunity of cross examination etc as per law.

12. Incorrect & denied. An opportunity of personal hearing was given to the appellant on dated: 21-07-2023 (Annex-H) whereby, previously recorded confessional statement in the presence of witnesses, video recording of confession before respondent No. 4 and other inquiry committee findings and

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vehicles involved was driven by the appellant while 2nd vehicle was driven by another accomplice namely Zulqurnain (Ex-Chowkidar of PRC) who has also been removed from service after affording opportunity of being heard and in accordance with due process of Law.

- c. Incorrect & denied. The stock of wheat in Godown No. 6 was stolen by the appellant on 01/04/2023 and was subsequently recovered from the custody of appellant by Respondent No.5 (AFC).
- d. Incorrect & denied. Inquiry Committee was constituted, charge sheet was served upon, reply evidence of appellant were taken, statement evidence were recorded and due process of Law was followed before awarding punishment, however, the appellant badly failed to prove his innocence.
- e. Incorrect & denied. No evidence was produced to prove personal grudges against respondent No. 5 (AFC) to the inquiry committee and / or at any forum. Furthermore, the appellant never accused respondent No. 5 regarding his personal grudges with the appellant in his reply to the show cause or in his departmental appeal.
- f. Para-(i) is incorrect. Hence, denied.

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(8)

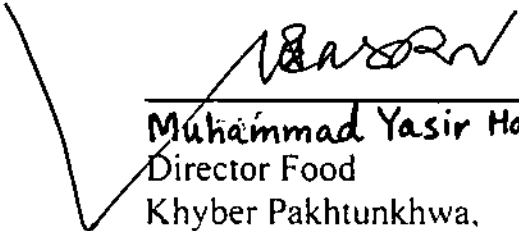
PRAYER:-

It is therefore humbly prayed that instant appeal is incompetent, frivolous, false and is time barred may graciously be dismissed with cost and / or provide any other consequential relief which the appellate authority deems fit & appropriate to the meet the ends of justice & equity.

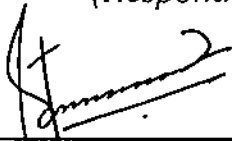
Dated: _____ /2024




ASHFAQ AHMAD
Secretary to Government of
Khyber Pakhtunkhwa,
Food Department, Peshawar.
(Respondent No.1)



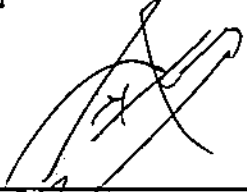
Muhammad Yasir Hassan
Director Food
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.2)



Shewaz Tariq
Deputy Director Food
Hazara Division, Abbottabad
(Respondent No.3)



Uzma Kanwal
District Food Controller,
Mansehra.
(Respondent No.4)



Israr Ahmed Khan
Assistant Food Controller PRC,
Abbottabad Road, Mansehra.
(Respondent No.5)

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

In Service Appeal No. 258/ 2024

Umer Saeed Chowkidar, District Food Office, Mansehra.

.....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Food Department
Peshawar & others.

....RESPONDENTS

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 5

AFFIDAVIT

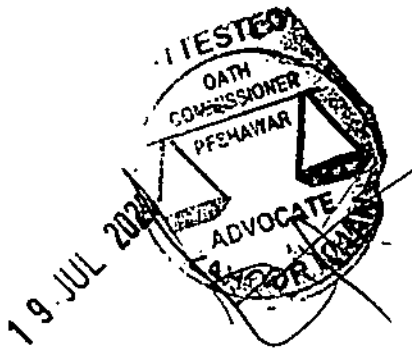
I, Mr. Shewaz Tariq, Deputy Director Food Hazara Division,
Abbottabad (Respondent No. 03), do hereby solemnly affirm and declare that all the
contents are true & correct to the best of my knowledge and belief and nothing has been
concealed or withheld from this Honorable Tribunal.

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

NIC No. 13101-0792960-5

Cell No. 0312-4555171



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FOOD DEPARTMENT
KHYBER PAKHTUNKHWA
PESHAWAR

AUTHORIZATION

Mr. Ashfaq Ahmad, Additional Secretary, Govt of Khyber Pakhtunkhwa Food Department is hereby authorized to sign Para-wise comments in **Service Appeal No. 258 of 2024** titled **Umer Saeed V/S Government of Khyber Pakhtunkhwa & others** on behalf of Secretary to the Govt. of Khyber Pakhtunkhwa Food Department.



(ZARIF UL MANI)

SECRETARY TO THE
GOVT. OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT
(RESPONDENT NO.1)

SECRETARY FOOD
GOVT. OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

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FOOD DEPARTMENT
KHYBER PAKHTUNKHWA
PESHAWAR

AUTHORITY

Mr. Wajdan Rahmad, Assistant Director Food, Food Directorate Khyber Pakhtunkhwa is hereby authorized to submit Para-wise comments before the Honourable Service Tribunal Khyber Pakhtunkhwa in **Service Appeal No. 258 of 2024** titled **Umer Saeed V/S Government of Khyber Pakhtunkhwa & others** on behalf respondents No. 1 to 5.

SECRETARY TO THE
GOVT. OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT
(RESPONDENT NO. 1)

SECRETARY FOOD
GOVT. OF KHYBER PAKHTUNKHWA
FOOD DEPARTMENT

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میں صبحی محمد سعید - اور ذوالقرنین خانم بیابا پٹر پورہ
 صرف 1 4/2023 - کورٹ کی جرح کو 10 ڈیوٹی پر تھے
 اور 12-15 بجے گورڈا سے 2 گاڑیاں سزائی گزرا
 چورس کی اور اسے پھینکے گئے ہیں وہاں سے پہلے AFC
 جگہ سے بھی رنگے پائپوں پکڑ لیا اور ٹرک واپسی
 گورڈا میں سے آئے اور الپاسا اور اسحاق کو بھی جوڑ
 پیر بک لیا ہم اصرار کرتے ہیں کہ وہ غلطی ہم سے سرزد
 نہیں کی ہے اور ہم اسی کے لیے معذرت خواہ ہیں
 اور گورڈا میں کئی پیشی کے نظارہ ہیں

ذوالقرنین ولد نزارت

13503-8819006-1

عمر سعید ولد محمد سعید

13101-6693317-1

Fuqain

1-4-2023

Umer Saeed

1-4-2023

محمد اسحاق ولد سعید
 13503-7810942-1

گودہ الپاسا ولد خواجہ محمد
 13503-1452042-9

محمد اسحاق
 1 4/2023

AS
 1 4/2023

Attested


(57)

Answer - C

(14)



Office Of The
Deputy Director Food
Hazara Division Abbottabad
No. 1032-35 Et-02
Dated. 01/04/2023

OFFICE ORDER:

On initiation of inquiry proceedings under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, Mr. Umar Saeed (chowkidar) and Mr. Zulqarnain (chowkidar) office of the District Food Controller Mansehra, both are hereby suspended from their duties with immediate effect till further orders.

SHEWAZ TARIQ
DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD

A copy is forwarded to:-

1. Director Food Khyber Pakhtunkhwa Peshawar for information please.
2. District Food Controller Mansehra for information.
3. Officials concerned.
4. Master file/Et-02

SHEWAZ TARIQ
DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD

Attest

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OFFICE OF THE
DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD
Phone & Fax No.0992-9310296
No. 1028-32 / (ET-02)
Dated:- 01-04-2023

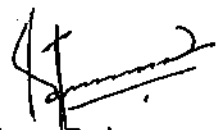
OFFICE ORDER:

Under section 10 (1) (a) of E&D Rules Khyber Pakhtunkhwa ibid ,an Inquiry Committee has been constituted hereby comprising of,Mr.Shad Muhammad District Food Controller, Abbottabad and Mr Shokat , Assistant Food Controller PRC Haripur,as inquiry officers in the inquiry of Mr. Zulqarnain Chowkidar & Mr .Umar Saeed chowkidar, office of the District Food Controller Mansehra , charged with the allegations of abandoning the PRC during their duty hours in connection with the government wheat stock theft .

The inquiry committee is required to conduct the inquiry in the light of E&D & Civil Servants Conduct Rules and submit report to the undersigned.

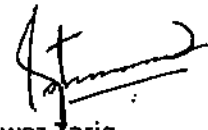
Mr Zulqarnain Chowkidar and Mr.Umar Saeed Chowkidar office of the District Food Controller Mansehra are hereby suspended from duties with immediate effect till further orders.

(Copy of charge sheets enclosed)


Shehwaz Tariq
Deputy Director Food
Hazara Division Abbottabad

Copy is forwarded to:-

1. The Director Food, Khyber Pakhtunkhwa, Peshawar for information please.
2. The District Food Controller, Mansehra for information with reference to her official letter No.576/ET Mansehra dated 01/04/2023 and to facilitate the inquiry committee.
3. District Food Controller Abbottabad for information and necessary action.
4. Mr Shokat AFC PRC Haripur for information and necessary action.
5. Mr. Shokat Zaman Assistant office of the DFC Mansehra is nominated as departmental representative to aid the inquiry proceedings.
6. Mr Zulqarnain and Mr.Umar Chowkidars for information.


Shehwaz Tariq
Deputy Director Food
Hazara Division Abbottabad

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DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD
Phone & Fax No.0992-9310296
No. 1026 / (ET-02)
Dated:- 01-04-2023

CHARGE SHEET

I, Shewaz Tariq, Deputy Director Food Hazara Division Abbottabad, as competent authority hereby charged you (Umar Saeed, Chowkidar DFC Office Mansehra) as follows:

That you are posted in the office of District Food Controller Mansehra and assigned watch and ward duties (night shift) at PRC Mansehra, as per duty roaster, committed the following irregularities:-

1. The District Food Controller Mansehra vide his letter No. 576 ET-Mansehra dated 01/04/2023, has submitted findings of initial report which transpires as follows:-

" It is reported that on 1st April 2023 about 12:30 A.M, two on duty Chowkidars namely Umer Saeed and Zulqarnain were on duty who broke open the locked door of Godown No.06 and took 40 bags/50 KG of government stock of wheat which was loaded in two Suzuki Ravi CR 5303 & C 5700 and moved out of PRC premises. The AFC PRC Mansehra conducted chase of the vehicles and intercepted them at Shinkari road. The vehicles were moved back to the PRC premises where these chowkidars were confined & inquired about this act.

Following were the initial findings:-

- a. The above nominated accused chowkidars were on duty of watch and ward, in PRC Mansehra as per duty roaster but they abandoned the PRC on duty hours and drove these vehicles loaded with this stolen wheat themselves.
- b. The vehicles involved were being driven by the same persons.
- c. All the stock of theft wheat had been recovered by AFC PRC.
- d. Statement of confession have been taken from the accused whereby they have confessed their offence."

By reason of the above, you appear to be guilty of inefficiency, misconduct & corruption, under rule-3 of the Khyber Pakhtunkhwa Government Servants Efficiency & Discipline Rules 2011 which rendered you liable to major penalty specified in rule -4 of the ibid rules. Therefore an inquiry committee is constituted for the purpose of inquiry comprising of Mr. *Shad Muhammad* District Food Controller Abbottabad and Mr. *Shokat Sultan* AFC PRC Haripur as inquiry officers.

2. Your written defense, if any, should reach the inquiry officer within the specified period, failing which, it shall be presumed that you have no material in your defense and, in that case, ex-parte action shall be taken against you.
3. Please also intimate whether you desire to be heard in person or otherwise.

Attested

Shewaz Tariq
Deputy Director Food
Hazara Division Abbottabad

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OFFICE OF THE
DISTRICT FOOD CONTROLLER
Mansehra
No. 576/ET Mansehra
Dated. 01/04/2023

To,
THE DIRECTOR FOOD
KHYBER PAKTHUNKHWA
PESHAWAR .

Subject : REPORT OF WHEAT THEFT ISSUE FROM PRC MANSEHRA

Memo: With reference to the initial report submitted by Mr Israr Khan AFC PRC Mansehra regarding the wheat theft of wheat issue from PRC Mansehra dated 01/04/2023.

It is reported that on 1st April 2023 about 12:30 Am ,two on duty Chowkidars namely Umer Saeed and Zulqarnain were on duty who broke open the locked door of Godown No 06 and took 40 bags/50 KG of government stock of wheat which was loaded in two Suzuki Ravi CR 5303 & C 5700 and moved out of PRC premises .The AFC PRC Mansehra conducted chase of the vehicles and intercepted them at Shinkari ROAD.The vehicles were moved back to the PRC premises where these chowkidars were confined & inquired about this act .

Following were the initial findings :-

1. The above nominated accused chowkidars were on duty of watch and ward, in PRC Mansehra as per duty roaster but they abandoned the PRC on duty hours and drove these vehicles loaded with this stolen wheat themselves.
2. The vehicles involved were being driven by the same persons.
3. All the stock of theft wheat had been recovered by AFC PRC.
4. Statement of confession have been taken from the accused whereby they have confessed their offence.

The matter is being brought into your kind notice and has also been taken up with Deputy Director Food Office Hazara Division for further disciplinary action at their end.

*Report submitted please.

DISTRICT FOOD CONTROLLER
MANSEHRA

A copy is forwarded to :

1. Deputy Commission Mansehra for information please .
2. Divisional Deputy Director Food Hazara Division for information with request to conduct formal enquiry as per rules please .
3. Assistant Food Controller PRC Mansehra for information .

Attested

DISTRICT FOOD CONTROLLER
MANSEHRA

Accepted

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13503-710942-1

11/11/2019

11/11/2019



11/11/2019

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OFFICE OF THE
DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD

No. 1509-11/ET-02 Dated. 19 / 07 / 2023

0992-9310296

M dadfood607@gmail.com

DadfHazara

To,

Mr. Umar Saeed Chowkidar,
DFC Office Mansehra.

Subject: - SHOW CAUSE NOTIC / PERSONAL HEARING.

Memo:-

In continuation to this office letter No.1497-99/ET-02 dated 17-07-2023.

Due to the public holiday of 1st Muharram-Ul-Haram on dated 20-07-2023.

Now, you are directed to appear before the competent authority for personal hearing on 10:00 A.M dated 21/07/2023 to proceed further in the matter.

DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD

Copy forwarded to:-

1. The Director Food Khyber Pakhtunkhwa Peshawar for information please.
2. The District Food Controller Mansehra, for information, with the direction to serve this notice to Mr. Umar Saeed (Chowkidar) and ensure his presence before the competent authority for personal hearing please.

Attested

DEPUTY DIRECTOR FOOD
HAZARA DIVISION ABBOTTABAD