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**IN THE COURT OF REHMIAT ULLAH WAZIR,**  
**CIVIL JUDGE-I ORAKZAI AT BABER MELA**

Civil Suit No. 58/1 of 2019  
Date of Institution: 16/07/2019  
Date of Decision: 10/06/2020

*1. Mir Qalam S/O Mir Abdullah Khan R/O Qom Utman  
Khel, Jalaka Mela, Tehsil Lower, District Orakzai.*  
*(Plaintiff)*

**VERSUS**

*1. Deputy Commissioner Orakzai  
2. Assistant Commissioner Lower Orakzai  
3. Accountant to Deputy Commissioner Orakzai.*

*(Defendants)*

**SUIT FOR RECOVERY AFTER RENDITION OF ACCOUNTS  
AND RECOVERY OF ONE MONTH SALARY.**

**JUDGEMENT:**

Plaintiff Mir Qalam has brought the instant suit for recovery after rendition of accounts and recovery of one month salary against defendants, Deputy Commissioner Orakzai, Assistant Commissioner Lower Orakzai and Accountant, DC Orakzai seeking therein the recovery of the expenses for the month of March, 2015 and October, 2018, which he spent as a food supplier to the prisoners in the Jail, Orakzai at the rate of Rs. 150/Day for each prisoner. That the Defendants used to pay him the amount every month after rendition of accounts but they have stopped the payment of the expenses incurred on the food supply for the month of March, 2015 and October, 2018, which is unlawful and ineffective upon the rights of the plaintiff and the plaintiff is

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entitled to its recovery after rendition of accounts with prevalent rate of interest. That the defendants have also not paid him the last salary for the month of October, 2018 which is still outstanding. That the defendants were asked to admit the claim of the plaintiff but they refused hence the present suit.

Defendants were summoned, who appeared before the court through their representative and contested the suit by filing their written statement.

Divergent pleadings of the parties were reduced into the following issues;

**Issues:**

1. Whether the plaintiff has got any cause of action?
2. Whether the plaintiff is estopped to sue?
3. Whether the suit of the plaintiff is time barred?
4. Whether the plaintiff was given the contract of the supply of Ration to the prisoners of Kalaya Jail and therefore, entitled for the recovery of an amount of Rs. 150/day per prisoner for March, 2015 and October, 2018 along-with prevailing interest rate after rendition of accounts?
5. Whether the plaintiff is entitled to the recovery of the salary for the month of October, 2018 alongwith prevailing interest rate?
6. Whether the plaintiff is entitled to the decree as prayed for?
7. Relief?

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Parties were given an opportunity to produce evidence which they did accordingly.

Issue wise findings of this court are as under: -

**Issue No. 02:**

The defendants in their written statement raised the objection that the plaintiff is estopped to sue but later on failed to prove the same, hence, the issue is decided in negative.

**Issue No. 03:**

The defendants in their written statements raised their objection that suit of the plaintiff is time barred but I am the opinion that as per Article 120 of the Limitation Act, 1908 there is a period of 06 years for the institution of such like suits but the aforesaid Limitation Act, 1908 is extended to the erstwhile FATA on 31/05/2018 through the 25th Constitutional amendment and the same has become operational from the aforesaid date while the instant suit has been filed on 16-07-2019. Thus, the same is well within time. The issue is decided in negative.

**Issue No. 04 and 05:**

Both these issues are interlinked, hence, taken together for discussion.

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Plaintiff alleged in his plaint that he was given the contract of food supply to the prisoners in the prison at Kalaya, L/Orakzai at the rate of Rs. 150/day/prisoner. That the Defendants used to pay him the amount every month after rendition of accounts but they have stopped the payment of the expenses incurred on the food supply for the month of March, 2015 and October, 2018, which is unlawful and ineffective upon the rights of the plaintiff and the plaintiff is entitled to its recovery after rendition of accounts with prevalent rate of interest. That the defendants have also not payed him the last salary for the month of October, 2018 which is still outstanding. That the defendants were asked to admit the claim of the plaintiff but they refused hence the present suit.

The plaintiff produced witnesses, in whom Mr. Rafi Ullah, Accountant, DC Office, Orakzai appeared as PW-01, who produced the Dietary Charges Bill of the plaintiff for the month of March, 2015 which is Ex.PW 1/1, the letter of the then APA, L/Orakzai with respect to the Dietary Charges Bill of the plaintiff to the then PA, Orakzai for sanction which is Ex.PW 1/2, the dietary charges bill of the plaintiff for the month of October, 2018 which is Ex. PW 1/3, the letter of the then PA, Orakzai with respect to the Dietary Charges Bill of the plaintiff to the then Secretary Law and Order, FATA Secretariat, Peshawar for sanction which is Ex.PW 1/4, the

  
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retirement order and salary slip of the plaintiff which is EX.PW 1/5. That according to their record, the plaintiff has not received the salary from 01.10.2018 to 23.10.2018, the copy of the source-2 which is EX.PW 1/6, the paid dietary charges bill of the plaintiff for the month of Feb, 2015, which is EX.PW 1/7, whereby the plaintiff has received an amount of Rs. 112140/-. This witness has been cross-examined but nothing tangible has been extracted out of him during cross examination. Further, Mr. Mehboob, DSP Headquarter Kalaya appeared as PW-02, who produced different letters and applications with respect to the subject matter, which is EX.PW 2/1 and further fully supported the stance of the plaintiff by narrating the same story as in the plaint. This witness has been produced for cross-examination but no cross-examination has been conducted of him. Further, Mr. Lahore Khan, the cook of the plaintiff appeared as PW-04 and supported the stance of the plaintiff. Further, Mr. Wajid Khan, the cook of the plaintiff appeared as PW-05, who supported the stance of the plaintiff by narrating the same story as in the plaint. He has been cross-examined but nothing tangible has been extracted out of him during cross-examination. Further, Mir Qalam, the plaintiff himself appeared as PW-06 and who narrated the same story as in his plaint. He has also been cross-examined but nothing solid has been extracted out of him during cross-examination.

  
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In order to counter the claim of the plaintiff, the defendants produced witnesses in whom Mr. Qasim Gul appeared as DW-01 and stated that he is the contractor of the supply of food to the prisoners at prison and he has an outstanding amount of Rs. 60,00,000/- against the government in this respect. That he has no knowledge of the food supply to the prisoners by the plaintiff. That the suit of the plaintiff is wrong and baseless. During cross examination, he admitted that it is correct that he did not supply food to the Kalaya Jail when he was contractor of the food supply rather it was Mehboob and others who did supply of food. Further, Mr. Rafi Ullah , Accountant DC, Office, Orakzai, the defendant No.03 for himself and as a representative of the other defendants appeared as DW-02, who stated that in documents , the contract of food supply is with one Qasim Gul but as there was political system at that time, where everything was to be done through the attested documents of the then APA. Further that there are 02 bills of the plaintiff with respect to the Kalaya Jail pending with us for which we have contacted the Government and all the contractors will be paid their outstanding amount whenever the funds are available. During cross examination, he admitted that it is correct that the suit of the plaintiff with respect to the payment of the bills for the month of March, 2015 and Oct,

  
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2018 is genuine and he has no objection if the suit of the plaintiff is decreed to this extent.

Arguments heard and record perused.


After hearing of arguments and perusal of the record, I am of the opinion that the plaintiff established his case through oral and documentary evidence to the extent of prayer "Alif" and over and above this, the claim of the plaintiff has been admitted by the DW-02 to the extent of prayer "Alif" while the plaintiff failed to establish his claim to the extent of prayer "Bay".

Thus in the light of the aforesaid findings, the issued No.04 is decided in positive while the issue No. 05 is decided in negative.

**Issue No.01 and 06:**

Both these issues are interlinked, hence, taken together for discussion.

As sequel to my findings on issue No. 4 and 05, the plaintiff has got a cause of action and therefore entitled to the decree as prayed for only to the extent of relief claimed in prayer "Alif" while he is not entitled to the decree as prayed for to the relief claimed in prayer "Bay". Both these issues are decided accordingly.

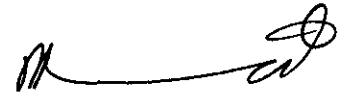
  
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**RELIEF:**

As sequel to my above issue wise findings, the suit of the plaintiff is hereby decreed as prayed for to the extent of prayer "Alif" while dismissed to the extent of prayer "Bay" with no order as to costs.

File be consigned to the Record Room after its completion and compilation.

**Announced**  
10/06/2020



**(Rehmat Ullah Wazir)**  
Civil Judge-I,  
Orakzai at Baber Mela.

**CERTIFICATE**

Certified that this judgment of mine consists of 08 pages, each has been checked, corrected where necessary and signed by me.



**(Rehmat Ullah Wazir)**  
Civil Judge-I,  
Orakzai at Baber Mela.