

IN THE COURT OF SHAUKAT AHMAD KHAN
DISTRICT JUDGE, ORAKZAI (AT BABER MELA)

CIVIL REVISION NO. : 17/13 OF 2023
DATE OF INSTITUTION : 06.09.2023
DATE OF DECISION : 26.10.2023

1. DEPUTY COMMISSIONER, DISTRICT ORAKZAI
2. ACCOUNTANT, DEPUTY COMMISSIONER OFFICE, ORAKZAI
3. PROVINCIAL GOVERNMENT KHYBER PAKHTUNKHWA
THROUGH HOME SECRETARY

.....(APPELLANTS)

-VERSUS-

KASHMIR KHAN S/O MAJOR ALI BAZ KHAN, CASTE ALI
KHEL, TEHSIL UPPER, DISTRICT ORAKZAI PRESENTLY
RESIDING AT AL-ZAHRA TOWN RAISAN DISTRICT HANGU

..... (RESPONDENT)


Present: District Attorney Fayyaz Ahmad for appellants.
: Mudassir Ijaz Advocate for respondent.

JUDGMENT

26.10.2023

Impugned herein is the judgment/decreed dated
25.07.2023 of learned Senior Civil Judge, Orakzai vide which
suit of the respondent/plaintiff has been decreed as prayed for.

- (2). Through a suit before the learned trial court, the
respondent/plaintiff being Incharge Levi Khasadar, Sub Jail
Baber Mela, Orakzai Headquarter, in pursuance of verbal
directions of the then Deputy Commissioner Orakzai
(appellant/defendant no. 1) has provided food to the inmates of
the Sub Jail at the rate of Rs. 140/- per head from July to
November, 2017, amounting to Rs. 672,840/-, liable to be paid
by the appellants/defendants. The appellants/defendants were
summoned who appeared before the learned trial court through
District Attorney and submitted written statement wherein
besides raising various legal and factual grounds, they contended


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that neither the respondent/plaintiff was a contractor nor any such record of providing food to the inmates of jail, is available with him. Pleadings of the parties were culminated into the following issues;

- I. Whether the plaintiff has got cause of action?
- II. Whether the plaintiff is estopped to sue?
- III. Whether the plaintiff is entitled to the recovery of an amount of Rs. 672,840/- as expenditure of food, from July 2017 to November 2017, provided by him to the prisoners in Judicial Lock-up, Orakzai at Baber Mela?
- IV. Whether the plaintiff is entitled to decree as prayed for?
- V. Relief.


(3). Parties were given opportunities to provide evidence.

Accordingly, respondent/plaintiff appeared in the witness box as PW-6 while Gul Mand Khan, Serab Hussain, Roman Khan, Sahib Zameer and Rafi Ullah were also examined as PW-1 to PW-5 respectively. On the other hand, appellants/defendants examined Muhammad Fareed, Assistant Accountant, Deputy Commissioner Orakzai as DW-1.

After closure of evidence of both the parties, the learned trial heard the arguments and decreed the suit of the respondent/plaintiff. The appellants/defendants, being aggrieved of the impugned judgement/decree, filed the instant appeal.

(4). I heard arguments and perused the record.

(5). Perusal of case file shows that the contentions of the respondent/plaintiff as per pleadings is, that he was employee of Orakzai Levy force and has retired from service as Sub-Major in


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February, 2018 that in 2017 he was posted as Incharge Levy-Khasadar at Sub-Jail, Orakzai at Baber Mela Hangu. The appellants/defendants in their written statement have neither denied the factum of the employment of respondent/plaintiff nor the factum of respondent/plaintiff being employed as Incharge Levy-Khasadar at Sub-Jail Orakzai at Baber Mela Hangu. The contention of the respondent/plaintiff is also supported by Pension-Roll Data Sheet Ex. PW 6/1 available on file. It is also admitted on record that no contract for supply of food to the inmates of jail was allotted to any contractor from July 2017 to November 2017. It is also not disputed between the parties that respondent/plaintiff being Incharge of Sub-jail, Orakzai at Baber Mela Hangu has provided food to the inmates of jail from July 2017 to November 2017. The factum of supply of food by the respondent/plaintiff to the inmates of jail for the above-said period is supported by statements of PW-1 and PW-2 who were posted at Sub-jail, Orakzai Baber Mela Hangu during the aforementioned period, statement of PW-3, the cook at Police-Line Orakzai Baber Mela Hangu, Sahib Zameer, a constable in police department who had supplied food to the inmates of jail on behalf of the respondent/plaintiff. The number of the inmates of jail is proved from the record of Sub-jail, Orakzai available on file as Ex. PW 5/9. All the record/bills are duly countersigned by the then Assistant Political Agent Upper Orakzai. So far, the rate of the food per person is concerned, in this respect the contract

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for June 2016 to June 2017 was awarded at the rate of Rs. 140/- per person as evident from supply order of the then Political Agent, Orakzai Ex. PW 5/1. Similarly, the contract from December 2017 to June 2018 has also been awarded at the rate of Rs. 140/- per person, as evident from supply order of the then Political Agent, Orakzai Ex. PW 5/1.

(6). Hence, in view of what is discussed above, the suit of respondent/plaintiff is proved through reasonable and cogent evidence. The findings of the learned trial court need no interference; hence, the instant appeal is dismissed with cost. File of this court be consigned to record room. Copy of this judgment be sent to the learned trial court for information.

Pronounced
26.10.2023



(SHAUKAT AHMAD KHAN)
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CERTIFICATE

Certified that this judgment consists of four (04) pages.

Each page has been read, corrected wherever necessary and signed by me.

Dated: 26.10.2023


(SHAUKAT AHMAD KHAN)
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