

7<sup>th</sup> July, 2022

Appellant in person present.

Counsel are on strike. To come up for preliminary hearing on 08.09.2022 before S.B.



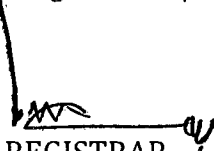

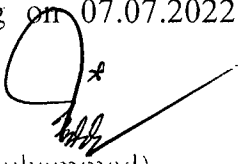
(Kalim Arshad Khan)  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 834/2022 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/05/2022	<p>The appeal of Mr. Imran Khan resubmitted today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	1/6/2022	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>21-06-2022</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	21.06.2022	<p>Learned counsel for the appellant present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for preliminary hearing on 07.07.2022 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

The appeal of ~~Mst.~~ Imran Khan Ex-Constable No. 1394 District Police Kohat received today i.e. on 13.05.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Copy of revision petition mentioned in the memo of appeal is not attached with the appeal which may be placed on it.

No. 1056 /S.T,


Dt. 16/5 /2022

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Yasir Saleem Adv. Pesh.

Resr, Objctn 1 and 2 has been fulfilled  
whereas objection; it has been mentioned  
in the para that revisional order  
and not revision petition and the  
Revision order has been annulled. So  
this objctn be removed please.

Resubmitted after complete.

  
Yasir Saleem  
A.H.C

BEFORE THE KHYBER PUKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR

Service Appeal No. 834 2022

Imran Khan, Ex-Constable No. 1394 District Police Kohat.

.....APPELLANT

V/S

1. The Provincial Police Officer, Khyber Pakhtunkhwa.
2. The Regional Police officer, Kohat Region.
3. The District Police Officer, Kohat.

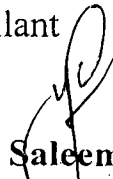
.....RESPONDENTS

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Through:

Appellant

  
Yasir Saleem  
Advocate High Court,  
Peshawar

①

**BEFORE THE KHYBER PUKHTUNKHWA SERVICES  
TRIBUNAL, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2022

**Imran Khan**, Ex-Constable No. 1394 District Police Kohat.

.....APPELLANT

V/S

1. The Provincial Police Officer, Khyber Pakhtunkhwa.
2. The Regional Police officer, Kohat Region.
3. The District Police Officer, Kohat.

.....RESPONDENTS

**SERVICE APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED ORDER DATED 21.06.2021,  
WHEREBY THE APPELLANT HAS BEEN AWARDED  
THE MAJOR PUNISHMENT OF COMPULSORY  
RETIREMENT FROM SERVICE AGAINST WHICH HIS  
DEPARTMENTAL APPEAL DATED 04.08.2021 AND  
MERCY PETITION DATED 27.09.2021 HAVE BEEN  
DISMISSED / REJECTED VIDE ORDERS DATED  
09.09.2021 & 04.04.2022 RESPECTIVELY.**

**PRAYER:**

On acceptance of this appeal the impugned order dated 21.06.2021 and appellate orders dated 09.09.2021 & 04.04.2021 may please be set aside and the appellant may kindly be reinstated into service with all back benefits.

Respectfully Sheweth.

**FACTS:**

1. That the appellant was initially appointed as Constable vide its office order dated 17.11.2010 after having qualified the test and also undergone the physical test and was successful in physical test also. *(Copy of Police I.D Card is attached as annexure A).*
2. That after appointment the appellant took charge of his post and started performing his duties.

3. That while performing his duties in the said capacity, the appellant fell ill due to some depression disease and addiction and was therefore admitted for medical treatment as Islamia Medical Centre Islamabad. *(Copies of medical prescriptions are attached as annexure B)*.  
*certificate of*
4. That the appellant was proceeded departmentally in absentia. Charge sheet was though served. However never communicated to the appellant. *(Copy of charge sheet is attached as annexure C)*.
5. That a partial inquiry was also conducted in the matter however, without associating the appellant and without enduring to dig out the truth the inquiry officer recommended the appellant for appropriate punishment.
6. That final show cause notice dated 03.06.2021 was served upon the father of the appellant which was also replied by his father because at the relevant time he was admitted in hospital. *(Copy of final show cause notice dated 03.06.2021 & reply are attached as annexure D&E)*.
7. That without considering the defence reply, the appellant was awarded the major punishment of compulsory retirement from service vide office order dated 21.06.2021. Feeling aggrieved the appellant preferred his departmental appeal dated 04.08.2021, however the same was also dismissed vide order dated 09.09.2021. *(Copy of office order dated 21.06.2021, departmental appeal and appellant order dated 09.09.2021 are attached as annexure F, G & H respectively)*.
8. That the appellant also preferred his mercy petition by invoking rule 11-A of Khyber Pakhtunkhwa Police Rules 1975, however the same was also rejected vide order dated 14.04.2022 by upholding the appellate order. *(Copy of revisional order dated 14.04.2022 is attached as annexure I)*.
9. That the impugned orders as well as appellate and revisional order are illegal, against the facts and liable to be set aside inter alia on the following grounds.

### GROUND OF SERVICE APPEAL

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law and constitution is badly violated.
- B. That no proper procedure has been followed before the major penalty dated 23.06.2021, no charge sheet has been communicated to the appellant nor any regular inquiry has been conducted. Only a fact finding was conducted and that too in a very partial and biased manner, thus the impugned order is liable to be set aside on this score alone.
- C. That even in the impugned order, it was never denied that the appellant was having genuine problem due to which he was admitted into the hospital and no malafide was attributed to the appellant. Therefore on mere absence from duty and that too was due to genuine reasons the major penalty was quite harsh and did not commensurate to the magnitude of guilt.
- D. That alongwith the show cause notice the findings of inquiry committee was not attached nor it was ever provided to the appellant, thus without complying the mandatory requirement of law the impugned order was passed which is nullity in the eye of law and ineffective upon the rights of appellant.
- E. That appellant through out the period remained in the hospital i.e. Islamic Medical Islamabad for his medical treatment and rehabilitation and to that effect a proper certificate was also issued by the hospital on 03.08.2021. *(Copy of certificate is attached as annexure J).*
- F. That findings of the inquiry report was not provided to the appellant and as such he was not provided fair opportunity to defend himself and as such the impugned order is defective and liable to be set aside.
- G. That the appellant have never committed any act or omission which could be termed as misconduct, albeit he was awarded major penalty of compulsory retirement.

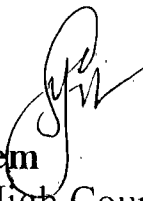
(4)

- H. That the appellant is young and energetic and wants to service for his department albeit he has been awarded the major penalty. It is also pertinent to mention here that the appellant belongs to a poor family and the only earning hand of ailing parents and due to the penalty he is exposed to financial problems.
- I. That the appellant seek permission to advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of this appeal the impugned order dated 21.06.2021 and appellate orders dated 09.09.2021 & 04.04.2021 may please be set aside and the appellant may kindly be reinstated into service with all back benefits.

Any other relief as deemed appropriate in circumstances of the case, not specifically asked for, may also be granted to the appellant.

Through: Appellant

  
Yasir Saleem  
Advocate High Court,  
Peshawar

***Certificate:-***

It is certify that no such like Service Appeal has earlier been filed by the Appellant in this Honourable Tribunal.

  
ADVOCATE.

**AFFIDAVIT**

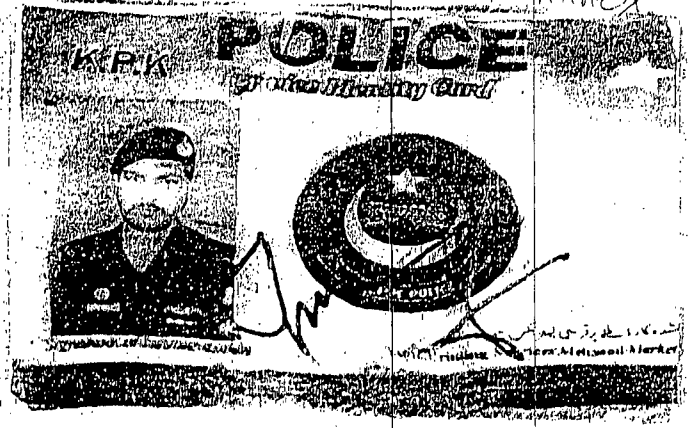
I, **Imran Khan**, Ex-Constable No. 1394 District Police Kohat, do hereby solemnly affirm and declare on oath that contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

4  
DEPONENT



5

Annex "A"



**K.P.K. POLICE**

S.No. *Sadaf 7-11-2012*

Name: Imran Khan

Designation: Constable B/NO:1213

Father's Name: Kamran Gul

Date of Birth: 06-09-86 (Date of App): 17-11-2010

Address: K.D.A Kohat

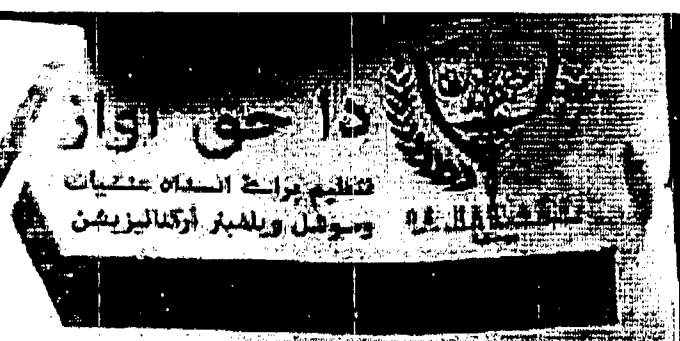
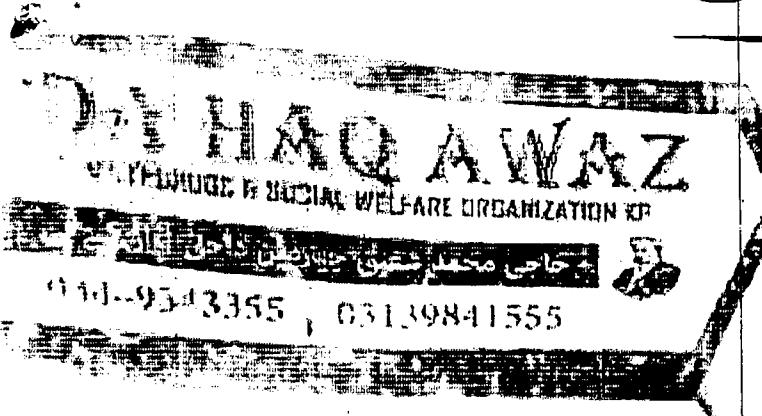
Blood Group: B+ve    Height: 5.9"    Eyes Color: Black

I.D Mark: Nil    Contact: 0332-9629039

N.I.C No: 14301-4139196-7

6

Annex "B"



Reference No: \_\_\_\_\_  
 Date: \_\_\_\_\_

**TO WHOM IT MAY CONCERN**

This is certified that the person named **Mr. Imran Khan s/o Karman Gul** was admitted with the drugs addiction from last One Month, he has undergone through medical treatment conducted at DA HAQ AWAZ Rehabilitation Center (Kohat Branch). Now he is able to conduct normal and physical activities.

Date of Admission  
 11/01/2021

Date of Discharged  
 14/02/2021

**Sheraz Khan**  
 Branch Incharge  
 Da Haq Awaz Anti Drugs Organization KP  
 0922-513425



(7)

No 961-62/PA

Annex "C"  
Office of the  
District Police Officer,  
Kohat

Dated 01-3-2021

**CHARGE SHEET**

I, **SOHAIL KHALID, DISTRICT POLICE OFFICER, KOHAT,** as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you **Constable Imran No. 1394** rendered yourself liable to be proceeded against, as you have omitted the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

i. ***You while posted at PS Jarma has absented yourself from official duty vide DD No. 03 dated 12.01.2021 till date without any leave or permission from your seniors. Your this act show in-efficiency and gross misconduct on your part.***

2. By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

3. You are, therefore, required to submit your written statement within 07days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

4. A statement of allegation is enclosed.

  
DISTRICT POLICE OFFICER,  
KOHAT 2/1/3.



④

OFFICE OF THE  
DISTRICT POLICE OFFICER,  
KOHAT

Annex "D"

Tel: 0922-9260116 Fax 9260125

No. 2496 /PA dated Kohat the 03/6 /2021

### FINAL SHOW CAUSE NOTICE

1. I, Sohail Khalid, District Police Officer, Kohat as competent authority, under the Khyber Pakhtunkhwa Police Rules 1975, (amended 2014) is hereby serve you, Constable Imran No. 1394 as follow:-

- i. That consequent upon the completion of inquiry conducted against you by the inquiry officer for which you were given opportunity of hearing vide office No. 961-62/PA dated 01.03.2021.
- ii. On going, through the finding and recommendations of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer.

I am satisfied that you have committed the following acts/omissions, specified in section 3 of the said ordinance.


- a. *You while posted at PS Jarra has absented yourself from official duty vide DD No. 03 dated 12.01.2021 till date without any leave or permission from your seniors. Your this act show in-efficiency and gross misconduct on your part.*

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you major penalty provided under the Rules *ibid*.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within 07 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case as ex-parte action shall be taken against you.

5. The copy of the finding of inquiry officer is enclosed.

  
DISTRICT POLICE OFFICER,  
KOHAT

*12/6/2021*  
*Imran No. 1394*  
*Constable*  
*12/6/2021*

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Handwritten text in the upper middle section, including a circled number '9'.

Handwritten text in the middle section, containing several lines of script.

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10

Annex "F"  
**Office of the  
District Police Officer,  
Kohat**

Ph: #. 0922-9260116 Fax #. 0922-9260125

0922-9260125

**ORDER**

This order will dispose of departmental proceedings conducted against Constable Imran No. 1394 of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

Facts arising of the case are that the accused official while posted at PS Jarma willfully absented himself from lawful duty vide DD No. 03 dated 12.01.2021 till date.

For the above, charge sheet alongwith statement of allegations was served upon him and regular enquiry was initiated with appointment of enquiry officer. The accused official willfully neither attended the enquiry proceedings, nor resumed his duty. However, the father of the accused official stated that his son (accused official) has gone to Peshawar for treatment.


On conclusion, proceedings the enquiry officer filed his report and held him guilty.

Final Show Cause Notice was issued, received by the accused official and reply submitted by his father, which is found unsatisfactory. The accused official was called repeatedly, but did not bother to appear in O.R

Record gone through, which indicates that accused official is a habitual absentee, previously remained absent for a long period and also addict as, established from record and statement of his father. In such circumstances, the retention of accused official is not only burden on public exchequer, but also dangerous to his life and other officials and caused bad image to Police, the charge leveled against him is established, however, in view of his health condition i.e addict, his family and long service, a lenient view is desirable.

Therefore, in exercise of power conferred upon me I, Sohail Khalid District Police Officer, Kohat imposed a punishment of **compulsory retirement** from service with immediate effect and the absence period is treated as kind of due leave. Kit etc be collected.

**Announced**  
**21.06.2021**

  
DISTRICT POLICE OFFICER,  
KOHAT

OB No. 440  
Dated 23.06/2021

No. 2800-03/PA dated Kohat the 23-06-2021:

- Copy of above to the:-  
1. Reader/R./Pay officer/SRC/OHC for necessary action.

94/21/1/1  
21/06/21  
وکیل  
صحت  
کاملاً

0334 8250668

1394

المغرب

04/08/2021

مدير

مدير

مدير

مدير

مدير

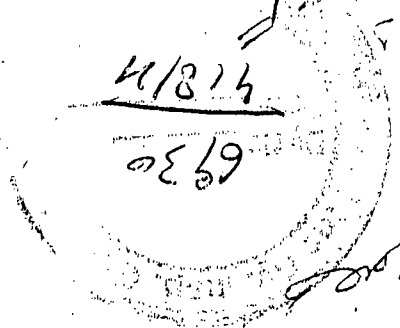
23-08-2021

مدير

مدير

مدير

Annex 6



POLICE DEPTT:

18

KOHAT REGION

Annex (H)

ORDER.

This order will dispose of a departmental appeal moved by Ex-Constable Imran Khan No. 1394 of district Kohat, against the punishment order, passed by DPO Kohat vide OB No. 440, dated 23.06.2021 whereby he was awarded major punishment of compulsory retirement from service on the allegations of willful and long absence of 06-months from lawful duties without any leave or prior permission from his seniors.

Comments as well as relevant record were requisitioned from DPO Kohat and perused. The appellant was also heard in person in O.R. held in this office on 09.09.2021. During hearing the appellant did not advance any plausible explanation in his defense to prove his innocence.

Above in view, the undersigned reached to the conclusion that the allegations leveled against the appellant are proved and the same has also been established in the E.O in his findings. Moreover, a lenient view has already been taken by the competent authority in awarding punishment. Therefore, his appeal being devoid of merits is hereby dismissed.

Order Announced  
09.09.2021

6223  
14/9/21

*(Signature)*  
(MOHAMMAD ZAFAR ALI) PSP  
Region Police Officer,  
Kohat Region.

No. 14525 /EC, dated Kohat the 14/9 /2021.

Copy to District Police Officer, Kohat, for information and necessary action w/r to his office Memo: No. 102454.B, dated 11.08.2021. His Service Roll / Fauji Missal is returned herewith, please.

*(Handwritten notes)*  
SAC/CP  
14/9/21

*(Signature)*  
District Police Officer,  
Kohat  
14/9/21

*(Signature)*  
(MOHAMMAD ZAFAR ALI) PSP  
Region Police Officer,  
Kohat Region.

*(Handwritten note)*  
Kohat





(13)

OFFICE OF THE <sup>Annex</sup>  
INSPECTOR GENERAL OF POLICE "I"  
KHYBER PAKHTUNKHWA  
PESHAWAR.

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **Ex-FC Imran Khan No. 1394**. The petitioner was compulsory retired from service by District Police Officer, Kohat vide OB No. 440, dated 23.06.2021 on the allegations that he while posted at Police Station Jarma, Kohat absented himself from duty w.e.f 12.01.2021 till date of compulsory retirement from service i.e 23.06.2021 for a period of 05 months & 11 days. His appeal was dismissed by Regional Police Officer, Kohat vide order Endst: No. 14925/EC, dated 14.09.2021.

Meeting of Appellate Board was held on 29.03.2022 wherein petitioner was heard in person. Petitioner contended that he was suffering from depression disease and was admitted in Islamic Medical Center, Islamabad.

Perusal of enquiry papers revealed that the petitioner is suffering from psychological disorder and was admitted to Islamic Centre, Islamabad for treatment. The retention of petitioner in service is dangerous to his life and other officials. The Board see no ground and reasons for acceptance of his petition, therefore, the Board decided that his petition is hereby rejected and decision is upheld.

Sd/-

**SABIR AHMED, PSP**

Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 776-82 /22, dated Peshawar, the 14 / 4 /2022.

Copy of the above is forwarded to the:

1. Regional Police Officer, Kohat. One Service Roll and one Fauji Missal of the above named Ex-FC received vide your office Memo: No. 18827/EC, dated 26.11.2021 is returned herewith for your office record
2. District Police Officer, Kohat.
3. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
4. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
5. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. Office Supdt: E-IV CPO Peshawar.

OHC/SRC

14/4/22

2776  
20/4/22

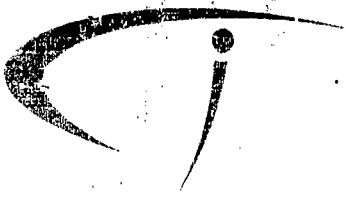
(IRFAN TARIQ) PSP

AIG/Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

(12)

# Islamic Medical Center

Addiction Treatment and Rehabilitation Center



PATIENT NAME <sup>CP</sup> Imran Khan <sup>CP</sup> de <sup>CP</sup> [unclear]

Date: 3rd Aug, 2021

Annex "I" (1)

To whom it may concern

It is to be informed that

<sup>CP</sup> Imran Khan <sup>CP</sup> admitted at Islamic Medical Center for treatment of drug addiction. By the time of admission he had speech, lack of appetite & social behaviour. He was treated with medicines & kept in hospital for 06 months. He was discharged on 3rd Aug, 2021 in a better state. He is also performing his daily work & follow up & check up facility advised for [unclear]

15

POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshawar

Imran Khan

- For Plaintiff
- Appellant
- Petitioner
- Complainant

VERSUS

Govt of KPK

- Defendant
- Respondent
- Accused

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

I/We, the undersigned/ \_\_\_\_\_ do hereby nominate and appoint **YASIR SALEEM ADVOCATE HIGH COURT**, my true and lawful

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

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

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

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

IN WITNESS whereof I/we have here to signed at \_\_\_\_\_ the 13 day to 5 the year 2022

Executant/Executants \_\_\_\_\_ Accepted subject to the terms regarding fee \_\_\_\_\_

**YASIR SALEEM**

Advocate High Court

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

(15)

POWER OF ATTORNEY

In the Court of KPK Service Tribunal Peshawar

Imran Khan } For  
} Plaintiff  
} Appellant ✓  
} Petitioner  
} Complainant

VERSUS

Court of KPK } Defendant  
} Respondent  
} Accused

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

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

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

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

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

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the 13 day to 5 the year 2022

Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

**YASIR SALEEM**

Advocate High Court

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT  
FR-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt