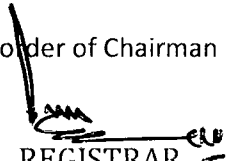


Form- A

## FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 1368/2022 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/09/2022	<p>The appeal of Mr. Asif Khan presented today by Roeda Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Appeal No. 1368 of 2022

Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O  
Sherpo Tehsil Tangi District Charsadda

..... Appellant

**VERSUS**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

..... Respondents

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1.	Memo of Appeal with verification		1-5
2.	Application for condonation of delay		6-8
3.	Addresses of the parties		9
4.	Affidavit		10
4.	Copy of Medical prescription.	A	11-19
5.	Copy of dismissal order	B	20
6.	Copy of Departmental appeal and rejection order	C&D	21-22
7.	Copy of revision petition and rejection order	E&F	23-24
8.	Wakalat Nama		

Dated 19/09/2022.

  
Appellant

Through

  
Roeda Khan

Advocate, High Court,  
Peshawar

(11)

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

Appeal No. 1368 of 2022

Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O Sherpo  
Tehsil Tangi District Charsadda

..... Appellant

**VERSUS**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK  
SERVICE TRIBUNAL ACT, 1974, AGAINST  
THE IMPUGNED ORDER DATED  
31/05/2018 WHEREBY MAJOR  
PUNISHMENT OF DISMISSAL FROM  
SERVICE HAS BEEN AWARDED TO THE  
APPELLANT AGAINST WHICH THE  
APPELLANT FILED DEPARTMENTAL  
APPEAL WITHIN ONE MONTH FROM  
THE COMMUNICATION OF THE  
IMPUGNED ORDER DATED 31/05/2018  
WHICH HAS BEEN REJECTED ON  
08/04/2019 ON NO GOOD GROUNDS.**

**Prayer:**

On acceptance of this appeal the impugned orders dated 31/05/2018 and rejection order dated 08/04/2019 and 03/02/2020 may kindly be set

(2)  
aside and the appellant may kindly be reinstated on his service alongwith all back benefits.

**Respectfully Sheweth:**

**FACTS**

The appellant respectfully submits as under:

- 1) That the appellant has been appointed as Constable since long time with respondent Department.
- 2) That after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
- 3) That at the month of February 2018, the appellant becomes ill and due to severe illness the appellant was unable to performed his duty with respondent Department. (Copy of Medical prescription is attached as Annexure-A).
- 4) That due to the reason mention in Para-3 the appellant has been dismissed from service by the respondent Department on 31/05/2018. (Copy of dismissal order is attached as Annexure-B).
- 5) That the appellant submitted Departmental Appeal within one month from the communication of the impugned order which has been rejected on 08/04/2019. (Copy of Departmental Appeal and rejection orders is attached as Annexure- C&D).

- 6) That the appellant submitted revision petition within one month from the communication of the rejected order dated 08/04/2019 which has been rejected 03/02/2020 communicated to the appellant on 14/09/2022. (Copy of revision Petition and rejection order is attached as Annexure-E&F).
- 7) That feeling aggrieved the appellant prepares the instant Service Appeal before this Hon' able Tribunal inter alia on the following grounds.

**GROUND**

- A). That the impugned orders dated 31/05/2018, 08/04/2019 and 03/02/2022 are void and illegal because it has been passed without full filling the codal formalities.
- B). That no charge sheet no statement of allegation has been served/communicated to the appellant which is a clear cut violation of Rule-6 of 1975 Police Rules.
- C). That no statement of witness has been recorded and no opportunity of personal hearing and defense has been provided to the appellant.

(4)

E). That the absence of the appellant was not deliberate and intentionally but due to the reasons mentioned in the above Paras which was beyond the control of the appellant.

---

F) That the punishment has been awarded to the appellant has come under the definition of harsh one.

H) That the impugned order is also void because it has been passed from retrospective order.

I) That no Departmental inquiry has been conducted before imposing of major penalty against the appellant which has mandatory.

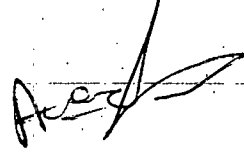
J). Any other grounds will be raised at the time of arguments with prior permission of this Hon' able Tribunal.

It is therefore most humbly prayed that on acceptance of this appeal the impugned orders dated 31/05/2018, rejection order dated 08/04/2019 and 03/02/2020 may kindly be set aside and the appellant may kindly be reinstated on his service alongwith all back benefits.

(5)

Any other remedy which this august tribunal  
deems fit that may also onward granted in favor of  
appellant.

Dated 19/09/2022



Appellant

Through



**Roeda Khan**

**Advocate, High Court,  
Peshawar.**

(6)

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

Appeal No. \_\_\_\_\_ of 2022

Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O Sherpo Tehsil  
Tangi District Charsadda

..... Appellant

**VERSUS**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

..... Respondents

**APPLICATION FOR CONDONATION OF DELAY (IF  
ANY).**

**Respectfully Sheweth:**

- 1) That the petitioner/appellant has filed the accompanied appeal today in which no date has yet been fixed.
- 2) That petitioner/appeilant has a good prima facie case and is hopeful for its success and the grounds



7)  
mentioned in appeal may be treated as integral part of this application.

- 3) That the appellant submitted Departmental Appeal within one month from the communication of the impugned order which has been rejected on 08/04/2019.
- 4) That the appellant submitted revision petition within one month from the communication of the rejected order dated 08/04/2019 which has been rejected 03/02/2020 communicated to the appellant on 14/09/2022.
- 5) That there are many Judgment of the Supreme Court that cases should be decided on merit rather than on technicality.
- 6) That there are also many Judgment of the superior court as well as specific provision of law that limitation has been counted from the date of communication.
- 7) That the impugned dismissal order dated 31/05/2018 is come under the definition of void order because it has been passed without fulfilling the codal formalities as such no charge sheet no

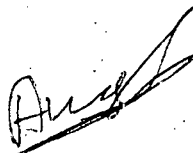
8)  
statement of allegation has been issued or served to the appellant and no Departmental inquiry has been conducted before imposing of major penalty which is mandatory.

---


- 8) It is a well settled principle of law no one can be condemned unheard.
- 9) That on opportunity personal hearing and defance has been provided to the appellant.

It is, therefore, most humbly prayed that on acceptance of this application the delay if any may be condoned in the interest of justice.

Dated 19/09/2022

  
Petitioner /Appellant

Through

  
**Rooeda Khan**  
**Advocate, High Court**  
**Peshawar**

(9)

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

Appeal No. \_\_\_\_\_ of 2022

Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O  
Sherpo Tehsil Tangi District Charsadda

..... Appellant

**VERSUS**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

..... Respondents

**ADDRESSES OF THE PARTIES**

**Appellant**


Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O  
Sherpo Tehsil Tangi District Charsadda

**Respondents**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

Dated 19/09/2022

  
Appellant

Through   
Rooeda Khan  
Advocate, High Court,  
Peshawar.

(10)

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

Appeal No. \_\_\_\_\_ of 2022

Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O Sherpo  
Tehsil Tangi District Charsadda

..... Appellant

**VERSUS**

- 1) District Police Officer Nowshera.
- 2) Regional Police Officer Mardan .
- 3) Inspector General of Police KPK, KPK Peshawar.

..... Respondents

**AFFIDAVIT**

I, Asif Khan S/o Musafar Khan Mohallah Masal Khan P.O  
Sherpo Tehsil Tangi District Charsadda do hereby solemnly  
affirm and declare on oath that the content of the above  
application are true and correct to the best of my knowledge  
and belief and nothing has been kept secret and concealed  
from this Hon'ble Tribunal.

  
DEPONENT

(A) (11)

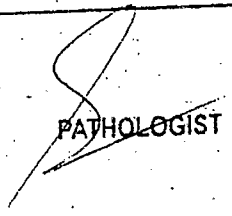
# PATHOLOGY DEPARTMENT D.H.Q. HOSPITAL MARDAN

Patient's Name Asif Khan Age 32 years Sex M

Investigation Required Widal / HB / MP / Widal / HCV / HBS Date 4/2/2018

Colour	<u>Nil</u>	Albumin	<u>Nil</u>	Sugar	<u>Nil</u>	PH	<u>Nil</u>
Microscopic Exam: Pus Cells:		<u>2-3</u>		RBC:		<u>Nil</u>	
Epithelial Cells:		<u>Nil</u>		Crystals:		<u>Nil</u>	
Other's							
HCV	<u>Non-Reactive -</u>		HBS Ag	<u>Non-Reactive</u>			
Pregnancy Test							
Hb		TLC		MP	<u>No MP seen -</u>		
DLC Neutrophil				BT		CT	
Lymphocyte				Platetet's			
Eosinophil				Blood Sugar			
Monocyte				Blood Urea			
Typhidot IgG		<u>Positive +</u>		Typhidot IgM		<u>Positive</u>	

  
TECHNICIAN

  
PATHOLOGIST

707

Medical No.2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME W. O. S. /

YEARLY NO 2725

DATE 1-5-2018

DISEASE **Countersigned**

*Fitness Certificate*

Medical Superintendent  
D.H.O. *Ex. Hospital Mardan*

*I have examined Mr. Asif Khan to-day on 1/5/2018.*

*He is now fit to resume his duty.*

*[Signature]*  
Medical Officer  
DHO Hospital Mardan  
*1/5/18*

FACE VALUE RUPEES 10/-

(12)

Medical No. 2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME Q. K. ...

YEARLY NO. 36754

DATE 22-5-2018

DISEASE Scabies

FACE VALUE RUPEES 10/-

Yest  
Advised complete home bed  
w-ef 22/5/18 to 31/5/18.

RJ ... 33 ...

Medical Superintendent  
D.H.C. Hospital Mardan

Dr. ...

Dr. V. ...

Cap. ...

Sp. ...

Cap. ...

Medical Officer  
DHQ Hospital Mardan  
22/5/18

(13)

Medical No.2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME Local

YEARLY NO. 2018

DATE 6-5-2018

DISEASE hypertension 1BP

Medical Superintendent

M. J. Mardan

Cap. Velasquez  
1-11

Cap. Feroze  
1-11

Sub. Voren  
1-11

Sy. Nuroacid  
1-11

Sy. Masegan  
1-11

Medical Officer  
DHQ Hospital Mardan

6/5/18

Advised supplies have been sent  
w.e.f. 6/5/18 to 21/5/18.

FACE VALUE RUPEES 10/-



741

Medical No.2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME U. S. P. 1

YEARLY NO. 5423

DATE 2/8/18

DISEASE Sp. ...

Medical Superintendent  
D.H.O. Hospital Mardan

FACE VALUE RUPEES 10/-

Advised complete home bed rest  
w. s. f. 8/3/18 to 23/2/18

- Zb. Arala 22
- Zb. F. ...
- Sp. New
- Sp. Pellan - P
- Sp. ...

Medical Officer  
DHO Hospital Mardan  
2/8/18

7151

Medical No.2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME Usoed!

YEARLY NO 16934

DATE 23/2/2018

DISEASE Subacute p. CBP

Medical Superintendent: [Signature]  
D.H.C. Hospital Mardan 20

Advised Computer have bed  
w.e.f 23/2/18 to 7/3/18

- Tab. Augtin BD
- Tab. Vascu 1-1
- Cep. Rikell 2-1
- Sp. Mosegn-V 1-1
- Sp. Trimelabul 1-1

Medical Officer  
DHC Hospital Mardan

23/2/18

FACE VALUE RUPEES 10/-

(16)

Medical No.2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME U. C. P. I

YEARLY NO 6932

DATE 4-2-2018

DISEASE Ambed 15 y. Vran

Counter signed

Medical Superintendent  
D.H.C. Mardan

15 y. Vran  
4. April 16  
1028

Tb. Clomox x 10 y L Spi  
1-1 1028  
Widal

Tb. Vltrol  
1-1  
Widal  
MR

Cap. EBS  
1-1 1028  
Govschi  
1-1 1028

Treasurer  
1-111 Medical Officer  
DHQ Hospital Mardan

4/2/18

*Ambed Complete Ambe had not*  
*24/18 2-24/18*

FACE VALUE RUPEES 10/-

Medical No. 2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME Chand

YEARLY NO. 100

DATE 6-4-18

DISEASE Cholera

Medical Superintendent  
D. H. G. Hospital, Madang

Sub. Clomex  
1-11-18

Sub. Villal  
1-11-18

Cap. Nenar  
1-11-18

Sup. Govser  
1-11-18

Sup. Iberet  
1-11-18

Medical Officer  
D. H. G. Hospital, Madang  
6-4-18

FACE VALUE RUPEES 10/-

Advised supplies have been  
sent to 2-11-18.

(Handwritten mark)



(79)

Medical No. 2

Rs. 10/-

OUT PATIENTS DEPARTMENT

NAME U. G. D. I.

YEARLY NO 26315

DATE 24-3-2018

DISEASE Counter signed LBP

FACE VALUE RUPEES 10/-

Advised complete home bed rest  
w-ef 24/3/18 to 5/4/18.

Medical Superintendent  
D.H.C Hospital marden

Cap. Veloo 1-11

Cap. Nenu 1-11

Sp. Vilhal 1-11

Sp. Govind 1-11

Sp. Sarfraz 1-11

Medical Officer  
DHO Hospital marden

24-3-18

DISMISSAL ORDER

Constable Asif No. 1377, while posted at Police Station Akbarpura, remained absent from duty without any leave/permission of the competent authority vide DD No. 11 dated 04.02.2018 to DD No. 14 dated 28.02.2018 & DD No. 18 dated 07.03.2018 PS, Akbarpura till date.


On account of which, he was issued Show Cause Notice vide this office Endst: No. 89/PA dated 22.02.2018, to which his reply was received & found unsatisfactory. He was heard in the Orderly Room by the then DPO, wherein he produced medical documents, but the then DPO did not agree with the said medical documents. He has submitted application for transfer to district Charsadda, which was forwarded to Regional Police Officer, Mardan vide this office Memo: No. 4575/EC, dated 19.03.2018, but his transfer order has not been issued so far.

He is habitual absentee and remained absent for 356 days, due to which he was dismissed from service.

His continuous absence clearly seems that he is no more interested in Police job, hence dismissed from service from the date of his absence in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules-1975.

OB 646

Dated 31/05/2018.

  
District Police Officer,  
Nowshera.

No. 3034-37/PA, dated Nowshera, the 31.05/2018.

Copy for information and necessary action to the:-

1. Pay Officer.
2. E.C.
3. OHC.
4. FMC with relevant papers (35 sheets).

"C"

(21)

To,

The Deputy Inspector General of Police

Mardan Region-1 Mardan

Subject : Appeal for reinstatement in service

Sir,

With due respect i beg to submit that i have been dismissed from service by the then DPO Nowshera vide OB No.640 dated 31/03/2018 for absence from duty from 04/02/2018 To 27/02/2018 and 08/03/2018 To 31/05/2018, against which i am going to submit the present Appeal for favorable consideration, on the below mentioned justification/grounds:-

1. While posted at Police station Akbarpura, i feel ill due to suffering from Backache/ sciatica and got treatment at DHQ Hospital Mardan. vide OPD No. 6932 dated 04/02/2018, 16934 dated 23/02/2018, 5423 dated 08/03/2018, 26315 dated 24/03/2018, 27472 dated 22/04/2018, 8312 dated 06/04/2018 8235, dated 06/05/2018 and 36195, dated 22/05/2018.
2. The Medical Officer DHQ hospital Mardan also advised me to take complete bed rest / Medical leave, though i have reported for duty during intervening period (28/02/2018 To 07/03/2018 Photocopies attached here with).
2. I was issued show cause notice, in response to which i have submitted a well convincing reply but it was not paid due consideration.
3. I had served the Department for about 10 years.
4. I am the only dependent of a large family including my aged/ ailing mother and am in constant tension and financial hardships.
5. Due to poverty, i have taken debt from my relatives and friends for my treatment.
6. I have no source of income and am facing difficulties.
7. Delay in submission of appeal is due to the fact that i was lying on bed, which may be condoned.

I, Therefore, approach your good self to kindly accept my Appeal and accord an order regarding my reinstatement in service by sanctioning medical leave, for which i shall be highly obliged.

I will pray for your long life and prosperity.

Your Obediently

Asif Khan Ex Constable 1377

R/O Village Sherpao Distt Charsadda

0300-5635635



بکھنور جناب اسپیکر جنرل آف پولیس غیر منتخبون اور ایسٹا اور

مضمون اپیل برائے رقم

جناب عالی!

گزارش ہے کہ جنرل محکمہ پولیس میں بحیثیت کانٹریبل بھرتی ہوا تھا اور اپنی ایوانی خوش اسلوبی سے انجام دے رہا تھا کہ اس دوران مسائل بیمار پڑ گیا مسائل نے رخصت منظور کرنے کی بہت کوشش کی لیکن رخصت نہیں مل سکی اور مسائل مجبوراً غیر حاضر ہو گیا۔ جسکے بعد مسائل کو شوکا زونٹس جاری ہو گیا جس کا جواب مسائل نے بروقت منع کیا اور بعد میں جناب DPO صاحب نوشہرہ کے خدیومت میں پیش ہو کر اپنی بیماری سے متعلق میڈیکل کاغذات پیش کئے لیکن مسائل کی ایک بھی نہیں سنی گئی اور پونہ ڈیوٹی سے درخواست کیا گیا۔

جناب عالی!

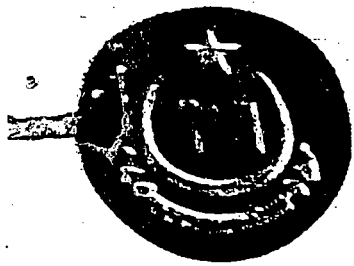
مسائل کے خلاف نہ تو باقاعدہ انکوائری عمل میں لائی گئی ہے اور نہ ہی مسائل کے میڈیکل سرٹیفکیٹ کو زیر غور لایا گیا۔ مسائل ایک غریب گھرانے سے تعلق رکھتا ہے۔ کوئی دیگر ذریعہ معاش نہیں رکھتا ہے اور اپنے خاندان کا واحد سہارا ہے۔ لہذا یہ کہ مسائل قصداً ادا غیر حاضری نہیں کی بلکہ بوجہ بیماری ڈیوٹی سے غیر حاضر تھا۔

لہذا مسائل کی مجبوری اور مفلسی کو مد نظر رکھتے ہوئے مسائل کو نوکری پر دوبارہ بحال کرنے کا حکم صادر فرمائیں۔

تاحیات دعا گور ہے گا۔

العارض

مسائل EX- کانٹریبل آصف خان بیلٹ نمبر 1377 ضلع نوشہرہ



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
Central Police Office, Peshawar.

No. S 4766 /20, dated Peshawar the 03/12 /2020.

To: The Regional Police Officer,  
Mardan.

Subject: MERCY PETITION.

Memo:

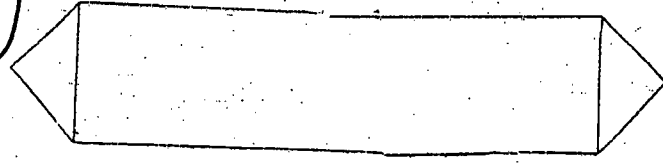
The Competent Authority has examined in the light of Police Rule 16.32 and filed the mercy petition submitted by Ex-FC Asif Khan No. 1377 of Nowshera district Police against the punishment of dismissal from service awarded by District Police Officer, Nowshera vide OB No 646, dated 31.05.2018, being badly time barred.

The applicant may please be informed accordingly.

(SYED ANIS-UL-HASSAN)  
Registrar,

For Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.

بعدالت حساب سالہ سے قبل وصول کا



امانت  
کی

2022ء منجانب

اصفا خان بنام

مورثہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ بیرونی حساب میں کاروبار کا نام متعلقہ

آن مقام کے لئے روئے حساب روئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

الرقوم ۱۹ ماہ ۲۰۲۲ء

العہدہ گواہ العہدہ  
مقام  
۲۰۲۲  
۱۹  
۲۰۲۲  
کے لئے منظور ہے۔  
Accept  
۱۹/۱۲/۲۰۲۲