


27.07.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Faheem Khan, Assistant for official respondents present.

File to come up alongwith connected Service Appeal No. 259/2022 titled "Atta Ullah Khan Vs Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.


(Fareeha Paul)
Member (E)

D

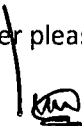



D

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 272/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/03/2022	<p>The appeal of Mr. Wajid Modin resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	8/4/2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>8-4-2022</u></p> <p> CHAIRMAN</p>
	06.06.2022	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Last chance is given. To come up for preliminary hearing on 6/6/2022 before Sb.</p> <p> CHAIRMAN</p>
		<p>Junior to counsel for the appellant present.</p> <p>File to come up alongwith connected Service Appeal No.259/2022 titled Attaullah Khan Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>


Fasih

The appeal submitted by Mr. Noor Muhammad Khattak Advocate today i.e. on 09.02.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned order dated 14.07.2021 against which appellant made departmental appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental is not attached with the spare copies which may be placed on it.

No. 402 /S.T,

Dt. 11/2 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

The impugned order dated 14-07-2021 was not provided to the appellant rather the monthly salary of the appellant has been stopped against which the appellant filed Department Appeal, which has already been placed on file.

Re-Submitted after doing needful.



Impugned Order dt: 14-7-21
was attached as annexure E
Page 10/A.

Re-submitted after completion.



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

SERVICE APPEAL NO. 271 /2022

FASIH UD DIN

V/S

HEALTH DEPTT:

I N D E X

S.N O	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Appointment order dt: 20.02.2006	A	5
4	Medical certificate	B	6
5	Arrival report	C	7
6	Office order dt: 23.06.2021	D	8-9
7	Pay slip	E	10
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	Wakalat Nama	12

Dated: _____ .2022

APPELLANT

Through:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____/2022

Mr Fasihud Din, Driver,
Office of National Programme for Family Planning and Primary Health
Care FATA-NWA

..... **APPELLANT**

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, Tribal District Miranshah.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT WITH EFFECT FROM 01-07-2012 I.E FROM THE DATE OF REGULARIZATION OF SERVICE TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f 01-07-2012 till date with all consequential benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the appellant.

R. SHEWETH:

ON FACTS:

- 1- That the appellant was initially appointed as Driver on contractual basis in the respondent Department w.e.f 20-02-2006. Copy of appointment order is attached as annexure **A.**
- 2- That after appointment the appellant was medically examined and declared fit by the concerned authority and after being fit the appellant submitted his arrival report to the concerned office. Copy of medical certificate and arrival report is annexed as annexure..... **B&C.**
- 3- That the appellant started performing his services with zeal and zest and up to the entire satisfaction of his superiors

- 4- That the appellant was regularized vide order dated 23-06-2021 in pursuance of the Judgment of the Hon'ble Supreme Court and Peshawar High Court. And in light of office order dated 23-06-2021 the appellant was regularized w.e.f from 01-07-2012. Copy of office order dated 23-06-2021 is annexed as annexure..... **D.**
- 5- That unfortunately the salaries of the appellant have been stopped w.e.f 01-07-2012 i.e., from the date of regularization till date without any legal justification against which the appellant has submitted applications time and again. That it is very pertinent to mention the pay bills have been passed after regularization of the appellant but till date the said bills have not been released to the appellant. Copies of the pay bills are attached as annexure.....**E.**
- 6- That feeling aggrieved from the inaction of the respondents by not releasing the salaries, the appellant filed Departmental appeal but no reply has been received so far. Hence the instant appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **F.**

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since regularization is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing his duties and the inaction of the respondents by not releasing his salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.
- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide

- G- That the inaction of the respondents by not releasing monthly salaries of the appellant w.e.f. regularization till date is against section 17 of the Civil Servant Act, 1973.
- H- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

Dated: ____ . ____ .2022

APPELLANT

Fasihud

FASIHU DIN

THROUGH:

NOOR MOHAMMAD KHATTAK

&

Haider Ali

HAIDER ALI

ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____ / 2022

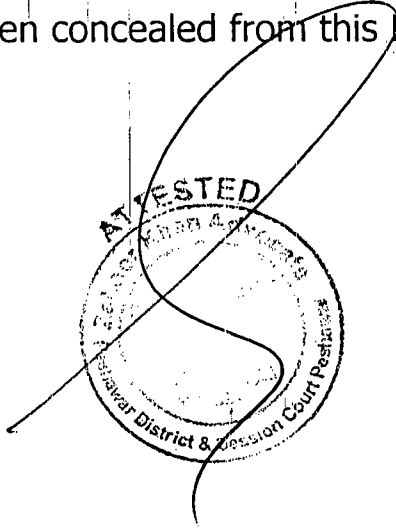
FASIH UD DIN

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



[Signature]
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Signature]
CERTIFICATION

OFFICE ORDER

A-5

 SUBJECT: APPOINTMENT ORDER FOR THE POST OF DRIVER UNDER NATIONAL PROGRAMME FOR FAMILY PLANNING AND PRIMARY HEALTH CARE FATA-NWA.

On the recommendation of selection committee Mr. Fasihud Din S/O Noor Zalay Din of Village Khadda Tehsil Mirali & P/O Mirali is hereby appointed as Driver at North Waziristan Agency w.e.from 20/02/2006 on the following terms and conditions.

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However it is extendable subject to satisfactory performances:
3. He will be paid the fixed pay Rs.2500/- as per the Programme rules and initial three months training and availability of vehicle.
4. The appointment is strictly nontransferable.
5. If he wishes to resign, he will offer one months prior notice or will deposit one months in lieu of notice.
6. He will be maintain a vehicle for field duties of the supervisor. He will be responsible for proper record on log book & maintenance of the vehicle. In case of misuse of vehicle, strict action will be taken against him.
7. In case of any accident, if found guilty of negligence, proper recovery will made from him along with appropriate disciplinary action.
8. No TA/DA will be allowed during field visits within the district of posting.
9. He will be entitled for 20 days casual / sick leave in a year. He will obtain sanction of leave from competent authority of the APIU.
10. He will have to produce the Medical Fitness certificate from Medical Superintendent A.H.Q. Hospital Miranshah.
11. No TA/DA will be allowed on account of joining duty.
12. He will have to produce of Rs,50/- Surety Bond.
13. If he accepts the offer on the above terms and conditions, he is directed to report for duty to the office of undersigned. Failing which the offer will stand cancelled.

Sd/ xxxxxxxxxxxx
 Agency Surgeon,
 N.W.Agency Miranshah

No 5165-69 /NP-NWA/ Appoit: Dated: Miranshah the 01 /02/2006 :

Copy to:

1. National Coordinator, National Programme for Family Planning and Primary Health Care, 14.D. Feroze Centre, West Blue Area. Islamabad.
2. Provincial Programme Coordinator, National Programme for Family Planning and Primary Health Care, Street No.6 Abshar Colony off the Warsak Road Peshawar.
3. The Agency Coordinator National Programme for National Programme for FP & PHC North Waziristan Miranshah.
4. The Accountant Supervisor for NP for FP & PHC North Waziristan Miranshah.
5. Mr. Mr. Ahmar Ali Khan S/O Sherabat Khan Mirali N.W Agency for information.

~~ATTACHED~~

Agency Surgeon,

N.W.F.P Med No.4

GS&PD-NWFP-27IS-2000 P of 100-29-7-98--- (16)

MEDICAL CERTIFICATE

Name of Official Fasihud Din

Caste or race Muslim

Father's Name Noor Zafar Din

Residence Khaddi Tehsil and P/O Mirali NWTD

Date of Birth 01-01-1984


Exact height by measurement 5-4

Personal Mark of Identification Nil

Signature of the Official _____

Signature of head of Office _____

Report for duty today on Report for duty to day on 03/2/2006

Seal of Office 

I do hereby certify that I have examined Mr./Miss. Fasihud Din

Candidate for employment in the Office of the Health Deptt


And can not discover that he/She had any disease communicable or other constitutional effect join or bodily infirmity except Nil

I do not consider this as disqualification for employment in this office of the Health Deptt; his/her age according to his own statement 22

Years and by appearance about Twenty Two years.



LEFT HAND THUMB AND FINGER IMPRESSION 21.106.1201


Incharge Type C Hospital
Mirali NWTD

~~ATTESTED~~

ANNEXURE

The Agency Surgeon,
North Waziristan Agency Miranshah.

C-7

Subject: Arrival Report.

R/Sir,

In compliance with the Agency Surgeon, NWA office order
No. 5165-69 /App: dated 01 / 1 / 02 /2006.

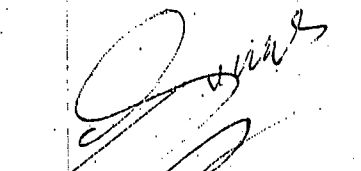
I have the honour to submit herewith my arrival report for duty as a
Driver BPS-05 today on 03/02/2006.FN.

Dated: 03/02/2006

Thanks

Yours Obediently,

Accepted


Agency Surgeon
North Waziristan Miranshah

Fasihud Din
Driver - B-5
NP, FF of PHC
Office NWA.

~~ACCEPTED~~

OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSHAH

Tel: (0928) 300788 FAX: (0928) 311662

Email:agencyurgeonwa2019@gmail.com

%%%

ANNEXURE

D-8

OFFICE ORDER:

In light of Honorable Supreme Court of Pakistan under write Petition No.15 of 2012 & CRL, MISC, Application No.506 of 2012 in H.R.C No.16360 of 2009 and Const.Pétitions No.36 of 2012 and CRL. ORIG. Petition No.73 of 2012 in H.R.C No.16360 of No.2009 dated 07/03/2013 and Directorate Health Services FATA letter No.25464-72/DHS/ADMIN/NP dated 05/11/2018. The following LHWs/LHSs and drivers working in National Programme for FP, NP & PHC of North Waziristan District, are hereby regularized w.e.f 1/7/2012 and adjusted against the vacant posts of Dai BPS-05. Their salaries are released against the vacant post of Dai BPS-05 till the creation of their position codes from finance department, KP. As and when the position code are created from finance department KPK for the following LHWs / LHSs and drivers to the office of undersigned their outstanding salaries w. e. f 1/07/2012 and onward will be release accordingly on their own position code in the larger interest of public being old pending issues to avoid more issue please.

SNo	Name of LHWs/LHS/Drivers	49	Miss Nisa Noor
1	Miss Mahila	50	Miss Gulalai
2	Miss Seema Dil	51	Miss Rogheen
3	Miss Shehnaza	52	Miss Azma Tahir
4	Miss Shezada Bibi	53	Miss Rahmeena
5	Miss Tahir Naz	54	Miss Shahkila Bibi
6	Miss Mehtab	55	Miss Ayesha
7	Miss Nadia Khan	56	Miss Bibi Amna
8	Miss Roqia Sultan	57	Miss Nadia Bibi
9	Miss Banoo	58	Miss Khowza Bibi
10	Miss Ayesha Zahoor	59	Miss Jahanara
11	Miss Sangin Marmara	60	Miss Fatma Bibi
12	Miss Razmeena	61	Miss Bibi Gula
13	Miss Paiow Khana	62	Miss Khalima Bibi
14	Miss khana Mira	63	Miss Bibi Rahmana
15	Miss Miranshta	64	Miss Noor Zeba
16	Miss Gul Faraza	65	Miss Uzma Zia
17	Miss Rakhati Bibi	66	Miss Sakina Sami
18	Miss Pezwanda Bibi	67	Miss Fatima Bibi
19	Miss Razia Bibi	68	Miss Maraqeen
20	Miss Gul Ghita	69	Miss Samrina Bibi
21	Miss Madai	70	Miss Farida Bibi
22	Miss Rafata Bibi	71	Miss Basnia Bibi
23	Miss Madina Bibi	72	Miss Rawasia
24	Miss Fatma	73	Miss Nabila
25	Miss Gul Khubana	74	Miss Bushra
26	Miss Saleema Bibi	75	Miss Ansa Yasir
27	Miss Bobrasia Bibi	76	Miss Halifa Bibi
28	Miss Shakila Bibi	77	Miss Saifa
29	Miss Raghina	78	Miss Rabia
30	Miss Laweda	79	Miss Irana

~~ATTESTED~~

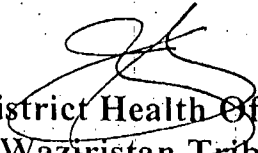
9

31	Miss Maryam	80	Miss Somira Saqib
32	Miss Sardara	81	Miss Rooh Afzada
33	Miss Abidal	82	Miss Hassina
34	Miss Farhana	83	Miss Saima
35	Miss Nazish farooq	84	Miss Safara Bibi
36	Miss Sabit Gula	85	Miss Nasreen Bibi
37	Miss Faryal Rashid	86	Miss Baghza Mina
38	Miss Jehana	87	Miss Salma Bibi
39	Miss Javeria Waheed	88	Miss Rafia Bibi
40	Miss Rishma	89	Miss Ayesha
41	Miss Zibu Nisa	90	Miss Shakila
42	Miss Marya Bibi	91	Miss Nasima Bibi
43	Miss Zalikha Bibi	92	Miss Sadia Bibi
44	Joharullah Driver	93	Ahmar Ali Khan Driver
45	Ilyaz Ud Din Driver	94	Fasihud Din Driver
46	Madia	95	Rabia
47	Khadya	96	Mehrun Nisa
48	Wali Darad	97	Zaib Un Nisa

Sd/XXX
District Health Officer
North Waziristan Tribal District

No. 1208-11 /Release/LHWs/LHSs/DHO/NWTD dated Miranshah 23/06/2021.
Copy forwarded to:-

1. The PS to Secretary Health KPK for information please.
2. The PS to Secretary Finance department Khyber Pakhtunkhwa Peshawar with the request to create position code on regular side under DDO code MW 6006.
3. The PS to Director General Health Services KPK Peshawar for information please
4. The District Account Officer NWTD for information with the request to release their current salaries against the vacant posts of Dai BPS-05 till the creation of their posts / position codes from finance department KP , of the above concerned LHWs/LHSs and drivers please.
5. Officials concerned.


District Health Officer
North Waziristan Tribal District

~~ATTESTED~~



Employee Master File Creation Form

FORM: PAY01

OFFICE OF THE AGENCY/DHO NWT D

DDO Code
MW 6006

(Cash Center)
[] [] [] []

Employee CNIC Number
21505-6745183-3

DOB (DD/MM/YYYY)
01-01-1984

Date of entry into Govt service (DD/MM/YYYY)
01-02-2006

Designation
Driver

BPS
05

Domicile
NWT D

Employee Name
FASBI HUD-DIN

Father/Husband Name
NOOR-ZALAY-DIN

PERMANENT ADDRESS
Mirali NWT D

Religion
ISLAM

Nationality
Pakistani

Pay and Allowances Week 7/2021

Wage type	Code no	Description	Amount	Amount	Amount	Amount	Amount	Amount
0001	A01151	PAY	14760					
0000	0000	PPAR 15%	592					
1000	A01202	HRA	2255					
1210	A01203	Con:Allow	1932					
1567	A01207	WA	1000					
1516	A01208	DA	1000					
1833	A0120D	Intge:Allow	600					
1947	A01217	MA	1500					
1528	A01233	UAA	1000					
1970	A0121X	AR 50% (2010)	-					
1948	A0121A	AR 15% (2011)	-					
2118	A0121M	AR 20% (2012)	-					
2151	A0121T	AR 15% (2013)	-					
0000	A0121Z	AR 10% (2014)	1026					
0000	0000	AR 10% (2015)	801					
		AR 10% (2016)	1476					
		AR 10% (2017)	1476					
		AR 10% (2018)	1476					
		AR 10% (2019)	1476					
GROSS TOTAL			32370/-					

2211

DEDUCTIONS		
CODE	Description	Amount
3300	GF Fund	-
3710	B/Fund	-
3704	G/Insurance	-
4004	RBDX	450
Total Deduction		450/-

[Signature]

CERTIFICATES

- 1 certified that the CNIC issued by NDRA has been verified and found correct
- 2 Certifies that all the particular mentioned above are correct and the service Book attached with the proforma is original and has been signed up-to date by the concerned Officer.
- 3 Certified that the employee mentioned above regular in attendance and has not been proceeded abroad Pakistan.

[Signature]

10/A

BETTER COPY PAGE #

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

**OFFICE OF THE DISTRICT HEALTH OFFICER NORTH
WAZIRISTAN TRIBAL. DISTRICT MIRANSHAH**

No Accounts Miranshah Dated the 14.07.2021

To,

The District Accounts Officer
North Waziristan TD Miranshah

SUBJECT, AUTHORITY/ PROCESSING OF ACCOUNT MATTERS /BILLS

Dear Sir.

Please refer to the subject noted above and to state that, the undersigned has assumed charge as DHO North Waziristan TD Miranshah on 10. 07. 2021. however un-authorized persons are active and wondering in the District Accounts Office NW TD for processing of bills / direct induction signed by un-authorized persons which is an unlawful act.

Further-more all Source-I/Source-II / signed by the then DHOs may not be entertained and Ought to be returned for verification and countersignature of the undersigned.

There-fore only Mr Saeed ullah Accounts/ Head Clerk of this office is hereby authorized to deal all kind of Account matters/ correspondence of this office on behalf of the Undersigned with your good office. and subsequently no other persons are allowed to touch any account matters and that this office will not be responsible w.e.f 10. 07. 2021 and onwards

You are further requested that all correspondence! Accounts matters of the undersigned may be kept secret from all un-related/ unauthorized persons in the best public interest.

Your co-operation in this regard will be highly appreciated.

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

Endst No. 12572-73
Copy forwarded to the

Dated : 14.07.2021

- 1- Director General Health Services KPK Peshawar.
- 2- Deputy Commissioner NW TO Miranshah.

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

miranshah

The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

F = (11)

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE CIVIL SERVANT ACT AGAINST THE ORDER ISSUED BY DR HAFIZULLAH DHO NWTB VIDE LETTER NO.12571/Accounts & 12572-73 DATED 14/07/2021 WHICH THE SALARIES OF US HAS BEEN STOPPED / WITHHELD ILLEGALLY SINCE THE REGULARIZATION PERIOD W.E.F 1/07/2012 UP TO DATE.

Dear Sir,

With due respect it is stated that I am performing my duty as a Driver in National programme, for Family Planning & Primary Health Care since 2006 up to date continuously / regularly under the control of the District Health Officer North Waziristan Tribal District Miranshah with great zeal and zest. My pay & allowances are stopped by the ex- Agency Surgeon now a days called DHO due to non-computerization and bank account. After that i had submitted application to the DHO NWTB with the request to release my salaries from the date of stoppage. He has accepted my request and adjusted me against the vacant post of dai BPS-05 for the purpose of pay and allowances till the creation of position codes. (copy of office order / adjustment order is attached as Annex-A). My salaries are released by the EX-DHO NWTB in the month of July 2021, against the vacant post of Dai BPS-05, till the creation of position codes from finance department. (copy of bill is attached Annex-B). Now my pay & allowances is again stopped by one Dr.Hafizullah DHO NWTB, illegally without any reasons. He has draft letter to District Account officer with the request to returned all the salary bills i.e source-I & II signed by the then DHO to the current DHO office for proper counter signature and verification. (Copy of impugned letter dated 14/07/2021 is attached Annex-C).

Now nor he attested the bill nor noted any observation on my bill.

It is therefore, requested, in your kind honor to please direct the current DHO to release my salaries from the date of regularization / stoppage i.e 1/7/2012 up to date please.

We will be very thankful to your this kind act.

Dated: 14 / 10 / 2021.

Thanks

Fasih ud Din
Your obediently,

Fasih ud Din

~~RECEIVED~~

12

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

SASIH UD DIN _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We Fasih ud Din

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____/_____/2022

Fasih ud Din
CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&
KHANZAD GUL
ADVOCATES