Appeał No. 748/2013

07.04.2015

م تبقي في Mo Guleen Method None present for the appellant despite repeated calls from time to time. The Court time is about to over. The appeal is dismissed for want of prosecution. File be consigned to the record.

ANNOUNCEI 07.04.2015

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//, 21.10.2014

No one is present on behalf of the appellant. Mr. Kabirullah Khattak, Add: Advocate General for the respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 17.12.2014.

Member

Reader Note: 17.12.2014

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No one is present on behalf of the appellant. Mr. Kabirullah Khattak, Asst: Advocate General for the respondents present. Since the Tribunal is incomplete, therefore, case is adjourned to 19.02.2015 for the same.

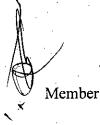
19.02.2015

No is present on behalf of the appellant. Asst: AG for the respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 07.04.2015.

Member

16.05.2014

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Counsel for the appellant stated at the Bar that the appellant previously filed an appeal No. [156//regarding seniority which is fixed for regular hearing before the Learned Bench-I. The said appeal may be requisitioned for preliminary hearing on 16.06.2014.



16.06.2014

No one is present on behalf of the appellant. Mr. Muhammad Jan, GP for the respondents present. Notices be issued to the appellant/counsel for the appellant. To come up for further preliminary hearing as per order sheet dated 16.05.2014 on

12.08.2014.



12.08.2014

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No one is present on behalf of the appellant. Mr. Ziaullah, GP for the respondents preset. Fresh Notices be issued to the appellant/counsel for the appellant. To come up for preliminary hearing on 21.10.2014.

Member



10.03.2014

30.04.2014

Counsel for the appellant present and requested for adjournment due to general strike of the Bar. Case to come up for preliminary hearing on 10.03.2014.

Counsel for the appellant present. Preliminary arguments to some extant heard. Pre-admission notice be issued to the GP to assist the Tribunal for preliminary hearing on 30.04.2014.

Member

Reader

Counsel for the appellant and Mr. Ziaullah, GP for the respondents present. Mr. Shakeel Ahmad, advocate also filed Wkalat Nama on behalf of the appellant. The learned Government Pleader requested for time to contact the respondents for production of complete record. Request accepted. To come up for preliminary hearing on 16.05.2014 .

Membe

Form- A

FORM OF ORDER SHEET

Court of 748/2013 Case No. Order or other proceedings with signature of judge or Magistrate S.No. Date of order Proceedings 3 2 1 The appeal of Mr. Saleem Pervez presented today by 22/04/2013 1 Mr. S. Shahid Sherazi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. REGISTRAŔ Ż 27-8-2013 This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on 23 - 9 - 2013CHAIRMAN **5**:_ 23-9-2013. Appellant with connel present and requested for a djournment - To come up for preliminary bearing on 26-11-2013 at Comp Court, D. J. Khan. Comp Court D. I.Khans 4-26-11-2013 vide order dated 31-10-2013. Therefore, notices be issue to the appellant and this Counsel for preliminary hearing on 13-1-2014 at Rechawan. Registra

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service App: No. 748 /2013

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Saleem ParveizAppellant

VERSUS

Provincial Police Officer & other......Respondents

INDEX

S.	Description of documents	Annex's	Pages
No.			
. 1.	Grounds of appeal & Addresses of parties.		1-5
2.	Copy of order dated: 06-04-2009	A	6
3.	Copy of order Dated: 22-03-2012	В	7
4.	Copy of impugned order dated 14-12- 2012	C	8
5.	Copies of departmental appeal & order 	′D&E E/i	9-11
, 6.			
7.			
8.	Wakalat Nama		12

Appellant 1.2013 Through,

S. Shahid Sherazi Advocate, Mastan Zaidi Hall Distt: Bar D.I.Khan. Cell: 0333-9962514 BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service App: No. 748/2013

Saleem Parveiz S/O Ghulam Qasim (ASI Police) R/O Garhi Sadozai Teh: & Distt: D.I.Khan......Appellar

VERSUS

...Appellant

1. The Provincial Police Officer, KPK, Peshawar.

2. Regional Police Officer, D.I.Khan Range.

3. Fazal Rahim 33/D, (Sub Inspector), c/o DPO, D.I.Khan.

4. Mumtaz Khan, 104-D, (Sub Inspector), c/o DPO D.I.Khan.

D.I.Khan.....Respondents

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDERS OF D.I.G POLICE D.I.KHAN RANGE ISSUED VIDE ORDER NO. 2971-75/ES DATED 14-12-2012 IN WHICH THE RESPONDENTS NO. 3 & 4 HAVE BEEN PROMOTED AGAINST THE RULES AND AGAINST THE ORDER OF **RESPONDENTS** NO.1 WHO REJECTED THE AND FILED THE DEPARTMENTAL APPEAL OF APPEALLANT, WHICH IS WRONG, ILLEGAL AND INEFFECTIVE UPON THE RIGHTS OF THE APPELLANT.

PRAYER:

By accepting this appeal the impugned order of respondent No. 2 may please be set aside and consequently the appellant may please be promoted as Sub Inspector Police w.e.f the date of promotion of his colleagues i.e. 14-12-2012 with all back benefits.

Respectfully Sheweth:

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1. 7

- That the appellant was inducted in the police department as "Probationer Assistant Sub Inspector" vide order dated 06-04-2009. Copy of order is attached as annexure "A".
- That after completion of three years successful probation period the appellant was confirmed along with other colleagues vide order dated 22-03-2012 from the date of their appointment i.e. 26-03-2009. Copy of order dated 22-03-2012 is attached as annexure "B".
- 3. That a Departmental Promotion Committee has been held on 13-12-2012 in which the respondent No. 3 & 4 have been promoted along with others vide order dated 14-12-2012. Copy of impugned order dated 14-12-2012 is attached as annexure "C".
- 4. That the appellant being aggrieved preferred departmental appeal/ representation u/s 22 of Civil Servants Act 1973 to the respondent No.1 against the impugned order of respondent No. 2 on 05-01-2013, but the same was rejected and filed vide order No. 746/ES, dated 28-02-2013. Copies of departmental appeal/ representation and order dated 28-02-2013 are attached as annexure "D" & "E" respectively.
- 5. That the appellant was on Upper College Course at Police Training College Hangu, when the order dated 28.02-2013 was passed and the same was communicated to him when the appellant had availed the leave from PTC Hangu w.e.f. 22-03-2013 to 25-03-2013.

6. That the appellant now constrained to move this Honorable Tribunal for the redressal of his grievances for the following amongst other grounds.

GROUNDS:

- A. That the impugned promotion order is against the rules and law which is patiently illegal and ineffective upon the rights of appellant.
- B. That both respondents No.3 & 4 are much junior to the appellant as their date of confirmation is 15-03-2010 & 20-07-2010 respectively while the date of confirmation of the appellant is dated 26-03-2009, which itself sufficient to prove the mala fide on part of respondents.
- C. That the respondents ignored the rules and facts just to accommodate their blue eyed.
- D. That the impugned order of respondent No.2 is against the dictum laid down by Apex Supreme Court in various judgments, hence is illegal, against the law, facts, equity & justice and have no legal footing to stand upon.
- E. That the impugned order is violation of Police Rules read with Promotion Rules 1989 but the respondent No.2 passed the same with out any justification/ reason just to by pass the appellant.

- That respondent No.2 has wrongly promoted the respondents No. 3 & 4, not on merit but on the basis of pick & choose & self made criteria, thus the same is need to be set aside and declare ineffective upon the rights of appellant and against the law/ rules and natural justice.
- G.

That it is just, fair as well as in the interest of justice and in view of the above facts and circumstances, the impugned order wherein the appellant has been deprived from his due right of promotion be declared as illegal, unlawful and without jurisdiction and needs to be set at first.

It is therefore prayed that by accepting this appeal the impugned order of respondent No.2 may please be set aside up to the extent of respondent No.3 & 4 and consequently the appellant may please be order to promote the appellant w.e.f. the date of promotion of his other colleagues i.e. 14-12-2012 with all back benefits, any other relief if deemed fit may also be granted in favour of the appellant.

il. 2013 Throug S. Shahid Sherazi

Advocate, D.I.Khan

<u>AFFIDAVIT</u>

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I, Saleem Parveiz S/O Ghulam Qasim (ASI Police) R/O Garhi Sadozai Teh: & Distt: D.I.Khan, do hereby solemnly affirm and declare on Oath that the 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.

IDENTIFIE DEPONENT Attested NOHAMMAD BA ocate S. Shahid Sherazi blic Advocate, D.I.Khan

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Service App: No.____/2013[.]

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Saleem ParveizAppellant

VERSUS

Provincial Police Officer & other.....Respondents

ADDRESSES OF PARTIES

<u>PETITIONER:</u>

Saleem Parvaiz S/O Ghulam Qasim (ASI Police) R/O Garhi Sadozai Teh: & Distt: D.I.Khan.

<u>RESPONDENTS:</u>

- 1. The Provincial Police Officer, KPK, Peshawar.
- 2. Regional Police Officer, D.I.Khan Range.
- 3. Fazal Rahim 33/D, (Sub Inspector), C/O DPO, D.I.Khan.
- 4. Mmtaz Khan, 104-D, (Sub Inspector), C/O DPO, D.I.Khan.

Through,

S. Shahid Sherazi Advocate, D.I.Khan

N.U. 2013

ORDER

Consequent on the recommendation of NWFP Public Service Commission and approved by PPO NWFP Peshawar vide letter No.3867-73/E-II dated 12.2.2009 and No.5687-91/E-II dated 28.2.2009 against the 25% -quota reserved for direct appointment. The following candidates have been approved for appointment as Probation ASIs in Police Department on three years probation in BPS-09 (3820-230-10720) alongwith usual admissible allowances from the date of their arrival in the District subject to the medical fitness and character verification.

They are allotted Range Number and posted to the Districts as noted against their name: -

,	S#	Name with address Solim Pervez s/o Ghulam Gasim:r/o Street No.1	Range Number Allotted	District to which Posted
	2	Saduzai Tank road D.I.Khan Minhaj Sikandar Yar Khan ata Wi	87/D	D.I.Khan
ł		Ebaad Wazir s/o Abdul Mubid of Abdul Mubid	C/83	D.I.Khan
f	.i	inamullah s/o Attaullah r/o Attaulah deshawar	89/D	D.I.Khan
		Fagirni gate Circular road D.I.Khan	· 90/D · ·	Tank

(DR. ISHTIAO/AHMAD MARWAT) PPM Regional Police Officer, W Dera Ismail Khan

ANX-

No. 1164-65 1ES

Copy of above is forwarded for information & necessary action to the: -

the

🚴 D.I.Khan

1. District Police Officer, Tank. 2. District Police Officer, D.I.Khan

Dated

Necessary gazette notification may be issued accordingly.

6

/04/2009

Their application forms received from CPO NWFP Peshawar are sent herewith.

End Appli Form. 25 o/B/EC/PO Form/act

(DR. ISHTIAQAHMAD/MARWAT) PPM Regional-Police Officer, Dera Ismail Khan

<u> DRDER</u>

The following Probationer ASIs of DIKhan Region are hereby approved for confirmation as ASI after completion of their three years probationary period from the date of appointment as per Police Rules 19-25 as noted below: -

S#	Name of PASI	Date of appointment
1	PASI Minhaj Sikandar Yar Khan	07.03.2009
2	PASI Kashif Sattar	14.03.2009
3	PASI Muhammad Adnan	14.03.2009
4	PASI Fazal-ur-Rehman	19.03.2009
5	PASI Saleem Parvez	26.03.2009

ANX-E

(QAZI JAMIL-UR-REHMAN) Deputy Inspector General of Police, 2 Dera Ismail Khan Region 2 2/ 3

Copy of above is forwarded to the District Police Officer, D.I.Khan for information and necessary action. Necessary gazette notification may be issued accordingly.

Dated 22.3.2012

la chion.

/ES

911

No.

Distt; Police Officer. Dera Ismzil Khan_ (QAZI JAMIL-UR-REHMAN) Deputy Inspector General of Police; Q Dera Ismail Khan Region

ORDER

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7.

The following ASIs on Promotion List 'E' of D.I.Khan Region have been approved for promotion to the rank of Offg: Sub Inspectors by the Regional Departmental Promotion Committee held in Region Office D.I.Khan on 13.12.2012 till further order: -1052.3

ASI Syed Asghar Ali Shah, 51/D of DIKhan

ASI Saif-ur-Rehman, 31/D of DIKhan District

ASI Muhammad Alamgir, 49/D of DIKhan District

ASI Muhammad Imran, 52/D of DIKhan District 4. ₹ 5.

ASI Fazal Rahim, 33/D of DIKhan District

ASI Mumtaz Khan, 104/D of DIKhan District

ASI Syed Sagheer Abbas Shah, 42/D of Elite Force DIKhan

Their promotion will take effect from the date of taking over charge of higher responsibilities.

> (QAZI JAMIL-ÜR-REHMAN) Deputy Inspector General of Police, Dera Ismail Khan Region

No 2/7/-75 /ES Dated

1.

2.

3.

4.

5.

D.I.Khan

the

<u>14/12/</u>2012

ANX.C

Copy of above if forwarded for information & necessary action to the: -

Commandant, Elite Force Khyber Pakhtunkhwa Peshawar.

District Police Officer, D.I.Khan. Necessary Gazette Notification may be issued accordingly.

District Police Officer, Tank.

Superintendent of Police Investigation Unit, D.I.Khan

Dy: Superintendent of Police, Elite Force D.I.Khan

Distt; Alice Officer Derá Ismail Khan

(QAZI JAMIL-UR-REHMAN) Deputy Inspector General of Polico, Dera Ismail Khan Region

2-005

The Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

SUBJECT:

REPRESENTATION / DEPARTMENT APPEAL.

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NX-

han R2

Respected Sir,

The Applicant submits as under:-

- 1/That the applicant was appointed as ASI on the recommendation of Public Service Commission on 26/03/2009.
- 2- That department seniority list was prepared by DIG, Dera Ismail Khan vide seniority list No. 853-9 dated 11/04/2011, which is against the law, facts, and ineffective upon the rights of applicant. The persons mentioned at serial No.84 and 85 are much juniors to applicant but they have been illegally shown as senior to applicant.
- 3-) That on the basis of illegal and void seniority list persons Junior to applicant has been promoted vide letter No. 2971-75 dated 14/12/2012 which is against the law, rules and natural justice.
- 4- That according to law the promotion / seniority list is prepared on the basis of first appointment, age, and education.

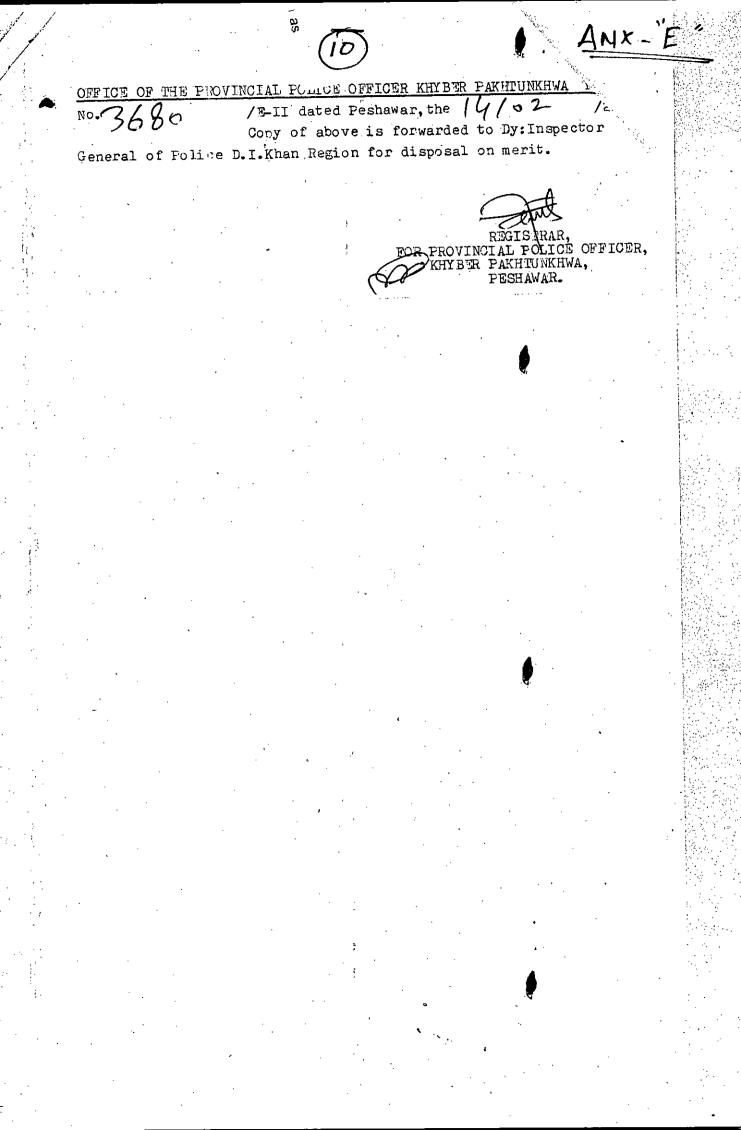
It is therefore, humbly prayed that the applicant be enlisted is the seniority list according to his date of appointment, and may kindly be promoted accordingly. $|\mathscr{L}|$

Dated: 05/01/2013

Yours Humble Applicant FOR NOT

S/o Ghulam Qasim

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From

To

No.

The Deputy Inspector General of Police, Dera Ismail Khan Region

The District Police Officer, D.I.Khan

Dated D.I.Khan the

NX-A ISMAIL KHAT 28/102/2013

Subject:

REPRESENTATION/ DEPARTMENTAL APPEAL

Memorandum:

79E

/ES

Please refer to the case noted above in the subject.

1. ASI Saleem Pervez preferred representation to worthy PPO Khyber Pakhtunkhwa Peshawar for promotion to the rank of Sub Inspector to the effect that ASI mentioned at Serial No.84 and 85 of the Seniority List issued vide this office Endst: No.853-59/E3 dated 11.04.2011 junior to him but shown illegally senior to the applicant received vide PPO Khyber Pakhtunkhwa Peshawar Endst: No.3680/E-II dated 14.02.2013.

2.

His representation was examined and filed.

3. As he has submitted the representation directly to worthy PPO Khyber Pakhtunkhwa Peshawar which is violation of Police Rule 14.5, therefore ensure legal action under intimation to this office.

Copy of representation is sent herewith for ready reference.

GU/ 2-)

For machion. Dist: Police Office

Dera Ismail Khan 413 <u>WAKALATNAMA</u> (Power of Attorney)

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

Mr. Saleem Kenreiz

(Petitioner) (Plaintiff)(Applicant) (Appellant) (Complainant) (Decree Holder)

VERSUS

PPO KPUL & others

÷ 1

I/ We,

(Respondent) (Defendant) (Accused) (Judgment Debtor)

in the above noted *Service Appenel*, do hereby appoint and constitute **S. Shahid Sherazi** Advocate D.I.Khan to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/our matter.

undersigned

Attested & Accepted.

Freed. 2013

S. Shahid Sherazi Advocate.

Mastan Zaidi Hall Distt: Bar D.I.Khan Cell: 0333-9962514

ames

Mr. Saleen Verver S/ Ghulan Qasu Asi Police, Othha

وكالت نا 746/2015 لوركَ • Services Tribunal Klyber Pukhtunkhwa www. saleem Parvez :: Peshawar 121P & others Service Appeal دحوى ياجرم Appeal against order of DIR vide 2971-75/85555 باعث جرا مقدمه منددجه بالاعنوان ميں اپن طرف داسطه بيروى وجواب ديشى برائ بيشى يا تعفير مقدمه ، تام TRIBUNAL COURT كيليج س AKhtar Saleen Khan Baloch Advocate High Court, کو حسب ذیل شرائط لو کیل مقرر کیا ہے کہ میں بیٹی پر خود یا بدا بذراید رو برد عدالت حاضر ہوتا رہوں کا اور ہر دقت نکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کرول کا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے ممی طور میرے خلاف ہو ممیا تو صاحب موصوف اس کے سمی طرح ذمہ دار نہ ہوں کے نیز وکل ماحب موصوف مدر مقام کچہری کے علادہ یا کچہری کے ادقات سے پہلے یا پیچے یا بروز تخطیل پروی کرنے کے ذمہ دار نہ ہوں کے اور مقدمہ صدر کچہری کے علاوہ اور جگد ساعت ہونے یا بروز تنظیل یا کچبری کے اوقات کے آگے یا پیچے پیش ہونے پر مظہر کوئی نقصان بینچ تو اس کے ذمہ دار یا اسلے واسلے سمی معادضہ کے ادا کرنے یا محمت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے بھ کوکل ساخت پر داخته ماحب موصوف مش کرده ذات خود منظور قبول بو کا ادر صاحب موصوف کو عرض دموی با جواب دموی با درخواست اجرام اسائ ذکری نظروانی ایک محرانی و برقتم در خواست برقتم کے بیان دینے اور پر ثالثی یا راضی نامہ و فیصله برطف کرنے اقبال دموی کا بھی افتیار ہو کا اور بصورت مقرر ہونے تاریخ تیشی مقدمه مرکور بیردن از کچهری صدر پیروی مقدمه مرکور نظر تانی اپیل و گرانی و برآ مدگی مقدمه یا منسوخی ڈگری یک طرفه یا درخواست تحکم امتاع یا قرتی 🛴 ا المرقاري قبل از فيعلم اجرائ ذكرى مجى صاحب موصوف كو بشرط اداليكي عليمده مخانهم وى كا اعتيار مو كا اور تمام ساخت يداخته صاحب موصوف مثل كرده از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو ہے بھی اختیار ہو کہ مقدمہ مزکورہ یا اس کے کمی جزد کی کاردائی یا بصورت درخواست نظر ثانی ایل محرانی با دیگر معامله و قدمه خدکوره سمی دوسرے وکل با بر سر کو اسبط بجائے با اسبط محراه مقرر کریں اور ایسے مشیر قانون کو بھی جر امر میں وہی اور ویسے افتیارات حاصل ہوں کے بیسے صاحب موصوف کو حاصل میں اور دوران مقدمہ میں جو کچھ ہر جاند النواء پڑے گا وہ صاحب موصوف کا حق ہو گا مر صاحب موصوف کو پوری فیس تاریخ بیش سے پہلے ادا نہ کروں کا تو صاحب موصوف کو پورا افتیار ہو گا کہ مقدمہ کی بروی نہ کریں ادر ایک صورت میں میرا کوئی مطالبہ کمی قتم کا صاحب موصوف کے برخلاف جیس ہوگا لېدادكالت نامدلكوديا ب تاكرسندر ب -24th September 2013 مضمون دکالت ما مه تن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور Accepted alemberry Attested

سن کا پیزسنشراندرون سپن زر مار کیٹ بالمقابل جانز ہوتل ڈیر ہ اساعیل خان نون : 714812