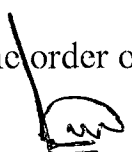


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1472/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/10/2022	<p>The appeal of Mr. Hidayat Ullah received today by post through Mr. Muhammad Waqar Alam Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan 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**

In service Appeal No. 1472 /2022

Hidayat Ullah
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

INDEX

S.No.	Description of documents	Pages
1	Appeal along with affidavit	1-7
2	Copies of CNIC of the appellant	- 8 - 9
3	Copies of the CNIC, appointment order, medical report along with arrival report and attendance record of appellant	A to A/4 10 - 33
4	Copies of writ petition and judgment dated 15/02/2022	^B 34 - 36
5	Copies of writ petition and judgment dated 15/02/2022	^C 37 - 39
6	Copy of impugned order dated 10-01-2013 which was communicated in High Court on 15-07-2022.	^{C-I} 40
7	Copy of Departmental representation dated 15-07-2022.	^D 41
8	Copy of comments furnished by DHO Tank in High Court	^E 42 - 47
9	Vakalatnama	48

Dated 11/10/2022

Your humble appellant

Hidayat Ullah
Hidayat Ullah

Through counsel

Damsaz Khan
Damsaz Khan
Advocate High Court

Muhammad Waqar Alam
11.10.22
Muhammad Waqar Alam
Advocate Supreme Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1472 / 2022

Hidayat Ullah son of Aziz Khan r/o village Khano
District Tank.

.....(**Appellant**)

VERSUS

1. Government of Kyber Pakhtunkhwa, through Secretary Health Department, KPK Peshawar.
2. Director General Health Services, Khyber Pakhtunkhwa Peshawar.
3. District Health officer (DHO), District Tank.
4. District Accounts Officer, District Tank

..... (**RESPONDENTS**)

APPEAL UNDER SECTION 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974 FOR DECLARATION OF OFFICE ORDER NO.745 DATED 10-01-2013 AS ILLEGAL, UNJUSTIFIED, BASED ON MALA FIDE.

PRAYER

On acceptance of this appeal, the office order No.745 dated 10-01-2013 may please be declared as illegal, unjustified and based on mala fide. Further prayed that the appellant be re-instated into service with all back benefits.

Note: Addresses given above shall suffice the object of service. All necessary and proper parties have been arrayed in the panel of respondents.

Respectfully Sheweth;

The appellant humbly submits as under;

1. That brief facts of the case are that the present appellant is the permanent resident of District Tank and was appointed as Naib Qasid against the vacant post at District TB Control Office Tank vide appointment order dated 24/09/2012. The petitioner resumed the charge and started his duty with zeal & zest. Copies of the CNIC, appointment order, medical report along with arrival report and attendance record of appellant are annexed as **Annexure-A to A/4**.
2. That the appellant performed his duties with whole heartedly and hard work but the respondents did not pay the monthly salaries to the appellant from date of petitioner's arrival to till date. Furthermore, the respondent#4 also restrained the appellant from performing his duties. Therefore the petitioner, time and again, approached to the respondents but the request of appellant has been shuffling from desk to desk.
3. That feeling aggrieved by the act and omission of respondents the appellant filed a writ petition No. 418-D/2018 titled "Hidayatullah Vs. Govt. of Khyber Pakhtunkhwa etc" before the Honourable Peshawar High Court Bench Dera Ismail Khan which was dismissed in *limine* and the petitioner was directed to approach at proper forum vide order/judgment dated 15/02/2022. Copies of writ petition and judgment dated 15/02/2022 are annexed as **Annexure-B**.
4. That during the pendency of writ petition the respondents submitted para-wise comments along with impugned order dated 10-01-2013, hence from the date of communication of

Alia

order the appellant made a representation. Copy of impugned order dated 10-01-2013 is enclosed as **Annexure-C/C-I.**

5. That thereafter the appellant preferred a departmental appeal / representation to the respondent#3 on 15/07/2022 for the redressal of his grievance but the respondents even did not bother to reply the departmental appeal of the appellant. Copies of the departmental appeal along with postal receipt are annexed as **Annexure-D.**
6. That feeling aggrieved by the impugned acts and omissions of the respondents, the appellant left with no other efficacious remedy but to invoke the jurisdiction of this Honourable Tribunal u/s 4 of KPK Service Tribunal Act, 1974, inter alia on the following grounds amongst others;

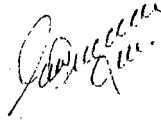
GROUND S

- a. That the act of the respondents while stopped the salary of the appellant and also restrained the appellant from performing the duty without any notice/termination order is illegal, against the natural justice, ulterior motives, based on mala-fide and ineffective upon the rights of the petitioner.
- b. That it is apparent from the fact of record that the petitioner was a qualified candidate and had appointed as Naib Qasid and he performed his duty with full of hard work and honestly but the respondents without any cause did not pay the salary of the appellant from day one and also restrained the appellant from performing the duty without any notice/termination order. Thus the malafide of the respondents is apparent on the fact of record.

- c. That the appellant is an eligible candidate for the subject post and validly appointed but the respondents clearly violated the rights of the appellant.
- d. That the appellant is the victim of unlawful and illegal act of the respondents and such a mala-fide act on the part of respondents is against law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the appellant.
- e. That the impugned order was issued with mala-fide intention and showed at belated stage during the course of High Court case proceeding while submitting their comments and it is pertinent to mention here that the impugned withdrawal order was not communicated to the appellant, hence the appeal in hand is within time.
- f. That the counsel for appellant may kindly be allowed to raise the additional grounds at the time of arguments.

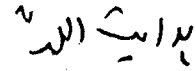
It is therefore, humbly prayed that the appeal of the appellant may please be accepted as prayed for.

Dated 11/10/2022



Muhammad Waqar Alam
Advocate Supreme Court

Your humble appellant



Hidayat Ullah

Through counsel



Damsaz Khan
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. _____/2022

Hidayat Ullah
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

CERTIFICATE

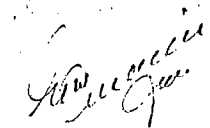
Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Court.

Dated 11/10/2022


Appellant

NOTE

Appeal with annexure along-with required sets thereof are being presented in separate file covers.


Appellant's counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In service Appeal No. _____/2022

Hidayat Ullah
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

AFFIDAVIT

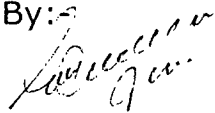
I, **Hidayat Ullah**, appellant herein, do hereby solemnly affirm on oath:-

1. That the accompanying appeal has been drafted by counsel following our instructions;
2. That all para-wise contents of the appeal are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Court, nor anything contained therein, based on exaggeration or distortion of facts.

Dated 11/10/2022


Deponent

Identified By:



Muhammad Waqar Alam
Advocate Supreme Court

OFFICE OF THE EXECUTIVE DISTRICT OFFICER HEALTH
DISTRICT TANK.

No. 2564

Dated: 24/12/2012

Mr. Hayatullah S/O. Aziz Khan
Village Khano District Tank.

OFFER OF APPOINTMENT

Subject:

Govt. hereby offers you a post of Narb Qasid against the vacant post at District TB Control Office under the control of this office in SPS-01 Viz. @ Rs.4900-150-9300/-PM plus usual allowances under the rules and subject to revision time to time on the following terms and conditions of the Government policy.

Your appointment in the Health Department is purely on temporary basis and your services are liable to be terminated at any time without giving notice or advance irrespective of the facts that you may belong to any other post to which you are recruited.

Should you be duty bound for your own expenses in case you wish to resign at any time one month notice will be required in writing. In case of one month pay shall be forfeited.

You will be governed by such rules and orders relating to leave, TA, Medical charges as may be issued from time to time for the category of Government Servant to which you may belong.

You will not be entitled to pension or Gratuity as laid down policy of the Government of Khyber Pakhtunkhwa, Peshawar.

In order to accept the above conditions you should report to District TB Control Officer Tank for the period of 15 days of the receipt of this letter, failing which your services will be terminated.

You are requested to produce the production of Medical Fitness Certificate.

sd/
EXECUTIVE DISTRICT OFFICER
(HEALTH) TANK.

HCBA-DIK
Hayatullah
24/12/12

District TB Control Officer Tank,
District Health Officer, Tank,
District Office,
District Health Officer's Office.

EXECUTIVE DISTRICT OFFICER
(HEALTH) TANK.

Amir B
(2)

MEDICAL CERTIFICATE

Name of Official: Amir B

Rank: Major

Service No: 10101

Unit: 10101

Regiment: 10101

Branch: 10101

Service Number: 10101-2974355-5

Station: 10101

Post: 10101

Grade: 10101

Seal of Office

I hereby certify that I have examined Mr. Amir B

for employment in the Office of 10101

and find no disease communicable or other constitutional affection or disability.

I do not consider this as disqualification for employment in the Office of 10101

and in my statement 14 year and by appearance about

NAME OF MEDICAL OFFICER AND FINDER

Amir B
 Medical Superintendent
 OHQ Hospital Tank

Dated 25/9/2018

10101
 10101
 10101

(3)
 در صورتیکه در این خصوص هیچگونه
 سند و مدرکی در دسترس نباشد و
 محضاً بر اساس اظهارات طرفین
 در این خصوص

در این خصوص هیچگونه سند و مدرکی
 در دسترس نباشد و محضاً بر اساس
 اظهارات طرفین در این خصوص
 در این خصوص هیچگونه سند و مدرکی
 در دسترس نباشد و محضاً بر اساس
 اظهارات طرفین در این خصوص

در این خصوص هیچگونه سند و مدرکی
 در دسترس نباشد و محضاً بر اساس
 اظهارات طرفین در این خصوص
 در این خصوص هیچگونه سند و مدرکی
 در دسترس نباشد و محضاً بر اساس
 اظهارات طرفین در این خصوص

در این خصوص هیچگونه سند و مدرکی
 در دسترس نباشد و محضاً بر اساس
 اظهارات طرفین در این خصوص

MEDICAL CERTIFICATE

Amcer B
(2)

Name of patient Amcer B
Address ...
Date of birth 1947 / M.I.C. Number 177-3974255-85
Place of identification ...
Name of the Office ...
Name of ...

Seal of Office

I hereby certify that I have examined Mr. Amcer B
for employment in the Office of
FB Central office Tank
and that he has no disease communicable or other constitutional affection or bodily
defect which I do not consider this as disqualification for employment
at FB Central office Tank
according to his own statement 34 year and by appearance about

HCBA-DIK
[Signature]

[Signature]
Medical Superintendent
D.I. Hospital Tank

Dated 21/9/2019

Annex B
(2)

MEDICAL CERTIFICATE

Name of Official Mr. Huseinullah

Rank ...

...

...

Date of Birth 25/1/1987 / N.I.C. Number 17901-3974355-3

...

...

...

...

Seal of Office _____

I hereby certify that I have examined Mr. Huseinullah

... for employment 0 in the Office of

TB Central office Tank

... I do not consider this as disqualification for employment

... of the Ministry of TB Central office Tank

... according to his own statement 21 year and by appearance about

...

HCBA-DIK
[Signature]

Muhammad
Medical Superintendent
D.I.Q Hospital Tank

Dated 25/9/2017

(3)

خداوند متعال - تنظیم اسلامی قلمی صورت
در سطوح - در سطح کنگرہ اسلامی تنظیم
مکملات - ماموریت الخورٹ
منا - عالی

نورینہ گزالی کہ سائنس اور خورٹ 2009/2010
قبل از دوہرہ این ماموریت الخورٹ
مکملات کنگرہ اسلامی تنظیم
مجموعہ تنظیم اسلامی قلمی صورت

نورینہ

سائنس تازلیت در کنگرہ اسلامی

اللہ اعلم
سائنس تازلیت الخورٹ

مہارت اسلامی

HCBA-DIK
11/11/2009

SIT

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2009

ATTENDANCE REGISTER FOR...

2018

(3)

16 -
MT

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ATTENDANCE REGISTER FOR THE

Name & Designation	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. <i>[Handwritten Name]</i>																	
2. <i>[Handwritten Name]</i>																	
3. <i>[Handwritten Name]</i>																	
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15. <i>[Handwritten Name]</i>																	
16. <i>[Handwritten Name]</i>																	
17. <i>[Handwritten Name]</i>																	

[Handwritten Signature]
 Head
[Handwritten Signature]
 Deputy Head

[Handwritten Signature]
 Deputy Head

ATTENDANCE REGISTER FOR THE

Month of ... 2018

Name & Designation	2018							Total	No. of Days	To end of Current month
	1	2	3	4	5	6	7			
1. Dr. Ghazala Hidayat										
2. Mohd. Shalim										
3. Saif Hameed S/Tec										
4. Mushtaq J/Sec										
5. Hidayatullah J/C										
6. Samiullah w/s										
7. Jassy Driver										
8. Imam Qureshi L/Tec										
9. Hidayatullah N/O										
10. ...										
11. ...										

HCB-A-DIK

19

ATTENDANCE REGISTER FOR THE

MONTH OF March 2013

23

No	Name & Designation	Days														Total		Casual		Holidays														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	19	20	21	22	23	24	25	26	27	28	29	30	31	Current month	To end of Current month	Current month	To end of Current month	Current month
1	Y. Ghazali	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
2	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
3	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
4	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
5	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
6	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
7	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
8	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
9	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
10	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
11	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
12	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
13	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
14	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
15	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
16	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
17	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
18	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
19	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
20	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
21	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
22	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
23	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
24	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
25	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
26	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
27	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
28	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
29	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
30	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
31	M. Yusoff	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						

HCB-DIK
 Yusoff

24-

No.	Name & Designation	1	2	3	4	5	6	9	10	11	12	13	14	15	16
1	Dr. Cahaya Hidayat														
2	Dr. Hidayat														
3	Shir Hananda														
4	Hidayat ul-...														
5	...														
6	...														
7	...														
8	...														
9	...														
10	...														
11	...														
12	...														

No.	Name & Designation	1	2	3	4	5	6	9	10	11	12	13	14	15	16
1	Dr. Cahaya Hidayat														
2	Dr. Hidayat														
3	Shir Hananda														
4	Hidayat ul-...														
5	...														
6	...														
7	...														
8	...														
9	...														
10	...														
11	...														
12	...														

Current month	End of Current month	Current month	End of Current month	Current month	End of Current month

...
 ...
 ...

Serial No	Name	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12
-----------	------	---------------	------	---	---	---	---	---	---	---	---	---	----	----	----

13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total No. of days	Remarks
----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-------------------	---------

25-

1	Dr Ghazali Hidayat	Dr. Ghazali	Dr.																	
2	M. Shafiq	M. Shafiq	M. Shafiq																	
3	Ikeamullah	Ikeamullah	Ikeamullah																	
4	Muhtaar J/c	Muhtaar J/c	Muhtaar J/c																	
5	Hidayatullah	Hidayatullah	Hidayatullah	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
6	Samsiullah	Samsiullah	Samsiullah	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
7	Umar Bin	Umar Bin	Umar Bin	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

[Handwritten signature]

Daily Attendance Register of the TBC Tandu

For the month of July 2017

Serial NO	Name	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total NO. of days	Remarks
-----------	------	---------------	------	---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-------------------	---------

26-

1	M. Ghazala Hidayat	M. Ghazala Hidayat	NO	S	S	S	S	S	S	S	S	S	S	S	S																					
2	M. Hafid	M. Hafid	M/S	S	S	S	S	S	S	S	S	S	S	S	S																					
3	M. Hamidah	M. Hamidah	L/Teck	S	S	S	S	S	S	S	S	S	S	S	S																					
4	M. Nughitaq	M. Nughitaq	J/C	S	S	S	S	S	S	S	S	S	S	S	S																					
5	Hidayatullah	Hidayatullah	H/R	P	P	P	P	P	P	P	P	P	P	P	P																					
6	Hiyaulah	Hiyaulah	w/c	P	P	P	P	P	P	P	P	P	P	P	P																					
7	Umey Binti	Umey Binti	M	P	P	P	P	P	P	P	P	P	P	P	P																					

HICBA-DINK
 11/07/2017
 [Signature]

[Signature]

Daily Attendance Register of the

7730

For the month of Agust 2018

Serial NO Name Father's Name Rank 1 2 3 4 5 6 7 8 9 10 11 12

13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Total NO. of days Rema

27-

1 D. Ghazali Hidayat N/B P P P P P P P P P P P P

2 M. Hafiq WTS P P P P P P P P P P P P

3 Ikramullah WTS P P P P P P P P P P P P

4 Mustaq J/C P P P P P P P P P P P P

5 Hidayatullah N/B P P P P P P P P P P P P

6 Saaidullah WTS P P P P P P P P P P P P

7 Umar Bin An P P P P P P P P P P P P

P P P P P P P P P P P P P P

P P P P P P P P P P P P P P

P P P P P P P P P P P P P P

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P P P P P P P P P P P P P P

P P P P P P P P P P P P P P

P P P P P P P P P P P P P P

RECEIVED

[Signature]

Daily Attendance Register of the

For the month of

September 2013

School No	Name	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total NO. of days	Rema	
1	Shahzad Hidayat																																				
2	A. Khatir	M/S (F)																																			
3	Iqbalullah	L-100																																			
4	A. Hushay	J/C																																			
5	Hidayatullah	N/A		P	P	P	P	P								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
6	Samiullah	w/c		P	P	P	P	P								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
7	umer	Bi/bi		P	P	P	P	P								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	

-28-

HCB-DIK
2013/09/30

[Handwritten Signature]

For the month of October 2018

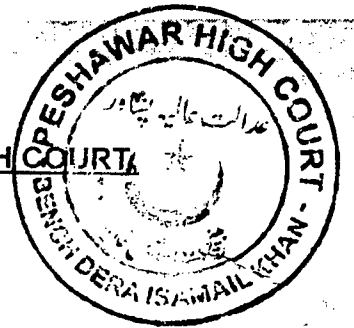
Serial NO	Name	Father's Name	Rank	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total NO. of days	Remarks
-----------	------	---------------	------	---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-------------------	---------

30-

1	Py Ghazala Indrayat	no/ku	...																																			
2	M. Hafiq	TD NTS (F)	...																																			
3	Skamillah	L/Teah	...																																			
4	Mushary	J/C	...																																			
5	Hidayatullah	N.Q	...	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
6	Samiullah	NTS	...	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
7	Amir Rishi	Das	...	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				

[Handwritten signature]

BEFORE THE HONOURABLE PESHAWAR HIGH COURT,
DERA ISMAIL KHAN BENCH.



Writ Petition No. _____ of 2018

Annexure "B" - 34 -

Hidayatullah son of Aziz Khan resident of Village Khano, District Tank.

Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Health Govt. of K.P.K, Peshawar.
2. Secretary Health, Govt. of K.P.K, Peshawar.
3. Director General Health Services, Govt. of K.P.K, Peshawar.
4. District Health Officer, Tank.
5. District Account Officer, Tank.

Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
1973.**

Respectfully Sheweth:

- i. That the addresses of the parties as given above are correct and sufficient for the purpose of service.
- ii. That the brief facts of the case are that the present petitioner is the permanent resident of District Tank, and was appointed as Naib District Health Officer against the vacant post at District TB Control Office

WP No. 418 of 2018 (Hidayatullah VS Government KPK) (Grounds)

ATTESTED
21.6.2022
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

4. Para no 4 is not relate with the answering respondent However the appointment orders of the Petitioner has been Withdrawn Annexure A.

GROUND

1. This para is incorrect and not admitted because the actual fact is that the post of Naib Qasid is 1 and the appointment order was issued to 2 employees by Ex DHO Health Tank Dr. Aslam Baloch

2. This Para does not relate with the answering respondent

3. No comments

4. This Para is also does not relate with answering respondent

5. The actual facts are already submitted through above Paras thus no comments

6. This para is legal, hence no comments.

It is therefore humbly prayed that on acceptance of para wise comments the instant writ petition may kindly be dismissed with cost through out.

[Handwritten Signature]

Respondent No 4

District Health officer
District Tank

HCBA-DIK
[Handwritten Signature]

115 3

BEFORE THE PESHAWAR HIGH COURT, D.I.KHAN BENCH

Wit Petition No, 418D/2018

Hidayatullah

versus

Govt- KPK

AFFIDAVIT

I, Sami ullah, Data Entry Operator to District Health officer, Tank do hereby solemnly affirm and declare that the contents of Para wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Court.

Identified by

[Handwritten signature]

[Handwritten signature]
DEPONENT

121011084324-9

HCBA-DIP
[Handwritten marks]



**OFFICE OF THE
DISTRICT HEALTH OFFICER
DISTRICT TANK**

Phone: 0963-510755
Fax: 0963-510755



AUTHORITY LETTER

Mr. Sami Ullah DEO is hereby authorized to attend the Honorable Court High Court Peshawar D.I.KHAN Bench on my Behalf in court cases

**District Health Officer
District Tank**

PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET

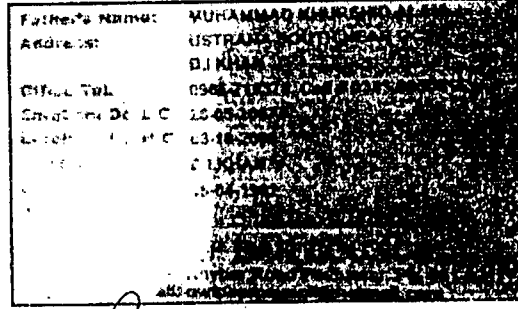
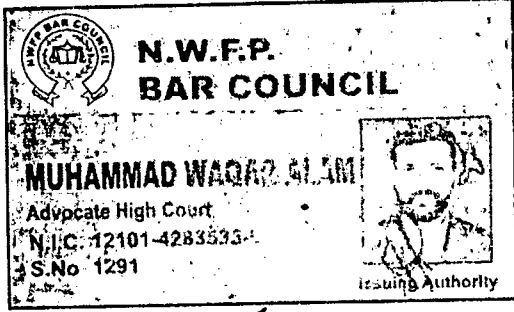
Date of Order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
04.12.2018	<p><u>W.P.No.418-D/2018.</u></p> <p><u>Present:</u> Mr. Damsaz Khan Gandapur, Advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p style="text-align: center;">Comments be called from respondent No.4 so as to reach this Court within a fortnight.</p> <div style="text-align: right; margin-top: 20px;">  <u>JUDGE</u> </div> <div style="text-align: right; margin-top: 10px;">  <u>JUDGE</u> </div>

04/12/18

Habib*

(DB)
Hon'ble Mr. Justice Ijaz Anwar
Hon'ble Mr. Justice Shakeel Ahmad

وکالت نامہ



بعدالت جناب The KPK Service Tribunal Peshawar

منجانب Hidayatullah

Hidayatullah نام Govt. of KPK.

دعویٰ یا جرم

تفصیل دعویٰ یا جرم SERVICE TRIBUNAL Appeal

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام D.I. Khan کیلئے

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

کو حسب ذیل شرائط پر وکیل مقرر کی ہے، کہ ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت بیکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں، اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا، تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشہری کے علاوہ کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پشہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پشہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا یا پانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپیل و گرانٹی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ و فیصلہ پر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا، اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پشہری صدر بیروی مقدمہ مذکورہ نظر ثانی اپیل و گرانٹی و ہر آئیڈی مقدمہ یا مسوئی ڈگری کیلئے درخواست حکم استغاثی یا ترقی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ جتانہ بیروی کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ اسکے کسی جزوی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گرانٹی یا دیگرہ حاملہ مقدمہ مذکورہ کی دوسرے وکیل یا ایئر سٹراکوا ہے بجائے یا اپنے ہر امر مقرر کریں، اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور وہ ان مقدمہ میں جو کچھ ہر جائنا انوائز پڑیگا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ کسی مقدمہ کی بیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سندر ہے

مورخہ _____ ماہ _____ 20

Accepted

العبد

10.10.2022

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

Mob: 0333-9950616

Email: waqaralam1982@gmail.com

بدراب اللہ

العبد

عدالت اللہ

0343-9056898

- 35 -

Tank vide appointment order dated 24-09-2012. The petitioner resumed the charge and started his duty. Copies of appointment order, medical report along with arrival report & attendance record and CNIC are enclosed as Mark-A to C respectively.

- iii. That the petitioner performed his duties with full of honesty and hard work but the respondents did not pay the monthly salary from date of petitioner's arrival to till date. Furthermore, the respondent No. 4 also restrained the petitioner from performing his duty. Therefore, the petitioner approached to official respondents but he paid no heed.

That being aggrieved, the petitioner approaches this Honourable Court, having no other alternative remedy but to invoke the constitutional jurisdiction of this Honourable court to direct the respondents to allow the petitioner to perform the duty as Naib Qasid and to release his salary, inter alia, on the following grounds:

GROUND:

1. That the act of the respondents while stopped the salary of the petitioner and also restrained the petitioner from performing the duty without any notice / termination order is illegal, against the natural justice, ulterior motives, based on malafide and ineffective upon the rights of the petitioner.
2. That it is apparent from the face of record that the petitioner was a qualified candidate and had appointed as Naib Qasid and he performed his duty with full of hard-work and honestly, but the respondent without any cause did not pay the salary of the petitioner from day one and also restrained the petitioner from performing the duty without any notice / termination order. Thus the malafide of the respondents is apparent on the face of record.

WP No.418-D 2018 (Hiaytullah VS Gornamint KPK) (Grounds)

ATTESTED
[Signature]
21.6.22
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

3. That the Constitution of Islamic Republic of Pakistan, 1973 protected the rights of every citizen and provides the equality amongst the citizen, but the respondents clearly violated the fundamental right of the petitioner protected by the Constitution of Islamic Republic of Pakistan.
4. That the petitioner is an eligible candidate for the subject post and validly appointed, but the respondents clearly violated the rights of the petitioner.
5. That the petitioner is the victim of unlawful and illegal act of the respondents and such a malafide act on the part of respondents is against the law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the petitioner.
6. That the counsel for the petitioner may kindly be allowed to raise the additional grounds at the time of arguments.

It is therefore, humbly prayed that the may please be directed the respondents to allow the petitioner to perform the duty as Naib Qasid and to release his salary or any other relief may being deem fit by this Honourable court in the interest of the petitioner.

Your Humble Petitioner

Hidayatullah
Through Counsel

Damsaj Khan Gondapur

Dated: ___/04/2018

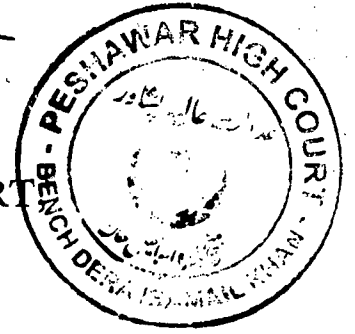
Advocate High Court.

WP No.418-D 2018 (Hiaytullah VS Gornamint KPK) (Grounds)

ATTESTED
[Signature]
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

Annexure "C" - 37-

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
D.I.KHAN BENCH
(Judicial Department)



Writ Petition No.418-D/2018

Hidayatullah
Vs.
Govt. of Khyber Pakhtunkhwa & others

For petitioners: Mr. Damsaz Khan Gandapur Advocate

For Respondents: Nemo (motion case).

Date of hearing 15.02.2022

JUDGMENT

ABDUL SHAKOOR, J.- Petitioner through the instant petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, prayed for the issuance of direction to respondents allow the petitioner to perform his duties and to release his salaries.

2. Facts of the case are that the petitioner was appointed as Naib Qasid in the T.B. Control Office Tank vide appointment order dated 24.09.2012 and he after submission of his medical fitness certificate and arrival

AC

ATTESTED
27.6.22
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

report, started to perform his official duties and accordingly marked his attendance in the relevant register. but respondents failed to release his monthly salaries and also stopped him from performing duties. Thus, he filed the present petition.

3. Respondent No.4 in the compliance of order of this Court submitted his para-wise comments, wherein he opposed the issuance of desired writ.

4. Arguments heard and record gone through.

5. A meticulous sifting of the record transpires that the petitioner was appointed as Naib Qasid on 24.09.2012 and as per attendance registered, copies annexed with the petition, reflect his attendance up-to 31st of January, 2014. There can be no cavil with the proposition that by dint of the appointment letter, the petitioner is a civil servant and he also marked his attendance for about 16 months. Undeniably, the salary of a civil servants falls within the definition of Section 2(1)(e) of the Khyber Pakhtunkhwa Civil Servants Act, 1973, and is also covered by Section 17 of the said Act. Hence, the matter of payment of monthly salaries being fall within the contemplation of Terms & Conditions of the Civil Servants, the jurisdiction

JK

ATTESTED
21.6.22
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

39

of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan 1973.


6. In view of the above discussed legal position, this constitutional petition is not maintainable and thus dismissed in *limine*. The petitioner is, however, at liberty to avail the proper forum, if so desired.

Announced.
15.02.2022
(*M/Subhan)

M/S
18/02



JUDGE



JUDGE

ATTESTED
21.6.02
EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan

(D.B.)

Hon'ble Mr. Justice Abdul Shakoor & Hon'ble Mr. Justice Sahibzada Asadullah

Anneaux "C1"

40



Office of the
District Health Officer
TANK.



Ref. No. 745
Date: 10-1-2013

The District Accounts Officer
Tank.

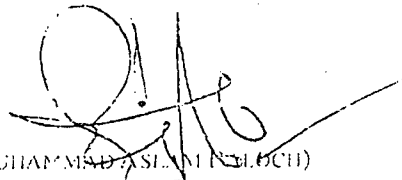
Subject: WITHDRAWAL OF THE OFFER OF APPOINTMENT

Reference: This office letter No. 2564 of 24th September, 2012.

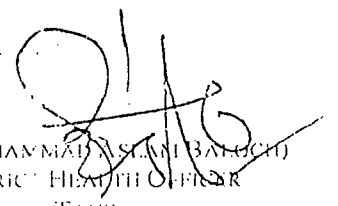
Owing to clerical mistake and oversight the offer of appointment extended to Mr. Hidayat Ullah, s/o Aziz Kahn resident of Village Khanu, District Tank vide the above referenced letter is hereby withdrawn.

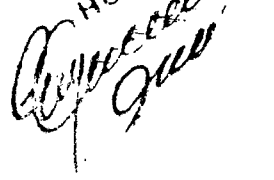
You are therefore, requested to incorporate necessary correction in relevant record with reference to above letter.

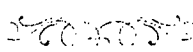
Thanks and regards.


(DR. MUHAMMAD ASLAM (M.B.Ch))
DISTRICT HEALTH OFFICER
TANK.

- c.c.
- The District TB Control Officer, Tank.
 - Head Clerk of this office.
 - Accounts Section


(DR. MUHAMMAD ASLAM (M.B.Ch))
DISTRICT HEALTH OFFICER
TANK.

HCBA-DIK




Annexure "D"

41

To

The DG Health Services
Govt. of KPK
Peshawar.

Subject: **DEPARTMENTAL APPEAL**

Respected Sir,

The appellant humbly submits as under:

1. That the appellant was appointed as Naib Qasid vide appointment order dated 24-09-2012 and performed his duties by making attendance in the office but the salaries of the appellant was stopped by the DHO Tank.
2. That the appellant filed a writ petition for the release of monthly salary which was accordingly replied by the respondents along with impugned order dated 10-01-2013 which was communicated on 15-07-2022 to the appellant, hence the present representation.
3. That the order dated 10-01-2013 is illegal, unjustified, back dated one and based on mala-fide.

It is therefore the appeal of the appellant be accepted by declaring the Impugned order dated 10-01-2013 as illegal and unjustified. It is further prayed that the appellant be granted all back benefits while re-instating into service.

Humble Appellant

ہدایت اللہ

Hidayat Ullah

15/7/2022

Dated: 15-07-2022

0. 607

For Insurance Notices see reverse
Stamps affixed as per
insurance ROL 68730479
the instructions prescribed in the
Post Office Circulars which are
acknowledged in this

15/7

010622

43

(1)

BEFORE THE PESHAWAR HIGH COURT, D.I. KHAN BENCH

Hidayatullah

versus

Govt- KPK

Wit Petition No, _____ D/2018

PARWISE COMMENTS ON BEHALF OF REPENDENT 4

Respectable Sir,

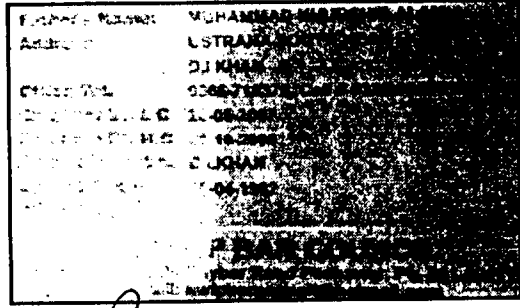
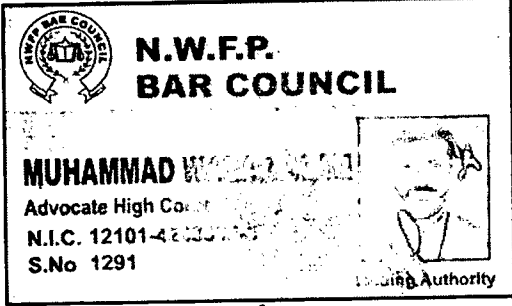
PRELIMINARY OBJECTIONS

- 1- That the petitioner has got no cause of action or locus standi to file the instant petition.
- 2- The petitioner deliberately concealed the real and material facts from this Honorable Court. The Actual position is that all sanctioned posts are Filled and no vacant post of Naib Qasid is available and the petitioner is related with TB Control Officer DHQ Hospital Tank
- 3- That the petition in hand is a weak case and has no legal force.
- 4- That the petitioner does not come to this honorable Court with clean hands.

On Facts.

1. Para no 1, is Pertain to Record
 2. Para no 2 is correct the appointment order of the petitioner was issued by former DHO Tank Dr. Aslam Baloch to two persons but the fact is the sanction posts of Naib Qasid is 1 in TB Control Office DHQ Tank and the fact is that the salary disbursement authority was TB Control Officer
 3. Para no 3 is incorrect because the petitioner was working in TB Control Office DHQ Tank and Two Persons were appointed against one vacant post seat, Therefore the Salary could not be issued to the Present Petitioner
- [Faint stamp]

وکالت نامہ



بعدالت جناب The KPK Service Tribunal Peshawar

منجانب Hidayatullah

نام Gout. & KPK

دعویٰ یا جرم Service Tribunal Appeal

تفصیل دعویٰ یا جرم باعث تحریر آنک

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام D.I. Khan کیلئے

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

کوسب ذیل شرائط پر وکیل مقرر کی ہے، کہ ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں، اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا، تو صاحب موصوف اسکے کی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشہری کے علاوہ کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پشہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پشہری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا بیانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپیل گمرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ و فیصلہ پر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا، اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پشہری صدر پیروی مقدمہ مذکورہ نظر ثانی و اپیل و گمرانی و برآمدگی مقدمہ یا منوشی ڈگری یکطرفہ یا درخواست حکم اتنا ہی یا ترقی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہنگی علیحدہ جتنا پیروی کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزوی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گمرانی یا دیگر معاملہ مقدمہ مذکورہ کی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں، اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ایسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور وہ ان مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ کسی مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند رہے

مورخہ _____ ماہ _____ 20

Accepted

العبد

10.10.2022

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

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بیت اللہ

العبد

عدالت اللہ

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