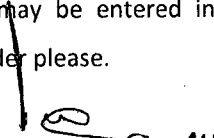
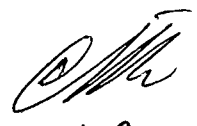




Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. \_\_\_\_\_ 228/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15.04.2022	<p>The execution petition of Mr. Badar Jamil submitted today Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	<p>31-5-2022</p> <p> 31/8/22</p>	<p>This execution petition be put up before touring Single Bench at A.Abad on <u>16-06-2022</u>. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	16.06.2022	<p>Petitioner present in person present. Mr. Muhammad Adeel Butt, Assistant Advocate General present.</p> <p>Despite directions notices were not issued. Therefore, fresh notices be issued to respondents for the date fixed. To come up for implementation report on 17.08.2022 before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E) Camp Court A/Abad</p>

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

C.M No. 228 /2022  
IN  
Service Appeal No. 88/2015

Badar Jamil Ex-SI/PC, Lower Kohistan.

...APPELLANT

**VERSUS**

Regional Police Officer, Hazara Range, Abbottabad & others..

...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

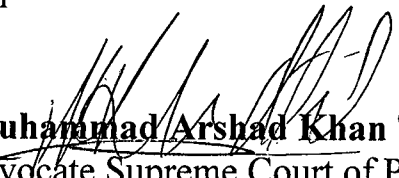
**INDEX**

<b>S. #</b>	<b>Description</b>	<b>Page #</b>	<b>Annexures</b>
1.	Application	1 to 4	
2.	Copy of service appeal	<b>5-13</b>	"A"
3.	Copy of judgment dated 19.07.2018	<b>14-17</b>	"B"

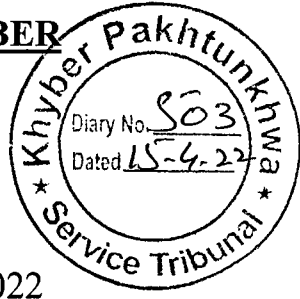
...APPELLANT

Dated: \_\_\_\_\_/2022

Through

  
**(Muhammad Arshad Khan Tanoli)**  
Advocate Supreme Court of Pakistan  
at Abbottabad

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



C.M No. 228 /2022  
IN

Service Appeal No. 88/2015

Badar Jamil Ex-SI/PC, Lower Kohistan.

**...APPELLANT**

**VERSUS**

1. Regional Police Officer, Hazara Range, Abbottabad.
2. District Police Officer, Lower Kohistan.

**...RESPONDENTS**

**APPLICATION** FOR IMPLEMENTATION OF  
JUDGMENT DATED 19.07.2018 PASSED BY THIS  
HONOURABLE TRIBUNAL IN APPEAL NO. 88/2015  
TITLED "BADAR JAMIL VS. GOVT. OF KPK" &  
OTHERS.

---

Respectfully Sheweth:-

1. That applicant/ appellant filed above mentioned service appeal No. 88/2015 against impugned act of respondents by awarding major penalty of dismissal from service despite of fact that the

applicant suffering from kidney disease and was unable to serve from 07.08.2014 to 09.09.2014. Detailed of which fully mentioned in the head-note of appeal. Copy of service appeal is annexed as Annexure "A".

2. That on 19.07.2018 after hearing of arguments, this Honourable Tribunal partially allowed the appeal of the applicant/ appellant to the extent that the impugned order passed by the appellate authority dated 26.12.2014 is set-aside and the case is remanded back to the said authority for decision afresh with the direction to take into consideration facts and circumstances of the case and give full opportunity of hearing to the appellant. This Honourable Court is further directed to the concerned authority to dispose off the departmental appeal of the appellant within a period of three months from the date of receipt of this judgment. Copy of judgment dated 19.07.2018 is annexed as Annexure "B"
3. That thereafter, the appellant appeared before respondents for implementation of judgment dated 19.07.2017 of this Honourable Tribunal, but the respondents straight away refused to implement the same.
4. That more than 04 years have been elapsed of passing of judgment dated 19.07.2018 of this Honourable Tribunal, but the respondents have failed to implement the same.

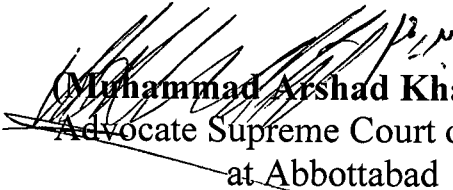
5. That the respondents instead of complying with the direction of this Honourable Tribunal, straightaway refused to comply with the direction of this Honourable Tribunal.
6. That other point would be raised at the time of arguments with kind permission of this Honourable Tribunal.

It is therefore, humbly prayed that on acceptance of instant application respondents be kindly be directed implement the Judgment dated 19.07.2018 of this Honourable Tribunal in its true letter and spirit, failing which contents of court proceedings may be initiated against the respondents.

...APPLICANT/ APPELLANT

Through

Dated: \_\_\_\_\_/2022

  
**(Muhammad Arshad Khan Tanoli)**  
Advocate Supreme Court of Pakistan  
at Abbottabad

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

C.M No. \_\_\_\_\_/2022  
IN  
Service Appeal No. 88/2015

Badar Jamil Ex-SI/PC, Lower Kohistan.

...APPELLANT

VERSUS

Regional Police Officer, Hazara Range, Abbottabad & others..

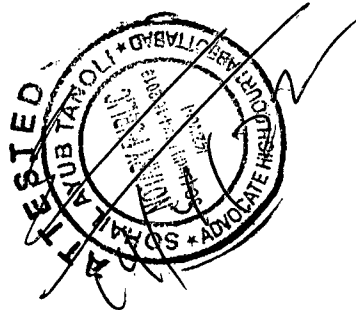
...RESPONDENTS

**APPLICATION FOR IMPLEMENTATION**

**AFFIDAVIT**

I, *Badar Jamil Ex-SI/PC, Lower Kohistan*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

  
DEPONENT



**BEFORE HONOURABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHAWA, PESHAWAR**

**Annex-A**

Service Appeal No. \_\_\_\_\_/2015

**P-5**

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

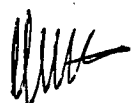
...APPELLANT

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. District Police Officer, Lower Kohistan.

....RESPONDENTS

**SERVICE APPEAL**

*Admitted*  
  
**Muhammad Arshad Khan Yaqoobi**  
 Advocate Supreme Court of Pakistan  
 Office # 33 Jinnah Plaza Adjacent to  
 Dist: Bar Abbottabad

**APPEAL** UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT APPELLANT WAS SUFFERING FROM KIDNEY DECEASE AND WAS UNABLE TO SERVE FROM 07/08/2014 TO 09/09/2014, HENCE, RESPONDENT NO. 4 ILLEGALLY AWARDED MAJOR PUNISHMENT OF COMPULSORY

RETIREMENT FROM SERVICE TO THE APPELLANT VIDE IMPUGNED ORDER NO. 960-61/PA DATED 09/09/2014 PASSED BY RESPONDENT NO. 4. FOLLOWING THIS, THE APPELLANT FILED DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER TO RESPONDENT NO. 3 FOR CONVERTING OF MAJOR PENALTY OF COMPULSORY RETIREMENT TO REINSTATEMENT IN SERVICE, BUT RESPONDENT NO. 3 WHILE REJECTING DEPARTMENTAL APPEAL, DISMISSED THE APPELLANT VIDE IMPUGNED ORDER NO. 11381/PA DATED 26/12/<sup>2014</sup>2004, WHICH IS ILLEGAL, PERVERSE, ARBITRARY, AGAINST THE LAW, WITHOUT LAWFUL JUSTIFICATION AND AS A RESULT OF NON-READING OF RECORD AND SERVICE APPEAL AND THE SAME IS LIABLE TO BE SET ASIDE.

*Abdullah*  
*Abdullah*  
Muhammad Arshad Khan  
Advocate Supreme Court of Pakistan  
Office # 33 Jinnah Plaza, Abbottabad  
Dist: Bar Abbottabad

---

**PRAYER:** ON ACCEPTANCE OF THE INSTANT APPEAL, IMPUGNED COMPULSORY RETIREMENT ORDER AND IMPUGNED REJECTION LETTER NO. 11381/PA DATED 26/12/2014 BE DECLARED VOID, ILLEGAL AND



RESPONDENTS NO. 2 TO 4 MAY GRACIOUSLY BE DIRECTED TO REINSTATE THE PETITIONER IN SERVICE WITH ALL SERVICE BENEFITS IN TERMS OF PAY ETC.

ORDER NO. 5023-35/SEI DATED 11/09/2014 MAY BE DECLARED ILLEGAL, WITHOUT LAWFUL JUSTIFICATION, DEVOID OF CODAL FORMALITIES, WITHOUT ORDERING OF PROPER BOARD OF INQUIRY TO ENQUIRE AS TO WHETHER, THE APPELLANT DID NOT conduct PROPER INVESTIGATED THE CASE TITLED "STATE V/S BANARAS etc." Or not AND IMPUGNED Reversion ORDER DATED 11/09/2014 OF THE APPELLANT FROM DSP TO INSPECTOR MAY BE SET ASIDE AND RESPONDENT NO. 2 MAY GRACIOUSLY BE DIRECTED TO RESTORE RANK OF DSP OF THE APPELLANT W.E.F THE DATE OF REVERSION I.E. 11/09/2014 WITH ALL BACK BENEFITS IN TERMS OF PAY, ALLOWANCES AND SENIORITY ETC.

*Allesled*

*[Signature]*

Office of the  
Advocate General  
Office No. 38, Bhubaneswar  
Date: 01/11/2014

Respectfully Sheweth: -

It may please your lordship.

P-8

1. That the appellant served in the Police Department for 29 years and served the department with complete devotion and dedication.
2. That, the appellant was suffering from multifarious kidney deceases and remain under treatment w.e.f 07/08/2014 to 09/09/2014. (Copy of O.P.D tickets are attached as annexure "A").
3. That, following this, respondent No. 4 without issuing charge sheet, show cause notice and conducting enquiry regarding absence period of the appellant and illegally awarded major punishment i.e. compulsory retirement from service vide impugned order No. 960-61/PA dated 09/09/2014. (Copy of impugned compulsory retirement is annexed as Annexure "B").
4. That, following this, the appellant filed departmental appeal to the next higher authority i.e. respondent No. 3 for converting of compulsory retirement of the appellant into his reinstatement vide departmental appeal dated 11/09/2014. (Copy

Admitted  


Inspector General of Police  
 Maharashtra State Police  
 Maharashtra State Police  
 Office of the Inspector General of Police  
 Maharashtra State Police

of departmental appeal is annexed as Annexure "C").

5. That, respondent No. 3 without reading appeal of the appellant rejected departmental appeal of the appellant and also hold "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" vide impugned order No. 11381/PA dated 26/12/2014. (Copy of impugned rejection letter is attached as Annexure "D").
6. That, the act of respondent No. 3 is illegal and as a result of non-reading of record and departmental appeal of the appellant. Hence, impugned rejection letter is liable to be set-aside.
7. That, feeling aggrieved, the instant departmental appeal is filed, inter-alia, on the following amongst many others grounds:-

*Alleged*  
*Alleged*

Advocate General  
Office of the Advocate General  
Date: 12/12/2014

**GROUND:-**

P-10

- a. That, as per Revised Leave Rules, 1981, once medical documents regarding illness of an employee is submitted, the competent authorities are bound to consider and grant medical leave to the ailing employee.
- b. That, in case, it appears to the competent authority that the medical documents of an employee are fake, the same are to be submitted to the next medical authority as per KPK Revised leave Rules, 1981. But, respondents did not comply with the rules and leave impugned orders of compulsory retirement and rejection letter of departmental appeal are liable to be set-aside.
- c. That, no charge sheet, show cause notice and enquiry conducted in the case of the appellant. Therefore, the appellant is entitled to be reinstated in service.
- d. That, the appellant was on the posted strength of District Police Officer, Upper

*Attested**MM*

Handwritten notes and stamps, including a date stamp: 01/11/2011

Kohistan, whereas order of compulsory retirement has been passed by District Police Officer, Lower Kohistan which is not maintainable at law.

- e. That, respondent No. 3 did not considered appeal of the appellant at appropriate remedy even he did not go through the appeal and dismissed departmental appeal holding "After thorough probe into the enquiry report and the comments of DPO Lower Kohistan, it came to light that the punishment given to him by the DPO Lower Kohistan i.e dismissal from service is genuine. Therefore, appeal is dismissed and filed" which is arbitrary and against the law. Hence, the same is liable to be dismissed.

*Alleged*

*[Signature]*

District Police Officer  
 Office of District Police Officer  
 District Police Officer  
 District Police Officer

- f. That, this Honourable Court should not fold up its hand while granting relief to the aggrieved appellant as per law.
- g. That, this fact may not be left to fade in obedient that respondent No. 3 decided

departmental appeal of the appellant at his own whims and wishes without resorting to his judicious mind.

h. That, the respondents have led the appellant to placed which is utterly unknown to the principal of juris-prudence and good administration of justice. Justice demand that when law on the subject prescribed something which is to be done in a particularly manner that must be done in that manner and not otherwise.

i. That, the appeal of the appellant is within time and this Honourable Tribunal has jurisdiction to entertain the same.

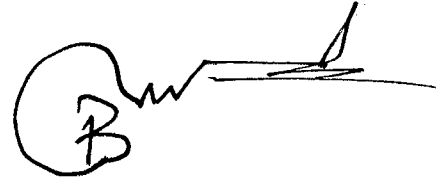
j. That, other points would be agitated at the time of arguments.

*Allesed*  
*MM*

High Court of Andhra Pradesh  
Kakinada Bench  
Office of the District Judge  
District: East Godavari

It is, therefore, humbly prayed that on acceptance of the instant appeal, impugned compulsory retirement order and impugned rejection letter No. 11381/PA dated 26/12/2014 be declared void, illegal and respondents No.

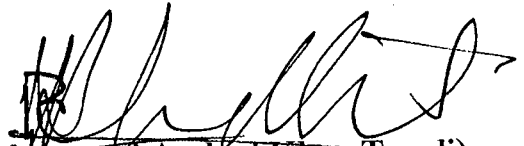
2 to 4 may graciously be directed to reinstate the petitioner in service with all service benefits in terms of pay etc.



...APPELLANT

Through;

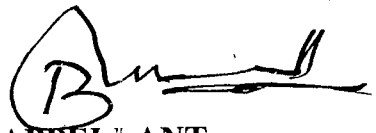
Dated: \_\_\_\_\_/2015




(Muhammad Arslan Khan Tanoli)  
Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court



...APPELLANT

*Attested*  


Advocate  
Office No. 10, District Court  
Abbottabad

# Annex - B

## BEFORE HONOURABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHAWA, PESHAWAR

P-14



Service Appeal No. 88 /2015

64  
26-1-2015

Badar Jameel, Ex-S.I / P.C, Lower Kohistan.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs KPK, Peshawar.
2. Provincial Police Officer KPK, Peshawar.
3. Regional Police Officer Hazara Range, Abbottabad.
4. ~~District Police Officer, Lower Kohistan.~~

....RESPONDENTS

### SERVICE APPEAL

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 FOR DECLARATION TO THE EFFECT THAT APPELLANT WAS SUFFERING FROM KIDNEY DECEASE AND WAS UNABLE TO SERVE FROM 07/08/2014 TO 09/09/2014, HENCE, RESPONDENT NO. 4 ILLEGALLY AWARDED MAJOR PUNISHMENT OF COMPULSORY

26/1/15

9/2/15

MAJOR PUNISHMENT OF COMPULSORY  
**ATTESTED**

EXAMINER



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT, ABBOTTABAD.



Service appeal No. 88/2015

Date of institution ... 26.01.2015

Date of decision .... 19.07.2018

Badar Jameel, Ex-S.I/P.C., Lower Kohistan.

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, Home & Tribal Affairs KPK, Peshawar and 3 others. ... (Respondents)

Present

Mr. Muhammad Arshad Khan Tanoli,  
Advocate

For appellant.

Mr. Usman Ghani,  
District Attorney

For respondents.

MR. SUBHAN SIHER,

MR. MUHAMMAD AMIN KHAN KUNDI,

CHAIRMAN  
MEMBER.

JUDGMENT

SUBHAN SIHER, CHAIRMAN:-

Relevant facts of the present appeal, stated in brief are that the appellant was appointed as Constable and during his long service for 29 years, he reached to the rank of S.I. That from 07.08.2014 to 09.09.2014, he remained absent for which his explanation was called, followed by issuance of charge sheet and statement of allegations, conducting enquiry and final show cause notice by the competent authority i.e. respondent No. 4. In short, he was held responsible for his willful absence from duty and was imposed major penalty of compulsory retirement from service vide order dated 09.09.2014. Appellant preferred a departmental appeal before respondent No. 3 on 11.09.2014, which was decided on 26.12.2014. Feeling

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Sw  
19.7.2018.

Signature

aggrieved of both the orders, the appellant impugned the same through the instant appeal before this Tribunal.

3. Arguments heard and file perused.

4. Mr. Muhammad Arshad Khan Tanoli, Advocate at the very outset of the arguments assailed the impugned orders particularly of the appellate authority by contending that the said authority did not bother to go through the impugned order passed by the competent authority i.e. respondent No. 4 but dismissed the appeal by mentioning that the dismissal from service of the appellant was rightly passed by the D.P.O whereas in fact, the appellant was compulsorily retired from service. He also challenged the enquiry proceedings and at the end, he requested to accept the appeal and set aside the impugned orders and reinstate the appellant with all back benefits.

5. Mr. Usman Ghani, District Attorney vehemently opposed the contentions of the learned counsel for the appellant and stated that after completion of all the procedural formalities of enquiry, the appellant was found guilty and the punishment was rightly passed. That being a member of disciplined force, he should not have absented himself from duty without permission. Further contended that the findings of the appellate authority, in fact is nothing but a clerical mistake and the same could be corrected by this Tribunal. Lastly, he requested this Tribunal to dismiss the appeal of the appellant.

6. After going through the record and particularly the impugned order passed by the appellate authority dated 26.12.2014, this Tribunal is of the view that it will not be advisable to deeply discuss the merits of the case or pass any remarks on the pro & contra versions of the learned counsel for the parties lest, it may prejudice the interest of either party but would confine our finding to the omission committed

ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Su  
19.7.2018

2

P-17

by the appellate authority i.e. respondent No. 3. The appellant had challenged his compulsory retirement from service but the appellate authority in clear words stated in the impugned order that "the punishment given to him by the DPO Lower Kohistan i.e. dismissal from service is genuine", is totally against the record as stated above he was compulsory retired from service. In short, this glaring omission alone is sufficient to invoke the interference of this Tribunal under its appellate jurisdiction.

7. As such, this appeal is partially allowed to the extent that the impugned order passed by the appellate authority dated 26.12.2014 is set aside and the case is remanded back to the said authority for decision afresh, with the direction to take into consideration facts and circumstances of the case and give full opportunity of hearing to the appellant. So, for this purpose the departmental appeal before the appellate authority is deemed to be pending. The appellate authority is further directed to dispose of the appeal within a period of three months, from the date of receipt of this judgment. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

Announced  
19.07.2018 *sd/- Subhan Sheer,*  
*Chairman*  
*Cant Court A/Abad.*  
*sd/- M. Amin Khan Kundi,*  
*Member*

**Certified to be true copy**  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

*24-07-2018*  
Date of Presentation of Application \_\_\_\_\_  
Number of Words \_\_\_\_\_ 16.00  
Copying Fee \_\_\_\_\_ 10.00  
Urgent \_\_\_\_\_ 2.00  
Total \_\_\_\_\_ 12.00  
Name of Applicant \_\_\_\_\_  
Date of Completion \_\_\_\_\_ *24-07-18*  
Date of Delivery of Copy \_\_\_\_\_ *24-07-18*

قیمت  
50 روپے

121158



ایڈوکیٹ: اسٹیفن شوکا ایم مسٹر  
بار کونسل / ایسوسی ایشن نمبر: 319-A  
رابطہ نمبر: 03469788583

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: Chairman Service Tribunal KP Peshawar

مخائب:	دعویٰ:
Petitioner	
Badar Jamil	علت نمبر:
Government of Punjab	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ

آن مقام ایسٹریٹ 114/1 کے لیے اور سرفرائز ایسٹریٹ مسٹر کو وکیل 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 کر کے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستثنیٰ، نیز دائر کرنے اپیل اگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل باجزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ ہائے نگر رکھا اختیار ہوگا اور صاحب مقرر شدہ کو تو یہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقدمہ دورہ یا حدت باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، البتہ وکالت کے لئے لادوا کر کے سند دے گا۔

المقوم: \_\_\_\_\_  
BADA JAMIL

مقام: \_\_\_\_\_

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

Badar Jamil