


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 1463 /2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/10/2022	<p>The appeal of Mr. Shahid Niaz Khan resubmitted today by Saima Zeb Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>20-10-22</u> .</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Shahid Niaz Khan son of Nazar Nawaz Khan resident of P.O Sarmast Mira Khel Mira Khel District Bannu received today i.e. on 10.10.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, summary of allegations and enquiry report mentioned in para-8 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Annexures are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.

No. 2796 /S.T,

Dt. 11/10 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saima Zeb Adv. Pesh.

Respected Sir,

- (1) Copies of Charge Sheet, summary of allegations and enquiry report not provided to the appellant. The same be requisitioned from the department
- (2) Objection removed



11.10.2022

BEFORE THE FEDERAL SERVICE TRIBUNAL TRIBUNAL,
KHYBER PAKHTUN KHAWA, PESHAWAR

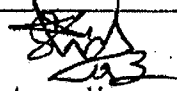
Mr. Shahid Niaz

Versus

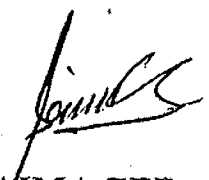
Inspector General of Police, KPK, Peshawar etc.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT. 1974
INDEX

S.#:	Description of documents	Annexure	Pages
1	Memo of Appeal with affidavit		1-9
2	Copy of FIR No.531 <i>Annexure-A</i>		10
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4	Copy of the inquiry report along with recommendation as Annexure C C <i>4D</i>		15-16
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Appellant

Through


SAIMA ZEB
Advocate Peshawar

**BEFORE THE KHYBER PAKHTUN KHAWA SERVICE
TRIBUNAL, PESHAWAR**

Mr. Shahid Niaz Khan S/o Nazar Nawaz Khan, Resident of P.O.
Sarmast, Mira Khel, Mira Khel, Tehsil & District Bannu.

...Appellant

Versus

1. Inspector General of Police, Khyber Pakhtun Khawa, Peshawar.
2. Regional Police Officer, Bannu Region, Bannu, Khyber pakhtun
Khawa.
3. District Police Officer, Bannu

...Respondents

**APPEAL UNDER SECTION 4 OF THE KP SERVICE
TRIBUNAL ACT. 1974 AGAINST THE ORDER NO. OB
No.883 DATED; 17.08.2022 BEARING NO.3697-991
PASSED BY THE RESPONDENT NO.3 AND
RESPONDENT NO.2 VIDE OB NO.304 DATED 27.09.2022
BEARING NO.3517/EC, DATED BNNUE THE 27/09/2022
AWARDED MAJOR PUNISHMENT OF DISMISSAL
FROM SERVICE IN EX-PARTY DEPARTMENTAL
PROCEEDINGS UNDER KP RULES 1975 (AMENDED IN
2014).**

Respectfully Sheweth;-

1. BRIEF FACTS OF THE CASE are that the appellant was
appointed/enlisted as Constable No.377 dated 09-06-2007 by
Respondent No.3 and then after the Appellant performed his

duty with zeal and zest and the whole past career of the Appellant remained unblemished.

2. That the Appellant continued his service even at the very hard time of Khyber Pakhtun Khawa law enforcement agencies when the insurgency and militancy was at peak.
3. That the Appellant had been falsely implicated in the case FIR No.531 U/s 392, 397 PPC dated 12.07.2022 PS: Ghalegay, District Swat with malafide intentions and ulterior motives in connivance with the police as well as with the accused. The copy of FIR is annexed as Annexure-A.
4. That the appellant actually was on refreshment tour on 11.07.2022 when the nominated co-accused of the FIR mentioned above on dated 12.07.2022 contacted the Appellant and asked me to accompany him while going back to his native district Bannu. The Appellant while coming back crossing Landa Ki Check Post (the last check post of District Swat with District Malakand). The deployed police officials at the Landa Ki check Post stopped the car and arrested the Appellant without giving cogent reason. Later on, the Appellant adopted the due course of law by invoking the jurisdiction of Honorable Peshawar High Court

Mingora Bench/Dar-ul-Qaza Swat and the honorable Peshawar High Court Mingora Bench while accepting the bail petition of the Appellant released the Appellant being innocent.

5. That it is also pertinent to mention here that during the investigation the CCTV Photages were collected and it was transpired that neither the Appellant was spotted at the place of occurrences at the relevant time nor anything was get recovered from the Appellant. (CCTV Footage are annexed as Annex-B)
6. That the report of District Head of Investigation Swat vide letter No.7060/GB/INV dated 14.07.2022, the Appellant was charged vide Case FIR no.531, dated 12.07.2022 U/S 392, 397 PPC, PS: Ghaligi, District Swat. (Copy of the said letter is annexed as Annexure-C)
7. That inquiry proceedings were initiated against the Appellant by the Inquiry Officer Additional Superintendent of Police Operation Bannu and charge sheet was not issued to the Appellant. The Inquiry Officer conducted one way inquiry and established the allegations against the Appellant without any cogent reasons and proper proceedings and submitted his findings wherein the Inquiry Officer concluded that the

allegations of absence w.e.f. 10.08.2022 and charge/arrest in a criminal case had been proved against the Appellant and Inquiry Officer further recommended for the award of major punishment. (Copy of the inquiry report along with charge sheet summary of allegation recommendation and will provide by the department) *is Annexure-D*

8. That the respondent No.3 awarded major punishment to the Appellant "dismissal from service" vide OB No.883, dated 17.08.2022. Copy of order of dismissal from service is annexed as Annexure E
9. That the Inquiry Officer conducted the inquiry in hasty manner by ignoring the actual and factual facts of the Appellant and by not considering the plea and stance of the Appellant submitted the report in hasty manner based on malafide and ulterior motives. Similarly the respondent No.3 (DPO Bannu) followed the footsteps of the Inquiry Officer blindly without considering the actual and factual position of the Appellant's case and removed the Appellant from the service by issuing the impugned letter of dismissal from service vide OB No.883, dated 17.08.2022.

10. That the Appellant aggrieved of the above said impugned order of the Respondent No.3 filed an appeal under the relevant provision of law to the competent authority Respondent No.3 (Regional Police Officer, Bannu Region, Bannu). Copy of the appeal is annexed as Annexure-F
11. That Respondent No.2 while exercising the powers visited under Khyber Pakhtun Khawa Police Rules 1975 amended in 2014 rejected the appeal of the Appellant by endorsing the punishment already awarded by Respondent No.3 vide OB No.304 dated 27.09.2022 bearing No.3517/EC, dated Bannu the 27/09/2022.
12. That order dated 17.08.2022 passed by the respondent No.3 and order dated 27.09.2022 passed by Respondent No.2, are illegal, null, void, without lawful authority and ineffective and inoperative upon the rights of the appellant and the same is liable to be set-aside on the following amongst other:

6 GROUNDS

- A. That the impugned orders has been passed by incompetent authority and *corum non judice*.
- B. That the impugned orders against the principle of justice, natural justice and it is an established law that before an adverse order against any government servant/employee an opportunity of personal hearing must be granted, hence the impugned orders is bad in law and is colorable exercise of authority.
- C. That while passing the impugned orders the respondents miserably failed to keep in mind the decision of Honorable Supreme Court of Pakistan and dictum set by the apex court.
- D. That the impugned orders are against the law and facts, norms of natural justice and material on the record/ground not tenable and liable to be set aside in the best interest of justice.
- E. That the case FIR No.531 on the basis of which the Appellant was issued the charge sheet which results dismissal from service is resolved and the Appellant is acquitted /exonerated from the charges, hence the impugned orders are illegal, unlawful and without legal grounds and justifications.
- F. That the respondents were acted in the arbitrary manner while passing the impugned orders by

imposing the major penalty of dismissal from services.

- G. That the SOP's and policy rules and regulations were badly ignored while conducting the inquiry by the respondents, neither personal hearing opportunity of cross examination was given to the Appellant nor defense has been provided to the Appellant while issuing the illegal and unlawful orders. It is pertinent to mention here that the impugned orders were issued prior to the proceedings of inquiry and the Appellant was targeted on the basis of personal grudges and illegal gains. No regular inquiry has been conducted against the Appellant which is gross violations of the Honorable Supreme Court Judgment and Police Rules 1975 amended in 2014.

- H. That no show cause notice was issued by the Respondents to the Appellant.

- I. That the impugned order is against law and facts of the case.

- J. That the impugned order is not sustainable in the eye of law and is liable to be set-aside.

PRAYER:-


8

In view of the above mentioned circumstances and foregoing reasons, it is most respectfully prayed that the appeal of the appellant may very kindly be accepted and impugned orders OB No.883 dated; 17.08.2022 bearing no.3697-991 passed by the respondent No.3 and respondent No.2 vide OB No.304 dated 27.09.2022 bearing No.3517/EC, dated Banue the 27.09.2022 awarded major punishment of dismissal from service in ex-party departmental proceedings under KPK Rules 1975 (amended in 2014) may very kindly be set-aside and the Appellant may very kindly be re-instated into the service with all back benefits to meet the end of justice.

Any other relief, which this Honorable Court deem fit and appropriate may also be awarded to the appellant to meet the ends of justice.


Appellant

Through


SAIMA ZEB
Advocate Peshawar

CERTIFICATE:

Certified as per instructions of my client that this is first appeal against the impugned orders before this honorable tribunal and that no appeal or other action has been filed by the appellant at any other forum.

(9)

**BEFORE THE KHYBER PAKHTUN KHAWA SERVICE
TRIBUNAL, PESHAWAR**

Mr. Shahid Niaz
Versus
Inspector General of Police, KPK, Peshawar etc.

**APPEAL UNDER SECTION 4 OF THE KPK SERVICE
TRIBUNAL ACT. 1974 AGAINST THE ORDER NO. OB No.883
DATED; 17.08.2022 BEARING NO.3697-991 PASSED BY THE
RESPONDENT NO.4 AND RESPONDENT NO.3 VIDE OB
NO.304 DATED 27.09.2022 BEARING NO.3517/EC, DATED
BNNUE THE 27/09/2022 AWARDED MAJOR PUNISHMENT
OF DISMISSAL FROM SERVICE IN EX-PARTY
DEPARTMENTAL PROCEEDINGS UNDER KPK RULES 1975
(AMENDED IN 2014).**

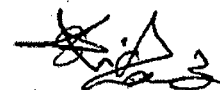
AFFIDAVIT

I, Mr. Shahid Niaz Khan S/o Nazar Nawaz Khan, Resident of P.O. Sarmast, Mira Khel, Mira Khel, Tehsil & District Bannu, do hereby solemnly affirm and declare that this is first appeal against the impugned orders before this honorable tribunal and that no appeal or other action has been pending or filed by the appellant at any other forum.


Deponent

VERIFICATION

Verified on oath at Peshawar on this ___ day of October, 2022 that contents of above affidavit are true and correct to the best of my knowledge and belief, nothing has been concealed.


Deponent

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392-393
1591



②

①

فصلنامه نشریه روزنامه (روزنامه) در تهران
کتابخانه ملی ایران

۱۳۰۱ / ۱۲

این کتاب در کتابخانه ملی ایران موجود است و در صورت نیاز می‌توانید آن را مشاهده کنید.

کتابخانه ملی ایران
تهران

کتابخانه ملی ایران



(1)

(2)



در این تصویر حضرت علی (ع) در دارالحدیث
 در بین ائمه (ع) در دارالحدیث
 در این تصویر حضرت علی (ع) در دارالحدیث
 در این تصویر حضرت علی (ع) در دارالحدیث
 در این تصویر حضرت علی (ع) در دارالحدیث

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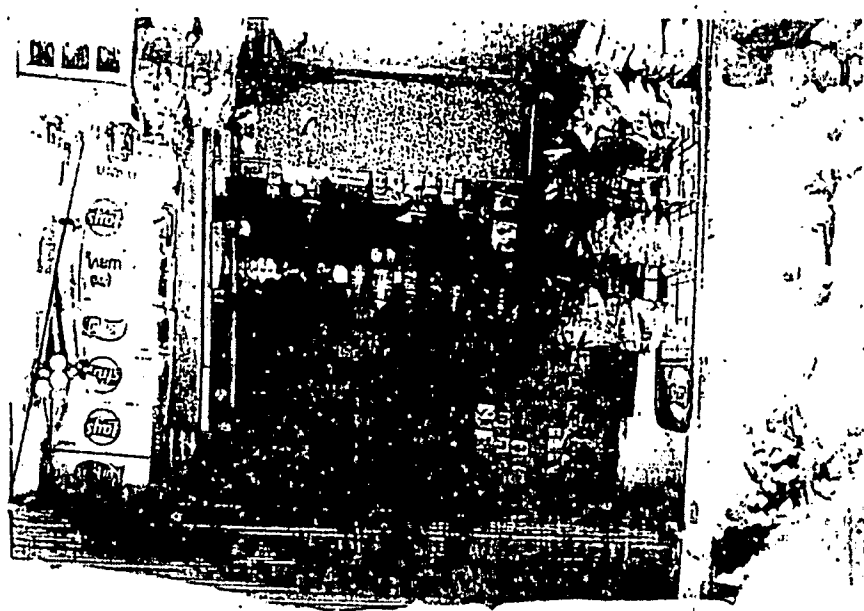
۴۴ مرطاب 1591

800 800 1591 06/2/02

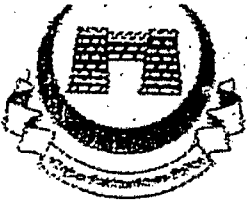
10/11/02 48 10/11/02

10/11/02 10/11/02

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hi



OFFICE OF THE
DISTRICT HEAD OF INVESTIGATION,
SWAT.

Ph# 0946-9240319 & Fax # 0946-9240396

Email Address: spinvswat@yahoo.com

No. /GB/Inv., dated Mingora the 14/7/2022.

To: **The District Police Officer,
Bannu.**

Subject: DEPARTMENTAL ACTION IN CASE VIDE FIR NO. 531
DATED 12-07-2022 U/S 392/397 PPC 15-AA POLICE
STATION GHALIGAI DISTRICT SWAT.

It is submitted that accused Shahid Niaz Khan s/o Nazar Nawaz Khan Resident of Kalah Merakhel Bannu is charged/arrested in the subject case. During the course of investigation, it has come to light that the above named accused is serving under your kind control as LHC under constabulary No.377/LHC, service card No.0075942 at Traffic Staff Bannu.

It is therefore, requested that departmental action may kindly be initiated against the above named accused under intimation to this office for further proceedings in the instant case, please.

~~Signature~~
District Head of Investigation,
Swat *A*

No. 7061 /GB,

Copy to OII Police Station Ghaligai for information with reference to his application dated 13.07.2022 please.

Annexure D

This order of the undersigned will dispose of the departmental proceedings against accused LHC Shahid Niaz No.377 under Police Rule 1975 (As amended vide Khyber Pakhtunkhwa gazette Notification, No.27th of August 2014) by issuing charge sheet and statement of allegation to him for committing the following commissions/omissions.

That as reported by District Head of Investigation Swat vide letter No.7060/GB/Inv: dated 14.07.2022, you LHC Shahid Niaz No. 377 has been charged/arrested in a case vide FIR No. 531 u/s 392-397 PPC dated 12.7.2022 PS Ghaligai, Swat.

Charge sheet and statement of allegation were issued to him and every efforts were made to serve upon him charge sheet but in vain. That is why, Addl: SP Bannu (E.O) recommended him for award of major punishment of dismissal from service in ex parte-proceedings vide his office letter No.214/ASP dated 01.08.2022.

Keeping in view the position explained above. Therefore, I, Dr. Muhammad Iqbal, District Police Officer, Sannu, in exercise of the power vested in me, under KPK police rule 1975(amended in 2014) hereby awarded him major punishment of dismissal from service in ex parte departmental proceeding.

Order announced

OB No. 883

Dated 17 /08 /2022.

District Police Officer,
Bannu.

No. 3697-991

Copy to All Concerned.

DHC - SRC - Receiver - PO

No.377 of District Police Bannu, wherein he has prayed for setting aside the order of major punishment of "Dismissal from service", imposed upon him by DPO Bannu vide OB No.883 dated 17.08.2021 on the following allegations:-

- That as reported by District Head of Investigation Swat vide letter No.7060/GB/Inv: dated 14.07.2022, the appellant was charged vide case FIR No.531 dated 12.07.2022 u/s 392/397 PPC PS Ghaligai, District Swat.

Comments, service record and enquiry papers were received from DPO Bannu vide his office letter No.3935/SRC dated 05/09/2022. The DPO Bannu has reported that Charge Sheet was issued to the appellant and Addl: SP Bannu was appointed as Enquiry Officer. The E.O conducted inquiry into the allegations and submitted his findings, wherein, the E.O concluded that the allegations of absence w.e.from 10.7.2022 and charge/arrest in a criminal case have been proved against the appellant and recommended him for award of major punishment. The DPO Bannu awarded him major punishment of "dismissal from service" vide OB No.883 dated 17.08.2022. The appellant was heard in person in orderly room held in RPO Office Bannu on 22.09.2022. His service record was perused which revealed that the appellant had tainted reputation - having close relations with criminals and supporting them as evident from the punishment awarded to him earlier vide O.B No.11232-36/SRC, dated 31.08.2020. In the present incident too, the appellant has involved himself in a robbery case quoted above and managed to obtain BBA from the hon'ble court of Peshawar High Court, Mingora Bench, Swat on the basis of compromise with the complainant. In view of above, his plea was not found convincing.

Therefore, I, Syed Ashfaq Anwar, PSP, Regional Police Officer, Bannu Region Bannu, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules, 1975 (amended in 2014) hereby reject his appeal and endorse the punishment awarded to him by DPO Bannu vide OB No. 883 dated 17.08.2022.

ORDER ANNOUNCED

OB No. 306
Dated: 27/09/2022.

No. 3517/EC, dated Bannu the 27/9/2022
Cc:

DPO-Bannu for necessary action w/r to his office letter No. cited above. Complete Service Roll of Ex-LHC Shahid Niaz No.377 and enquiry file are sent herewith for record in your office which may be acknowledged, please.

Regional Police Officer,
Bannu Region,
Bannu

Regional Police Officer,
Bannu Region,
Bannu

To:

The Regional Police Officer,
Bannu Region Bannu.

Appeal / Mercy petition:

Subject: Appeal against the impugned order vide OB No. 883 dated 17-08-2022 where by major penalty of Dismissal from Service has been imposed on me.

Respected Sir,

1. It is humbly submitted that i was enlisted on 09-06-2007 in District Police Bannu. I have performed my duty with zeal and zest without any complaint to my high-up.
2. That I was falsely been charged in a case FIR No.531 U/S 392/397 PPC dated 12-07-2022 Ps Ghalegay (Swat).
3. That I have gone to Swat for tour on 11-07-2022. On 12-07-2022 I was contacted by the co- accused and ask me where about of myself I replied that I have come to Swat for tour and now want to return back. The co- accused in the subject case replied that we are going back to Bannu please company with us therefore I have joined the same group. When we are coming back and reached Landaki Check Post the Police Nafri signaled to stop. We stopped the car and they searched me and arrested. At that time I was informed that the co-accused had committed some offence.


The CC TV photage much clear about the theft committed by the co- accused nor I was companied with them at that time ,nor I was present on the spot which was clear from the picture, nor any thing recovered from me.

4. When I was charged in a criminal case malafidly. I have knocked the door of Peshawar High Court Mingora/ Darul Qaza Swat to be release on bail, and the Honorable Court realized me on bail being innocent not charging by the complainant after satisfaction.

Grounds:

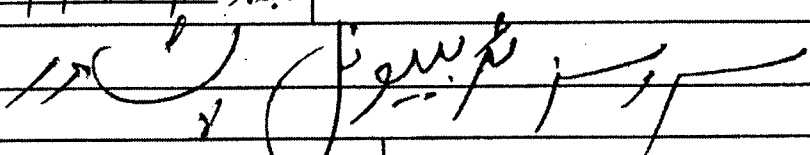
- (19)
- A. The impugned order dated 17-08-2022 vide OB No.883 are against the law, facts, norms of natural justice and material on the record / ground not tenable and liable to be set aside.
 - B. That, I was not been treated by the respondent department accordance with law and rules and malafiedly charged in a criminal case without any cogent reason / ground.
 - C. The Appellant was falsely implicated in a criminal case by the District Police of Swat with some ulterior motive.
 - D. That the respondent acted in the arbitrary manner while issuing the impugned dismissal order dated 17-08-2022.
 - E. That the respondent dismissed me in hasty manner without waiting the outcome of the trial which was pending before the District Session district Swat.
 - F. That no charge sheet and statement of allegation has been issued to me before issuing the impugned order.
 - G. That no show causes notice was issued to me before issuing the order date 17-08-2022.
 - H. That no chance of personal hearing/ defense has been provided to me before issuing the impugned order.
 - I. That no regular inquiry has been conducted against me which is as per Supreme Court Judgment and police rules 1975 amended 2014 is necessary before any punitive action against any civil servant.
 - J. That I am innocent was discriminated and malafidly charged in the subject case.
 - K. It is therefore most humbly prayed that on acceptance of the instant appeal the impugned order dated 17-08-2022 may kindly set aside and I may kindly be reinstated with all back benefit please.

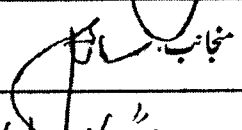
Shahid Niaz LHC No. 377

ایڈوکیٹ: 
 بار کونسل/ ایسوسی ایشن نمبر: BC-20-1976
 رابطہ نمبر: 0303-804449




پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: 

مخاطب: 	دعویٰ: <u>Appeal</u>
مسابقتی کار	علت نمبر: /
بنام	مورخہ: /
آئی۔ سی۔ 4P	جرم: /
	تھانہ: /
باعث تحریر آتکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام  کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

الرقوم: 10-10-2022

الع بد **گواہ شد** الع بد
 مقام  کے لیے منظور ہے۔

Accepted



نوٹ: اس وکالت نامہ کی فونوکاپی ناقابل قبول ہوگی۔

