Form- A

FORM OF ORDER SHEET

		Court c	No			
	S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
	1.	2	3			
	1-	18/10/2022	The appeal of Mr. Amanullah presented today by Mr. Ahmad Shahbaz Alizai 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.			
	,		By the order of Chairman REGISTRAR			
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Service Appeal No/2022. Amanullah, Ex(EXM) Constable KP-Police. Versus Provincial Police Officer, KPK, and Others. Service Appeal <u>I</u> N <u>D</u> <u>E</u> X <u>SRo</u> <u>Description of Documents</u> <u>Amesure</u> <u>Page(5)</u> . <u>1.</u> Petition with Grounds of Appeal & affidavit 1-4 2. Gopies of Order of DPO & appln or supply o'copies. A, A/1 $5 = 6$ 3. Copies of Order of DPO & appln or supply o'copies. A, A/1 $5 = 6$ 3. Copies of Deptl: Appeal & Order <u>4.</u> Copy of Revision Petition & Order. 5. Vakalat-Nama Dated: 17/92022. <u>7.5.</u> Vakalat-Nama <u>7.5.</u> Vakalat-Nama	BEFO	DRE KHYBER PAKHTUNKHWA SEI	RVICE TRIBUNAL, PE	SHAWAR	
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(Ahmad Shahbaz Alizai)	Dated:	//192022.	(Aman Ullah) Appellant		
(Ahmad Shahbaz Alizai) Advocate High Court, D.I.Khan.		v	$\bigcap n \bigcap$		
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BEFORE KHYBER PAKHTUNE A SERVICE TRIBUNAL, PESHAWAR

Service Appeal No._____/ <u>500</u>_/2022.

Amanullah S/o Feroz Khan Balesh, Ex-(ESM) Constable No.2830, Re Police Presently, Village Hazara Pacca, Tehsil Paroa, District D.I.Khan, (Appellant)

Versus

3.

1. The Provincial Police Officer (IGP), Khyber Pakhtunkhwa, Central Police Office, Peslawar.

2. Regional Police Officer / Deputy Inspector General of Police, Dera Ismail Khan Region, D.I.Khan.

District Police Officer, Essen Ismail Khan.

(Respondents)

Note: The address given above are sufficient for the purpose of service.

SERVICE APPEAL u/s 4 OF WW SERVICE TRIBUNAL ACT-1974 AGAIST, FIRSTLY, ORDER OF DPO / D.J. KHAN ISSUED OVER OB No.1492/EC dated 14.9.2021, SECONDLY, AGAINST ORDER ISSUED VIDE ENDS: No:1849/ES ISSUED OVER OB NO. 566 DATED 01.04.2022 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND LASTLY FROM ORDER OF PPO/KP DTD 31.8.22 ON REVISION PETITION OF APPELLANT.

Respectfully Sheweth: -

1.

3.

The appellant very humbry submits as under: -

That the appellant, an Ex-Serviceman was enrolled as Constable in the Police Department. The appellant has well over(12) ears of unblemished service to his credit, earning good will and praise from his superiors for his hard work and devotion. The appellant has always served the department with due diligence, dedication and to the utter satisfaction of his superiors thus earning numerous commendations and rewards.

2. During the entire stretch of his service the conduct of appellant remained unblemished. Service record of the appellant is second to none and no adverse inference was ever drawn by the superiors since nothing of the sort was ever conveyed to the appellant.

That to the dismay of appellant, he was, through order dated 14.9.2021 passed by DPO/D.I.Khan, awarded publishment of Termination from service, albeit in sheer derogation of the law, rules and porms of natural justice. Copy of impugned order is placed at <u>Annet-A.</u> (Copies of charge sheet etc have not een

provided by authority despite request was made, copy o application is placed at A/1)

That the petitioner moved an appeal with worthy RPO, D.I.Khan (Respdt No.2) against the above said order however, the appeal did not find any favour and stands dismissed vide order dated 01.04.2022 of RPO, D.I.Khan yet arbitrarily. Copies of departmental appeal and order passed thereon are attached herewith at <u>Annex-B & /1_</u>, respectively.

5. That aggrieved of the above said orders, lacking legal sanction, the appellant moved a Revision Petition with worthy PPO/KP (Resdt; No.1) but that too, was filed yet through a non-speaking order. Copies of Revision Petition an ode thereon are placed at <u>Annex-C & C/1</u>, respectively.

(Order was never conveyed to appellant, hence appeal is within statutory period)

6. That in consequence of above stated situation and having no other departmental remedy left available to him, the appellant prefers the present appeal on the following grounds,

Grounds:-

2.

b.|

c.

d.

4,

That, the order of DPO/ D.I.Khan whereby the appellant was initially punished in terms of termination of service, besides consequential order of RPO, D.I.Khan as well order of PPO/KP, each impugned hereby, are not only against the true facts, law & rules but militate against the principles of justice, equity and good order of public service.

That, the allegations leveled, as mentioned in impugned order of DPO, and culminating into award of one of the punishments of most harsh in its kind were based on misconception of true facts, wrong, incorrect and misconceived and unproven.

That, the appellant has been virtually condemned unheard and subjected to a major punishment of the kind "Termination of Service" without being provided with an appropriate opportunity to defend his cause beyond any encumbrance, thus calling for interference by this Hon'ble Tribunal to undo the injustice.

That, the impugned orders are apparently based on misconception and misconstruing of facts besides law, rules and principle of natural justice thus are liable to be set-aside. There is nothing on records to prove any complicity on part of the appellant in the allegation contained in said orders.

While pushing the entire proceedings in a slipshod manner the punishing authority chose to inflict major punishment of termination of service on appellant though beyond facts and in conflict with legal provisions. That the appellant is innocent and has been subjected to the penalty for no fault of his but for apparendy misjudgment & extraneously motivated reasons. DPO/D.I.Khan i.e. Respondent No.3 and RPO / D.I.Khan i.e. (Respondent No.2), while ignoring the law & rules on the subject, erred and failed to regulate proceedings properly besides inflicting punishment onto an innocent person i.e. the appellant. PPO/KP also failed to address the issue trough a speaking order hence cired in following the law.

That the appellant has sufficient length of service over more than two and a half decades rendered for the department. While adjudicating in the matter the departmental authorities utterly ignored not only the provisions of law on the point but the rights toc, of the appellant. The appellant was neither afforded with any opportunity of personal audience nor of a fair trial, thus was discriminated being, inter-alia, condemned unheard.

That the orders passed by respondents, as impugned hereby, have infringed the rights of and caused grave miscarriage of justice to the appellant without any lawful excuse

That the petition of appeal / appellant is duly supported by law and rules formulated thereunder, besides the affirmation / affidavit annexed hereto.

That this Hon'ble Tribunal is competent and has ample powers to adjudge the matter under reference/appeal.

That the counsel for the appellant may very graciously be allowed to add to the grounds during the course of arguments, if need be.

Prayen:-

h.

f.:

In view of the above made submissions, it is very earnestly requested that on gracious acceptance of the instant petition, the impugned order of DPO/D.I.Khan passed on 14.9.2021 whereby petitioner is awarded Punishment of termination from service besides, order dated 01.04.2022 passed by RPO, D.I Khan over OB No.566 dated 01.04.22 whereby appeal of petitioner was dismissed / rejected and order of PPO/KP dated 31.8.22 on filing of representation may kindly be set-aside and the respondents may be required and directed to reinstate the appellant in the rank of Constable from due date with grant of all back benefits in the interest of justice. Any other benefit that this Hon'ble Tribunal may deem appropriate is solicited, too.

Dated. 17/10/2020

Alequillah Khar Aduscate High Com

Most respectfully Man

Aman Utlah, Appellant. Ex-Constable No.2830(ESM). Presently, Village Hazara Pacca, Paroa, District D.I.Khan Through (oursel's, Ahmad Shahbaz Advocate Hig

AFFIDAVIT:

I, Aman Ullah s/o Feroz Khan, the appellant, hereby solemnly affirm and declare on oath this ((7) day of Oct; 2022 at D.I.Khan that contents of the petition are true and correct to the best of my knowledge, belief and per official records. Also, that nothing is willfully kept or concealed from this Hon`ble Tribunal.

Dated. 17/10./2022. Asil Advor -

Commission

(Aman Ullah) Deponent. Through Counsel

(Ahmad Shahbaz Alizai) Advocare High Court, D.I.Khan.

Annexuse

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> District Police Officer Deta Email Khan Jog/2021

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service is submitted to:-

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estt.rpo.dik@gmail.com

Dated

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25/03/2022

ORDER
This order disposes of a departmental appeal filed by <u>Ex-Constable Aman Illial No.2830/ESM</u> of District Police DI Khan against the impugned order of Major Punishment-(Terminated from Service)-by DPO D.I.Khan, passed vide his office OB No.1492 dated 14.09.2021, on the following allegations:
A. "He while being posted as gunner with SHO PS SNK! numerous reports were emanated; stating SHO and his staff connections with drug peddlers of PS SNK in general and renowned gambler/drug peddlers named Faizan in particular. It was also confirmed by reliable sources he along with his SHO attended dinner at place of said peddler. Since, SHO failed to arrest said peddler on directions of DSP/Paharpur, a special team was sent to his area of jurisdiction for arrest of said gambler/peddler, who affected arrest of "Faizan" with Hashish and unlicensed pistol. While being arrested, he kept insisting that he may be given a chance to talk to SHO PS SNK. On further checking Cell phone of said gambler/peddler, a voice message form cell number 0344-2491986/Ex Serviceman Amanultah No.2830 ESM was found on WhatsApp wall of said gambler/peddler wherein; delinquent was requesting said gambler to leave the area for few days as high ups have ordered to affect his arrest. Amanultah No.2830/ESM later confessed that he sent above voice message".
B. Ex-Serviceman Constable Aman Ullah No.2830 tamished the image of Police department by supporting during drug Mafia and gambler. Hence terminated from Police service by DPO DI Khan vide OB No. 1492 dated 14.09.2021?
2. The appellant preferred an appeal against the impugned order on 18.09.2021. His appeal was sent to DPO DI Khan for comments and provisions of his service record vide this office letter No.4052/ES dated 21.09.2021. DPO DI Khan, vide his office memo: No.4528/EC dated 06.10.2021, stated in his comments that an inquiry was got conducted through SDPO City, who concluded that during the inquiry appellant had confessed that he had sent a voice message to the drug peddler/gambler Faizan to leave the area for few days as high ups had ordered to effect his artist. The allegation was proved when the acoused Faizan was artested later on and a voice message from Cell No.0314-2491986/Ex-serviceman Amei Ullah No.2830/ESM was found on WhatsApp wall of said gambler/peddler wherein appellant was requesting the said gambler to leave the area for a few days as high ups had ordered to effect his artest. The appellant had also confessed that he had sent the above voice message.
3. The appellant was heard in person in Orderly Room on 05.01.2022. The appellant pleaded that the departmental inquiry was not conducted according to the laid down procedure.
4. Perusal of the inquiry proceedings revealed that the appellant's plea carried some weight. His appeal was accepted and Mr. Muhammad Nisar, SP FRP DI Khan, was entrusted with de novo enquiry into the allegations against him, with the direction to report within 30 days; vide this office letter No.379/ES dated 19.01.2022.
5. SP FRP DI Khan, vide his office letter No.261/FRP, dated 04.02.2022, concluded that Ex- Constable Aman Ullar No.2830/ESM was found guilty of the charges levelled against him and the appellant's link with the said gambler/drug peddlers named Falzan in particular had been established. SP FRP L. Khan further stated that he had agreed to the punishment awarded to him by DPO vide the impugned order OB No. 1492 dated 14.09.2021.
6. The appellant was again called in orderly room on 09.03:2022 and heard him in person. His written as well as oral pleas were found unconvincing.
7. Keeping in view the above, I, SHAUKAT ABBAS, PSP, Regional Police Officer, Dera Ismail Khan, in exercise of the powers conferred upon me under Rule-11, clause-4 (a), of Police Rules 1975, reject the appeal of the appealant Mr. Aman Ullah No.2830/Constable ESM; and UPHOLD the impugued order of major punishment of termination from Service passed by DPO DI Khan vide OB No.1492dated 14.09.2021.
(SHAUKAT ABBAS) PSP

Dera Ismail Khart

No. /ES Copy to the DPO DI Khan w.r.t letter No. 4528/EC dated 06.10.2021alongwith his service record (S/Roll & F/Missal). The appellant may please be informed accordingly.

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(SHAUKAT ABBAS) PSP Regional Police Officer Dera Ismail Khan

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Annexure - C

جمنور جناب والاشان جناب IGP ساحب انچارج ايوليد ديپارشينش بورد CPO بيتاور

ورخواست رجم

(*

اييل رحم برائ بحالي ملازمت EX كالشيبل امان التدنمبر 2830 سكند مزاره يك يخصيل وضلع ذيره اساعيل خان جناب عالى !

گزارش بحضورانور بیہ ہے کہ جس Misconduct کے ذمرے میں مجھے میری کوالیفائیڈ سروس سے برخاست کردیا گیا ہے۔ اس کا ازروئے قابون کمی Misconduct کے زمرے ٹی آنا بھی ثابت نہیں ہے۔ کیونکہ تھانہ SNK ڈی آئی خان میں اپنے سیتر آفسر ک Advise کوبدنا م زمانہ قمار باز فیضان نامی تک حسب الحکم پنچانا کیا میر نے فرائض مصبی میں شال نہیں تھایا میں اپنے متر م SHO صاحب کے ظلم کی روگردانی کر سکتا تھا۔ ہرگز نہیں۔؟

۲۰۔ یقینی بات ہے کہ "بلی کرتی ہے تو بچار یے طریب پر "ادراس میں محض بھے اور میر نے زیر کفالت افراد خانہ کوئن روزگار سے محروم کرڈالا۔ اور میر بی سروس ایپل Rejec ہوئی۔ عالانکہ مجھ پر کوئی Misconduct آج دن تک ثابت نہیں ہے۔ وہ ایک جھوٹی ک Advise جس ک بذکر ہاو پر ہو چکا ہے وہ میر نے فرائض منصبی کا حصرتھی۔ جس کی میں نے بچا آوری کی ادر اون روزگار سے بمعدا فراد خانہ وکم سن بچوں سے محروم کردیا

میری انتہائی مؤدباندالتجا ہے کہ مجھ پراور میرے افراد ٹاندادر کسن کچوں پر دم فرمایا جا کر آیک فرضی الزام کی باداش میں پرخانتگی کے عمل کواز تاریخ ووقت معا ف فرمایا جائے اور**ا پی سروں پر** بحال فرمایا جائے۔

مورفة:15-04-2022

اردي امان اللدائيس كانشيل نمبر 2830 صلح در واساعيل خان رابط نمبر:03442**44**1986 Caller 5 4 22 0344-2491986 كالي برائة: جنارAIG ليكل CPO يشادر

16) Annexure- G



OFFICE OF THE INSPECTOR GENERAL OF POLICE KHYBER PAKHTUNKHWA Central Police Office, Peshawar. /22, dated Peshawar the <u>31/8</u>/2022.

No. S/ 1966

The	Regional Police Officer, Dera Ismail Khan.
•	,

Subject: <u>APPLICATION FOR RE-INSTATEMENT IN SERVICE.</u>

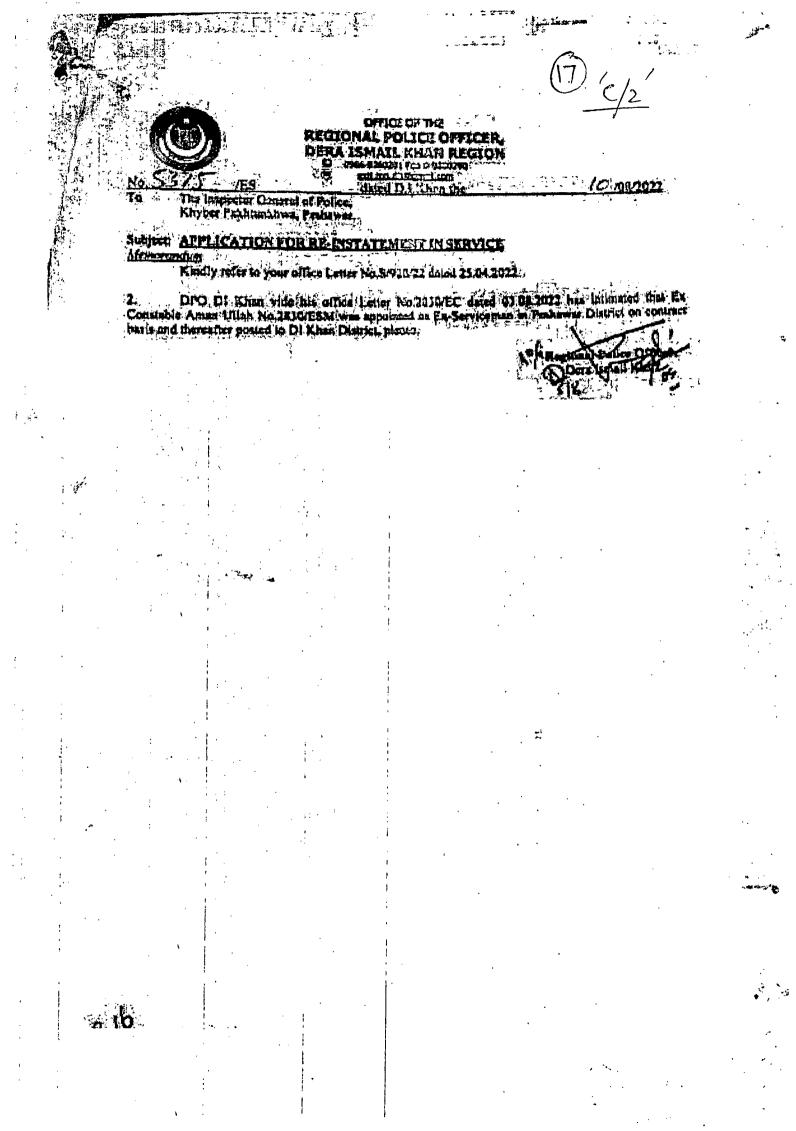
Memo:

To:

Please refer to your office Memo: No. 5375/ES, dated 10.08.2022.

The Competent Authority has examined and filed the application submitted by Ex-FC Aman Ullah No. 2830/ESM (Ex-serviceman) of D.I.Khan district Police for re-instatement in service being a contract employee.

The applicant may please be informed accordingly.



Secretary KP Bar Council KHYBER PAKHTUMMAN BAR COUNCIL

AHMAD SHAHBAZ ALIZAI

Advocate bc-12-3964 Date of issue: February 2016 Valid upto: February 2019





BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

In Service Appeal ... Amanullo

hereby appoint, <u>Mr.</u> Ahmad Shahbaz Alizai, Advocate High Court, DIKhan, H. Smail Alizai (AHC) in the above mentioned matter / case and authorize him/them to do all or any of the following acts, in my/our name and on my/our behalf, that is to say,

- 1. To appear, act and plead for me/us in the above mentioned case in this Court/ tribunal in which the same may be tried or heard or any other proceedings what so ever, ancillary thereto, including appeal, revision etc; on payment of fees separately for each court by me / us,
- 2. To sign, verify, file, present or withdraw all/any proceedings, petitions, appeals, cross objections and application for compromise or withdrawal, or for submission to arbitration of the said case or any other documents, as may be deemed necessary or advisable by him/them and to conduct prosecution or defense of the said case at all its stages,
- 3. To undertake execution proceedings, deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be conferred to be done for the progress and in the course of prosecution of the said case,
- 4. To appoint and instruct any other Advocate/ legal practitioner authorizing him to exercise the power and authority conferred upon the advocate whenever he/they may think fit to do so and to sign Power of Attorney on our behalf,

I /we, the undersigned do hereby agree to ratify and confirm all acts done by the advocate or his authorized substitute in the matter as my /our own acts, as if done by me/us to intents and purposes, and I / we undertake that I /we or my/our duly authorized agent shall appear in the court on all hearings and will inform the advocate(s) for appearance when case is called and I/we the undersigned agree hereby not to hold the advocate(s) or his/their substitute responsible if the said case be proceeded ex-parte or dismissed in default in consequence of my/our absence from court when it is called for hearing and for the result of the said case, the adjournment costs whenever ordered by the court shall be of the advocate(s) which he/they may receive and retain himself/themselves. I/we the undersigned do hereby agree that in the event of the whole or part of the fees agreed by me/us to be paid to the advocate(s), if remain unpaid, he/they shall be entitled to withdraw from prosecution of the above said case until the same is paid and fee settled is only for the above said case and above court and I /we agree hereby that once fee is paid, I/we shall not be entitled for refund of the same in any case whatsoever.

Accepted By:

Ahmad Shahbaz Alizai, Advocate/High Court.

Thumb Impression / Signature(s) of Executant(s)

(P etc

Appellant,

KHYBÉR PAKHTUNKHWA BAR COUNCIL ATEEQ ULLAH KHAN Advocate bc-10-4909 Date of issue: January 2019 Valid upto: January 2022 etañ KP Bar Council Pehnula [. Ē باعيث كم مرآتك يقدمه مندرجه بالاعنوان ميں اين طرف واسطے پير دي دجوار اي ے، کیرلس ہر تابش برخود بذریب دختیار خاص رو پر وعدالت جاضر ہوتا رہوں گا۔ادر ہر دفت دکار۔ بیرجانے مقد مہ . ذیل شرائط پروکیل مقبر دکما موصوف كواطلاب وكمرحاض معالمت كرون كاءاكر يثقى بمنظهرها ضرند بهوا-ادد مقذمه بهركى فيرحاضري كي دجديت كمحاطور يرمرين برخلاف بوكيا - فخو حباحب موصوف استکے کی طرح ذکر دارنہ ہوں کے، نیز دیکل ملاحب موصوف صدر مقام کہری کے خلادہ کی جگہ یا کہری کے ادثابت سے پہلے یا بچھے یا پر دوتقطیل پر دوی کر 22 امداردند بول کے ایز وکل مناحب موضوف مدرمقام کم بری کے طادو کی جد یا کم بری کے اوقات سے پہلے یا بیجے یا برداد تعطیل چروی کر لے کے وردار ند ہوں کے اور مقدمہ مدر پکھری کے خلاوہ اور جگہ ساعت ہونے پاہر در تصلیل یا کہرای کے اوقات کے آئے بیٹے پیش ہونے پر مظہر کو کوئی نقصان اینے تو اس کے ذمہ داریا اس کے داسطیمی معادشہ کے ادا کر لے یا مخانہ داہل کرنے کے جن مزملوف ڈمہ دارینہ ہوں کے لیجھ کوکل ساختہ پر داخطہ صاحب کم صوف مثل کر دہ ذابت خود بشقور وقبول بوكا - ادرصاحب موصوف كوعرض دعوئ باجواب دعوئ يا درخواسيات اجرائ فأكرى دفظر ثاني البخل ككراني وجرشم درخواست برد بتقنط وتصديق كرني كا مجمی افتیار ہوگا۔ادر کی تکم یا ڈکری کرانے اور جرشم کا روپیہ دسول کرنے اور رسید د کہنے اور داخل کرنے اور برقم کے بیان دیسے اور اس بر ثالثی بارلمنی نامہ و فیصلہ بر جلف کرنے ، اقبال دحویٰ کام مجمی اختیار ہوگا ۔ اور بسودت مقرد ہونے تاریخ ٹیش مقد کمہ یکودہ میرون الرکیم کی صدر بیردی مقدمہ یکورہ نظر تاتی واپنیل دکترانی و برآ یک مقدمه بإمنسوني ذكري يكطرف بإدرخواست تطم اقتراع باقرق باكرلمارك فجل از فيصله أجراحة ذكري بمي صاحب موصوف كوبشرط أدانيكي عليحده عنائيه بأيروكا كالفتيار بهوكا اددتمام ماختذ مرداخته مساحب مومون شركزوه ذايت خود منقود وقبول بوكاراد بعودت ضرددت صاحب موصوف كوبريمي اختبار بوكا كأمقد مداركول وبالستكركمي جزو کی کاردائی یا بصورت درخواست نظر ثانی بالکرانی یادیگر معاملہ عقد منہ ذکور ،ک دہشرے دکیل یا میز شرکوا ہے جماعے پااسیتے ہمراہ مقرر کریں ۔ادرا پیے مشیر قانون کو مجمی ہراہر میں ذہبی اور دیئے اعتبارات حاصل ہوں کے ، بیسے صاحب موسوف کو حاصل ہیں، اور در ران مقدمہ ش جر کچھ ہر جا نہ التوام لیرلیکا ، وہ موصوف کا من مول محرصا جب موصوف کو فیدری فیس تاریخ فیشی سے بہلے ادا ند کرول کا - او صاحب موسوف کو مودا افترار موکا کددہ مقد مدک میردد کا شکر میں او کم ا مورت، ش میراکونی مطالب می مناحب موصوف سے برطاف الد الهذا فكالمت تامدكهمد بإب-تاك سندوب **مون دکالت نامیرُن ل**ا<u>ے ادر کچی</u>طر ج