

27.07.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Faheem Khan, Assistant for official respondents present.

File to come up alongwith connected Service Appeal No. 259/2022 titled "Atta Ullah Khan Vs Government of Khyber Pakhtunkhwa" on 28.09.2022 before S.B.



(Fareeha Paul)
Member (E)

28.09.2022

Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Laiq Shah, Focal Person for the respondents present and requested for time to submit reply/comments. Last opportunity is granted. Adjourned. To come up for reply/comments as well as preliminary hearing on 02.12.2022 before S.B.



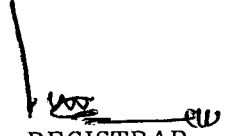

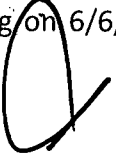

(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 327 /2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/03/2022	<p>The appeal resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	8/4/2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>8-4-2022</u></p> <p> CHAIRMAN</p>
	06.06.2022	<p>Counsel for the appellant present and requested for adjournment. Request accepted. Last chance is given. To come up for preliminary hearing on 6/6/2022 before Sb.</p> <p> CHAIRMAN</p>
		<p>Junior to counsel for the appellant present.</p> <p>File to come up alongwith connected Service Appeal No.259/2022 titled Attaullah Khan Vs. Government of Khyber Pakhtunkhwa on 27.07.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>

Rabata Bibi

The appeal submitted by Mr. Noor Muhammad Khattak Advocate today i.e. on 09.02.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of impugned order dated 14.07.2021 against which appellant made departmental appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental is not attached with the spare copies which may be placed on it.

No. 371 /S.T,

Dt. 11/02 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

The impugned order dated 14-07-2021 was not provided to the appellant rather the monthly salary of the appellant has been stopped against which the appellant filed Department Appeal, which has already been placed on file.

Re-Submitted after doing needful.




Impugned Order dt 14-7-2021

was attached as annexure D

Page 10/A.

Re-submitted after completion.

 2/3
2/22

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 293 /2022

RAFATA BIBI

V/S

HEALTH DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
0			
1	Memo of appeal	1 - 3
2	Affidavit	4
3	Appointment order dt: 10.01.2005	A	5-6
4	Medical certificate	B	7
5	Arrival report	C	8
6	Office order dt: 23.06.2021	D	9-10
7	Departmental appeal	E	11
8	Wakalat Nama	12

Dated: _____ .2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 293 /2022

Miss: Rafata Bibi, Lady Health Worker,
Civil Hospital Boya, District Miranshah

..... **APPELLANT**

VERSUS

- 1- The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Health Officer, Tribal District Miranshah.

..... **RESPONDENTS**

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT RELEASING THE MONTHLY SALARIES OF THE APPELLANT WITH EFFECT FROM 01-07-2012 I.E FROM THE DATE OF REGULARIZATION OF SERVICE TILL DATE AND AGAINST NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the monthly salaries of the appellant w.e.f 01-07-2012 till date with all consequential benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favour of the appellant.

R. SHEWETH:

ON FACTS:

- 1- That the appellant was initially appointed as Lady Health Worker on contractual basis in the respondent Department w.e.f 10-01-2005. Copy of appointment order is attached as annexure **A.**
- 2- That after appointment the appellant was medically examined and declared fit by the concerned authority and after being fit the appellant submitted her arrival report to the concerned office. Copy of medical certificate and arrival report is annexed as annexure..... **B&C.**
- 3- That the appellant started performing her services with zeal and zest and up to the entire satisfaction of her superiors.

- 4- That the appellant was regularized vide order dated 23-06-2021 in pursuance of the Judgment of the Hon'ble Supreme Court and Peshawar High Court. And in light of office order dated 23-06-2021 the appellant was regularized w.e.f from 01-07-2012. Copy of office order dated 23-06-2021 is annexed as annexure..... **D.**
- 5- That unfortunately the salaries of the appellant have been stopped w.e.f 01-07-2012 i.e., from the date of regularization till date without any legal justification against which the appellant has submitted applications time and again. That it is very pertinent to mention the pay bills have been passed after regularization of the appellant but till date the said bills have not been released to the appellant.
- 6- That feeling aggrieved from the inaction of the respondents by not releasing the salaries, the appellant filed Departmental appeal but no reply has been received so far. Hence the instant appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **E.**

GROUND:

- A- That the impugned inaction of the respondents by not releasing the salaries of the appellant since regularization is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the concerned authority in accordance with law and rules and as such the authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the appellant is still performing her duties and the inaction of the respondents by not releasing her salaries is amounting to forced labour which is the blatant violation of the Article 11 of the Constitution of Pakistan, 1973.
- D- That the respondents discriminated the appellant by not releasing the monthly salaries of the appellant.
- E- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the norms of natural justice.
- F- That the inaction of the respondents by not releasing the monthly salaries of the appellant is arbitrary and malafide.

- G- That the inaction of the respondents by not releasing monthly salaries of the appellant w.e.f. regularization till date is against section 17 of the Civil Servant Act, 1973.
- H- That appellant seeks permission and advance other grounds and proofs at the time of hearing.

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

Dated: _____. _____. 2022

APPELLANT
33 Bibi
RAFATA BIBI

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
&
Haider Ali
HAIDER ALI
ADVOCATES, PESHAWAR

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

RAFATA BIBI

VS

HEALTH DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



رافتا بی بی
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

CERTIFICATION

OFFICE ORDER

ANNEXURE

A

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SUBJECT: APPOINTMENT ORDER FOR LADY HEALTH WORKER UNDER NATIONAL PROGRAMME FOR FAMILY PLANNING AND PRIMARY HEALTH CARE

On the recommendation of selection committee Miss Rafata Bibi W/O/D/O Abdullah Khan of Village Ghazlami Pir Tehsil Datta Khel & P/O Boya is hereby appointed as Lady Health Worker (LHW) at Civil Hospital Boya w.e.f. 10/01/2005 the following terms and condition.

1. The appointment will be purely on contract basis.
2. The appointment will be initially for one year. However it is extendable subject to satisfactory performance.
3. After selection, she will be trained for duration of 15 months, in the first 03 months, she will attend training at the health center for 05 days a week, while during the next 12 months, and will attend the training session at the health center in the 4th week of every month.
4. She will be paid Rs. 50/- per day during initial three of training and subsequently she will be given a stipend of Rs. 1600/Pm.
5. She will have to work in this Programme for at least one year after completion of training for which she will have to give surely bond at the time of joining training on stamp paper of Rs. 50/- . If she wishes to resign within this period, she will have to deposit the whole amount of salary which she has received during training and service until acceptance of resignation.
6. On expiry of surety bond period, if she wishes to resign, she will serve one month's notice or will deposit one month's in lieu of notice.
7. The post is non transferable and the services will be terminated if the LHW move out of her area of appointment.
8. She will be required to establish a health house in her residence and maintain it according to the requirement of the Programme. She will work closely with the local community and establish a local health committee and a women group with the assistance of the field Supervisor and Health Center staff.
9. She will ensure her presence during the field visits of supervisors and will arrange home visit for them.
10. She will be required to open the bank account in the branch of bank nearest to the training Center. The branch will be identified by the district PIU. Her salary will be disbursed through this bank.
11. She will keep a proper record of supply and receipt from the health Centre and will also maintain a proper record of consumption of the supplies and will provide this to the health Centre every month at the time of receiving new supplies.
12. She will maintain a proper record of the money being earned through the sale of contraceptives (condoms and pills), she will be required to submit the details of money every month to the Health Center. If she is found guilty of wrong reporting or selling the contraceptives to the unauthorized persons or shops, her service will be terminated along with other disciplinary action including the recovery of the amount involved.

ATTESTED

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13. She will submit a monthly report of her activities on the prescribed from the Health Center regularly.
14. She will be entitled for 20 days casual leave in a year. However there will be no leave during training, and if she abstain herself unauthorisedly, her services will be terminated. She will be required to take the sanction of leave from the health Centre.
15. She will be entitled for 20 days maternity leave at one time which will Commence 10 days before the delivery date until 10 days after the delivery. After this, she will resume her duties from her health house and then start field visits not later than one month from the date of delivery.
16. TA/DA will not be admissible on account of attending training or undertaking any field visit.
17. If at any time, it is established that she has given wrong information on her qualification, age, place of residence and other criteria, her services will be terminated with out any notice and the amount spend on her training and salary will be recovered .
18. Her services will not be governed under the Civil Servants Act: 1973 , but under the terms and condition of this contract and any other terms that may be communicated to her from time to time. She will be bound to follow these terms which will not be challengeable at any forum including courts.
19. Her services can be terminated at any time without assigning any reasons or notice.
20. If she accepts the offer on the above terms and conditions, she is Directed to report for training at Civil Hospital Boya on 15/01/2005. Failing which the offer will stand cancelled.

Sd/xxxxxxxxxxxx
Agency Surgeon,
North Waziristan Miranshah.

No 5120-24 /NP-NWA/ Apoit: Dated: Miranshah the 10 / 01/2005

Copy to:

1. National Coordinator, National Programme for Family Planning and Primary Health Care , 14.D, Feroaze Centre, West Blue Area. Islamabad.
2. Provincial Programme Coordinator, National Programme for Family Planning and Primary Health Care, Street No. 6 Abshar Colony off the Warsak Road Peshawar.
3. District Coordinator, National Programme for FP & PHC.
4. The Accountant .
5. Official Concerned.

ATTESTED

Agency Surgeon,
North Waziristan Miranshah.

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MEDICAL CERTIFICATE

Name of Official Mrs - Rafata Bibi

Caste or race Muslim

Father's Name Abdullah Khan

Residence. Ghazlami Pir Tehsil Datta Khel
Post - Buja

Date of Birth. 01/01/1985

Exact height by measurement. 3-7

Personal Mark of Identification. Nil

Signature of the Official. [Signature]

Signature of head of Office. _____

Report for duty today on. _____

Seal of Office

I do hereby certify that I have examined Mr. /Miss. Rafata Bibi

Candidate for employment in the Office of the. Health Department

And can not discover that he/She had any disease communicable or other constitutional effect join or bodily infirmity except. Nil

I do not consider this as disqualification for employment in this office of the Health Department his/her age according to his own statement. 20 years and by appearance about Twenty years.

LEFT HAND THUMB AND FINGER IMPRESSION

08/11/2010

ATTESTED

[Signature]

Incharge Type -C Hospital Mirali NWTD

بخدمت جناب ایجنسی سرجن صاحب نارتھ وزیرستان ایجنسی میران شاہ

ANNEXURE

8

مضمون: حاضری رپورٹ

جناب عالی!

بمورخہ 10/01/2005 جناب والا میں آپ کے دفتر سے جاری کردہ بھرتی نمبر: 5120-24/NP-NWA/Approit

ہوں۔ اب جناب کہ حضور میں ڈیوٹی دینے کے لئے حاضری رپورٹ دینا چاہتی ہوں۔

لہذا آپ صاحبان کے دربار میں درخواست کرتی ہوں۔ کہ میرا حاضری رپورٹ کو قبول فرمائیں۔

شکریہ

مورخہ 15/01/2005

العارض

اپ کی تابعدار Miss Rafata Bibi

ایل، ایچ، ڈبلیو، نیشنل پروگرام برائے حاندنی منصوبہ بندی نارتھ وزیرستان ایجنسی

Agency Surgeon
North Waziristan Miranshah

TESTED

OFFICE OF THE DISTRICT HEALTH OFFICER TRIBAL DISTRICT AT MIRANSHAH

Tel: (0928) 300788 FAX: (0928) 311662

Email: agency surgeon nwa2019@gmail.com

%%%

OFFICE ORDER:

In light of Honorable Supreme Court of Pakistan under write Petition No.15 of 2012 & CRL, MISC, Application No.506 of 2012 in H.R.C No.16360 of 2009 and Const. Petitions No.36 of 2012 and CRL. ORIG. Petition No.73 of 2012 in H.R.C No.16360 of No.2009 dated 07/03/2013 and Directorate Health Services FATA letter No.25464-72/DHS/ADMIN/NP dated 05/11/2018. The following LHWs/LHSs and drivers working in National Programme for FP, NP & PHC of North Waziristan District, are hereby regularized w.e.f 1/7/2012 and adjusted against the vacant posts of Dai BPS-05. Their salaries are released against the vacant post of Dai BPS-05 till the creation of their position codes from finance department, KP. As and when the position code are created from finance department KPK for the following LHWs / LHSs and drivers to the office of undersigned their outstanding salaries w. e. f 1/07/2012 and onward will be release accordingly on their own position code in the larger interest of public being old pending issues to avoid more issue please.

SNo	Name of LHWs/LHS/Drivers	49	Miss Nisa Noor
1	Miss Mahila	50	Miss Gulalai
2	Miss Seema Dil	51	Miss Rogheen
3	Miss Shehnaza	52	Miss Azma Tahir
4	Miss Shezada Bibi	53	Miss Rahmeena
5	Miss Tahir Naz	54	Miss Shahkila Bibi
6	Miss Mehtab	55	Miss Ayesha
7	Miss Nadia Khan	56	Miss Bibi Amna
8	Miss Roqia Sultan	57	Miss Nadia Bibi
9	Miss Banoo	58	Miss Khowza Bibi
10	Miss Ayesha Zahoor	59	Miss Jahanara
11	Miss Sangin Marmara	60	Miss Fatma Bibi
12	Miss Razmeena	61	Miss Bibi Gula
13	Miss Paiow Khana	62	Miss Khalima Bibi
14	Miss khana Mira	63	Miss Bibi Rahmana
15	Miss Miranshta	64	Miss Noor Zeba
16	Miss Gul Faraza	65	Miss Uzma Zia
17	Miss Rakhati Bibi	66	Miss Sakina Sami
18	Miss Pezwanda Bibi	67	Miss Fatima Bibi
19	Miss Razia Bibi	68	Miss Maraqeen
20	Miss Gul Ghita	69	Miss Samrina Bibi
21	Miss Madai	70	Miss Farida Bibi
22	Miss Rafaqa Bibi	71	Miss Basnia Bibi
23	Miss Madina Bibi	72	Miss Rawasia
24	Miss Fatma	73	Miss Nabila
25	Miss Gul Khubana	74	Miss Bushra
26	Miss Saleema Bibi	75	Miss Ansa Yasir
27	Miss Bobrasia Bibi	76	Miss Halifa Bibi
28	Miss Shakila Bibi	77	Miss Saifa
29	Miss Raghina	78	Miss Rabia
30	Miss Laweda	79	Miss Irana

ATTACHED

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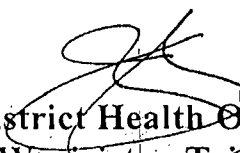
31	Miss Maryam	80	Miss Somira Saqib
32	Miss Sardara	81	Miss Rooh Afzada
33	Miss Abida	82	Miss Hassina
34	Miss Farhana	83	Miss Saima
35	Miss Nazish farooq	84	Miss Safara Bibi
36	Miss Sabit Gula	85	Miss Nasreen Bibi
37	Miss Faryal Rashid	86	Miss Baghza Mina
38	Miss Jehana	87	Miss Salma Bibi
39	Miss Javeria Waheed	88	Miss Rafia Bibi
40	Miss Rishma	89	Miss Ayesha
41	Miss Zibu Nisa	90	Miss Shakila
42	Miss Marya Bibi	91	Miss Nasima Bibi
43	Miss Zalikha Bibi	92	Miss Sadia Bibi
44	Joharullah Driver	93	Ahmar Ali Khan Driver
45	Ilyaz Ud Din Driver	94	Fasihud Din Driver
46	Madia	95	Rabia
47	Khadya	96	Mehrun Nisa
48	Wali Darad	97	Zaib Un Nisa

Sd/XXX
District Health Officer
North Waziristan Tribal District

No. 12008-11 /Release/LHWs/LHSs/DHO/NWTD dated Miranshah 23/06/2021.

Copy forwarded to:-

1. The PS to Secretary Health KPK for information please.
2. The PS to Secretary Finance department Khyber Pakhtunkhwa Peshawar with the request to create position code on regular side under DDO code MW 6006.
3. The PS to Director General Health Services KPK Peshawar for information please
4. The District Account Officer NWTD for information with the request to release their current salaries against the vacant posts of Dai BPS-05 till the creation of their posts / position codes from finance department KP , of the above concerned LHWs/LHSs and drivers please.
5. Officials concerned.


District Health Officer
North Waziristan Tribal District

ATTESTED

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BETTER COPY PAGE #

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR

**OFFICE OF THE DISTRICT HEALTH OFFICER NORTH
WAZIRISTAN TRIBAL. DISTRICT MIRANSHAH**

No Accounts Miranshah Dated the 14.07.2021

To,

The District Accounts Officer
North Waziristan TD Miranshah

SUBJECT, AUTHORITY/ PROCESSING OF ACCOUNT MATTERS /BILLS

Dear Sir.

Please refer to the subject noted above and to state that, the undersigned has assumed charge as DHO North Waziristan TD Miranshah on 10. 07. 2021. however un-authorized persons are active and wondering in the District Accounts Office NW TD for processing of bills / direct induction signed by un-authorized persons which is an unlawful act.

Further-more all Source-I/Source-II / signed by the then DHOs may not be entertained and Ought to be returned for verification and countersignature of the undersigned.

There-fore only Mr Saeed ullah Accounts/ Head Clerk of this office is hereby authorized to deal all kind of Account matters/ correspondence of this office on behalf of the Undersigned with your good office. and subsequently no other persons are allowed to touch any account matters and that this office will not be responsible w.e.f 10. 07. 2021 and onwards

You are further requested that all correspondence! Accounts matters of the undersigned may be kept secret from all un-related/ unauthorized persons in the best public interest.

Your co-operation in this regard will be highly appreciated.

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

Endst No. 12572-73
Copy forwarded to the

Dated : 14.07.2021

- 1- Director General Health Services KPK Peshawar.
- 2- Deputy Commissioner NW TO Miranshah.

DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TD MIRANSHAH

ATTACHED

E - 11

To,
The Director General Health Services,
Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE CIVIL SERVANT ACT AGAINST THE ORDER ISSUED BY DR HAFIZULLAH DHO NWTD VIDE LETTER NO.12571/Accounts & 12572-73 DATED 14/07/2021 WHICH THE SALARIES OF US HAS BEEN STOPPED / WITHHELD ILLEGALLY SINCE THE REGULARIZATION PERIOD W.E.F 1/07/2012 UP TO DATE.

Dear Sir,

With due respect it is stated that I am performing my duty as a Lady Health Worker BPS-05 in NP,FP & PHC programme since 10.01,2005 up to date continuously / regularly under the control of the District Health Officer North Waziristan Tribal District Miranshah with great zeal and zest. My pay & allowances are stopped by the ex- Agency Surgeon now a days called DHO due to non-computerization and bank account. After that I had submitted application to the DHO NWTD with the request to release my salaries from the date of stoppage. He has accepted my request and adjusted me against the vacant post of dai BPS-05 for the purpose of pay and allowances till the creation of position codes. (copy of office order / adjustment order is attached as Annex-A). My salaries are released by the EX-DHO NWTD in the month of March 2021, against the vacant post of KDai BPS-05, till the creation of position codes from finance department. (copy of bills is attached Annex-B). Now my pay & allowances is again stopped by one Dr.Hafizullah DHO NWTD, illegally without any reasons. He has draft letter to District Account officer with the request to returned all the salary bills i.e source-I & II signed by the then DHO to DHO office for proper counter signature and verification. (Copy of impugned letter is attached Annex-C). Now the DHO is not in position to attest the bill nor noted any observation on my bills.

It is therefore, requested, in your kind honor to please release my salaries from the date of regularization / stoppage i.e 1/7/2012 up to date please.

I will be very thankful to your this kind act.

Dated: 14/10/2021.

Thanks

Your obediently,

رافتا بی بی

Miss: RAFATA BIBI

LHW BPS-05

Office of the NP,FP&PHC NWTD.

ATTACHED

VAKALATNAMA

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

RAFATA BIBI _____ (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

HEALTH _____ (RESPONDENT)
(DEFENDANT)

I/We Rafata
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2022

30/11/22
CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

UMER FAROOQ MOHMAND

KAMRAN KHAN

SAID KHAN

HAIDER ALI

&
KHANZAD GUL
ADVOCATES