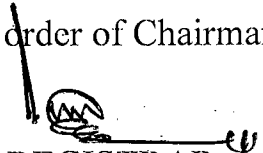


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1556/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 02/11/2022 | <p>The appeal of Mst. Samina Bibi received today by registered post through Mr. Abdul Saboor Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> |

40

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1556 of 2022

Saima bibi.....Appellant

VERSUS

The Government of KPK through Secretary
Elementary and Secondary Education
Peshawar etc.....Respondents

APPEAL

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Dated 31.10.2022

Saima
Saima Bibi
(Appellant)

Through:-

ABDUL SABOOR KHAN
Advocate High Court

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1556 of 2022

Saima Bibi, daughter of Saqab Khan, Ex PST
Government Girls Primary School, Momin
Abad Pallas, District KP Kohistan
.....**Appellant**

VERSUS

- 1) The Government of Khyber
Pakthunkhwa through secretary
Elementary and Secondary Education
Peshawar.
- 2) The Director Elementary and
Secondary Education Peshawar.
- 3) The District Education officer (Female)
District KP Kohistan at Palas.

.....**Respondents**

APPEAL UNDER SECTION 4
OF KPK SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED NOTIFICATION/
ORDERS NO 1198-1210 DATED
20.04.2019 ISSUED BY RESPONDENT NO.
03 AND 2374 DATED 20.10.2022 PASSED
BY RESPONDENT NO. 02 WHEREBY

MAJOR PENALTY OF REMOVAL FROM SERVICE UPON THE APPELLANT WAS IMPOSED AND UPHELD ON THE GROUND OF ALLEGED ABSENCE FROM DUTY WITHOUT MENTIONING THE LENGTH OF ALLEGED ABSENCE.

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No **1198-1210** dated **20.04.2019** and **2374** dated **20.10.2022** passed by respondents **No. 02** and **03** respectively may kindly be set-aside declaring them as illegal, void-abnito, against the law and facts on the subject and appellant be re-instated into service with all back benefits.

Respectfully Sheweth:-

1. That, appellant was appointed as Primary School Teacher by competent authority in a prescribed manner vide appointment order No. **457-121** dated **02.12.2009**.

(copy of appointment order dated 02.12.2009 annexed as annexure "A").

2. That, since appointment, appellant had been performing her duties regularly and with commitment as Primary

School Teacher under the command of respondent **No 03**.

3. That, one Mst. Salma appearing at serial No. **27** of the impugned notification dated **20.04.2019** was removed from service. She was later on replaced with appellant on **22.02.2022** by respondent No. **03**. Appellant had also highlighted this fact in para No. **03** of the Departmental appeal.

(copies of impugned order dated 20.04.2019 and certificate annexed as annexure "B").

4. That, appellant was orally told by the Department that actually, it was not Salma appearing at serial No. **27** of the impugned order rather it was the appellant who had been terminated vide impugned order dated **20.04.2019**.

5. That, appellant filed Departmental appeal against the impugned order dated **20.04.2019** with respondent No. **02**.

(Copy of Departmental appeal annexed as annexure "C")

6. That, respondent No. **02** without hearing the appellant straight away rejected the appeal of the appellant vide impugned notification N. **2374** dated **20.10.2022**. Needless to

mention that no reason what so ever, has been cited by respondent No. 02 while rejecting the Departmental appeal of the appellant.

(copy of impugned order dated 20.10.2022 annexed as annexure "D").

7. That, felling aggrieved, from the impugned orders, appellant having no other remedy except to file the present service appeal before this worthy tribunal for interference inter alia on the following amongst other grounds.

GROUND:-

- A) That, actually, neither any show-cause notice was issued nor served upon the appellant. The impugned order dated 20.04.2019 has been passed at the back of the appellant without informing her, hence, it being illegal is liable to be set-aside.
- B) That, reference to issuing of showcase notice in the impugned order is against the actual facts. It has only been referred to just to make the impugned order look legal.
- C) That, neither the period of alleged absence is mentioned anywhere, nor

any enquiry into the matter was held to prove the allegations.

- D) That, before passing the impugned order, appellant was not put on notice to present her view point/explanation under the Doctrine of Audi Aulterm Partem, hence, the impugned order dated 20.04.2019 is not sustainable and maintainable under the law.
- E) That, no evidence worth name was brought on record by respondent No 03 against the appellant for alleged absence from duty. She has been condemned on flimsy and perverse grounds with mala-fide intention.
- F) That, appellant had a long unblemished service record at her credit. She has been removed from service with a single stroke of pen without observing due process of law on the subject that too after replacing her with one **Salma** for which rectification certificate was issued on **22.02.2022**.
- G) That, so far as reference to the publication in the alleged mentioned news papers is concerned, appellant had never seen the said news papers nor the mentioned news papers were available at District Kohistan.

- H) That, all the terminated teachers mentioned in the impugned notification dated 20.04.2022, have already been reinstated into service by this Hon'able tribunal. Appellant being identically placed also deserves to be reinstated into service with all back benefits.
- I) That, the impugned order on its very face value, is illegal, unlawful, without lawful authority, without jurisdiction and of having no legal effect.

PRAYER:-

On acceptance of the instant service appeal, the impugned orders bearing No **1198-1210** dated **20.04.2019** and **2374** dated **20.10.2022** passed by respondents **No. 02** and **03** respectively may kindly be set-aside declaring them as illegal, void-abnito, against the law and facts on the subject and appellant be re-instated into service with all back benefits.

Dated 31.10.2022

Saima
Saima Bibi
(Appellant)

Through:-


ABDUL SABOOR KHAN
Advocate High Court

VERIFICATION :

I, Saima Bibi, daughter of Saqab Khan, Ex PST Government Girls Primary School, Momin Abad Pallas, District KP Kohistan, do hereby solemnly affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.

Saima
Saima Bibi
(Deponent)

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2022

Saima bibi.....**Appellant**

VERSUS

The Government of KPK through Secretary
Elementary and Secondary Education
Peshawar etc.....**Respondents**

APPEAL

AFFIDAVIT

I, Saima Bibi, daughter of Saqab Khan, Ex
PST Government Girls Primary School,
Momin Abad Pallas, District KP Kohistan, do
herby solemnly affirm and declare on oath
that the no such subject matter appeal has
ever been filed before this honorable court
nor pending nor decided. that the contents
of fore-going affidavit are true and correct to
the best of my knowledge and belief and
nothing has been concealed or suppressed
from this Honourable tribunal.

Dated: 31.10.2022

Saima
SAIMA BIBI
DEPONENT

ATTESTED
Cath
Commissioner
Date _____
S. NO _____
District Court Mardan

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2022

Saima bibi.....**Appellant**

VERSUS

The Government of KPK through Secretary
Elementary and Secondary Education
Peshawar etc.....**Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Saima Bibi, daughter of Saqab Khan, Ex
PST Government Girls Primary School,
Momin Abad Pallas, District KP Kohistan

RESPONDENTS:

- 1) The Government of Khyber
Pakthunkhwa through secretary
Elementary and Secondary Education
Peshawar.
- 2) The Director Elementary and
Secondary Education Peshawar.
- 3) The District Education officer (Female)
District KP Kohistan at Palas.

Dated 31.10.2022

Saima
SAIMA BIBI
(Appellant)

Through:-


ABDUL SABOOR KHAN
Advocate High Court

OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
KOHISTAN

P. (11)

APPOINTMENT

Consequent upon approval of Departmental Committee Kohistan, on the acceptance of appeal the competent authority is pleased to appoint the following (Female) candidates in BPS-5 plus usual allowance as due and admissible under the rules in the schools noted against each on vacant posts with immediate effect in the interest of public service according to the merit policy issued by the Government of NWFP Elementary & Secondary Education Department, subject to the following conditions.

Anwar (A)

| S# | Name of Candidates with Father Name | R/O | Name of School | Remarks |
|----|-------------------------------------|----------|------------------|------------|
| 1 | Taleemata D/O Allah Dad | Pattan | GGPS Gali Chawa | Asst. Post |
| 2 | Sonia D/O Abdur Rehman | Pattan | -do- | -do- |
| 3 | Saima Bibi D/O Siquah Khan | Sharakol | GGPS Jhum Gali | -do- |
| 4 | Zinub D/O Talimand | Dubair | GGPS Bar Dhar | -do- |
| 5 | Pahana D/O Sahramand | -do- | -do- | -do- |
| 6 | Faizana D/O Habib-ullah | -do- | GGPS Kass Dubair | -do- |
| 7 | Shaheen Bibi D/O Mohammad Ghaisor | Seo | GGPS Kuz Phurwa | -do- |
| 8 | Sairah D/O Abdul Khaliq | -do- | -do- | -do- |

CONDITIONS

1. Charge report should be submitted to all concerned
2. No T.A./D.A is allowed to him
3. Her appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. She will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which she belong
5. In case the above candidate failed to assume the charge of his post with in 15-days, her appointment will automatically stand cancelled.
6. She should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. She should produced Age & Health Certificate from EDO Health Kohistan before taking over Charge.
8. Dy. District Officer (F) is directed to verify his certificate/ Documents from the concerned Board/ Institution before draft of her pay.

Executive District officer
(E & S) Education Kohistan

Encls. No. 1/57-127

Dated Kohistan the 2-12/2009

Copy of the above is forwarded to the:-

1. PA to Director Schools & Literacy NWFP Peshawar
2. Distinct Nazim Kohistan
3. District Coordination Officer Kohistan
4. District Accounts Officer Kohistan
5. Dy. District Officer (F) E&SE Kohistan Kohistan.
6. Candidate concerned

Executive District officer
(E & S) Education Kohistan

Attested
29/10/19
OFFICE OF THE DISTRICT EDUCATION

P- (10) 12
ALINEX B³
(FEMALE) KOHISTAN

DECLARATION

Whereas the following teachers were reported wilful absent from duties by the concerned Assistant Sub Divisional Education Officers (Female), Sub Divisional Education Officers (Female) and Independent Monitoring Unit (IMU) Kohistan.

And whereas on the report of the visiting officers, this office issued show cause notices at home address through registered posts but neither the teachers joined their duties nor submitted convincing replies within the stipulated time (15 days) before the committees constituted for personal hearing vide office letter no. 394-98 dated 11-02-2019 and the same were conveyed to the teachers in time.

And whereas final show cause notices were issued through two leading newspapers i.e. Daily "Azara News" Mansehra and Daily "Akhbaar" Abbottabad dated 26-02-2019 in which teachers were directed to assume their duties and submit reason (s) of their wilful absence but neither they attended their schools nor submitted convincing replies before the committee within the stipulated period mentioned in the newspaper. Now in view of the above facts I, Mr. Khurshid Ahmed, being competent authority, as District Education Officer (female) Kohistan, is fully satisfied to impose major penalty of REMOVAL FROM SERVICE upon the teachers under rule 4b(iii) of E&D Rules 2011 with effect from the dates mentioned against each.

| S# | NAME OF TEACHER | NAME OF SCHOOL | DATE OF REMOVAL FROM SERVICE |
|----|--------------------|-------------------------|------------------------------|
| 1 | Lazhaba (G-4) | GGPS Pashot | 01-10-2016 |
| 2 | Sadaf Zeb | GGPS Pashot | 01-10-2017 |
| 3 | Raqiba | GGPS Ser Garhi | 01-10-2017 |
| 4 | Asma | GGPS Ser Garhi | 01-10-2017 |
| 5 | Farzana Wali | GGPS Jhakh Lohi | 01-04-2018 |
| 6 | Shaheen Zameer | GGPS Loohi Dader | 01-10-2018 |
| 7 | Gul Bibi | GGPS Baja Loohi | 01-04-2018 |
| 8 | Nuzhat Ara | GGPS Harban kot | 01-05-2018 |
| 9 | Tahmena Roohi | GGPS Kuz Kamila | 01-01-2017 |
| 10 | Zuhra Bibi | GGPS Kherza Khail Dader | 01-10-2015 |
| 11 | Nagina Otail (G-4) | GGPS Baja Lohi | 01-05-2016 |
| 12 | Shagufta Kiran | GGPS Dhoop Lohi | 01-01-2019 |
| 13 | Gul Bibi | GGPS Seral Shah | 01-04-2018 |
| 14 | Zarmina | GGPS Kemia Abad | 01-01-2019 |
| 15 | Salma Bibi | GGPS Kemia Abad | 01-01-2019 |
| 16 | Shakira | GGPS Mehran Abad | 01-03-2018 |
| 17 | Masooma | GGPS Ghee Harban | 01-04-2018 |
| 18 | Latifa | GGPS Ghee Harban | 01-01-2019 |
| 19 | Johajra Bibi | GGPS Bar Bak | 01-04-2018 |
| 20 | Rasheeda Bano | GGPS Serto Kandia | 01-10-2017 |
| 21 | Rehana | GGPS Seri Gabriel | 01-01-2019 |
| 22 | Sara Qayum | GGPS Seri Gabriel | 01-11-2018 |
| 23 | Aisha Sadiq | GGPS Soyul Jashoi | 01-04-2018 |
| 24 | Bibi Hawa (G-4) | GGPS Awaysach | 01-12-2016 |
| 25 | Fahmeeda | GGPS Bhati Kuz Shrial | 01-11-2017 |

ht
Deputy Director (Female)
E&SE Khyber Pakhtunkhwa

| | | | |
|----|----------------|------------------------|------------|
| 26 | Bushra Hafeez | GGPS Bhati Kuz Shiryal | 01-01-2019 |
| 27 | Salma | GGPS Momin Abad | 01-01-2019 |
| 28 | Safia Zareen | GGPS Sanga Abad | 01-01-2019 |
| 29 | Naheed Sartaj | GGPS Sanga Abad | 01-01-2019 |
| 30 | Mehnaz | GGPS Berser Shared | 01-11-2017 |
| 31 | Aisha Qureshi | GGPS Habib Abad | 01-11-2017 |
| 32 | Shema | GGPS Jaren Ranolia | 01-01-2019 |
| 33 | Durkhana | GGPS Kas Dopair | 01-05-2017 |
| 34 | Robina Syed | GGPS Ali Abad | 01-11-2018 |
| 35 | Nasreen Sultan | GGPS Tares | 01-12-2018 |
| 36 | Fatima Akhtar | GGPS Serzahab Abad | 01-02-2019 |
| 37 | Rizwana Bibi | GGPS Z K Abad | 01-12-2018 |
| 38 | Mufeed Akhtar | GGPS Shter Abad | 01-12-2018 |

NOTE: Any teacher who is found involved in any embezzlement of fund/conditional grant, she will be proceeded for FIR/Anti-corruption proceedings as and when reported at any stage. Concerned DDOs are directed to recover the payment (if any) made for absence period out of their GPF etc.

DISTRICT EDUCATION OFFICER
(I) KOHISTAN

Endst No: 1198-1210 Dated: 20-04-2019

Copy for Information to:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Kohistan.
3. Deputy Commissioner Kohistan Lower.
4. Deputy Commissioner Kolai Palas Kohistan.
5. District Monitoring Officer Kohistan.
6. DEO (M) Kohistan Lower & Kolai Palas Kohistan.
7. District Accounts Officer Kohistan.
8. PA to Advisor to CM for Elementary & Secondary Education Khyber Pakhtunkhwa.
9. PA to Secretary (E&SE) Govt of Khyber Pakhtunkhwa Peshawar.
10. All concerned teachers.
11. PA to DEO (M/F) Kohistan.
12. Office copy.

DISTRICT EDUCATION OFFICER
(F) KOHISTAN

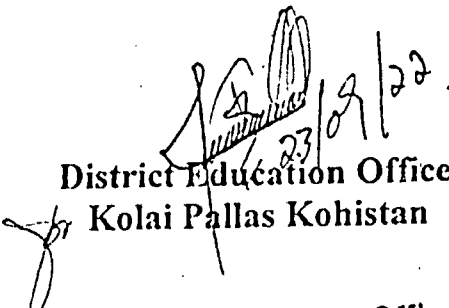
Deputy Director (Female)

P. 14

CERTIFICATE

Reference to District Education Officer Female Upper Kohistan termination order No.1198-1210 dated 20-04-2019 and verification through application dated 22-02-2022, please may read S# 27 as Saima BiBi PST GGPS Momin Abad Pallas Kohistan instead of Salma BiBi GGPS Momin Abad due to clerical mistake.

(Encl:As above)


District Education Officer (F)
Kolai Pallas Kohistan

District Education Officer
(Female)
Kolai Pallas Kohistan

To

The Director,
Elementary & Secondary Education,
Department Khyber Pakhtunkhwa.

SUBJECT: APPEAL FOR RE-INSTATEMENT OF SERVICE.

Dear Sir,

Kindly refer to the letter No.1198-1210 dated 20.04.2019, received from District Education Officer (Female) Kohistan in which undersigned is removed from service under rule 4b (iii) of E&D Rules 2011 (*copies of order are enclosed*).

2. With due respect, it is submitted that my mother-in-law and father-in-law have been suffering diabetics ailment since long, as well as domestic problems, I cannot attend the school regularly, and inform the concerned Principal by special messenger.

3. It is submitted that the said order in which my name is replaced / changed with Salma instead of Ms. Saima Bibi due to which I could not make correspondence timely with the District Education Officer, after issuance of order of my removal (*copy of order dully highlighted is enclosed for ready reference*).

4. It is humbly informed that undersigned is related with a poor family and my husband is also jobless, at this stage the loss of my job will adversely affect my family, therefore it is requested that a chance may be given to re-join the service and to accept my appeal accordingly.

5. I am ready to declare upon oath that I will honestly and regularly performed my duties in future

I shall be thankful to you for your kindness.

Dated Peshawar the: 14.06.2019.

Yours sincerely,

Saima
(Ms. Saima Bibi)
PST (BS-12),
GGPS Momin Abad.

Copy forwarded to:-

1. District Education Officer (F), District Kohistan.

Saima
(Ms. Saima Bibi)
PST (BS-12),
GGPS Momin Abad.

Amber

Amber
27/6

Zahir

Zahir
27/6

1202
27/6

*

P-1564

Amber (C)

~~Amber~~

PAKISTAN
2019
20/6/19

DEO (F)
27/10

[Handwritten signature]



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

ADDO Lit.
To
S/11/19
TO

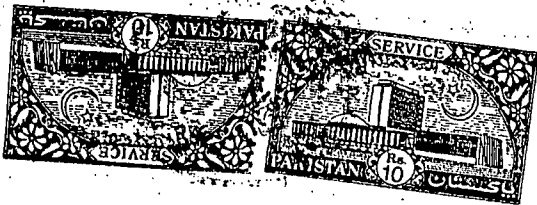
No. 2756 /FNo.323/F/ Appeal Kohistan

Dated Peshawar the 24/10 /2019

The District Education Officer,
(Female) Kohistan

Subject:- APPEAL

I am directed to refer to the subject cited above and to enclose herewith a copy appeal, in respect of Mst. Saima Bibi PST GGPS Momin Abad District Kohistan and to ask you to submit detail report comments to this officer for further necessary action.



[Handwritten signature]
Deputy Director (Female)
E&SE Khyber Pakhtunkhwa

24/10

Endst No. _____

Copy of the above is forwarded to the:

- 1. PA to Director E&SE KPK Peshawar.

DEO (F) KPK

Deputy Director (Female)
E&SE Khyber Pakhtunkhwa,



*

27/10

27/10

*



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

17

NOTIFICATION

Consequent upon the approval of the Appellant Authority, the appeal of Mst.Saima Bibi Ex-PST, GGPS Momin Abad District Kolai Pallas Kohistan is hereby rejected, under rules 17 (2)(a) of E&D Rules 2011, as per the report of DEO Female Kolai Pallas Kohistan vide letter No. 7141 dated 14.4.2022.

DIRECTOR
Elementary & Secondary
Education Khyber Pakhtunkhwa,

2374
Endst:No. ____/F.No. 323/Appeal/Kohistan Dated Peshawar the 20-10 2022

Copy forwarded for information to the:-

1. District Education Officer (Female) Kolai Pallas Kohistan w/r to her letter No. & dated cited above, with the direction to inform the teacher concerned accordingly.
2. Teacher concerned.
3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa.

Assistant Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa.

20/10/22

وکالت نامہ

KPK Service Tribunal Peshawar بعدالت جناب

دعویٰ یا جرم Service Appeal منجانب Appellant

باعث تحریر آنکہ

اندریں مقدمہ عنوان میں اپنی طرف سے برائے پیروی و جواب دہی مقامہم
 صاحب کعبہ عزیز خان بریلوی صاحب کورنگ

کو بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے پر وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے کہ مجھے کل ساختہ پر داخنتہ صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد تالی وراثی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پریسٹر کو بجائے اپنے ہمراہ مقررہ کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ یہ سندر ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Signature

Accepted
 31/10/22

1
 صاحب کعبہ عزیز خان بریلوی
 بریلوی صاحب کورنگ
 10/10/22