### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.

Service Appeal No. 6129/2020

Date of institution

22.06.2020

Mazhar Mir S/O Allah Din, R/O House No. TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad. Presently employee Benazir Bhutto Shaheed Teaching Hospital/DHQ Hospital, Abbottabad.

**VERSUS** 

Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar and five others.

ORDER 21.07.2022

Learned counsel for the appellant present and stated at the bar that the appellant has filed the instant service appeal for correction of his date of birth but during the pendency of the instant service appeal, the appellant has been retired from service on his own request, therefore, the appeal in hand may be filed without further proceedings. In this respect, learned counsel for the appellant has also submitted an application, which is placed on file.

In view of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

<u>ANNOUNCED</u> 21.07.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

20.12.2021

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Nemo for the appellant. On previous date too, none was present on behalf of the appellant, therefore, it was directed that notice be issued to the appellant/counsel to deposit security and process fee within 07 days after receipt of notice, however on perusal of record it transpired that notice has not been issued, therefore, notices be issued to the appellant as well as his counsel through registered post to deposit security and process fee within 07 days after receipt of notice. Thereafter, notices be issued to the respondents for submission of written reply/comments on next date positively. To come up on 17.02.2022 before the S.B at Camp Court Abbottabad.

(Salah-Ud-Din) Member (J)

Camp Court Abbottabad

17-2-22

case is adjourned. To one of four the Same on 2(-)-22. Appellant present through counsel.

Preliminary arguments heard. File perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for written reply/comments. To come up for written reply/comments on 13.06.2021 before S.B at Camp Court, Abbottabad.

(Rozina Rehman)
Member(1)

Camp Court, A Abad

17.06.2021

Due to COVID 19, tout to Abbottabad has been cancelled, therefore, case to come up for the same as before on 11.10.2021.

Reader

11.10.2021

Nemo for the appellant. Security and process fee have not been deposited, therefore, notices to the respondents could not be issued.

Notice be issued to appellant/counsel to deposit security and process fee within 07 days after receipt of notice. Thereafter, notices be issued to the respondents for submission of written reply/comments on next date positively. Case to come up on 20.12.2021 before the S.B at camp court, Abbottabad.

Chairman Camp Court, A/Abad

### Form- A

### FORM OF ORDER SHEET

Court o	f		
Case No	6/29	/2020_	

	Case No	/2020
1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/06/2020	The appeal of Mr. Mazhar Mir presented today by Mr. Muhammad Liaqat Advocate may be entered in the Institution Register and put up to
		the Worthy Chairman for proper order please.  REGISTRAR
2-		This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on 20-11-20.  CHAIRMAN
20.1	1.2020 appe there	Neither appellant nor anyone else representing him has ared despite having been called time and again, efore, appellant as well as his respective counsel be
,	notic	ed for 19.02.2021 on which date file to come up for minary hearing before S.B at Camp Court, Abbottabad.
		(MUHAMMAD JAMAL KHAN)  MEMBER  CAMP COURT ABBOTTABAD

## BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

6/29 Appeal No. of 2020

Mazhar Mir S/o Allah Dad R/o House No.TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital / DHQ Hospital, Abbottabad.

...APPELLANT

#### VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar and others

...RESPONDENTS

#### **SERVICE APPEAL**

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S.No.	Description of Document	Annexure	Page No.
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2.	Application for suspension alongwith affidavit	<b></b>	8-9
3.	Copy of the school certificate, old, new CNIC and service Card	"A" & "B"	10 to 14
4.	Copy of the service book	"C"	15016
5.	Copy of the application	"D"	17
6.	Copy memo of appeal	"E"	18,19
7.	Vakalat Nama	<b>'</b>	20

.APPELLANT

Through:

Dated:/7/06/2020

(MUHAMMAD LIAQAT)
Advocate High Court, Abbottabad.

## BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Tribunal

6129

Diary No 034

Appeal No.

of 2020

Dated 92/6/2020

Mazhar Mir S/o Allah Din R/o House No. TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital/DHQ Hospital, Abbottabad.

..APPELLANT

#### **VERSUS**

- Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar.
- 2) Director Health, Khyber Pakhtunkhwa, Peshawar.
- 3) Medical Superintendent, Benazir Bhutto Shaheed Teaching Hospital/DHQ Hospital, Abbottabad.
- 4) Superintendent of Benazir Bhutto Shaheed Teaching Hospital/DHQ Hospital, Abbottabad.
- Secved വരുട്ട 5) Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 6) Comptroller, Account Office, Abbottabad

	RESPUNDENTS	
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Filedto-day

Solution

Registrar

APPEAL U/S-4 OF SERVICE TRIBUNAL ACT 1974

AGAINST THE ACT OF RESPONDENTS NO.1 & 3

WHEREBY RESPONDENT No 1 & 3 REFUSE TO

CORRECT THE DATE OF BIRTH OF APPELLANT.

#### PRAYER:-

ON ACCEPTANCE OF INSTANT
APPEAL, RESPONDENT MAY PLEASE BE
DIRECTED TO CORRECT THE DATE OF BIRTH
ACCORDING TO SCHOOL RECORD AND CNIC
ANY OTHER RELIEF WHICH THIS HON'BLE
COURT DEEM FIT AND PROPER MAY PLEASE
BE GRANTED TO THE APPELLANT.

#### Respectfully Sheweth,

- 1. That, the correct date of birth of the appellant according to school record, old, new, CNIC and service card is 15.04.1963. (Copy of the school certificate, old and new CNIC and service Card are annexed as Annexure "A" & "B" respectively)
- 2. That appellant was appointed in respondent department on 10.12.1982. (Copy of service book is attached as Annexure C")
- That, after the appointment service book of appellant was prepared in which respondent inadvertently or mistakenly wrote 15.04.1961.

5.00

(Copy of the service book is already attached as Annexure "C")

- That, when it come in to the knowledge of appellant regarding this wrong date of Birth appellant move and application to respondent No.4. (Copy of application is attached annexed as Annexure "D").
- 5. That, verbally respondent No-4 refuse to correct the date of birth due to lapse of 02 years in service of appellant.
- 6. That appellant file departmental appeal which is still pending not yet been decided by the respondent till now. (Copy of memo of appeal is annexed as annexure "E").
- 7. That statutory period of 90 days of the service appeal of the appellant is completed and appeal of the appellant is not decided. And appellant has no other option except filing of instant appeal on the following grounds:-

- a) That, the act of the appellate authority is against the law, justice, equity facts available on record, circumstances of the case, illegal, without jurisdiction, is the result of illegal exercise of jurisdiction, void ab-initio and not maintainable in the eye of law hence, liable to be set aside.
- b) That, the act of the appellate authority is the result of misreading and non-reading of the record and did not appreciate the material on record which is sheer violation of the law and settled rules.
- not exercised the power so vested and exercised the power not according to the law, hence the act is not maintainable in the eye of law.
- d) That the civil servant's initial education record as well as subsequent, record which is base of entry into service is totally correct, but the subsequent entry of incorrect date of birth in service book is unconstitutional, ultra-vires, hence, may kindly be corrected.

- e) That the respondent not doing the correction subject to, in the light of basic educational records having preference other over subsequent entry, therefore respondent fall into error by not doing the correction, hence act of respondent against the appellant is illegal, prejudice, malicious without due course of law.
- right as well as constitutional right, which is violated by the respondent by not doing correction in the service book of appellant, hence the act of respondent against the prevailing law on the subject.
- g) That the change or alternation of entry is absolute rule that once the entry made could be alter or changed.
- presumption of truthfulness similarly basic educational record also carrying presumption of truthfulness over service book which is prepared after such record hence date of birth of appellant may please be correct and

respondent may please be directed to correct the date of birth of the appellant.

- That other points shall be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.
- j) That, the instant appeal is well within time.

It is, therefore, humbly prayed that on acceptance of instant appeal, respondent may please be directed to correct the date of birth according to school record and CNIC or any other relief which this Hon'ble Court deem fit and proper may please be granted to the appellant.

.APPELLANT

Through:

Dated:- 17/06 /2020

(MUHAMMAD LIAQAT)
Advocate High Court, Abbottabad.

#### **VERIFICATION:-**

Verified that the contents of the instant **Service Appeal** are true and correct to the best of my knowledge and belief and that nothing material has been suppressed from this Honorable Tribunal.

Dated:- 17/06 12020

..APPELLANT

### BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. of 2020

Mazhar Mir S/o Allah Dad R/o House No.TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital / DHQ Hospital, Abbottabad.

...APPELLANT

#### VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar and others

... RESPONDENTS

#### **SERVICE APPEAL**

#### **AFFIDAVIT**

I, Mazhar Mir S/o Allah Dad R/o House No.TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital / DHQ Hospital, Abbottabad, *Appellant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Service Appeal* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

Dated:- 17/06/2020

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## BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. of 2020

Mazhar Mir S/o Allah Dad R/o House No.TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital / DHQ Hospital, Abbottabad

...APPELLANT

#### VERSUS

Government of Khyber Pakhtunkhwa through Secretary Health, Khyber Pakhtunkhwa, Peshawar and others

...RESPONDENTS

#### **SERVICE APPEAL**

APPLICATION FOR SUSPENSION OF THE OPERATION OF IMPUGNED PROCESS OF RETIREMENT OF THE APPELLANT TILL FINAL DECISION OF INSTANT APPEAL.

#### Respectfully Sheweth,

- That titled appeal is filed before this Honourable Court, the contents of the same may be treated as an integral part of this application.
- 2. That appellant has a good Prima-Facie case and balance of convenience also lies in their favour.

3. That if retirement process of the appellant is not stop / stayed then appellant would suffer irreparable loss and the purpose of filing appeal would become infructuous.

It is, therefore, humbly prayed that on acceptance of the foregoing application, and stop the retirement process of appellant may kindly be suspended till final disposal of the titled appeal.

...APPELLANT

Through:

Dated:- 17/06 12020

(MUHAMMAD LIAQAT)
Advocate High Court, Abbottabad.

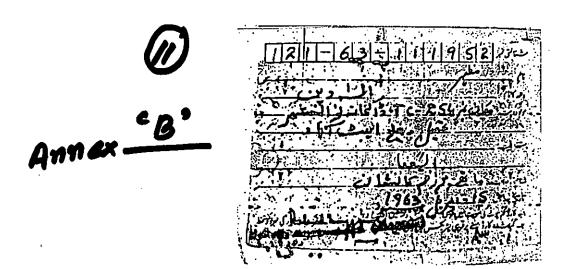
#### **AFFIDAVIT:-**

I, Mazhar Mir S/o Allah Dad R/o House No.TC-254, Mohallah Muhammad Zai, Nawansher, Tehsil and District Abbottabad, presently employee Benazir Bhutto Shaheed Teaching Hospital / DHQ Hospital, Abbottabad, *Appellant*, do hereby solemnly affirm and declare on Oath that the contents of instant *Application* are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

Dated:- 17/06/2020

APPELLANT

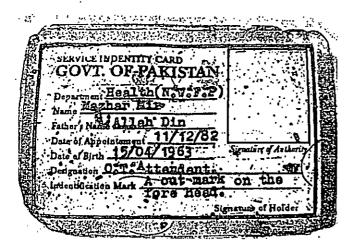
vijl Les vie Je «A» منادرشده/غيرنسفادرشنده ضل اسک آنار نام طائسيكم مرسه كيك بي معتد كي مقرره برهائي كمه افتتام برجموري اس كاامتحان رقى دين كه ك . ين يها كبيا تفا. درسه كيكسي حقته كي مفرره برهال كافتتام برزهبورس اس كادعده مماكي ے ہوا ہے۔ ہوا ہوں کا بات میں ہورہ ہے۔ نصدین کیاجا تا ہے کہ مندرجہ ذیل اندراج اِس مدرسہ کے رحبہ وں اور ان ساز ٹیکھیٹوں کے مطابق میسیح ہیں جو اُس سے ان مسى سال إلى سے بيلے تعليم الى ہے. ما فيراض إلى العافيات بالميسم وخصت وسيال مدرسه [من قن الواقع ون مِن لِي كُنَّى إ ناريخ إجرام ع 8 8 ernment High School o Preparso كس سال عطام كوا بنفدل ينيرش كول كالمتحال دياموا كا ل آدری سے گن جائے۔ سے کے اعترازی آعد است اس جاری ماج می می الد ما ورو است س کی ارتاع پیدائش





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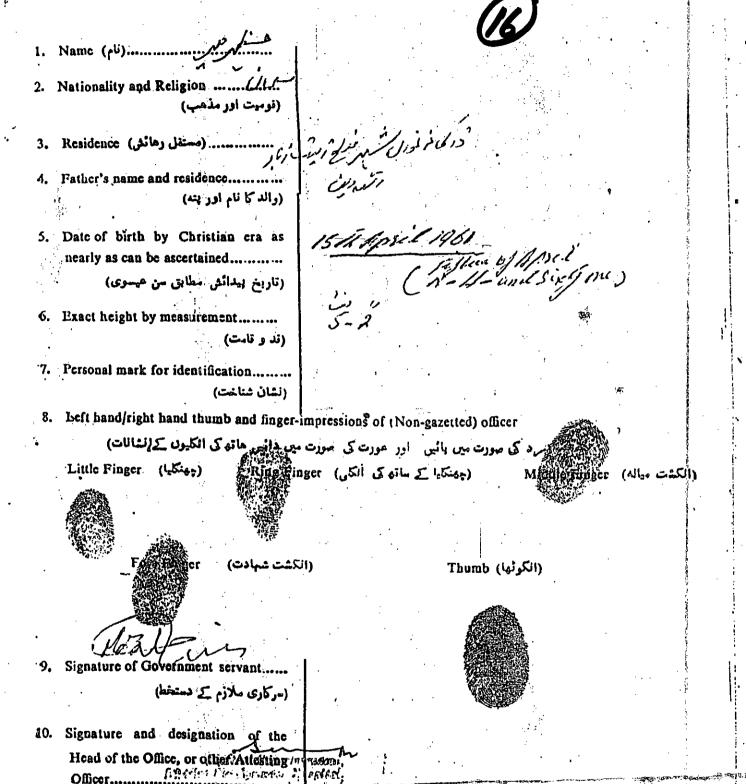
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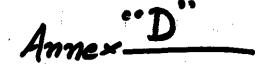


Note.—The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس مفعه کے منفرجات کم از کم نااج سال بعد تعیدی خونا ضروری هیں اور نمبر ہ - . ، میں دستخطوں کے لیچے تاریخ هونی چاهئے - الکیوں کے لشانات کے لئے هر والج سال کے بعد تعیدی کی ضرورت نہیں -

(تمدیق کنند انسر کے دستعط اور سیر)

The Medical Superintendent, BBS (DHQ) Teaching Hospital, Abbottabad



SUBJECT: APPLICATION FOR RECTIFICATION OF DATE OF BIRTH
IN RESPECT OF MR. MAZHER MIR S/O ALLAH DIN, WARD
ORDERLY, CNIC: 13101-9315424-7

Kindly refer to the subject:



Reverently submitted that the undersigned is performing duties under your kind supervision as a Ward Orderly (BPS-05) presently posted in New Operation Theater DHQ Hospital Abbottabad.

It is submitted that the original/correct Date of Birth of the undersigned as per record including (Middle School Certificate duly attested by the District Education Office Abbottabad, Old and New CNIC, Service Cards and Passport etc) is 15.04.1963 (copies enclosed). But at the time of making/preparing the Service Book of undersigned the then concerned official/clerk have mistakenly or malafidely wrote down incorrect/wrong Date of Birth i.e 15.04.1961 (copies enclosed). The date of retirement of the undersigned written on the first page of the service book is also incorrect/wrong which clearly depicts that the service book was wrote down without proper attention and care.

In light of the above you are requested that the wrong/incorrect Date of Birth (15.04.1961) may kindly be rectified with the correct date of Birth which is (15.04.1963) in the service book and all other documents pertaining to your good office as per record, so that the expected irreparable loss and legal complications can be avoided please.

In this regard your cooperation shall be highly appreciated.

Madeir

Mr. Mazher Mir S/o Allah Din

CNIC: 13101-9315424-7

Personnel Number: 002280

Contact: 0312-4872276

Dated: 06-12:2019

## بخدمت جناب سيريثري هيلته گورنمنٹ آف خيبر پختونخواه بيثاور

# عنوان: پیکماندایل بمراددر تگ تاریخ بیدائش



جناب عالى!

- پیکه سائل کی درست وضیح تاریخ پیدائش برطابق پرل سکول مرفیفیکیٹ (تصدیق شده دفتر ای فری او) و پرانا شاختی کارڈ و جاری کرده شاختی کارڈ نا درا، 15.04.1963 - (نقول لف بير)-
- ید کھے کے ریکارڈ میں موجو دسروس بک میں سائل کی غلط وخلاف دا قعات تاریخ پیدائش 15.04.1961 درج ہے جو کہ بوقت اندراج سہوأیا جان بوجھ كردرج كردى كئ إدرية لطى سائل علم مين وتمبر 2019 مين آئى - (نقل سروس بك لف م) -
- ید جب فلطی علم میں آئی تو سائل نے فور اُز بانی طور پر متعلقہ حکام کودر تنگی کی بابت کہااور بالآخر مورخہ 06.12.2019 کواکیک درخواست مع ثبوت بخدمت جناب میڈیکل سپرنٹنڈنٹ ڈی۔ایج۔ کیوہپتال ایبٹ آباد (درج شدہ میڈیکل سپرنٹنڈنٹ ڈائزی نمبر 2968 بتاریخ ۔ 07.12.2019) گزاری جس برتا حال سائل کی کوئی دا دری نه ہوئی ہے۔ (نقل درخواست لف ہے۔)
- يكساكل كايرانا/بها شاختى كاروجس مين ساكل كي درست وسيح تاريخ بيدائش 15.04.1963 درج ہے جوكد مورده، نـ 1982، 10.1982 كو جاري كيا گیا ورسائل کوہیلتھ ڈیپارٹنمنٹ میں نوکری مورخہ: -10.12.1982 میں لی ہے۔جوکہ قومی شناختی کارڈ بننے کے تقریباً دوماہ بعدہے۔ای طرح سائل کا قومی شاختی کارڈیڈل سکول سرٹیفیکیٹ (تقیدیق شدہ ڈی۔ای۔او) کےعین مطابق بناہے۔مزیدیہ کے سائل کے تمام سروس کارڈ جو کہ سیلٹھ ڈیپارٹمنٹ آف خیبر بخونخواه کی طرف ہے جاری کیے گئے میں سائل کی درست وصحح تاریخ پیدائش 1963.04.1963 درج ہے۔
  - یے اگر سائل کی سیج و درست تاریخ پیدائش کو مد نظر رکھا جائے جوکہ 1963 .04 ہے تو اس کے مطابق سائل کی ریٹائز منٹ کی تاریخ 15.04.2023 بنتى ہے۔ اور اگرسروس بک میں درج شدہ غلط تاریخ پیدائش کو مد نظر رکھا جائے جو کہ 15.04.1961 ہے تو اس کے مطابق سائل کی ریٹائر منٹ کی تاریخ 15.04.2021 بنتی ہے۔جو کہ بورے دوسال کم بنتی ہے۔ جس کاسائل کو بہت برا مالی نقصان ہے۔

ا بدریں حالات استدعاہے کہ سائل کی تاریخ بیدائش بمطابق درست ریکارڈ سروس بک میں درج کی جائے اور دیگر جوبھی دا دری ممکن ہوعطا کی جائے تا کہ سائل ایک بوے مالی نقصان سے ف کے سکے۔

نام: مظهر میرولداللد دین (واردٔ اردلی) بنظیر بھٹو شهید (وی ایج کیو) میتال ایک آباد

برستل نمبر: ـ 002280

شاختی کارڈنمبر: \_7-13104-9315424

رابط نمبر: \_ 312-4872276

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Allegero per dar.

وكالت نامم (مع) بعدال منا سرو ک شرید می برای در عنوان: منطور مير بنام محدون نيره المعالم وفيره منجانب: المبيد المرسير المعالم منبر منبر المعالم منبر المعالم منبر المعالم من المعالم باعث تحريرآ نكه مقدمه مندرجه میں اپنی طرف سے واسے بیروی وجواب دہی کل کاروائی متعلقه آس مقام المركمة فنت المرووليث کووکیل مقرر کرے اقر ارکرتا ہوں کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ وتقرر ثالث و فیصلہ برحلف ودینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیه وعرضی دعویٰ کی تصدیق اوراس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل پاکسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کواییے ہمراہ اپنی بجائے تقرر کا اختابر بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختہ مجھ کومنظور و قبول ہوگا۔ دوران مقدمہ جوخرچہ وہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایار قم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہویا عدے باہر ہوتو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ ندکورہ کریں اور اگر مخارمقرر کردہ میں کوئی جزو بقایا ہوتو وکیل صاحب موصوف مقدمہ کی پیروی کے پابندنہ ہول گے۔ نیز درخواست بمراداستجارت نالش بصیغمفلسی کے دائر کرنے اوراس کے پیروی کا بھی صاحب موصوف کواختیار ہوگا۔ لہذاوکالت نام تحریر کردیا تا کہ سندر ہے۔ Attested الرق<u>م: •د•د/46/7</u>7 Accepted.

لعالت ما \_ عبر میں مرس تر یہ کی کار اور اس اس کی ہے منظعر فتير الم الولالمث دور سايرن دروا ست برا د در فل رفتتر فرما نه ما غایبل عنوان بلا مذير كارورا كالوج ديثائرر میرن ریوانت ریوج ب می ایس کسی ایسالیت ریوج ب می ایسال - eti-13/11-13/4 - hp 1 Whe in ( ) is it is the 1 or fill Jul 1. 1 men - de 1 sel 1 fig. " e virio ding, vi willy on ilso to, con & エレードリタ、ダングングラング、こうしょ ごりょ الم المراك الم المالية الم المراك الم المراك Emple, 2 Interpreter É Sily, -12, U. V. v. V. Lake with the المار المعامل المعادان بلاً مذير كا رواي دا فل رفير واي نظیر سر ایکان برالع دیووور Alpha Diwide