



Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 712/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	07.12.2022	<p>The execution petition of Mr. Noman Hussain submitted today by Mr. Muhammad Qasim Jehangiri Advocate. It is fixed for implementation report before touring Single Bench at A.Abad on _____.</p> <p>Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR </p>

BEFORE THE SERVICE TRIBUNAL

KPK PESHAWAR

E. P. No 712/2022

CM. No _____ 2022

IN

Service Appeal No.2416/2021

Noman Hussain.....Petitioner

VERSUS

District Police Officer Mansehra etc .Respondents

CIVIL MISCELLANEOUS

PETITION/APPLICATION FOR

IMPLEMENTATION OF ORDER DATED 22.09.2022

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Dated _____

Noman Hussain
....Petitioner

Through:-

Qasim

usman

MUHAMMAD QASIM JEHANGIRI

&

USMAN IBRAR

Advocates High court,
Mansehra.

①

BEFORE THE SERVICE TRIBUNAL

KPK PESHAWAR

Execution Petition No-712/2022

C.M No _____ of 2022

IN

Service Appeal No.2416/2021

Khyber Pakhtunkhwa
Service Tribunal

2192

Duty No.

07-12-2022

Noman Hussain son of Aftab
Hussain caste Awan resident of
Garhi Habib Ullah Tehsil Balakot
District Mansehra....

Petitioner/Appellant

VERSUS

- (1) District Police Officer Mansehra
- (2) DIG Hazara Range, Abbottabad

.....Respondents

PETITION/APPLICATION FOR
IMPLEMENTATION OF ORDER
DATED 22.09.2022 PASSED
BY KHYBER PAKHTUNKHAWA
SERVICE TRIBUNAL, PESHAWAR
CAMP COURT ABBOTTABAD IN
THE ABOVE TITLED SERVICE
APPEAL.

Respectfully Sheweth!

- 1) That, Petitioner/Appellant filed
Service Appeal No.2416/2021 under

section 4 of Khyber Pakhtunkhawa Service Tribunal, Act 1974, against the impugned order dated 20.08.2020 of District Police Officer Mansehra (DPO) through which the appellant was dismissed from the service.

(Attested copies of service Appeal is annexed as annexure "A").

- 2) That, the aforesaid Service Appeal was announced by the Khyber Pakhtunkhawa Service Tribunal, Peshawar Camp Court Abbottabad vide order dated 22.09.2022 in which Khyber Pakhtunkhawa Service Tribunal, Peshawar Camp Court Abbottabad setting aside the impugned order dated 20.08.2020. The Appellant is reinstated in service with all back benefits. The Period for which appellant remained out of service is to be treated as under suspension with full pay.

(Certified copies of order dated 22.09.2022 annexed as annexure B").

- 3) That, the order dated 22.09.2022 was communicated to the respondents through proper channel for compliance.

- 4) That, Respondent No. 1 do not take any action against the said order dated 22.09.2022. Then the appellant approach the DIG Hazara Range Abbottabad for reinstated in service with all back benefits and give application for implementation of order of learned court Khyber Pakhtunkhawa Service Tribunal, Peshawar Camp Court Abbottabad but respondents do not take any action on above said order dated 22.09.2022.

(Copy of the application is annexed as annexure "C").

.....PRAYER.....


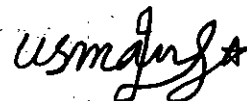
It is therefore, very respectfully prayed that on acceptance of the instant application, respondents be directed to comply with the order dated 22.09.2022 passed by Khyber

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Pakhtunkhawa Service Tribunal,
Peshawar Camp Court Abbottabad
in the above titled Service Appeal in
respect of the reinstated in service
with all back benefits.

Dated _____

Noman Hussain
Petitioner/Appellant

Through:-  

MUHAMMAD QASIM JEHANGIRI

&

USMAN IBRAR

Advocates High court,
Mansehra.

BC # 166822

Mob # 0344-9592123

usmanibarkhan@gmail.com

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**BEFORE THE SERVICE TRIBUNAL
KPK PESHAWAR**

CM. No _____ 2022
IN
Service Appeal No.2416/2021

Noman Hussain.....Petitioner

VERSUS

District Police Officer Mansehra etc .Respondents

CIVIL MISCELLANEOUS

PETITION/APPLICATION FOR

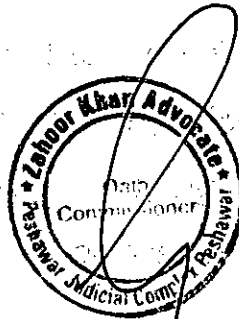
IMPLEMENTATION OF ORDER DATED 22.09.2022

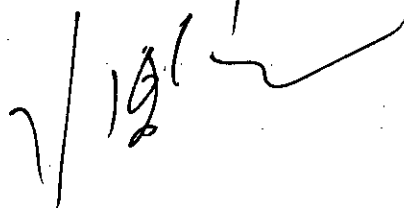
AFFIDAVIT

I, **Noman Hussain son of Aftab Hussain**
caste Awan resident of Garhi Habib
Ullah Tehsil Balakot District Mansehra,
do hereby solemnly affirm and declare on
oath that the contents of the foregoing
Miscellaneous Application are true and
correct and nothing has been concealed
from this Honourable court.

Dated 7/12/2022


Noman Hussain
(DEPONENT)





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BEFORE THE SERVICE TRIBUNAL
KPK PESHAWAR

2416/21

Noman Hussain son of Aftab Hussain
caste Awan resident of Garhi Habib
Ullah Tehsil Balakot, District Mansehra
(Ex) F.C Police District
Mansehra.....**Appellant**

Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No. 1628

Dated 22/11/2021

1) District Police Officer, Mansehra
2) DIG Hazara Range,
Abbottabad.....**Respondents**

APPEAL UNDER SECTION 4 OF
SERVICE TRIBUNAL ACT
AGAINST THE ORDER OF
RESPONDENT NO 1 VIDE WHICH
THE APPELLANT WAS DIMISSED
FROM SERVICE BY INVOKING
POLICE RULE 1975.

Respected Sir,

1) That, the appellant was posted in P.S Baffa, who was on Gasht in the limits of P.S Baffa near Gandhian Bridge. The appellant come across a boy namely Ali who was suspected, was searched and his search led to the recovery of a packet of Chars from his possession. The appellant was taking him P.S Baffa for further proceedings but in the mean while Asif and Bilal, the companions of Ali came who resisted and did not

Filed to-day

Registrar

22/11/2021

Re-submitted to -day
and filed.

Registrar

8/2/2021

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7) (3)

(The copy of final show cause notice and reply are attached as annex "E" & "F")

5) That, respondent No. 1 passed an order vide which the appellant was dismissed from service.

(The copy of order is attached "G")


6) That, the appellant aggrieved by the order of respondent no 1 submitted an appeal before respondent no. 2 who dismissed the same.

(Copy of appeal and order are annexed as annex "H" & "I")

The appellant assails the orders on the following amongst other grounds.

GROUNDS: -

- A) That, the order of respondent No.1 & 2 is against the facts and law and are not maintainable in the eye of law.
- B) That, the inquiry officer had failed to conduct the inquiry in accordance with the law laid down for such purpose.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(8)

(4)

C) That, the appellant has been made scape got involved falsely by Waheed Khan in order to save his nephew and his friends.

D) That, no independent witnesses has been examined by the inquiry officer during the inquiry and has relied on statements which were already adverse to the appellant.

PRAYER: -

It is therefore, most humbly prayed that on acceptance of appeal the impugned order may kindly be set aside and the appellant be reinstated in service.

Dated: 20.01.2021


NOMAN HUSSAIN
(Appellant)

Through:

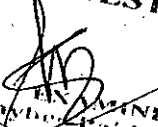

SHAD MUHAMMAD KHAN

Advocate Supreme Court of Pakistan,
District Courts, Mansehra

VERIFICATION

I, NOMAN HUSSAIN SON OF AFTAB HUSSAIN CASTE AWAN RESIDENT OF GARHI HABIB ULLAH TEHSIL BALAKOT, DISTRICT MANSEHRA (EX) F.C POLICE DISTRICT MANSEHRA DO HEREBY VERIFY 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 FROM THIS HONOURABLE COURT.


NOMAN HUSSAIN
(DEPONENT)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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**BEFORE THE SERVICE TRIBUNAL
KPK PESHAWAR**

Noman Hussain.....Appellant

VERSUS

District Police Officer and
others.....Respondents

**APPEAL
AFFIDAVIT**

I, NOMAN HUSSAIN SON OF AFTAB HUSSAIN CASTE AWAN RESIDENT OF GARHI HABIB ULLAH TEHSIL BALAKOT, DISTRICT MANSEHRA (EX) F.C POLICE DISTRICT MANSEHRA DO HEREBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT NO SUCH SUBJECT MATTER APPEAL HAS EVER BEEN FILED 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 COURT.

(Signature)

**NOMAN HUSSAIN
(DEPONENT)**

IDENTIFIED BY: -

(Signature)
COUNSEL

Certified to be true copy

ATTESTED
SAJJAD ALI PERMAN (ADVOCATE)
Oath Commissioner
Date 12/12/22
Distt: Court Manshera

FILED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-12-22
Number of Wards 22
Copying Fee 39/-
Urgent 4/-
Total 38/-
Name of _____
Date of _____
Date of Delivery of Copy 07-12-22

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①



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 2416 of 2021.

Noman Hussain son of Aftab Hussain caste Awan resident of Ghari
Habibullah Tehsil Balakot District MansehraAppellant

VERSUS

District Police Officer Mansehra & others.

..... Respondents

Reply/ Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-


PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi to file the appeal.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder and mis-joinder of necessary and proper parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appellant has not come to the Honorable Tribunal with clean hands.
- f) That the appeal is barred by law and limitation

REPLY ON FACTS:-

1. Para No. 1 of the fact is incorrect, against the fact and based upon a fabricated and concocted story. The appellant want to take undue benefit on the basis of self made story. The appellant has neither documentary nor any oral proof to strengthen his groundless and baseless story. The appellant was arrested red handed with chars, hence the FIR No. 701 dated 13.06.2020 u/s 9CCNSA PS City Mansehra was rightly registered against the, appellant and after registration of FIR, departmental proceedings were also initiated against the

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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appellant. The offence and the charges leveled against the appellant is proved during departmental proceedings. The appellant was awarded major punishment of "Dismissal from service vide O.B No. 211 dated 20.08.2020". **(Copy of FIR & Dismissal order is enclosed as annexure A).**

2. Para No. 02 of the fact is correct to the extent of issuance of charge sheet against the appellant while the appellant did not submit satisfactory reply to that charge sheet. **(Copy of charge sheet and reply of charge sheet is enclosed as annexure B).**
3. Para No. 3 of the facts needs no reply as the enquiry was rightly conducted against the appellant in accordance with law/rules. **(Copy of enquiry finding report is enclosed as annexure C)**
4. Para No. 04 of the facts needs no reply to the extent of issuing a show cause Notice while the remaining part of the instant Para is incorrect. The appellant did not submit a satisfactory reply to the show cause.
5. Para No. 5 of the fact pertains to record.
6. Para No. 06. it is stated that the representation of appellant was baseless, having no cogent reasons hence the representation of appellant was rightly dismissed by respondent No. 02 **(Copy of rejection order is enclosed as annexure D).**

GROUND:

- A. That Para No. "A" of the ground is wrong, illegal, against the fact. The orders of respondents No. 01 and 02 against the appellant were in accordance with law / rules.
- B. That Para No. "B" of the ground is incorrect. The enquiry officer conducted the enquiry against the appellant in accordance with law /rules but the appellant could not satisfy the enquiry officer regarding the charges.
- C. Para No. C of the ground is wrong, illegal, against the law and facts. The appellant mala fide involved one Qaim Ali

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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Shah ASI just to escape from his charge as the appellant had neither any documentary nor any oral proof against his self made story narrated in the instant Para. Therefore, the appeal of the appellant is liable to be dismissed.

D. Para No. D of the ground is incorrect. The enquiry officer recorded the statements of witnesses during enquiry and on the basis of those statements the charge against the appellant was proved and he was rightly dismissed after due process of law/rules.

PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed with cost, being devoid of any legal force.


District Police Officer
Mansehra
(Respondent No. 1)

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


Regional Police Officer
Hazara Region Abbottabad
(Respondent No. 2)

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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CAMP COURT ABBOTTABAD

Service Appeal No. 2416/2021

BEFORE: MR. KALIM ARSHAD KHAN ... CHAIRMAN
MISS. FAREEHA PAUL ... MEMBER(E)

Noman Hussain S/o Aftab Hussain, caste Awan, R/o Garhi Habib Ullah Tehsil
Balakot, District Manshara.

.... (Appellant)

Versus

1. District Police Officer, Manshara.
2. DIG Hazara Range, Abbottabad.

.... (Respondents)

Mr. Shad Muhammad Khan
Advocate

For appellant

Mr. Kabir Ullah Khattak
Addl. Advocate General

For respondents

Date of Institution.....22.01.2021
 Date of Hearing.....22.09.2022
 Date of Decision.....22.09.2022

JUDGEMENT

FAREEHA PAUL MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the impugned order dated 20.08.2020 of District Police Officer (DPO), Manshara through which the appellant was dismissed from service.

3. Brief facts of the case, as per memorandum of appeal, are that the appellant was posted in P.S Baffa, and while on gasht in the limits of Police Station (P.S), Baffa near Gandhian Bridge, he came across a boy namely Ali, who was suspected, and was searched, which lead to the recovery of a packet of Chars from his possession. The appellant was taking him to P.S Baffa for further proceedings but the companions of Ali namely Asif and Bilal, came and resisted and did not permit the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


appellant to take him to P.S Baffa. In the meanwhile, ASI Waheed Khan and others came over there and asked the appellant to accompany them to P.S city Mansehra on which he refused and insisted to take Ali to P.S Baffa. ASI Waheed Khan and others compelled/forced the appellant to accompany them to P.S city Mansehra. Later on it came to the knowledge of the appellant that Asif, one of the companions of Ali, was relative of ASI Waheed Khan and he was the one who managed the arrival of ASI Waheed Khan on the scene of occurrence and instead appellant was involved in a fake case vide FIR No.701 dated 13.06.2020 under 9C-CNSA on account of 805gram Chars. The appellant was issued charge sheet by respondent No. 1 to which he submitted a detailed reply. On the order of Respondent No. 1, DSP Head Quarters was deputed to conduct formal inquiry, who submitted his report dated 28.07.2020. Based on that inquiry a final show cause notice was issued. The appellant submitted reply to that show cause notice, which was not accepted and the DPO Manschra passed order dated 20.08.2020 dismissing him from service.

3. Feeling aggrieved against that order he submitted appeal before Respondent No. 2, which was also dismissed; hence this service appeal.

4. Respondents were put on notice who submitted written replies/ comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Additional Advocate General and perused the case file with connected documents in detail.

5. Learned counsel for the appellant contented that inquiry officer failed to conduct the inquiry in accordance with law and that he had been made scape goat by being falsely involved by the ASI Waheed Khan in order to save his nephew and friends. He further contended that no independent witnesses had been examined by the inquiry officer and that he was not given a fair opportunity to defend his case. He further brought before the Tribunal the order of the Judge Special Court/Additional

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



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Sessions Judge-IV/MCTC, Manshra dated 14.03.2022 through which the appellant had been acquitted of the charges levelled against him.

6. The learned Additional Advocate General contended that the appellant was arrested red handed with Chars and was rightly awarded the major punishment. He argued that the appellant was a member of a disciplined force and whatever he did was a misconduct on his part.

7. It appears that the appellant was wrongly implicated in the FIR as is evident from the judgment of learned Additional Sessions Judge-IV Mansehra which clearly stated that prosecution was not able to bring home guilt against the accused with evidence and, hence, he was acquitted of all the charges levelled against him. It is felt that the competent authority could have waited for the outcome of the case before the court of learned Additional Sessions Judge-IV, Mansehra before awarding any major penalty. They could have placed the appellant under suspension for the period of hearing in his case by the hon'ble judge till a judgment was announced.

8. In the light of above discussion, we feel no hesitation in setting aside the impugned order dated 20.08.2020. The appellant is reinstated in service with all back benefits. The period for which he remained out of service is to be treated as under suspension with full pay. Parties are left to bear their own costs. Consign.

9. Pronounced in open court in Abbotabad and given under our hands and seal of the Tribunal on this 22nd day of September, 2022.


(KALIM ARSHAD KHAN)
Chairman.


(FAHEEHA PAUL)
Member (E)

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 07-12-22
 Number of Words 1200
 Copying Fee 14/-
 Urgent 4/-
 Total 18/-
 Name of Copyist _____
 Date of Completion of Copy 07-12-22
 Date of Delivery of Copy 07-12-22

(16)

Annexure

جناب عالی! "C"

گزارش ہے کہ سائل کو فورم 20/08/2020 کو ڈسٹریکٹ

پولیس آفیسر (DPO) مانسہرہ نے سروس سے (Dismiss) کر دیا تھا۔

یہ کہ آپ نے KPK Service Tribunal نے حکم 20/08/2020 کو

Set aside کر دیا ہے۔ اور آپ سائل کو عام فرائض اور دیگر الونٹس

کا حقدار ہے۔

اور یہ کہ سائل کو واپس Service پر بحال کیا جائے اور سائل کو تمام سائل
کو ادا کرنا انتہائی ضروری اور عین فرائض کے مطابق ہے۔

لہذا استدعا ہے درخواست گزار کو منظور فرما کر سائل کو نوکری پر
بحال کیا جا کر معزز عدالت کے حکم کے مطابق سائل کی سائل تمام فرائض
اور الونٹس ادا کیے جانے کا حکم صادر فرمایا جاوے۔

(منظوم عدالت چوہانہ درخواست ہے)

اکٹارض کھان سید ولد آغا سید سائل پولیس سائل مانسہرہ۔ فورم 23/08/2020

mob-no-0346 9582624



وکالت نامہ

بعدالت جناب! سروس ٹریڈینگز پرائیویٹ لمیٹڈ
 نغمان حسین نام
 دعویٰ یا جرم درخواست Implementation of law منجانب سروس ٹریڈینگز پرائیویٹ لمیٹڈ

باعث تحریر آگیا

اندریں مقدمہ عنوان بالا میں اپنی طرف سے برائے پیروی و جواب دہی بمقام
 سروس ٹریڈینگز پرائیویٹ لمیٹڈ

محمد حاسم جہا نگرہ / اسحاق البرار اور وکیل صاحبان کی کورٹ

کو بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص زویہ و عدالت حاضر ہوتا رہوں گا اور بوقت پکارے
 جانے نہ وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر منظر حاضر نہ ہوا 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 بکھری کے علاوہ کسی اور جگہ سماعت ہو یا بکھری کے اوقات کے آگے پیچھے یا بروز تعطیل سماعت ہونے پر منظر کو کوئی
 نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و
 نظر ثانی، اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء
 کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد ثالثی و راضی نامہ و
 دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا طرفہ درخواست حکم امتناعی یا فیصلہ
 قبل ازیں ڈگری و اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا۔ بصورت
 ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا بیرٹر کو بجائے خود یا اپنے ہمراہ مقرر 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 تو
 صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے
 برخلاف نہیں ہوگا۔ مجھے کل ساختہ پرداختہ موصوف مثل ذات خود منظور قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے تاکہ سنداً
 رہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المقوم:

نغمان حسین و اولاد کے لئے وکالت نامہ

Attested & Accepted

Osman Usmani

BC # 16-6822

Mob # 0344-9592123

Osmanibaeelan@gmail.com