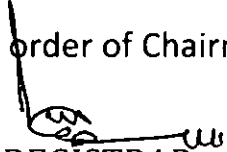


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. 720/2022

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1     | 09.12.2022                | <p>The execution petition of Mr. Muhammad Sajid Khan submitted today by Naila Jan Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. 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><br/>REGISTRAR</p> |

AA9

**BEFORE THE HONORABLE SERVICE TRIBUNAL,**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

Execution Petition No. 720 /2022

In

Service Appeal No. 978 of 2016

Muhammad Sajid Khan S/O Bahadar Sher

..... Petitioner

Versus

Secretary Elementary & Secondary Education Department, Govt. of  
Khyber Pakhtunkhwa, Peshawar and Others

..... Respondents

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| 2. | Affidavit                                    |       | 4       |
| 3. | Addresses of Parties                         |       | 5       |
| 4. | Judgment dated 11-07-2019                    | "A"   | 6 to 10 |
|    | " " " "                                      | " "   | " "     |
|    | Copy of the Order Sheet dated 18-11-2020     | "B"   | 11      |
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( ) Appellant

Through

Naila Jan  
Advocate High Court  
Peshawar.

Dated: 9/12/2022.

①

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

**Execution Petition No. /2022**

**In**

**Service Appeal No. 978 of 2016**

Muhammad Sajid Khan S/O Bahadar Sher  
R/O House No. 460, Street No. 12 E-4, Phase-7 , Hayatabad, Peshawar,  
EX-PTC (BPS-12), GPS Khojal Khel, South Waziristan Tribal District.

..... **Petitioner**

**Versus**

1. Secretary Elementary & Secondary Education Department, Govt. of Khyber Pakhtunkhwa, Peshawar
2. Director Elementary & Secondary Education, Govt. of Khyber Pakhtunkhwa, Peshawar
3. District Education Officer, South Waziristan, Tribal District at Tank

..... **Respondents**

**Execution Petition for direction to the Respondents to implement judgment dated 11-07-2019 of the Hon'ble Tribunal in its true letter & spirit.**

**Respectfully Shewth,**

1. That the appellant was appointed as PST (BPS-12) in the respondent department vide order dated 19-05-2014 w.e.f 01-03-2014 however, the respondents vide order dated 31-05-2016 cancelled the appointment order.
2. That the appellant feeling aggrieved from the above order after availing departmental remedy filed Service Appeal No. 978/2016 before the Hon'ble Tribunal.
3. That the Hon'ble Tribunal vide its judgment dated 11-07-2019 accepted the Service Appeal with the following orders:

*"As a sequel to the above, the instant appeal is accepted, impugned order dated 31-05-2016 is set aside and the*

2

*appellant is reinstated in service. The respondents are directed to conduct proper inquiry strictly in accordance with law and rules within a period of ninety days after the date of receipt of this judgment and thereafter pass orders as deemed appropriate. The issue of back benefits shall be subject to the final outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room". Copy of the order dated 11-07-2019 is Annex-A.*

4. That the petitioner filed Execution Petition No. 413/2019 due to refusal of the respondents to implement the judgment of the Tribunal however, during pendency of the Execution Petition, the respondents on 18-11-2020 produced reinstatement order dated 17-11-2020 of the petitioner issued with immediate effect. Therefore, the Hon'ble Tribunal directed for issuance of reinstatement order w.e.f 26-09-2014 in order to award back benefits to the petitioner. Copy of the Order Sheet dated 18-11-2020 is Annex-B.
5. That on the direction of Hon'ble Tribunal, the respondents produced a revised order dated 03-11-2021 whereby the appellant has been reinstated w.e.f 26-09-2014 with all back benefits which is evident from the Order Sheet 14-12-2021. Therefore, the Execution Petition was disposed of by the Hon'ble Tribunal. Copy of Order Sheet dated 14-12-2021 and reinstatement order dated 03-11-2021 are Annex-C and Annex-D, respectively.
6. That though the petitioner has been reinstated vide revised order dated 03-11-2021 will all back benefits w.e.f 26-09-2014 however, till date no salary or any other benefit as per judgment of this Hon'ble Tribunal and reinstatement order dated 03-11-2021 has been paid so far.
7. That the petitioner time and again approached the respondents for full implementation of the judgment by granting/paying all salaries/benefits from the due date of reinstatement however, till date a single penny has not been paid so far.
8. That not paying salaries other benefits as per judgment of the Hon'ble Tribunal as well as reinstatement notification is amount to contempt of court/defiance of the judgment of this Hon'ble Tribunal.

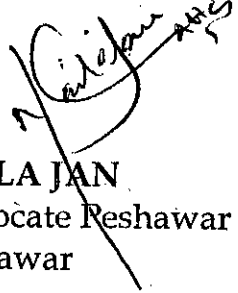
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Prayers:

It is, therefore, requested that appropriate direction may be issued to the respondents for implementation of the judgment of this Hon'ble Tribunal in its true letter and spirit and to make payment of all salaries/back benefits to the petitioner w.e.f 26-09-2014.

0/20/13  
Petitioner

Through

  
NAILA JAN  
Advocate Peshawar High Court  
Peshawar

(4)

**BEFORE THE HONORABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

Execution Petition No. \_\_\_\_\_/2022

In

Service Appeal No. 978 of 2016

Muhammad Sajid Khan S/O Bahadar Sher

..... Petitioner

**Versus**

Secretary Elementary & Secondary Education Department, Govt. of  
Khyber Pakhtunkhwa, Peshawar and Others

..... Respondents

**AFFIDAVIT**

I, Muhammad Sajid Khan S/O BAHadar Sher R/O House No. 460, Street  
NO. 12 E-4, Phase-7 , Hayatabad, Peshawar, EX-PTC (BPS-12), GPS  
Khojal Khel, South Waziristan Tribal District do hereby solemnly affirm  
and declare that all the contents of the **accompanied execution petition** are  
true and correct to the best of my knowledge and belief and nothing has been  
concealed or withheld from this Hon'ble Tribunal.

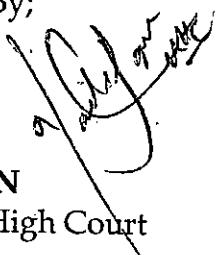
Dated: 9/12/2022

DEPONENT

CNIC:

Cell No:

Identified By;

  
NAILA JAN  
Advocate High Court  
Peshawar.

5

**BEFORE THE HONORABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHWA, PESHAWAR.**

Execution Petition No. \_\_\_\_\_/2022

In

Service Appeal No. 978 of 2016

Muhammad Sajid Khan S/O Bahadar Sher

..... Petitioner

Versus

Secretary Elementary & Secondary Education Department, Govt. of  
Khyber Pakhtunkhwa, Peshawar and Others

..... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT.**


Muhammad Sajid Khan S/O Bahadar Sher R/O House No.  
460, Street NO. 12 E-4, Phase-7 , Hayatabad, Peshawar, EX-  
PTC (BPS-12), GPS Khojal Khel, South Waziristan Tribal  
District Sajjad Khan S/O Rambel Khan, Tube Well Operator,  
Govt. Postgraduate College, Nowshera

**RESPONDENTS.**

1. Secretary Elementary & Secondary Education Department,  
Govt. of Khyber Pakhtunkhwa, Peshawar
2. Director Elementary & Secondary Education, Govt. of  
Khyber Pakhtunkhwa, Peshawar
3. District Education Officer, South Waziristan, Tribal District  
at Tank

  
Appellant

Through

  
NAILA JAN  
Advocate High Court  
Peshawar.

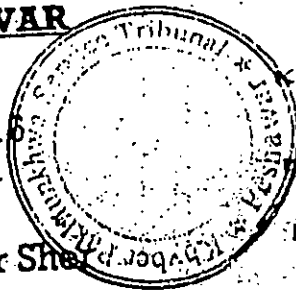
Dated: 9/12/2022

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Aubad  
A

**BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KP,  
PESHAWAR**

Service Appeal No. 978 /2016



Khyber Pakhtunkhwa  
Service Tribunal

Sl. No. 992  
Dated 19-9-2016

Mohammad Sajid Khan S/o Bahadar Sheer  
R/o House No.460, Street No. 12 E-4, Phase-7, Hayatabad,  
Peshawar, Ex-PTC (BPS-12), GPS Khojal Khel S.W. Agency Tank  
..... Appellant

Versus

- 1) Secretary FATA, FATA Secretariat, Warsak Road, Peshawar
- 2) Director Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 3) Secretary Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 4) Agency Education Officer, South Waziristan Agency at Tank

..... Respondents

SERVICE APPEAL U/S 4 OF ETK,  
SERVICE TRIBUNAL ACT, 1974,  
AGAINST THE IMPUGNED ORDER  
ENDST NO.5861-64, WHICH WAS  
COMMUNICATED TO THE APPELLANT  
ON 31.05.2016; WHEREBY THE  
DEPARTMENTAL APPEAL DATED  
10.06.2016, WAS PREFERRED BEFORE  
THE RESPONDENT NO.2 WHICH WAS  
NOT RESPONDED DESPITE LAPSE OF  
STATUTORY PERIOD OF 90 DAYS.  
HENCE THE INSTANT SERVICE APPEAL  
IS WELL WITH IN TIME.

Filed to-day

*[Signature]*  
Registrar

19/9/16

ATTEST

*[Signature]*  
EXAMINEE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 978/2016

Date of Institution: 19.09.2016

Date of Decision: 11.07.2019

Mohammad Sajid Khan: S/o Bahadar Sher, R/o House No. 460, Street No. 12 E-4  
Phase-7, Hayatabad, Peshawar. Ex PTC (BPS-12) GPS Khelal Khel S.W. Agency  
Tank. (Appellant)

VERSUS

Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and three others.  
(Respondents)

MR. INAYAT ULLAH KHAN,  
Advocate

--- For appellant.

MR. MUHAMMAD JAN,  
Deputy District Attorney

--- For respondents.

MR. AHMAD HASSAN,

--- MEMBER (Executive)

MR. MUHAMMAD HAMID MUGHAL

--- MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER. Arguments of the learned counsel for the  
parties heard and record perused.

ARGUMENTS

02. Learned counsel for the appellant argued that on the recommendations of  
Departmental Selection committee, he was appointed as PTC (BPS-07) vide order  
dated 24.02.2007. He assumed the charge on 01.03.2007 and started performing  
duty. That the Governor, Khyber Pakhtunkhwa through notification dated  
11.05.2012, approved reappointment of Community School Teachers, qualified to  
be posted against the regular posts of PST(BPS-07) in a phased manner.  
Subsequently, the Governor's Secretariat, Khyber Pakhtunkhwa regularized project  
employees working in FATA through letter dated 28.05.2013. These instructions  
were accordingly communicated to the concerned lower foundations. As a sequel to  
the above directions, the appellant was appointed as PST (BPS-12) on regular basis



ATTESTED

EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal

SECRETARY  
Khyber Pakhtunkhwa  
Service Tribunal

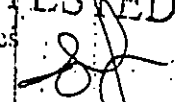
8

w.e.f 01.03.2014 and posted at GPS Khujal Khel, Tehsil Shaki, South Waziristan Agency. After charge assumption, he was adjusted by the Agency Education Officer, S.W Agency vide order dated 19.05.2014 as PST at GMPS Azam Warsak.

03. That respondents without assigning any reason stopped salary of the appellant, which compelled him to submit numerous applications for release of salary. However, vide impugned order dated 31.05.2016, his appointment order was cancelled with retrospective effect. Feeling aggrieved, he filed departmental appeal on 10.06.2016, which remained unanswered, followed by the present service appeal. After regularization of his services, cancellation of his appointment order was against the principle of "locus poenitentiae". Having rendered more than eight years service as a regular employee, he should have been dealt with according to the invogue rules. As no show cause notice was issued before cancelation of the appointment, therefore, this act on the part of the respondents was also violative of principles of natural justice. Denial of salary for work done, goes against the established norms of fair play, equity and justice. Reliance was placed on case law reported as 2003 SCMR 1128, 2009 SCMR 412, 2004 SCMR 630, 1996 PLC (C.S)851, 1998 PLC (C.S) 337, 2018 SCMR 1405 and 2015 SCMR 1257.

4. Learned Deputy District Attorney argued that the appellant was appointed purely on temporary basis against a project post under Regional Development Package in 2007, which expired in 2009. Notification dated 11.05.2012 covered only those Community School Teachers, who were regularly performing duty in functional Community Schools under ADP Project "Reopening of functional Community Schools". As services of the appellant were dispensed with in 2009, therefore, he could not avail the benefits of the said notification. As the appellant was wrongly adjusted against regular PST post, therefore, his appointment order was rightly withdrawn/cancelled by the competent authority. All codal formalities were observed before withdrawing the appointment order.

ATTESTED

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

CONCLUSION

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5. The record placed before us revealed that the appellant was appointed against the post of PTC (BPS-7) on temporary basis funded out of an approved ADP project w.e.f 01.03.2007. After assumption of charge, he started performing duty. That through notification dated 11.05.2012, the Governor, Khyber Pakhtunkhwa was pleased to approve re-appointment of Community Teachers, who stood qualified and to be posted against the regular post of PST (BPS-07). Through another communication circulated by the Governor's Secretariat, Khyber, Pakhtunkhwa all project employees were regularized through letter dated 28.05.2013. Thereafter, the appellant was appointed as PST (BPS-12) vide order dated 24.02.2014. Accordingly he was posted/adjusted vide order dated 19.05.2014 as PST on GMPQ<sup>S</sup> Azam Warsak.

6. To the utter astonishment of the appellant, his salary was stopped by the respondents without assigning any reason. Thereafter, through impugned order dated 31.05.2016 his appointment order was canceled with retrospective effect. The contention of the respondents is that his initial appointment made in 2007 was against a project post, which expired after completion of the time span given in the relevant documents in 2009. However, the plea taken by them was quite perplexing; whenever a project is completed either employees are regularized, if converted on regular budget or their services terminated by issuing formal termination order, however, no such order is available on record to support the view point/stance of the respondents. Furthermore, he was again appointed as PST (BPS-12) on regular basis w.e.f 01.03.2014 vide order dated 24.02.2014 and started performing duty. After stoppage of salary the respondents through impugned order cancelled his appointment with retrospective effect. In the absence of any documentary evidence, we have every reason to believe that there was no break in the appointment of the

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

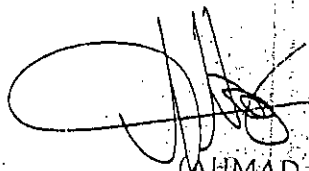
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appellant and instructions of Governor, Khyber Pakhtunkhwa dated 11.05.2012 were equally applicable in his case. Respondents have also not been able to rebut the claim of the appellant that he served in FATA for more than eight years as regular employee. A government servant having rendered more than eight years service could not be shown exit door by a single stroke of pen. He should have been dealt with according to the invogue rules and observance of codal formalities confirmed therein. As right of defense was not afforded to him, thus, condemned unheard. Action on the part of respondents was arbitrary, erratic, illegal and unlawful. In the present case factual controversy is involved and can only be resolved by conducting regular/proper enquiry under the prevalent rules.

7. As a sequel to the above, the instant appeal is accepted, impugned order dated 31.05.2016 is set aside and the appellant is reinstated in service. The respondents are directed to conduct proper enquiry strictly in accordance with law and rules within a period of ninety days after the date of receipt of this judgment and thereafter pass orders as deemed appropriate. The issue of back benefits shall be subject to the final outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

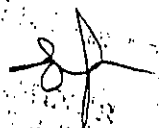


(MUHAMMAD HAMID MUGHAL)  
MEMBER



(AHMAD HASSAN)  
MEMBER

ANNOUNCED  
11.07.2019

12/07/2019  
  
 Director  
 Service Tribunal  
 FATA



7 (1)

Amir "B"

18.11.2020

Petitioner with counsel and Addl; AG alongwith Hayatullah, ASDO for respondents present.

The representative of respondents has produced reinstatement order of the petitioner dated 17.11.2020 which is to take effect immediately.

Learned counsel for the petitioner objects to the contents of order as far as these relate to the reinstatement with immediate effect. In that regard he referred to Para 7 of the judgment under implementation and stated that the respondents failed to carry out proper inquiry while the issue of back benefits was made subject to the outcome of De-novo inquiry. In that manner, the petitioner was deprived of back benefits. He further stated that as per judgment the petitioner was entitled for reinstatement in service from the date his appointment was cancelled by the respondents.

The respondents shall furnished the reply of the objections on behalf of the petitioner on 06.01.2021 positively before S.B.

Handwritten signature and stamp with the text "THE COPY" and "11/11/2020".

Handwritten signature and the printed text "Chairman".

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Handwritten notes and dates: 20/11/20, 800, 10, 4, 14, 27-11-20, 27-11-20.

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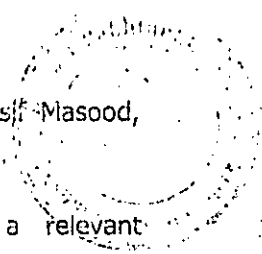
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Amir  
C

E.P. No. 413/2019

14.12.2021

Petitioner alongwith his counsel present. Mr. Asif Masood,  
Deputy District Attorney for respondents present.



Learned counsel for the petitioner raised a relevant observation on revised reinstatement order dated 03.11.2021 on the ground that the petitioner has been reinstated in service w.e from 26.09.2014 whereas he had been terminated retrospectively w.e.f 24.02.2014 vide impugned order and as such he is required to be reinstated in service from that very date. The revised reinstatement order dated 03.11.2021 is therefore, required to be rectified. Adjourned. To come up for further proceedings on 01.02.2022 before S.B.

(MIAN MUHAMMAD)  
MEMBER (E)

14-12-21  
8250  
10/-  
10/-



OFFICE OF THE DISTRICT EDUCATION OFFICER

SOUTH WAZIRISTAN TRIBAL DISTRICT

No. 2806  
Dated Tank the 03/11/2021

### Reinstatement Order (Revised)

In the light of Khyber Pakhtunkhwa Service Tribunal Peshawar Decision issued on dated 11.07.2019, in appeal No.978/2016 and further direction of the Directorate of (E&SE) Merged Areas, Khyber Pakhtunkhwa, Peshawar vide letter No.14631 Dated 27.10.2021, the reinstatement order issued vide this office Endst: No.2078-83 Dated 17.11.2020 is hereby revised and the services of Mr. Muhammad Sajid S/O Bahader Sher Khan, PST GPS Khojal Khel, Tehsil Shaki is hereby reinstated w-e-f the date of his termination i.e 26.09.2014 with back benefits as per directions of the Honourable Service Tribunal in the interest of public service.

DISTRICT EDUCATION OFFICER  
SOUTH WAZIRISTAN TRIBAL DISTRICT AT TANK

Endst. No. 2805-9 / Dated Tank the \_\_\_/\_\_\_/2021

Copy forwarded for information & necessary action to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Additional Director (Estab) E&SE NMDs, Peshawar.
3. Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar.
4. District Accounts Officer, SWTD Tank.
5. Teacher Concerned.

DISTRICT EDUCATION OFFICER  
SOUTH WAZIRISTAN TRIBAL DISTRICT AT TANK



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OFFICE OF THE DISTRICT EDUCATION OFFICER

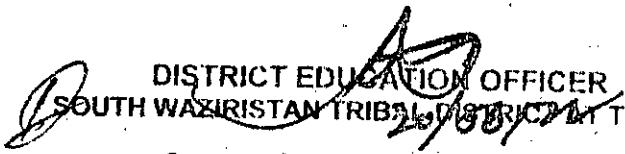
SOUTH WAZIRISTAN TRIBAL DISTRICT

No. 3275 /

Dated Tank the 20/06/2022

**CORRIGENDUM:**


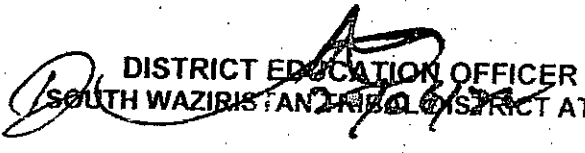
In the light of Khyber Pakhtunkhwa Service Tribunal Peshawar Decision issued on dated 11.07.2019, in appeal No.978/2016 and further direction of the Directorate of (E&SE) Merged Areas, Khyber Pakhtunkhwa, Peshawar, in partial modification to this office reinstatement order (Revised) issued vide this office Endst. No.2805-9 Dated 03.11.2021, the date of reinstatement in respect of **Mr. Muhammad Sajid S/O Bahader Sher Khan, PST GPS Khojal Khel, Tehsil Shaki** may be read as **24.02.2014** instead of **26.09.2014** as per directions of the Honourable Service Tribunal in the interest of public service.

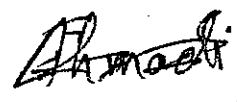
  
DISTRICT EDUCATION OFFICER  
SOUTH WAZIRISTAN TRIBAL DISTRICT AT TANK

Endst. No. 3276-80 / Dated Tank the 20/06/2022

Copy forwarded for information & necessary action to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Additional Director (Estab) E&SE NMDs, Peshawar.
3. Chairman Khyber Pakhtunkhwa Service Tribunal, Peshawar.
4. District Accounts Officer, SWTD Tank.
5. Teacher Concerned.

  
  
DISTRICT EDUCATION OFFICER  
SOUTH WAZIRISTAN TRIBAL DISTRICT AT TANK





قیمت  
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ایڈوکیٹ: Naila Jan

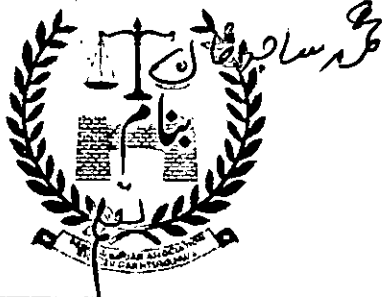
بار کونسل / ایسوسی ایشن نمبر: BC-13-4122

رابطہ نمبر: 0312-9215471

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: محترم جج پشاور

مخانب: اپیلرینٹ پٹیشنر



دعویٰ:  
علت نمبر:  
مورخہ:  
جرم:  
تھانہ:

### باعت تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام پشاور پشاور کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز ذیل صاحب کو راضی نامہ کر کے نو اقرار حالت و فیصلہ بر حلف دینے جو اقبال دعویٰ اقبال دعویٰ اور درخواست از جرم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور مستثنیٰ، نیز دائر کرنے اپیل گرانہ و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل باجزدی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لائے جانے کے نقر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا پورا پورا اختیار منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر زمانے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 9/12/2022  
PESHAWAR BAR ASSOCIATION  
KHAYBER PAKHTUNKHA

مقام پشاور کے لیے منظور ہے۔

Accepted by Naila Jan Advocate  
Peshawar High Court

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔