

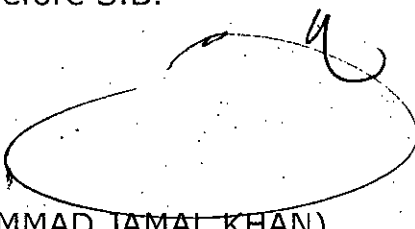


FORM OF ORDER SHEET

Court of _____

Case No. - 15874 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/12/2020	<p>The appeal presented today by Mr. Arshad Khan Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	02.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>02/03/21</u></p> <p style="text-align: right;"> MEMBER(J)</p> <p>Due to general strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for appellant is not available today, therefore, the appeal is adjourned to 27.07.2021 on which date file to come up for preliminary arguments before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____

Mr Farman Ullah PSHT (BPS-15), GPS No Jabba District Nowshera.

.....Appellant

Verses

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa Peshawar & Others.....Respondents

INDEX

S.NO	DESCRIPTIONS	ANNEXURE	PAGES
1-	Memo of Appeal and Affidavit		1-3
2-	Copy of Notification dated 20-12-2012	A	4-5
3-	Copy of Salary Slips of working /Serving month and Vacation (Deduction period)	B & C	6-7
4-	Copy of Judgement dated 11-11-2019	D	8-9
5-	Copy of Departmental Appeal	E	10
6-	WakalatNama	F	11

Dated: /12/2020


Appellant

THROUGH



Arshad Khan
Advocate

Note : Other Spare Copies will be provided after regular hearing.

(1)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 15814 /2020

Diary No. 16361

Mr Farman Ullah PSHT (BPS-15), GPS No Jabba District Nowshera.

Dated 10/12/2020

..... Appellant

Verses

- 1-The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar.
- 2-The secretary (E&SE), Department Khyber Pakhtunkhwa Peshawar.
- 3-The secretary Finance Department Khyber Pakhtunkhwa Peshawar.
- 4-The Accountant General, Khyber Pakhtunkhwa Peshawar.
- 5- The Director (E&SE), Department Khyber Pakhtunkhwa Peshawar.

..... Respondents

APPEAL UNDER SECTION -4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGAL AND UNLAWFUL DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATION AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER.

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during the winter & summer vacations and make the payment of all outstanding amount of conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

Filed to-day
Registrar
10/12/20

**RESPECTFULLY SHEWETH:
ON FACTS:**

- 1. That the appellant is serving in the Elementary and Secondary Education Department as PSHT (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2. That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification NO. FD (PRC) 1-1/2011 dated 20/12/2012 whereby the Conveyance Allowance for employees working in BPs 1 to 15 were enhance / revised while employees from BPS-16 to 19 have been treated under the previous Notification by not

enhancing their conveyance allowance. Copy of Notification dated 20/12/2012 are attached as annexureA.

3. That appellant was receiving the Conveyance allowance as admissible under the law and rules but the respondents without any valid and justifiable reason stopped /deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. Copy of the Salary Slips of working /Serving month

and vacation deduction period are attached as annexure.....B&C.

4. That the similar nature cases with regard to conveyance allowance have been accepted by this Honourable Service Tribunal vide S.A No. 1452/2019 dated 11/11/2019 and many other cases. Copy of the judgment dated 11/11/2019 is attached as annexure.....D.

5. That the appellant filed departmental appeal against the illegal action of deduction of Conveyance allowance, but the same has not been responded by the respondents within statutory period of ninety days.....E.

6. That appellant feeling aggrieved from the action of the respondents regarding deduction of Conveyance allowance in Vacation period/months filled Department appeal but no reply has been received so far. That feeling aggrieved and having no other remedy file the instant service appeal on the following grounds:-

GROUND:-

A. That an action of the respondents regarding deduction of the conveyance allowance for vacations period / months is illegal against the law, facts and norms of natural justice.

B. That the appellant have not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C. That the action of the respondent is without any legal authority discriminatory and clear violation of fundamental rights duly conferred by the Constitution and is liable to declared is null and void.

D. That there is cleared difference between leave and vacation as leave is applied by the civil servant in the light Government servant revised leave rules 1989 while the vacation are always announced by the Government, therefore under the law and rules the appellant fully entitled for the grant of conveyance during vacation period.

E. That the Government Servant revised leave rules 1989clearly explained that the civil servant who avail the vacation are allowed only one leave in a month where is the other civil servant may avail 4 days leave in colander months and the same are credit to his account in this way he may avail 48 days earned leave with fully pay, where is government servants to avail vacations such is appellant is allowed one day leave in a month and 12 days in a year and earned leave for 12 days in a year for credit to his account and there is no question of dedication of conveyance allowance lost sight this legal aspect and illegally without any authority started the recovery and deduction of conveyance allowance from the appellant.

F. That is the act of the respondent is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Malafiede on the part of respondents.

- G. That appellant has vested right of equal treatment before law and the act of the respondents to deprive the appellant on the conveyance allowance is unconstitutional and clear violation of fundamental right.
- H. That according to government servant revised leave rules 1989 vacations or holly days and are leave of any kind, therefore the deduction of conveyance allowance and vacation is against the law and rules.
- I. That according Article 38 (e) of the Constitution of Islamic Republic of Pakistan 1973 the state is bound to reduce disparity in the income and earning of individual including person in the service of federation therefore in the light the said Article the appellant is fully entitled for the grant of fully conveyance allowance during vacations.
- J. Those similar nature cases with regard to conveyance allowance have been accepted by this Honourable Service Tribunal vide S.A No. 1452/2019 and many other cases.
- K. That the appellant seeks permission of this Honourable to raise any other grounds at the time arguments.

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



Appellant

Through




**Arshad Khan
Advocate Peshawar.
0345 6030980**

Affidavit

Mr Farman Ullah PSHT (BPS-15), GPS No Jabba District Nowshera hereby solemnly affirm and declared that contents of this appeal is correct to the best of my knowledge and nothing has been concealed from this Honourable and has not been filed earlier similar nature case before this Honourable Tribunal.



Deponent



**ATTESTED
MUHAMMAD NAEEM KHAN
ADVOCATE
OATH COMMISSIONER**

A - (4)

FINANCE DEPARTMENT
(REGULATION WING)

NO.FD/SO(SR-II)/52/2012
Dated Peshawar the: 20.12.2012

From

The Secretary to Govt. of Khyber Pakhtunkhwa
Finance Department, Peshawar.

To:

1. All administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers of Khyber Pakhtunkhwa.
8. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
9. The Registrar Peshawar High Court, Peshawar.
10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject: REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA. PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance/revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt. of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain unchanged.

S.No.	BPS	Existing Rate (PM)	Revised Rate (PM)
1.	1-4	Rs. 1,500/-	Rs. 1,700/-
2.	5-10	Rs. 1,500/-	Rs. 1,840/-
3.	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)
Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20th December, 2012

Attested



**GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)**

NO. FDISO(SR-1178-52/2012
Dated Peshawar the: 20-12-2012

From: The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department,
Peshawar.

To: All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
The Secretary to Government, Khyber Pakhtunkhwa.
The Secretary to Chief Minister, Khyber Pakhtunkhwa.
The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
All Heads of Attached Departments in Khyber Pakhtunkhwa.
All District Coordination Officers, Khyber Pakhtunkhwa.
All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
The Registrar, Peshawar High Court, Peshawar.
The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

**REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE
CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA PROVINCIAL
GOVERNMENT BPS 1-19**

Dear Sir,
The Government of Khyber Pakhtunkhwa has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants of Khyber Pakhtunkhwa (working in BPS-1 to BPS-19) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 and 17 will remain unchanged.

S.NO	BPS	EXISTING RATE (PK)	REVISED RATE (PK)
1.	1-4	Rs. 1,500/-	Rs. 1,700/-
2.	5-10	Rs. 1,500/-	Rs. 1,840/-
3.	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 employees who have not been sanctioned official vehicles.

Yours Faithfully,

(Sahibzad Saad Ahmad)
Secretary Finance

Encls: NO. FDISO(SR-1178-52/2012
Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar;
2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department
3. All Administrative / Semi Autonomous Bodies, Khyber Pakhtunkhwa

(IMTAZ AYUB)
Additional Secretary (Reg)

Attested

Farman ullah

Sheet no. 1

Nowshera

SH:1

P Sec:001 Month:December 2017
NR6344 -Govt. Primary Schools (Mal
GOVERNMENT PRIMARY SCHOOL

Pers #: 00134210 Buckle:
Name: FARMAN ULLAH
PRIMARY SCHOOL HEAD TEACH
CNIC No.1720177733503
GPF Interest Applied

NTN:
GPF #: EDU/NSR/039602
Old #: 99990941571

NR6344 -5

PAYS AND ALLOWANCES:					42,720.00
0001-Basic Pay					1,566.00
1000-House Rent Allowance					2,856.00
1210-Convey Allowance 2005					1,500.00
1300-Medical Allowance					40.00
1505-Charge Allowance					1,020.00
2148-15% Adhoc Relief All-2013					682.00
2199-Adhoc Relief Allow @10%					3,479.00
2211-Adhoc Relief All 2016 10%					4,272.00
2224-Adhoc Relief All 2017 10%					58,135.00
Gross Pay and Allowances					
DEDUCTIONS:					
IT Payable	3,477.24	Deducted	3,155.00	TAX:(3609)	580.00
GPF Balance	217,479.00			Subrc:	2,890.00
3501-Benevolent Fund					600.00
3990-Emp.Edu. Fund KPK					125.00
4004-R. Benefits & Death Comp:					1,052.00
5801-Adj Basic Pay					1,703.00

Total Deductions 6,950.00

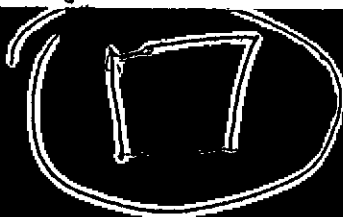
51,185.00

D.O.B
01.07.1966
28 Years 09 Months 018 Days

LFP Quota:
NATIONAL BANK OF PAKTARU JABA
PL5000000014253

Attested

C-7



Nowshera

9 Sec:001 Month:July 2018
NR6344 -Govt. Primary Schools (Mal)
GOVERNMENT PRIMARY SCHOOL

Sl:1

Pers #: 00134210 Buckle:
Name: FARMAN ULLAH
PRIMARY SCHOOL HEAD TEACH
CNIC No. 1720177733503
GPF Interest Applied
15 Active Temporary

NTN:
GPF #: EDU/NSR/039602
Old #: 99990941571

NR6344 -5

PAYS AND ALLOWANCES:

0001-Basic Pay	42,720.00
1000-House Rent Allowance	2,349.00
1300-Medical Allowance	1,500.00
1505-Charge Allowance	40.00
2148-151 Adhoc Relief All-2018	1,020.00
2199-Adhoc Relief Allow (103)	682.00
2211-Adhoc Relief All 2016 103	3,479.00
2224-Adhoc Relief All 2017 103	4,272.00
2247-Adhoc Relief All 2018 103	4,272.00
Gross Pay and Allowances	60,334.00

DEDUCTIONS:

IT Payable	550.00	Deducted	50.00	TAX: (3609)	50.00
GPF Balance	80,009.00			Subrc:	2,890.00
3501-Benevolent Fund					600.00
3990-Esp. Edu. Fund KPK					125.00
4004-R. Benefits & Death Comp:					1,052.00

Total Deductions

4,717.00

55,617.00

D.O.B

01.07.1966

29 Years 04 Months 018 Days

LFP Quota:

NATIONAL BANK OF PAKTARU JABA

PLS000000014253

Attested

D-87

APPEAL NO. 1452 / 2019

Stamp: Khyber Pakhtunkhwa Service Tribunal, Peshawar, dated 24/10/19

Mr. Maqсад Hayat, SCT. (BPS-16),
GHS Masho' Gagar, Peshawar

APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Registrar
24/10/19

R/SHEWETH:

ATTESTATION FACTS:

Stamp: Khyber Pakhtunkhwa Service Tribunal, Peshawar, dated 24/10/19

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2- That the Conveyance Allowance is admissible to all the civil servant and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employee

Attested

11.11.2019

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

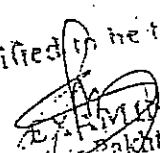
File be consigned to the record.


Chairman

ANNOUNCED

11.11.2019

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Attested

To,

The Secretary (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED ACTION OF THE CONCERNED
AUTHORITY BY THE ILLEGALLY AND UNLAWFULLY
DEDUCTION, THE CONVEYANCE, ALLOWANCE
DURING WINTER & SUMMER VACATIONS

Respected sir,

With due respect it is stated that i am the employee of your good self Department and is serving as PSHT (BPS 15) quite efficiency and up to the entire Satisfaction of the superiors. It is stated for kind information that conveyance allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14/07/2011 was issued. Later on vide revised Notification dated 20/12/2012 whereby the conveyance allowance for the employee working in BPS 1 to 15 were enhance/revised while employee from BPS-16 to 19 have been treated under the previous Notification by not enhancing their Conveyance allowance. Respected Sir, I was receiving the Conveyance allowance as admissible under the law and rues but the concerned authority without any valid and justified reasons stopped/ deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for leave period. One of the employees of Education Department in Islamabad filed service appeal No 1888 (R) CS/2016 before the federal service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honourable service Tribunal vide judgment dated 03/12/2018.that i am also the similar employee of Education Department and under the principle of consistency I am also entitled for the similar treatment meted out in the above mentioned service appeal but the concerned authority is not walling to issued/grant the same Conveyance allowance which is granting to other employees. Copy attached. I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Department appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during winter & summer vacations.

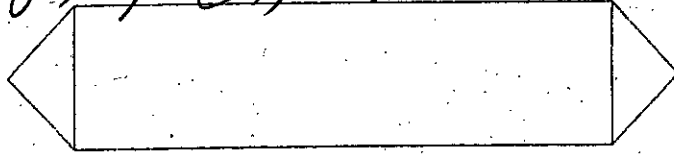
Dated: 27/08/2020

Your obediently

A handwritten signature in black ink is written over a rectangular stamp that says "Attested" in bold, black letters.

Mr Farman Ullah PSHT (BPS-15), GPS
No Jabba District Nowshera

بعدالت KP سروس ٹریبونل سینا اور



2 منجانب
بنام

Farman Ullah

vs

Education department

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام سینا اور کیلئے ارستد خان ایڈووکیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پرداخت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہانہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

20

ماہ

المرقوم

And
Attested &
Accepted

العہد گاہ العہد گاہ

کے لئے منظور ہے۔

مقام سینا اور