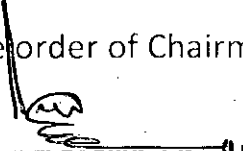


Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 726/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	13.12.2022	<p>The execution petition of Mr. Ammar Ali received today by post through Mr. Muhammad Waqar Alam Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan 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>

AA9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 726 OF 2022

Ammar Ali

Versus

Director General Health Service etc

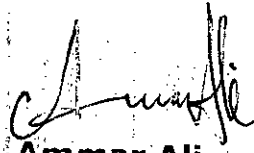
EXECUTION PETITION

INDEX

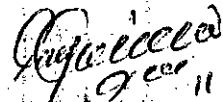
S.No	Particulars of the Documents	Annexure	Page
1)	Grounds of Execution petition with affidavits	--	1-2
2)	Copy of the judgment dated 12/03/2018	--	3-6
3)	Copy of reinstatement orders by DG Health along with arrival report & application	--	7-12
4)	Wakalatnamah	--	13

Dated: 27/12/2022

Petitioner


Ammar Ali

Through Counsel


11/12/22
Muhammad Waqar Alam
Advocate Supreme Court

-/-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

EXECUTION PETITION NO. 726 OF 2022

Ammar Ali son of Muhammad Saeed caste Chughtai r/o
Basti Ustrana South, Tehsil & District Dera Ismail Khan.

(Petitioner)

Versus

1. Secretary Health Department Civil Secretariat
Peshawar.
2. Director General Health Services Khyber Pakhtunkhwa
Peshawar
3. Director MTI District Headquarter Teaching Hospital
Dera Ismail Khan.

(Respondents)

EXECUTION PETITION

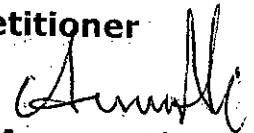
That the petitioner hereby applies for execution of the Judgment
herein below as follows:

1	Suit No	Service Appeal No. 746/2014
2	Name of Parties	Ammar Ali son of Muhammad Saeed caste Chughtai r/o Basti Ustrana South, Tehsil & District Dera Ismail Khan. <p style="text-align: right;">(PETITIONER)</p> <p style="text-align: center;">VERSUS</p> <ol style="list-style-type: none">1. Secretary Health Department Civil Secretariat Peshawar.2. Director General Health Services Khyber Pakhtunkhwa Peshawar3. Director MTI District Headquarter Teaching Hospital Dera Ismail Khan. <p style="text-align: right;">..... (RESPONDENTS)</p>

2	Date of Judgment	12/03/2018
3	Whether any Appeal preferred from Department	Nil
4	Previously execution petition is filled or not	Yes
5	Relief granted in the judgment	The petitioner may be reinstated into service vide office order No. 1173-36/B dated 25/10/2022 by respondent#2 but the respondent#3 is reluctant to accept the arrival report dated 27/10/2022 of the petitioner by making lame excuse the he is not under the control of DG Health Services. Hence, the present 2 nd execution petition is being filed against the respondents.
6	Amount of Costs, if any	Nil
7	Against whom to be executed	Respondents
8	Mode in which the assistance of the court if required	By directing the respondents to accept arrival report of petitioner in accordance with law. It is pertinent to mention here that the respondent#3 has already accepted the arrival report of one Mr. Muhammad Shahid House Keeper BPS-09 in MTI DHQ DIKhan vide office order No. 8132-35 dated 12/06/2020, but unfortunately in the case of petitioner the respondent#3 is making lame excuses to implement the valid order of DG Health Services Peshawar by discriminating with petitioner.

It is therefore, humbly prayed that the instant petition may kindly be accepted.

Petitioner



Ammar Ali
Through

Muhammad Waqar Alam
Advocate Supreme Court

11/12/22

~~11/12/22~~ 2022

Affidavit:

I, the petitioner, do hereby solemnly affirm and declared on Oath that all the contents of the petition are true and correct to the best of my knowledge and belief and no other petition on the same subject matter was filed earlier.

Deponent
Ammar Ali

EMK
12-3-18

- 3 -

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT D.I. KHAN

Service Appeal No. 743/2014

Date of Institution 28.05.2014

Date of decision 12.03.2018



Muhammad Shahid son of Sonu Khan Caste Baloch R/O Basti Said Nagar,
Daraban Road, Tehsil and District D.I. Khan (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health Department,
Civil Secretariat, Peshawar and 2 others. (Respondents)

Mr. Shaukat Hayat Khan Khakwani, For appellant
Advocate

Mr. Ziaullah, For respondents
Deputy District Attorney

MR. NIAZ MUHAMMAD KHAN, CHAIRMAN
MR. AHMAD HASSAN MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN This judgment shall also
dispose of connected service appeals No. 744/2014 Abdur Rashid, No. 745/2014
Muhammad Ramzan, and No. 746/2014 Ammar Ali as in all the appeals common
questions of law and facts are involved.

2 Arguments of the learned counsel for the parties heard and record perused.

FACTS

3. The appellants were appointed on different posts on the same date i.e
04.07.2013. They were removed from service on 17.12.2013 against which they

Waqar Alam
Advocate
Dera Ismail Khan

ATTESTED

(Signature)
Khyber Pakhtunkhwa
Service Tribunal

Subject
Memo:
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- 4 -

filed departmental appeals on 01.05.2014, which were rejected on 15.05.2014.

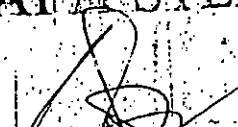
Thereafter, they filed service appeals on 28.05.2014.

ARGUMENTS

4. Learned counsel for the appellants argued that the appellants were removed from service after show cause notice only. That no proper procedure was followed under the disciplinary rules. That the reason for removal of the appellants shown in the show cause notice was appointments by the appointing authority without adopting the proper procedure for recruitment. That no detail was given that what procedure was not adopted. That the appellants duly replied to the show cause notice and thereafter, the removal orders of the appellants were passed on 17.12.2013. That the appellant then filed departmental appeals which were rejected by the departmental appellate authority without assigning any reasons. The learned counsel for the appellants further argued that by not giving the detail reasons in the original order as well as in the order of appellate authority, the appellants could not defend their case. He further argued that if any illegality was committed by the appointing authority, then it was he to be made culpable and not the appellants as per settled law on the subject. That the mentioning the order of the Worthy Peshawar High Court in the impugned order was misplaced as the Worthy Peshawar High Court had never observed that the appointments were made in violation of the rules.

5. On the other hand, the learned Deputy District Attorney argued that appointment of one of the appellants namely Muhammad Shahid was against the rules as the rules did not provide for the post of House Keeper (Male). He further argued that the appointing authority one day before his retirement issued the appointment orders of the appellants in violation of the rules. No Departmental

ATTESTED



WAO ABUL KALAM
Advocate High Court
Dera Ismail Khan

Selection Committee was constituted and in this regard, the members of the D.S.C denied their signatures on the minutes of the meeting. That the appointments were made during the ban imposed by the government. That the show cause notice was issued to the appellant and that he was heard in person.

CONCLUSION

6. The show cause notice is silent about the detail of irregularities/illegalities committed by the authority. The show cause notice only mentions of non-adoption of procedure in the recruitment in accordance with the provisions of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules. It has not been mentioned in the show cause notice that the appointing authority was not competent or the appellant lacked qualification or no advertisement was made. It was also not mentioned in the said show cause notice that no D.S.C was constituted or the signatures of the members of the DSC were fake and bogus. The purpose of a show cause notice is always to afford sufficient opportunity to a civil servant to defend himself. But when a show cause notice is given generally without details. Then show cause notice loses its utility and the concerned civil servant shall be presumed to be prejudiced by not defending himself properly. The departmental appellate authority also rejected the appeal without assigning any reasons so as to enable this Tribunal to reach at any conclusion hat how the appointment orders were against the rules. And whether the appellants were in any way instrumental in getting the said appointment letters in their favour. The arguments of the learned DDA regarding fake and bogus signatures of the members of the D.S.C is not supported by any material. When this Tribunal put a query to the learned DDA that how did the department come to know about fake and bogus signatures of the members of DSC, he replied that there is nothing on judicial record of the present appeal. However, the department has mentioned this

ATTESTED

KHYBER
PAKHTUNKHWA
SIR
F.A.

WAQAR ALAM
Dera Ismail Khan

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fact in their written replies. (Enquiry committee was constituted not at occasion is highlighted by the department before whom or on which members of the committee have had the occasion of denial of their signature of equal importance is the fact that the appellants have not been given any to confront the denial of the members of the committee through due procedure factum of ban as argued by the learned DDA has also not been mentioned show cause notice or in the order of the departmental appellate authority imposing the ban and its legal outcome is left without discussion and was discussed at the proper time. At present this Tribunal is of the view that departmental appellate authority should be given chance to take into consideration all these issues and observations and pass a detailed order with reasons within a period of 60 days of the receipt of this judgment. Failing which the present appeal shall be deemed to have been accepted. In the meantime the posts advertised should not be filled by the department. Parties are left to bear their costs. File be consigned to the record room.

Announced
 12-03-2018 Sd/- Niaz Muhammad Khan
 Chairman
 Appellate Court I.I. Khan
 Sd/- Ahmad Hassan
 Member

Certified to be true copy
 Sd/-
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

Date of Presentation of Application 21-03-2018
 Number of Words 1600
 Copying Fee 10.00
 Urgent 2.00
 Total 12.00
 Name of C.A. [Signature]
 Date of Completion of Copy 21-03-2018
 Date of Delivery [Signature]

Subject

Memorandum

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 Advoc
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 COURT
 Niaz

30.

7

DIRECTOR GENERAL HEALTH SERVICES
KHYBER PAKHTUNKHWA PESHAWAR



E-Mail Address: dg@kpk.gov.pk Office Ph# 091-9210269 Exch# 091-9210267, 9210196 Fax # 091-9210230

OFFICE ORDER

In the light of Health Department Govt: of Khyber Pakhtunkhwa letter No. SOH-VI/HD/Service Tribunal/8-89/2020-21 dated 18/05/2022 and in compliance of Khyber Pakhtunkhwa Service Tribunal camp court D.I. Khan, decision dated 12/03/2018 in service appeal No. 744/2014, 745/2014 & 746/2014, the termination order No. 6862 dated 17/12/2013, No.6871 dated 17/12/2013 and No. 6826 dated 17/12/2013 issued by the Medical Superintendent DHQ; Hospital D.I. Khan and DGHS KP office letter No. 4466-68/personnel dated 17/05/2018, are hereby cancelled ab-initio in respect of Mr. Ammar Ali S/O Muhammad Saoud Junior Clerk, Mr. Abdur Rashid S/O Imam Bakhsa Ward Orderly and Mr. Muhammad Ramzan S/O Parvaz Khan Ward Orderly DHQ; Hospital D.I. Khan thereby, they are re-instated in accordance with the judgment to their original posts at DHQ; Hospital D.I. Khan.

Mr. Ammar Ali Junior Clerk, Mr. Abdur Rashid Ward Orderly and Mr. Muhammad Ramzan Ward Orderly are hereby directed to report at DHQ; Hospital D.I. Khan for duty in the best interest of public.

Sd/xxxxxxx

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

Dated 25/10/2022

No. 1173-36 / Personnel

Copy forwarded to the:-

1. Hospital Director MTI DH: Hospital D.I. Khan.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Camp Court D.I. Khan
3. Director Litigation DGHS Office Peshawar.
4. DAO D.I. Khan.
5. PA to DHGS KP Peshawar.
6. Official concerned.

For information and necessary action.

WAO
Advocate
Dera Isma

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

8-

To

The Hospital Director MTI, DHQ

Hospital Dera Ismail Khan

587
15/11/2022

Subject: **DECISION OVER ARRIVAL REPORT**

Respected Sir,

The undersigned was reinstated as Junior Clerk BPS-11 vide D.G Health Services letter No.1173-36-P Dated 25-10-2022 while complying with Service Tribunal order.

That the undersigned after getting the same reinstatement order has submitted his arrival report in your good office on 27-10-2022 before noon, but the same arrival report has not accepted reasons best known to the authority.

That now through this application the undersigned request you to accept the arrival report dated 27-10-2022 and the other ancillary benefits be awarded in the best interest of justice and equity.

That it is matter of record that one Mr. Shahid House Keeper was reinstated vide office No.2314-17-P dated 17-05-2020 who is/was at par with the undersign but his arrival report was accepted and also assigned duties by your good predecessor on 12-06-2020. Copy enclosed as ready reference.

So, through this application the matter of arrival report be resolved as early as possible because the undersigned has suffered a lot miseries since May 2014 and the salaries of the undersigned may please be regenerated as one Mr. Shahid has already taking the same under your kind control just to meet the ends of justice and equity.

Yours Sincere

WAOAR ALAM
Advocate
Dera Ismail Khan

Amar Ali S/O M Saeed
Junior Clerk
MTI/DHQ
Hospital D.I.Khan

Dated: 15-11-2022

O/K

To,

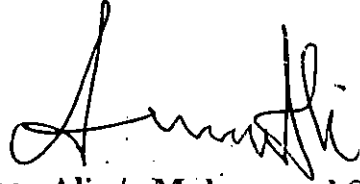
The Director
MTI, DHQ Hospital
Dera Ismail Khan

Subject: ARRIVAL REPORT

Memo:-

It is submitted that Mr. Ammar Ali s/o Muhammad Saeed Re:instated as Junior Clerk B.P.S 11 vide Director General Health and services K.P.K office Order No: 11731-36 Personnel Dated 25/10/2022. Therefore I join my duty today. Before noon. i.e 27/10/2022

Submitted please.



Ammar Ali s/o Muhammad Saeed

Junior Clerk MTI, DHQ Hospital

D.I.KHAN.

Dated 27/10/2022

WAQAR ALAM
Advocate High Court
Dera Ismail Khan

To,

The Hospital Director,
M.T.I.D.H.Q Hospital,
Dera Ismail Khan.

- 10 -

266

31/03/2020

Subject:- Arrival Report for Duty.

Sir,

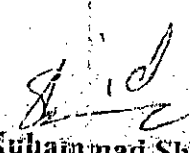
In compliance with the Director General Health Services K.P Peshawar office order No.1996-2001 dated 22-03-2020 through which I am reinstated according to the decision passed by Khyber Pakhtunkhwa Service Tribunal Camp Court D. I. Khan dated 12-03-2018.

Therefore I submit my arrival report for duty today.

Order Photocopy enclosed.

WAQAR ALAM
Advocate High Court
Dera Ismail Khan

Dated 28/3/2020


Muhammad Shahid
House Keeper
D. H. Q Hospital
Dera Ismail Khan

Phone: 0966 9280201
Fax: 0966 9280446

- // -

OFFICE OF THE HOSPITAL DIRECTOR
MEDICAL TEACHING INSTITUTION, DHQ TEACHING HOSPITAL, DIKHAN

No. _____

Dated 12/6/2020

To

The Director General Health Services
Khyber Pakhtunkhwa
Peshawar

Subject: **OFFICE ORDER**

Memo:

Reference your Office Order No.1996-2001/Personnel/Mr.Shahid House

Keeper dated 22.03.2020 & Letter No.2314-17/Personnel dated 17.05.2020.

Mr. Muhammad Shahid (s/o Sona Khan) reported arrival for duty as House

Keeper RPS-09 in S. T. DHQ Teaching Hospital DIKHAN on the forenoon of 28.03.2020.

//

HOSPITAL DIRECTOR
MTI DHQ TEACHING HOSPITAL
DIKHAN

No. 8132-35

Copy forwarded to the:-

1. Director Finance MTI DIKHAN
2. Director Paramedics
3. Secretary BoG MTI DIKHAN
4. Accounts Section HD Office DHQTH DIKHAN
5. Muhammad Shahid House Keeper.

WAZIR ALAM
Advocate
Dera Ismail Khan

[Signature]

HOSPITAL DIRECTOR
MTI DHQ TEACHING HOSPITAL
DIKHAN

Handwritten notes in the top right corner.

DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUNKHWA PESHAWAR

Mail Address: mgdphs@peshawar.gov.pk Office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

OFFICE ORDER:-

On acceptance of Departmental Appeal by Health Department Govt. of Khyber Pakhtunkhwa vide letter No. SOH-III/8-89/2019(Muhammad Shahid) dated 02.01.2020 and in compliance of Khyber Pakhtunkhwa Service Tribunal Camp Court DIKhan decision dated 12.03.2018 in Service Appeal No.743/2014, the termination orders No. 6835 dated 17.12.2013 issued by MS DHQ Hospital DIKhan and DGHS Office Order No. 4455-68/Personnel dated 17.05.2018 are hereby cancelled/ab-initio in respect of Mr. Muhammad Shahid S/O Sona Khan House Keeper (BS-09) of DHQ Hospital DIKhan, thereby he is re-instated in accordance with the judgement to his original post at DHQ Hospital DIKhan.

Mr. Muhammad Shahid S/O Sona Khan House Keeper is hereby directed to report at DHQ Hospital DIKhan for duty in the best interest of public.

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH SERVICES, K.P, PESHAWAR.
Dated 22/3/2020.

No. 1996-2001/Personnel/M Shahid House Keeper

Copy forwarded to the:-

1. Hospital Director MTI-DHQ Hospital DIKhan.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Camp Court DIKhan.
3. Assistant Director (Lit) DGHS Office Peshawar.
4. DAO DIKhan.
5. PA to DGHS KP.
6. Official Concerned.

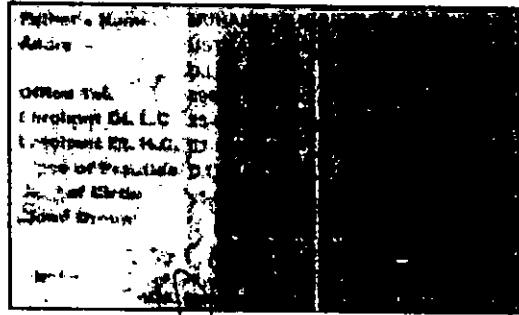
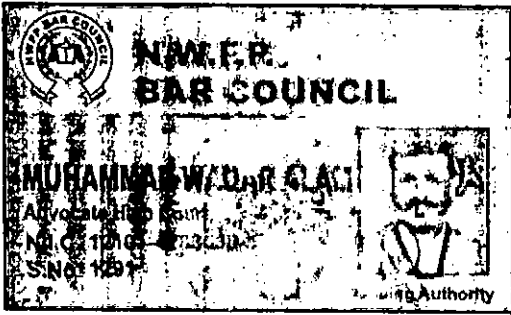
For information and necessary action.

Stamp: WAGHAN I AM Advocate Camp Court DIKhan

DIRECTOR GENERAL HEALTH SERVICES, KHYBER PAKHTUNKHWA PESHAWAR.

Handwritten initials and date: 22/3

وکالت نامہ



K.P.K. Service Tribunal کوہاٹ

Petitioner

مخائب

Aamir Ali

نام D.G. Heald

Execution

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

باعث تحریر آئندہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیروی وجود ہی برائے پیشی یا تصفیہ مقدمہ بمقام D. I. Khasam کیلئے

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

کو حسب ذیل شرائط بروکل مقرر کی ہے، کہ ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہونا ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ کیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا، تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار کیلاس کے واسطے کسی معاوضہ کے ادا کرنے یا بیان دہاں کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل مراحتہ پر داخلہ صاحب موصوف مل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دیکھنی یا جواب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپیل مگرانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کا رد پید وصول کرنے اور رسید دینے اور کا عمل کرنے اور ہر قسم کے بیان دینے اور کسی پر ثانی یا راضی نامہ دینے پر حلف کرنے، اقبال و ڈگری کا بھی اختیار ہوگا، اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پکھری صابر بیروی مقدمہ مذکورہ نظر ثانی و اپیل مگرانی و ہر آئندگی مقدمہ یا منسوخی ڈگری یک طرفہ یا درخواست حکم استغاثی یا ترقی یا گرفتاری مل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا کیے علیحدہ جتانہ بیروی کا اختیار ہوگا اور تمام ساختہ پر داخلہ صاحب موصوف مل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا مگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ایڈووکیٹ کو اپنے ہاں مقرر کریں، اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور وہ ان مقدمہ میں جو کچھ ہر جائنا التواء پڑیگا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ کسی مقدمہ کی بیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند رہے

مورخہ 20 ماہ

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted
Approved
11/12/22

العبد

Aamir Ali

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

محمد علی ولد محمد سعید

Mob: 0333-9950616
Email: waqaralam1982@gmail.com

0321-9600346