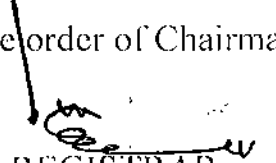


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **04/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/01/2023	<p>The appeal of Mr. Waqas Ahmad presented today by Malik Muhammad Waseem Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on_____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Service Appeal No. 04 /2022

Waqas Arshad, Telephone Operator Lower Hazara Forest Circle
Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar &
others.

...RESPONDENTS

SERVICE APPEAL

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1.	Service appeal along with affidavit	1 to 7	
2.	Copy of appointment order	8	"A"
3.	Copies of office order renewing the contracts	9-11	"B"
4.	Copy of order dated 08/07/2015	12	"C"
5.	Copy of departmental appeal	13	"D"
6.	Copy of impugned order dated 08/12/2022	14	"E"
7.	Wakalatnama	15	

...APPELLANT

Through

Dated: _____/2022


(MALIK MUHAMMAD WASEEM)
Advocate High Court, Abbottabad

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

Service Appeal No. 04 /2023

Waqas Arshad, Telephone Operator Lower Hazara Forest Circle
Abbottabad.


...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar.
2. Conservator of Forest, Lower Hazara Forest Circle Abbottabad.
3. Divisional Forest Officer, Patrol Squad Forest Division Abbottabad.

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST THE
ORDER BEARING NO.4774-75/GE DATED
08/12/2022 PASSED BY RESPONDENT NO.2,
WHEREBY, THE DEPARTMENTAL APPEAL FILED
BY APPELLANT HAVE BEEN DISMISSED BEING
TIME BARRED.**

**PRAYER: ALLOWING THIS APPEAL, THE ORDER
BEARING NO.4774-75/GE DATED 08/12/2022
PASSED BY RESPONDENT NO.2 MAY KINDLY BE
SET-ASIDE AND SERVICE OF THE APPELLANT**

MAY KINDLY ORDERED TO REGULARIZE FROM THE DATE OF HIS INITIAL APPOINTMENT I.E. 22/03/2010 INSTEAD OF 08/07/2015 WITH ALL THE BACK BENEFITS.

Respectfully Sheweth;-

This appeal proceeds, on the bellow stated legal points, amongst the others, and in the given background of the facts;-

FACTS:-

1. That appellant was appointed on the vacant post of Telephone Operator (BPS-5) vide order dated 02/03/2010. Copy of appointment order of appellant is attached as Annexure "A".
2. That thereafter, due to satisfactory performance of the appellant, contract was renewed every year till 2015. Copies of office order renewing the contracts are attached as Annexure "B".
3. That vide office order No. 1 dated 08/07/2015, office order No.1 dated 08/07/2015 the service of appellant was regularized. It is worth to mention here that in the said order it has specifically been mentioned that Telephone Operators who have

been appointed in March 2010 are regularized meaning thereby that the service of appellant is deemed to have been regularized since their initial appointment i.e. 02/03/2010. Copy of order dated 08/07/2015 is annexed as Annexure "C".

4. That vide the same order the appellant has been deprived of his right of pension and similarly, the seniority of appellant was maintained w.e.f 08/07/2015 instead of 22/03/2010.
5. That faced with the situation, the appellant submitted departmental appeal before respondent No.2 praying therein that in the light of the (Khyber Pakhtunkhawa Employees Regularization of Service) Act 2009, the seniority of appellant be corrected by including the previous five years service as regular employee. Copy of departmental appeal is attached as Annexure "D".
6. That the appeal of appellant has been dismissed without even affording opportunity of hearing to the appellant by respondent No.2 vide order dated 08/12/2022. Copy of impugned order dated 08/12/2022 is attached as Annexure "E".

7. That feeling aggrieved with the impugned order dated 08/12/2022 the appellant has now come to this Honourable Court for setting aside the same being unwarranted at law and facts inter-alia on the following grounds;-

GROUNDS:-

- a. That, impugned order dated 08/12/2022 is illegal, unlawful, against facts and ineffective upon the rights of appellant.
- b. That the impugned order on the face of it is harsh in nature and deviation from the spirit of law on the subject.
- c. That in the light of (KPK Employees Regularization of Service) Act 2009, the appellant is entitled to claim seniority from the date of his initial appointment i.e. 22/03/2010 whereas the respondent No.2 in utter disregard of the provision of law deprived the appellant from the seniority hence, the impugned order is liable to be set-aside.

- d. That on one hand KPK Civil Servant Act 1973 has been applied in the case of appellant and on the other he has been deprived from the right of pension which is highly unjust, unfair and uncalled for.
- e. That as per office order dated 08/07/2015 the appellant is regular employee w.e.f the date of his initial appointment i.e. 22/03/2010, therefore, the impugned order is liable to be set-aside.
- f. That inspite of all this, appellant rendered spotless services to the satisfaction of his superior and always added to the reputation of the department.
- g. That without affording the opportunity of being heard, the dismissal order amounts to stabbing in the back quite in derogation of the principles of natural justice.
- h. That the appeal is well within time.
- i. That the other points shall be urged at the time of arguments.

It is, therefore, humbly prayed allowing this appeal, the order bearing No.4774-75/GE dated 08/12/2022 passed by respondent No.2 may kindly be set-aside and service of the appellant may kindly ordered to be regularized from the date of their initial appointment i.e. 22/03/2010 instead of 08/07/2015 with all the back benefits.


...APPELLANT

Through

Dated: _____/2022


(MALIK MUHAMMAD WASEEM)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal


...APPELLANT

7

BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____/2022

Waqas Arshad, Telephone Operator Lower Hazara Forest Circle Abbottabad

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Forest, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Waqas Arshad, Telephone Operator Lower Hazara Forest Circle Abbottabad, do hereby solemnly affirm and declare that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

ATTESTED DEPONENT



(4)
Annexure CA
②

**OFFICE ORDER NO. 79 DATED ABBOTTABAD THE 02/03/2010 BY CIR
QAIM SHAH DIVISIONAL FOREST OFFICER PATROL SQUAD DIVISION,
ABBOTTABAD**

Mr. Waqas Arshid S/O Muhammad Arshid resident of House No.422 Near old Board of Intermediate and Secondary Education Aram Bagh Tehsil & District Abbottabad is hereby appointed as Telephone Operator (BPS-5) against vacant post due to the retirement of Mr. Muhammad Sarfraz in Circle Office, Abbottabad on work charge basis on monthly pay of Rs.5500/- only with effect from the date of his arrival with the following conditions:-

- 1- Initial appointment is purely temporary only for one year, which will be subsequently extended on the basis of his satisfactory performance. In case of un-satisfactory performance his service will be dispensed with / terminated at any time without any notice.
- 2- He will not be entitled for pension / gratuity.
- 3- He will have to produce a medical certificate of fitness from an authorized Medical Officer.

Sd/- Pir Qaim Shah,
Divisional Forest Officer,
Patrol Squad Division,
Abbottabad.

Memo.

Copy forwarded to:

- 1- The Conservator of Forests, Abbottabad Circle Abbottabad for favour of information please.
- 2- The Circle Accountant Circle Office, Abbottabad for information and necessary action.
- 3- Mr. Waqas Arshid S/O Muhammad Arshid resident of House No.422 Near old Board of Intermediate and Secondary Education Aram Bagh Tehsil & District Abbottabad for information with reference to his application dated 25-02-2010

2/3/10
Divisional Forest Officer,
Patrol Squad Division,
Abbottabad

Annex B B & D
29
Page 9

**OFFICE ORDER NO. 96 DATED ABBOTTABAD THE 31/03/2011
BY INYATULLAH KHAN MASOOD DIVISIONAL FOREST OFFICER
PATROL SQUAD DIVISION ABBOTTABAD**

Waqas Arshid S/O Muhammad Arshid resident of Aram Bagh Tehsil and District Abbottabad was appointed as Telephone Operator (BS-05) on work charge basis only for one year vide this office order No.72, dated 02-03-2010 with the conditions that his service will be subsequently extended on the basis of satisfactory performance.

Now he vide his application dated 22-03-2011 has applied for further extension in his service period.

As the performance of Telephone Operator remained satisfactory during the year, 2010, therefore, his service period is hereby extended for further one (01) year with effect from 02-03-2011 on work charge basis on monthly pay of Rs.7000/- with the following conditions:

- 1- Extension in his service period is purely temporary.
- 2- He will not be entitled for pension / gratuity.

Sd/- Inyatullah Khan Masood
Divisional Forest Officer
Patrol Squad Division
Abbottabad.

Memo.

Copy forwarded to the:

- 1- Conservator of Forests Lower Hazara Forest Circle Abbottabad for favour of information please.
- 2- Circle Accountant Circle Office Abbottabad for information and necessary action.
- 3- PA to Conservator of Forests Lower Hazara Forest Circle Abbottabad for information and necessary action.
- 4- Waqas Arshid Telephone Circle Office Abbottabad for information with reference to his application dated 22-03-2011.

Divisional Forest Officer
Patrol Squad Division
Abbottabad

02/2

OFFICE ORDER NO. 169 DATED ABBOTTABAD THE 30/5/2012
BY MR. ZAFFAR ALI KHAN DIVISIONAL FOREST OFFICER PATROL
SQUAD DIVISION ABBOTTABAD

(16) Amended
S.E.D.

Mr. Waqas Arshid S/O Muhammad Arshid of Aram Bagh Tehsil & District Abbottabad was appointed as Telephone Operator (BPS-5) on Work Charge Basis only for one year vide this office order No. 72, dated 2-3-2010 with the conditions that his service will be subsequently extended on the basis of satisfactory performance.

On expiry of the said period Mr. Waqas Arshid applied for further extension in his service period vide his application dated 22-3-2011. Therefore, keeping in view his satisfactory performance during the year, 2010 his service period was extended for further one (01) year with effect from 2-3-2011 vide Office Order No. 96, dated (P-29) 31-3-2011.

Now he has applied for further extension of his service period vide his application dated 28-2-2012. (Puc-II)

Mr. Waqas Arshid, Telephone Operator has performed satisfactory service during the year 2011 as evident from his ACRs, therefore, his service period is hereby extended for further one (01) year on contract basis with effect from 2-3-2012 as work charge employee at fixed total pay of Rs. 10,000/- per month with the following conditions:

- 1- Extension in his service / contract period is temporary and only for one year. His services stand automatically terminated on the expiry of one (01) year. In case of requirements of the job, the contract may be subsequently extended on the basis of satisfactory performance.
- 2- The employee will not contribute to GP Fund and will not be entitled to pension and gratuity benefits.

Sd/- Zaffar Ali Khan
Divisional Forest Officer
Patrol Squad Division
Abbottabad

Memo.

Copy forwarded to the:

- 1- Conservator of Forests, Lower Hazara Forest Circle Abbottabad for favour of information please.
- 2- Circle Accountant Circle Office Abbottabad for information and necessary action.
- 3- PA to CF Lower Hazara Forest Circle Abbottabad for information and necessary action.
- 4- Mr. Waqas Arshid Telephone Operator, Circle Office Abbottabad for information with reference to his application dated 28/2/2012.

Divisional Forest Officer
Patrol Squad Division
Abbottabad

01/5

(17) Annex-ICC 39

OFFICE ORDER NO. 1041 DATED ABBOTTABAD THE 15/04/2013
ISSUED BY MR. JAVED ARSHAD DIVISIONAL FOREST OFFICER PATROL
SQUAD LOWER HAZARA CIRCLE ABBOTTABAD

Consequent upon expiry of contract period on 01-03-2013 and keeping in view of his satisfactory performance of the previous years, the services of Mr. Waqas Arshad, Telephone Operator are hereby extended for further one year with effect from 02-03-2013 as work charge employee at fixed pay of Rs. 10,000/- per month on the same terms and conditions as laid down in his office order No. 169, dated 30-05-2012. (P-33)

Sd/- Javed Arshad
Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

Memo.

Copy forwarded to the:

- 1- Conservator of Forests Lower Hazara Forest Circle Abbottabad for favour of information please.
- 2- Circle Accountant Circle Office Abbottabad for information and necessary action.
- 3- PA to CF Lower Hazara Forest Circle Abbottabad for information and necessary action.
- 4- Mr. Waqas Arshad Telephone Operator Circle Office Abbottabad for information with reference to his application dated 18-03-2013. (Pec-I)

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad



OFFICE ORDER NO. 01 DATED A'ABAD THE 08/07/2015

ISSUED BY MUHAMMAD YOUSAF KHAN
DIVISIONAL FOREST OFFICER PATROL SQUAD LOWER
HAZARA CIRCLE ABBOTTABAD

The following appointees against the permanent post of BPS-5 on fix pay during March, 2010 are hereby regularized against the vacant posts as noted against each in BPS-5 (Rs.5400-260-13200) with usual allowances as admissible under the rules with immediate effect.

S.#	Name	Post
1-	Mr. Waqas Arshad	Telephone Operator
2-	Mr. Naveed Ahmed	Tracer

Term and Conditions.

- He shall, for all intents and purposes, be Civil Servant except for purpose of pension of gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Fund (C.P.F) along with the contribution made by Government to his account in the said fund, in the prescribed manner.
- He shall be governed by the Khyber Pakhtunkhwa Civil Servants Act 1973, all the Laws applicable to the Civil Servants and Rules made there under.
- He shall initially be on probation for a period of two years extendable upto three years.
- His service will be liable to termination at any time without assigning any reason thereof before the expiry of the period of probation/extended period of probation, if his work during this period is not found satisfactory. In such an event, he will be given a month's notice of termination from service on one month's pay in lieu thereof. In case he wishes to resign at any time, a month's notice shall be necessary or in lieu thereof a month's pay shall be forfeited.
- His service shall be liable to termination during probation period of one year without any notice.
- His seniority will be counted from the date issue of their regularization orders.

Sd/-(Muhammad Yousaf Khan)
Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

Copy forwarded to the :

- Chief Conservator of Forests, Northern Forest Region-II Abbottabad for favour of information, please.
- Conservator of Forests, Lower Hazara Forest Circle Abbottabad for favour of information with reference to his office letter No.10501/GE, dated 03-4-2015.
- Personal file of the official concerned for record
- Disburser of Circle Office Abbottabad for necessary action.
- All concerned.

Divisional Forest Officer
Patrol Squad Lower Hazara Circle
Abbottabad

بخدمت جناب عزت مآب کنزرویٹور آف فارسٹ صاحب لوہڑہ ہزارہ فارسٹ سرکل ایبٹ آباد

Annexure D-I

بواسطت :- ڈویژنل فارسٹ آفیسر پیٹرول سکواڈ ہزارہ ڈویژن ایبٹ آباد

جناب عالی ذی وقار

معروضات درج ذیل ہیں:-

1- عاجز اندہ التجا ہے کہ سائل کو بحوالہ آفس آرڈر نمبر 76 مجریہ 02-03-2010 کے تحت بطور (Telephone Operator) ٹیلی فون

آپریٹر BPS-5 میں خالی آسامی پر فکس تنخواہ پر بھرتی کیا گیا۔ کاپی لف ہے۔ (Annexure-I)

2- بعد ازاں تسلی بخش کارکردگی پر ہر سال بعد میرے کنٹریکٹ میں توسیع کی جاتی رہی اور تا دھمکیہ مورخہ 08-07-2015 کو بحوالہ

DFO Petrol Squad office order No 01 dated 08-07-2015 کو سائل کی سروس کو

ریگولرائزڈ (Regularized) کر دیا گیا جس میں واضح طور پر اس امر کی وضاحت کر دی گئی ہے کہ مارچ 2010 میں بھرتی ہونے والے

Telephone Operator کی سروس کو باقاعدہ طور پر ریگولرائزڈ (Regularized) کیا جاتا ہے اور سائل کی سروس بھرتی ہونے کی

تاریخ سے Regular ہے جبکہ اسی آفس آرڈر کے تحت سائل کو پنشن کے حق سے بھی محروم رکھا گیا جو کہ غیر قانونی ہے۔

(Khyber Pakhtunkhwa Employees Regularization of Service 2009) کی روشنی میں

سائل کی پچھلی پانچ سال کی سروس کو ریگولرائزڈ میں شامل کیا جائے۔ بصورت دیگر سائل کو ناقابل تلافی نقصان کا اندیشہ ہے۔

کاپی ایکٹ برائے ملاحظہ لف ہذا ہے۔ (Annexure-II)

3- یہ کہ موضوع بالا پر مفصل ہدایات اور عدالتی فیصلہ جات سائل کی التجا کو بھرپور تقویت پہنچاتے ہیں جنکے ملاحظے کے بعد آپ جناب نہایت مہربانی

فرما کر میری قانونی دادرسی فرمائیں گے۔ کاپیاں لف ہذا ہیں۔ (Annexure-IV-V)

4- لہذا استدعا ہے کہ سائل کی سروس کو از تاریخ تعیناتی مورخہ 02-03-2010 سے ریگولرائزڈ فرمائے جانے کا حکم صادر فرمائیں اور آفس آرڈر نمبر

01 مجریہ 08-07-2015 میں ضروری تصحیح فرمائی جانے کا حکم صادر فرمایا جائے۔ جو کہ ماورائے قانون ہے۔ ایک طرف تو مذکورہ آرڈر میں

سائل پر ختمہ تنخواہ سول سرونٹ ایکٹ 1973 کا اطلاق کیا گیا اور دوسری طرف سائل کو پنشن کے حق سے محروم کر دیا گیا ہے جو کہ سراسر غیر

قانونی فعل ہے۔

اس دادرسی پر سائل تمام عمر جناب کے لیے دعا گو رہے گا۔

Alice

DFO


آپکا فرمانبردار

وقاص ارشد

ٹیلی فون آپریٹر لوہڑہ ہزارہ فارسٹ سرکل آفس ایبٹ آباد

Amoziar

Page 121

Muhammad Yousaf Khan Conservator of Forests Lower Hazara Forest Circle Abbottabad		Civil Line Forest Offices Abbottabad ☎ 0992-9310232 FAX 0992-9310233 E-mail: cfhfc@gmail.com
No. <u>4774-75</u> /GE dated Abbottabad the <u>09</u> / <u>12</u> /2022		

✓ **Mr. Naveed Ahmad**

Tracer
Lower Hazara Forest Circle,
Abbottabad

✓ **Mr. Waqas Arshad**

Telephone Operator
Lower Hazara Forest Circle
Abbottabad

Subject

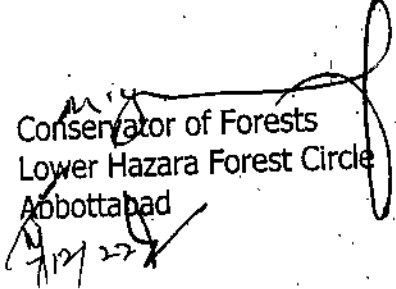
APPEALS

Memo.

Reference your appeals dated 26-11-2021

The appeals under reference cannot be considered ~~due to~~ being time-barred.

Conservator of Forests
Lower Hazara Forest Circle
Abbottabad



15

S.No. 184302
 Name of Advocate مدد محمد
 DBA NO. 291 TBA NO. _____
 BC No. _____ R.s.200/=



وکالت نامہ
 BIBI SALMA
 Finance Secretary
 District Bar Association
 Abbottabad

بعدالت سروس سٹریٹونل بسٹاور
 عنوان: موصوف صاحب
 منجانب: ایملائنٹ
 نوعیت مقدمہ سروس سٹریٹونل
 باعث تحریر آنکھ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام _____ کے لیے
مدد محمد عظیم
 کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بروقت پکارے
 جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر منظر حاضر نہ ہوا اور مقدمہ میری غیر حاضری کی وجہ
 سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پچھری کے
 علاوہ کسی جگہ یا پچھری کے اوقات سے پہلے یا پیچھے یا بروقت عین پیروی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ پچھری کے علاوہ کسی اور جگہ
 سماعت ہونے پر یا بروقت عین یا پچھری کے اوقات سے پہلے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے
 کسی معاوضہ کے ادا کرنے یا محتاجانہ کے واپس کرانے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداخت صاحب موصوف
 مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعوی یا جواب دعوی اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی و ہر قسم
 درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے
 اور ہر قسم کے بیان دینے اور اس پر ثانی و راضی نامہ و فیصلہ بر حلف کرنے اقبال دعوی دینے کا بھی اختیار ہوگا اور بصورت جانے بیرونجات
 از پچھری صدر اپیل و برآمدگی مقدمہ یا منسوقی ڈگری یکطرفہ درخواست حکم اپنا یا باقرنی یا گرفتاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب
 موصوف کو بشرط ادائیگی علیحدہ محتاجانہ پیروی کا اختیار ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکور یا اس کے
 کسی جزو کی کارروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں
 وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانہ التوا پڑے گا وہ صاحب موصوف
 کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ
 کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

موصوف صاحب محمد عظیم الرشید - ایملائنٹ

مورخہ: _____ / _____ / _____
 دن _____ ماہ _____ سال
 مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

نوٹ: وکالت نامہ کی فوٹو کاپی قابل قبول نہ ہوگی

Attested
 my
 Law