


# FORM OF ORDER SHEET

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

C.O.C application No. 743/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	22/12/2022	<p>The C.O.C application of Mr. Muhammad Ikram submitted today by Mr. Javed Ali Ghani Advocate. Original file be requisitioned. It is fixed for hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

BC: 10-5608

MOB: 0302-8180920

CNIC: 16102-7879836-3

**KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**

**CHECK LIST**

Muhammad Iqbal Versus

Secretary Industry

Appellant

Respondents

CONTENTS	YES	NO
This petition has been presented by: <u>Advocate</u> <u>Court</u>	✓	
Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
Whether appeal is within time?	✓	
Whether the enactment under which the appeal is filed mentioned?	✓	
Whether the enactment under which the appeal is filed is correct?	✓	
Whether affidavit is appended?	✓	
Whether affidavit is duly attested by competent Oath Commissioner?	✓	
Whether appeal/annexures are properly paged?	✓	
Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
Whether annexures are legible?	✓	
Whether annexures are attested?	✓	
Whether copies of annexures are readable/clear?	✓	
Whether copy of appeal is delivered to AG/DAG?	✓	
Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
Whether numbers of referred cases given are correct?	✗	
Whether appeal contains cutting/overwriting?	✓	
Whether list of books has been provided at the end of the appeal?	✓	
Whether case relate to this court?	✓	
Whether requisite number of spare copies attached?	✓	
Whether complete spare copy is filed in separate file cover?	✓	
Whether addresses of parties given are complete?	✓	
Whether index filed?	✓	
Whether index is correct?	✓	
Whether Security and Process Fee deposited? On	✓	
Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		
Whether copies of comments/reply/rejoinder submitted? On		
Whether copies of comments/reply/rejoinder provided to opposite party? On		

certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Javed Ali Khan

Signature:- [Signature]

Dated:- 21-12-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

COE APPLI. NO. 743/2022

Appeal No.425/2019

**Muhammad Ikram** ..... Appellant

**Versus**

Secretary Industry Commerce and Technical Education Department

and others..... Respondents

**INDEX**

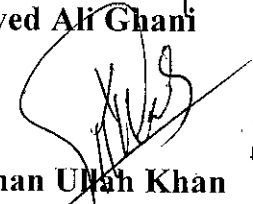
S.No.	Description of documents.	Pages.
1	Contempt petition with affidavit.	1-3
2	Attested copy of order/ judgment dated 31.01.2022	4-9
3	Attested copy of order/ judgment dated 03.11.2022	10-12
4	Copy of application - <i>noti fueron</i>	13
5	Wakalatnama.	14

Petitioner/ Appellant

Through

  
**Javed Ali Ghani**

&

  
**Aman Ullah Khan**  
Advocates High Court  
Peshawar.

Dated: 14.12.2022

0302-2180920

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

*COC Application no 743/2022*

Appeal No.425/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 2422

Dated 22/12/2022

**Muhammad Ikram** s/o Redi Gul  
Director Physical Education  
Govt. Polytechnic Institute, Takhtbai... Appellant

**Versus**

- 1) Secretary Industry Commerce and Technical Education Department,  
Civil Secretariat, Peshawar. (Mr.Saqib Raza Aslam).
- 2) Govt. of KP through Secretary Finance, KP, Civil Secretariat,  
Peshawar. (Mr.Ikram Ullah)
- 3) Govt. of KP through Secretary Establishment Department, Civil  
Secretariat, Peshawar. (Mr.Zulfiqar Ali Shah)
- 4) Managing Director Khyber Pakhtunkhwa TEVETA Headquarters,  
Peshawar. (Engr. Abdul Ghaffar Khan).

..... Respondents

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APPLICATION FOR INITIATION OF  
CONTEMPT OF COURT PROCEEDINGS IN  
REGARD TO VIOLATION AND  
DISOBEDIENCE OF ORDER OF THIS  
HON'BLE TRIBUNAL DATED 03.11.2022  
AND NOT HONOURING THE SAME  
ORDER IBID ORDER IN ITS TRUE LETTER  
AND SPIRIT UNDER THE LAW.

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*Respectfully Sheweth;*

- 1) That this Hon'ble Tribunal vide order dated 31.01.2022 accepted  
appeal of applicant/ petitioner. (Attested copy of judgment/ order  
dated 31.01.2022 is attached).


- 2) That petitioner approached the concerned authorities/ respondent No.1 for the implementation of judgment/ order dated 31.01.2022 but he paid no heed. ~~\_\_\_\_\_~~
- 3) That the petitioner approached this Hon'ble Tribunal through an application for implementation/ execution petition No.218/2022 and the same was decided vide order dated 03.11.2022.
- 4) That in order dated 03.11.2022 this hon'ble Tribunal while in the presence of the learned and worthy Advocate General and legal advisor along with representative take and assure this Hon'ble Tribunal that the same will be forwarded to for implementation to concerned authorities.
- 5) That the concerned authorities while assuring this Hon'ble Tribunal that on 18.11.2022 Provincial Selection Board is going to held its meeting and the implementation of the order dated 31.01.2022 will be honoured accordingly.
- 6) That on 18.11.2022 the PSB held its meeting and the said PSB was concluded while the names and the order of this Tribunal was not forwarded for further proceedings.
- 7) That this Hon'ble Tribunal while issuing the order dated 03.11.2022 directed the respondents that the order dated 31.01.2022 along with order dated 03.11.2011 will be implemented and executed, however, the same was not obeyed and honoured as per direction of this hon'ble Tribunal.
- 8) That as the respondents was again approached by the petitioner and the instant ibid orders were duly communicated prior to 18.11.2022 and after 18.11.2022 however, no proceedings or initiative was taken by the respondents for implementation and execution of the same.

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- 9) That as the respondents have violated, disobeyed and dishonour the directives, specific orders dated 30.01.2022 and 03.11.2022 and forwarding lame excuses, hence the instant petition.
- 10) That justice demands that order of this Hon'ble Tribunal may please be implemented in true letter and spirit.

It is, therefore, humbly prayed that contempt proceedings may kindly be initiated against the respondents and be punished and executed according to law on the subject.

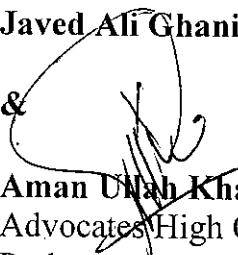
It is further prayed that respondents may also be directed to implement the order dated 30.01.2022 and 03.11.2022 of this Hon'ble Tribunal without any further delay or any other relief deemed fit in the circumstances of the case may also be granted.

  
Petitioner/ Appellant

Through

**Javed Ali Ghani**

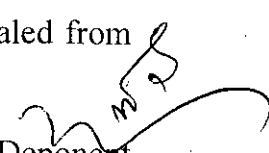
&

  
**Aman Ullah Khan**  
Advocates High Court  
Peshawar.

**AFFIDAVIT**

I, do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



  
Deponent  
CNIC 16102-7537310-5

1

BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR



Appeal No. 412/2019

Syed Jamal Shah Librarian Govt College of Technology,  
Tangi, District Charsadda.

(Appellant)

VERSUS

1. Govt of Khyber Pakhtunkhwa through Secretary Industry Commerce and Technical Education Department Peshawar.
2. Govt of Khyber Pakhtunkhwa through Secretary Finance Khyber Pakhtunkhwa, Peshawar
3. Govt of Khyber Pakhtunkhwa through Secretary Establishment Department Peshawar.
4. Managing Director Khyber Pakhtunkhwa TEVETA Head quarters Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 for allowing / antedating Seniority / Promotion to BPS-18, against which his Departmental Appeal dated 05.12.2018, was not responded despite the lapse of 90 days.

filed to-day  
Registrar  
01/4/2019

Praved in Appeal:

On acceptance of this Appeal the respondents may kindly be directed to allow the appellant seniority / promotion to BPS-18 on the basis of 25 % promotion Quota of sanctioned posts from BPS 17 to BPS 18 in the light of Notification date 27.02.2006 as similar relief has been granted to the colleagues of the appellant with all arrears and benefits.

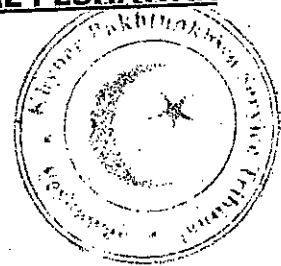
ATTESTED

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 412/2019

Date of Institution ... 01.04.2019  
Date of Decision ... 31.01.2022



Syed Jamal Shah, Librarian Government College of Technology, Tangi, District Charsadda. ... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Industry Commerce and Technical Education Department, Peshawar & Others. ... (Respondents)

Mr. Zartaj Anwar,  
Advocate

... For Appellant

Mr. Muhammad Adeel Butt,  
Additional Advocate General

... For respondents No. 1 to 3.

Mr. Ali Gohar Durrani,  
Legal Advisor,

... For respondent No. 4.

**AHMAD SULTAN TAREEN**  
**ATIQU-UR-REHMAN WAZIR**

...  
...

**CHAIRMAN**  
**MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-** This single judgment shall dispose of instant service appeal as well as the following connected service appeals, as common questions of law and facts are involved therein:-

1. Service Appeal No. 410/2019 titled Javed Iqbal,
2. Service Appeal No. 411/2019 titled Alamgir Shah,
3. Service Appeal No. 424/2019 titled Sultan Muhammad
4. Service Appeal No. 425/2019 titled Muhammad Akram
5. Service Appeal No. 426/2019 titled Abdul Aziz
6. Service Appeal No. 427/2019 titled Khalid Saleem

APPROVED



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02. The appellants in the instant service appeal and the connected service appeals are Librarians-BPS-17 and Director Physical Education (DPE) BPS-17. Both are employees of respondent No. 1 and both the cadres are sailing in the same boat with respect to the issue in hand. Briefly stated facts of the case are that the appellants were initially appointed as Librarian/DPEs BPS-16 on regular basis. The posts in respect of both the cadres were up-graded to BPS-17 vide order dated 15-08-2008 only for those holding the requisite qualification, but later on such posts were up-graded on regular basis to BPS-17 vide notification dated 23.02.2011 but with immediate effect, which however was required to be affected from the date of acquiring the prescribed degree. Feeling aggrieved, the appellants filed departmental appeals followed by Service Appeal No. 1342/2011 by Librarians and Writ Petition No. 4137-P/2016 by DPEs. The Service Tribunal as well as the High Court accepted their appeals vide judgment dated 08-06-2015 by the service tribunal and vide judgment dated 05-09-2017 by the High Court. The respondents challenged the judgment of Service Tribunal before the august Supreme court in Civil Petition Nos. 415 to 424, 426 to 438, 511 to 514-P of 2015, which were dismissed vide judgment dated 06.05.2016, hence the respondents did not prefer to contest the judgment of High, hence the respondents allowed up-gradation from the date of acquiring the requisite qualification vide order dated 28.09.2016. The episode went well to the extent of up-gradation from the date of acquiring the prescribed qualification, but on the other hand, the Government Of Khyber Pakhtunkhwa vide notification dated 27.02.2006 had approved placement of 25 % of the sanctioned posts of Librarians/DPEs BPS-16 in BPS 17 and 25% from BPS-17 to Senior Scale BPS 18. Other colleagues of the appellants were allowed senior scale BPS-18 and the appellants on the same analogy, submitted appeals before the respondents, which was worked out by the respondent department and out of sanctioned posts, five posts falling to the share of BPS-18 @ of 25% of sanctioned posts, but as a result of afterthought, the same was refused to the appellants. Feeling

EG/AT/IN/SE  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

ATTESTED

aggrieved, the appellants filed departmental appeal dated 05.12.2018, which was not responded within statutory period, hence the present appeals with prayers to allow the appellants seniority/promotion to BPS-18 from the date of entitlement alongwith all consequential benefits on the basis of 25% promotion quota of sanctioned posts from BPS-17 to 18 on the strength of notification dated 27-02-2006 as similar relief has already been granted to the colleagues of the appellants.

03. Learned counsel for the appellants has contended that the respondent department extended the benefit of BPS-18 on regular basis against the existing vacancies to other Librarians namely Sarwar Ullah and Ali Akbar while the appellants has been discriminated; that the appellants were holding the requisite qualification, hence after serving for more than five years as such, they were entitled to Senior Scale BPS-18 as per notification dated 27-02-2006; that even in a judgment reported as PLD 2013(SC)-195 the august Supreme Court has held that the statutory provisions, rules regulation which govern the matter of appointment of Civil Servants must be followed honestly and scrupulously; that respondent have discriminated the appellants by allowing promotion to their other colleagues and refusing the same to the appellants.

04. Learned Additional Advocate General appearing on behalf of the respondents has contended that previously the posts of Librarians/DPEs were in BPS-16. There was no further structure available for their promotion and keeping in view this hardship, the Government of Khyber Pakhtunkhwa Industries, Commerce & Technical Education Department vide its notification dated 27.02.2006 devised a structure for them whereby 25% of the total sanctioned posts of Librarians/DPEs BPS-16 were placed in BPS-17 while 25% of BPS-17 of the same cadres were placed in BPS-18. However, later on, all the posts of Librarians/DPEs BPS-16 were upgraded to BPS-17 vide Notification dated 15.08.2008 and 23-02-2011 and now none of these posts exists in BPS-16. Now

SECRETARY  
KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE &  
TECHNICAL EDUCATION  
DEPARTMENT  
ISLAMABAD

ATTENDED

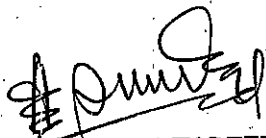



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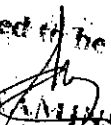
respondents had already made promotions in pursuance of the notification dated 27-02-2006, even after up-gradation of post to BPS-17, hence contention of the respondents does not hold ground. In a situation, denial of right of promotion would be discriminatory to the effect, that similar relief had already been granted to similarly placed employees against their existing vacancies, which does not require creation of posts, hence concern of the respondents regarding creation of posts is not tenable. Equity and fair play demands that the appellants also deserve the same treatment being the senior most and otherwise eligible.

07. In view of the above, instant appeal as well connected appeals are accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
31.01.2022

  
(AHMAD SULTAN TAREEN)  
CHAIRMAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)

*Certified to be true copy*  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 23/2/22  
Number of Words 2400  
Copying Fee 26/-  
Urgent -  
Total 26/-  
Name of Copy -  
Date of Completion of Copy 01/3/22  
Date of Delivery of Copy 01/3/22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

*Execution Petition no. 218/2022*

Diary No. 471

Appeal No.425/2019

Dated 16-4-2022

**Muhammad Ikram s/o Redi Gul**  
Director Physical Education  
Govt. Polytechnic Institute, Takhtbai.....



**Versus**

- 1) Secretary Industry Commerce and Technical Education Department,  
Civil Secretariat, Peshawar.
- 2) Govt. of KP through Secretary Finance, KP, Civil Secretariat,  
Peshawar.
- 3) Govt. of KP through Secretary Establishment Department, Civil  
Secretariat, Peshawar.
- 4) Managing Director Khyber Pakhtunkhwa TEVETA Headquarters,  
Peshawar.

..... Respondents

APPLICATION FOR IMPLEMENTATION  
OF JUDGMENT/ ORDER OF SERVICE  
TRIBUNAL DATED 31.01.2022

*Respectfully Sheweth;*

- 1) That this Hon'ble Tribunal vide order dated 31.01.2022 accepted  
appeal of applicant/ petitioner. (Attested copy of judgment/ order  
dated 31.01.2022 is attached).
- 2) That petitioner approached the concerned authorities/ respondent  
No.1 for the implementation of judgment/ order dated 31.01.2022  
but he paid no heed. (Copy of application is attached

**ATTESTED**  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



- 3) That respondent are not implementing the order/ judgment dated 31.01.2022 of this hon'ble Tribunal and have committed clear contempt.
- 4) That justice demands that judgment of this Hon'ble Tribunal may please be implemented in true letter and spirit.

It is, therefore, humbly prayed that respondents may please be directed to implement the order/ judgment dated 31.01.2022 in true letter and spirit and all the benefits be awarded after the decision of the Hon'ble Tribunal.

Petitioner/ Appellant

Through

Javed Ali Ghani

Aman Ullah Khan  
Advocates High Court  
Peshawar

**AFFIDAVIT**

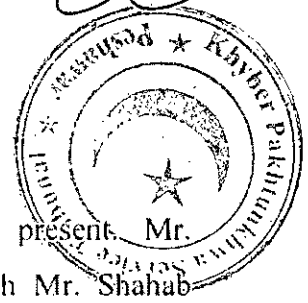
I, do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Deponent  
CNIC 16102-7537310-5

ATTESTED  
Gul Daraz Khan  
Advocate High Court Peshawar  
7/6/2023

ATTESTED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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3<sup>rd</sup> Nov, 2022

1. Learned counsel for the petitioner present. Mr. Muhammad Adcel Butt, Addl: AG alongwith Mr. Shahab Khattak, Legal Advisor for respondents present.

02. Representative of respondents produced copy of letter No. TEVTA/PER:/Pro/9466 dated 27.10.2022 addressed to the Section Officer-III, Government of Khyber Pakhtunkhwa Industries, Commerce & Technical Education Department, Peshawar with the request that promotion case of the petitioner be placed before the Provincial Selection Board for consideration. Learned counsel for the petitioner submits that the department may delay placement of the case before the PSB so a direction might be given that the case of promotion of the petitioner might be placed before the first convened PSB for consideration of his promotion. This petition is filed accordingly and incase the case of the petitioner is not placed before the first convened/scheduled PSB, he may submit an application for initiating contempt against the respondents. Consign.

3. *Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal on this 3<sup>rd</sup> day of November, 2022.*

  
(Kalim Arshad Khan)  
Chairman

Date of Presentation of Application 08/11/22

Number of Copies 1200

Number of Copies 14/5/1

Number of Copies 18/1

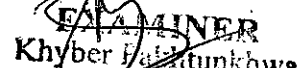
Number of Copies \_\_\_\_\_

Number of Copies \_\_\_\_\_

Date of Delivery of Copy 08/12/22

Date of Delivery of Copy 08/12/22

**Certified to be true copy**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

13

**COURT MATTER**



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
INDUSTRIES, COMMERCE & TECHNICAL  
EDUCATION DEPARTMENT**

No.SOIII(IND)1-1/2022/Librarian/ 1038-41  
Dated Peshawar the, 30<sup>th</sup> November, 2022

To

The Section Officer (PSB),  
Establishment Department,  
Khyber Pakhtunkhwa, Peshawar.

(4)

1.12.2022

Subject: -

**WORKING PAPER FOR PROMOTION OF LIBRARIAN BPS-17 TO THE  
POST OF LIBRARIAN (SENIOR SCALE) BPS-18**

I am directed to refer to the subject noted above and to forward herewith seven (07) sets of Working Paper along-with its relevant documents in favour of Librarian BPS-17 for promotion to the post of Senior Librarian (BPS-18) for placing before the Provincial Selection Board for consideration. In case, the PSB could not be scheduled in the month of December 2022, the same may be finalized through circulation so as to avoid contempt of court proceedings as mentioned in the execution petition (copy enclosed), please.

Encl: As Above

SECTION OFFICER-III

Endstt: No. & Date even:

Copy forwarded for information to the: -

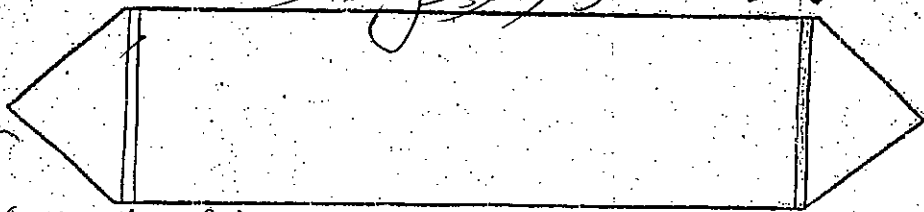
1. Managing Director KP-TEVTA with reference to letter No. KP-TEVTA/PER/Pro:/9466 dated 27.10.2022
2. PS to Secretary IC&TE Department
3. PS to Special Secretary IC&TE Department

SECTION OFFICER-III

o/c



# بعد النیت سرور ٹریبونل حکم نامہ



2022ء مئی 20  
بنام سرور ٹریبونل حکم نامہ

سرور ٹریبونل

موزخہ  
مقدمہ  
دعویٰ  
پر

## باعث تحریر آئینکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب دہی اور کل کارروائی متعلقہ  
آئین مقام

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
دکیل صاحب کو اس میں نامہ کرنے و تقریر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور  
باسورست ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یا بطرف یا اپیل کی برآمدگی اور مستثنیٰ  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی 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 اختیارات حاصل ہوں گے اور اس کا سہارا  
پر داخلہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دکیل صاحب پابند ہوں گے کہ پیردی  
مذکورہ کریں۔ لہذا کالت نامہ لکھ دیا کہ سند ہے۔

المرقوم ۱۶  
۲۰ دسمبر 2022ء

واہ العبد  
Accepted  
مقام

NIC  
16102-7537310-5