FORM OF ORDER SHEET

Court of	
	•
Case No	217/ 2023

S No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/1/2023	The appeal of Mr. Aziz Ahmad presented today by Mr. Ibad-ur-Rehman Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on Parcha Peshi is given to appellant/counsel.
		By the order of Chairman REGISTRAR
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Service Appeal No.

Aziz Ahmad

Versus

Secretary Population Welfare & others

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IBADUR RAHMAN

Advocate High Court 127-Sarhad Mansion Hashtnagri, GT Road

Peshawar.

Cell No. 0300-5932939

€)

Date. 24/01/2023

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 217 /2023

Aziz Ahmad, Family Welfare Asstt: (Male), FWC Torkham, Distt: Khyber

Appellant

Versus

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- 1- Secretary Population Welfare Department, Govt: of Khyber Pakhtunkhwa Peshawar.
- 2- Director General, Population Welfare Department, Sector E-8, Phase-7 Hayatabad, Peshawar.
- 3- District Population Welfare Officer, Main Landi Kotal Road, near Batti Muhammad Irshad, District Khyber.
 Respondents

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT AGAINST THE OFFICE ORDER NO.4(33)/2021-22/Admn:/6071-77 DATED 02/9/2022 AGAINST WHICH THE APPELLANT PREFERRED A DEPARTMENT APPEAL ON 13-9-2022 WHICH WAS REJECTED ON 15-12-2022 BUT TH SAME WAS COMMUNICATED TO THE APPELLANT ON 17-01-2023.

Respectfully sheweth,

Appellant submits as under :-

C)

1- That being fully eligible and after completion of all the codal formalities, the appellant was appointed as Family Welfare Assistant (BPS-5) in the then FATA in the Population Welfare Department in 2005.

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- 2- That after the merger of FATA, the Appellant was also granted BPS-7 and right from the initial appointment, the appellant was posted against various posts at different stations and different places.
- 3- That the appellant performing his duties so efficiently and dedicatedly and on different occasions, the appellant's services were duly acknowledged.
- 4- That during the service career as and when the appellant was deputed for any kind of training, the appellant attended the said curses and duly participated in all these courses with full zeal and zest. (Copy of the certificates are attached as Annex:-A).
- 5- That the appellant was deeply shocked when a charge sheet alongwith a Statement of allegations was served upon the appellant containing different baseless and fabricated charges. The said Charge Sheet was duly replied explaining all the situations. (Copy of the same are attached as Annex: B. C. D&E).
- 6- That the appellant was served with a Show Cause Notice dated 29-6-2022 which was also replied. (Copies attached as Annex:- F&G).
- 7- That the appellant received Office Order dated 02/9/2022(impugned herein) vide which a penalty of "Stoppage of One increment for a period of One year) was imposed upon the appellant. Against the said penalty, the appellant filed a departmental appeal but the same was also rejected. (Copies attached as Annex:- H, I & J).
- 8- That being aggrieved by the said impugned order dated 02-9-2022 and rejection of appeal letter dated 15-12-2022 (Communicated to the appellant on 17-01-2023, the appellant has left with no option but to approach this honourable Tribunal on the following grounds amongst others:-

GROUNDS:

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- A. That the both the orders dated 02-9-2022 and rejection letter dated 15/12/2022 are illegal, unjust, void ab initio, without lawful authority and nullity in the eyes of law.
- B. That the appellant has unblemished service career and there is nothing as single complaint against the appellant in the whole service career.
- C. That the charges mentioned in the Show Cause Notice were neither mentioned in the Charge Sheet nor in the statement of allegations. Thus the impugned Office order as well as rejection letter are liable to be set a side on this score alone.
- D. That the statements of the complainants were neither recorded in presence of the appellant nor the appellant has be given a chance to cross examine the persons.
- E. That copy of the so-called Inquiry Report has never been provided to the appellant which is sine qua non for imposition of any penalty.
 - F. That the appellant has been condemned unheard as no proper chance of personal hearing was ever provided by the respondents as well as by the Inquiry Officer.
 - G. That the appellant was duly present in his office during the month of October, 2021 to December, 2021 as is evident from the attendance Register but the respondents without any justification charges the appellant for the said allegations. (Copies of relevant pages of Attendance Register are attached at Annex:- K)
- H. That the impugned Office Order as well as rejection letter is harsh and bad in law and on facts.
- I. That the appellant be allowed to add any other grounds at the time of arguments.

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It is, therefore, humbly prayed that on acceptance of the appeal in hand, the impugned office order dated 02-9-2022 of the Respondent No.2 and rejection letter dated 15-12-2022 of the Respondent No.1 may graciously be set a side and the appellant be exonerated from the charged leveled against him.

Any other remedy deemed proper in the matter and not specifically asked for may also please be given with costs.

AZ-ZALLET APPELLANT

Through:

Date. 24/01/2023

IBADUR RAHMAN

Advocate High Court 127-Sarhad Mansion Hashtnagri, GT Road Peshawar.

Cell No. 0300-5932939

(5)

BEFORE THE HONOURABLE KP SERVICE TRIBUNAL PESHAWAR.

Aziz Ahmad, Family Welfare Assistant

 $\{1/2$

Versus

Secretary Population Welfare Deptt: & others

(3)

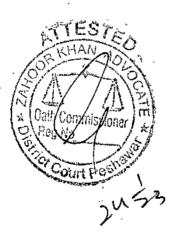
AFFIDAVIT

I, , Aziz Ahmad (Family Welfare Assistant s/o

, Population

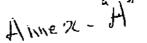
Welfare Department (Appellant) do hereby stated on oath that the contents of the annexed Appeal are true and correct to the best of my knowledge and nothing has been concealed from the honourable tribunal.

Dated <u>३५</u>/01/2023 .



13/3 flund Deponent 8 CNIC./7301-13/16859-7

33.





Serial No. 18

Certificate No. .5(95)/98

Government of Pakistan

POPULATION WELFARE TRAINING INSTITUTE

CERTIFICATE OF ACHIEVEMENT AWARDED TO

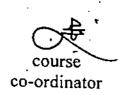
Aziz Ahmad

has successfully completed the course

Interpersonal Communication Skills

conducted by the institute

from 23rd May to 4th June, 2005





Principal
PWTI, Lahore

Attested





Certificate of Participation

This is to Certify that

Thomas

20th - 22rd OCTOBER, 2020

"Family Planning Convincing Techniques Through Interpersonal Communication Skills"

Participated in the Training Workshop On

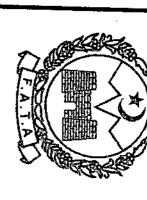
Population Welfare Training Institute, Peshawar

yed Imran Shah

Project Director Innovative Scheme Population Welfare Department

Syed Waheed-ul-Hassan

Principal
Population Welfare Training Institute
Population Welfare Department, Peshawar



MOT SIL ARMS

This is to certify that AZIZ AHMAD

has Participated

Organized by

and successfully completed HIV / AIDS Training

AIDS CONTROL PROGRAM Directorate of Health and

Population Welfare FATA with the support of UNICEF

AIDS Control Program FATA Program Manager

Programme Specialist FATA UNICEY/Peshawar

Population Welfare FATA Directorate Health and



GOVERNMENT OF KHYBER PAKHTUNKHWA OFFICE OF THE

DISTRICT POPULATION WELFARE OFFICER **DISTRICT KHYBER**



Main Landikotal Road, Near Tadi Bazar New Abadi, Batti Muhammad Irshad, District Khyber.

No. 1(1)/Admn/DPWO-K/

Dated the Khyber 12/05/2022

Τo

Mr. Aziz Ahmed, Family Welfare Assistant (Male),(BPS-07), FWC Torkham, District Khyber.

Subject: -

WILLFUL ABSENCE IN RESPECT OF MR. AZIZ AHMED, FAMILY WELFARE ASSISTANT (MALE), FWC TORKHAM.

Reference to Deputy Director (Admn), letter No. 4(33)/2022 (ADMN)/ 3303-045 dated 18-04-2022 on the subject noted above and to enclose herewith Charge Sheet and Statement of Allegations duly sign by the Competent Authority for acknowledgement and receipt.

Acknowledge receipt.

District Population Welfare Officer District Khyber

Endst: No. No. 1(1)/Admn/DPWO-K/

Dated: 12/05/2022

Copy forwarded for information and necessary action to the: -

- 1. Deputy Director (Admn), Director General, PW KP with reference to latter referred
- 2. Deputy Director (Merged Districts), PW, Khyber Pakhtunkhwa, Peshawar.
- 3. Mr. Abdus Salam, Assistant Director, (Merged Districts), PW, Khyber Pakhtunkhwa, Peshawar.
- 4. PS to Director General, PW, Khyber Pakhtunkhwa, Peshawar.

District Population Welfare Officer District Khyber

Awred C. (9)

CHARGE SHEET

I, Ayesha Ihsan, Director General, Population Welfare, Khyber Pakhtunkhwa as Competent Authority, hereby charge you Mr. Aziz Ahmad, Family Welfare Assistant (Male) BPS-07, FWC Torkham, Khyber as follows:

That you while posted as FWA (Male) BPS-07 in FWC Torkham, Khyber have committed the following irregularities:

- (a) That you do not perform your duties as per your job description and resultantly causing loss to the Govt. Exchequer by not performing your official duties.
- (b) That during the course of fact finding inquiry it has been revealed that you do not perform your field duty as no performance report has been shared.
- (c) That Dr. Abdul Qahar, I/C BHU Torkham, Dr. Maryam Medical Officer Torkham, Haji Muhammad, Pharmacy Technician BHU Torkham and local people of the area have also complained against you during the fact finding inquiry, that you do not perform duties in letter and spirit.
- 2. By reason, of the above, you appear to be guilty of <u>miscoolect</u> under Rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the rules ibid.
- 3. You are, therefore, required to submit your written defence within 10-days of the receipt of this charge sheet to the inquiry officer/inquiry committee, as the case may be.
- 4. Your written defence, if any, should reach the inquiry officer/inquiry committee as the case may be, within the specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
- 5. A statement of allegations is enclosed.

COMPETENT AUTHORITY

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· DISCIPLINARY ACTION

l, Ayesha Ihsan, Director General, Population Welfare, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Aziz Ahmad, Family Welfare Assistant (Male) BPS-07, FWC Torkham, Khyber has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. That he does not perform his duties as per his job description and resultantly causing loss to the Govt. Exchequer by not performing his official duties.
- ii. That during the course of fact finding inquiry it has been revealed that he does not perform his field duty as no performance report has been shared.
- That Dr. Abdul Qahar, I/C BHU Torkham, Dr. Maryam Medical Officer Torkham, Flaji Muhammad, Pharmaey Technician BHU Torkham and local people of the area have also complained against him during the fact finding inquiry, that he does not perform duties in letter and spirit.
- 2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/inquiry committee, consisting of the following, is constituted under Rule-10 (1) (a) of the rules, ibid.

i.	Abdus Salam AD FWC
ii.	1
iii.	

- 3. The inquiry officer/inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within sixty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
- 4. The accused and well conversant representative of the Department shall join the proceedings on the date, time & place fixed by the Inquiry Officer/Inquiry Committee.

COMPENSAUTHORITY

Attested

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Annex E

The District Population Welfare Officer,

District Khyber

Subject:

WILL FULL ABSENCE IN RESPECT OF MR. AZIZ AHMAD, FAMILY WELFARE ASSISTANT (MALE), FWC TORKHAM.

Reference:

Kindly refer to your office letter No. 1(1)/Admn/DPWO-K/ Dated 12.05/2022, In this regard written reply of Mr. Aziz Ahmad Family welfare assistant (Male) is as under

Charge Sheet: Reply to the Charges

- In the allegation of charges it has been charged against me, that I am not performing
 the duty where as I regularly attend my office for which copy of attendance register
 for the month of April attached.
- 2) It is further charged against me that I do not perform the field duty, actually whenever required I have performed in the field. The relevant report available in the office which can be provided as desired.
- 3) The People of the local area have also complaint against that I do not perform the duty, which is not correct and based on biasness. The same locality people have liking and disliking approach. I have performing my duty with zeal and zest written from local people as well as attendance register copy is attached for ready reference.

Keeping in view my explanation above it is therefore requested to please exonerate me for the charges levied on me.

Sincerely Yours

Family Welfare Assistant (Male)

FWC Torkham.

Aco

Attestad

SHOW CAUSE NOTICE

I. Mrs. Ayesha Ihsan, Director General, Population Welfare, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Aziz Ahmed, Family Welfare Assistant (Male) BPS-07, FWC Torkham as follows:

- (i) That consequent upon the completion of inquiry conducted against you
 by the inquiry officer for which you were given the opportunity of
 hearing on 30.05.2022 at 11:00 AM at FWC Torkham;
 - (ii) On going through the findings of the inquiry officer, the material on record and other connected papers including your defence before the inquiry officer.

I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the said rules:

- (b) Guilty of misconduct.
- (c) Guilty of habitually absenting yourself from duty without prior approval of leave.
- 2. As a result, thereof, I, as Competent Authority, have tentatively decided to impose upon you major penalty of "Removal from Service" specified under Rule-4 of the said rules.
- 3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.
- 4. If no reply to this notice is received, within 10-days or more than 14-days, of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer is enclosed.

(Mrs.Ayesha Ihsan)
Director General/Competent Authority
Population Welfare, Khyber Pakhtunkhwa,

Peshawar.



GOVERNMENT OF KHYBER PAKHTUNKHWA

OFFICE OF THE DISTRICT POPULATION WELFARE OFFICER DISTRICT KHYBER

Batti Muhammad Irshad, District Khyber. Dated Khyber the 18" July, 2022

Main Landikotal Road, Near Taddi Bazar New Abadi,

Τo,

The Director General,

Directorate General Population Welfare,

Khyber Pakhtunkhwa, Peshawar.

Subject:-

REPLY TO THE SHOW CAUSE NOTICE IN RESPECT OF MR. AZIZ AHMAD,

WELFARE ASSISTANT (MALE), FWC, TORKHAM

Respected Madam,

Kindly refer to the subject noted above and to enclose herewith a copy of reply to the Show Cause Notice submitted by Mr. Aziz Ahmad, Family Welfare Assistant (Male), FWC, Torkham for further necessary action.

It is further to mention that the above mentioned official has requested for grant of opportunity of personal hearing please.

Yours faithfully,

(Khalid Mehmood) District Population Welfare Officer District Khyber

Endst: No. 1(1)/Admn/2021-22/DPWO-K/

Dated: 18th July, 2022

Copy forwarded information to the:-

Deputy Director (MDs) Directorate General Population Welfare Khyber Pakhtunkhwa 1. Peshawar.

Assistant Director (Admn), Directorate General PW, Khyber Pakhtunkhwa, Peshawar. 2.

Mr. Aziz Ahmad, Family Welfare Assistant (Male), FWC, Torkham.

Master file.

District Population Welfare Officer District Khyber

District Khyber

The District Population Welfare Officer,

Subject:

SHOW CAUSE NOTICE.

Reference:

Kindly refer to your office letter F.No.4(33)/2020/4319-21 Dated

29.06.2022.

Respectfully I beg to state that the show cause notice served against me vide which I have been declared guilty of Rule-3 (b) Guilty of misconduct and (c) Guilty of habitually absenting yourself from duty without prior approval of leave, In this regard written reply is as under

- 1) In the allegation of charges it has been charged against me, that I am not performing the duty where as I regularly attend my office for which copy of attendance register for the month of April attached.
- 2) It is further charged against me that I do not perform the field duty, actually whenever required I have performed in the field. The relevant report available in the office which can be provided as desired.
- 3) It is further stated that People of the local area have also complaint against that I do not perform the duty, which is not correct and based on biasness. The same locality people have liking and disliking approach. I have performing my duty with zeal and zest written from local people as well as attendance register cony is attached for ready reserence.

Keeping in view my explanation above it is therefore requested to please withdraw the show cause notice served upon me. Moreover I may be given an opportunity for personal hearing to clear myself.

Sincerely Your

ÁZÍŽ AHMED

Family Welfare Assistant (Male),

FWC Torkham.

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GOVERNMENT OF KHYBER PAKHTUNKHWA DIRECTORATE GENERAL POPULATION WELFARE

Plot No.18, Sector E-8, Phase-VII, Hayatabad, Peshawar

Dated Peshawar the 02/09/2022.

OFFICE ORDER

10071-77

F.No.4(33)/2021-22/Admn:-Whereas, the DPWO, Khyber vide letter 1(56)/Admin/2021/DPWO-K/4328-32 dated 17.01.2022 reported the absentecism of the staff of FWC Torkham.

AND WHEREAS, After examining the report, fact finding inquiry was conducted vide order No. 4(33)/2021/Admn dated 08.02.2022. Likewise, in light of the findings of fact finding inquiry report, formal inquiry was initiated against Mr. Aziz Ahmed, Family Welfare Assistant (Male) BPS-07, FWC Torkham vide Order No. 4(33)/2022/Admn/3297-302 dated 18.04.2022 and charge sheet alongwith statement of allegations was served upon the accused vide letter No. 4(33)/2022/Admn/3303-05 dated 18:04,2022.

AND WHEREAS, On the outcome of formal inquiry, a show cause notice was served upon the concerned accused vide letter No. 4(33)/2022/Admn dated 29.06.2022. In response, the official concerned accordingly submitted his reply.

NOW, THEREFORE, The Competent Authority after having considered the absenteeism report forwarded by DPWO, Khyber, outcome of the formal inquiry, evidence on record, reply of the official concerned to the Show Cause Notice, by taking lenient view and exercising her powers under Rule-4 (1) (a) (ii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose minor penalty of "Stoppage of One (01) Increment for a period of One (01) Year" upon Mr. Aziz Ahmed, Family Welfare Assistant (Male) BPS-07, FWC Torkham with immediate effect. Furthermore, the absence period w.e.f 25.10.2021 to 31.12,2021 of the official concerned shall be treated as Extra Ordinary Leave (without pay).

The official concerned will remain under observation for a period of one year.

Sd/-(Director General/Competent Authority) Directorate of Population Welfare Khyber Pakhtunkhwa

Endst: No.4(33)/2021-22/Admn

Dated: 02, September, 2022

Copy forwarded to the following for information & necessary action:-

- 1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2. PS to Director General, Directorate of Population Welfare, Khyber Pakhtunkhwa, Peshawar.
- 3. DPWO, Khyber for information and necessary action under intimation to this office.
- 4. District Accounts Officer, Khyber for information and necessary action.
- 5. Mr. Aziz Ahmed, Family Welfare Assistant (Male) BPS-07, FWC Torkham.
- 6. P/F of the official concerned.
- 7. Master File Admn Section.

Assistant Director (Admn)

GS CamScanner

Annex: I

07-10-1070

The Secretary Population, Government of Khyber Pakhtunkhwa, Peshawar.

. Through Proper Channel

Bubject:

APPEAL IN RESPECT OF MINOR PENALTY OF E.O.L FROM 25-10-2021TO 31-12-2021 AND WITHHELD INCREMENT

Respected Sir,

Kindly refer to Director General Population welfare Office Order No F.No.4(33)/2021-22/Admn 6071-77 Dated 02-09-2022, With due regard it is stated that the Honorable Director General Imposed minor penalty of "Stoppage of One (01) increment for a period of One (01) Year" the period from 25-10-2021 to 31-12-2021 treated as absent period and the said period treated as Extra Ordinary leave (without pay). In this regard it is requested that I assured your good self that I was not absent on aforementioned period. My attendance report is attached herewith. Moreover it is stated that I am punctual and strive hard in performing my duties efficiently at far flung area of FWC Torkham. I, therefore, request your good self to please waive off the penalty that I have been imposed with considering my track record and performance.

For ~ | a, rl. 32 - 6 | x | 22

Sincerely Yours

Aziz Ahmad 13/9/22

Male Assistant FWC Torkham centre.

DPWG/Kugh

signed pl-M

Attested

XC7 2/x/22





GOVERNMENT OF KHYBER PAKHTUNKHWA, POPULATION WELFARE DEPARTMENT 02nd Floor, Abdul Wali Khan Multiplex, Civil Sceretariat, Peshawar

SOE(PWD) 4-103/2022/Appeal//2/38 Dated Peshawar the 15th December, 2022

To

Mr. Aziz Ahmad,
 Male Assistant FWC Torkham Centre,
 Population Welfare Department.

Subject: APPEAL IN RESPECT OF MINOR PENALTY OF E.O.L FROM 25-10-2021 TO 31-12-2021 AND WITHHELD INCREMENT.

With reference to your Appeal dated 13-09-2022 on the subject noted above. It is to intimate that your appeal has been rejected by the Secretary Population Welfare Department, Khyber Pakhtunkhwa in the capacity of Appellate Authority.

(SHAH BAKHT YOUSAFZAI)
-- SECTION OFFICER (ESTT)

ENDST: OF EVEN NO. & DATE:

Copy is forwarded to the:-

1. Director General, Population Welfare Khyber Pakhtunkhwa.

2. District Population Wehlare Officer, Khyber.

3. PS to Secretary, PWD, Khyber Paldminkhwa, Peshawar.

(ecercol on 17/01/2023

SECTION OFFICER (FSTT)

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Appeal No bols 23 منجانب البيلانسا عرسرا کر بنام سندسری دره دعوى باعث تحريراً نكه مقدمه مندرجه عنوان بالاميں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقه كيلي عبا والريك والران عال الريادة تن مقام كشارر مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کوراضی نامه کرنے ق تقرر ثالث و فیصله پر حلف دیئے جواب دہی اور اقبال دعوی اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارعرضی دعوی اور درخواست ہرقتم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہو گا۔ نیز صورت عدم پیروی یا ڈگری کیطرفہ یا اپیل کی برا مدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کامختاج 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 ہو گا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیار ات حاصل ہوں گے اوراس کا ساختہ پر داختہ منظور وقبول ہو گا دوران مقدمہ میں جوخرچہ ہر جانہ التوائے مقدمہ ہوں گے سبب سے وہوگا ۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حدسے باہر ہوتو وکیل صاحب یابند ہوں گے۔ کہ بیروی ندکورکریں لہذا وکالت نامہ کھدیا کہ سندر ہے۔ ر 20ء ع ماه کنوری المرقوم کے لئے منظور ہے۔