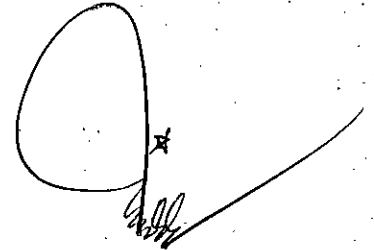


16.07.2020

None for the petitioner present. Addl: AG for respondents present.

On the previous date of hearing the case was adjourned through Reader note, therefore, the office shall issue notice to the petitioner and his counsel.

Adjourned to 18.08.2020 before S.B.



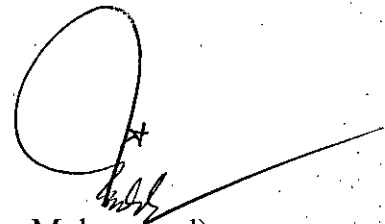
(Mian Muhammad)  
Member(E)

18.08.2020

None for the petitioner present. Mr. Ziaullah, DDA alongwith Mr. Abdul Wahid, AD for respondent No.2 present.

AAG is directed to make sure that the respondents produce before the court implementation report on the next date.

Adjourned to 08.10.2020 before S.B.

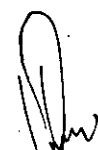


(Mian Muhammad)  
Member(E)

08.10.2020

Nemo for petitioner. Addl. AG alongwith Fazle Subhan, SO for the respondents present.

The representative of respondents has provided copy of order dated 29.06.2020 passed by the Apex Court in Civil Appeal No. 195-P/2020. The respected court has been pleased to allow the appeal and set aside the judgment under implementation. Placed on record. The proceedings are resultantly consigned to record.



Chairman

03.02.2019

Petitioner with counsel present. Addl: AG alongwith Mr. Fazal Subhan, SO for respondents present.

The respondents failed to act according to the directions contained in order sheet dated 18.12.2019. Last opportunity is granted to them to submit implementation report in pursuance to the order sheet referred to above. To come up for further proceedings on 17.03.2020 before S.B.

  
Member

17.03.2020

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak learned Addl. AG for the respondents present. Implementation report not submitted. Learned Addl. AG seeks time to furnish implementation report. To come up for further proceedings on 23.04.2020 before S.B.

  
Member

23.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 16.07.2020 for the same. To come up for the same as before S.B.

  
Reader

14.11.2019

Counsel for the petitioner and Addl. AG alongwith Fazle Subhan, S.O for the respondents present.

Representative of respondent No. 1 once again requests for further time to do the needful as noted in the order dated 15.10.2019.

Adjourned to 18.12.2019 on which date the respondents shall come up with a clear stance regarding the implementation status.

Chairman 

✓ 18.12.2019

Petitioner with counsel and Addl. AG alongwith Fazle Subhan, S.O for the respondents present:

The representative of respondents states that a CPLA against the judgment under implementation has been preferred before the Apex Court in which a date of hearing is yet to be fixed.

In case the judgment under implementation is not suspended or set aside by the Apex Court till next date of hearing the respondents shall produce the implementation report.

Adjourned to 03.02.2020 before S.B.

Chairman 

22.08.2019 Petitioner along his counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is absent therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit implementation report on the next date. Adjourned to 19.09.2019 for implementation report before S.B.

*MA*

(Muhammad Amin Khan Kundi)  
Member

18.09.2019 Nemo for the petitioner.

Notices be issued to petitioner as well as respondents. To come up for implementation report on 15.10.2019 before S.B.

Chairman *[Signature]*

15.10.2019 Petitioner alongwith counsel and Addl. AG alongwith Fazle Subhan, S.O for the respondents present.

The representative of respondent No. 1 requests for time to provide information regarding the status of implementation of judgment under execution.

Adjourned to 14.11.2019 before S.B.

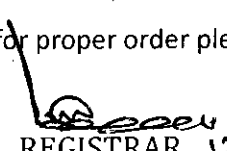


*[Signature]*

Chairman

Form- A  
FORM OF ORDER SHEET

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

Execution Petition No. 240/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.06.2019	<p>The execution petition of Mr. Bahadar Zaman submitted today by Mr. Mukamal Shah Taskin Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 12/6/19</p>
2-	13/06/19	<p>This execution petition be put up before S. Bench on <u>01/07/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
01.07.2019		<p>Petitioner in person present. Notices be issued to the respondents for implementation report for 22.08.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Application No. \_\_\_\_\_/2019  
In Re S.A 386/2017

*Execution Petition No. 240/2019*

Bahadar Zaman

**VERSUS**

Government of Khyber Pakhtunkhwa and others

**INDEX**

<i>S#</i>	<i>Description of Documents</i>	<i>Annex</i>	<i>Pages</i>
1.	Grounds of Appeal		1-2
2.	Affidavit.		3
3.	Addresses of Parties.		4
4.	Copy of S.A # 386-P/2017 dated 19/02/2019	"A"	5-14
5.	Wakalatnama		15

Dated: 12-06-2019

Through

Petitioner

*Mukamil Shah Taskin*  
**Mukamil Shah Taskin**  
Advocate High Court  
Peshawar.

D

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Application No. \_\_\_\_\_/2019  
In Re S.A 386/2017

*Execution petition No. 240/2019*

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 662

Dated 12-6-2019

Bahadar Zaman S/O Zafar Khan, R/O Ex-HM-  
GHS Rashid Garhi, Peshawar.

-----(*Appellant*)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary (Elementary and Secondary) Education Khyber Pakhtunkhwa Peshawar.
2. Director (Elementary and Secondary) Education Khyber Pakhtunkhwa Peshawar.
3. Section Officer (HRD-II) Government of Khyber Pakhtunkhwa Establishment Department, Peshawar.

-----(*Respondents*).

**APPLICATION FOR IMPLEMENTING THE  
ORDERS/ JUDGMENT OF THIS AUGUST  
Tribunal IN S.A# 386-P/2017 DATED  
19/02/2019.**

**Filed to-day**

**Registrar**

**RESPECTFULLY SHEWETH.**

1. That the Petitioner filed a S.A # 386-P/2017 against the Respondent, which was accepted vide order / judgment dated 19/02/2019 by this August Tribunal. (Copy of S.A # 386-P/2017 dated 19/02/2019 is annexed herewith as annexure – "A").

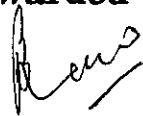
2. That certificate copy of the order mention above has already been sent/handed over to the Respondents by this Tribunal vide diary No. 375, dated 05/03/2019, received in the office of the Respondent on 12/03/2019, for its implementation.

3. That the Respondents were requested time and again but the Respondents were so far not implemented the aforesaid order of this Hon'ble Tribunal, in its true litter and spirit hence the instant application.

*It is, therefore, most humbly prayed that on acceptance of the Respondent may be graciously be directed to implement the order judgment or this Hon'ble Tribunal.*

*Any other relief which not specifically asked in the circumstances may also be awarded to the Petitioner.*

Dated: 12-06-2019



Petitioner

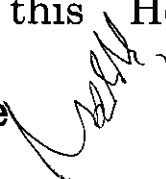
Through

**Mukamil Shah Taskin**  
Advocate High Court  
Peshawar

**NOTE :-**

As per information of my client no such like petition has been earlier filed before this Hon'ble Tribunal.

Advocate





4

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Application No. \_\_\_\_\_/2019  
In Re S.A 386/2017

Bahadar Zaman

**VERSUS**


Government of Khyber Pakhtunkhwa and others

**AFFIDAVIT**

I, Bahadar Zaman S/O Zafar Khan, R/O Ex-HM-GHS Rashid Garhi, Peshawar, do hereby solemnly affirm and declare that all the contents of the **accompanied application** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Tribunal.

  
**DEPONENT**

Identified By :

  
**Mukamil Shah Taskeen**  
Advocate High Court  
Peshawar.



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**BEFORE THE HON'ABLE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL PESHAWAR**

Application No. \_\_\_\_/2019  
In Re S.A 386/2017

Bahadar Zaman

**VERSUS**

Government of Khyber Pakhtunkhwa and others

**ADDRESSES OF PARTIES**


**Petitioner.**

Bahadar Zaman S/O Zafar Khan, R/O Ex-HM-GHS  
Rashid Garhi, Peshawar.

**RESPONDENTS:**

1. Government of Khyber Pakhtunkhwa through  
Secretary (Elementary and Secondary)  
Education Khyber Pakhtunkhwa Peshawar.
2. Director (Elementary and Secondary) Education  
Khyber Pakhtunkhwa Peshawar.
3. Section Officer (HRD-II) Government of Khyber  
Pakhtunkhwa Establishment Department,  
Peshawar

Dated: 12-06-2019

Petitioner  
Through   
**Mukamil Shah Taskin**  
Advocate High Court  
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

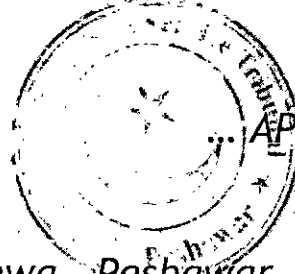
Khyber Pakhtunkhwa  
Service Tribunal

Services Appeal No. 386 /2017

Diary No. 408

Dated 19-4-2017

Bahadar Zaman S/o Zafar Khan Ex-HM-GHS Rashid Garhi,  
Peshawar.



APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar, through secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary education, Khyber Pakhtunkhwa, Peshawar.
3. Section Officer (HRD-II) Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.

... RESPONDENTS

Filed to-day

Registrar

(19/4/17)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974 AGAINST THE ACT OF THE RESPONDENTS WHEREBY THE APPELLANT HAS BEEN CONSIDERED FOR PROMOTION TO THE POST OF HEAD MASTER BPS-18 WHILE JUNIORS TO HIM WERE PROMOTED AGAINST WHICH THE DEPARTMENTAL APPEAL DATED 22/12/2016 HAS NOT YET BEEN RESPONDED DESPITE THE LAPSE OF 90 DAYS

Re-submitted to -day  
and filed.

Registrar

21/4/17

Respectfully Sheweth,

1. That the appellant was appointed in the department on 05/03/2011 and was admitted as

APPELLANT  
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service appeal No. 386/2017

Date of institution ... 19.04.2017

Date of decision .... 19.02.2019



Bahadar Zaman S/o Zafar Khan EX-HM-GHS Rashid Garhi, Peshawar.

... (Appellant)

Versus

Government of Khyber Pakhtunkhwa, Peshawar, through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and Two (02) others.

... (Respondents)

Present

Mr. Mukamil Shah Taskin  
Advocate

...

For appellant.

Mr. Muhammad Jan  
Deputy District Attorney

...

For respondents.

MR. HAMID FAROOQ DURRANI,  
MR. MUHAMMAD HAMID MUGHAL,

...

...

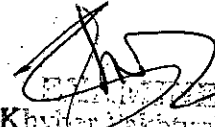
CHAIRMAN  
MEMBER(J).

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

Instant post retirement service appeal has been preferred by the appellant containing the prayer that he may be granted Pro-forma promotion status of the post of Head Master (BPS-18) in accordance with revised seniority list dated 20.05.2011 and also the arrears and benefits since 28.02.2011.

2. The facts as laid in the memorandum of appeal suggest that the appellant was appointed as SPT in Education Department on 05.03.1974, During the course of his service he was promoted as In-charge Head

**AT TESTED**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Master (BPS-17) on 03.08.1997 and was regularized on 27.05.2003. In pursuance of a judgment of the court and recommendations of the committee, the service of appellant was regularized from the first date of promotion dated 30.08.1997 through notification dated 20.05.2011. On 28.02.2011 a DPC meeting, regarding promotion of HM/SS from BPS-17 to BPS 18, was held wherein some HM's of the batch of 1998 & 1999 who were junior to the appellant were included while the name of appellant was held back. The appellant, upon reaching the age of superannuation, got retire on 19.03.2011. It was reiterated in the memo that the revised seniority list dated 20.05.2011 reflected the name of appellant at serial No.217 while some junior officers to the appellant noted at serial numbers subsequent to that of appellant, were promoted from BPS-17 to BPS-18 on Notional basis. The appellant upon gaining knowledge about benefits being extended to his juniors, made request to respondents for the needful but to no avail. On 22.12.2016, a departmental appeal was submitted by him which remained un-responded.

3. After admission of instant appeal for regular hearing the respondents were put on notice and were also required to furnish their comments with regard to the appeal. In the said comments, submitted on 22.08.2017, it was inter-alia noted:-

"4. That Para-4 is correct that on 28.02.2011 PSB/DPC meeting regarding promotion of HM/SS from BPS-17 to 18 was held wherein, most of the eligible officials were promoted of batch of 1989-99, but the name of the appellant was not included. However, later, on, the case of the

**TESTED**  
**MANAGER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

appellant regarding the grant of promotion from B-17 to 18 on notional basis/ creation of supernumerary post of BPS-18 w.e.f. 28/02/2011 to 19/03/2011 has been submitted to the Respondent No.1 by the respondent No.2 vide office memo: No. 722/A-12/E-1/PF/Bahadar Zaman (Rtd) HM dated 217/2017, in response to the letter No: SO(SM)/E&SED /1-3/2017/Promotion/Bahadar Zaman from BPS-17 to BPS-18 dated 19/06/2017 of the Section Officer (S/ Mr. Muhammad Jan, Deputy District Attorney) E&SE Department KPK Peshawar & as & when the sanction for the creation of supernumerary of BPS-18 w.e.f the 28/2/2011 to 19/3/2011, the appellant shall be promoted to BPS-18 on Notional basis. (Copies of the said letters are attached as Annexure-C,D,E,F,G&H)."

4. The contents of above reproduction of portion of reply by respondents clearly suggest that the claim of appellant was genuine and the respondents had started processing the case for his Notional promotion. The said process, however, was not completed till the date of decision of instant appeal.

5. In view of the above concession by the respondents and principle of consistency, we allow the appeal in hand as prayed for. Parties are left to bear respective costs. File be consigned to the record room.

(Hamid Farooq Durrani)  
Chairman

(Muhammad Hamid Mughal)  
Member

Certified true copy  
Khyber Pakhtunkhwa  
Services Tribunal,  
Peshawar

**ANNOUNCED**  
19.02.2019

Date of Presentation of Appeal \_\_\_\_\_ 22-2-19  
Number of Words \_\_\_\_\_ 1600  
Copying Fee \_\_\_\_\_ 10.00  
Urgent \_\_\_\_\_  
Total \_\_\_\_\_ 10.00  
Name of Copyist \_\_\_\_\_  
Date of Completion of Copy \_\_\_\_\_ 28-2-19  
Date of Delivery of Copy \_\_\_\_\_ 28-2-19

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa  
Service Tribunal

Services Appeal No. 386 /2017

Diary No. 408

Dated 19-4-2017

Bahadar Zaman, S/o Zafar Khan. Ex-HM-GHS Rashid Garhi,  
Peshawar.



APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa, Peshawar, through secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary education, Khyber Pakhtunkhwa, Peshawar.
3. Section Officer (HRD-II) Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.

... RESPONDENTS

Filed to-day

Registrar

19/4/17

APPEAL UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT 1974  
AGAINST THE ACT OF THE RESPONDENTS  
WHEREBY THE APPELLANT HAS BEEN  
CONSIDERED FOR PROMOTION TO THE POST OF  
HEAD MASTER BPS-18 WHILE JUNIORS TO HIM  
WERE PROMOTED AGAINST WHICH THE  
DEPARTMENTAL APPEAL DATED 22/12/2016  
HAS NOT YET BEEN RESPONDED DESPITE THE  
LAPSE OF 90 DAYS

Re-submitted to -day  
and filed.

Registrar

20/4/17

Respectfully Sheweth,

- i. That the appellant was appointed in the  
department on 05/02/11  
admitted

APPOINTED

Registrar  
Peshawar

②

(10)

Master BPS-17 on 30/08/1997 and was regularized vide notification dated 27/05/2003. (Copies of notifications are annexed as A & B, respectively). p-17

2. That the appellant was placed at Serial no. 594 in the tentative seniority list of HM/SS, being maintained by the Education Department vide notification dated 10/11/2010. (Copy of seniority list is annexure C).

3. That in pursuance of the court judgment and recommendation of the committee the appellant was regularized from the first date of promotion i.e. 30/08/1997 vide notification dated 20/05/2011, at serial No. 217. (Copy of notification dated 20/05/2011 is annexed as D). p-29

4. That on 28/02/2011, PSB/DPC meeting regarding promotion of HM/SS from BPS-17 to BPS-18 was held wherein most HMs/SS of the batch of 1998-1999 junior to the appellant were included in the aforesaid PSB/DPC meeting, but the name of the appellant was ignored because the revised seniority list was not issued on relevant time. (Copy of PSB/DPC meeting is annexed as E). p-29

5. That on 19/03/2011, after completion the period of service of attaining the age of superannuation the appellant took his retirement. (Copy of retirement is annexure F).

6. That as stated in para no.3, revised seniority list was issued on 20/05/2011, not on relevant time, after the →-23

Alleged  
copy



(5)

(11)

retirement of the appellant, wherein the appellant was placed at serial no. 217 while some of junior to the appellant i.e. Serial No. 289, 290, 310, 330, 343 and 352 in revised seniority list were promoted from BPS-17 to BPS-18 on notional basis in response to the court judgment dated 08/03/2013, vide notification dated 09/10/2015. (Copy of notification dated 09/10/2015 is annexure G)

7. That one Faqir Muhammad SS of the same status was promoted from BPS-17 to BPS-18 on notional basis after his retirement vide notification dated 16/04/2015 at serial no. 179. (Copy of notification dated 16/04/2015 is annexure H).

8. That one Inayat Ullah HM has also been given the same benefit after his retirement, vide corrigendum dated 04/05/2015. (Copy of corrigendum dated 04/05/2015 is annexure I).

9. That one Umar Nawaz Khan HM has also been given the same benefit after his retirement vide notification dated 25/04/2014. (Copy of notification dated 25/04/2014 is annexure J).

10. That when the appellant got knowledge that the above cited persons have been given their due benefits, he made requests for issuance of minutes of PSB/DPC dated 28/02/2011, which were issued to the appellant on 17/11/2016, and received by the appellant on 24/11/2016 hence the respondents were approached time and again,

Faqir  
Muhammad

(6)

(12)

and on 22/12/2016 a departmental appeal was submitted which has not yet been responded despite lapse of 90 days, hence the instant appeal on the following grounds inter alia: (Copy of Departmental appeal etc annexed)

Grounds:

- A. That the act of the respondent by not given his due rights for promotion to BPS-18 is illegal against the law, facts and circumstance.
- B. That having a protective constitutional rights accepted by the respondent concerning the promotion of the appellant from BPS-17 to BPS-18 made on 28/02/2011, corrigendum, therefore, having been issued on 20/05/2011, in pursuance of the judicial adjudication, the appellant has the right to be released the benefits with recognition of his promoted status and the release of benefit of such stance, the refusal of it is not in the eye of law, hence the same is not sustainable.
- C. That having a status as per with the other promoted candidate rather junior from the appellant having been promoted by the treating the appellant discriminately which is not constitutionally permissible.
- D. That the case of the appellant and that of other cited above are similar and identical in nature,

AKS  
LMA

(5) (13)

hence the appellant is also entitled to the same relief as per judgment reported 2009 SCMR 1 wherein it has been laid down.

"if a tribunal or this court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also who may not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum"

E. That any other grounds not raised here specifically may also very kindly be granted in favour of the appellant.

It is, therefore, humbly prayed that on acceptance of this appeal the appellant be granted promotion status of the post of HM, BPS-18 in accordance with revised seniority list dated 20/05/2011, since his date entitled along-with grant of benefit including the arrears since 28/02/2011 as per promotion, onward, the regularization of benefit in pension / with all consequential benefit and on notional basis as well, and the respondent

ALG  
Mans

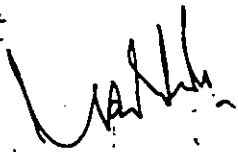
(14)

may be directed that the appellant be granted his remaining un-assessed amount in shape of residence pension after due calculation of the pensioner benefit with grant of additional relief, not specifically prayed, but is available for the appellant to avail in the ends of justice.

Dated: 18/04/2017

  
Appellant

Through

  
MUKAMIL SHAH TASKIN

Advocate, High Court, Peshawar

CERTIFICATE:

Certified that no such like appeal has earlier been filed before this Honourable Tribunal.

  
Advocate



قیمت  
50 روپے

16541



ایڈوکیٹ: علی شاہ کھوسو

بار کونسل/ایسوسی ایشن نمبر: bc-10-7570

رابطہ نمبر: 0342900432

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: منیر بخشونخواہ / دوسرا سرپرست

مخانب: سائل	دعویٰ:
بجاء در زمان	علت نمبر:
بنام	مورخہ:
حکومت KPK دوسرا	جرم:
	تھانہ:

**باعث تحریر آتکہ**

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

آن مقام سے رسے کیلئے حکم شاہ کھوسو کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 12-6-19

العبد \_\_\_\_\_ گواہ شد \_\_\_\_\_ العبد

مقام \_\_\_\_\_ کے لیے منظور ہے۔