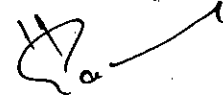


18.02.2020

Learned counsel for the appellant present and seeks withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.



(Muhammad Hamid Mughal)
Member

ANNOUNCED.

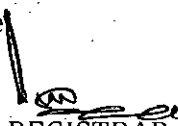


18.02.2020

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1713/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/12/2019	<p>The appeal of Mr. Kirman Ali presented today by Syed Mudassir Pirzada Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR 9/12/19</p>
2-	10/12/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>08/01/20</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	08.01.2020	<p>Nemo for appellant: Notices be issued to appellant/counsel. To come up for preliminary hearing on 18.02.2020 before S.B.</p> <p style="text-align: right;"> Chairman</p> <p><i>I have Jay with Kirman the appeal 18/2/2020</i></p>

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal 1713 2019

Kirmán Ali S/o Marjan Ali Ex-S.I R/o Usterzai Bala Kohat.

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)


INDEX

Sr No	Description of Documents	Annexure	Page
1	Memo of Appeal		1-4
2	Affidavit		5
3	Address of the Parties		6
4	Copy of impugned Order dated 01-08-2019 along with Charge sheet and Disciplinary Action and the reply to charge sheet	A	7-10
5	Copy of Departmental representation dated <u>26-08-19</u>	B	11-14
	Wakalatnama		


Appellant

Through

Date 9 / 12 / 19


Syed Mudasir Pirzada
Advocate P.H.C
0345-9645854

BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Kirman Ali S/o Marjan Ali Ex-S.I R/o Usterzai Bala Kohat.

Appeal No - 1713

(Appellant)

VERSUS

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1792

1. INSPECTOR GENERAL POLICE KPK PESHAWAR.

2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT

Dated 09/12/2019

3. DISTRICT POLICE OFFICER KOHAT.

(Respondent)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 01-08-2019 VIDE OB-NO-959 IN WHICH THE RESPONDENT NO:-3 ILLEGALLY AWARD THE PUNISHMENT OF DISMISSAL FROM SERVICE WITH IMMEDIATE EFFECT WITHOUT ANY LAWFUL JUSTIFICATION AND THE APPELLANT PREFERRED DEPARTMENTAL REPRESENTATION DATED 26-08-2019 AND BUT THE SAME WAS NOT ENTERTAIN NOR CONSIDER TILL TO DATE

Pray:

In view of above submission it is requested, by accepting of instant service appeal the impugned order of Respondent No-3 may please be set aside and the present appellant service may please be re-instate with all back benefits .

Respectfully Sheweth,

With great veneration the instant appeal is preferred by the appellant on the following grounds:

Facts:

1:- Briefly facts as per impugned order are that the appellant while serving as SHO PS Cantt on the basis of source that the appellant had cultivated relationship with criminal by showing way for their release from the clutches of law.

2:- That on the basis of secret source the appellant was served with the charge sheet and statement of allegations without any personal hearing without following the rules regulation directly impose major punishment of dismissal from service (Copy of impugned order & Charge sheet etc is annexed as annexure A) .

3:- That there is nothing is on the record which connect the appellant with the allegation nor proved and the appellant is blessed with impugned punishment which is not warranted by law.

4:- That an unjust has been done with the appellant by not giving ample opportunity of cross examination as well as not heard in person nor properly enquired the allegation. Just on the basis of secretly probing held guilty the appellant without following the prescribed rules relating to enquiry proceedings as per Police Rules 1975 (amended 2014).

Medio-day
Registrar
09/12/19

5:-That nothing has been proved beyond any shadow of doubt that the appellant had committed any misconduct or tarnished the image of Police department.

6:-That there are numerous good entries in the service record of the appellant which could be verified but this fact has not been taken in consideration while awarding the major punishment which is against to the canon of justice.

7:-That the appellant was neither provided an opportunity to cross examine the witnesses nor to produce defense evidence and the enquiry proceedings accordingly defective. Furthermore the requirements of rules regarding enquiry have not been observed while awarding the impugned punishment.

8:- That no proper enquiry has been conducted nor any statement of any person available on record nor any source has been defined which encourage towards the impugned order moreover only on the basis of rumor the appellant has been blessed with the impugned order it also worth mentioning here that in the impugned order and no evidence is on record nor any call recording or other source of information against the appellant produce against the appellant which connect the appellant with the allegation.

9:-That the appellant was aggrieved from the impugned order prefer departmental representation before the respondent NO- 3 which was still not entertain nor consider till to date (Copy of departmental representation is annexed as annexure B)

8:-That the appellant dragged unnecessarily into litigation which is clearly mentioned in 2008 SCMR 725.

9:-That while awarding the impugned major punishment the enquiry report has not been given to the appellant which is very much necessary as per 1991¹ PLC CS-706 & PLC 1991 584.

Grounds:

- a. That during so called enquiry none from the general public was examined in support of the charges leveled against the appellant. No allegation mentioned above are practiced by the appellant nor proved against any cogent reason against the appellant.
- b. That the appellant was neither intimated nor informed by any source of medium regarding enquiry proceedings for any disciplinary action which shows bias on the part of quarter concern.
- c. That the punishment is harsh in nature and the appellant is vexed for undone single offence which is against the constitution of Islamic republic of Pakistan 1973.
- d. That the appellant is honest and dedicated one and leave no stone unturned to discharge his duties.

- e. That as per universal declaration of human rights 1948 prohibits the arbitral / discretion.
- f. That the respondent No-3 has acted whimsically and arbitrary, which is apparent from the impugned order.
- g. That the impugned order is not based on sound reasons and same is not sustainable in the eyes of law. The same is based on wrong assumption of facts.
- h. That the departmental enquiry was not conducted according to the rules.
- i. That the impugned order is outcome of surmises and conjecture.

Pray:

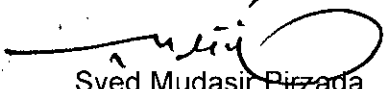
In the view of above circumstances it is humbly prayed that the impugned order of respondent No-3 date 01-08-2019 Kohat may please be set aside for the end of justice and the appellant may please be graciously re-instated in service with all back benefits.



Appellant

Through

Date 9 / 12 / 19



Syed Mudasir Pirzada
Advocate HC
0345-9645854

Certificate:-

Certified that no such like appeal has earlier been filed in this Hon able Service tribunal as per instruction of my client.

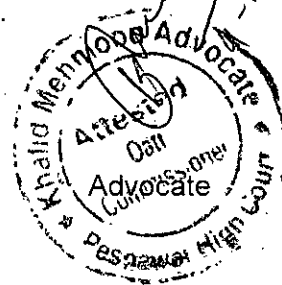
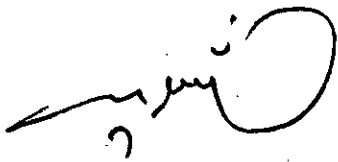
List of Books

- 1:- Constitution of Pakistan 1973
- 2:- Police Rules
- 3:- Case Law according to need.

Service Appeal _____ 2019

AFFIDAVIT

I, Syed Mudasir Pirzada Advocate, as per instruction of my client do here by solemnly affirm and declare that all the contents of accompanying service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



BEFORE THE KHYBER PAKHTOON KHWA SERVICE TRIBUNAL PESHAWAR.

Kirman Ali S/o Marjan Ali Ex-S.I R/o Usterzai Bala Kohat.

(Appellant)

VERSUS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT. (Respondent)

ADDRESS OF THE PARTIES

APPELLANT :-

Kirman Ali S/o Marjan Ali Ex-S.I R/o Usterzai Bala Kohat.

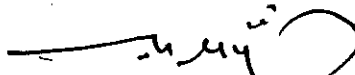
RESPONDENTS

1. INSPECTOR GENERAL OF POLICE KPK PESHAWAR.
2. DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION KOHAT
3. DISTRICT POLICE OFFICER KOHAT.



Appellant

Through



Syed Mudasir Pirzada
Advocate PHC
0345-9645854

Date 9 / 12 / 19



OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT

ORDER

Amir A
P-7

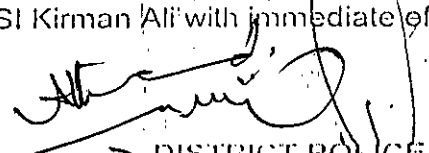
This order will dispose of departmental proceedings initiated against Offg: Inspector Kirman Ali the then SHO PS Cantt (now SI) (hereinafter called accused) under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014).

2. Facts arising of the proceedings are that it was learnt from reliable source that the accused while posted as SHO Police Station Cantt had cultivated relationship with criminal by showing way for their release from the clutches of law

3. The accused officer was served with charge sheet & statement of allegations and SP Operations Kohat was appointed as enquiry officer to scrutinize the conduct of the accused. The charge/allegation established by the enquiry officer was he had links with criminals.

4. In view of above, available record and secret source I reached to the conclusion that the accused has links with the notorious criminals and earned bad name, to the department. Therefore, he is a black stigma on Police. Besides above, the accused was proceedings a departmentally on the score of misappropriation of recovered money case property in FIR No. 153/2019 u/s 382/34 PPC PS Jarma and reverted from the rank of Offg: Inspector to substantive rank of SI.

5. In the light of above, and available record, I reached to the conclusion that the accused official has committed a gross professional misconduct. Therefore, in exercise of power conferred upon me, I Capt. @ Wahid Mehmood, District Police Officer, Kohat impose a major punishment of dismissal from service on SI Kirman Ali with immediate effect


DISTRICT POLICE OFFICER,
KOHAT

OB No. 959 (1700)

Date 01-8-2019

No 9232-361 PA dated Kohat the 01-08 2019.

Copy of above to the:-

1. Regional Police Officer, Kohat.

2. Reader, Pay officer, SRC and OHC for necessary action.


DISTRICT POLICE OFFICER,
KOHAT



Office of the
District Police Officer,
Kohat

No 8363-64/PA

Dated 11-7-2019

Ameer
R-8

CHARGE SHEET:

CAPT @ WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT, as competent authority under Khyber Pakhtunkhwa Police Rules (amendments 2014) 1975, am of the opinion that you Inspector Kirman Ali the then SHO PS Cantt rendered yourself liable to be proceeded against, as you have committed the following act/omissions within the meaning of Rule 3 of the Police Rules 1975.

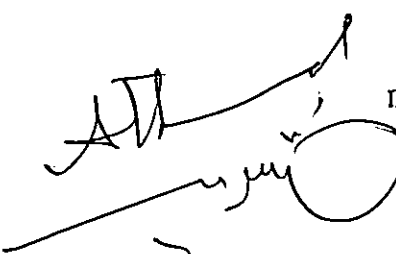
It has been learnt through reliable source that you Inspector Kirman Ali the then SHO PS Cantt cultivated relationship with criminals by showing way for their release from the clutches of law. Your this act shows gross misconduct on your part.

By reasons of the above, you appear to be guilty of misconduct under Rule 3 of the Rules ibid and have rendered yourself liable to all or any of the penalties specified in the Rule 4 of the Rules ibid.

You are, therefore, required to submit your written statement within 07 days of the receipt of this Charge Sheet to the enquiry officer.

Your written defense if any should reach the Enquiry Officer within the specified period, failing which it shall be presumed that you have no defense to put in and ex-parte action shall be taken against you.

A statement of allegation is enclosed.


DISTRICT POLICE OFFICER,
KOHAT 11/7



Office of the
District Police Officer,
Kohat

No 8363-64/PA

Dated 11-7-2019

9

DISCIPLINARY ACTION

CAPT (M) WAHID MEHMOOD, DISTRICT POLICE OFFICER, KOHAT as competent authority, am of the opinion that you Inspector Kirman Ali the then SHO PS Cantt have rendered yourself liable to be proceeded against departmentally under Khyber Pakhtunkhwa Police Rule 1975 (Amendment 2014) as you have committed the following acts/omissions.

STATEMENT OF ALLEGATIONS

It has been learnt through reliable source that you Inspector Kirman Ali the then SHO PS Cantt cultivated relationship with criminals by showing way for their release from the clutches of law. Your this act shows gross misconduct on your part.

For the purpose of scrutinizing the conduct of said accused with reference to the above allegations SP Operations Kohat is appointed as enquiry officer. The enquiry officer shall in accordance with provision of the Police Rule-1975, provide reasonable opportunity of hearing to the accused official, record his findings and make, within twenty five days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused official.

The accused official shall join the proceeding on the date, time and place fixed by the enquiry officer.

Wahid Mehmood

DISTRICT POLICE OFFICER,
KOHAT 11/7

No 8363-64 /PA, dated 11-7-2019.

Copy of above to:-

SP Operations Kohat:- The Enquiry Officer for initiating proceedings against the accused under the provisions of Police Rule-1975

The Accused officer:- with the directions to appear before the Enquiry Officer, on the date, time and place fixed by him, for the purpose of enquiry proceedings.

BEFORE THE DISTT. POLICE OFFICER, KOHAT.

SUBJECT: REPLY OF THE CHARGESHEET.

Respected Sir,

Kindly with reference to the charge sheet bearing No. 8363-64/PA dt. 11-7-2019, it is humbly submitted that the allegation based on some body's information is incorrect conveyed to your good body with malafide intention to degrade me before my senior police officer and damage my career.

I have got 36 years of police service and during this period no complaint of any sort has been made against me by any body. I remained SHO of PS Jangal Khel, PS Terma, PS Bilitang and incharge of various police post in the past but no complaint of any type was made against me either by the public or by any senior police officer.

I have never developed relations with the criminals nor extended ~~to any criminal~~ any legal help to such people during my seven days stay as SHO PS Comti Kohat.

It may also be mentioned that I have performed my official duty

10

AM
[Signature]

deligently and devotedly in accordance with
law and rules and never shown any
favour to criminals anywhere in this
district or somewhere else. ~~But~~ rather
I have dealt the criminals and anti
social element with iron hand.

In view of the above submissions, it is
requested that ~~the~~ I may kindly be
exonerated of the charge and the instant
charge sheet filed please.

I may also be heard in person.

Yours obediently,

Inspector. Kriman Ali
presently posted at
Lachi Circle.

deligently and devotedly in accordance with
law and rules and never shown any
favour to criminals anywhere in this
district or somewhere else. ~~But~~ rather
I have dealt the criminals and anti
social element with a firm hand.

In view of the above submissions, it is
requested that ~~the~~ I may kindly be
exonerated of the charge and the mistrial
charge sheet filed please.

I may also be heard in person.

yours obediently,

Inspector. Kriman Ali
presently posted at
Lachi circle.

THE DEPUTY INSPECTOR GENERAL OF POLICE KOHAT REGION
KOHAT

Amended 3
Page 11

APPEAL UNDER RULE 11 OF POLICE RULES 1975
(AMENDED 2014) AGAINST THE ORDER OF THE
DISTRICT POLICE OFFICER KOHAT OB NO. 959 DATED
01-8-2019, VIDE WHICH THE APPELLANT WAS
DISMISSED FROM SERVICE WITHOUT ANY LEGAL
JUSTIFICATION.

Respected Sir,

With great respect and veneration, the appellant may be allowed to submit the following for your kind and sympathetic consideration:-

Facts:

1. That the appellant enrolled as constable in the police deptt: in year 1983.
2. That due to the keen interest in the official work, devotion and dedication the appellant was promoted to the rank of Inspector..
3. That the appellant has 35 years spotless and clean service in the police deptt: to his credit.
4. That during service the appellant has always served on merits.
5. That on account of official performance of the appellant strictly in the accordance with law, justice and merits, the senior officers have always expressed satisfaction and posed confidence in him (the appellant) and never made any complaint against the appellant. Similarly the public was also satisfied from performance of the appellant. No segment of society has ever made any complaint against the appellant.
6. That in recognition of the selfless and meritorious services, the appellant has earned a number of commendation certificates besides the cash rewards.
7. That vide charge sheet and the statement of allegation dated 11-7-2019, it has been alleged by the competent

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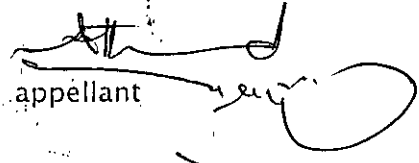
authority that "it has been learnt through reliable sources that the appellant the then SHO PS Cantt". Cultivated relationship with criminals by showing way for their release from the clutches of law and that the said act shows gross misconduct on the part of the appellant.

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8. That the SP Operation Kohat was appointed as an enquiry officer.
9. That resultantly the appellant was dismissed from service with immediate effect vide OB No.959 dt:01-8-2019.
10. That the impugned order of punishment being open to legal and factual questions has aggrieved the appellant, thus following are some of the grounds of appeal amongst others:-

Grounds:-

- a. That the impugned order of punishment is against law, facts and evidence on record, hence it is not sustainable in the eyes of law and liable to be set aside.
- b. That the appellant was given no opportunity to defend himself during the enquiry proceedings.
- c. That no witness was examined in presence of the appellant.
- d. That during the enquiry proceedings the secret and reliable source was not disclosed who had allegedly conveyed adverse information against the appellant.
- e. That being a Police Officer and responsible officer of the law enforcing agency there are many people who might have aggrieved from the lawful and meritorious service of the appellant. They developed ill will and are waiting for opportunity to inflict damage upon such official / officer. Therefore, under such circumstances disclosure of secret information is necessary so that to enable the appellant to apprise the competent authority about the correct and actual position. By keeping the source as secret from the appellant, the competent authority has fallen in to a material legal error which has vitiated all the enquiry proceedings.
- f. That it is not ascertainable that with whom the appellant had cultivated the alleged relationship.



- g. That during the enquiry no evidence was recorded which could support version of the authority who has leveled allegation against the appellant.
- h. That during enquiry the appellant was not provided opportunity to defend himself on one hand and to cross examine the witnesses if any.
- i. That on in the morning of 01-8-2018 the appellant was reverted to the rank of Sub Inspector while in the evening of said date the appellant was dismissed from service. Conduct of the competent authority manifestly reflect that the authority was bent upon to expel the appellant from the police deptt: at any cost.
- j. That the appellant is absolutely innocent and he has nothing to do with the allegations leveled against him.
- k. That under the Article 10-A of the Constitution of Pakistan fair, transparent and independent trial/enquiry is the fundamental right the appellant. In case of the appellant the said fundamental right of the appellant has been badly violated/deviated which has caused the impugned order as legally defective and of no legal effect on the rights of the appellant.
- l. That the impugned order has also failed to point out that to whom the alleged assistance was provided by the appellant. Who were those criminals having benefited by the appellant and to what extent they were benefited by the appellant. The enquiry and impugned order are silent about these important factors and thus have rendered the enquiry and the impugned order as unlawful.
- m. That being a responsible police officer the appellant even cannot imagine to indulge/involve himself in such unlawful and unethical activities.
- n. That the appellant has always kept interest of the police deptt: above his personal interests.
- o. That the impugned order seems to be the outcome of some misunderstanding.
- p. That the allegation leveled against the appellant are of general nature and based on whims, surmises and conjectures which the law has not recognized as valid and genuine grounds of punishment.

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q. That the appellant belongs to a respectable family and also looks after his large family. If the appellant has indulged himself in such unlawful activities, it means that he has put at stake the respect and honour of his family on one hand and welfare of his family members on the other.

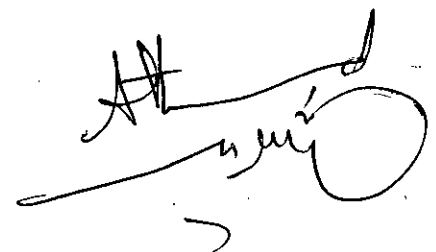
r. That the impugned order being not in accordance with law, facts and justice is not sustainable in the eyes of law and deserves to be set aside.

14

Prayer:

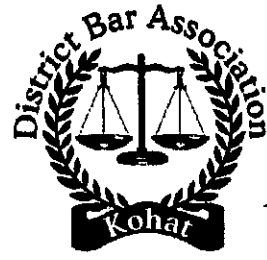
It is, therefore, humbly prayed that the Impugned order of dismissal from service being repugnant to law, rules, justice and fair play has become legally defective and ineffective on the rights of the appellant, may be set aside. The appellant may kindly be reinstated in service with all back benefits. The appellant will pray for your long life and prosperity for this act of kindness.

Yours obediently,



Dated: 26/8/2019.

Kirman Ali (Inspector)
R/o Hoster Zai Bala
Tehsil & Distt: Kohat.
Cell #: 0333-9637613



2223

۱۷/۱۱/۲۰۱۹

ایڈوکیٹ دستخط:

بار کونسل اہار ایسوسی ایشن نمبر: ۱۶۶۹-۵۹-۵۷

رابطہ نمبر: ۵۳۷۵-۹۶۷۵۸۵۷

کوہاٹ بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: KPK اسٹوڈنٹس لیسٹ اور

منجانب: اسٹوڈنٹس	دعویٰ: اسٹوڈنٹس
کریڈنٹس	علت نمبر
بنام	مورخہ
۱۷P- etc.	تھانہ

باعت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی معاقہ آن مقام لیسٹور کیلئے سید مرتضیٰ بی بی راہ اسٹوڈنٹس / اسٹوڈنٹس کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقر ثالث و فیصلہ بر حلف 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 بھی وہی جملہ مذکورہ اختیارات 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 وہ وکیل موصوف وصول کرنے کا حقدار 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۔

اسٹوڈنٹس

المرقوم ۹/۱۲/۱۹

العبید گواہ شد العبید