

23.02.2016

Counsel for the appellant and Mr. Ihsanullah, ASI alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 27.4.2016 before S.B.


Chairman

27.4.2016

None present for the appellant. Mr. Ihsanullah, H.C alongwith Addl: A.G for respondents present. Copy of office order dated 04.02.2016 submitted according to which the appellant has been reinstated in service.

Since the appellant is not in attendance as such the appeal is dismissed in default. File be consigned to the record room.


Chairman

ANNOUNCED

27.4.2016

27.04.16.

4

29.06.2015

Counsel for the appellant present. Seeks adjournment. Adjourned to 30.7.2015 for preliminary hearing before S.B.


Chairman

5

30.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Constable when subjected to inquiry on the allegations of wilful absence from duty and discharged from service vide impugned order dated 29.12.2014 against which departmental appeal was preferred and rejected on 20.3.2015 and hence the instant service appeal on 17.4.2015.

That the orders of discharge from service are violative of Police Rules and, furthermore, such penalty was not warranted as the absence period was treated as leave without pay.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.10.2015 before S.B.


Chairman

28.10.2015

Counsel for the appellant present. Security and process fee not deposited. Requested for further time. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 23.2.2016 before S.B.


Chairman

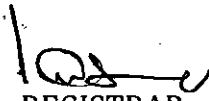


Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 619/2015

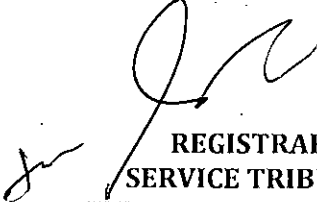
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.06.2015	<p>The appeal of Mr. Yousaf Ex-Constable resubmitted today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	9-6-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>10-6-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	10.06.2015 <i>S's Near</i> <i>M. J. J.</i>	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 29.6.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Yousaf Ex-Constable No.146 FRP HQrs Peshawar received to-day i.e. on 17.04.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant.
- 2- Index of the appeal may be prepared according to rules.
- 3- Appeal may be page marked according to the index.
- 4- The documents referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Copies of impugned orders mentioned in the heading of the appeal are not attached with the appeal which may be placed on it.
- 6- Copy of departmental appeal is not attached with the appeal which may be placed on it.
- 7- Annexures of the appeal are illegible which may be replaced by legible/better one.
- 8- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

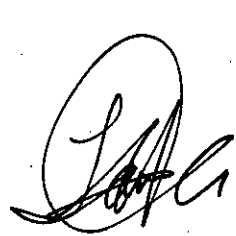
No. 579 /S.T,

Dt. 21-4 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Asif Yousafzai Adv. Pesh.

- 1): *Removed*
- 2): *Removed*
- 3): *Removed*
- 4): *Removed*
- 5): *Removed*
- 6): *Removed*
- 7): *Removed*
- 8): *Removed*



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 619 /2015

Yousaf

V/S

Police Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	1-4
2.	Copy of medical prescriptions	A	5-7
3.	Copy of charge sheet	B	8
4.	Copy of statement of allegations	C	9
5.	Copy of final show cause notice	D	10
6.	Copy of order dated 29.12.20-14	E	11
9.	Copy of departmental appeal	F	12
10.	Copy of rejection order	G	13
14	Vakalat nama	-----	14

APPELLANT

THROUGH:



(M.ASIF YOUSAFZAI)

&



(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 619 /2015

F.W.P Province
Service Tribunal
Diary No 356
Dated 17-4-2015

Yousaf Ex- constable No.146,

FRP HQrs: Peshawar.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, KPK, Peshawar.
2. The Commandant Frontier Reserve Police KPK, Peshawar.
3. The Deputy Commandant Frontier Reserve Police KPK, Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT,
1974 AGAINST THE ORDER DATED 20.03.2015, WHEREBY THE
DEPARTMENT APPEAL OF THE APPELLANT AGAINST THE ORDER
DATED 29.12.2014 HAS BEEN REJECTED FOR NO GROUNDS.

17/4/15

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED
20.03.2015 AND 29.12.2014 MAY BE SET ASIDE AND THE
APPELLANT MAY BE REINSTATED WITH ALL BACK BENEFITS. ANY
OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND
APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF
APPELLANT.

re-submitted to-day
and filed.

Registrar
9/6/15

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant joined the police force in the year 2009 and completed all his due training etc and also have good service record throughout.
2. That the appellant' mother was ill. As the appellant look after his mother, therefore he could not performed his duty and remained absent from the duty.(Copy of the Medical prescriptions are attached as Annexure-A)
3. That the appellant was engaged with his mother's treatment when show charge sheet and statements of allegations was served to him but as he was engaged in his mother treatment therefore he could not reply to the charge sheet. (Copy of charge sheet and statement of allegation are attached as Annexure-B&C)
4. That then one sided inquiry was conducted against the appellant but none of the statement was recorded or record examine in presence of the appellant. Even the inquiry report was not served to the appellant.
5. That final show cause notice was served to appellant but as he was engaged in his mother treatment therefore he could not reply to the show cause. (Copy of show cause is attached as Annexure-D)
6. That the appellant was discharged from the service under Police Rule 1975 vide order dated 29.12.2014 without chance of personal hearing and his leave was treated as leave without pay. (Copy of order dated 29.12.2014 is attached as Annexure-E)
7. That against the order dated 29.12.2014, the appellant filed departmental appeal but the same was also rejected for no good ground on dated 20.03.2015. (Copies of departmental appeal and rejection order are attached as Annexure-F&G).
8. That now the appellant come to this august tribunal on the following grounds amongst others.

GROUNDS:

- A) That the impugned order dated 20.03.2015 and 29.12.2014 are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the absence period has already been declared as leave without pay, therefore there remained no ground to penalized the appellant.
- D) That neither the appellant was associated with the enquiry proceedings nor has any statement of witnesses been recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- E) That the appellant has not been treated under proper law despite he was a civil servant of the province, therefore, the impugned order is liable to be set aside on this score alone.
- F) That the penalty of discharge from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- G) That the appellant did not intentionally absent from his duties but his mother was ill due to which he look after her mother. As the illness is beyond the control of human, therefore the appellant was compel to remain absent from his duties due to the treatment of his mother.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Yousaf Shah
APPELLANT

Yousaf

THROUGH:

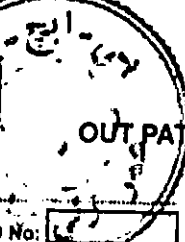


(M. ASIF YOUSAFZAI)



(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR



OPD Ticket Price: Rs2/-

OUT PATIENT DEPARTMENT TICKET

5



BHU: _____ Yearly OPD No: _____
 Monthly OPD No: _____ Date: 14-6-14 Daily OPD No: 1162
 Patient's Name: عزیز شاہ خان Age: 49 Sex: M F
 Father / Husband's Name: _____ Contact # (if Possible) _____
 Address: پیر پور

Problem/Disease Diagnosed: _____

Patient Seen By: _____

Clinical Findings Record

PRESCRIPTION / TREATMENT SUGGESTED / REFERRED TO / FEEDBACK:

3/ Ad Paclovira
inlet 18

100 Nosopir 800.7
1-1

100 Valtant 120
1-1

Sig: Iberit +
1-1

[Handwritten Signature]

Signature of MO / INCERGE: _____

پرجی آنکھ کے پرہراہ لائیں۔



OPD Ticket Price: Rs2/-



OUT PATIENT DEPARTMENT TICKET

BHU: _____ Yearly OPD No: _____

Monthly OPD No: _____ Date: 26-6-14 Daily OPD No: 2079

Patient's Name: _____ Age: _____ Sex: M F

Father / Husband's Name: _____ Contact # (if Possible): _____

Address: _____

Problem/Disease Diagnosed: _____

Patient Seen By: _____

Clinical Findings Record PRESCRIPTION / TREATMENT SUGGESTED/ REFERRED TO/ FEEDBACK:

3g Hydrogri-iv
 3g Decelex
 3g Pledex : 500

Tas Hydrogri 400-1
 1-1-1

Tas Serc 16 mg
 1-1-1

~~Hydrogri~~
 Cye Esso 20
 ml

[Handwritten signature]

Signature of MO / INCHARGE: _____

پریمی آنکھ معائنے پر مہر اہلا لائیں۔

پانچ سال سے کم عمر کے بچوں کو ہر گیم میں پوٹو کے دو قطرے ضرور پلوائیں۔



OPD Ticket Price: Rs2/-



OUT PATIENT DEPARTMENT TICKET

BHU: _____ Yearly OPD No: _____
 Monthly OPD No: _____ Date: _____ Daily OPD No: _____
 Patient's Name: _____ Age: _____ Sex: M F
 Father / Husband's Name: _____ Contact # (if Possible) _____
 Address: _____
 Problem/Disease Diagnosed: _____
 Patient Seen By: _____

Clinical Findings / Record PRESCRIPTION / TREATMENT SUGGESTED/ REFERRED TO/ FEEDBACK:

Tax Me wo cab ul
 30 30 in 4 7
 24 Me wo cab ul
 3100 is 3000
 Tax Teph 20
 mil
 Tu Nov 11

پہنچا آگے کے پر ہوا لائیں۔

Signature of MO / INCHARGE: _____

B (8)

Just

CHARGE SHEET U/S 6(D) (A) POLICE RULES 1975

You Constable Yousaf No. 146 posted at FRP, HQrs: Peshawar is hereby charged for committing the following omission/commissions.

Whereas you Constable Yousaf No. 146 posted in FRP, HQrs: Peshawar remained absent from duty w.e. from 12.06.2014 to 12.08.2014 for the total period of (62) days without taking any leave permission of the Competent Authority

You are hereby called upon to submit your written defense against the above charges before the enquiry officer.

Your reply should reach the enquiry officer within seven (7) days from date of receipt of this Charge Sheet, failing which ex-parte action shall be taken against you.

[Signature]

Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar

ofc

ATTESTED

[Signature]

[Handwritten notes and signatures]
20/9/2014

[Handwritten notes and signatures]
20/9/2014

C P
=

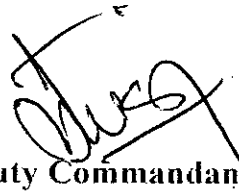
D


**SUMMARY/STATEMENT OF ALLEGATIONS U/S 6(1) (A) POLICE
RULE 1975**

Whereas you Yousaf No. 146 of FRP Hqrs Peshawar, remained absent from duty w.e from 12.06.2014 to 12.08.2014 for the total period of (62) days without taking any leave/permission of the competent authority.

Therefore he is placed under suspension and closed to lines FRP Peshawar with immediate effect.

The act falls within the purview of misconduct as contained u/s 2 (iii) of Police Rule 1975."


**Deputy Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa Peshawar**

ATTENDED


146 اول کتب مطبوعه در ایران و سوره اولیٰ که در آن است

A

D 10

FINAL SHOW CAUSE NOTICE UNDER POLICE RULES 1975.

I, Deputy Commandant, FRP, KPK as competent authority do hereby serve you Constable Yousaf No.146 of FRP/HQrs. Peshawar.

(1) i- That consequent upon the completion of enquiry conducted against you by DSP Admn: FRP/HQrs for which you were given full opportunity of hearing.


ii- On going through the findings/recommendations of the Enquiry Officer, the material available on record and other connected papers I, am satisfied that you have committed the following acts/omissions per Police Rules 1975.

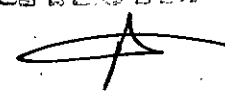
Whereas you Constable Yousaf No.146 of FRP/HQRS; Peshawar remained absent from duty **w.e from** 12.06.2014 to 12.08.2014 & 15.08.2014 till to date without any leave/permission of the competent authority..

(2) Therefore, I, Deputy Commandant, FRP, KPK as competent authority has tentatively decided to impose upon you Major/Minor penalty including dismissal from service under the said Rules.

(3) You are therefore required to Show Cause as to why not the aforesaid penalty should not be imposed upon you.

(4) If no reply to this Final Show Cause Notice is received within the seven days of its delivery in the normal course of circumstances, it shall be presumed that you have no defence to put in and consequently **ex-parte action shall be taken against you.**


Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa, Peshawar.

ATTESTED


Yousaf No.146
409-0311-9007299 5/11/14
1701-491698

O.R.D.E.R

E 11

This Office Order so far it relates to the Disposal of Departmental Enquiry against Constable Yousaf No. 146 of FRP/HQs: Peshawar, who remained absent from duty w.e from 12.06.2014 to 12.08.2014 & 15.08.2014 till to date without taking any leave/permission of the Competent Authority.

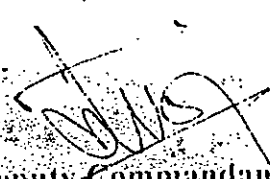
Enquiry was initiated against him. A DSI/Admin: FRP/HQs: Peshawar was nominated as Enquiry Officer. He conducted enquiry into the matter and submitted his report.

Upon the findings of Enquiry Officer he was issued final Show Cause Notice which he received. His reply was perused but found not satisfactory. Accordingly, he was summoned to appear before the undersigned in Orderly Room but failed to do so.

Keeping in view the recommendations of the Enquiry Officer and other material available on record it has come crystal clear that the delinquent Official is a habitual absentee and does not take interest in official duty. His Service record also shows that not only he has repeatedly absented from official duties for personal reasons.

he is not fit for Police Service. It requires discipline, comical with punctual performance of Official duty especially in the prevailing Law & Order milieu. Therefore, Constable Yousaf No. 146 is discharge from service under Police Rules, 1975 with immediate effect. The Period of absence is treated as leave without Pay.

Order announced


Deputy Commandant,
Frontier Reserve Police,
Khyber Pakhtunkhwa Peshawar

Peshawar the 29/11/2014

- The ACP/IGP/Commandant FR Khyber Pakhtunkhwa.
- The Accountant FRP/HQs: Peshawar.
- The RL FRP/HQs: Peshawar.
- The SR FRP/HQs: Peshawar.
- The GSI FRP/HQs: Peshawar.
- The IAC FRP/HQs: Peshawar with original Enquiry file.

ATTESTED




No. S/ 919 /16, Dated Peshawar the 04/02/15

ORDER

This order is hereby passed to dispose of departmental appeal under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 submitted by Ex- Constable Yousaf Shah No. 146. The appellant was awarded major punishment of Dismissal from service by Deputy Commandant, FRP, Khyber Pakhtunkhwa vide order No. 1396-01/PA/FRP/HQrs: dated 29.12.2014, on the charges of absence for 06 months and 14 days.

He preferred an appeal before the Commandant, FRP, Khyber Pakhtunkhwa against the order of Deputy Commandant, FRP, Khyber Pakhtunkhwa which was filed vide order issued endst: No. 2592-93/EC, dated 20.03.2015.

Meeting of Appeal Board was held on 31.12.2015, wherein the appellant appear heard in person in detail. The appellant contended that his service record was unblemished. He further contended that unavoidable circumstances forced him for absence from duty. He promised to be careful in future. Petitioner remained absent from duty for short period but harsh penalty of dismissal from service was imposed on him.

Therefore, the board decided that the appellant is hereby re-instated into service and the intervening period plus period of absence from duty be considered period in service but not on duty and he will not be entitled for salary of the above period.

This order is issued with approval by the Competent Authority.

Najeeb
(NAJEEB-UR-RAHMAN BUGVI)
AIG/Establishment
For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

No. S/ 920-28 /15, Dated Peshawar. the _____ /2015.

Copy of the above is forwarded to the:

1. Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commandant, FRP, Khyber Pakhtunkhwa, Peshawar.
3. District Police Officer, Lakki Marwat.
4. PSO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
5. PRO to IGP/Khyber Pakhtunkhwa, CPO Peshawar.
6. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
7. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
8. Office Supdt: E-IV CPO Peshawar.
9. Central Registry, CPO.

District
OAS/ARC/Account

COMMANDANT
Pioneer Reserve Police
Khyber Pakhtunkhwa
Peshawar

O-R-D-E-R

This office order so far relates to the Disposal of Departmental Enquiry against Constable Yousaf No.146 of FRP/HQrs: Peshawar who remained absent from duty w.e.from 12.06.2014 to 12.08.2014 % 15.08.2014 till date without taking any leave/permission of the competent authority.

In this respect formal Departmental proceeding was initiated against him and DSP/Admin: FRP/Hqrs Peshawar was nominated as Enquiry Officer. He conducted enquiry into the matter and submitted his report.

Upon the finding of Inquiry Officer he was issued Final Show Cause Notice which he received. His reply was pursued but found not satisfactory. Accordingly he was summoned to appear before the undersigned in Orderly Room but failed to do so.

Keeping in view the recommendation of the Enquiry Officer and other material available on record it becomes crystal clear that the delinquent Official is a habitual absentee and does not take interest in official duties. His service record also shows that previously he has repeated absent from official duties for prolong period in short span of service. It is therefore he is not fit for Police Service, which requires discipline coupled with punctual performance of official duty especially in the prevailing Law & order situation. Therefore Constable Yousaf No.146 is discharge from service under Police Rules,1975 with immediate effect. The period of absence is treated as leave without pay.

Order announced

**Deputy Commendent,
Frontier reserve Police,
Khyber Pakhtunkhwa Peshawar.**

No.1396-01 /PA/FRP/HQrs: dated Peshawar, the 29/12/29014

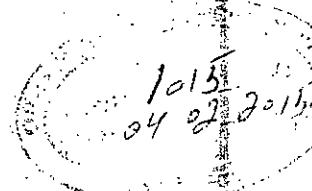
Copy of the above is forwarded for information & n/action to:

1. The Addl:IGP/Commandant FRP Khyber Pakhtunkhwa.
2. The Accountant /FRP/HQrs: Peshawar.
3. The RI/FRP/HQrs: Peshawar.
4. The SR/FRP/HQrs: Peshawar.
5. The OS/FRP/HQrs: Peshawar.
6. The EMS/FRP/HQrs: Peshawar with original inquiry file.

ATTESTED



گزارش نمائندگان پست و تلگراف (FRP) حیدرآباد



پست و تلگراف حیدرآباد

مقامی (Local) کے حوالے سے کی گئی تھی۔
167 سے لے کر 2009 تک کے اسٹاف کے حوالے سے
2009 تک کے اسٹاف کو نومبر 12ء کو رول نمٹا دیا گیا
14۔ ڈپٹی سیکریٹری سے رول نمٹا دیا گیا۔
یہ اسٹاف کی طرف سے درخواست کی ہے کہ اسٹاف کو
اور رول نمٹا دیا گیا۔

یہ اسٹاف کی دلچسپی ہے اور اسٹاف کی دلچسپی ہے۔
گورنر سے نوٹس لیا گیا ہے۔ اسٹاف کی دلچسپی ہے۔
ڈپٹی سیکریٹری سے نوٹس لیا گیا ہے۔ اسٹاف کی دلچسپی ہے۔
اسٹاف کی دلچسپی ہے۔ اسٹاف کی دلچسپی ہے۔

رول نمٹا دیا گیا۔

146 - اسٹاف کی دلچسپی ہے۔
Yousaf Shah

COMMANDANT,
Hyderabad Police.
Hyderabad.

Src - s. Roll and D/Temporary etc
1-1-2015

ORDER.

P-16

G13
لوساف

This order shall dispose off appeal of ex- Constable Yousaf No.146 of RP HQrs: Peshawar against the order of Deputy Commandant FRP.

Brief facts of the case are that he absented himself from lawful duty with effect from 12.06.2014 to 12.08.2014 and from 15.08.2014 till to date. Departmental proceedings were initiated against the ex- official. The official failed to respond and submit any defence in his favour. The Enquiry Officer held him responsible. Therefore, he was dismissed from service under Police Rule 1975 vide order No.1396-01/PA,dated 29.12.2014.It was established that the official intentionally absented from his lawful duty without assigning any reasons. There is no likelihood that the official could become a good and disciplined police officer. He submitted the present appeal without any plausible and solid grounds.

However from the perusal of record and findings of enquiry officer there is no cogent reasons to interfere in the order of Deputy Commandant FRP Khyber Pakhtunkhwa. **Therefore his appeal is rejected.**

Amalika

Commandant
Frontier Reserve Police
Khyber Pakhtunkhwa, Peshawar

etc

No. 2092-93 /EC dated Peshawar the 20/08/2015. 3

Copy to the:-

1. SRC FRP HQrs: Peshawar.
2. Ex-Constable Yousaf S/o Husain Shah r/o Purdil Abad Umarzai Charsadda.

ATTESTED

A

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Yousaf (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Deptt. (Respondent)
(Defendant)

I/we Yousaf

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar,** ^{Taimur Ali Khan (Adv)} to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Yousaf
(CLIENT)

ACCEPTED

M. Asif
M. ASIF YOUSAFZAI
Advocate

Taimur Ali Khan
TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240