


FORM OF ORDER SHEET

Court of _____

Appeal No. 1067/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/05/2023	<p>The appeal of Mr, Hayat Muhammad Khan presented today by Mr. Muhammad Arif Jan Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on _____</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: center;">  For REGISTRAR </p>

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1067/2023

Hayat Muhammad Khan Senior Clerk BPS-14.....Appellant

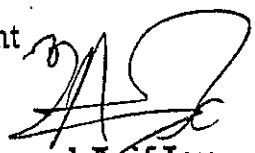
VERSUS

Secretary Elementary and Secondary Education, & others
....Respondents

I N D E X

S#	Description of documents.	Annexure	Pages
1.	Service Appeal with affidavit		1-5
2.	Stay application with affidavit		6-7
3.	Addresses of the parties		8
4.	Copy of letter dated 24-03-2023	A	9
5.	Copies of list of posting/transfer	B & B/1	10+11
6.	Copy of letter dated 31-03-2023	C	12
7.	Copy of departmental appeal and order dated 10-04-2023 & 09-5-2023	D & E	13-16 A
8.	Copy of letter dated 13-04-2023	F	17
9.	Wakalatnama		18

Appellant
Through


Muhammad Arif Jan
Advocate High Court

Chamber:

212, New Qatar Hotel, Sikandar
town G.T Road, Peshawar
Cell: 0333-2212213

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No 1067 / 2023

Hayat Muhammad Khan Senior Clerk BPS-14 at GGHMSS
Battagram.

.....Appellant

VERSUS

- 1) Secretary Elementary and Secondary Education,
Khyber Pakhtunkhwa, Education Department,
Peshawar.
- 2) Director Elementary and Secondary Education,
Khyber Pakhtunkhwa, G.T road, Peshawar.
- 3) Additional Director (Estab) Directorate of Elementary
and Secondary Education, Khyber Pakhtunkhwa, G.T
road, Peshawar.
- 4) District Education Officer (M), Battagram.
- 5) Mr. Muhammad Nauman Senior Clerk BPS-14 GHHS
Thakot, Battagram.

.....Respondents

APPEAL U/S 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE IMPUGNED
ORDER DATED 24-03-2023 VIDE WHICH
DEPARTMENTAL APPEAL OF THE
APPELLANT WAS FILED AND THE
ORIGINAL POSTING/TRANSFER ORDER
DATED 31-03-2023 WAS KEPT UPHELD.

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Respectfully Sheweth:

Appellant humbly submits as under:-

- 1) That names and addresses of the parties given in the head note of this service appeal are true and correct for effecting services upon the parties.
- 2) That the appellant was posted as Senior Clerk BPS-14 and was performing his duties with full zeal and zest and to the entire satisfaction of his superiors.
- 3) That on 15-03-2023 the worthy Director (respondent No-2) was retired and vide office letter dated 24-03-2023, respondent No-3 was assigned the additional charge of Director in addition to his own duties to look after the matters of Directorate. (Copy of letter dated 24-03-2023 is attached as ANNEX-A).
- 4) That the worthy Advisor to Chief Minister for Elementary and Secondary Education sent two different lists of posting/transfer to respondent No-2 for further necessary action/approval on 27-03-2023. (Copies of lists of posting/transfer are attached as ANNEX-B & B/1 respectively).
- 5) That in compliance to the above, respondent No-2 if without any cause with mala fide intention transferred the appellant to the office of SDEO (F) Battagram Alai vide office letter dated 31-03-2023. (Copy of letter dated 31-03-2023 is attached as ANNEX-C).
- 6) That the appellant filed representation/appeal against the impugned order dated 31-03-2023 before respondent No-1 which was filed on 09-05-2023. (Copies of representation/appeal and order dated 09-05-2023 are attached as ANNEX-D & E).

- 7) That the impugned order dated 31-03-2023 and further rejection of appeal dated ~~09-05~~ 2023 are based upon political influence, illegal, without jurisdiction, arbitrary, discriminatory, mala fide, void ab-initive against the law and facts on the following grounds.

GROUND:

- A. Because, the act, commission and omission of respondents and the office order/ Notification dated 31-03-2023 passed by respondent No-2 (hereinafter impugned up-to the extent of appellant) and further the rejection of departmental appeal of the appellant by respondent No-1 is patently illegal, unlawful, without lawful authority, of no legal effect, having no value in the eyes of law, thus liable to be set-aside/ withdrawn and the appellant may kindly be allowed to keep and continue his duties on his previous post and designation with all service benefits without any further delay, reason and justification.
- B. Because, admittedly the care taker government of Khyber Pakhtunkhwa took over the charge just to look after the daily affairs of Provincial Government but knowingly all these facts and banned over the posting/transfer of civil servants, intentionally intercepted and directed respondent No-2 for issuance of impugned order without any good reason and justification or the reason best known to them.
- C. Because, it is strange enough that somewhere there is no availability of post against which the transfer has been made rather against non sanctioned post (Copy of letter dated is attached as ANNEX-F as reference), moreover the transfer of the appellant along with other employees are made illegal and

unlawfully just to punish, harass and humiliate the innocent employees (appellant).


- D. Because, from the bare perusal of the afore referred impugned order dated 31-03-2023, it is very much clear that the same has not been passed in the exigency of the service, but it is very much clear on the instance of some political person, hence the department adopted pick and choose and dealing with the appellant in discriminating way despite the facts that the appellant has not completed the specified period, thus the impugned transfer order has no legal sanctity in the eyes of law and this type of practice is always condemned by this Hon'ble Tribunal as well as apex court of this country.
- E. Because, the transfer order is against the policy relating to the transfer and posting being issued by the government of KP from time to time.
- F. Because, the impugned transferred order is otherwise not sustainable for being based on mala fide and having without application of independent mind and thus liable to be set at naught by this Hon'ble Tribunal.
- G. Because, the appellant is serving the department with his full devotion and to the entire satisfaction of his superiors which is evident from his unblemished service record.
- H. Because, there is no any complaint, enquiry or any other departmental proceeding pending or initiated against the appellant till date but respondents issued the impugned order which is against the law, rules and regulations governing the subject matter thus invites consideration of this Hon'ble Tribunal.

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I. That any other grounds, with the permission of this Hon'ble Tribunal will be raise at the time of arguments.

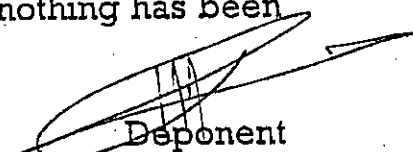
It is, therefore, most humbly prayed, that on acceptance of the instant appeal, the impugned order dated 31-03-2023 passed by respondent No-2 against the appellant may graciously be set aside/withdrawn being against the law rules and regulation governing the subject matter (up-to the extent of appellant) and the appellant may kindly be allowed to keep and continue his official duties with previous post/designation etc with all service benefits.,

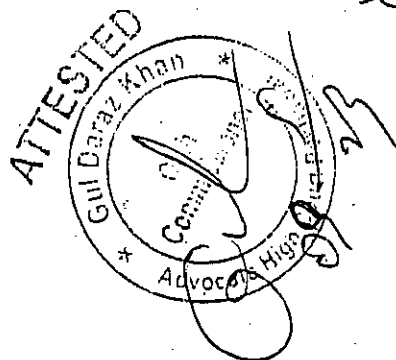
Any other relief deemed fit in the circumstances of the case may also be granted in favor of appellant.


Appellant,
Through
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Hayat Muhammad Khan Senior Clerk BPS-14 at GGHMSS Battagram do hereby affirm and declare on oath that the contents of instant Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



①

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____ / 2023

Hayat Muhammad Khan Senior Clerk BPS-14.....Appellant

VERSUS

Secretary Elementary and Secondary Education, & others
....Respondents

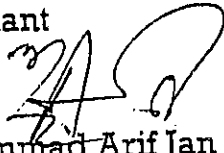
APPLICATION FOR SUSPENSION OF OPERATION OF
IMPUGNED ORDER/ NOTIFICATION DATED 31-03-2023
TILL FINAL DECISION OF TITLED APPEAL.

Respectfully Sheweth:

- 1) That the above titled appeal is being filed before this Hon'ble Tribunal along with instant application.
- 2) That the grounds of main appeal may kindly also be considered as part and parcel of this application.
- 3) That appellant has a good prima-facie case in his favour and is also sanguine about its success.
- 4) That balance of convenience also lies in favour of appellant.
- 5) That if the relief as prayed for is not granted and the impugned order is acted upon then the very purpose of titled appeal will become infructuous, hence this application.

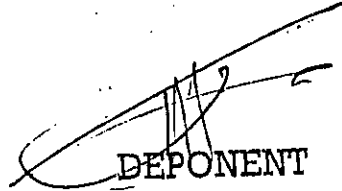
7

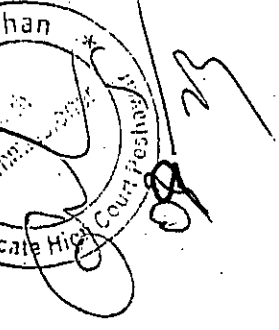
It is, therefore, prayed that on acceptance of this application, the relief as prayed for in the heading of this application may graciously be granted.

Appellant
Through 
Muhammad Arif Jan
Advocate High Court

AFFIDAVIT

I, Hayat Muhammad Khan Senior Clerk BPS-14 at GGHMSS Battagram do hereby affirm and declare on oath that the contents of instant Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.


DEPONENT

ATTESTED

Gul Daraz Khan
Commissioner
Advocate High Court Peshawar

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BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____ / 2023

Hayat Muhammad Khan Senior Clerk BPS-14.....Appellant

VERSUS

Secretary Elementary and Secondary Education, & others
.....Respondents

ADDRESSES OF THE PARTIES


APPELLANT:

Hayat Muhammad Khan Senior Clerk BPS-14 at GGHMSS
Battagram.

RESPONDENTS:

1. Secretary Elementary and Secondary Education,
Khyber Pakhtunkhwa, Education Department,
Peshawar.
2. Director Elementary and Secondary Education,
Khyber Pakhtunkhwa, G.T road, Peshawar.
3. Additional Director (Estab) Directorate of Elementary
and Secondary Education, Khyber Pakhtunkhwa, G.T
road, Peshawar.
4. District Education Officer (M), Battagram.
5. Mr. Muhammad Nauman Senior Clerk BPS-14 GHHS
Thakot, Battagram.

Appellant
Through


Muhammad Arif Jan
Advocate High Court



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Annex - A

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated: 24th March, 2023

NOTIFICATION

NO.SO(MC)E&SED/4-16/2022/PT/MC/Director E&SE: Keeping in view the retirement of Director, Directorate of E&SE Peshawar on 15.03.2023 and to ensure the disposal of the routine office work, Dr. Iqbal Khan, Additional Director (Estab) Directorate of E&SE Peshawar is assigned the Look-After charge of the office of Directorate of E&SE Peshawar, in addition to his own duties, till further order, in the best public interest.

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. PS to Advisor to Chief Minister for E&SE Khyber Pakhtunkhwa.
5. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
6. Officers concerned.
7. Master file.

ATTESTED

111 / 24/3/2023
(IMRAN ZAMAN)
SECTION OFFICER (Management Cadre)

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Annex 'B'

Name of Officer/Official	Present Place of Posting	Proposed Place	Remarks
Amin Ur Rehman Assistant B-16	DEO (M) Battagram	DEO (M) Battagram	Vice S. No 02
Shahideen Assistant B-16	SDEO (M) Battagram	DEO (M) Battagram	Vice S. No 01
Abdu Razaq Assistant B-16	DEO (M) Battagram	DEO (F) Battagram	Vice S. No 04
Syed Riaz Hussain Shah Assistant B-16	DEO (F) Battagram	DEO (M) Battagram	Vice S. No 03
Murshid Alam Computer Operator B-16	DEO (F) Battagram	DEO (M) Battagram	A.V.P
Rakhi Zada CT B-15	DEO (M) Battagram	GT S Batangl Pashito Allai	A.V.P
Muhammad Faiq SST (G) B-17	DEO (M) Battagram	GT S No 02 Battagram	A.V.P of HM
Fida Ur Rehman SST (B/C) B-16	GHS No 02 Battagram	DEO (Male) Battagram	Vice S. No 07
Shaukat SST (G) B-16	GHS Paghora	DEO (M) Battagram	Vice S. No 06
Nasir Ali SPET B-16	GHS Shamlai	DEO (M) Battagram	Vice S. No 11
Ibne-Amin SPET B-16	DEO (M) Battagram	GT S Shamlai	Vice S. No 10

Director ESSB
 Pl - Transfer

27/3/23

Rahmat Salam Khattak
 Advisor to Chief Minister
 For Elementary &
 Secondary Education.

ATTESTED

DD - I + DD (F) + A. Khan
 30/3/23

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Annex - B/1

S.No	Name of Officer/Official	Present Place of Posting	Proposed Place	Remarks
1	Taj Uddin Senior Clerk B-14	GHSS Paimal Sharif	DO (F) Battagram	Vice S. No 2
2	Muhammad Sharif Senior Clerk B-14	DEO (F) Battagram	GHSS Paimal Sharif	Vice S. No 3
3	Haq Nawaz Senior Clerk B-14	SO (F) Alai	DEO (F) Battagram	Vice S. No 4
4	Abdul Majid B-14	SDEO (F) Battagram	SDEO (F) Battagram	Vice S. No 5
5	Zahoor Ahmad Senior Clerk B-14	GHS Khanis Pur Aid	GCHMSS Battagram	Vice S. No 7
6	Muhammad Noman Senior Clerk B-14	GHSS Thakot	GHS Khanis Pur Aid	Vice S. No 5
7	Hayat Muhammad Khan Senior Clerk B-14	GCHMSS Battagram	GHSS Thakot	Vice S. No 6
8	Atta Ur Rehman Junior Scale Stenographer B-14	DEO (F) Battagram	DEO (M) Kullistan Lower	A.V.P
9	Sharif Ullah J/C B-11	SDEO (F) Battagram	GHS Biland Kot	Vice S. No 11
10	Hasham Khan J/C B-11	SDEO (M) Battagram	SDEO (F) Battagram	Vice S. No 9
11	Shoukat Ali Khan J/C B-11	GHS Biland Kot	SDEO (M) Battagram	Vice S. No 12
12	Niaz Ul Haq J/C B-11	SDEO (M) Battagram	SDEO (F) Battagram	A.V.P

Director B.S.R.

P. Consider

*Rahmat Salam Khan
Advisor to Chief Minister
For Elementary &
Secondary Education*

27/3/27

ADDE (Admin)

32/3/27

ATTESTED

[Signature]



(12) Annex-C

TO BE SUBSTITUTED WITH SAME NO. & DATE
DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
Phone: 091-9225344 Email: edu@unp.gov.pk

Office Order

The Posting/Transfer in respect of the following Ministerial staff are hereby ordered on their own pay and scale in the interest of public service with immediate effect.

S.#.	Name & Designation	From	To	Remarks
1	Mr. Taj Uddin S/Clerk BS-14	GHSS Paimal Sharif	DEO(F) Battagram	Vice S.No.2
2	Mr. Muhammad Sharif S/Clerk BS-14	DEO(F) Battagram	GHSS Paimal Sharif	Vice S.No.1
3	Mr. Haq Nawaz S/Clerk	SDEO(F) Allai	DEO(F) Battagram	Vice S.No.4
4	Mr. Abdul Majid S/Clerk BS-14	SDEO(F) Battagram	SDEO (F) Battagram Allai	Vice S.No.3
5	Mr. Zahoor Ahmad S/Clerk BS-14	GHS Khanis Pur Aid	GCHMSS Battagram	Vice S.No.7
6	Mr. Muhammad Noor BS-S/Clerk 14	GHSS Thakot	GHS Khanis Pur Aid	Vice S.No.5
7	Mr. Hayat Muhammad Khan S/Clerk	GCHMSS Battagram	GHSS Thakot	Vice S.No.6
8	Mr. Sharif Ullah J/Clerk	SDEO(F) Battagram	GHS Biland Kot Battagram	Vice S.No.11
9	Mr. Hasham Khan J/Clerk	SDEO(F) Battagram	SDEO(F) Battagram	Vice S.No.8
10	Mr. Shoukat Ali Khan J/Clerk	GHS Biland Kot Battagram	SDEO(M) Battagram	Vice S.No.12
11	Mr. Niaz Ullah J/C	SDEO(M) Battagram	SDEO(F) Battagram	A.V.P.
12	Mr. Amir Ur Rehman Assistant B-15	DEO(M) Battagram	SDEO(F) Battagram	Vice S.No.2
13	Mr. Shahideen Assistant Bs-16	SDEO(M) Battagram	DEO(M) Battagram	Vice S.No.01
14	Mr. Abdu Razaq Assistant Bs-16	DEO(M) Battagram	DEO(F) Battagram	Vice S.No.04
15	Mr. Syed Riaz Hussain Shah Assistant Bs-16	DEO(F) Battagram	DEO(M) Battagram	Vice S.No.03
16	Mr. Murshid Alam Comp. Operator	DEO (F) Battagram	DEO (M) Battagram	A.V.P.

Note:

1. Charge report should be submitted to all concerned.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. /F.No. A-23/MS/poslmg Transfer/2021/Vol-1 Dated 10/03/2023

Copy forwarded to the:-

1. District Education Officer (Male/Female) Concerned
2. SDEO(M/F) concerned
3. District Accounts Officer Concerned
4. Principal/HM Concerned
5. Official concerned
6. Master File
7. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

ATTESTED

Assistant Director (Admn)
Directorate of E&SE KPK, Peshawar

Better Copy

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Add Dir.

Transfer order wherefrom this Directorate at page No.230 but without fulfilling powers of transfer on 31-03-2023. Moreover the above transfer order issued by this Directorate is not in the knowledge of DD—and ADD (Director) Admin.

Hence, I suggest that instead of two clerks i.e S.No-6, 7 all may be allowed to work on their original post.

Submitted for further order and approval please.

Sd

10-04-2023

Seen/filed.

Sd

Director

Elementary and Secondary Education

Khyber Pakhtunkhwa, Peshawar.

10-04-2023

ATTESTED





**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION**

KHYBER PAKHTUNKHWA PESHAWAR.
No 3333 /F.No.61A-23/MS/Abbottabad Vol-VI

Dated 9/5 Peshawar the
/2023

To

Mr. Hayat Muhammad Khan
Senior Clerk GCMHS Battagram

Subject: **Request for Transfer Adjustment**

Memo:

I am directed to refer to the subject cited above and to inform you that your appeal alongwith others has been seen and filed by the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. _____
Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Master File

Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar.

ATTESTED



(A)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9223587)

No.SO (Primary-M)/E&SED/2-1/Transfer & Posting/2023
Dated Peshawar the, April 10th 2023

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa

Subject: - APPEAL AGAINST TRANSFER ORDER.

I am directed to refer to the subject noted above and to enclose herewith a copy self-explanatory application along with its enclosures received from Mr Abdul Majid along with 06 others of District Batgram regarding cancellation of illegal transfers for further necessary action and report, please.

Encl.As above.


(ARSALAN AHMED)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the: -

- 1-2. District Education Officer, (Male / Female) Batgram
3. PS to Secretary, E&SE Department Khyber Pakhtunkhwa

ATTESTED


SECTION OFFICER (PRIMARY MALE)

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Annex - F



OFFICE OF THE
SUB DIVISIONAL EDUCATION OFFICER
(FEMALE) Battagram

No. 2528

Dated 13/04/2023

To;

The District Education Officer(F)
Battagram

Subject: OFFICE ORDER ISSUED UNDER ENDST NO 2455-60 DATED 31.03.2023

Refence to the subject mentioned above, it is stated for you kind information that office order issued under Endst No 2445-60 Dated 31.03.2023 from Directorate E&SE Khyber Pakhtoon Khwa, the transfer order at S.No 04 against the post of S/Clerk is wrong due to Non availability of post of S/Clerk in the office of SDEO(F) Allai as per sanction post of Budget Book copy attached and the transfer order Mentioned at S.No 12 and 11, there was also no any vacancies of Assistant BPS 16 and J/Clerk of BPS 12 vacant, in the office of SDEO(F) Battagram so that the transfer position of S.No 04, 11, and 12 are incorrect.

Hence report is submitted for information please.

A.A.
SUB DIVISION EDUCATION OFFICER (F)
BATTAGRAM *bon*

ATTESTED

a

WAKALATNAMA

BEFORE THE HONBLE KP Serico Tribunal Pesh

Hayat Muhammad Khan

Plaintiff(s)
Petitioner(s)
Complainant(s)

VERSUS

Secretary Edu Govt

Defendant(s)
Respondent(s)
Accused(s)

By this, power-of-attorney I/we the said Appellee in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client

[Handwritten Signature]

Accepted.

[Handwritten Signature]

Muhammad Arif Jan
Advocate High Court

Peshawar

Office No.210, Mumtaz Plaza

G.T Road, Hashtnagri Stop,

Peshawar City.

CNIC No.17201-2275748-7

Bc No.10-6663

Cell: 0333-2212213