

FORM OF ORDER SHEET

Court of _____

Appeal No. 1115/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/05/2023	<p>The appeal of Mr. Noor Hassan presented today by Mr. Yasir Saleem Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____</p> <p>By the order of Chairman</p> <p><i>A. M.</i> For REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1115 /2022

Noor Hassan

VS


HEALTH DEPARTMENT

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	1-2
2.	Affidavit & appoint ment order	...A.....	3-4
3.	letters dated 17.01.2019 & 30.04.2019	A ₁ & A ₂	4,5
4.	letters dated 22.10.2019 & 18.11.2019	B	6-8
5.	Letters dated 11.12.2020 & 13.12.2020	C	9-10
6.	Letter dated 22.11.2021	D	11
7.	Order sheets	E	12-13
8.	departmental appeal	F	14
8.	Vakalatnama	15


APPELLANT

THROUGH:


Yasir Saleem
&
Afrasiab Khan Wazir
Advocate High Court

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1115 /2023

Mr. Noor Hassan , Malaria Supervisor, in the office of District Health Officer District North Waziristan
.....**APPELLANT.**

Versus

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. District Health Officer, District North Waziristan.
3. District Account Officer, District North Waziristan.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.09.2012 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.09.2012 till dated may very kindly be declared illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.09.2012 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the appeal are as under:

1. That the appellant is working as malaria supervisor in the respondent department. *Appoint order is attached as Annex A*
2. That the appellant has outstanding salaries against the respondent for which he filed an appeal before the high ups wherein through letter dated 17.01.2019 & 30.04.2019 the secretary health order process it. *Copy of letter is attached as annexure.....A, B, C*
3. That the respondents wrote a letter to Accountant General Khyber Pakhtunkhwa regarding guidance in the matter, whereby the accountant general Khyber pakhtunkhwa gave

23-10-2019 (2)

approval on the following conditions vide dated 18.11.2019
Copy of letter is attached as Annexure.....B.

4. That on 11.12.2020 the respondent No.3 made an observation over the impugned bills which was removed by the respondent No.2 and resubmitted to respondent No.3 13.12.2020 which is still pending. Copy of letter is attached as annexure.....C.

5. That the Respondent No.2 sent letters vides dated 22.11.2021 regarding the outstanding salaries but the respondent No.3 is still mum over it. Copy of letter 22.11.2021 is attached as annexure.....D.

6. That it is pertinent to mention here that an identical nature case has been decided by the August Tribunal with the direction to the respondents to prepare their outstanding salaries bills to the entitlement of their arrears. Copy of the order sheets are attached as annexure.....E.

7. That against the inaction of the respondents with regard to the outstanding salaries of the appellant, he also filed departmental appeal to the appellate authority which is still pending. Copy of the departmental appeal is attached as annexure.....F.

8. That appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

A. That the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.01.2021 is against law, rules and norms of natural justice.

B. That the appellant have not be treated in accordance with law and rules and as such respondents violated Article 4 and 24 of the constitution of Islamic republic of Pakistan 1973.


C. That the action of the respondent No.3 amounts to sheer arbitrary and autocratic in nature hence against the norms of natural justice.

D. That the conduct of respondent No.3 is not only ignoring the competent authority orders but conduct and attitude of the respondents No.3 from such inaction show something unfair means hence also violating the mandatory provision of the constitution that all Govt. departments are duty bound to strictly act in accordance with law.

- E. That its apex court decisions that salary is not bounty that can be stopped at the wishes of high ups.
- F. That the inaction of the respondents by not releasing salaries of the appellant is against Article 38(e) of the Constitution of Islamic republic of Pakistan, 1973.
- G. That the respondents are using colorful exercise of power regarding not releasing the salaries outstanding against the respondents hence this action of the respondents is unwarranted under the law.
- H. That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.
- I. That the remaining points if any arise during the course of hearing may also be allowed.

It is therefore humbly prayed that the appeal of the appeal may very kindly be accepted as prayed for.

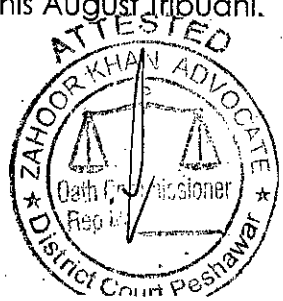
APELLANT
 نور حسن
 Noor Hassan

THROUGH: 
 Yasir Saleem
 &
 Afrasiab Khan Wazir
 Advocates high Court

Certificate:
 That no earlier appeal is preferred before this august tribunal.


 Deponent

Affidavit:
 I Noor Hassan resident of district north waziristan, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.




 DEPONENT

Anex "A" (4)

OFFICE OF THE AGENCY SURGEON NORTH WAZIRISTAN AGENCY

Phone and fax No 0928300788-311662

email:agency/surgeonnwa@gamil.com

No. 315-17 AS / NWA/MRN

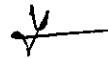
DATED: 11 / 1 / 2012

APPOINTMENT ORDER

On the recommendation of departmental selection committee the following various categories Health Officials are hereby appointed against the vacant post in BPS-9 plus usual allowances as admissible under the rules in the best interest of public with immediate effect.

- | | |
|---------------------------------------|------------------------------------|
| 1. Hussain Ahmad M/S. | 22. Muhammad Basir M/S |
| 2. Ashar Uddin M/S. | 23. Noor Ali M/S |
| 3. Tasleem Ullah. EPI technician | 24. Waheed ullah M/S |
| 4. Hisab Ullah. EPI technician | 25. Shamem LHV - |
| 5. Ghufran Ullah. EPI technician | 26. Sher Dawood M/S |
| 6. Zahir Uddin. M/S | 27. Suleman M/S |
| 7. Hikmat Ullah. M/S | 28. Javaid Ahmad M/S |
| 8. Muhammad Zubair. M/S | 29. Muhammad Yousaf EPI technician |
| 9. Manzoor Ahmad. M/S | 30. Qismat Ullah M/S |
| 10. Muhammad Yousaf. M/S | 31. Manzoor Ahmad M/S |
| 11. Kaleem Ullah. M/S | 32. Fareed Ullah M/S |
| 12. Shahid Ullah. M/S | 33. |
| 13. Sijad Ullah. Dispenser | |
| 14. Noor Hassan. M/S | |
| 15. Noor Ul Amen. EPI technician | |
| 16. Masood Ahmad. M/S | |
| 17. Mukhtar Ayoob. M/S | |
| 18. Altaf Hussain. M/S | |
| 19. Zabeah Ullah. M/S | |
| 20. Zahid Noor. EPI technician | |
| 21. Muhammad ishaq. Dental technician | |

ATTESTED



Agency Surgeon

North Waziristan Agency

Copy forwarded to the

1. Director Health Services FATA Warsak Road Peshawar.
2. Political Agent North Waziristan Agency Miranshah.
3. Agency Account Officer North Waziristan Agency Miranshah.


Agency Surgeon

North Waziristan Agency

Phone: 091-9210106
FAX: 091-9210212

MERGED AREAS WARSAK ROAD PESHAWAR,
No. _____ /DHS/FATA/Admn Dated: _____

To
✓ The District Surgeon,
Tribal District, NW.

4/6
11
12

Subject: APPEAL FOR RELEASE OF SALARIES.

ANNEX A/2

It is in reference to a letter of Government of Pakistan, National commission for Human Rights vide No.08/18/COMP/FATA/NHCR dated 26-12-2013 pertaining to release of outstanding salaries of the appellant Mr. Zahid Noor and others, wherein the commission has vividly referred the order of Supreme Court of Pakistan in captioned case No.16986-G OF 2018 IN THE MATTER OF REG. NON PAYMENT OF SALARIES TO THE STATE EMPLOYEES, the commission further stated that salaries of other 43 persons have already been released by your office vide No.8506-09 dated 10-05-2018.

It is further added that vide your letter No.938 dated 29-04-2016, No.19-10-2016, No.1715/C-2 dated 20-07-2016, 6007/C-2 dated 19-12-2017 and No.6822-23/C-2 vacant position dated 02-01-2018, wherein you have categorically stated that the appellants have not been terminated from services, which has further endorsed by the Agency Accounts officer NW Agency vide his letter No.AAO/MIRN/NWA/2018-19-3085 dated 17-09-2018 and intimated that no record of termination orders of the appellants is available at account office NW Agency.

It is pertinent to mention here that the Minister for Health Khyber Pakhtunkhwa has also been directed the undersigned to release the pay of the appellants i.e Mr. Zahid Noor and others, and Zahidullah and others if stopped without assigning any cogent reason.

Consequent upon above you are hereby directed to give them the termination orders if they are terminated from services; and if not terminated then release their salaries from the date of stoppage without no further delay under intimation to this office in frame of General Financial Rules, as stoppage of pay without assigning cogent reason is illegal.

Zahidullah
Director Health Services
Tribal Districts, Peshawar
Dated: 17/05/2018

No. 713-18 /DHS/FATA/Admn
CC for information and necessary action to the:

- 1- Registrar Services Tribunal, Peshawar.
- 2- Coordinator, National Commission for Human Rights w/c to his letter quoted above.
- 3- PS. to Minister Health, Khyber Pakhtunkhwa, Peshawar w/c orders dated 21-12-2018 on the application of appellants.
- 4- DCO Tribal District - NW
- ✓ 5- Medical Superintendent DHQ Hospital Miranshah request for same action please.

Zahidullah
Director Health Services
Tribal Districts, Peshawar

C + C
Zahid

ATTESTED

ATTESTED

Zahidullah
A

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

No. SOH-III/1-32/2019/Paramedics
Dated Pesh: the 30th April, 2019

5

To
District Health Officer,
North Waziristan District,
Khyber Pakhtunkhwa.

Subject- APPEAL FOR RESTORATION OF SALARY ORDER DATED 31-01-2019.

I am directed to refer to the subject cited above and to enclose herewith a copy of application submitted by Mr. Zahid Noor & Zaheerullah & others (Paramedic staff of North Waziristan District) with the request for favour of further necessary action as per remarks of the Secretary Health, Khyber Pakhtunkhwa recorded on the application, please.

Encls: As above

Encls No. & date even

[Signature]
Section Officer (E-III)

Cc:

1. Director Health Services (Newly Merged Area) Warsak Road Peshawar with the request for further necessary action as per remarks of Secretary Health.
2. PS to Secretary Health Department Peshawar.

[Signature]

[Signature]
Section Officer (E-III)

Asst. Surgeon
North Waziristan District
Miran Shah

ATTESTED
[Signature]

*ctc
Tawid*

ATTESTED

*Attested
A7
siab*

OFFICE OF THE DISTRICT ACCOUNTS OFFICER
NORTH WAZIRISTAN (TRIBAL DISTRICT) MIRAN SHAH
No. DA(O)/MIRN/NWTD/2019-20/3088 Dated 22/10/2019

Amir to G

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ANNEX 18

The Accountant General,
Khyber Pakhtunkhwa,
Peshawar.

SUBJECT:- SEEKING OF GUIDANCE REGARDING PAY RELEASE OF
PARAMEDICS EMPLOYEES OF VARIOUS CATEGORIES OF DHO
NWTD MIRAN SHAH.

Memo,

Kindly refer to the subject cited above.

In this regard it is stated that this office facing problems in payment of pay and allowances of Sixty seven employees of Health Department.

Following is the brief history of the case referred above

1. The above Sixty seven (67) employees were appointed by the ex-Agency Surgeon in 2011-12.
2. The employees were paid up to 31/08/2012.
3. After that their pay and allowances were stopped with out any legal action and retraced from manual pay bill.
4. The effected employees lodged an appeal before secretary Health KPK and subsequently the Sectary Health directed Director Health services for complete report (Anex "A").
5. The director Health Services sort report from the Agency Surgeon and the Agency Surgeon Submit a Complete report to Director Health Services FATA (Anex "B").
6. Director Health Services FATA issued order vide No 713-18 dated 17/01-2019 for release of pay to DHO-NWTD (Anex "D")
7. In the meanwhile Director Health Services with drawn his pervious order No 1170-74 dated 31/01/2019. (Anex "E")
8. The effected employees filed writ petition before the Peshawar High Court Peshawar for justice and release their pay and Peshawar High Court issued order in favour of the petitioner for disposing of the case in fortnight (Anex "F").
9. The Petitioner approached to sectary Health for compliance and the sectary Health issued directions to DHO NWTD vide letter No SOH-

Attested

District Health Officer
Miranshab Tribal Distt:

ATTESTED
Attested
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11/1-32/2019/Paramedics dated 30/04/2019 for favourable action

(7)

Anex^oG^o

10. The DHO NWTB made Compliance and released pay vide order No. 1433-37 dated 23/04/2019 and submitted bill to this office

Now this office have creation problems and processing of their claim.

- a. Clear cut the vacancies are not available to adjust all the Petitioners and they desired to adjust the same for pay purpose against other vacant posts i.e. charge nurse etc by DHS FATA Arrear involves (Anex^oI^o)
- b. The DHO NWTB made Advertisement for fresh recruitment in daily Aji dated 03/10/2019 (Anex^oJ^o)
- c. The Petitioners lodge fresh suit in the court of senior Civil Judge for interim relief and got statusque against fresh advertisement (Anex^oK^o)

Keeping in view the above facts this office may be guided to weather release the pay and allowances against the above mentioned posts to avoid COC of the Honourable Court and more prosecution/litigious please.

Attested

District Accounts Officer
NW (Tribal District) Miran Shah

District Health Officer
Miran Shah Tribal Distt:

of file
Armed

ATTESTED
Attested
A7 *siab*



Office of the
Accountant General
Khyber Pakhtunkhwa

(8)

No. H-24 (89)/Miran Shah/Vol-II/602

Dated: 18/11/2019

To

The District Accounts Officer,
North Waziristan (Tribal District)
Miranshah.

Subject:-

SEEKING OF GUIDANCE REGARDING PAY RELEASE OF
PARAMEDICS EMPLOYEES OF VARIOUS CATEGORIES OF DHO
NWTD MIRANSHAH.

The undersigned is directed to refer to your office memo
NO.BAO/MRS/NWTD/2019-20/3056 Dated 22.10.2019 on the subject cited above and to state
where that the case is examined in detail and the following points need to be addressed before
making payment of arrear of pay & allowance.

- a. The Provincial Government with the collaboration of this office and Director General (MIS) Islamabad implemented the OM (Organizational Management) Module for Provincial side, where in for each sanctioned post, a Position code is allotted by the Finance Department which is used for all type of HR Payments. It may be checked in the system through J-code-YOMA005.
- b. A nonpayment certificate from the Department concerned may be obtained and also approach Finance Department Govt. of KP for allocation of funds for payments.
- c. Along with your referred case a letter signed by the Section officer (FATA-II) is received where a cost center PR0049 is mentioned which pertains to AGPR (SO) Peshawar and used for Erstwhile FATA. Against this old cost center PR8129 (Allotted by Finance Department KP), through which 38 employees are drawing their pay up to 31.10.2019, the same may also be elucidated accordingly please.

Attested

[Signature]
Accounts officer (IAD)

[Signature]
District Health Officer
Miranshah Tribal Distt.

[Signature]
Narain

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Attested
AF
Miranshah



OFFICE OF THE DISTRICT ACCOUNTS OFFICER

NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH

No. DAO/MRN/NWTD/2020-21/ 8011

Dated 11/12/2020

Anex E
9

To

The District Health Officer
District North Waziristan.

Subject:

Appeal for Release of Pay In r/o Siraj ud Din & Others & Punching their Source-II

Kindly refer to the subject noted above and to state that:

- 1) Whether they have been regular and bonafide employees of your department.
- 2) Whether they are performing their duties regularly.
- 3) Whether they were appointed on regular sites or otherwise.
- 4) Whether they are involved in any inquiry.
- 5) Whether their salaries were stopped due to non-opening of their bank accounts or otherwise.

Therefore, it is further requested a clear-cut decision may kindly be intimated to this office for further process the case and also after fulfilling the above observations, kindly submit all bills/source II forms to process in the matter being low-paid Govt employees.

[Signature]
District Account Officer
North Waziristan Tribal District

ATTESTED

ATTESTED

[Signature]
Attested
17/12/2020

10

OFFICE OF THE DISTRICT HEALTH OFFICER NORTH WAZIRISTAN TRIBAL DISTRICT

No. ~~6070~~/DHO/NWD/MRN/

Dated 13/12/2020

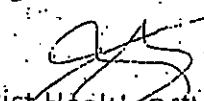
To
The District Account Officer
North Waziristan District

Subject APPEAL For RELEASE OF PAY IN R/o Sirajud din and others and Punching their source II forms

Kindly refer to your letter dated 11-3-2021 on the subject noted above and to state that


- 1- They are regular and bonafide employees of this department
- 2- They are performing their duties regularly to the entire satisfaction of their superiors.
- 3- They have appointed on regular sides.
- 4- They are not involved in any type of inquiry i.e Anti Corruption and NAB etc
- 5- Their salaries have been stopped due to non opening of bank accounts as intimated by your good office vide letter dated 22-1-2021 and 18-2-2021 (Copy attached)

It is therefore requested the observations has been removed by the under sign and verified the source forms and re submitted to your good office for further necessary actions being low paid Government servants and to perform their duty with zeal more than this.


District Health Officer
Tribal District Miranshah

ATTESTED

ATTESTED


Attested
AF 13/12/2020

Amad
①

OFFICE OF THE

AZIRISTAN AT MIRANSHAH

76365

/DHO/Court Case

Dated Miranshah the: 22 /11/2021

To

The District Accounts Officer
District North Waziristan.

Subject: Appeal for Release of Pay in r/o Siraj ud Din & Others & Punching their Source-II

Reference your letter No. 864 Dated 18/11/2021 on the subject noted above and to state that the salaries of Health employees of various cadres are performing their duties regularly under the control of the undersigned. They are the bonafide employees of this Office and there is no complaint/Inquiry against them. Their salaries have been stopped due to non-opening of bank accounts as intimated by your good office vide letter dated 18/02/2021. The then DHO has already intimated the same through various letters from time to time (copies attached) but the issue still persists.

Further to resolve the subject case once for all, various letters by the DHS erstwhile FATA, Secretary Health and AG KPK are attached for ready references.

In continuation to the above this office has also intimated the same vide letter No. 1433-37 Dated 24/04/2018 and letter No. 4283 Dated 17/09/2020 (copies attached) to resolve the issue of pay release.

In addition to the above all correspondence, the subject case had already been inquired and scrutinized for further authentication through an Inquiry committee by the then DHO DNW, the report of which had already been communicated with your good office (copy attached).

In view of the above facts, it is requested that the out standing salaries of the employees may kindly be released against the newly created position codes so that the employees may feel at ease and perform their duties regularly with zeal more than this.

Attested

District Health Officer
North Waziristan at Miranshah

District Health Officer
Miranshah Tribal Dist.

ATTESTED

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AT

Amr E (12)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



Service Appeal No. 424 /2022

Mr. Zain-Ullah, Store Keeper, in the office of District Health Officer
District North Waziristan
.....APPELLANT.

Versus

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. District Health Officer, District North Waziristan.
3. District Account Officer, District North Waziristan.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.07.2017 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2017 till dated may very kindly be declared illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.07.2017 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant.

R/SHEWETH:
ON FACTS:

ATTESTED

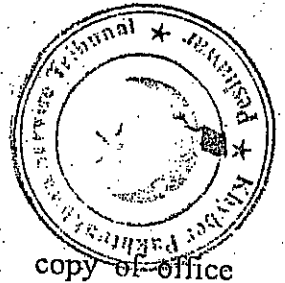
[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Brief facts of the appeal are as under:

1. That the appellant is working as Store Keeper in the respondent department.
2. That the appellant has outstanding salaries against the respondent for which he filed an appeal before the high ups wherein through letter dated 17.01.2019 & 30.04.2019 the secretary health order process it. Copy of letter is attached as annexure.....A
3. That the respondents wrote a letter to Accountant General Khyber Pakhtunkhwa regarding guidance in the matter, whereby the accountant general Khyber pakhtunkhwa gave

Appeal no. 424/2023
Zainullah vs Govt

66



- 04.05.2023
01. Learned counsel for the appellant present.
 02. Learned counsel for the appellant produced copy of office order 09.03.2022 issued by District Health Officer North Waziristan Miranshah. By virtue of the order, the outstanding salaries of the appellant have been released against any vacant post. Copy of the same is placed on file.
 03. In view of the development, learned counsel for the appellant states that the appeal in hand has met its purpose.
 04. Disposed of having been infructuous. Cosign.
 05. Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 04th day of May, 2023.

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Muhammad Akbar Khan)
Member (E)

Date of Presentation of Application 11/5/23
Number of Words 27
Copying Fee 16/-
Urgent 5/23
Total 151/-
Name _____
Date of Completion 11/5/23
Date of Delivery of Copy 11/5/23

4

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2023

Noor Hassan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt of KP & others

(RESPONDENT)
(DEFENDANT)

I/We Noor Hassan

Do hereby appoint and constitute, **Yasir Saleem & Afrasiab Khan, Advocates High Court, Peshawar** 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 cost. 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.

Dated. 15/5/2023

CLIENT(S)

ACCEPTED
YASIR SALEEM

&
AFRASIAB KHAN
ADVOCATES HIGH COURT
PESHAWAR