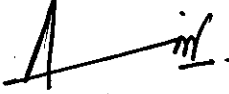


FORM OF ORDER SHEET

Court of _____

Appeal No.

1366/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/06/2023	The appeal of Mr. Imtiaz Ali presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on
		By the order of Chairman  REGISTRAR

The appeal of Mr. Imtiaz Ali FC No. 1803 so of Liqat Ali Nowshera Kalan District
Zwani Khel received today i.e on 14.06.2023 is incomplete on the following score which is
returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Annexures of the appeal are unattested.
- 3- Check list not attached with the appeal.
- 4- Last page of the memo of appeal is missing.
- 5- Copies of charge sheet, statement of allegation, show cause notice, enquiry report
and replies thereto are not attached with the appeal be placed on it.
- 6- Annexures of the appeal are illegible which be replaced by legible/better one

No. 1773 /S.T.

Dt. 15/6 /2023.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Kabir Ullah Khattak Adv.
High Court Peshawar.

objection No 1-4 has been
Removed while in Response of
objection Nos No charge sheet,
Statement of allegation and show
Cause notice has been served
OR Communicated to the appellant
And in Response of objection No 6
(B) (C) has been removed
while Annexure A is medical
prescription.


19-6-2023

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

SERVICE APPEAL No. 1366 /2023

Imtaiz Ali FC, No.1803 S/o Liaqat Ali (Late) R/o
Nowshera Kalan Mohallah Zwani Khel.

..... Appellant

VERSUS

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Saddar Division Peshawar.

INDEX

S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal with verification		1-5
2.	Addresses of the parties		6
3.	Affidavit		7
4.	Application for condonation of delay		8-9
5.	Copy of Medical Prescriptions	A	10-12
6.	Copy of impugned order and Departmental appeal	B&C	13-17
7.	Wakalat Nama		18


Appellant

Through


Kabir Ullah Khattak

 &
Roeda Khan

Advocates, High Court, Peshawar

①

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. 1366 of 2023

Imtaiz Ali FC, No.1803 S/o Liaqat Ali Khan (Late) R/o
Nowshera Kalan Mohallah Zwani Khel.

..... Appellant

VERSUS

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Khyber Pakhtunkhwa
Peshawar.
3. Superintendent of Police Saddar Division
Peshawar.

..... Respondents

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974, AGAINST
THE IMPUGNED ORDER DATED
15/12/2022 COMMUNICATED TO THE
APPELLANT ON 18.01.2023 WHEREBY
THE APPELLANT HAS BEEN
DISMISSED FROM SERVICE AGAINST
WHYIC THE APPELLANT FILED
ADEPARTMENTAL APPEAL ON 14.02.2023
WHICH HAS NOT BEEN DECIDED
WITHIN THE STATUTORY PERIOD OF
NINETY (90) DAYS.**

Prayer:

By acceptance of this appeal the impugned
order dated 15.12.2022 may kindly be set aside
and the appellant may kindly be reinstated on his
service along with all back benefits.

②

Any other remedy which this august tribunal deems fit that may also be onward granted in favour of appellant.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant has been appointed as Constable on 07.06.2012 with respondent Department.
- 2) That after appointment the appellant performed his duty regularly with full devotion and hard work and no complaint whatsoever has been made against the appellant.
- 3) That while performing his official duty with respondent Department, the mother of the appellant becomes serious ill and due to severe illness of the mother of the appellant, the appellant was unable to perform his official duty with respondent department and the appellant also informed the department regarding illness of his mother and also submit medical prescription. (Copy of Medical prescriptions are attached as Annexure-A).
- 4) That the brother of the appellant is also paralyzed and no one to take care of his mother except the appellant.

- 5) That after the recovery of mother illness the appellant visited to Respondent department for joining of his official duty but surprising the appellant has handed over the dismissal order dated 15.12.2022 on 18.01.2023 against which the appellant filed a Departmental appeal on 14.02.2023 which was not decided within the statutory period of ninety days. (Copy of impugned order and Departmental appeal are attached as Annexure B&C).
- 6) That feeling aggrieved the appellant submitted the instant Service Appeal before this Hon' able Tribunal inter alia on the following grounds.

GROUND

- A). That the respondent had not treated the appellant in accordance with law rules and policy on the subject and acted in violation Article-4 of the Constitution Islamic Republic of Pakistan 1973 therefore the impugned order is not sustainable in the eyes of law.
- B). That no charge sheet and statement of allegation has been issued or served to the appellant which is a clear cut violation of Rule 6 (a) (b) of Police Rules 1975.

- C) That no show cause notice has been issued or serviced to the appellant by the respondent Department.
- D) That no regular inquiry has been conducted by the respondent Department and no chance of personal hearing has been provided to the appellant in this respect the appellant relied upon the Judgment dated 2008 Page SCMR 1369.
- E) That it well settled principal of law no one can be condemn unheard because it is against the natural justice of law and this respect the appellant relied upon the Judgment reported on 2008 SCMR Page 678.
- F). That no statement of witness has been recorded and no opportunity of cross examination has been provided to the appellant.
- G) That the punishment awarded to the appellant is harsh one and so concerned the absentia of the appellant it was not intentionally but due to the reasons mention above and which was beyond the control of the appellant.

5

H) Any other grounds will be raised at the time of arguments with prior permission of this Hon' able Tribunal.

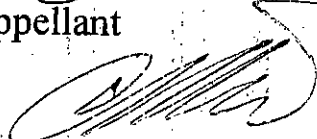

It is therefore most humbly prayed that on acceptance of this appeal the impugned order dated 15.12.2022 may kindly be set aside and the appellant may kindly be reinstated on his service along with all back benefits.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 14.06.2023

Del
Appellant

Through


Kabir Ullah Khattak
&

Roeda Khan
Advocates, High Court, Peshawar

(6)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. _____ of 2023

Imtaiz Ali FC, No.1803 S/o Liaqat Ali (Late) R/o
Nowshera Kalan Mohallah Zwani Khel.

..... Appellant

VERSUS

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Peshawar.
3. Superintendent of Police Saddar Division
Peshawar.

..... Respondents

ADDRESSES OF THE PARTIES

Appellant

Imtaiz Ali FC, No.1803 R/o Nowshera Kalan Mohallah
Zwani Khel.

Respondents

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Khyber Pakhtunkhwa
Peshawar.
3. Superintendent of Police Saddar Division
Peshawar.

Aeli
Appellant

Through


Kabir Ullah Khattak


Roeda Khan

Advocates, High Court, Peshawar

7

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. _____ of 2023

Imtaiz Ali FC, No.1803 S/o Liaqat Ali (Late) R/o
Nowshera Kalan Mohallah Zwani Khel.

..... Appellant

VERSUS

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Khyber Pakhtunkhwa
Peshawar.
3. Superintendent of Police Saddar Division
Peshawar.

..... Respondents

AFFIDAVIT

I, Mr. Imtaiz Ali FC, No.1803 S/o Liaqat Ali (Late) R/o
Nowshera Kalan Mohallah Zwani Khel do hereby
solemnly affirm and declare on oath that the content of
the above application are true and correct to the best of
my knowledge and belief and nothing has been kept
secret and concealed from this Hon'ble Tribunal.

DEPONENT

Ali

⑧

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

Appeal No. _____ of 2023

Imtaiz Ali FC, No.1803 S/o Liaqat Ali (Late) R/o
Nowshera Kalan Mohallah Zwani Khel.

..... Appellant

VERSUS

1. Inspector General of Police, KPK Peshawar.
2. Capital City Police Officer Khyber Pakhtunkhwa Peshawar.
3. Superintendent of Police Saddar Division Peshawar.

..... Respondents

**APPLICATION FOR CONDINATION OF DELAY
IF ANY.**

Respectfully Sheweth:

Petitioner submits as under:-

1. That the above mentioned service appeal is filing before this Hon' able Court in which no date is fixed for fixed for hearing so far.
2. That while performing his official duty with respondent Department, the mother of the appellant becomes serious ill and due to severe illness of the mother of the appellant, the appellant was unable to perform his official duty with respondent department and the appellant also informed the department regarding illness of his mother and also submit medical prescription.

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3. That after the recovery of mother illness the appellant visited to Respondent department for joining of his official duty but surprising the appellant has handed over the dismissal order dated 15.12.2022 on 18.01.2023 against which the appellant filed a Departmental appeal on 14.02.2023 which was not decided within the statutory period of ninety days.
4. That the impugned order is come under the definition of void order because it has been passed without full filling the codal formalities.
5. That there are so may Judgment of the Supreme Court that cases should be decided on merit rather than on technicality.
6. That there are also so many Judgment of the Supreme Court as well as specific provisions of law that limitation has been counted from the date of communication.

It is therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Dated: 14/06/2023

Abi
Appellant

Through

Kabir Ullah Khattak
Kabir Ullah Khattak

Roceda Khan
Roceda Khan

Advocates, High Court, Peshawar

Amman

(A)

(10)

(10)

Dr. Fahad

M.B.B.S. FCPS II
Lady Reading Hospital
Peshawar



ڈاکٹر فہد

ایم بی بی ایس، ایف سی ایس II
لیدی ریڈنگ ہسپتال پشاور

P.Name: N/O M/GA Age: 35 Sex: F Date: 25-9-2017

Clinical Record

Rx

1. Tab. Metformin
 2. Tab. Amlodipine
 3. Tab. Dabigatran
 4. Tab. Lisinopril
 5. Tab. Clopidogrel
 6. Tab. Aspirin
 7. Tab. Atorvastatin
 8. Tab. Folic Acid
 9. Tab. Vitamin B12
 10. Tab. Calcium

0333-4901637

لیدی ریڈنگ ہسپتال پشاور

11

12

Dr. Fahad

M.B.B.S., F.C.P.S. II
Lady Reading Hospital
Peshawar



ڈاکٹر فہاد
لیڈی ریڈنگ ہسپتال
پشاور

Name

Clinical Record

Rx

[Faint handwritten notes, possibly including 'Stomach' and 'Diagnosis']

[Handwritten signature]

وقت کار
سہ پہر 4 بجے تا رات 10 بجے

0333-4901637

س: نواتحیر جدید مشتاق آباد نزد نیوسٹی میڈیکل لیبارٹری

B (13)

SUPERINTENDENT OF POLICE

ADAR DIVISION CAPITAL CITY POLICE PESHAWAR

Email: readersp76@gmail.com Phone:091-9330330

ORDER

This is office order for disposal of departmental proceedings against FC Imtiaz No. 1803 of CCP, Peshawar on the charges that it was reported vide DD No. 40, dated 28.07.2021, PS Sarband, he was relieved from Police Lines on transfer, vide DD No. 16, dated 23.07.2021 but he failed to report a PS Sarband, Later on made his arrival at PS Sarband, vide DD No. 12, dated 21.07.2021 Sarband. This he remained absent from duty w.e. 23.07.2021 to 21.07.2022 from PS Sarband. Similarly he while posted at PS Sarband remained absent from his official duty w.e.f 22.08.2022 to 12.9.2022 and 14.09.222 to 04.11.2022 without leave or permission.

Departmental proceedings was initiated against him and SDPO Saddar Circle was appointed as Enquire Officer. he conducted Enquiry and found him guilty. upon receipt of findings of E.O, he was issued Final Show Cause Notice which was served upon him on his postal address through DPO Nowshera, vide this Office Diary No. 5454-PA dated 15.11.2022. His signatures as taken of receipt were obtained and despite repeated calls. he neither submitted reply to Final Show Cause Notice nor joined the enquiry proceedings. this shows that he does not make interest in his official duty.

His service record was checked which reveals that he was enlisted into service on 07.06.2012 and he carries 27 bad entries, 03 minor punishment and 01 major punishment during his service.

In light of the recommendation of E.O and other material available on record the defaulter official has been found guilty of misconduct deliberate absence. therefore, in exercise of the power vested to me under Police & Disciplinary Rules 1975, the defaulter official FC Imtiaz No. 1803 is hereby awarded major punishment of "Dismissal from service" with immediate effect. Hence, his absence periods are counted as without pay.

OB No. 3387

Dated 15.12.2022

(Malik Habib Khan)
Superintendent of Police
Saddar Division

CC

1. The SP HQrs Peshawar.
2. DSP Legal, CCP Peshawar.
3. SDPO Badaber Circle.
4. SDPO Saddar Circle (E.).
5. DD/IT Police Line.

(B)

(13)

(13)



SADDAR DIVISION, CAPITAL CITY POLICE, PESHAWAR.
L-10, Saddar, Peshawar.
No. 118/PA, dated 10.12.2022

ORDER

This is office order for disposal of departmental proceedings against FC Intiaz No.1803 of CCP, Peshawar on the charges that it was reported vide DD No. 10, dated: 28.07.2021, PS Sarband, he was relieved from Police Lines on transfer, vide DD No. 10, dated: 23.07.2021 but he failed to report at PS Sarband, later on made his arrival at PS Sarband, vide DD No. 12, dated: 21.07.2021, PS Sarband. That he remained absent from duty from 21.07.2021 to 21.07.2022 from PS Sarband. Similarly, he while posted at PS Sarband remained absent from official duty w.e.f: 22.08.2022 to 12.09.2022 and 14.09.2022 to 04.11.2022 when on leave.

Departmental proceedings were initiated against him and SDPO Saddar Circle was appointed as Enquiry Officer. He conducted enquiry and found him guilty. Upon receipt of findings of E.O, he was issued Final Show Cause Notice, which was served upon him on his postal address through DPO Nowshera, vide this office diary No. 5454/PA, dated: 15.11.2022. His signatures, as 1 gen of receipt were obtained and despite repeated calls, he neither submitted reply to Final Show Cause Notice, nor joined the enquiry proceedings. This shows that he does not take interest in his duty.

His service record was checked which reveals that he was enlisted into service on 07.06.2012 and he carries 27 bad entries, 03 minor punishments and 01 major punishment during his service.

In light of the recommendation of E.O. and other material available on the record the defaulter official has been found guilty of misconduct/deliberate absence. Therefore, in exercise of the power vested to me under Police & Disciplinary Rules 1975, the defaulter official FC Intiaz No.1803 is hereby awarded the major punishment of "Dismissal from Service" with immediate effect. Hence, his absence periods are counted as without pay.

OB No. 3387

Dated: 10-12-2022

(Malik Habib Khan)
Superintendent of Police
Saddar Division.

CC:-

1. The SP (Qr), Peshawar.
2. DSP Legal, CCP Peshawar.
3. SDPO Badaber Circle,
4. SDPO Saddar Circle (H.O)
5. DDAT Police Lines.

C 14
Better Copy

To

The Most Respected
Chief Capital City Police Office
Khyber Pakhtunkhwa, Peshawar

Subject: DEPARTMENTAL APPEAL AGAINST THE OFFICE ORDER NO. 48-PA ORDER DATED 19/12/2022 PASSED BY SUPERINTENDENT OF POLICE HEADQUARTER, POLICE SARBAND DIVISION, PESHAWAR, WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE WITH IMMEDIATE EFFECT.

Respected Sir:-

1. That the appellant is bonafide resident of District Peshawar Khyber Pakhtunkhwa and join the Khyber Pakhtunkhwa Police as Constable on 07/06/2012.
2. That the appellant always performed his duty with due diligence and best of his ability.
3. That the appellant was posted at Police Station Sarband and was regularly Performed his duty with zeal and joy to the satisfaction of his high ups.
4. That the father of the appellant, namely Liaqat Ali Khan was also serving as SI in Police Department and got Martyred.

To

The Most Respected
Chief Capital City Police Office
Khyber Pakhtunkhwa, Peshawar.

Subject:- DEPARTMENTAL APPEAL AGAINST THE ORDER
ORDER NO 48-PA ORDER DATED 19/12/2022
PASSED BY SUPERINTENDENT OF POLICE
HEADQUARTER, POLICE SARBAND DIVISION,
PESHAWAR, WHEREBY THE APPELLANT HAS BEEN
DISMISSED FROM SERVICE WITH IMMEDIATE
EFFECT.

Respected Sir,

1. *That the appellant is bonafide resident of District Peshawar Khyber Pakhtunkhwa and join the Khyber Pakhtunkhwa Police as Constable on 07/06/2012.*
2. *That the appellant always performed his duty with due diligence and best of his ability.*
3. *That the appellant was posted at Police Station Sarband and was regularly performed his duty with zeal and joy to the satisfaction of his high ups.*
4. *That the father of the appellant namely Liaqat Ali Khan was also serving as SI in Police Department and got martyred.*

while performing his official duties and all the burden of his family shifted to the shoulders of the appellant.

5. That the appellant has one mother and martyred brother at home and there is no one to take care of them except the appellant.
6. That the mother of the appellant become seriously ill and there is no one to take care of his mother except the appellant because the mother of the appellant was paralyzed, due to which the appellant was constrained to take leave in order to look after his mother, who was serious ill. The appellant was under impression that leave has been granted to look after his mother.
7. That the a few days ago the appellant astonished to receive the office order mentioned vide which appellant has been dismissed from service without giving any prior notice, hence the appellant being aggrieved from the impugned order, filed the instant appeal inter alia on the following grounds.

GROUNDS

- A. That the impugned order is illegal and void ab initio being passed in utter violation of law, rules and policy on the subject.

while performing his official duties and all the burden of his family shifted to the shoulders of the appellant

That the appellant has one mother and paralyzed brother at home and there is no one to take care of them, except the appellant.

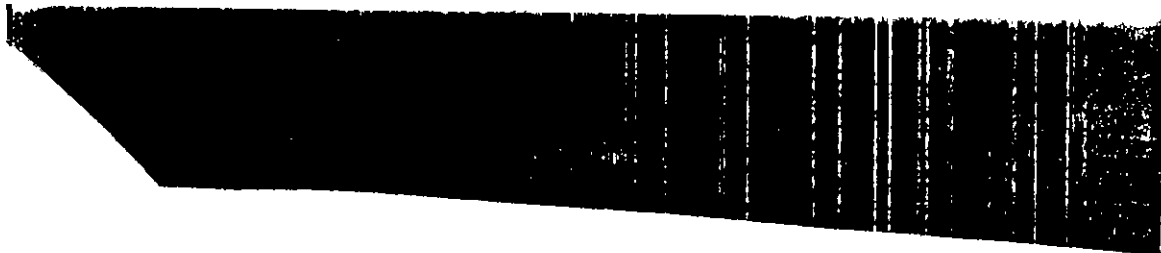
6. That the mother of the appellant become seriously ill and there is no one to take care of his mother except the appellant, because the brother of the appellant is paralyzed, for which the appellant was constrained to take leave in order to look after his mother, who was seriously ill. The appellant was under impression that leave has been granted to look after his mother.

That a few days ago the appellant astonished to receive the order mentioned above passed by SP Sarband Division Pashapur vide which appellant has been dismissed from service without giving any prior notice, and the appellant being aggrieved from the impugned order filed the instant appeal inter alia on the following grounds

Grounds:

A. That the impugned order is illegal and void ab-initio being passed in total violation of law rules and policy on the subject.

- B. That the appellant has not been treated in accordance with law and rules on the subject.
- C. That it is settled law that no one be condemn un heard and in the instant case valuable rights of the appellant has been infringed.
- D. That no proper inquiry has been connected and no witness has been examined even no opportunity has been awarded.
- E. That the appellant is the sole earner of his family including his kids and he is in dire need of money.
- F. That the appellant served the department at least 10 years before his dismissed, still servicing with zeal but it would be injustice with the appellant that he may be deprived from his legal benefits.
- G. That the appellant seeks permission to advance other grounds and proofs at the time of hearing.



That the appellant has not been treated in accordance with law & rules on the subject.

C. That it is settled law that no one be condemned unless in the instant case valuable rights of the appellant have been infringed.

D. That no proper inquiry has been conducted and the same has been examined in the appropriate manner.

E. That the appellant is the sole bread earner of his family including his kids and his wife.

F. That the appellant served the department at least 19 years before his dismissal, still serving with 20 months of the injustice with the appellant that he may be deprived from his legal back benefits.

G. That the appellant seeks permission to advance the grounds and proofs at the time of hearing.

It is, therefore, humbly prayed that on acceptance of this departmental appeal, the impugned Office Order No JS-PA dated 19/12/2022 passed by Superintendent Of



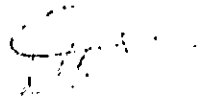
It is therefore, humbly prayed that on acceptance of this departmental appeal, the impugned orders No 48-PA dated 19/12/2022 passed by Superintendent of Police Headquarters, Police Sarband Division, Peshawar, whereby the appellant has been dismissed from service with immediate effect may kindly be suspended, be declare null and void, against the law, and the appellant may graciously be restored to his original post with all back benefits.

Dated 14/02/2023

Appellant
Imtaiz Ali
S/o Liaqat Ali Khan
R/o Nowshera Kalan,
Mohallah Zwani Khel
Constable No. 1803
Cell No. 0345-9200346

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*Police Headquarter, Police Sarband Division, Peshawar,
whereby the appellant has been dismissed from service with
immediate effect may kindly be suspended, be declare null
& void, against the law, and the appellant may graciously
be restored to his original post with all back benefits*

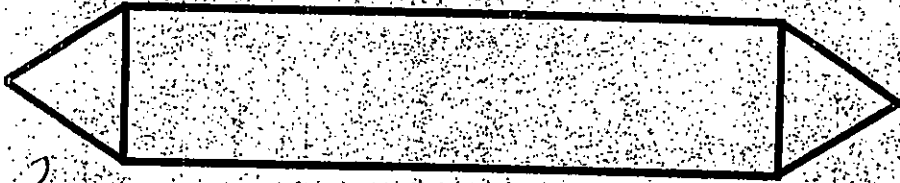

Appellant

Dated:- 14/02/2023

Imtiaz Ali
S/o Liaqat Ali Khan
R/o Nowshera Kalan, Mohallar,
Zwani Khel,
Constable No 1803
Cell No: 0345-9200346

بعدالت صحت سے اس پر عمل پیرا ہو کر کئی توثیق

رہا



2023ء منجانب

نام لکھیں

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ کیلئے لکھ کر اللہ تعالیٰ سے دعا ہے کہ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ مقرر وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا محقق 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 ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

20

ماہ جون

المرقوم

العبد

بخواہ العبد
بخواہ العبد
بخواہ العبد