


FORM OF ORDER SHEET

Court of _____

Appeal No. 1430/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/07/2023	<p>The appeal of Mr. Umair resubmitted today by Mr. Taimur Ali Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1430 /2023

Umair

V/S

Police Department

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THROUGH:

APPELLANT


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1430/2023

Mr. Umiar Ex-Constable No.1083,
Police Post Etam, Swabi.

(APPELLANT)

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The Regional Police Officer, Mardan Region Mardan.
3. The District Police Officer, Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.10.2020, WHEREBY THE APPELLANT WAS DISMISSED FROM SERVICE, AGAINST THE ORDER DATED 21.10.2022, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED AND AGAINST THE ORDER DATED 21.11.2022 RECEIVED BY APPELLANT ON 13.06.2023, WHEREBY THE REVISION OF THE APPELLANT WAS ALSO REJECTED.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDERS DATED 13.10.2020, 21.10.2022 AND 21.11.2022 MAY KINDLY BE SET ASIDE AND APPELLANT MAY BE REINSTATED INTO HIS SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant was appointed as Constable in the year 2012 in the respondent department. The appellant since his appointed has performed his duty with devotion and honesty, whatsoever assigned to him and no complaint has been filed against him regarding his performing.
2. That unfortunately the appellant was addicted of ice, but he gave up all drug addictions at once due to which he suffered withdrawal symptoms and as the appellant is belong to poor family and hardly bears his expenses, therefore, he could not afford Rehabilitation Centre for proper treatment and went to local Hospital for treatment where it transpired that the appellant has kidney problem due to that reason which he was compelled to remains absent from his duty and on the basis of that reason charge sheet along with state of allegations were issued to him which was replied by the appellant in which he mentioned that he was addicted of ice, but he gave up all drug addictions at once and he was also suffered from kidney disease, therefore, he could not perform his duty, however, the appellant did not keep the copy of reply to charge sheet. **(Copy of charge sheet along with statement of allegations is attached as Annexure-A)**
3. That inquiry was conducted against the appellant in which the inquiry officer in his recommendation stated that the statement of the appellant solicits lenient view and recommended the appellant for suitable punishment. **(Copy of inquiry report is attached as Annexure-B)**
4. That without taking lenient view about the appellant as recommended by the inquiry officer, the appellant was dismissed from service vide order dated 13.10.2020. The appellant filed departmental appeal against the dismissal order dated 13.10.2020 which was rejected on 21.10.2022, then he filed revision which was also rejected on 21.11.2022 and the rejection order dated 21.11.2022 was received by the appellant on 13.06.2023 through application. **(Copies of order dated 13.10.2020, departmental appeal, order dated 21.10.2022, revision and order dated 21.11.2022 are attached as Annexure-C, D, E, F & G)**
5. That the appellant has no other remedy except to file the instant appeal in this Honorable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:

- A) That the impugned orders dated 13.10.2020, 21.10.2022 and 21.11.2022 are against the law, rules, facts, norms of justice and material on record, therefore, not tenable and liable to be set aside.

- B) That unfortunately the appellant was addicted of ice, but he gave up all drug addictions at once due to which he suffered withdrawal symptoms and as the appellant is belong to poor family and hardly bears his expenses, therefore, he could not afford Rehabilitation Centre for proper treatment and went to local Hospital for treatment where it transpired that the appellant has kidney problem due to that reason which he was compelled to remains absent from his duty and due to reform his conduct and illness the inquiry also recommended lenient view.
- C) That the inquiry officer in his recommendation stated that the statement of the appellant solicits lenient view, but without taking lenient view about the appellant as recommended by the inquiry officer, the appellant was dismissed from service which is against the norms of justice and fair play.
- D) That show cause notice was not issued to the appellant before passing the impugned dismissal order which is against the law and rules.
- E) That the appellant did not intentionally remain absent from his duty but he was ill and due to his illness, he was unable to perform his duty and was compel to remain absent from his duty, therefore, needs to be treated with lenient view.
- F) That the penalty of dismissal from service imposed upon the appellant is very harsh, which is passed in violation of law and rule, therefore, the same is not sustainable in eyes of law and hence liable to be set aside.
- G) That the appellant has not been treated in accordance with law and rules and has been condemned unheard throughout.
- H) That the appellant seeks permission of this Honorable Tribunal 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.


APPELLANT

Umair

THROUGH:


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2023

Umair

VS

Police Department

AFFIDAVIT

I, Umair Ex-Constable No.1083, Police Post Etam, Swabi, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honorable Tribunal.



DEPONENT

CHARGE SHEET

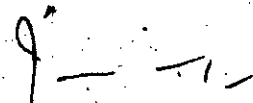
Whereas I am satisfied that formal enquiry as contemplated by Civil Servants (E&D) Rules 2011 is necessary and expedient.

Certified to be True Copy.

And whereas I am of the view that the allegations if established would call for Major/Minor penalty as defined in the aforesaid Rules.

Now therefore as required by the aforesaid Rules I, **Imran Shahid, PSP, QPM, District Police Officer, Swabi** charge you **Constable Umair No.1083**, on the basis of statement of allegations attached to this charge sheet.

In case your reply is not received within seven days without sufficient cause it will be presumed that you have no defence to offer and ex-parte action will be taken against you.


District Police Officer,
Swabi.

ATTESTED

District Police Officer, Swabi.

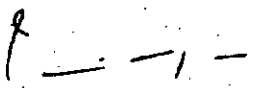
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SUMMARY OF ALLEGATIONS.

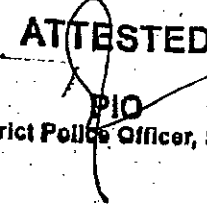
It is alleged that Constable Umair No. 1083, has been found ice/crystal addict and habitual absentee. He absented himself from duty with effect from 04.06.2020 till date without any leave/prior permission of the competent authority. Therefore, he was issued with show cause notice. He was directed time and again to receive his show cause notice but he did not. His this act is against the discipline and amounts to gross mis-conduct, hence summary of allegation.

Certified to be True Copy.

Mr. Shakeel Khan, DSP HQrs Swabi is appointed to conduct proper departmental enquiry against him.


District Police Officer,
Swabi.

No. 183 /CC/PA
Dated: 16/07 /2020

ATTESTED

District Police Officer, Swabi.

(10) pages

OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE,
HEADQUARTER, SWABI.

Phone No. 0938-280279, E-Mail: dsphqswabi@gmail.com

BO

To: The District Police Officer,
Swabi.

Certified to be True Copy.

No: 438 /HQrs: Swabi dated, 28/08/2020.

Subject: - DEPARTMENTAL ENQUIRY AGAINST CONSTABLE UMAIR NO.1083

Memo:

It is submitted that an enquiry against the above named constable was entrusted to the undersigned vide Endst: No. 183/CC/PA, dated 16.07.2020 the allegations are as under: -

SUMMARY OF ALLEGATIONS: -

It is alleged that Constable Umair No.1083, has been found Ice/Crystal addict and habitual absentee. He absented himself from duty with effect from 04.06.2020 till date without any leave/prior permission of the competent authority. Therefore, he was issued with show case notice. He was directed time and again to receive his show case notice but he did not. His act is against the discipline and amounts to gross mis-conduct, hence summary of allegation.

PROCEEDINGS:

The undersigned perused the enquiry papers, relevant record at hand, and summoned the delinquent officer for personal hearing/ recording his statement.

STATEMENT OF CONSTABLE UMAIR NO.1083:

He stated in his statement that he intended to mend his ways and reform his conduct; therefore he gave up all drug addictions at once. He suffered withdrawal symptoms. He is from a poor family and barely meets his expenses; as such he was unable to rehabilitate himself in a professional clinic. He could not participate in due activities due to his withdrawal. He went to the local hospital for treatment. It transpired that he had kidney issues. He is now completely clean of any addiction. He reported back for duty 28.08.2020. He stated that he got absent due to Kidney issues and mental stress. He railed in to this detrimental track due to inexperience, and immaturity. He further stated that he is fully committed to the fact that he may become a useful member of society, his family and the department. He further prayed to take pathetic view of his helplessness and poverty, be given a chance to mend his ways, and file the instant enquiry. (Statement and Medical papers attached)

ATTESTED

District Police Officer, Swabi.

FINDINGS :-

After the perusal of enquiry papers, relevant record at hand, and careful deliberations the undersigned reckons the following:-

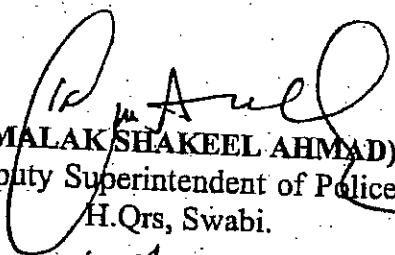
1. The delinquent officer remained absent for about 84 days. he reported his arrival on 28.08.2020 (DD report attached)
2. The fact that he did not inform his superiors regarding his problems/absence in advance.

RECOMMENDATIONS:

In view of the above the undersigned, suggest that Constable Umair No. 1083 is guilty of allegations leveled. However, his statement solicits lenient view. He is therefore, recommended for Suitable punishment, if agreed, please.

Enclosed (15Pages)

Certified to be True Copy.


(MALAK SHAKEEL AHMAD)
Deputy Superintendent of Police,
H.Qrs, Swabi.

28/8/20
ATTESTED


DPO
District Police Officer, Swabi.

(1083) (9)



OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

ORDER. Certified to be True Copy.

Constable Umair No.1083, while posted to Police Post Etam, absented himself from duty with effect from 04.06.2020 to 28.08.2020 and 29.08.2020 till date without any leave/prior permission of the competent authority, which is against the discipline and amounts to gross mis-conduct. He was issued Show Cause Notice, he was directed time and again to receive his show cause notice, but he failed to receive the same. Therefore, he was issued charge sheet and summary of allegations and DSP H. Qrs, Swabi was appointed as enquiry officer. The Enquiry officer conducted proper departmental enquiry, recorded statements of all concerned, collected evidence and submitted his findings, wherein he recommended the defaulter Constable Umair No.1083 for suitable punishment. The undersigned perused the enquiry papers and findings of the Enquiry officer and by agreeing with him issued Final Show Cause Notice. The Final Show Cause Notice was served upon him through local Police Station. He was clearly directed to submit his reply within seven days of the receipt of the Final Show Cause Notice but he did not. However, it was decided to give him an opportunity of personal hearing, but he failed to appear, which means that he has nothing to offer in his defence and deserved ex parte action.

Therefore, I, Imran Shahid, PSP,QPM, District Police Officer, Swabi, in exercise of the powers vested in me under Khyber Pakhtunkhwa Police Rules 1975, hereby award Constable Umair No.1083, Major Punishment of dismissal from service with immediate effect. He will not be entitled for payment of salary for the absence (intervening) period.

O.B No. 1325

Dated 13/10 /2020:

[Signature]

(IMRAN SHAHID) PSP,QPM
District Police Officer, Swabi.

OFFICE OF THE DISTRICT POLICE OFFICER, SWABI

No. 2991-95 /PA, dated Swabi, the 13/10 /2020.

Copies to the:-

- 1. DSP, Razzar.
- 2. Pay Officer.
- 3. Establishment Clerk.
- 4. Fauji Missal Clerk.
- 5. Official concerned

ATTESTED

[Signature]
PIO
District Police Officer, Swabi.

Date of Presentation of Application: 13/10/20

Copies to: 13

Total: 13

Name of Officer: Radial Adani

Date of Completion of Copy: 13-6-23

Date of Delivery of Copy: 13-6-23

[Handwritten notes and checkmarks at the bottom of the page, including the number 2991-95 and various initials and marks.]

گنور جناب ڈی۔ آئی۔ جی صاحب - صدران ڈسٹرکٹ

(15) D

پریسنگ ہیرے بجای ملڈز میتھ لولیس
کنٹریل سٹیٹس ٹیکس ورڈ ہیر امان کتا
سورای اخونہ سٹیٹس ہیرای جانا بیدد نمبر 1081

جناب - عالی ڈپٹی / در خورد ست - میرا در متھ سٹیٹس
کاروڈا سٹیٹس بجای ملڈز میتھ لولیس
کنٹریل سٹیٹس ڈیٹس سٹریٹ

میرا من سٹیٹس کنٹریٹ لولیس پھاس / کنٹریٹ سال 2012

کھیری سوا کتا. اور سٹیٹس نے سال 2020 - 10 - 12

تک ملڈز میتھ لولیس کتا. اور سٹیٹس کے بعد تاریخ 13/10/2020

جناب - D.P.O صاحب - ہیرا نے لولیس سٹریٹ

نمبر - OB No-1325 حور نمبر 20 - 10 - 13 ملڈز میتھ

(4) سے لولیس سٹیٹس حور نمبر 20 - 10 - 13 ملڈز میتھ
کتنی ڈسکارڈ کتا سٹیٹس اور سٹیٹس کنٹریٹ سٹیٹس

اور ستم کی نیت سے قریب کر دیا گیا ہے اور
ستم کا ذکر فرمائیں بالکل نہیں ہے اور ستم
کجا نہیں ہے اور ستم کی نیت سے اور ستم
یہ جانندہ کیا ہے اور ستم ہے اور ستم

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جانندہ کی نیت سے اور ستم ہے اور ستم ہے

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② E (12)

Certified to be True Copy.

ORDER

This order will dispose-off the departmental appeal preferred by Ex-Constable Umair No. 1083 of Swabi District Police against the order of the then District Police Officer, Swabi, whereby he was awarded major punishment of dismissal from service vide OB No. 1325 dated 13.10.2020. The appellant was proceeded against departmentally on the allegations that he while posted at Police Post Etham absented himself from his lawful duty without any leave or prior permission of the competent authority with effect from 04.06.2020 to 28.08.2020 and from 29.08.2020 till date of his dismissal.

On account of which he was issued Show Cause Notice, but he failed to submit his reply. Therefore, proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheet alongwith Statement of Allegations and the then Deputy Superintendent of Police, Headquarters, Swabi was nominated as Enquiry Officer. The Enquiry Officer after fulfilling codal formalities submitted his findings to District Police Officer, Swabi, wherein he has recommended the delinquent Officer for suitable punishment.

The then District Police Officer, Swabi perused the findings and by agreeing with the recommendations of Enquiry Officer issued him Final Show Cause Notice. The Final Show Cause notice was sent through local Police for service upon him. He was clearly directed in Final Show Cause Notice to submit his reply within 07 days, otherwise ex-parte action will be taken against him, however, he did not bother to submit his reply nor appeared for personal hearing which show his disinterest in Police Service and has nothing to offer in his defense. Therefore, he was awarded major punishment of dismissal from service vide OB No. 1325 dated 13.10.2020 by the then District Police Officer, Swabi.

Feeling aggrieved from the order of District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 19.10.2022.

From the perusal of the enquiry file and service record of the appellant, it has been found that allegations leveled against the appellant have been proved beyond any shadow of doubt. The appellant has bitterly failed to produce any cogent reason to justify his absence. Hence, the absence period i.e 04 months and 04 days of the appellant clearly depicts his casual and lethargic attitude towards his official duties as the very conduct of appellant is unbecoming of a disciplined Police Officer. On perusal of previous service record of the appellant, it was noticed that he is habitual



*Legal officer/EC/DHC/OB
for information & facts*

ATTESTED

FIO

District Police Officer, Swabi.

DPO Swabi

25-10-2022

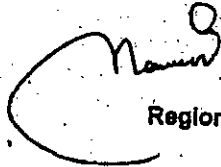
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Certified to be True Copy.

absentee and prior to this, the appellant was also dismissed from service twice for his disinterest in the official duties. Hence, order passed by the competent authority does not warrant any interference. Besides the above, the appellant approached this forum at a belated stage by filing the instant appeal which is badly time barred for 01 year and 11 months without advancing any cogent reason regarding such delay.

Keeping in view the above, I, Muhammad Ali Khan, PSP Regional Police Officer, Mardan, being the appellate authority, find no substance in the appeal, therefore, the same is rejected and filed, being devoid of merit as well as badly time barred.

Order Announced.



**Regional Police Officer,
Mardan.**

No. 8268 /ES. Dated Mardan the 21/10 /2022.

Copy forwarded to District Police Officer, Swabi for information and necessary action w/c to his office Memo: No. 139/Insp: Legal dated 11.10.2022. His Service Record is returned herewith.

(****)

ATTESTED



PIO

District Police Officer, Swabi.

CPD
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مختصر قبا (P.O) انسپیکٹر جنرل صاحب پولیس (K.P.K) شماره

قبا عالی :- ایس سیٹ کنٹینل 1083 محمد عمر بزرگلاف حکم قبا (R.P.O) اللہ آباد

قبا جو عیادت ایسٹل حسب ذیل طریق سے

(1) یہ قبا سن سائٹل کنٹینل محمد عمر 1083 بہ حثیت کنٹینل 8/9 سال

K.P پولیس میں ملازمت کر چکا ہے

(2) یہ قبا جو جبر غیر حاضر ہی کے سائٹل ایسٹل کو ملازمت سے بحوالہ

NO 1325 O.B NO 10/3 کو از دفتر ڈسٹرکٹ پولیس آفس سرحد صاحب

2991-95 مورفہ 10/3 ملازمت سے برخواست کیا ہے۔ نقل حکم نامہ

قبا (D.P.O) صاحب سرحد لہ ہے

(3) یہ قبا صدر حکم سے خلاف قبا (R.P.O) صاحب سرحد ایسٹل دائر

کیا جو یہ دفتر قبا لہ 10/21 کو بحوالہ قبا 10/21/ES/8268-NO

فائل ہو کر نام منظور ہو چکا ہے۔ نقل حکم نامہ قبا (R.P.O) صاحب

سرحد لہ ہے۔

(4) یہ قبا سائٹل ایسٹل نہایت غریب۔ مفلس بندہ ہے اور اس خانہ

حصص ورلڈ۔ بیوی۔ بچے۔ چھوٹے۔ بیٹن بھائی کا واحد کفیل ہے اور جبکہ

ڈیپٹی کمشنر کوئی دبا سائٹل لہ لہ لہ لہ اور ملازمت سے برخواستگی پر

لہ لہ لہ لہ لہ خانہ فاقوں کا شکار ہے اور اس سے سائٹل ایسٹل

صحافی دورہ گذر کر کے کا مستعدی ہے۔ اور اگر مسائل۔ ایپلائٹ سے کوئی غلطی
 سرزد ہوئی ہوں تو بھی مسائل ایپلائٹ کے لاچار ہی رہتے ہیں / ضلعی
 کہ حد نظر رکھ کر دورہ کیا جاوے۔ نیز ترقی پزیر مسائل ایپلائٹ
 کسی غیر قانونی طور پر دورہ کرنا اور اس کے خلاف ورزی کا
 مرتکب نہ ہوگا۔

کی یہ جس وجہ سے غیر حاضری کا سائل۔ ایپلائٹ مرتکب ہوا اور اصل غلطی
 کا شکار ہو کر غلطی سرزد ہوئی اس لیے صحافی کا مستعدی ہوں اور دیا تو دورہ
 رکھا اور سروس معین کی حیثیت سے ٹیلیوٹی انجام دیا اور غیر حاضری
 کا مرتکب نہ ہوگا اور نہ ہی کسی قسم کے شہادت کا موقع نہیں دیا
 (6) ایپلائٹ کے بہت سے مسائل اور ایپلائٹ کے مسائل۔ ایپلائٹ کے
 حالت زور پر رحم فرماتے ہوئے دورہ کرنا اور اس کے خلاف
 کا حکم ہمارے فرمایا جاوے۔ نیزہ از خود دورہ کرنا تا حیات دعا گوہ رہیں

مہلت 1083 محمد عمر ولد میر آصف خان سائنس پبلسیشن
 10/11/2022
 0311-9883721 - موبائل: 16202-38470333

Handwritten signature and a circular stamp with the date 10/11/2022.

بیان طنی
 میں طفا بیان کرتا ہوں
 کہ میرا تپ ایپلائٹ کا حکم
 دیکھنے کے لیے درج ذیل
 محمد عمر
 صاحب



CR 8606/CS
24/11/22
2:36 PM

9 (16)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
Central Police Office, Peshawar.

No. S/ 283 /22, dated Peshawar the 21/11/2022.

To The Regional Police Officer,
Mardan.

Subject REVISION PETITION

Certified to be True Copy:

Date: 3632
24/11/22

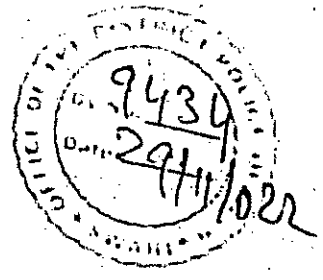
The Competent Authority has examined and filed the revision petition submitted by SFC Umair No. 1083 of Swabi, against the punishment of dismissal from service awarded by DFO Swabi vide OB No. 1325 dated 13.10.2020, being badly time barred.

The applicant may please be informed accordingly

[Signature]
(AFSAR JAN)
Registrar,

For Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar

[Handwritten notes and signatures]
For inspection
RSC Mardan
20/11/22



OB/EC
P2V M a-

OB 1330
30-11-22

[Signature]
28/11
20/11

ATTESTED
[Signature]
District Police Officer, Swabi.

VAKALAT NAMA

NO. _____/2023

IN THE COURT OF KP Service Tribunal, Peshawar

Umar (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Police Department (Respondent)
(Defendant)

I/We, Umar

Do hereby appoint and constitute **TAIMUR ALI KHAN, ADVOCATE HIGH COURT**, 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 _____/2023

[Signature]
(CLIENT)

ACCEPTED

[Signature]
TAIMUR ALI KHAN
Advocate High Court

BC-10-4240
CNIC: 17101-7395544-5
Cell No. 03339390916