

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 1640/2013

Date of Institution... 23.12.2013

Date of decision... 22.11.2017

Nadeem Khan son of Shezada Khan, Ex-Constable No. 152/H.C R/O Muradabad,  
Police Station City District Haripur. ... (Appellant)

Versus

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa,  
Peshawar and 2 others. .... (Respondents)

MR. RIZWANULLAH,

Advocate ...

For appellant.

MR. KABIR ULLAH KHATTAK

Additional Advocate General ...

For respondents.

MR. NIAZ MUHAMMAD KHAN,

MR. AHMAD HASSAN, ...

CHAIRMAN

MEMBER

JUDGMENT


NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel  
for the parties heard and record perused.

FACTS

2. The appellant was dismissed from service on 07.07.2011 with retrospective effect, against which the appellant filed departmental appeal on 12.2.2013 which was rejected on 20.05.2013 being time barred. He filed a review on 17.06.2013 which was rejected on 31.10.2013. Thereafter, the appellant filed the present service appeal on 23.12.2013. The charge against the appellant was his wilful absence from duty.

### ARGUMENTS

3. The learned counsel for the appellant argued that the very impugned order is void as it has been given retrospective effect. In this regard the learned counsel for the appellant relied on certain rulings of the august Superior Courts reported as 1985-SCMR-1178, 1996-SCMR-201, PLD 2007-Supreme Court-52, 1989-SCMR-1690, 2007-PLC (C.S)5 and judgment of this Tribunal dated 17.10.2016 in service appeal No. 478/2016 entitled "*Abdul Sahkooor Versus the Secretary Education, Khyber Pakhtunkhwa Peshawar and others*". The learned counsel for the appellant further argued that no limitation shall attract to the present appeal as the order is a void order. The learned counsel for the appellant next contended that the merits of the case cannot be touched by this Tribunal as the impugned order is a void order.



4. On the other hand, the learned Additional Advocate General argued that the appellant filed two departmental appeals and under the law, the second departmental appeal is not allowed. He further argued that when the departmental appeal is time barred then the service appeal is also time barred in view of judgment reported as 2015-SCMR-165. Regarding retrospectivity of the order the learned AAG argued that under Section 7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 this Tribunal can modify the order. He further argued that the department had fulfilled the requirements of due process by issuing charge sheet and statement of allegations and by conducting the enquiry.

5. In rebuttal the learned counsel for the appellant argued that though this Tribunal cannot discuss the merits as argued above yet in reply to the factual data given by the learned AAG the enquiry report was submitted on 01.07.2011 and the impugned order

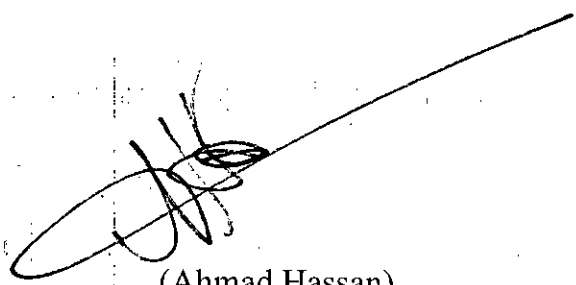
was passed on 7.7.2011 without final show cause notice. In view of Section 3(2) of the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 it was mandatory requirement further supported by judgments reported as 1989-SCMR-1690 and 2009-SCMR-605.

**CONCLUSION.**

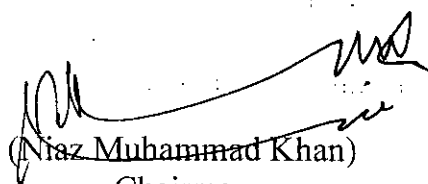
6. The objection of the learned AAG regarding two departmental appeals is immaterial because a person can file as many appeals as he can but the law is that limitation shall run from the first departmental appeal. In the present case if the order is a void order, then no limitation shall run from any of the departmental appeals.

7. Admittedly the impugned order has been passed retrospectively and in view of the judgment relied upon by the learned counsel for the appellant retrospective orders are void under the law and no limitation shall run in void orders. This Tribunal can also not modify any void order under Section 7 referred to by the learned AAG. Since this Tribunal has held that the order is void further merits of the appeal cannot be discussed.

8. In view of the above, the present appeal is accepted and the appellant is reinstated in service, however, the department is at liberty to hold denovo proceedings in accordance with the law. Parties are left to bear their own costs. File be consigned to the record room.



(Ahmad Hassan)  
Member



(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

**ANNOUNCED**

22.11.2017

1643/13

16.01.2017

Aurangzeb S/O Yaqoob Khan on behalf of the appellant and Ms. Shazia Mughal, GP for the respondents present. Counsel for the appellant is not in attendance due to death of his mother. Adjourned for final hearing for 17.05.2017 before D.B at camp court A/Abad.

Member

Chairman  
Camp court A/Abad.

25.05.2017

Since tour programme to camp court, Abbottabad for the month of May, 2017 has been cancelled by the Worthy Chairman, therefore, to come up for the same on 22.11.2017 at camp court, Abbottabad. Notices be issued to the parties for the date fixed accordingly

Registrar

22.11.2017

Counsel for the appellant and Addl: AG alongwith Mr. Muhammad Zahoor, Inspector (Legal) for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today . Parties are left to bear their own cost. File be consigned to the record room.

Member

Chairman  
Camp Court, A/Abad.

ANNOUNCED

22.11.2017

19.11.2015

None present for appellant. Mr. Muhammad Zahoor, Inspector (legal) alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Due to non-availability of D.B case is adjourned to 14.3.2016 for final hearing before D.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

14.03.2016

Appellant in person and Mr. Muhammad Zahoor, Inspector (legal) alongwith Mr. Muhammad Saddique, Sr.G.P for respondents present. Arguments could not be heard due to non-availability of D.B. Adjourned for final hearing before D.B to 16.8.2016 at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

16.08.2016

No one is in attendance on behalf of the appellant. Mr. Muhammad Zahoor, Inspector (Legal) for the respondents present. Counsel for the appellant has sent request for adjournment as he is not in a position to appear before this Tribunal at camp court, Abbottabad from Peshawar. To come up for arguments on 16.1.2017 before D.B at camp court. Abbottabad.



Member

  
Chairman  
Camp court. A/Abad

06/10/15  
05/11/2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP with Muhammad Zahoor Inspector for respondents present. The Tribunal is incomplete. To come up for the same on 6.3.2015.

  
READER

06/3/2015  
06/3/15

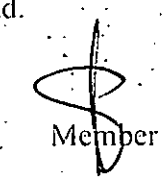
Counsel for the appellant and Mr. Muhammad Jan, GP with Mr. Muhammad Zahoor, Inspector (Legal) for the respondents present. The appellant did not want to file rejoinder. Case to come up for arguments on 26.08.2015.

  
MEMBER

26/08/2015

Counsel for the appellant and Mr. Muhammad Zahoor, Inspector (Legal) alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant stated before the Tribunal that an identical appeal titled Muhammad Ismail vs Police Department is pending and fix for arguments at camp court Abbottabad for 19.11.2015. Hence this appeal be also clubbed with the same. To come up for arguments on 19-11-2015 at camp court Abbottabad.

  
Member

  
Member

pass orders with retrospective effect. Moreover, no limitation runs against void order as laid down by various dictum of the august Supreme Court of Pakistan.

5. Since the terms & conditions of service of the appellant have been violated by dismissing him from service, therefore, the appeal in hand is tentatively admitted for regular hearing. The observations referred above on the point of limitation would be discussed at length at the time of regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 08.09.2014.

*Appellant deposited  
Process fee & Security  
Rs. 18000/- Bank Receipt  
attached with file*

9.

12.09.2014

MEMBER

This case is entrusted to Final Bench II for further proceedings.

CHAIRMAN

08.09.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Muhammad Zahoor, Inspector (Legal) for the respondents present. The learned Member is on leave, therefore, case to come up for the same on 03.12.2014.

Reader

3.12.2014

Clerk to counsel for the appellant and Mr. Usman Ghani, Sr.GP with Muhammad Zahoor, Inspector (Legal) for the respondents present. The Tribunal is incomplete. To come up for the same on 5.1.2015.

READER

1640/2013

12.6.2014

8. Appellant alongwith his counsel and AAG for the respondents present. Arguments on the point of maintainability heard and case file perused.

2. The learned counsel for the appellant argued before the court that the appellant has impugned order dated 07.07.2011 vide which the appellant was awarded major penalty of dismissal from service w.e.f. 06.05.2011 which is illegal and void. The learned counsel for the appellant submitted that against the said impugned order, the appellant filed departmental appeal/mercy petition on 12.02.2013, which was dismissed vide impugned order dated 20.5.2013 as being time-barred. The learned counsel for the appellant argued that during the intervening period, the appellant was on ex-Pakistan leave and as soon as he got the knowledge of impugned order dated 07.07.2011, he filed departmental appeal. The learned counsel for the appellant further argued that the impugned order is void ab-initio as the appellant has been awarded major penalty with retrospective effect and upon void order, no limitation runs. In this respect, the learned counsel for the appellant placed reliance on 1985-SCMR-1178, PLD 2007-Supreme Court-52, 2001-SCMR-1822 and PLD 2008-Supreme Court-663.

3. In rebuttal, the learned AAG submitted that the appeal filed by the appellant is hopelessly barred by time and no condonation can be granted in such cases, therefore, the appeal in hand is liable to be dismissed.

4. Perusal of the case file reveals that vide impugned order dated 07.07.2011, the appellant was awarded major punishment of dismissal from service with retrospective effect i.e. 06.05.2011. As per PLD 2007-Supreme Court-52(f) Executive/departmental authority has no power to



4.3.2014

Clerk to counsel for the appellant present. Due to general strike of the lawyers, counsel for the appellant is not available. To come up for preliminary hearing on 19.3.2014.

MEMBER 

6  
19.3.2014

Appellant with counsel present. Preliminary arguments partly heard and case file perused.

Perusal of the case file reveals that the appellant has impugned order dated 7.7.2011 vide which the appellant was awarded major punishment of dismissal from service. Similarly appellant has also impugned order dated 20.5.2013 vide which his departmental appeal was filed being time barred.

Since departmental appeal of the appellant was filed as time barred therefore, the learned counsel for the appellant and learned AAG are directed to assist the Tribunal on the point as to whether this Tribunal has got jurisdiction to call into question rejection order of the appellate authority which was filed being time barred. Notice be issued to the learned AAG. To come up for further hearing on 22.4.2014.

MEMBER 

7  
22.4.2014.

Junior to counsel for the appellant and AAG present. Due to general strike of the Bar, counsel for the appellant is not available. To come up for further preliminary hearing on 10.6.2014.



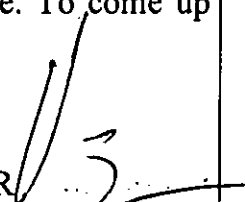
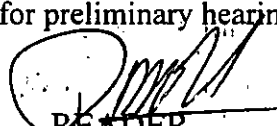
MEMBER 

MEMBER 

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1640/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/12/2013	<p>The appeal of Mr. Nadeem Khan presented today by Mr. Riazwanullah Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	30-12-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>13-2-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3	14.2.2014	<p>Appellant in person present. Due to general strike of lawyers, counsel for the appellant is not available. To come up for preliminary hearing on 20.2.2014.</p> <p style="text-align: right;">MEMBER </p>
4	20.2.2014	<p>Appellant with counsel present. Learned Member is on leave, therefore, case to come up for preliminary hearing on 4.3.2014.</p> <p style="text-align: right;"> READER</p>

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

In the matter

Service Appeal No. 1640 /2013

Nadeem Khan

**VERSUS**

The Provincial Police Officer,  
Government of Khyber  
Pakhtunkhwa, Peshawar &  
others

**I N D E X**

S.No	Particulars	Annexure	Pages #
1	Service Appeal	—	1-6
2	Affidavit	—	7
3	Application for Condonation of delay	—	8-11
4	Affidavit	—	12
5	Sanction of one year leave	“A”	13
6	Application for 3 years leave	“B”	14
7	Letter dated 31-3-2011	“C”	15
8	Letter dated 23-4-2011	“D”	16
9	Order of dismissal dated 7-7-2011	“E”	17
10	Departmental Appeal dated 12-2-2013	“F”	18-20
11	Rejection of departmental appeal dated 20-5-2013	“G”	21
12	Review Petition	“H”	22-24
13	Rejection of Review Petition dated 31-10-2013	“I”	25
14	Judgment of Service Tribunal	“J”	26-31
15	Wakalatnama	—	—

Through

  
Appellant

  
Rizwanullah  
M.A. LL.B

Advocate High Court,  
Peshawar

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 1640 /2013

Nadeem Khan S/O Shezada Khan,  
Ex-Constable No. 152/HC,  
R/O Muradabad, Police Station City,  
District Haripur.

**1674**  
**23/12/13**

**APPELLANT**

**VERSUS**

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST THE  
IMPUGNED ORDER NO. 500/OB  
DATED 7-7-2011 PASSED BY THE  
DISTRICT POLICE OFFICER, HARIPUR  
(RESPONDENT NO.3), AGAINST WHICH  
A DEPARTMENTAL APPEAL WAS  
FILED BUT THE SAME WAS DISMISSED  
ON 20-5-2013.**

**23/12/13**

**Prayer in Appeal**

*By accepting of this appeal, the impugned orders No. 500/OB dated 7-7-2011 and No. 5075/PA dated 20-5-2013 passed by the respondents No.2 and 3 respectively may very graciously be set aside and the appellant may kindly be re-instated in service with full back wages and benefits.*

*Any other relief deemed appropriate in the circumstances of the case, not specifically asked for, may also be granted to the appellant.*

**Respectfully Sheweth,**

*Short facts giving raise to the present appeal are as under:-*

1. *That the appellant was appointed as Constable in the Police Department at Haripur wing on 29-9-1993. He was then promoted as Head Constable on account of his dedication, devotion and commitment to his job. He had eighteen years unblemished service record to his credit.*
2. *That the brother of appellant had met with a fatal road accident at Korea. Therefore, he was granted one year Ex-Pakistan leave (without pay) in order to look after his ailing brother (Copy Annex-A).*
3. *That after expiry of the above leave, the appellant assumed the charge of his post accordingly. After sometime, he received a telephonic message that the condition of his brother was deteriorated who needed his help at Korea. Therefore, the appellant applied for 3 years " Extra Ordinary Leave (without pay)" by virtue of Rule 12 of the Khyber Pakhtunkhwa Province Civil Servants (Revised Leave) Rules, 1981 (Copy Annex-B).*

4. *That the respondent No.3 forwarded the said application to the respondent No.2 vide letter No.2709 dated 31-3-2011 (Copy Annex-C) who further transmitted the same to the Provincial Police Officer respondent No.1 vide Memo No.5335/E dated 23-4-2011 (Copy Annex-D).*
5. *That as a matter of emergency, the appellant proceeded to Korea to look after his ailing brother. But on the other hand, the respondent No.3 initiated disciplinary action at the back of the appellant without any fault on his part. Resultantly, the appellant was dismissed from service with retrospective effect from 6-5-2011 vide order No. 500/OB dated 7-7-2011 (Copy Annex-E).*
6. *That when the appellant arrived Pakistan, he came to know about the impugned order of his dismissal from service. He forthwith filed a departmental appeal with the respondent No.2 on 12-2-2013 (Copy Annex-F). But the same was dismissed on 20-5-2013 (Copy Annex-G).*
7. *That thereafter the appellant preferred a review petition before the Provincial Police Officer (respondent No.1) under the Police Rules, praying therein for re-instatement in service with full back wages and benefits (Copy Annex-H), which also met the same fate (Copy Annex-I).*
8. *That the appellant is jobless since his dismissal from service.*
9. *That the appellant now files this appeal before this Hon'ble Tribunal inter-alia on the following grounds.*

### **GROUND OF APPEAL**

- A. *That the respondent No. 1 was under statutory obligation to have considered the application of the appellant for grant of 3*

years "Extra Ordinary Leave (without pay)" in its true perspective and in accordance with **Rule 12 of the Khyber Pakhtunkhwa Civil Servants (Revised Leave) Rules 1981**. But he failed to do so. Thus, the appellant was not treated in accordance with the mandate of the constitution and law.

- B.** That the impugned order of dismissal from service of the appellant was passed on 7-7-2011 and the same was made enforceable with retrospective effect from 6-5-2011 in utter violation of law. Thus, it is liable to be set aside. Reliance in this respect can be placed on the judgments of August Supreme Court of Pakistan reported in **1985-SCMR-Page-1178 (citation-c)** and **PLD-2009-SC-Page-52(citation-f)**. The relevant citations of the said judgments are reproduced herein for facility of reference : -

**1985-SCMR-page-1178(citation-c)**

**(C) CIVIL SERVICE—**

**Removal from service--Order purporting to give retrospective effect to order of removal from service, held, patently unlawful and void in relevant regard--Such order could not be given effect to.**

**PLD-2009-SC-52 (citation-f)**

**(F) ORDER—**

**Executive-order-Retrospective -effect  
Executive / departmental authority  
has no power to pass orders with  
retrospective effect.**

*The above dictum of the August Supreme Court was followed by this Hon'ble Tribunal while deciding service appeal No.1371/2008 titled "Ex-Constable Fiaz Ali VS Superintendent of Police etc" on 29-8-2012. (Copy Annex-J). Therefore, the principle of consistency and parity both are attracted in the matter.*

- C.** *That the respondent No. 3 was bound to have served a charge sheet alongwith statement of allegation on the appellant in respect of alleged absence from duty. But he failed to do so and as such blatantly violated the Law and Rules. Hence, the impugned order is not sustainable in the eyes of law.*
- D.** *That no regular inquiry was conducted against the appellant to substantiate the allegation of willful absence from duty. Therefore, the impugned orders are bad in law.*
- E.** *That no show cause notice was given to the appellant being the mandatory requirement of Law. Similarly, he was also not provided any opportunity of personal hearing before imposition of major penalty of dismissal from service. Thus, the appellant has been condemned / penalized without being heard contrary to the basic principle of Natural Justice known as "Audi Alteram Partem". Hence, the impugned order is against the spirit of law.*
- F.** *That respondent No. 2 and 3 have passed impugned orders in mechanical manner and the same are perfunctory as well as non-speaking and also against the basic principle of administration of justice. Therefore, the impugned orders are not warranted by law.*



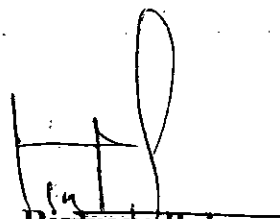
- G.** *That the impugned orders of respondent No. 2 and 3 are suffering from legal infirmities and as such causing grave miscarriage of justice to the appellant.*
- H.** *That the impugned orders of respondent No. 2 and 3 are the result of misreading and non-reading of relevant documents. Hence, the same are liable to be set aside.*
- I.** *That the impugned orders of respondent No. 2 and 3 are against law, facts of the case and norms of natural justice. Therefore, these are untenable in the eyes of law.*
- J.** *That the impugned orders are based on surmises and conjectures. Hence, the same are not sustainable under the law.*
- K.** *That the respondent No. 3 was biased and prejudiced against the appellant and therefore, he has awarded him Major penalty of dismissal from Service for no fault on his part.*

*In view of the above narrated facts and grounds, It is, therefore, humbly prayed that the impugned orders No.500/OB dated 7-7-2011 and No. 5075/PA dated 20-5-2013 passed by the respondents No.2 and 3 may very graciously be set aside and the appellant may kindly be re-instated in service with full back wages and benefits.*

*Any other relief deemed proper and just in the circumstances of the case, may also be granted.*

  
Appellant

Through

  
Rizwanullah

M.A. LL.B

Advocate High Court, Peshawar

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

In the matter  
Service Appeal No. \_\_\_\_\_/2013

Nadeem Khan

**VERSUS**

The Provincial Police Officer,  
Government of Khyber  
Pakhtunkhwa, Peshawar &  
others.

**AFFIDAVIT**

I, Nadeem Khan S/O Shezada Khan, Ex-Constable No. 152/HC, R/O Muradabad, Police Station City, District Haripur, do hereby solemnly affirm and declare that the contents of the accompanied Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



*[Handwritten Signature]*  
**Deponent**

**BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

In the matter

Service Appeal No. \_\_\_\_\_/2013

Nadeem Khan S/O Shezada Khan,  
Ex-Constable No. 152/HC,  
R/O Muradabad, Police Station City,  
District Haripur.

**APPELLANT**

**VERSUS**

1. The Provincial Police Officer, Government of Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Inspector General of Police Hazara Region, Abbottabad.
3. The District Police Officer, Haripur.

**RESPONDENTS**

**APPLICATION FOR CONDONATION OF DELAY**

1. *That the accompanied appeal may please be read as an integral part of this application.*
2. *That the appellant / applicant was dismissed from service with retrospective effect from 6-5-2011 vide order dated 7-7-2011 in utter violation of law laid down by August Supreme Court of Pakistan in cases reported in 1985-SCMR-Page-1178 (citation-c) and PLD-2009-SC-Page-52(citation-f). The relevant citations of the said judgments are reproduced herein for facility of reference: -*

1985-SCMR-page-1178 (citation-c)

(C) CIVIL SERVICE—

Removal from service--Order purporting to give retrospective effect to order of removal from service, held, patently unlawful and void in relevant regard--Such order could not be given effect to.

PLD-2009-SC-52 (citation-f)

(F) ORDER—

Executive-order-Retrospective -effect  
Executive / departmental authority  
has no power to pass orders with  
retrospective effect.

*The above dictum of the August Supreme Court was followed by this Hon'ble Tribunal while deciding service appeal No.1371/2008 titled "Ex-Constable Fiaz Ali VS Superintendent of Police etc" on 29-8-2012. (Copy Annex-H). Therefore, the principle of consistency and parity both are attracted in the matter.*

3.

*That as the impugned order was illegal and void, therefore limitation does not run against the said order. Reliance can be placed on the judgment of August Supreme Court of Pakistan reported in 2007-SCMR-Page-729 (citation-k). The relevant citation are as under:-*

**2007-SCMR-Page-729 (citation-k)****(k) Limitation---****"Viod Order- Limitation would not run against such order".**

4. That when the appellant arrived Pakistan, he came to know about the impugned order of his dismissal from service. He immediately filed a departmental appeal with the respondent No.2 on 12-2-2013 which was dismissed on 20-5-2013. He then preferred a Review Petition under the Police Rules which also met the same fate. The appellant was bonafidly pursuing his remedy before the Appellate Authority as well as next Higher Authority. Moreover, it is well settled law that limitation would start from the date of knowledge and not from the date borne on the impugned order. Reliance can be placed on the judgment of Supreme Court of Pakistan reported in 2002-SCMR-343(citation-b).

**2002-SCMR-343 (citation-b)****(b) LIMITATION ACT (IX of 1908)---**

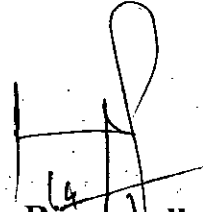
---S. 5 & Art. 164- -Delay in filing appeal ---Condonation---Order appealed against found to be a nullity, about which affected party had no earlier knowledge---Plea of limitation that it started from the date of order could not be pressed against such party, as he would be entitled to challenge same within the prescribed time counting the period from date of his knowledge.

*In view of the above narrated facts and grounds, it is, therefore, humbly prayed that on acceptance of this application, the delay if any may kindly be condoned so as to secure the ends of justice.*



Appellant/ Applicant

Through:



**Rizwanullah**  
**M.A. LL.B**

**Advocate High Court, Peshawar**

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

In the matter  
Service Appeal No. \_\_\_\_\_/2013

Nadeem Khan

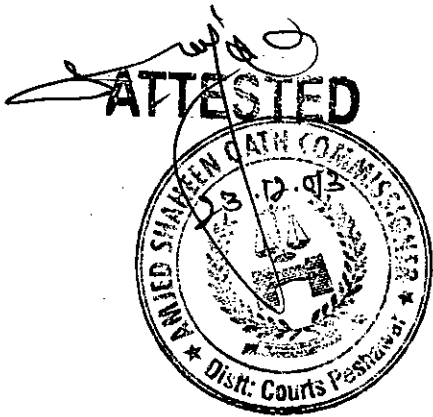
**VERSUS**

The Provincial Police Officer,  
Government of Khyber  
Pakhtunkhwa, Peshawar &  
others.

**AFFIDAVIT**

I, Nadeem Khan S/O Shezada Khan, Ex-Constable No. 152/HC,  
R/O Muradabad, Police Station City, District Haripur, do hereby solemnly affirm  
and declare that the contents of the accompanied application for Condonation are  
true and correct to the best of my knowledge and belief and that nothing has been  
concealed from this Hon'ble Tribunal.

**Deponent**



FOR PUBLICATION IN THE NWFP POLICE GAZETTE PART-II, ORDERS BY THE PROVINCIAL POLICE OFFICER NWFP PESHAWAR.

Amir A (13)

NOTIFICATION

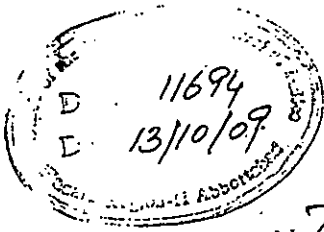
Dated: 09/10/09

No. 24244 /E-II, LEAVE EX-PAKISTAN Constable Nadeem Khan No. 264 of Haripur District is hereby granted one year (365) days Ex-Pakistan leave from the date of availing under the Civil Servant Revised Leave Rules 1981 on the following conditions.

1. Leave on full pay	=	120 days	02-11-09	To 02-03-10
2. Leave on half (1/2) pay	=	245 days	03-03-10	To 03-11-10
Total	=	365 days		

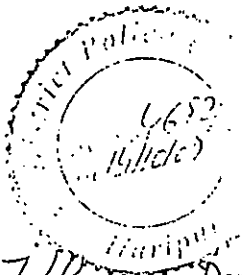
He is allowed to proceed abroad.

Sd/-  
MALIK NAVEED KHAN  
Provincial Police Officer,  
NWFP, Peshawar.



No. 24745 /E-II

Copy of above is forwarded for information and necessary action to the DIG/Hazara Region Abbottabad w/r to his Memo No. 12144/E dated 01.10.2009. His Service Roll is returned herewith for record in your office please.



(ABDUL MALIK KHAN)  
Registrar  
For Provincial Police Officer,  
NWFP, Peshawar.

No. 12710 Dated 13/10/09

copy of above is forwarded to D/O Haripur for information with reference to his Memo No.

No. 264 of your Distt. is returned herewith for record

in your office which may please be acknowledged.

14/A Encl: S. Roll of the Nadeem Khan.

Copy made in Service ✓  
Amir A  
DIG HA  
10-11-2009

Attested

HA  
Achr

SRE: DHC  
for m/a h.

UW 6484 dated 10-9-09



HTD  
Attended  
Haw

10-11-2011

Dr. Scuss / Pals  
Perkins  
Crawford  
19/14  
A.C.

3 years done. sued for 80 order in  
He has requested for further  
3-11-10 made F/A.  
Ex-Pakistan dem. upto  
The applicant is on  
Sir,

152  
HC

بسم اللہ الرحمن الرحیم  
میں نے اپنے والدین کو جو کہ ایک عوامی شخصیت تھے  
ان کے بارے میں جاننا چاہتا تھا۔

میں نے اپنے والدین کے بارے میں جاننا چاہتا تھا۔  
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ان کے بارے میں جاننا چاہتا تھا۔

24764  
9-10-09  
میں نے اپنے والدین کے بارے میں جاننا چاہتا تھا۔  
ان کے بارے میں جاننا چاہتا تھا۔  
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Annex-B

(14)

From: The District Police Officer,  
Haripur.

To: The Deputy Inspector General of Police,  
Hazara Region, Abbottabad.

No: 2709 /dated Haripur the 31/03/2011.

Subject: EX-PAKISTAN LEAVE.

Memo: Kindly refer to your office Endst: No.609 dated 15.01.2011.

The applicant Constable Nadeem Ahmad No.152 was granted Ex-Pakistan leave for one year from 05.11.2009 to 05.11.2010 as his real brother serving in Korea became crippled in result of road accident and no other male member in the family was for his look after. however on the expiry of leave the applicant join the service and now again applied for further leave taking plea that his brother is still under treatment. therefore his application was forwarded on the basis of earned leave already granted to him.

His length of service is more than 10 years and as per revised leave rules 1981 is entitled to avail 05 years leave without pay.

*Muhammad*  
District Police Officer  
Haripur

S. Roll. 01

40/0  
01/04/11

*Attested*  
*H. J.*  
*Adm*

Sir  
The Nadeem No. 152 of Haripur District applied for Ex-Pakistan leave for 05 days which was forwarded to C.I.O, on which I have asked reason recommending the leave. Above mentioned written reason submitted by DPO Haripur. If approved, the same may be forwarded to C.I.O H.

*M. Din*  
29/4/11

From: The Deputy Inspector General of Police,  
Hazara Region (Abbottabad)

To: The Provincial Police Officer,  
Khyber Pakhtunkhwa, Peshawar.

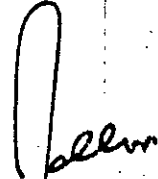
No. 5335 /E, Dated Abbottabad, the 23/04/2011.

Subject: EX - PAKISTAN LEAVE.

Memorandum:

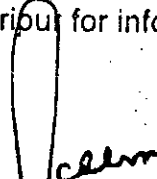
Kindly refer to your Office Memo No. 213/E-II dated 04-01-2011.

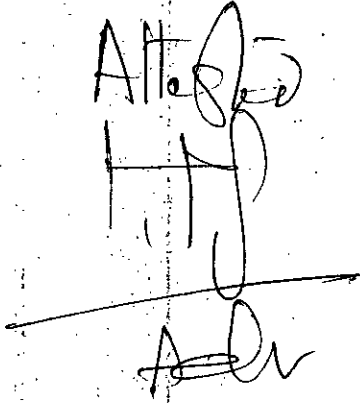
The application submitted by HC Nadeem Ahmed No. 152 of Haripur District for grant of Ex-Pakistan leave is attached herewith for consideration on merits please.

  
Deputy Inspector General of Police  
Hazara (Abbottabad)

No. 5336 /E.

Copy to District Police Officer, Haripur for information.

  
Deputy Inspector General of Police  
Hazara (Abbottabad)



**ORDER**

Head Constable Nadeem Khan No.152 absented himself from duty with effect from 06.05.2011 to date while he was posted as I/C Chappar Barrier, and proceeded against departmentally. Action under the Khyber Pakhtunkhwa, Peshawar Removal from service (Special Power) Ordinance 2000 was initiated against him.

Mr. Abdus Saboor Khan DSP/HQrs Haripur was deputed as Enquiry Officer, conducted an enquiry and submitted his findings, who in his findings reported that he was summoned time and again to appear before him but he did not appear before him neither any relative. During enquiry it was also revealed that HC Nadeem has proceeded abroad for employment.

I have gone through the enquiry report and Service Record and came to the conclusion that he willfully absented himself from duty without any prior permission of the competent authority. Reportedly HC Nadeem Khan No.152 has left the country and settled abroad, and has absented himself from duty with effect from 06.05.2011. Charges leveled against him in the Charge Sheet & Statement of Allegation stand proved.

Therefore, I Muhammad Ali Khan DPO Haripur the competent authority in the present case in exercise of powers under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance 2000 hereby awarded the Major punishment of "DISMISSAL" from service with effect from 06.05.2011 to the Head Constable Nadeem Khan No. 152

Order announced.  
OB No 500/07.07.2011

*Muhammad Ali Khan*  
District Police Officer  
Haripur

Entry made in  
the Service Roll.

*SMS 5120*  
*12/7/11*

*Attested*  
*[Signature]*  
Adv

*P*  
*12/7/11*  
*eril*

بمخبر جناب ڈی جی صاحب پولیس ایس ایچ آر ایف آباد

رحم اپیل / ریپورٹیشن بنا رہی حکم صدر ۵  
 بحوالہ آرڈر ایک نمبر 500 مورخ ۰۶/۰۵/۲۰۱۱  
 جاریہ از دفتر جناب ڈی جی صاحب پولیس ایس ایچ آر ایف آباد  
 جس کے تحت مسائل کو مورخ ۰۵/۰۵/۲۰۱۱ سے  
 ملازمت پر پولیس سے واپس کروایا گیا۔  
 استمداداً حکم اپیل / ریپورٹیشن  
 منظور فرمائی جا کر مسائل کو تاریخ ۰۵/۰۵/۲۰۱۱  
 سے ملازمت پر بحال فرمایا جا کر عہدہ غیر  
 ملازمی کے kind due  
 شمار فرمایا جاوے۔

Attest  
 H.P.  
 A.S.P.

جناب عالی درجات رحم اپیل عرض ذیل ہیں۔

۱۔ یہ کہ مسائل مورخ ۰۶/۰۵/۲۰۱۱ کو حکم پولیس ضلع لہری پور میں منظور کئے گئے ہیں جو  
 سال ۲۰۱۱ میں کلاس کورس پاس کرنے کے بعد مورخ ۰۵/۰۵/۲۰۱۱ کو  
 عہدہ ایس ایچ آر جناب ڈی جی اور خوش اسلوبی سے حکم  
 خدمات سرانجام دیتا رہا۔

۲۔ یہ کہ شہرہ سے سال ۲۰۰۹ میں مسائل کے حقیقی بھائی جو  
 کہ گوریا میں ملازمت کرتا تھا۔ ایک روڈ ایکسپریس میں شہرہ  
 زخمی ہونے کی وجہ سے اعضائے ریشیہ سے معذور ہو چکا تھا اور  
 گوریا میں زیر علاج ہونے کی وجہ سے دوران علاج اسکی

دیکھ بھال کرنے والے کوئی ورثہ دار وہاں پہنچنے کی وجہ سے مسائل حسب ضابطہ طور پر *Ex. Pak leave* برائے ایک سال منظور کرنے پر مورخہ 5<sup>11</sup> سے رخصت پر جا کر مورخہ 2010 تک رخصت پر رہ کر گوریا سے واپس آ گیا اور حکم پولیس میں خدمات سرانجام دیتے رہنے کے دوران براہِ ادرم کی بیماری میں انفاق نہ ہونے کی اطلاع ملنے پر مسائل کو دوبارہ گوریا جانا ضروری ہونا پر مسائل نے درخواست دی۔ لیکن مسائل کی رخصت کی درخواست کی منظوری میں توقف ہو جانے کی بنا پر مسائل کا براہِ ادرم کی خدمت میں گوریا پہنچنا از بس ضروری ہونے کی وجہ سے مسائل گوریا چلے گیا تھا۔

یہ کہ مسائل کو برہنہ کی وجہ سے مورخہ 05<sup>11</sup> سے غیر حاضر کر کے مجھے یا میرے کسی عزیز کو باضابطہ غیر حاضری یا کسی انکواری سے مطلع کر کے بغیر عجلت میں عرصہ دو ماہ میں ملازمت سے ڈس میس کر دیا گیا۔ حالانکہ مسائل کی درخواست برائے *Ex. Pakistan leave* زیر تجویز تھی جو مسائل کو اب چند دن ہوئے واپس پاکستان آنے پر اس ڈس میس کا پتہ چلنے پر مسائل رخصت اپیل پر پیش خدمت افسر میں پیش کر رہا ہے۔

Atk  
H  
Adn

یہ کہ مسائل کو ایک خریب گھرانے کا فرد ہے۔ ناگہانی آفت کا شکار ہو جانے کی وجہ سے رخصت کی درخواست

دی تھی۔ جو منظور نہ ہوئی۔ لہذا نئے مسائل کی رخصت  
کیلئے افسران بااثر نے سفارش بھی کی تھی۔ اور مسائل  
عرصہ 5 سال رخصت بلکہ تنخواہ حاصل کرنے کا مستحق  
ہوتا تھا۔

استعمالیہ حکم اپیل / ریسیپرینڈیشن میں بطور  
خاص منظور فرمائیں جا کر مسائل کو تاریخ ڈسمبر  
سے ملازمت پر بحال فرمایا جا کر مسائل کا عرصہ غیر جان  
Leave of the kind due شمار فرمایا جا کر غریب  
پروری اور ماتحتہ پروری فرمائی جا کر دعائیں حاصل  
فرمائیں جاویں۔ مسائل دعا گورہیں گے۔

المقوم 12/2013

ندیم خان سابق پریوینٹ ڈسٹرکٹ پولیس ضلع میری پور۔

ولد شہزادہ خان قوم پٹیان سکھ

مراد آباد علاقہ قہانہ سٹی میری پور۔

موبائل نمبر 5458543 - 0333

Fae

Attest  
H  
Adv

Annex 6

Phone No.0992-9310021  
Fax No.0992-9310023

From: The Regional Police Officer,  
Hazara Region, (Abbottabad).

To: The District Police Officer,  
Haripur.

No. 5075 /PA Dated Abbottabad, the 20/5 /2013.

Subject: REPRESENTATION.

Memo:

Please refer to your office Memo: No.1259 dated  
08-03-2013, on the subject cited above.

The appeal/representation of Ex-Constable Nadeem Khan  
No.152 of your District was considered & filed being a time barred case.

The Service Book & Fauji Missal containing enquiry papers  
is returned herewith.

Encl: - (as above)

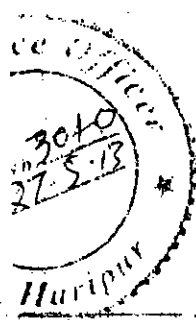
*allma*  
REGIONAL POLICE OFFICER  
Hazara Region, Abbottabad.  
(C.O Khurram Hussain)

*Re*

*for n/a actions  
Najab*

*DPO/HR.  
27/05/2013.//*

*ATK*  
*H*  
*Don*





Annex-HB

**BEFORE THE PROVINCIAL POLICE OFFICE KHYBER  
PAKHTUNKHWA PESHAWAR.**

**Subject:- PETITION FOR RE STATEMENT IN SERVICE**

Respected Sir,

1. With due reference it is submitted that while posted as incharge Chappar Barrer district Haripur I Proceeded on ex Pakistan leave abroad to Korea after proper sanction of leave w.e.f 05/11/2009. I proceeded to Korea as a matter of Emergency where my brother is serving and he met with a fatal road accident in order to look after him for being alone. After expiry of leave I came back. Again the condition of my brother was deteriorated and therefore, I applied for three years extra ordinary leave vide my application (at annex -A) through proper channel which was forwarded by DPO Haripur vide 2709 dated 31-02-2012 (copy attached at annex-B) to the DIG of Police Hazara Region Abbottabad from where it was forwarded to PPO Khyber PakhtunKhwa vide Memo No.5335/E Dated 23/04/2011 (Copy attached as annex- C).

2. That as a matter of emergency I proceeded to Korea to look after my brother who was seriously ailing in anticipation of grant of Ex Pakistan leave. I have under gone about 18 years service and under the leave rule I was entitled to avail 5 years leave without pay. My that application after correspondence was not considered

Attest  
[Signature]  
[Signature]

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your kind and sympathetic consideration and after treating the absence period as extra ordinary leave without pay, I may kindly be reinstated in service w.e.f the date of dismissal.

I Shall be thankful for this act of kindness and pray for your long life and prosperity.

ATG  
HAF  
~~AP~~  
Doh

Your's Obiedently  
(Nadeem Khan )  
Ex Head Constable No.152  
Ditric Police Haripur.

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Annex-1

D

ORDER

This order is passed on the petition of Nadeem Khan ex-head Constable No. 152 district Haripur. He was dismissed from service vide order of District Police Officer Haripur, on charges of absence from duty for long period vide order bearing OB No. 500 dated 07.07.2011, His representation against the order of District Police Officer Haripur was also filed by Deputy Insector General of Police Hazara Region, Abbottabad vide order No. 5075/PA dated 20.05.2013. The representation was filed as it was time barred. Petitioner has failed to advance any new grounds in the instante petition. Furthermore, appellatant has no locus standi as the application is time barred and there is no provision of second appeal in the rules. Hence the petition is rejected.

Addl. IGP/HQrs:  
For Provincial Police Officer,  
Khyber Pakhtunkwha Peshawar.

No. 4152<sup>53</sup> /dated 31/12 /2013.

Copy of the above is forwarded to District Police Officer Haripur for record and service on petitioner. Service record of petitioner received vide your office memo: No 6179/Legal, dated 02.11.2013 is returned herewith.

Addl. IGP/HQrs:  
For Provincial Police Officer,  
Khyber Pakhtunkwha Peshawar.

*S. J. O. H.*  
*Per N. J. O.*  
*D. P. O. M.*  
*4/11/2013*

*Atasw*  
*H. H.*  
*Adv.*



26  
Annex  
#



Date of institution ... 13.9.2008  
Date of judgment ... 29.8.2012

APPEAL NO. 1371/2008

CAMP COURT ABBOTTABAD

BEFORE THE KHAYBER PAKHTUNKHWA SERVICE TRIBUNAL

Ex-Constable Fiaz Ali No. 68 of Abbottabad Police,  
S/o Ali Akbar resident of Banda Sapan Tehsil & District,  
Abbottabad. (Appellant)

VERSUS

1. Superintendent of Police Headquarters Abbottabad.
  2. District Police Officer (DPO) Abbottabad.
  3. Regional Police Officer (R.P.O) Hazara Region, Abbottabad.
  4. Provincial Police Officer (P.P.O) NWFP (KPK), Peshawar.
  5. Secretary Home Department, Govt of NWFP (KPK), Peshawar.
- (Respondents)

APPEAL U/S 4 OF NWFP(KPK) SERVICE TRIBUNALS ACT, 1974  
 READ WITH SECTION 10 OF NWFP (KPK) REMOVAL FROM SERVICE  
 (SPECIAL POWERS) ORDINANCE, 2000 AS AMENDED UP TO DATE  
 AGAINST OFFICE ORDER BEARING NO. 08 DATED 02.01.2002  
 PASSED BY RESPONDENT NO.1 WHEREIN PENALTY OF  
 DISCHARGE FROM SERVICE WAS IMPOSED ON THE APPELLANT  
 AND PRAYING THAT THE IMPUGNED ORDER BE GRACIOUSLY SET  
 ASIDE AS ILLEGAL, UNLAWFUL AGAINST THE LAW AND  
 WITHOUT JURISDICTION AND APPELLANT BE REINSTATED IN  
 SERVICE WITH ALL BACK BENEFITS.

Sardar Lal Khan Anwar, Advocate.  
 Mr. Arshad Alam, ACP  
 Mr. Qalandar Ali Khan, Member  
 Syed Manzoor Ali Shah, Member  
 For appellants  
 For respondents

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:-

This appeal by Ex-Constable, Fiaz Ali (Appellant) is directed against his discharge from service by the order dated 02.01.2002 of the Superintendent of Police, Headquarters, Abbottabad (Respondent No.1).  
 The brief facts of the case, as gleaned from the appeal, are that after having recruited as Constable in the Police Department in 1998, the appellant was posted on guard duty at D.H.Q Hospital, Abbottabad, when an accused, namely, Nazir Khan son of Hajoon Khan, involved in murder case under section 302/34 PPC and other two cases, escaped from the surgical ward of D.H.Q Hospital, Abbottabad. A case under section

ATTESTED  
 (Signature)  
 (Signature)

225/224 PPC was registered in P.S Cantt, District Abbottabad, vide FIR No. 939 dated

17.12.2001, and the appellant was arrested and also suspended and served with a show

cause notice while he was in police custody. According to the appellant, he was made to

submit reply to the show cause notice, and finally discharged from service under Police

Rules 12-21 with effect from 17.12.2001, vide impugned order dated 02.01.2002. He

was, however, acquitted of the charges by the Judicial Magistrate-1, Abbottabad, vide

his judgment dated 31.10.2007, where-after he preferred departmental appeal to the

D.I.G of Police, Hazara Region, Abbottabad on 16.5.2008, but received no response

there-from, and ultimately lodged this appeal on 13.9.2008.

3. The appeal has been lodged on the grounds that accused Nazir Khan escaped from the hospital by deceiving the guards; that besides the appellant there were three other Constables and Guard Commander on duty in the surgical ward in DHQ Hospital, Abbottabad, where the accused was brought from jail for treatment; that the appellant was on duty at the relevant time all alone as the Guard Commander and the other three Constables had left the premises to enjoy/celebrate Eid; that the Guard Commander had instructed him not to hand cuff accused Nazir Khan as he was under surgical treatment and was also his friend; that the accused patient made good his escape on the pretext of call of nature when he went to the bath room and then escaped there-from; that the order of discharge was passed without a final show cause notice and without adopting procedure prescribed in the law; that he has been acquitted of the criminal charges against him after trial in the court of law, vide judgment of Judicial Magistrate-1, Abbottabad, dated 31.10.2007; that after receiving copy of judgment on acquittal, he preferred departmental appeal to the appellate authority but when received no response within the statutory period of ninety days, he lodged this appeal; that the law applicable to the case i.e. Removal from Service (Special Powers) Ordinance, 2000 was not applied and instead he was removed from service under Police Rules, 1975; that the punishment was awarded with retrospective effect which was against the provision of law and, as such, not sustainable; that the appellant was awarded the harsh penalty of discharge from service while the other persons on duty were exonerated from the charges; that the charge on the basis of which the appellant has been discharged from

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A2

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service has not been proved against him and that he was acquitted by competent court of law; and that he was awarded the harsh penalty of discharge from service without giving him the chance of cross-examination, personal hearing and opportunity of final show cause notice and thus the provisions of law and natural justice were violated.

4. The appeal was resisted by the respondents, who filed their written reply/comments to the appeal, wherein, they defended the impugned action against the appellant on the ground of his involvement by showing negligence in the performance of his duty at DHQ Hospital resulting in escape of accused Nazir Khan involved in a murder case and other two cases under sections 3/4 EHO P.S Cantt. Abbottabad. The respondents further defended the impugned action against the appellant on the ground that he was discharged from service under Police Rules 12-21 as he was having less than three years service. They claimed that the appellant was acquitted by the Trial Court on technical grounds, and, thus, was not entitled to reinstatement. They raised objection of limitation, and alleged that the departmental appeal of the appellant was time barred as he was discharged from service on 02.01.2002 but he preferred departmental appeal with considerable delay, and lodged this appeal in the year 2008 after lapse of six years. They pointed out that only the appellant was on duty at the relevant time. They maintained that the appellant failed to prove his innocence during departmental proceedings. According to the respondents, the appellant was responsible for adopting security measures while taking the accused to the toilet, but he had removed hand cuffs of the accused.

5. The appellant also filed rejoinder to the written reply/comments of the respondents thereby refuting contentions of the latter; where-after, the parties not only submitted written arguments but also addressed further arguments on the question of limitation. Written arguments of the parties and record perused.

6. The record would show that the appellant, a Constable in the Police Department and on guard duty at the surgical ward of DHQ Hospital, Abbottabad, was charged for showing negligence in the performance of his duty, resulting in the escape from custody of accused Nazir Khan involved in murder case besides two other cases. The appellant

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was served with a show cause notice containing the above allegation and found guilty of 'grave mis-conduct' and also liable for disciplinary action as laid down in the Police Rules, 1975. According to the appellant, he received the show cause notice while in police custody, and was made to reply thereto, where-after he was discharged from service under Police Rules 12-21 with effect from 17.12.2001, vide impugned order dated 02.01.2002. The impugned order dated 02.01.2002 would show that after service of show cause notice on 21.12.2001 and receipt of reply thereto from the appellant on 23.12.2001, DSP Cantt. was deputed as Inquiry Officer who held the appellant responsible for escape of the accused from police custody due to his negligence, in his findings, and recommended the appellant for major penalty as provided in Police Rules 12-21. The findings of the said Inquiry Officer were not made available either by the appellant or by the respondents with their respective pleadings, but obtained from record available with the representative of the respondents during the course of arguments. The findings of the so-called Inquiry Officer clearly show that though statements of HC Khurshed as Guard Commander and other Constables were recorded during the departmental proceedings but without associating the appellant with the so-called proceedings and thus depriving him of the opportunity of defence and cross-examination on the witnesses. Ironically, the so-called Inquiry Officer shifted the burden of proving himself innocent to the appellant instead of bringing on record evidence against him. The findings of the Inquiry Officer are, interestingly, based on his personal visit to the place of occurrence which, in his view, endorsed negligence of the appellant. It may also be pointed out here that even the said Inquiry Officer found HC Khurshed also responsible for showing negligence who, in the words of Inquiry Officer, 'being Incharge of the guard handed over the key of hand cuffs to the Constable, deserves departmental action'.

3

ALIBEST

7. Undoubtedly, the appellant has been discharged from service under Police Rules 12-21 for showing negligence in the performance of duty, resulting in escape of accused Nazir Khan involved in murder and other cases and thus 'guilty of grave mis-conduct' in the words of the competent authority; but it is by now a settled principle of law that when a specific charge of mis-conduct is brought against a civil servant, the provisions

of Police Rules-12-21 could not be invoked, in view of judgments reported as 1997 PEC (C.S) 693 (Punjab Service Tribunal) and 2000 SCMR 75 (Supreme Court of Pakistan).

It has consistently been held by the superior courts that even in a case of civil servant on probation, he is entitled to proper show cause notice and departmental proceedings under the law. (2003 SCMR 830 (Supreme Court of Pakistan).

8. Besides, the appellant has been acquitted of the criminal charges by the Judicial Magistrate-I, Abbottabad, vide his judgment dated 31.10.2007, and there seems no appeal filed against the judgment, therefore, the appellant deserved to be reinstated in service in the light of judgments of the superior courts reported as 2002 SCMR 57 (Supreme Court of Pakistan), 2001 SCMR 269 (Supreme Court of Pakistan), 2008 PLC (C.S) 855 (Federal Service Tribunal), 2005 PEC (C.S) 1197 (Punjab Service Tribunal), 2007 PLC (C.S) 1327 (Federal Service Tribunal) and unreported judgment dated 25.7.2008 of this Tribunal in Appeal No. 1275/2007 titled 'Rashid Mahmood (Appellant)-vs-District Police Officer (DPO) Abbottabad and others (Respondents).

Moreover, the same appellate authority i.e. D.I.G of Police Hazara (Abbottabad) reinstated another Ex-Constable, Almas Saleem, involved in a similar case of escape from police custody of accused Muzammil Shah, admitted in DHQ Hospital, Abbottabad, vide his order dated 20.11.2009. Therefore, the denial of similar treatment to the appellant would certainly amount to discrimination, not acceptable under law and the Constitution.

(10) As regards the question of limitation, so vehemently raised by the respondents in their written reply/comments, and their written arguments submitted by the learned AGP, suffice it to say that there is no limitation against a void order, in accordance with consistently held view of superior courts (1993 PLC (C.S) 308 (Federal Service Tribunal), 2007 PLC (C.S) 997 (Supreme Court of Pakistan), 2009 PLD 67 (Karachi), 2004 PLC (C.S) 1014 (Supreme Court of Pakistan), 2000 PLC (C.S) 166 (Peshawar High Court), 2000 PLC (C.S) 33 (Federal Service Tribunal), 1997 PLC (C.S) 527 (Karachi High Court), 2000 PLC (C.S) 346 (Supreme Court of Pakistan) and judgments of this Tribunal in Appeal No. 544/2004 dated 24.01.2006 and Appeal No. 980/2009 dated 22.8.2011.



Needless to say that no executive order could be made to operate with retrospective effect and the impugned order of discharge from service dated 02.01.2002 made effective from 17.12.2001, therefore, suffers from material irregularity and, as such, warrants interference. (1993-PLC (C.S) 308 (b) (Federal Service Tribunal).

12. In the light of above discussion, the impugned order is not sustainable in law and therefore, while setting aside the impugned order dated 02.01.2002, and on the acceptance of the appeal, the appellant is reinstated in service with all consequential back benefits.

13. However, in view of the fact that an accused, involved in heinous criminal cases, made good his escape from police custody; therefore, the respondent-department may, if deemed appropriate, conduct detailed inquiry into the incident of escape and bring to book responsible police officers and take disciplinary action against them, but strictly in accordance with law by also providing them opportunity of defence.

14. There shall, however, be no order as to costs.

ANNOUNCED  
29.08.2012

(SYED MANZOOR ALI SHAH)  
MEMBER

(QALANDAR ALI KHAN)  
CHAIRMAN

Certified to be true copy  
Khyal  
Service Tribunal  
Peshawar

Date of Presentation of Application 11-9-2012  
 Number of Pages 2400  
 Copying 14  
 Original 2  
 Total 16  
 Name of Applicant Qalandar Ali Khan  
 Date of Copying of Copy 11-9-2012  
 Date of Delivery of Copy 11-9-2012

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**Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar**

**Service appeal No. 1640/2013**

EX- HC Nadeem Khan No. 152, s/o Shahzada Khan r/o District Haripur  
.....(appellant)

Vs.

The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar & Others  
.....(respondents)

**Respectfully Sheweth**

The requisite Para-wise comments on the behalf of respondents are as under:-

**Premilenary Objections**

1. The instant appeal is badly time barred and not maintainable under the law.
2. The appellant has not come to the honorable Tribunal with clean hands.
3. The appellant has no locus standi to file the appeal.
4. The appellant has suppressed material facts from the Honorable Tribunal.
5. The appellant is estopped by his own conduct.

**Objections on facts.**

1. Incorrect, the appellant Ex- Hc Nadeem Khan No. 152 was appointed as constable in police department on 29.09.1993 and during his service he absented himself from duties and he was also awarded legal punishments for proved misconduct.
2. Incorrect, the appellant applied for ex-Pakistan leave which was granted for 365 days by the competent authority i.e. the then Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar vide notification No. 24744/E-II, dated 09.10.2009, however, the appellant proceeded abroad and got employment there, the appellant attracted to foreign currency in South Korea, however at the same time member of Police force whose duties are to protect the nation and national interest wanted to earn money from Police force as well as from foreign employment, this practice is against the law and good

conduct of discipline force, he served for almost sixteen (16) years, but the conduct of the appellant was contrary to discipline force.

3. Para No.3 is false, concocted and frivolous, hence denied. no sanction was given upon his application by the concerned authority, as leave is never considered as a vested right. The impugned order was made on legitimate grounds, after fulfillment of the codal formalities.
4. Explained above.
5. Para 5, being false, concocted as without proof is denied as drafted. The acts/omission were gross misconduct, hence the appellant was proceeded against departmentally and lawful punishment was awarded to him which is quite legal.
6. His departmental representation was found time barred and filed accordingly.
7. Incorrect, under the law there is no provision of review, so it was rejected on cogent legal grounds, moreover, the instant appeal is badly time barred.
8. The appellant was dismissed from service on ground of his own willful misconduct.
9. The instant appeal is badly time barred and not maintainable under the law.

**Grounds:**

- a. Incorrect, the appellant was granted ex-Pakistan leave of 365 days. However, for the object of settling abroad the appellant absented himself from lawful duties without permission or leave from competent authority and committed misconduct, he was treated in accordance with law, being proved guilty of charges he was awarded legal punishment.
- b. Incorrect, already explained in above paras.
- c. Incorrect, all the legal formalities were fulfilled, the appellant has concealed the material facts from the honorable tribunal, as he was not in Pakistan. As per law legal requirements of enquiry were fulfilled, copy of entire enquiry is attached as annexure "A", moreover, no illegality is committed, the order of dismissal is in accordance with law and maintainable.
- d. Incorrect, proper departmental enquiry was conducted and Deputy Superintendent of Police, HQrs Haripur was appointed as enquiry officer, who conducted the enquiry in accordance with law and submitted his findings in which he held the charges proved.
- e. Incorrect, proper service was made at his home address but he did not associate with the enquiry proceedings, hence, all principles of natural justice were observed and lawful punishment was awarded, which is in accordance with law and maintainable.
- f. Incorrect, the order of dismissal is quite legal and in accordance with law and maintainable (copy of order passed by worthy Regional Police Officer, Hazara Region, Abbottabad is attached as annexure "B" and

copy of order passed by worthy Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar is attached as annexure "C").


- g. Incorrect, the order of dismissal is quite legal, similarly the order passed by the respondents No. 02 & 03 is strictly in accordance with law and maintainable.
- h. Incorrect, the orders of respondents No. 02 & 03 are as per law hence, these have legal force which is maintainable under the law.
- i. Incorrect, the appellant violated the law, hence, his application being timely barred and not warranted under the law was rejected by the competent authorities in accordance with law, the punishment is maintainable under the law.
- j. Incorrect, the appellant was dismissed from service for misconduct, in the enquiry proceeding the charges were proved. The punishment is not liable to be set asided.
- k. Incorrect, the appellant signifies his malafide and levels baseless accusations he committed misconduct for which he was treated in accordance with law and dismissed from service by the competent authority,

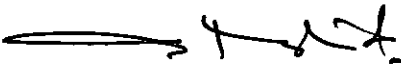
Any other ground may be argued with the permission of Honorable Tribunal at the hearing of case.

In light of above it is therefore, requested that the instant appeal with prayers may kindly be dismissed.

  
**Provincial Police Officer**  
Khyber Pakhtunkhwa, Peshawar

Respondent No. 01

  
**Regional Police Officer,**  
Hazara Region, Abbottabad  
Respondent No. 02

  
**District Police Officer,**  
Haripur  
Respondent No. 03

**Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar**

**Service appeal No. 1640/2013**


**HC Nadeem Khan No. 152 s/o Shahzada Khan, District Haripur  
.....(appellant)**

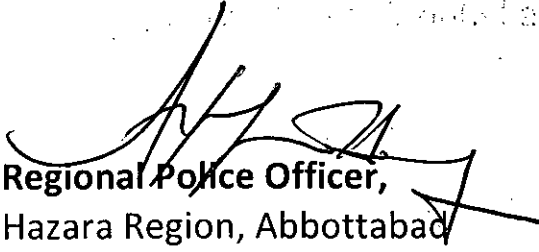
**Vs.**

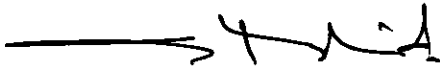
**The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar & Others  
.....(respondents)**

**LETTER OF AUTHORITY**

We the following respondents hereby authorize inspector legal Haripur Mr. Muhammad Zahoor to appear on our behalf in the subject service appeal before the Hon'ble Service Tribunal and do all the legal requirements.

  
**Provincial Police Officer**  
Khyber Pakhtunkhwa, Peshawar  
Respondent No. 01

  
**Regional Police Officer,**  
Hazara Region, Abbottabad  
Respondent No. 02

  
**District Police Officer,**  
Haripur  
Respondent No. 03

**Before the Khyber Pakhtunkhwa, Service Tribunal Peshawar**

**Service appeal No. 1640/2013**

*ex*-HC Nadeem Khan No. 152 s/o Shazada Khan District Haripur  
.....(appelent)

VERSUS

The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar & Others  
.....respondent

**COUNTER AFFIDAVIT**

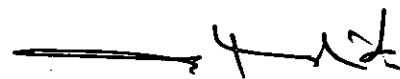
We the following respondents do hereby solemnly affirm and declare that all the contents of reply/comments are true and correct to the best of our knowledge and belief and nothing has been concealed from the Hon'ble Tribunal.



**Provincial Police Officer**  
Khyber Pakhtunkhwa, Peshawar  
Respondent No. 01



**Regional Police Officer,**  
Hazara Region, Abbottabad  
Respondent No. 02



**District Police Officer,**  
Haripur  
Respondent No. 03

(A)

ضلع۔ ہری پور

پولیس ڈیپارٹمنٹ

ڈپٹی سپرنٹنڈنٹ آف پولیس،

منجانب:

(ہیڈ کوارٹر) ہری پور۔

ڈسٹرکٹ پولیس آفیسر،

منجانب:

ہری پور۔

مورخہ: 2011-07-07

نمبر: 76

انکوائری برخلاف ہیڈ کنسٹیبل ندیم نمبر 52

عنوان:

جناب عالی:-

بحوالہ مشمولہ انکوائری نمبر 476/PA مورخہ 23.05.2011 برخلاف ہیڈ کنسٹیبل ندیم نمبر 52 انکوائری ہو کر ذیل معروض

ہوں۔

الزام

ہیڈ کنسٹیبل ندیم 52 دوران پوسٹنگ بطور انچارج چھپرہ پیر اپنی ڈیوٹی سے مورخہ 06.05.2011 سے تاحال بغیر

افسران بالا سے چھٹی اجازت لینے کے غیر حاضر ہوا جو کہ اس کے حصہ میں یہ غفلت پائی جاتی ہے۔

کاروائی

ہیڈ کنسٹیبل ندیم کے گھر کے پتے پر مقامی پولیس تھانسی کے ذریعے اطلاع یابی کروائی گئی نیز مذکورہ کے حقیقی بھائی

سفیر خان ولد شبیر حیدر خان سکنہ موئن مراد آباد کو بھی مطلع کیا گیا لیکن باوجود اطلاع یابی کے نہ تو ہیڈ کنسٹیبل ندیم خود دفتر

ہذا حاضر آیا اور نہ ہی اس کا کوئی عزیز برادر حاضر آیا۔

فائینڈنگ

ہیڈ کنسٹیبل ندیم کی چارج شیٹ موصول ہونے پر لگائے گئے الزام کی روشنی میں انکوائری شروع کی گئی جو کہ مذکورہ کو مقامی پولیس

کے ذریعے اس کے گھر کے پتے پر اطلاع یابی کروائی گئی مزید یہ کہ مذکورہ کے حقیقی بھائی سفیر خان ولد شبیر حیدر خان سکنہ موئن مراد

آباد کو بھی مطلع کیا گیا لیکن تاحال نہ تو ندیم HC حاضر دفتر آیا اور نہ ہی اس کا کوئی عزیز برادر حاضر آیا۔ نیز دوران انکوائری اس

بات کا بھی انکشاف ہوا کہ ندیم HC بسلسلہ ملازمت بیرون ملک چلا گیا ہے۔

درج بالا حالات یہ باور کرتے ہیں کہ ندیم HC نے ڈسپلن فورس کا حصہ ہونے کے باوجود اپنی من مرضی کی اور محکمہ سے غیر حاضر ہو

جو کہ فورس میں نافذ کردہ ڈسپلن اس بات کی قطعی اجازت نہیں دیتا کہ کوئی بھی اہلکار اسکی پرواہ نہ کرے اور اپنے بالا افسران سے

اجازت یا چھٹی لئے بغیر اپنی منشا پر محکمہ میں ڈیوٹی سے غیر حاضر ہو۔ ایسی صورت میں ندیم HC/52 پر لگایا گیا الزام ثابت ہو گا

ہے لہذا (Ex-parte action) کے طور پر مذکورہ کو سزا کا حقدار ٹھہرایا جاتا ہے۔ انکوائری رپورٹ ارسال خدمت ہے۔

ڈپٹی سپرنٹنڈنٹ آف پولیس

(ہیڈ کوارٹر) ہری پور۔

D.R. [Signature]

Reportedly

H.C. Nadeem 52

has left the country and settled abroad, and has absented himself from duty w.e.f 06-05-11. Hence, he is dismissed from service w.e.f 06-05-11.

OB NO 500

07-7-2011

2/7

5/7

Dr/Hon'ble

Maulana

Seen

03335458593

Entry made in the Service Roll 4-7-11  
The Service Roll 4-7-11  
Dr/Hon'ble  
5/11-07-11

Shah

Shah Baitullah

Sateer Luan s/c

4/7/11

OHC

Director of Madrasah Mubtama

559 755

وہ کے لئے ایک اور ایجنسی

کا راجسٹریشن اور ایک ایجنسی OHC کے لئے ایک ایجنسی

کا راجسٹریشن اور ایک ایجنسی OHC کے لئے ایک ایجنسی

کا راجسٹریشن اور ایک ایجنسی OHC کے لئے ایک ایجنسی

کا راجسٹریشن اور ایک ایجنسی OHC کے لئے ایک ایجنسی

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کا راجسٹریشن اور ایک ایجنسی OHC کے لئے ایک ایجنسی



انڈسٹریل ڈیولپمنٹ بورڈ لاہور

افزودہ کارروائی

25- انڈسٹریل ڈیولپمنٹ بورڈ لاہور کے ذریعہ ایچ ایف ڈی کے تحت کارروائی

کے بارے میں تعلق نہ ہو تو کارروائی کو روکا جائے

09-6 ایچ ایف ڈی کے تحت کارروائی کے بارے میں تعلق نہ ہو تو کارروائی کو روکا جائے

D.S.P. Haripur

13-6 ایچ ایف ڈی کے تحت کارروائی کے بارے میں تعلق نہ ہو تو کارروائی کو روکا جائے

کارروائی کو روکا جائے

D.S.P. Haripur

01-7- انڈسٹریل ڈیولپمنٹ بورڈ لاہور

480  
24/5/11

صوبہ رولم DPO

604/11

لوسالت 480

لقد ارسلتكم فيكم بدم HC 33 في شهر  
مراد آباد كاري كاري في  
الكل حارسه اور اكل  
Disciplinary Action  
قسم اكل دور دورون كاريون  
اكل دورون كاريون  
اكل دورون كاريون

24/5/11  
Police Officer

11  
نور محمد  
عمر 19

Handwritten signature and stamp

1389  
25-05-11

CHARGE SHEET.

(1) I, Muhammad Ali Khan, District Police Officer, Haripur as competent authority, hereby charge you Head Constable Nadeem No: 52 as follows:-

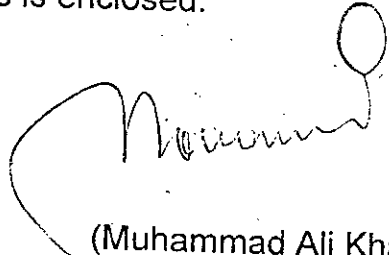
You Head Constable Nadeem No: 52 while posted at Chappar Barrier as Incharge absented yourself from your legitimate duty w.e.from 06-05-2011 to date without any leave or permission of the competent authority, which is gross misconduct on your part. Hence you are charge sheeted.

(2) By reasons of the above, you appear to be guilty of the misconduct under section 3 of the Khyber Pakhtunkhwa Peshawar, Removal from Service (Special Powers) Ordinance, 2000, and have rendered yourself liable to all or any of the penalties specified in section 3 of the said Ordinance ibid.

(3) You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet and statement of allegation to the Committee/Enquiry Officer as the case may be.


(4) Your written defense, if any, should reach the Enquiry Officer/Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall follow against you.

(5) Intimate whether you desire to be heard in person.  
(6) A statement of allegations is enclosed.

  
(Muhammad Ali Khan)  
District Police Officer  
Haripur

No. 476 / PA  
Dt. 23-05-2011.

Reader  
for compliance

  
352699

سید عرفان ولد شہزاد خان سہیل آباد

13302-6508974-1

DSP HO  
25-5-11

(دردقیقہ)

**DISCIPLINARY ACTION**

(1) I, Muhammad Ali Khan, District Police Officer, Haripur as competent authority, is of the opinion that **Head Constable Nadeem No: 52** has rendered himself liable to be proceeded against as he committed the following acts/omissions within the meaning of section-3 Khyber Pakhtunkhwa Province Removal from Service (Special Powers) Ordinance, 2000:

**STATEMENT OF ALLEGATION**

You Head Constable Nadeem No: 52 while posted at Chappar Barrier as Incharge absented yourself from your legitimate duty w.e.from 06-05-2011 to date without any leave or permission of the competent authority, which is gross misconduct on your part.

(2) For the purpose of scrutinizing the behavior/conduct of the said accused with reference to the above allegations, an Enquiry Committee consisting of the following is constituted under section-3 of the Ordinance.

DSO / 428 , Raja Saboor

(3) The Enquiry Officer/Committee shall, in accordance with the provisions of this Ordinance, provide reasonable opportunity of hearing to the accused, record its findings and make within 25 days on receipt of this order, recommendation as to punishment or the appropriate action against the accused.

(4) The accused a well conversant representative of departmental shall join the proceedings on the date, time and place fixed by the Enquiry Officer/Committee.

*Muhammad*

(Muhammad Ali Khan)  
District Police Officer  
Haripur

No. 476/PA

23-08-11

*دستور العمل*

سید عزیز خان ولد شہزادہ خان سکنہ فراد آباد

13362-0508974-1-

(فراد حقیقی)

ضلع سیالکوٹ

تھانہ صدر کھاروئیہ مور 29 روزنامہ 10/5/11

مور 29 اورنگ ٹبر جعفری ASI 10/5/11 وقت 18:30 بجے اورنگ ٹبر جعفری ASI ملحقہ

جعفری بڑا دل پل مور 5/11 اورنگ ٹبر جعفری ASI ملحقہ متطور طور پر تیار تھا۔  
مور 6/11 کو والی نہیں تھی۔ جو والی رین ڈیوٹی پر حاضر نہیں تھی اور  
سکی اورنگ ٹبر جعفری مور 2 اورنگ ٹبر جعفری ASI سے غیر  
حاضر تصور ہو گا۔ نقل ایڈیشن علی مور 10/5/11 اورنگ ٹبر جعفری ASI  
اورنگ ٹبر جعفری ASI

عالی  
در

جان عالی

نقل عطا بن احمد

M.M. PS/Siddar  
10/5/11

"A"

Sir,

Forwarded per  
as per mark "A"

D.S.P./Headquarter,  
Harbour/6-05-2011

He ندیم مور 52 مورنگ ٹبر جعفری ASI  
مورنگ ٹبر جعفری ASI مور 6/11 اورنگ ٹبر جعفری ASI  
مورنگ ٹبر جعفری ASI مورنگ ٹبر جعفری ASI  
مورنگ ٹبر جعفری ASI مورنگ ٹبر جعفری ASI  
مورنگ ٹبر جعفری ASI مورنگ ٹبر جعفری ASI  
مورنگ ٹبر جعفری ASI مورنگ ٹبر جعفری ASI

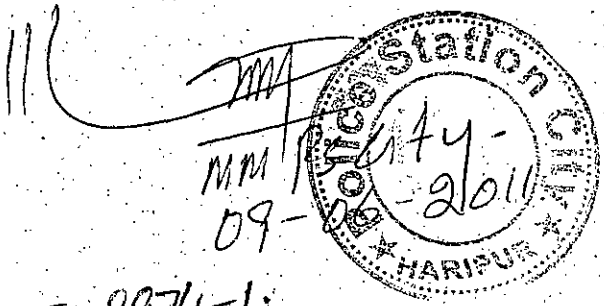
Siddar  
14/5/11  
Munhar department  
Oltz  
17/5

OB NO 383  
20-5-2

افغان لکھنؤ ڈاک

بی بی خالدہ 7226 رائیڈ I  
پروگرام کے لئے نیا کڈم HC  
ضلع پیر پور

لکھنؤ سرکار محمد سعید کڈم HC سکھ حوش نورد آباد  
کے کھائی یا والد کو اطلاع دینی کرائی جاوے کہ  
90 کل فورم 10/6/2011 کو وقت 09:00 بجے دفتر  
جنا۔ DSP صاحبہ جس میں بیٹا بیوہ جائے  
HA



13302-0508974-1

نام سفیر خان ولد سفیر صدر خان سکھ حوش نورد آباد

0302-5335703

جو بائیس مئی

دستخط

دستخط

9/6/2011

1.13-06-11

787-SM  
em

سید احمد علی  
940-city

دستور  
DSD-11

بیکار کار!

تعمیرات در کلاس و تعمیرات در کلاس  
نرم 22 وقت 7:30 تا 10:00  
در کلاس و کلاس و کلاس  
نرم 22 وقت 7:30 تا 10:00  
چرا طاعت است؟  
Ch = d

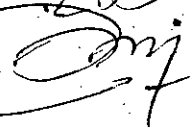
فرمان  
DSD  
496  
940-city  
13-6-11

DSD  
11/11  
13-06-2011

کلاس تعمیرات  
کلاس تعمیرات  
موبایل نمبر 0302-5335703

جنت عالی

کروان قورانی فصل کے لئے یہ ہے کہ اس کے لئے جو دنوں میں  
آگیا جو بند ہوئے والہ کا بندہ قال ہو جس کا جو ہے  
سے جنر خان جو کہ جو اور جو کہ تھا اس کے لئے  
مکہ کے آگے میں دیکھ کر کہ اس کے لئے جو ہے  
سید کے آگے اس کے لئے جو ہے  
ڈرائنگ ارسال فرماتے ہوئے ہے



DFC Security

14/6/2011



فہرست  
787-SM  
em

بروٹر الی  
SHO-city

فہرست  
DR-11

کار کار

میر جے کھنڈہ، ڈیڑھ گھنٹہ، 15:00 سے 16:00  
نہم 15:00 سے 16:00  
15:00 سے 16:00  
15:00 سے 16:00  
15:00 سے 16:00

DR 13/11  
13-6-11

DR 11/11  
13-06-2011

میر جے کھنڈہ، ڈیڑھ گھنٹہ، 15:00 سے 16:00  
15:00 سے 16:00  
15:00 سے 16:00  
15:00 سے 16:00  
15:00 سے 16:00

جیہاں عالی

دکوان خدائے تعالیٰ کے لیے بندگی میں  
کے لیے جو بندگی کے والد کا انتقال ہو گیا ہے  
میں نے اپنے دل سے دعا کی ہے کہ اس کی روح  
میں سے اگلی دنیا میں بھی اسی طرح  
میں سے اگلی دنیا میں بھی اسی طرح  
میں سے اگلی دنیا میں بھی اسی طرح



DFC Psuitry

14/6/2011

صاحب عالی

تراش حکیم سائل کو تسلیم عمیرہ حاضرین اور ہم

کا سے حکم سے دو سہولتوں سے سائل اصرار مالہ

وہ اس میں لڑا جاتا ہے

مذکورہ درخواست استدعا حکیم سائل کو سہولت اور

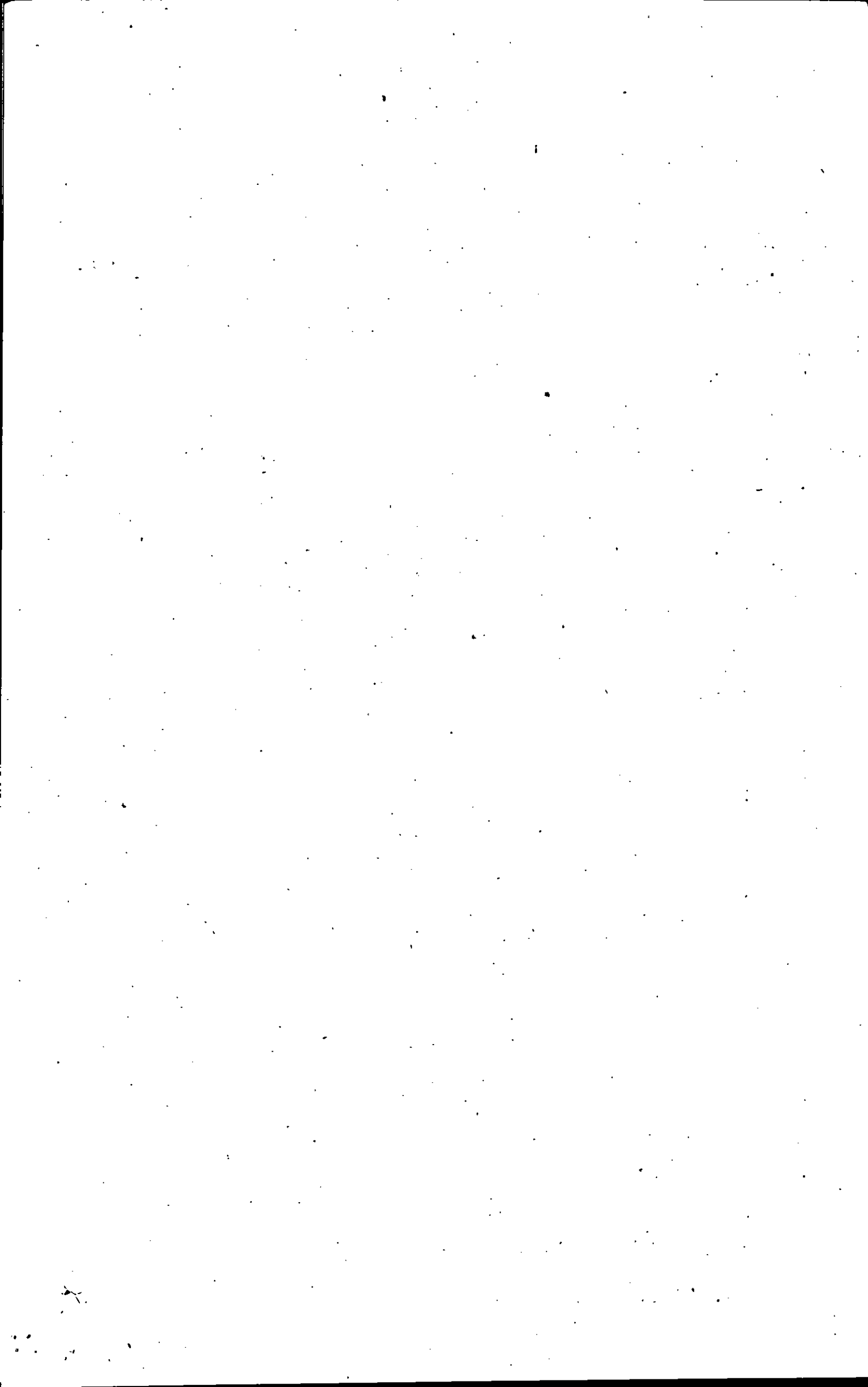
کی حالی جاری کرنے کی اجازت فرمائی جائے

العارض

مذکورہ خانہ نمبر 152 \*  
Ex HC

7/2/2013

Yes  
اللہ  
8/2  
7/2  
نقل و اصل



(B)

Phone No.0992-9310021  
Fax No.0992-9310023

From: The Regional Police Officer,  
Hazara Region, (Abbottabad).

To: The District Police Officer,  
Haripur.

No. *5075* /PA Dated Abbottabad, the *20/5* /2013.

Subject: REPRESENTATION.

Memo:

Please refer to your office Memo: No.1259 dated 08-03-2013, on the subject cited above:

The appeal/representation of Ex-Constable Nadeem Khan No.152 of your District was considered & filed being a time barred case.

The Service Book & Fauji Missal containing enquiry papers is returned herewith.

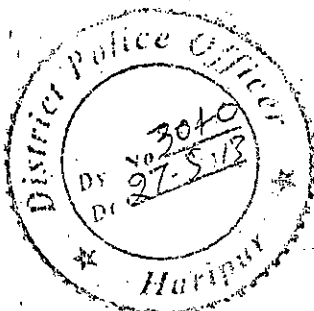
Encl: - (as above)

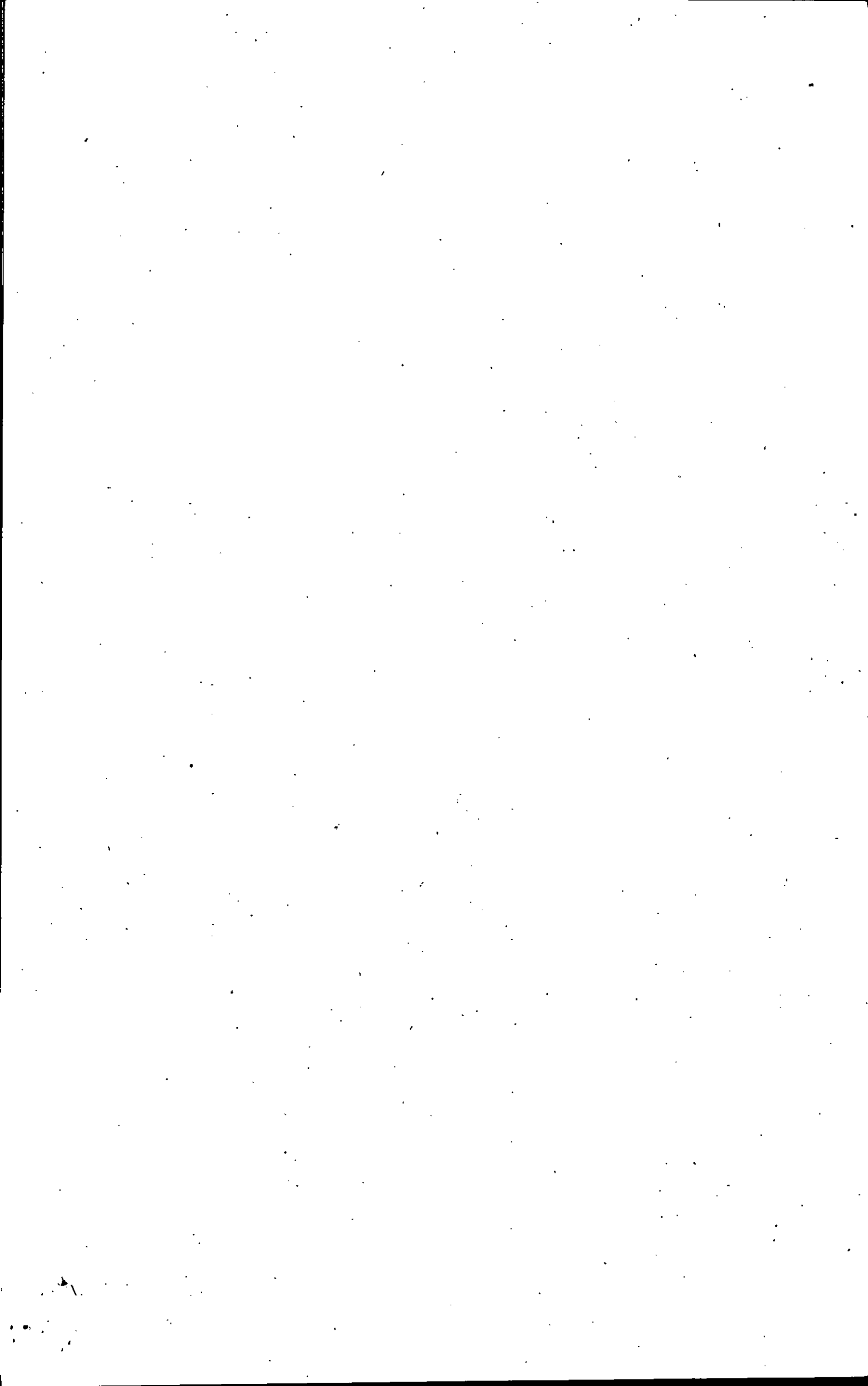
*allura*  
REGIONAL POLICE OFFICER  
Hazara Region, Abbottabad.  
(C.O Khurram Hussain)

*S R e*

*For n / action*  
*Najab*

*DPO/HR*  
*27/05/2013. ||*





(C)

ORDER

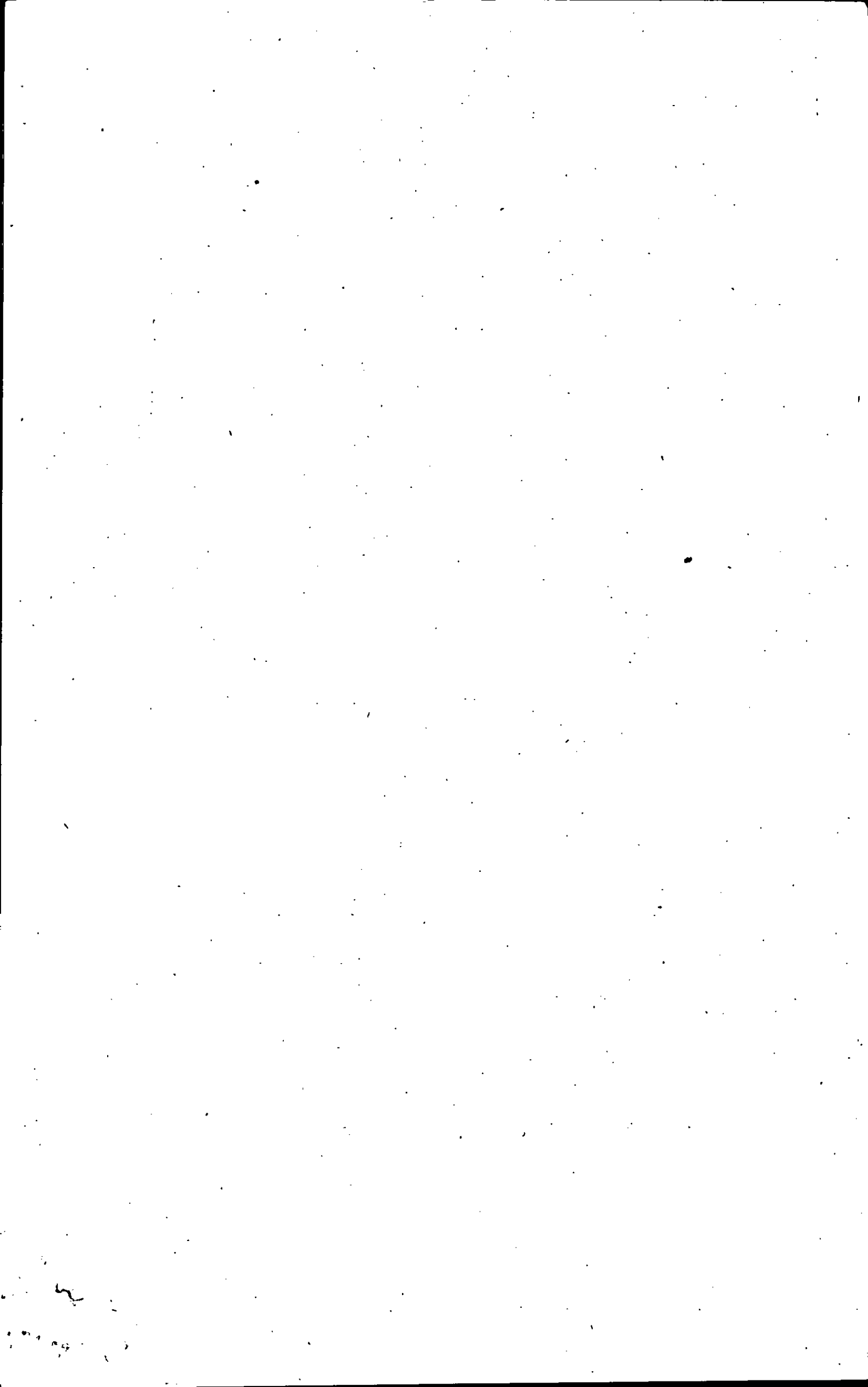
This order is passed on the petition of Nadeem Khan ex-head Constable No. 152 district Haripur. He was dismissed from service vide order of District Police Officer Haripur, on charges of absence from duty for long period vide order bearing OB No. 500 dated 07.07.2011, His representation against the order of District Police Officer Haripur was also filed by Deputy Insector General of Police Hazara Region, Abbottabad vide order No. 5075/PA dated 20.05.2013. The representation was filed as it was time barred. Petitioner has failed to advance any new grounds in the instante petition. Furthermore, appellant has no locus standi as the application is time barred and there is no provision of second appeal in the rules. Hence the petition is rejected.

Addl: IGP/HQrs:  
For Provincial Police Officer,  
Khyber Pakhtunkwha Peshawar.

No. 4152<sup>53</sup> /dated 31/10/2013.

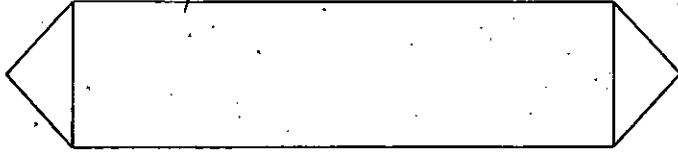
Copy of the above is forwarded to District Police Officer Haripur for record and service on petitioner. Service record of petitioner received vide your office memo: No 6179/Legal, dated 02.11.2013 is returned herewith.

Addl: IGP/HQrs:  
For Provincial Police Officer,  
Khyber Pakhtunkwha Peshawar.





بعدالت جناب چیمبر میں ادھب اس ولس



# Service Appeal

2 منجانب السلام  
بنام

Nadeem Khan  
VERSUS

مورخہ  
مقدمہ  
دعویٰ

Provincial Police Officer  
and others.

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں 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 مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب 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 لکھدیا کہ سندر ہے۔

المرقوم

23

المقام

2013  
Accepted  
مارت  
2220193  
Mob: 0345-9223