


# FORM OF ORDER SHEET

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

**Appeal No.** 1792/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge.
1	2	3
1-	06/09/2023	<p>The appeal of Mr. Hakeem Jan presented today by Mr. Kamran Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <b>08-09-2023</b>.</p> <p>By the order of Chairman  REGISTRAR</p>

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

**SERVICE APPEAL NO. 1792/2023**

**Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs Department, Peshawar**

..... Appellant

**Versus**

1. The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
3. Section Officer General Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
4. Mr Naz Muhammad Senior Scale Stenographer (BPS-16) Section Officer (L&K) Home & Tribal Affairs Department Civil Secretariat Peshawar.

..... Respondents

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Through

Petitioner  
Kamran Khan  
&  
Naveed Jan  
Advocate, High Court Peshawar

①

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

**SERVICE APPEAL NO. 1792 /2023**

**Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs  
Department, Peshawar**

..... APPELLANT

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
- 2- The Secretary, Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
- 3- Section Officer General Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
- 4- Mr Naiz Muhammad Senior Scale Stenographer (BPS-16) Section Officer (L&K) Home & Tribal Affairs Department Civil Secretariat Peshawar.

..... RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974**  
**AGAINST THE ORIGINAL IMPUGNED ORDER DATED**  
**14.04.2023 WHEREBY THE APPELLANT WAS**  
**ILLEGALLY AND PRE-MATURELY, AND AGAINST**  
**THE INACTION OF THE RESPONDENTS BY NOT**  
**DECIDING THE DEPARTMENTAL APPEAL WITHIN**  
**THE STAUTORY PERIOD OF 90 DAYS.**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 14.04.2023 to the extent of appellant and subsequent order Notification No. E&A (HD)/PF dated 18/05/2023 and notification dated 05.05.2023 may very kindly be set aside and the appellant be retained as SO (L&K).

Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

(2)

**ON FACTS:**

**Respected Sir:-**

1. That the appellant was initially appointed in FATA Development Corporation as Junior Clerk and then promoted and up-graded to BPS-17. It is worthy to mention here that, appellant since his appointment, promotion and till now is performing his duty with great Zeal and to the entire satisfaction of his Superiors.
2. That thereafter, the appellant was promoted to BPS-17 as Section Officer in Home and Tribal Affairs Department.
3. That appellant was deputed to pursue the litigation cases before the Courts of merged areas, vide Notification dated 11/01/2021. **(Copy of Notification dated 11.01.2021 is attached as Annexure-A).**
4. That the above Notification Dated 11/01/2021 was withdrawn vide Notification dated 12/02/2021 by the department. **(Copy of Notification dated 12/02/2021 is attached as Annexure-B).**
5. That vide Notification dated 09/04/2021, the appellant was posted as Section officer (AR/NGOs) from the Private Secretary Bps-17 (AR/NGOs) Courts of merged areas. **(Copy of notification dated 09.04.2021 is attached as Annexure-C).**
6. That after almost two months, the appellant post was withdrawn by the department Vide Notification dated 16/04/2021. **(Copy of Notification dated 16.04.2021 is attached as Annexure-D).**
7. That again the department Vide Notification dated 21/06/2022, the appellant was transferred as a Section Officer (L& K). **(Copy of vide notification dated 21.06.2022 is attached as Annexure-E).**

8. That once again the appellant was transferred Pre-maturely from SO (L&K) to report to SOG, Vide Notification dated 14/04/2023, without lawful authority and is based upon malafide, hence liable to be set aside on the following grounds inter alia: **(Copy of Order dated 14.04.2023 is attached as Annexure-F).**
9. That it is pertinent to mention here that vide notification dated 05.05.2023 the private Respondent No. 5 has been posted as Section Officer (L&K) irrespective of the fact the private Respondent No. 5 has not a proper person for the subject post as EPS-17 and private Respondent No 5 is BPS-16 furthermore cadre of the post in question and the private Respondent No. 5 is altogether different. (Copy of notification dated 05.05.2023 is attached).
- 10-That after few days the appellant was again transferred as per notification E&A (HD)/PF dated 18/05/2023 from the office report to SOG to the post of Section officer of SO Planning. **(Copy of Charge assumption Report is attached as Annexure-G).**
- 11-That the appellant feeling aggrieved from the order of the respondent and preferred Departmental appeal on 17.04.2023 before the appellant authority but no reply received so far. **(Copy of Departmental appeal is attached as Annexure-H).**

**GROUND:**

- A-That the impugned notification dated 14/04/2023 issued by the department is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

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- C- That the impugned notification dated 14/04/2023 is violated of Clause-I and Clause-IV of transfer/posting policy of Provincial Government and notification of the Election Commission of Pakistan. **(Copy of Election Commission Notification is attached-I).**
- D- That the respondent Provincial Government on dated 25.06.2019 place the service alongwith sanctioned (SNE) posts of the petitioner under home Tribal Affair department for their adjustments and they performed their duties with the great zeal or devotion and that now some of the colleagues senior of the petitioner are going to retire from service and the present petitioner as per rules must be promoted on those vacant posts but the respondent in its meeting on 28.02.2021 has decided to abolish those posts upon retirement of the respective officers which is illegal and unlawful and against the facts.
- E- That the same minutes of the meeting were challenged by the present appellant along with their colleagues in Writ Petition No. 3261-P/2021 before the court of High Court Peshawar and the Writ Petition is decided in the favor of the present appellants along with their colleagues. **(Copy of Writ Petition and Judgment are attached as Annexure-J).**
- F- That it is pertinent to mention here that, the department/respondent therein was directed by the High Court Peshawar in Writ Petition above with the direction to constitute a high level committee but the department failed to do so. It also worthy to mention here that, such pre-mature transfers of the appellant from time to time from one post to another, which is totally wrong, illegal and is based on malafide. Regarding the Writ Petition Writ Petition No. 3261-P/2021, before the Hon'ble Peshawar High Court, Peshawar, the appellant has filed a contempt of court petition and since then the department has failed to do so. **(Copy of COC and Order are attached as Annexure-K).**
- G- That the impugned notification dated 14/04/2023 has been issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.

6

- H- That impugned notification dated 14/04/2023 is nothing but just to harass the appellant and to accommodate his blue eyed person.
- I- That the appellant has been transferred so many times in one year, by the department which is against the law and policy/rules, so on this score alone the impugned order is liable to be set aside.
- J- That even high ups of the appellant which is department/wing has also been shown their reservation over the impugned transferred order dated 14/04/2023.
- K- That if the impugned order dated 14/04/2023, has not been set aside then the same would be contrary to the Judgment of the Hon'ble Peshawar High Court, Peshawar.
- L- That the transferred of the appellant from one post to another so many times in one year, is only to actively persuading the matter of his service structure, and the other colleges.

*It is, therefore, most humbly requested that on acceptance of this appeal the impugned order dated 14.04.2023 to the extent of appellant and subsequent order Notification No. E&A (HD)/PF dated 18/05/2023 and notification dated 05.05.2023 may very kindly be set aside and the appellant be retained as SO (L&K).*

*Any other relief, if not ask/sought may also be granted in favour of the appellant.*

Dated: 06/09/2023

Through:

APPELLANT

Hakeem Jan

Kamran Khan

&

Naveed Jan

Advocate, High Court  
Peshawar

(6)

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

I Iakeem Jan

..... Applicant /Appellant

**VERSUS**

The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar & others.

..... Respondents

**PETITION FOR THE SUSPENSION OF THE OPERATION  
OF THE IMPUGNED ORDER DATED 14/04/2023 TO THE  
EXTENT OF APPELLANT, SU SUBSEQUENT ORDERS  
DATED 05.05.2023 AND 18.05.2023 TILL FINAL DISPOSAL  
OF THE ABOVE MENTION APPEAL.**

**Respectfully Sheweth:**

The petitioner humbly prayed as under:

- 1) That the above titled appeal is filing for today before this Hon'ble Tribunal which is not yet to be fixed.
- 2) That the impugned orders are the out coming of the adverse action of the respondents department because the appellant has early been filed Writ Petition before the Peshawar High Court Peshawar against the respondents for not to abolish the sanction post of the petitioner.
- 3) That the malafide on part of the respondents is further evident from the fact that besides illegal and malafidely pre-mature transfer of the appellant.



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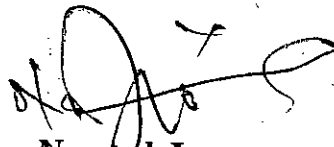
- 4) That all the three ingredient for the stay are in the favor of the appellant.
- 5) That the grounds of appeal may also be treated as part of this application.
- 6) That if the impugned order is not suspended the purpose of the instant appeal will become infructuous.

In the circumstances mentioned above it is, therefore, humbly prayed that the Operation of the impugned Order dated 14/04/2023 and subsequent orders dated 05.05.2023 and 18.05.2023 till final disposal of the above mention appeal,

Dated 04.09.2023

Petitioner/Appellant

Through



**Naveed Jan**  
**Advocate High Court,**  
**Peshawar**

(8)

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

Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs Department,  
Peshawar.

..... Applicant /Appellant

**VERSUS**

The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil  
Secretariat, Peshawar & others.

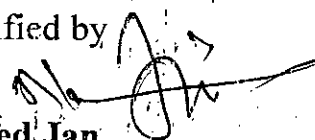
..... Respondents

**Affidavit**

I, Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs  
Department, Peshawar do hereby solemnly affirm and declared on oath that the  
contents of accompanied petition are true and correct to the best of my  
knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
DEPONENT

Identified by

  
Naveed Jan  
Advocate High Court,  
Peshawar.



05 SEP 2023



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

**SERVICE APPEAL NO. \_\_\_\_\_/2023**

**Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs Department,  
Peshawar**

..... **Appellant**

**VERSUS**

1. The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
3. Section Officer General Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
4. Mr Naiz Muhammad Senior Scale Stenographer (BPS-16) Section Officer (L&K) Home & Tribal Affairs Department Civil Secretariat Peshawar.

..... **Respondents**

**ADDRESS OF THE PARTIES**

**Appellant**

**Hakeem Jan (BPS-17), Report to SOG, Home and Tribal Affairs  
Department, Peshawar.**

**Respondents**

1. The Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
2. The Secretary Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
3. Section Officer General Home and Tribal Affairs Department, Civil Secretariat, Peshawar.
4. Mr Naiz Muhammad Senior Scale Stenographer (BPS-16) Section Officer (L&K) Home & Tribal Affairs Department Civil Secretariat Peshawar.

Petitioner

Through

Kamran Khan

Naveed Jan

Advocate, High Court Peshawar

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GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the January 11, 2021

**NOTIFICATION**

**No. E & A (HD) 1 - 12 / 2010.** The Competent authority is pleased to direct that a Court cases pertaining to Newly Merged Districts of Merged Areas Secretariat will be routed through Deputy Secretary (Judicial) of this Department for speed disposal. Moreover this Department notification of even number dated 26/8/2020, wherein Mr Hakim Jan Private Secretary (BPS-17)/Section Officer (AR/NGOs) has been deputed to pursue the litigation cases before the Hon'ble Courts for merger areas in addition to his own duties is hereby cancelled/withdrawn with immediate effect.

Home Secretary

**Enst: No. & date even:**

**Copy forwarded to:**

- 1- All Additional Secretaries Home Department
- 2- All Deputy Secretaries Home Department
- 3- Deputy Secretary (Estt./B&A) L&C Home Department
- 4- All Section Officers Home Department
- 5- Mr. Hakim Jan Section Officer (AR/NGOs) Home Department
- 6- PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.
- 7- PS to Special Secretary-I&II Home, Department.

  
Section Officer (General)

ATTESTED



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the February 12, 2021

**NOTIFICATION**


**No. E & A (HD) 1 - 12 / 2010.** This office Notification of even number dated 11-01-2021 is hereby withdrawn, consequently, all the court cases of Newly Merged Districts from now onwards be dealt with by the Merged Areas Wing of Home Department per practice prior to the said notification.

Home Secretary

**Encl: No. & date even:**

**Copy forwarded to:**

- 1- All Additional Secretaries Home Department
- 2- All Deputy Secretaries Home Department
- 3- Deputy Secretary (Estt./B&A) L&C Home Department
- 4- All Section Officers Home Department
- 5- PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.
- 6- PS to Special Secretary-I&II Home, Department.

  
Section Officer (General)

ATTENDED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
E & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the April 9/4/2021

**NOTIFICATION**

**No. E & A (HD) 1 - 12 / 2015.** The competent authority is pleased to post Mr. Hashir (PMS-BS-17) as Section Officer (AR/NGOs) Home Department relieving Mr. Haki (Private Secretary-17) from the post of SO (AR/NGOs)/ Courts matters of Merged Area immediate effect till further orders. He has to report to Additional Secretary (L&O) for posting.

Consequent upon the above, Mr. Hashim Khan (PMS-BS-17) Section Officer (AR/NG) also look after all Courts matters of Merged Areas.

Home Secre

**Endst: No. & date Even**

**Copy forwarded to:**

1. All Additional Secretaries), Home Department.
2. Additional Secretary (L&O) Home Department
3. All Deputy Secretaries), Home Department.
4. All Section Officers, Home Department.
5. Drawing in Disbursing Officer L&O Home Department
6. Officer concerned.
7. PS to Home Secretary-I&II Home Department

  
Section Officer (General)

ATTESTED



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the April 16, 2021

**NOTIFICATION**

**No. E & A (HD) 1 - 12 / 2010.** In partial modification of this Department Notification No. E & A (HD) 1 - 12 / 2010 dated 09-04-2021, the look after charge for all the Court matters of Merged Areas is hereby withdrawn from Mr. Hashim Khan, Section Officer (AR/NGOs) Home Department.

2- Consequent upon the above, Mr. Hakim Jan Private Secretary (BPS-17) assigned the charge of the litigation cases related to the Merged Areas, till further orders.

Deputy Secretary (Admin)

**Enst: No. & date even:**

**Copy forwarded to:**

- 1- All Additional Secretaries Home Department.
- 2- Additional Secretary (L&O), Home Department.
- 3- All Deputy Secretaries Home Department.
- 4- All Section Officers Home Department.
- 5- Officers concerned.
- 6- PS to Home Secretary, Khyber Pakhtunkhwa, Peshawar.
- 7- PS to Special Secretary-I&II Home, Department.

Section Officer (General)

ATTESTED

(114)

(114)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

Dated Peshawar the June 21, 2022

**NOTIFICATION.**

No. E & A (HD) 1 - 12 / 2015. The following Internal posting/transfer order Section Officers of Home Department is hereby ordered with immediate effect till further orders:-

S. #	NAME OF OFFICER	FROM	TO
1.	Mr. Muhammad Ayub PMS-BS-17	Section Officer (L&K)	Section Officer (TRC)
2.	Mr. Hakim Jan BS-17	Awaiting for posting	Section Officer (L&K)

HOME SECRETARY

Endst: No. & date Even.

Copy forwarded to:

1. All Additional Secretaries, Home Department.
2. All Deputy Secretaries, Home Department.
3. All Section Officers, Home Department.
4. Officers concerned.
5. PS to Home Secretary, Khyber Pakhtunkhwa.
6. PS Special Secretary-I&II Home Department.

Section Officer (General)

ATTESTED



**KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT**

Dated Peshawar the April 14, 2023

**ORDER**

No. F.A. (HO) 2-1837/2023. Internal posting/transfer of the following staff of the Department is hereby ordered with immediate effect till further orders:-

S.No	Name & Designation	From	To
1	Mr. Hakim Jan Private Secretary (RS-17)	30 (L&K)	Report to SOC
2	Mr. Imdad Ullah (FMS-BS-17)	50 (Acad)	He will hold look after the charge of the post of Section Officer (L&K) in addition to his own duties till further orders.
3	Syed Mohtashim Ali Shah Assistant Programmer	AD Arms Section	DC Office Dir Upper
4	Mr. Haseeb Arif Computer Operator	Section Officer (Chinese section)	DC Office Kohat

Home Secretary

ENDS. No. & date. svan.

Copy forwarded to:

1. Deputy Commissioner, Kohat
2. Deputy Commissioner, Dir Upper
3. FSO to Home Secretary, Home Department
4. Section Officer (Chinese) Home Department
5. PA to Deputy Secretary (Admn) Home Department.
6. Officers/Officials Concerned.

SECTION OFFICER (GENERAL)

ATTESTED

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

091-9214104

091-92102

Dated Peshawar the May 5<sup>th</sup> 2023

NOTIFICATION

No. E & A (HD) 1 - 12 / 2015. Mr. Niaz Muhammad Senior Scale Stenographer (BPS-16)/Section Officer (Implementation) (OPS) is hereby authorized to hold look after charge of the post of Section Officer (L&K) relieving Mr. Imdad Ullah (PMS-BS-17) SO (Acad) from look after charge of the post of SO (L&K).

The Officer shall also hold look after charge of the post of Section Officer (Plan/Schemes) in addition to his own duties with immediate effect till further orders.

SPECIAL SECRETARY-I

Endst. No. & date. Even.

Copy forwarded to:

- 1. All Additional Secretaries, Home Department.
- 2. All Deputy Secretaries, Home Department.
- 3. All Section Officers, Home Department.
- 4. Officer concerned.
- 5. PSO to Home Secretary, Khyber Pakhtunkhwa.
- 6. PS Special Secretary-I Home Department.

*[Handwritten signature]*

Section Officer (General)

*In the current circumstances as undersigned is away for Domain Specific Training at PPSA therefore the officer Mr. Hakim Jan can not be relieved.*

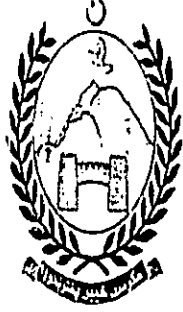
*The Honble High-ups are humbly requested to retain Hakim Jan as SO(L&K) in L&K being Hakim Jan may also note pl*

*SO(L&K)*

*205/05/2023*

ATTESTED

17



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

DATED PESHAWAR THE 18<sup>TH</sup> MAY 2023

ORDER

No. E&A (HD)PF : Sanction is hereby accorded to the grant of 90 days maternity leave in respect of Miss Rozina Wahab (Sr. Probation Officer)/Section Officer (Plan/Scheme) DPC, Home Department w.e. from 10/5/2023 to 8/8/2023 (both days inclusive).

During the leave period, Mr. Hakim Jan, Senior Scale Stenographer (BPS-17) Home Department will look after the official business of SO (Plan/Scheme) in his own pay & scale.

Home Secretary

Endst. No. & date even.

Copy forwarded to:

1. PSO to Home Secretary, Home Department
2. PS to Special Secretary-I Home Department
3. PA to Deputy Secretary (DPC) Home Department
4. PA to Deputy Secretary (Admn) Home Department
5. Officers concerned.

SECTION OFFICER (GENERAL)

18/5/23  
27/18

18/5/23

13

To,

The Home Secretary & Tribal Affairs  
Khyber Pakhtunkhwa Civil Secretariat, Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED:  
14/04/2023, WHEREBY THE APPELLANT WAS INTERNAL  
TRANSFERRED FROM SECTION OFFICER (SO) L & K TO  
REPORT TO SOG.

Respected Sir:-

1. That the appellant was initially appointed in FATA Development Corporation as Junior Clerk and then promoted and up-graded to BPS-17. It is worthy to mention here that, appellant since his appointment, promotion and till now is performing his duty with great Zeal and to the entire satisfaction of his Superiors.
2. That thereafter, the appellant was promoted to BPS-17 as Section Officer in Home and Tribal Affairs Department.
3. That appellant was deputed to pursue the litigation cases before the Courts of merged areas, vide Notification dated 11/01/2021.
4. That the above Notification Dated 11/01/2021 was withdrawn vide Notification dated 12/02/2021 by the department.
5. That vide Notification dated 09/04/2021, the appellant was posted as Section officer (AR/NGOs) from the Private Secretary Bps-17 (AR/NGOs) Courts of merged areas.
6. That after almost two months, the appellant post was withdrawn by the department Vide Notification dated 16/04/2021.
7. That again the department Vide Notification dated 21/06/2022, the appellant was transferred as a Section Officer (L&K).
8. That once again the appellant was transferred Pre-maturely from SO (L&k) to report to SOG, Vide Notification dated 14/04/2023, without lawful authority and is based upon malafide, hence liable to be set aside on the Following grounds inter alia:

ATTESTED

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GROUNDS:

- A- That the impugned notification dated 14/04/2023 issued by the department is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned notification dated 14/04/2023 is violative of Clause-I and Clause-IV of transfer/posting policy of Provincial Government and notification of the election Commission of Pakistan.
- D- That the respondent Provincial Government on dated 25.06.2019 place the service alongwith sanctioned (SNE) posts of the petitioner under home Tribal Affair department for their adjustments and they performed their duties with the great zeal or devotion and that now some of the colleagues senior of the petitioner are going to retire from service and the present petitioner as per rules must be promoted on those vacant posts but the respondent in its meeting on 28.02.2021 has decided to abolish those posts upon retirement of the respective officers which is illegal and unlawful and against the facts.
- E- That the same minutes of the meeting were challenged by the present appellant along with their colleagues in Writ Petition No. 3261-P/2021 before the court of High Court Peshawar and the Writ Petition is decided in the favor of the present appellants along with their colleagues. (Copy of Writ Petition and Judgment are attached).
- F- That it is pertinent to mention here that, the department/respondent therein was directed by the High Court Peshawar in Writ Petition above with the direction to constitute a high level committee but the department failed to do so. It also worthy to mention here that, such pre-mature transfers of the appellant from time to time from one post to another, which is totally wrong, illegal and is based on malafide. Regarding the Writ Petition Writ Petition No. 3261-P/2021, before the Hon'ble Peshawar High Court, Peshawar, the appellant has filed a contempt of court petition and since then the department has failed to do so. (Copy of Writ Petition and Order is attached herewith).

ATTACHED

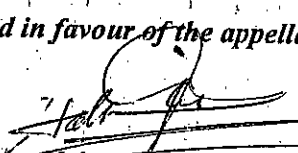
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- G- That the impugned notification dated 14/04/2023 has been issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- H- That impugned notification dated 14/04/2023 is nothing but just to harass the appellant and to accommodate his blue eyed person.
- I- That the appellant has been transferred so many times in one year, by the department which is against the law and policy/rules, so on this score alone the impugned order is liable to be set aside.
- J- That even high ups of the appellant which is department/wing has also been shown their reservation over the impugned transferred order dated 14/04/2023. (Copy is attached herewith)
- K- That if the impugned order dated 14/04/2023, has not been set aside then the same would be contrary to the Judgment of the Hon'ble Peshawar High Court, Peshawar.
- L- That the transferred of the appellant from one post to another so many times in one year, is only to actively persuading the matter of his service structure, and the other colleges.

*It is, therefore, most humbly requested that the instant departmental appeal may kindly be accepted, the impugned order dated 14/04/2023 may kindly be set aside and the appellant may kindly be post to his previous post as he was.*

*Any other relief, if not ask/sought may also be granted in favour of the appellant.*

Dated: 02/05/2023.

  
Hakeem Jan  
SO (L&K)  
Home and Tribal Affairs  
Department, Peshawar

ATTESTED

(21)

B (12)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

No. SO (Policy) (H&AD) 274/2023  
Dated Peshawar, the 29<sup>th</sup> May, 2023


- 1. Additional Chief Secretary P&D Department Govt. of Khyber Pakhtunkhwa
- 2. Senior Member Board of Revenue, Govt. of Khyber Pakhtunkhwa
- 3. Administrative Secretaries to Govt. of Khyber Pakhtunkhwa
- 4. All Divisional Commissioners in Khyber Pakhtunkhwa
- 5. All Heads of Attached Departments in Khyber Pakhtunkhwa
- 6. All Deputy Commissioners in Khyber Pakhtunkhwa

Subject: BAN ON POSTINGS AND TRANSFERS IN KHYBER PAKHTUNKHWA  
Dear Sir,

I am directed to refer to the above cited subject and to convey that in view of the fragile fiscal position of the Provincial Government, the Hon'ble Chief Minister Khyber Pakhtunkhwa has been pleased to impose ban on inter-district posting and transfers of officers and officials under the Government of Khyber Pakhtunkhwa as per the following:

- i. There shall be complete ban on inter-district transfers in all the departments;
- ii. This ban shall not apply on transfers within the districts and within the Secretariat and Directorates. However, while proposing such transfers of officers/officials within the district, Directorates or the Secretariat, as the case may be, due diligence must be observed and tenure, suitability of the officers/officials for the posts and past performance must be taken into account;
- iii. In cases posting and transfer is necessitated due to some court orders, or some administrative exigencies, ban relaxation will be obtained from Chief Minister through summary. For such posting/transfers, departments will put forth sound justifications. Subsequently in cases where NOC from Election Commission is required, cases will be taken up with ECP for ban relaxation by the concerned Administrative Departments.
- iv. This ban shall not apply on filling of vacant posts through recommendations of the Khyber Pakhtunkhwa Public Service Commission as Election Commission of Pakistan has already granted exemption in such cases.


Yours sincerely,

  
(Name of Haq)  
Deputy Secretary (Policy) 29/05/23

ENDST: NO. & DATE EVEN

Copy is forwarded for information to:

- 1. Principal Secretary to Governor, Khyber Pakhtunkhwa
- 2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa
- 3. CSO/PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
- 4. All Additional Secretaries/Deputy Secretaries/Section Officers in Establishment & Administration Department

  
Section Officer (Policy)

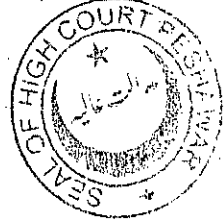


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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

W.P. No. 3261P/2021



1. Amir Nawaz.
2. Anwar Shah
3. Hakeem Jani
4. Noor-Ul-Basar
5. Ghulam Habib
6. Hassan Muhammad
7. Niaz Muhammad
8. Khateb Gul
9. Zarghun Shah
10. Taj Wali
11. Sultan
12. Rais Khan
13. Muhammad Imran
14. Abdul Majeed Khan
15. Jehangir Khan
16. Shahzad Majeed
17. Gul Rahim
18. Faraz Muhammad
19. Anayat Ullah Shah
20. Shameem Akhtar
21. Nasreen sayed
22. Mian Gul

FILED TODAY  
Deputy Registrar  
02 AUG 2021

ATTESTED  
EXAMINER  
Peshawar High Court



(23)

23. Sher Muhammad
24. Israr Ullah
25. Zahoor Khan
26. Amal Khan
27. Ikram Ullah
28. Lal Muhammad
29. Seyar Ahmad
30. Gul Haider
31. Muhamamd Saeed
32. Abdul Salam Abid

All employees of Home & Tribal Affairs Department, Civil Secretariat, Peshawar.....(Petitioners)

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar.
2. Secretary Home & Tribal Affairs Department, Civil secretariat Peshawar.
3. Finance Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.....(Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF  
THE CONSTITUTION OF ISLAMIC REPUBLIC  
OF PAKISTAN, 1973.**

FILED TODAY  
Deputy Registrar  
02 AUG 2021

**PRAYER IN WRIT:**

A. On acceptance of this Writ Petition the respondents may kindly be directed to promote

**ATTESTED**  
EXAMINER  
Peshawar High Court

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the petitioners as per the Federal Administered Tribal Area, corporation regulation Act 1970.

B. Respondents may further be directed not to abolish the sanction posts of the petitioners.

C. To set aside the minutes of the meeting dated 28/02/2021 wherein the respondents have decided to abolish the sanction posts of the petitioners.

**Respectfully Sheweth:**

1. That the petitioners were initially appointed in FATA Development Corporation on different positions.

2. That the petitioners since their appointments are performing their duties with great zeal or devotion to the entire satisfaction of their superiors.

3. That FATA Development Corporation were dissolved on 30/06/2002, vide notification dated 26/06/2002, this notification dated 23/11/2002 under the subject

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Deputy Registrar

02 AUG 2021

implementation of the scheme of golden hand shake for the employees of defunct FATA DC.

4. That the president of Islamic Republic of Pakistan sanctioned for the creation of 157 posts in Governments secretariat (FATA) the services of present petitioner were absorbed/adjusted on their own term and conditions on

ATTESTED  
BY EXAMINER  
Peshawar High Court

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the basis of the above notification. (Copy of 1<sup>st</sup> adjustment order is attached as annexure "A").

5. That after the promulgation of 25<sup>th</sup> amendment in the Constitution vide Act NO XXXVII dated 5/6/2018, the erstwhile Federal Administered tribal Area (FATA) was merged to the province of KPK, so the Respondents provincial Government on dated 25/06/2019 placed the service along with Sanctioned SNE posts of the petitioners under Home and tribal affairs Department for their adjustments (copy of 2<sup>nd</sup> adjustment order is attached as annexure "B").

6. That on dated: 22/06/2010 vide Notification No: FS/E/100-56 (Vol-2) 13649-59 the posts of the present petitioner along with other colleagues were upgraded by the respondents (Copy of notification is attached as annexure "C").

7. That now some of the colleagues (seniors) of the petitioners are going to retire from service and the Deputy Registrar present petitioners as per rules must be promoted on those vacant posts but the respondents in its meeting held on dated: 28/02/2021 has decided to abolish those posts upon retirement of the respective officers which is illegal and against the Law and facts as it will close the door for promotion of present petitioners (copy of the

FILED TODAY  
m  
02-AUG-2021  
ATTORNEY  
EXAMINER  
Peshawar High Court

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minutes of the meeting are attached as annexure "D").

8. That the petitioners approached to the respondents regarding their grievances time and again but the respondents tuned deaf ear to the requests of the petitioners hence the present writ petition on the following grounds

Grounds:

- 1) That the acts of the respondents are illegal and not tenable in the eyes of law.
- 2) That this honorable court vide its judgment dated: 03-11-2009 has held that the term and conditions of the services of the petitioners will be governed under the provisions of the Federal Administered Tribal Area, corporation regulation Act 1970 and the same was upheld by supreme court (Copies of judgment of high court and supreme court are attached as annexure "E" & "F")
- 3) That the posts of the petitioners were created by the federal government and are being paid by the federal government.
- 4) That the respondents have no authority to abolish the posts as they are sectioned posts.

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02 AUG 2021

ATTESTED  
EXAMINER  
Peshawar High Court

(27)

5) That any other points of law and facts shall be raised/ argued if required for the assistance of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of this Writ Petition the respondents may kindly be directed to promote the petitioners as per the Federal Administered Tribal Area, corporation regulation Act 1970 and respondents may further be directed not to abolish the sanction posts of the petitioners and To set aside the minutes of the meeting dated 28/02/2021 wherein the respondents have decided to abolish the sanction posts of the petitioner.

**INTERIM RELIEF:**

In the meanwhile the respondents may kindly be not to abolish the sanctioned posts of the petitioners.

Petitioners

Through



Dated: 17/07/2021

**Zahanat Ullah**  
Advocate High Court  
Peshawar.

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Deputy Registrar

02 AUG 2021

ATTESTED  
EXAMINER  
Peshawar High Court

**CERTIFICATE:**

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Certified on instructions of my client that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.



**ADVOCATE**

**LAW BOOKS:**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any Law Book as per need.



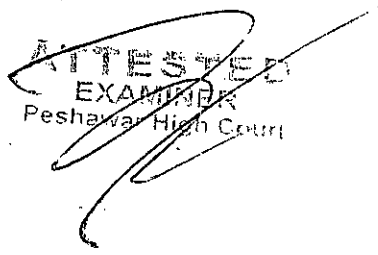
**ADVOCATE**

**FILED TODAY**

**Deputy Registrar**

02 AUG 2021

**ATTESTED**  
**EXAMINER**  
Peshawar High Court



(29)

**BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR.**

No. 3261 P/2021  
W.P. No. 3261 P/2021

Amir Nawaz & others.....(Petitioners)

**VERSUS**

Government of Khyber Pakhtunkhwa through Chief Secretary and others.....(Respondents)

**AFFIDAVIT**

I, Amir Nawaz S/o Juma Khan R/o Dalazak Road, Street No. 2, Mohallah Corporation Colony No. 2, Peshawar (Attorney for petitioners), do hereby solemnly affirm and declare that the contents of the accompanying **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

*Amir Nawaz*  
**DEPONENT**

CNIC: 17301-1608208-9 ✓

Cell No. 0311-1819917

**Identified by:**

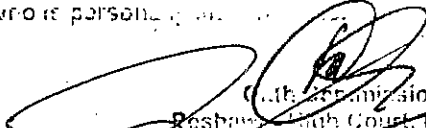
*Zahanat Ullah Khan*

**Zahanat Ullah Khan**  
Advocate High Court,  
Peshawar.

**FILED TODAY**

**Deputy Registrar**

**02 AUG 2021**

No. 31938	
Certified to be true and correct on solemnly affirmed before me on this 29 July 2021 by Amir Nawaz S/o Juma Khan Peshawar who was identified by Zahanat Ullah Khan who is personally known to me.	
 Court Commissioner Peshawar High Court, Peshawar.	

CERTIFIED TO BE TRUE COPY

EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 8, 7 of  
the Oath-taking and Affidavit Act 1984

25 JUL 2023

*29/07/2021*

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**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
PESHAWAR.  
(JUDICIAL DEPARTMENT)**

**WP No. 3261-P/2021  
Amir Nawaz & others  
Versus  
Govt. of KPK through  
Chief Secretary & others**

Date of hearing 25.05.2022



Mr. Zahanatullah, Advocate, for the petitioners.

Mr. Wilayat Khan, AAG for the respondents.

**LAL JAN KHATTAK, J:-** The petitioners, ex-employees of the defunct FATA Development Corporation, have applied to this Court for issuance an appropriate writ to the following effect:

"It is, therefore, most humbly prayed that on acceptance of this writ petition may kindly be directed to promote the petitioners as per the Federal Administered Tribal Area, Corporation Regulation Act, 1970 and respondents may further be directed not to abolish the sanction posts of the petitioners and to set aside the minutes of the meeting dated 28.02.2021 wherein the respondents have decided to abolish the sanction posts of the petitioners."

*Govt*

2. After hearing learned counsel for the petitioners, the learned AAG and by taking into account the 'chequered history of the petitioners' case, we send it to the Worthy Chief Secretary of Khyber Pakhtunkhwa with direction to constitute a

**ATTESTED  
EXAMINER  
Peshawar High Court**



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high level committee comprising of experts to ponder over the predicament of the petitioners as there is no chance for them of any progression in their service, which state of affairs is not only discriminatory but affecting their efficiencies as well. The Committee be given a task to find out the ways and means to alleviate the petitioners' longstanding sufferings.

3. Petition stands disposed of in the above terms.

*L. Jan*  
JUDGE  
*AC*  
S  
JUDGE

Announced  
25.05.2022.  
HISAN PS

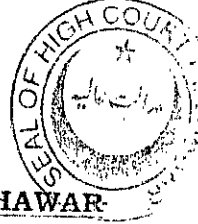
(DB) Mr. Justice Lal Jan Khattak, HJ & Mr. Justice Abdul Shakkor, HJ.

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 37 of  
the Qanun-e-Shahadat Act 1934  
25 JUL 2023

3138  
Date of Presentation of Application 25-07-2023  
No of Pages 10  
Copying fee 40/-  
Total 40/-  
Date of Preparation of Copy 25-07-2023  
Date of Delivery of Copy 25-07-2023  
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**BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR**

C.O.C. No. \_\_\_\_\_/2023

In

W.P. No. 3261-P/2021

1. Amir Nawaz
2. Anwar Shah
3. Hakeem Jan
4. Noor-ul-Basar
5. Ghulam Habib
6. Hassan Muhammad
7. Niaz Muhammad
8. Khateb Gul
9. Zarghun Shah
10. Taj Wali
11. Sultan
12. Rais Khan
13. Muhammad Imran
14. Abdul Majeed Khan
15. Jehangir Khan
16. Shahzad Majeed
17. Gul Rahim
18. Faraz Muhammad
19. Anayat Ullah Shah

ATTESTED  
EXAMINER  
Peshawar High Court

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20. Shameen Akhtar
21. Nasreen Sayed
22. Mian Gul
23. Sher Muhammad
24. Israr Ullah
25. Zahoor Khan
26. Amal Khan
27. Ikram Ullah
28. Lal Muhammad
29. Seyar Ahmad
30. Gul Haider
31. Muhammad Saeed
32. Abdul Salam Abid

All employees of Home & Tribal Affairs Department, Civil  
Secretariat, Peshawar.....(Petitioners)

**VERSUS**

1. Nadeem Aslam Choudhari, Chief Secretary Government of  
Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Abid Majeed, Secretary Home & Tribal Affairs Department,  
Government of Khyber Pakhtunkhwa, Civil Secretariat,  
Peshawar:
3. Muhammad Ayaz, Finance Secretary, Government of  
Khyber Pakhtunkhwa, Civil Secretariat,  
Peshawar.....(Contemnors/Respondents)

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3

APPLICATION UNDER ARTICLE 204 OF THE  
CONSTITUTION R/W S. 3, 4, 5 OF THE  
CONTEMPT OF COURT ORDINANCE 2003  
WITH ALL ENABLING PROVISIONS FOR  
INITIATING CONTEMPT OF COURT  
PROCEEDING AGAINST THE RESPONDENTS  
AS WELL AS FOR THE IMPLEMENTATION OF  
THE ORDER/ JUDGMENT OF THIS HON'BLE  
COURT DATED 25/05/2022 PASSED IN W.P.  
No. 3261-P/2021.

Respectfully Sheweth:

1. That the petitioners had earlier filed a Writ Petition No. 3261-P/2021 for the redressal of their grievance against the respondents which was disposed off on 25/05/2022. (Copy of Writ Petition and order dated 25/05/2022 is attached as annexure "A" respectively).
2. That the petitioners approached to the respondents for implementation of the order of this Hon'ble Court, but in vain.

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3. That in this very order of this Hon'ble Court dated 25/05/2022 this Hon'ble Court observed that "***we sent it to the Worthy Chief Secretary of Khyber Pakhtunkhwa with direction to constitute high level committee comprising of experts to ponder over the predicament of the petitioners as there is no chance of them of any progression in their service, which state of affairs is not only discriminatory but affecting their efficiencies as well. The Committee be given a task to find out the ways and means to alleviate the petitioners' longstanding suffering***".
4. That on 14/04/2023 the respondents transferred the petitioner No. 3, which is clear cut violation of the order of this Hon'ble Court dated 25/05/2022. (Copy of impugned transfer order dated 14/04/2023 is attached as annexure "B").
5. That the respondents are badly failed and reluctant and prolonging the matter.
6. That the act of the respondents against the law and natural justice as well as the order of this Hon'ble Court.

It is, therefore most humbly prayed on acceptance of this application/ petition the contempt of Court proceeding may please be

ATTESTED  
EXAMINER  
Peshawar High Court

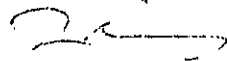
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(5)

initiated against the respondents and they may be directed to implement the order of this Hon'ble Court dated 25/05/2022 passed in Writ Petition No. 3261-P/2021 and the transfer order dated 14/04/2023 of the petitioner No. 3 may also be suspended.

Petitioners

Through

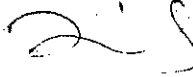
  
Zahanat Ullah

&  
Moammar Jalal  
Advocates High Court  
Peshawar.

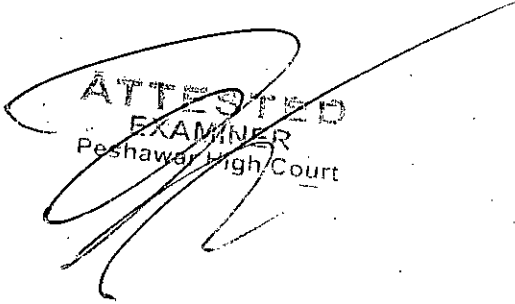
Dated: 08/05/2023

**CERTIFICATE:**

As per instruction of my clients, it is certified that that no such like C.O.C has earlier been filed on the subject matter before this Hon'ble Court.



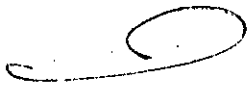
ADVOCATE

  
ATTESTED  
EXAMINER  
Peshawar High Court

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**PESHAWAR HIGH COURT PESHAWAR  
ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
15.05.2023	<p><b>COC 236- P/2023(In WP 3261/2021)</b></p> <p><i>Muhammad Jafar</i> Present: Mr. <del>Zahid Ullah</del> Ullah, advocate, for petitioner.</p> <p>*****</p> <p>Let respondent No.1 be put on notice to submit his reply to the instant COC within 07-days, positively. Adjourned to a date to be fixed by the office.</p> <p style="text-align: center;"> JUDGE</p> <p style="text-align: right;">CERTIFIED TO BE TRUE COPY EXAMINER Peshawar High Court Peshawar Authorized Under Article 87 of the Constitution of Pakistan Act 1984 25 Jul 2023</p> <p>3185</p> <p>Date of Presentation of Application..... 25-07-2023</p> <p>No of Pages..... 6-p</p> <p>Copying fee.....</p> <p>Total..... 24-00</p> <p>Date of Preparation of Copy..... 25-07-2023</p> <p>Date of Delivery of Copy..... 25-07-2023</p> <p><i>M. J.</i></p>

(38)

بعدالت جناب سید منیر حسین

5311-1819912

مورخہ	حکیم خان
مقدمہ	2 منجانب
دعویٰ	Transfers appeal
جرم	انگریزوں کی زمینوں کی

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کیلئے کانفرنس حاکم ہندوستان اور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے کی تفریق ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی 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 محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی 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 مذکور با اختیارات، حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

المرقوم ماہ 20ء

العبد گواہ العبد

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Handwritten notes and signatures on the right margin, including the name 'Fahim' and other illegible markings.