FORM OF ORDER SHEET

Court of				
Anneal	Nο	183	8/2023	

	App	Deal No. 1838/2023
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
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1-	12/09/2023	The appeal of Mr. Sajid Ali resubmitted today by
		registered post through Mr. Muhammad Mohsin Advocate. It
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		is fixed for preliminary hearing before touring Single Bench
		at D.I.Khan on
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		By the order of Chairman
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The appeal submitted by Mr. Mahavarane material of the control of incomplete on the following score whether a partial in the second and resubmission within 15 days.

- 1. Checklist is not attached with the appoint.
- 2. Appeal has not been flagged/marked with a more according
- 3. Affidavit is not attested by oath corner or over
- 4. Separate file cover for member and spark copies

No. 313\$. 701.

Mr. Muhammad Mohsin Ali Adv. Supreme Court.

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PESHAWAR.

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Muhammad Mohsin Ali Advocate Supreme Count & Mistan (5434)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. <u>1838</u> /2023		
Sajid Ali \	VERSUS	APPELLANT
Cout of KDK and others		
Govt. of KPK and others		RESPONDENTS

INDEX

S#	Description of Documents	Annexure	Page #
1	Grounds of Appeal alongwith Memo of Addresses		1-5
2	Copy of Appointment order	Α	6-7
3	Copy of Medical Certificate	В	8
4	Copy of Arrival Report alongwith copies of Attendance Register	С	9-29
5	Copy of Grounds of W.P alongwith order	D	30-30
6	Copy of Departmental Appeal	E	35-36
7.	Vakalatnama		37

Dated:

Humble Appellant

Sajid Ali

Through Counsel

Muhammad Mohsin Ali Advocate Supreme Court, District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1838 /2023

Sajid Ali son of Inayatullah resident of Gara Baloch District Tank

...APPELLANT

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Education Govt. of K.P.K, Peshawar.
- 2. Director Education (Elementary & Secondary), Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (Male), Tank.
- 4. SDEO (Male) Tank, Education Department, Tank.
- 5. Head-Teacher, Govt. Primary School No. 2 (Boys) Tank City, Tank.
 - 6. District Account Officer, Tank.

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNALS ACT,

1974 TO DIRECT THE RESPONDENTS TO ALLOW THE APPELLANT FOR

PERFORMING HIS DUTIES IN GPS NO. 2 (BOYS), TANK AND TO RELEASE

THE MONTHLY SALARY OF THE PETITIONER FROM THE DATE OF

JOINING OF HIS DUTY ALONGWITH ALL BACK BENEFITS.

Respectfully sheweth:

1. That the brief facts of the case are that the present appellant was appointed as Chowkidar in Education Department Tank vide office dated 26-03-2018 against disable quota in GPS No. 2 Tank City. Copy of appointment order of the appellant alongwith disable certificate is enclosed as <u>Mark-A</u>.

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- 2. That after getting the medical certificate, the appellant made the arrival and performing his duty till date; but the respondents did not release the monthly salary of the appellant, therefore, the appellant filed a complaint against the respondent No. 3 the then DEO (Male) Tank before the Consumer Court, District Tank and during the proceeding, the respondent No. 3 appeared before the court and an agreement dated 16-09-2019 was executed between the appellant and respondent No. 3 to the effect that the entire remaining salary of the appellant will be released within four months. But till date, the salary of the appellant was not released by respondents and the appellant approached to respondents for redressal of his grievances time and again, but the respondents paid no heed. Thereafter, the appellant filed the W.P No. 336-D/2020 before Honourable Peshawar High Court D.I.Khan Bench but in the meanwhile the respondents stopped the appellant from performing his duty. Therefore, the appellant withdrew his Writ Petition with the permission to file the fresh petition. After that, the appellant filed a W.P No. 214-D/2021 before Honourable Peshawar High Court, D.I.Khan Bench, and on 09.12.2021, the learned AAG produced copies of appointment order coupled with attendance sheet of appellant and stated that the appellant has been performing the duties. Therefore, the petitioner was decided on 09.12.2021. But, the respondents again restrained the appellant from performing the duty and also refused to release the monthly salary of the appellant. Copies of medical certificate, arrival report alongwith attendance register and Writ petition alongwith order are enclosed as Mark-B to D respectively.
- 3. That, on 15/05/2023 the appellant submitted the departmental appeal before the Respondent No. 2, but the same was not decided by authority; hence the appellant filling the instant appeal on the following grounds; (Copy of Departmental Appeal is enclosed as Mark-E)

GROUNDS:

1. That the act of the respondents while they stopped the appellant from performing his duty and refused to release the monthly salary of the appellant is illegal, against the natural justice, ulterior motives, based on malafide and without jurisdiction.

- 2. That the appellant was appointed after fulfilling all the codal formalities and the appellant is performing his duties but the respondents did not paid the monthly salary to appellant and now stopped the appellant from performing his duty, thus the respondents violated the fundamental right of the appellant which is protected under Article 11 of the Constitution of Islamic Republic of Pakistan, 1973.
- 3. That the Constitution of Islamic Republic of Pakistan, 1973 protected the rights of every citizen and provides the equality amongst the citizen, but the respondents clearly violated the fundamental right of the appellant protected by the Constitution of Islamic Republic of Pakistan.
- 4. That the appellant is the victim of unlawful and illegal act of the respondents and such a malafide act on the part of respondents is against the law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the appellant.
- 5. That the counsel for the appellant may kindly be allowed to raise the additional grounds at the time of arguments.
- 6. That the appeal is being filed within the statutory period prescribed in section 4 of The KPK Service Tribunals Act, 1974.

It is, therefore, prayed that on acceptance of this appeal this court may be pleased to pass orders as prayed for in the heading of this appeal.

Dated:

Humble Appellant

Saiid Ali

Through Counsel

Muhammad Mohsin Ali Advocate Supreme Court, District Courts, D.I.Khan.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No/2023	
Sajid Ali	APPELLANT
VEF	<u>RSUS</u>
Govt. of KPK and others	RESPONDENTS

<u>AFFIDAVIT</u>

I, the appellant, do hereby solemnly affirm and declare on oath that all the para-wise contents of the appeal are true and correct to the best of my knowledge and belief; and that nothing has been deliberately concealed or kept secret from this Honourable Court.

Identified by Counsel

Deponent Deponent

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No/2023	
Sajid Ali	APPELLANT <
·	VERSUS
Govt. of KPK and others	
	RESPONDENTS
ADDRE	SSES OF THE PARTIES
Sajid Ali son of Inayatullah resid	dent of Gara Baloch District Tank.
	APPELLANT
Govt. of K.P.K, Pesha 2. Director Education (E Peshawar. 3. District Education Off 4. SDEO (Male) Tank, E	Elementary & Secondary), Khyber Pakhtunkhwa, icer (Male), Tank. Education Department, Tank. Primary School No. 2 (Boys) Tank City, Tank.
Dated:	Humble Appellant ساحبر على
	Sajid Ali
	Through Counsel
	Muhammad Mohsin Ali Advocate Supreme Court, District Courts, D.I.Khan.



OFFICE OF THE DISTRICT EDUCATION OFFICER-M TANK

Phone: 0963-510356, 0963-510381 Email address: emistank@yahoo.com

APPOINTMENT ORDER:

Consequent upon the recommendations/approval of the Departmental Selection Committee, as contained in its minutes of the meeting, held on 19-03-2017 the undersigned is pleased to appoint the following 03 candidates against the vacant posts of Chowkidar (BPS-3) @Rs. (9610-390-21310) plus all usual allowances under 100% deceased sons / incapacitated / invalidated persons quota as admissible under the rules in the light of notification issued vide No. SO(R-IV)E&AD/1-3/2015 Dated: 19-04-2016, on the terms and condition given below from the date of their taking over charge.

25% Retired Employees Son Quota

S#	Name of Candidate	Father's Name	CNIC	No -	Address	Desig:	Place of Posting
1.	Asmat Ullah	Haibat Khan	1220125	817073	Village Gara , Budha, Tank	Chowkidar	GPS Tank Cantt.
100	% Doceased :	Son Quota		B	<i>i</i> L·	,	1
S#	Name of Candidate	Father's Name	CNIC	No	Address	Desig:	Place of Posting
1.	Hamid Ullah	Wali Mulaanmad	1220135	775803	Village Pai, Tank	Chowlddar	GPS No. 3 Tank
Dls	able Quota -			/	Jis.		
***	Name of	Father's					

Sli	Name of Candidate	Father's Name	- CNIC No	Address	Desig:	Place of Posting
1.	Salid Ali	Ghulam Qamar	122018295584\$	Village Gara Baloch, Tank	Chowkidar	GPS NO. 2 Tank City (Pranch)

TERMS & CONDITIONS

- 1. No TA/DA etc is allowed.
- 2. Charge reports should be submitted to all concerned in duplicate.
- 3. They should not be handed over charge if exceed 40 years or below 18 years of age, except that appointed to whom age relaxation is granted by the competent authority.
- 4. Appointment is subject to the condition that the domicile certificate & CNIC must be verified from the concerned authorities by the DEO. In case of fake / bogus domicile certificate/CNIC their appointment orders would be automatically cancelled from the date of appointment and will be reported to the law enforcing agencies for further action.
- 5. Their services are liable to terminate on one month's notice from either side. In case of resignation without notice their one-month pay / allowances shall be forfeited to the Government.
- 6. Pay will not be drawn until and unless a certificate regarding verification of their domicile certificate / CNiC is issued by this office.



- 7. They should join their posts within 15 days of the issuance of this notification. In case of failure to join the post within stipulated period, their appointment will stand expired automatically and subsequent no appeal etc shall be entertained.
- 8. Health and Age certificate should be produced from the Medical Superintendent concerned before taking over charge.
- 9. They will be governed by such rules and regulations as may be issued from time to time by the Govt. of Elementary & Secondary Education Khyber Pakhitunkhwa Peshawar.
- 10. The appointment is made subject to the condition that the candidate is permanent Domicile holder of District Tank.
- 11. Before handing over charge, once again their domicile certificate / CNIC may be checked by the DDO concerned.
- 12. If deceased / medical board quota has already been availed then the present appointment will be considered as null & void and such person will be reported to law enforcing agencies for further action.

--Sd-(BAKHTULLAH SHAH)
District Education Officer
(Male) Tank

Endst, No. 1836-42 /Ministerial Staff/2018

Dated Tank the 26/05/2018

Copy forwarded for information & necessary action to:-

- 1. The District Accounts Officer, Tank.
- 2. The District Monitoring Officer (IMU) Tank.
- 3. The Sub-Divisional Education Officer (Male) Tank
- 4. The Assistant Sub-Divisional Education Officer Circle Concerned.
- 5. The Head Teacher Schools Concerned.
- 6. The Official Concerned.
- 7. Office File.

District Education Officer
(Male) Tank

DIST. Education Officer

E&SE, Shark Tank

MEDICAL CERTIFICATE

ANNENI. B Page= (8)

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2020 12201-1 وَي شَافَى كَارِدْ تَبِرُ: ي - 1229584 - 2201 03/2 فو<u>ن</u> مبر 03439073153 والكي أر تخطه آلف المنظمة ال المتازئ إ رواكي المتخطعة المارات ووسط ﴿ رَجُوا ﴿ * 11/11/12/30 Jesphu 12:30 15terphu 7:30 3418 12:3 12:30 Heralul 7:30 انزام it-shi 12:30 (sterodor 7:30 4 30: 7 المناجم على 00: 11 لمناجم على Jes-26 (2:30 Jes-26) 13c 25 mln 12: 3c 15c mln 7:30 7:30 لسلجد على 30 . نذا لسلجد على Jenolu 12:30 Herolu 7:30 **%**9. ferson 12:30 sterson 7:30 BE AL 12000 Hersen 7:30 याऽजी 12 Ge-2012:30 Hrs 7:30 المساكال 14 عديم الله على 12:30 الساجعة على 12:30 **£** 15. 25: 7 helpersylop: 30 february 7: 30 A 3/7 C- 2/ 12 16: 12:30 tenden 7:30 الاازاك 20. 4 hulas 30/ decalul 7: 30 18 30: ٦ سلمه على 12:30 ساطرعلى انعام/1 (20.)العام الم 21% 12:30 136,00 PIPUI 22% Jenshu 12:30 Jesselw 7:30 ا تعام الت 12:30 Sender 7:30 Je : 7 marsh 30:30 (12:30 (fershu 11:30 ldershu 7:30 ذا العام السية 26∵ Leval 2: 30 blesol 7: 30 24 28 ساجمه على الا: ١٤/ الراجرعة Heralu 12: 30 Heralu Levely 12: 30 Jensey 7:30 (Your suggestions will be welcome)

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Page 30 CHANAR HIGH COMET.

BEFORE THE HONOURABLE PESHAWAR HIGH C DERA ISMAIL KHAN BENCH.

Writ Petition No. _____ of 2020

Sajid Ali son of Inavatuilah resident of Gara Baloch District Tank.

(Petitioner)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary

Education Govt. of K.P.K, Peshawar.

- 2. Secretary Elementary & Secondary Education Govt. of K.F.K, Peshawar
- 3. Director Education (Elementary & Secondary), Khyber Pakhtunkhwa, Peshawar.
- 4. District Education Officer (Male), Tank.
- 5. Musarat Hussain Khan, Ex OEO (Male), Tank.
- 6. SDEO (Male) Tank, Education Department, Tank.
- 7. Head-Teacher, Govt. Primary School No. 2 Tank City, Tank.
- 8. District Account Officer, Tank.

(Respondents)

Writ Petition under article 199 of the Constitution of Eslamic Republic of Pakistan, 1973.

Respectfully Shaweth:

- I. That the addresses of the parties as given above are correct and sufficient for the purpose of service.
- II. That the brief facts of the case are that the present petitioner was appointed as Chowkidar in Education Department Tank vide office dated 26-03-2018 against

WP NO.234-D in 2021 (DB) (Grounds)

Pesnawar High Court Bench, Dera Ismair Knam

ADD

in Sale

disable quota in GPS No. 2 Tank City. Copies of CNIC and appointment order of the petitioner alongwith disable certificate are enclosed as Mark-A & B respectively.

That the after getting the medical certificate the petitioner made the arrival and performing his duty till date. But the respondents have not released the salary of the petitioner, therefore, the petitioner filed a complaint against the respondent No. 5 the then DEO (Male) Tank before the Consumer Court, District Tank and during the proceeding, the respondent No. 5 appeared before the court and an agreement dated 16-09-4019 was executed between the petitioner and expendent No. 5 to the effect that the entire remaining salary of the petitioner will be released within four months. But till date, the salary of the petitioner was not released by respondents and the petitioner approached to respondents for redressal of his grievances time and again, but the respondents paid no heed. Thereafter, the petitioner filed the W.P No. 336-D/2020 before this Honourable Court but in the meanwhile the respodnents stopped the petitioner from performing his duty. Therefore, the petitioner withdrew his Writ Petition with the permission to file the fresh petition. Copies of medical certificate, arrival report alongwith attendance register and compliant to Consumer Court alongwith relevant record, Writ petition and order are enclosed as Mark-C to F-1 respectively.

That being aggrieved, the petitioner approaches this Honourable Court for redressal of his grievances, having no other alternative remedy but to invoke the constitutional jurisdiction of this Honourable court, inter alia, on the following grounds:

WP NO.214-D of 2021 (D8) (Grounds)

pesnawar High Court Bench.

A SON

III.

GROUNDS:

- That the act of the respondents while they stopped the petitioner from performing his duty and refused to release the salary of the petitioner is illegal, against the natural justice, ulterior motives, based on malafide and without jurisdiction.
- 2. That the petitioner was appointed after fulfilling all the codal formalities and the petitioner was performing his duties but the respondents did not paid the monthly salary to petitioner and now stopped the petitioner from performing his duty, thus the respondents violated the fundamental right of the petitioner which is protected under Article 11 of the Constitution of Islamic Republic of Pakistan, 1973.

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- 3. That the Constitution of Islamic Republic of Pakistan, 1973 protected the rights of every citizen and provides the equality amongst the citizen, but the respondents clearly violated the fundamental right of the petitioner protected by the Constitution of Islamic Republic of Pakistan.
- 4. That the petitioner is the victim of unlawful and illegal act of the respondents and such a malafide act on the part of respondents is against the law and rules, without jurisdiction and lawful authority, against the natural justice, misuse of official powers and is the outcome of victimization known by the respondents and it has caused an immense mental torture and agony to the petitioner.
- That the counsel for the petitioner may kindly be allowed to raise the additional grounds at the time of arguments.

WP NO.214-D of 2023 (DB) (Grounds)

PREMIUM High Court Bunch, what

(33)

It is therefore, humbly prayed that may please be directed the respondents to allow the petitioner to perform his duties and to release the salary of the petitioner or any other relief may being deems fit by this Honourable court in the interest of the petitioner.

INTERIM RELIEF

It is humbly prayed that by granting interim relief to direct the respondents to release the monthly salary of the petitioner till the disposal of main writ petition.

Your Humble Petitioner

Sajid Ali Through Counsel

Muhammad Mohsin Ali Advocate High Court

Dated: <u>27</u>/03/2021

PESHAWAR HIGH COURT, D.I.KHAN BENCE FORM OF ORDER SHEET Order or other proceedings with signature of Judge proceedings W.P.No. 214-D/2024 with

09.12.2021

Date of Order.or

C.M No.480-D/2021.

Present:

Muhammad Mohsin Ali, Advocate, for the petitioner.

Mr. Rehmat Ali Khan, Asstt. Advocate General for respondents.

Abdul Shakoor, J .-At the very inception of proceedings, in compliance with the order dated 08.12.2021, learned Assistant Advocate General produced the copies of appointment order coupled with attendance sheet of petitioner and stated that the petitioner has been performing his duties and nobody obstructing him in performance of such duties. Being faced with this situation, learned counsel for the petitioner could not rebut the Court and remained änswerless.

In view of above, this petition being devoid of any force, is dismissed accordingly.

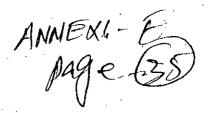
Announced Dt: 09.12.2021

(D:B)

Hon'ble Mr. Justice Abdul Shahoor. Hon'ble Mr. Justice Sahibzada Asadullah

Hasnaini*

EXAMINOR



The Director Education, Khyber Pakhtunkhwa, Peshawar.

Subject: Departmental Appeal through Proper Channel

Respected Sir:

That the present appellant was appointed as Chowkidar in Education Department Tank vide office dated 26-03-2018 against disable quota in GPS No. 2 Tank City. Copy of appointment order of the appellant alongwith disable certificate is enclosed.

That after getting the medical certificate, the appellant made the arrival and performing his duty till date; but the process in respect of monthly salary of the appellant was not initiated, therefore, the appellant filed a complaint against the then DEO (Male) Tank before the Consumer Court, District Tank and during the proceeding, the he appeared before the court and an agreement dated 16-09-2019 was executed to the effect that the entire remaining salary of the appellant will be released within four months. But the salary of the appellant was not released, hence, the appellant approached to DEO (Male) Tank for redressal of his grievances time and again, but the DEO (Male) Tank paid no heed. Thereafter, the appellant filed the W.P No. 336-D/2020 before Honourable Peshawar High Court D.I.Khan Bench but in the meanwhile the DEO (Male) Tank, SDEO and Head Teacher of the school stopped the appellant from performing his duty. Therefore, the appellant withdrew his Writ Petition with the permission to file the fresh petition. After that, the appellant filed a W.P No. 214-D/2021 before Honourable Peshawar High Court, D.I.Khan Bench, and on 09.12.2021, the learned AAG produced copies of appointment order coupled with attendance sheet of appellant and stated that the appellant has been performing the duties. Therefore, the petitioner was decided on 09.12.2021. But, the DEO (Male) Tank, SDEO and Head Teacher of the school again restrained the appellant from performing the duty and also refused to release the monthly salary of the appellant.



- iii. That, on 17/02/2023 the appellant submitted an application to the Head-Teacher of the school for redressal of his grievances but he paid no heed.
- iv. That the act of the DEO (Male) Tank, SDEO and Head Teacher of the school while they stopped the appellant from performing his duty and refused to release the monthly salary of the appellant is illegal, against the natural justice, ulterior motives, based on malafide and without jurisdiction.
- v. That the appellant was appointed after fulfilling all the codal formalities and the appellant is performing his duties but the DEO (Male) Tank, SDEO and Head Teacher of the school did not paid the monthly salary to appellant and now stopped the appellant from performing his duty.

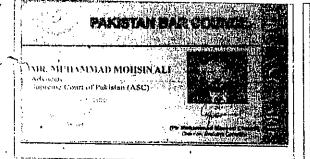
It is therefore, humbly prayed that may please be directed the DEO (Male) Tank, SDEO and Head Teacher of the school to allow the appellant to perform his duties and to release the salary of the appellant.

Dated: 15/05/2023

Your's Sincerely,

Sajid Ali son of Inayatullah

resident of Gara Baloch District Tank.



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<u>VAKALATNAMA</u>

Service To **EFORE THE COURT OF** .Plaintiff /Appellant /Petitioner/Complainant/ Accused

<u>Vs</u>

....Defendant/Respondent/ Complainant/ Accused

KNOW ALL to whom these present shall come Bull I.We., do hereby appoint Muhammad Mohsin Ali Advocate Supreme Court (herein after called the advocate/s) to be my/our Advocate in the above noted case authorize him:-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including. High Court subject to payment of fees separately for each Court by me/us.

2. To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of opposite party.

4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings. 5.

To deposit, draw and receive monthly cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and 7. authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/We the undersigned do hereby agree to rectify and confirm all acts done by the 8. Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and proposes

And I/We undertake that I/We or my/our duly authorized agent would appear in Court on all 9. hearings and will inform the Advocate for appearance when the case is called. 10.

And I/We the undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case

The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall 1.1. receive and retain for himself.

And I/We the undersigned to hereby agree that in the event of the whole or part of the fee 12. agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until'the same is paid up. The fee settled is only for the above case and above Court. I//we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more

than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set mv/our hand to these presents the contents of which

Accepted

Muhammad Mohsin Ali Advocate Supreme Court

1224-8295584-5 Janely 0343-9073/53