


FORM OF ORDER SHEET

Court of _____

Appeal No. 1918/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 20/09/2023 | <p>The appeal of Mr. Ihsan Ullah presented today by Mr. Khurshid Ali Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on</p> <p>By the order of Chairman</p> <p> REGISTRAR.</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL SWAT

Ihsan Ullah

Versus

A-NO-1918/23

Superintendent District Jail Timergara, etc


APPEAL U/S 4 OF FEDERAL SERVICE TRIBUNAL ACT 1973

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DATED: 14-09-2023

APPELLANT THROUGH
COUNSELS


Adv KHURSHAID ALI,


ADV HAMZA KHAN,


ADV ATHAR ULLAH,


ADV ZIA ULLAH

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL SWAT

SERVICE APPEAL No. 2023

A - No 1918/2023

Ihsan Ullah S/O Mian Abdullah, R/O Ziarat Talash Tehsil Timergara District Dir Lower, Sweeper (BPS 3), presently posted at District Jail Timergara.

(APPELLANT)

VERSUS

- (1) Superintendent District Jail Timergara at Timergara.
- (2) Assistant Superintendent Sub Jail Dir Upper.
- (3) District Accounts Officer Dir Lower.
- (4) The Inspector General of Prisons Khyber Pakhtunkhwa at Peshawar.

(RESPONDENTS)

SERVICE APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDERs DATED 22-03-2023 OF SUPERINTENDENT
DISTRICT JAIL TIMERGARA AND ORDER DATED 27.07.2023 OF
INSPECTOR GENRAL OF KPK,PESHAWAR VIDE WHICH THREE
ANNUAL INCREMENTS OF APPELLANT WERE STOPPED.

Respected Sir,

1. That the Appellant is serving as Sweeper (BPS 3) at District Jail Timergara.
2. That the Appellant was appointed as Sweeper on 20-01-2021. (Copy of the Appointment Letter is annexed as Annex-A)
3. That the Appellant performed his duty honestly and efficiently and followed the instructions of the officers during the course of his duty.
4. That on 12-12-2022, the Appellant started cleaning of blocked toilets of the four cells of high security zone when the Chakkar Chief Ilyas Khan asked him to clean the said toilets. However, the said toilets were blocked in such a way that the appellant could not clean it without the repair work by plumber.
5. That the Appellant informed the chakkar Chief, Ilyas Khan that a plumber needs to be hired for repairing work in the said toilets and the Appellant was not a plumber and could not fix the toilets himself.
6. That the Chakkar Chief, Muhammad Ilyas reported the Appellant for misconduct to the Superintendent District Jail Timergara who issued show cause notice dated 22-02-2023 to the Appellant. (Copy of the Show Cause Notice is attached as Annex-B)
7. That the Appellant submitted his reply to the said notice and defended himself against the baseless allegations levelled by the Chakkar Chief, Muhammad Ilyas. (Copy of the reply is attached as Annex-C)
8. That the Superintendent, District Jail Timergara appointed Mr Naveed Iqbal, Assistant Superintendent Sub Jail Dir Upper as an inquiry officer to inquire the said matter. After the submission of inquiry report by the said inquiry officer, the

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Superintendent District Jail Timergara conducted a hearing on 09-03-2023 and awarded the penalty of Stoppage of three annual increments to the Appellant on 22-03-2023. **(Copy of the order is annexed as Annex-D)**

9. That the Appellant filed a departmental appeal before the Inspector General of Prisons, Khyber Pakhtunkhwa for setting aside the aforementioned order of the Superintendent District Jail Timergara. However, the Inspector General of Prisons, Khyber Pakhtunkhwa dismissed the appeal of the Appellant vide its order dated 27-07-2023. **(Copy of the Appeal is attached as Annex-E)**
10. Hence, aggrieved with the aforementioned order of the Inspector General of Prisons, Khyber Pakhtunkhwa, the Appellant has a right and cause of action to file this instant appeal before this Honorable Services Tribunal inter alia on the following grounds.

GROUND:

1. That the order dated 22-03-2023 of the Superintendent District Jail, Timergara and that of the Inspector General of Prisons, Khyber Pakhtunkhwa dated 27-07-2023 are against the law, facts and precedents of the higher courts. Hence, the said orders are not maintainable and liable to be set aside.
2. That according to the Appointment Letter/ job Description dated 20-01-2021, the Appellant was appointed as a Sweeper and not a Plumber.
3. That it has been mentioned in the show cause notice dated 22-02-2023 issued to the Appellant that according to the report of the Chief Warder Muhammad Ilyas and Head Warder Taj Muhammad, the flush system of aforementioned toilets was blocked.
4. That when the Chakkar Chief, Muhammad Ilyas asked the Appellant to clean and repair the said toilets, the Appellant started cleaning the said toilets but in vain. Therefore, he again brought in the notice of the said Chakkar Chief that a Plumber needs to be hired for fixing the blocked flush system of the aforementioned toilets.
5. That the Appellant had neither the expertise, nor the skill, nor was he appointed as a plumber. Hence, the Appellant performed his due duty without any misconduct.
6. That the report of the inquiry officer is silent with regard to the important question in controversy whether the flush system of the aforementioned toilets was blocked or not. Hence, the said report is biased and prejudiced against the Appellant and against the facts of the case.
7. That the order dated 22-03-2023 of the Superintendent District Jail, Timergara based on the recommendation of the Inquiry Officer is against the facts, law, procedure and precedents of the higher courts. Hence, liable to be set aside.
8. That the order dated 27-07-2023 of the Inspector General of Prisons, Khyber Pakhtunkhwa is also against the facts, law, procedure and precedents of the higher courts. Hence, not maintainable.

9. That the appeal before this Honorable Court is well within time. However, if there is any unintentional delay, an application for condonation of delay has been attached.
10. That this Honorable Tribunal is competent and has ample powers to adjudge the matter under Appeal.
11. That the Counsel for Appellant may kindly be allowed to argue additional grounds at the time of arguments.

It is therefore humbly prayed that on gracious acceptance of this Service Appeal, the impugned orders dated 22-03-2023 and 27-07-2023 of the Superintendent District Jail, Timergara and Inspector General of Prisons, Khyber Pakhtunkhwa may kindly be set aside and the three annual increments of the Appellant may kindly be restored.

DATED: 07-09-2023
COUNSELS

K. J. Ali

Adv KHURSHAD ALI,

H. Khan

ADV HAMZA KHAN,

A. Ullah

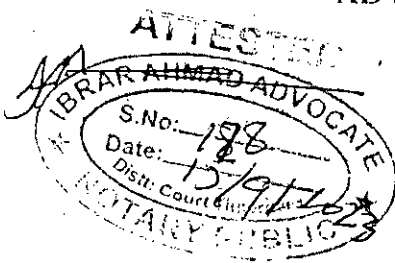
ADV ATHAR ULLAH,

Z. Ullah

ADV ZIA ULLAH

APPELLANT

THROUGH



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL SWAT

Ihsan Ullah

Versus

Superintendent District Jail Timergara, etc

APPEAL U/S 4 OF FEDERAL SERVICE TRIBUNAL ACT 1973

AFFIDAVIT

I, Ihsan Ullah, S/O Mian Abdullah, R/O Ziarat Talash Tehsil Timergara District Dir Lower, do hereby solemnly affirm and declare as under;

That the contents of accompanied appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Ihsan Ullah

Deponent

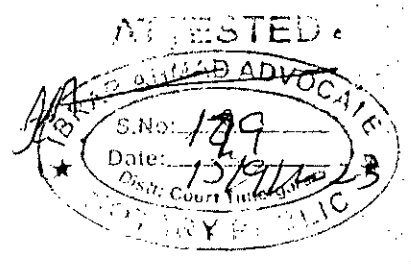
Ihsan ullah

Verified on oath, that the above deposition is true and correct to the best of my knowledge and belief.

Ihsan Ullah

Deponent

Ihsan ullah



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL SWAT

SERVICE APPEAL No. _____ of 2023

Ihsan Ullah

Versus

___ Superintendent District Jail Timergara, etc

APPEAL U/S 4 OF FEDERAL SERVICE TRIBUNAL ACT 1973

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth,

That the petitioner humbly submits as under;

- (1) That the above titled appeal is instituted in this Hon'ble court today in which no date is yet fixed.
- (2) That the petitioners humbly seeks condonation of delay from this Hon'ble court on the following grounds;

GROUND

- (i) That the petitioner approached for the supply of attested copies of the record earlier. However, copies were provided to him many days after the pronouncement of the judgement/ order.
- (ii) That the instant appeal is well within time. However, if there is any delay, it has been occasioned due to vacations of judges and lawyers in the month of August and other reasons beyond the power of the Petitioners.
- (iii) That the said delay which has occurred is purely technical in nature.
- (iv) That the instant appeal does not suffer from any latches of delay, if any, in filing this appeal is unintentional and as such, the delay which has so occasioned may be condoned.

PRAYER

It is therefore most respectfully prayed that this Hon'ble court may be pleased to condone the delay if any in filing the instant appeal against the petitioners.

Through

Applicants/petitioners

Ihsan Ullah

Counsel Khurshaid Ali AHC

Handwritten signature of Ihsan Ullah

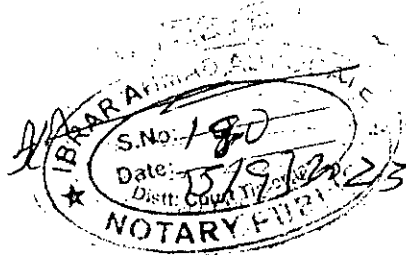
6

VERIFICATION:

Verified on oath at Timergara, that the contents of the above application are true and correct to the best of my knowledge, information and belief.

احسان ullaہ

**Applicants/petitioners
Ihsan Ullah**



(8)

As recommended by Departmental Selection Committee, the undersigned is pleased to appoint Mr. Ihsanullah S/O Mian Abdullah as **Sweeper** in **BPS-03** plus other admissible allowances on the following terms and conditions:-

1. His appointment as **Sweeper (BPS-03)** is subject to medical fitness.
2. He will be on probation for a period of one year, in terms of Section 6(i) of Khyber Pakhtunkhwa Civil Servants Acts, 1973 read with Rule 15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989 which is extendable upto another year with the specific orders of appointing authority within two months of the expiry of 1st year of probation period as specified in rules 15(2) of the rules ibid. During probationary period his services will be liable to termination without any notice if his work and conduct is not found satisfactory or the post against which he has been appointed ceases to exist.
3. He will be liable to serve anywhere in the Prisons Department in the Khyber Pakhtunkhwa.
4. His appointment will take effect from the date he joins duty at the place of his posting.
5. For all other purposes such as Pay, T.A and Medical Attendance etc he will be governed by Rules applicable to the Government Servants of his category.
6. The terms and conditions of his appointment as **Sweeper** will be those as laid down in the Khyber Pakhtunkhwa Civil Servants Act 1973 amendment Act 2013, the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and Khyber Pakhtunkhwa Prisons Department (Recruitment and Appointment) Rules 1980.
7. He will be governed by all Rules and Regulations contained in the Khyber Pakhtunkhwa Prison Rules, Civil Servants Rules, the Khyber Pakhtunkhwa Government Servants (Conduct) Rules, 1987, Essential Services Act, Punishment and Appeal Rules 1986, Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 and any other rules existing or to be framed by the Government from time to time,
8. In case he wishes to resign at any time he will give one month's notice OR in lieu thereof one month's pay will be forfeited from him subject to the discretion of the competent authority in the public interest.
9. No TA/DA will be admissible on joining his first appointment.
10. His service will be liable to termination at any stage if his certificates/Degrees CNIC/Domicile etc are found fake, his services will be considered as terminated automatically.
11. His monthly salary shall be released after verification of his character roll/domicile certificate as well as testimonials from quarter concerned Verification fee etc; of certificates/degrees will be paid by him.

If he accepts the appointment on the above terms and conditions, he should report to the **Superintendent District Jail Timergara** within fifteen days of the receipt of this order, failing which offer of appointment will be treated as cancelled/withdrawn.


SUPERINTENDENT

DISTRICT JAIL TIMERGARA

ENDST; No. 130-33 /- Dated 20/01/2021

Copy of above is forwarded to;

1. The District Account Officer Dir Lower at Timergara for information.
2. Head Clerk (Pay Branch) District Jail Timergara.

✓ 3. Mr Ihsanullah S/O Mian Abdullah R/O Zeyarat P/O Talash District Dir Lower


SUPERINTENDENT

DISTRICT JAIL TIMERGARA

20/1/21



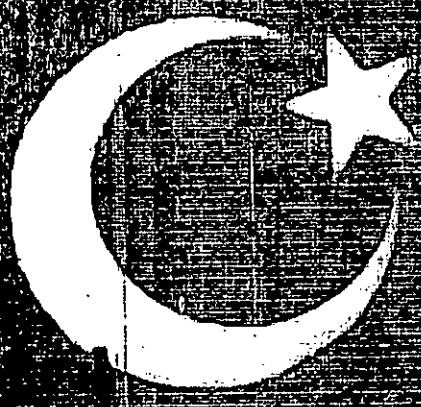
Attested to be

true

Adv Hamza Khan

9

PRISON POLICE Pukhtoon Khwa



IHSAN UL
PN

F/ Name Mian Abdullah

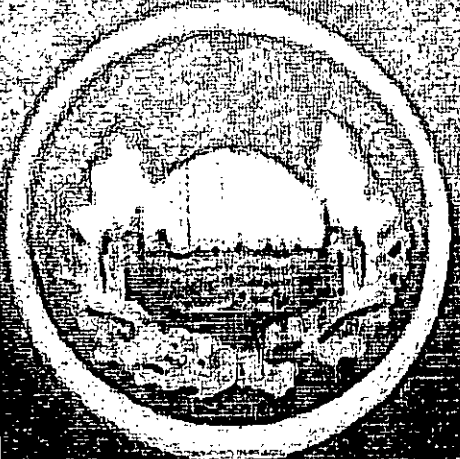
Superintendent
District Jail Timergara

*Attested to be true
Abi Hamzi Khw*

CS CamScanner

POLICE

Pukhtoon Khwa



| | |
|-------------|-----------------|
| CNIC No | 15302-6850486-9 |
| Cell Phone | 0342-9282708 |
| Emergency | 0945 9250095 |
| D O Birth | 25-06-1997 |
| D.O Appo | 20-01-2021 |
| Blood Group | A+ |

Address Village Zlarat P\O Zlarat Talash
Teh Timergara Distt: Dir Lower

CS CamScanner



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name
Ihsan Ullah

احسان اللہ



Father Name
Mian Abdullah

میاں عبد اللہ



Gender | Country of Stay

M | Pakistan

Identity Number
15302-6850486-9

Date of Birth
25.06.1997

Date of Issue
19.07.2019

Date of Expiry
19.07.2029

Holder's Signature



مستقلہ ذریعہ زیارت، ڈاکٹر زیارت جلال، تیسرے منزل، ضلع اوچ

15302-6850486-9



مستقلہ ذریعہ زیارت، ڈاکٹر زیارت جلال، تیسرے منزل، ضلع اوچ

101081171715

Usman Y. Malik
Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

SHOW CAUSE NOTICE

10

I, Amin Shuaib, Superintendent District Jail Timergara, as competent authority, under the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline Rules, 2011, do hereby serve you, **Ihsanullah Sweeper (BPS-3)** Sweeper (BPS-3) attached to District Jail Timergara as follows:

1. (i) That consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee for which you were given opportunity of hearing vide communication No.1088 dated 26.12.2022.
- (ii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee,-

I, am satisfied that you have committed the following acts/omissions specified in rule 3 of said rules:

چکر چیف محمد الیاس چیف وارڈ اور سیکرٹری ایچ اے ایچ ڈی ڈی کے رپورٹ کے مطابق ہائی سیکورٹی ڈون کے چکیوں کا فلش سسٹم بند تھا 12-13-2022 پر دوران ڈیوٹی تم کو چکر چیف محمد الیاس چیف وارڈ نے چکیوں کے بند فلش سسٹم کی صاف اور ٹھیک کرنے کو کہا تو تم نے حکم ماننے سے انکار کیا۔ اس اقدام کے بنا پر تم نے حکومت خیبر پختون خواہ کے سول سروس رول 2011 اور خیبر پختون خواہ قاعدہ جیل خانہ جات 2018 خلاف ورزی کی ہے اور یہ کہ تم نے فرمائشیں بھی آدا کرنے سے انکار کر دیا۔

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the Major penalty of **"Removal from Service"** under rule 4 of the said rules.
3. You are, thereof, required to show cause as to why the aforesaid penalty should be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.
5. A copy of the findings of the inquiry officer/inquiry committee is enclosed.

— sd —
SUPERINTENDENT
DISTRICT JAIL TIMERGARA

Endst. No. 241 / dated 22.02.2023

Copy of the above is forwarded to

1. The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
2. Ihsanullah Sweeper (BPS-3) District Jail Timergara.

[Handwritten initials]

Attested to be true
Adv. Hamid Khan

[Handwritten signature]
SUPERINTENDENT
DISTRICT JAIL TIMERGARA

بخدمت جناب سپرنٹنڈنٹ صاحب ڈسٹرکٹ جیل تیرگرہ ویرلوئر

جواب منجانب ملازم Sweeper سلسلہ بیان الزامات شیمنٹ احسان اللہ

جناب عالی! بصد احترام الزامات کا جواب ذیل ہے۔

- (1) یہ کہ ملازم ڈسٹرکٹ جیل تیرگرہ میں Sweeper BPS-3 خدمات سرانجام دے رہا ہے۔ اور اپنی ڈیوٹی / فرائض نہایت خوش اسلوبی سے انجام دے رہا ہے۔
- (2) یہ کہ بروز وقوعہ مورخہ 13.12.2022 چیف چکر محمد الیاس نے بیس ہائی سیورٹی زون کے چکیو کو صاف کرنے اور فلش سسٹم جو کہ بند تھا ٹھیک کرنے کا کہا میں نے موصوف کی حکم کی تعمیل کی اور باتھ روم صاف کئے لیکن فلش سسٹم کی بندش کو ٹھیک کروانے میں ناکام رہا۔ جس نسبت میں نے الیاس اور تاج محمد سے کہا کہ اس کیلئے پلمبر کا بندوبست کیا جائے کیونکہ مذکورہ واش ہائے بہت پرانی ہو چکی ہے۔ اور ہم تینوں Sweeper کے ساتھ انکو ٹھیک کرانے کا کوئی بندوبست نہیں ہے بس اتنا کہنے پر موصوف خاموش ہو گئے اور ہمارے خلاف مذکورہ Disciplinary action لیا گیا۔ میں نے ابھی تک اپنے فرائض کی انجام دہی میں کوئی کوتاہی نہیں کی ہے۔ واش روم میں جھاڑو پونچھنے کی حد تک اور انکی Hygiene صفائی کرنے کو ہر وقت تیار ہے۔ لیکن پائپ ہائے وغیرہ کی بندش جو کہ پلمبر کی مرہون منت ہے اور Sanitation کا کام وہی باخوبی جانتے ہیں۔ ہم تینوں نے بھرپور کوشش کی لیکن پلمبر کے بناء ممکن نہ ہوا۔ میں ملازم بالابے قصور ہوں میں اپنے فرائض کی ادائیگی سے کوئی غفلت نہیں برتی ہے۔ آپ صاحبان سے التماس ہے کہ ہمارے خلاف لگائے گئے غلط اور خلاف حقائق الزامات دور کر کے مجھے اپنے ڈیوٹی سے کوئی دیگر سزا دینے سے مبرا کیا جائے۔ مزید یہ کہ الیاس چکر کے خلاف دوران پیشی پر بات کرونگا۔

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مختارہ - ۳۱ - ۳۰

جواب ضابطہ فارغ Sweepers اس کے لئے ہرگز نہیں ہرگز نہیں

چہ - علاوہ اس کے ان کے لئے ہرگز نہیں ہرگز نہیں

۵۷ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۵۸ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۵۹ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۰ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۱ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۲ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۳ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۴ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۵ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

۶۶ - ان کے لئے ہرگز نہیں ہرگز نہیں Sweepers کے لئے ہرگز نہیں

اصول اللہ الواسعان
اصول

Attested to be
the
Adv. Hemu Khan

Better Copy

Better Copy

بخدمت جناب سپرنٹنڈنٹ صاحب ڈسٹرکٹ جیل تیسرگرہ دیر لوئر

جواب منجانب ملازم Sweeper سلسلہ بیان الزامات شیمنٹ احسان اللہ

جناب عالی! بعد احترام الزامات کا جواب ذیل ہے۔

- (1) یہ کہ ملازم ڈسٹرکٹ جیل تیسرگرہ میں Sweeper BPS-3 خدمات سرانجام دے رہا ہے۔ اور اپنی ڈیوٹی / فرائض نہایت خوش اسلوبی سے انجام دے رہا ہے۔
- (2) یہ کہ بروز وقوعہ مورخہ 13.12.2022 چیف چکر محمد الیاس نے بیس ہائی سکیورٹی زون کے چکیو کو صاف کرنے اور فلش سسٹم جو کہ بند تھا ٹھیک کرنے کا کہا میں نے موصوف کی حکم کی تعمیل کی اور باتھ روم صاف کئے لیکن فلش سسٹم کی بندش کو ٹھیک کروانے میں ناکام رہا۔ جس نسبت میں نے الیاس اور تاج محمد سے کہا کہ اس کیلئے پلمبر کا بندوبست کیا جائے کیونکہ مذکورہ واش ہائے بہت پرانی ہو چکی ہے۔ اور ہم تینوں Sweeper کے ساتھ انکو ٹھیک کرانے کا کوئی بندوبست نہیں ہے بس اتنا کہنے پر موصوف خاموش ہو گئے اور ہمارے خلاف مذکورہ Disciplinary action لیا گیا۔ میں نے ابھی تک اپنے فرائض کی انجام دہی میں کوئی کوتاہی نہیں کی ہے۔ واش روم میں جھاڑو پونچھنے کی حد تک اور انکی Hygiene صفائی کرنے کو ہر وقت تیار ہے۔ لیکن پائپ ہائے وغیرہ کی بندش جو کہ پلمبر کی مرہون منت ہے اور Sanitation کا کام وہی باخوبی جانتے ہیں۔ ہم تینوں نے بھرپور کوشش کی لیکن پلمبر کے بناء ممکن نہ ہوا۔ میں ملازم بالابے قصور ہوں میں اپنے فرائض کی ادائیگی سے کوئی غفلت نہیں برتی ہے۔ آپ صاحبان سے التماس ہے کہ ہمارے خلاف لگائے گئے غلط اور خلاف حقائق الزامات دور کر کے مجھے اپنے ڈیوٹی سے کوئی دیگر سزا دینے سے مبرا کیا جائے۔ مزید یہ کہ الیاس چکر کے خلاف دوران پیشی پر بات کرونگا۔

العبد۔ احسان اللہ



18

OFFICE OF THE SUPERINTENDENT
SUBJAIL DIR. JPPBA
Email: ubj@dirjppba.gov.in
C-44-B-1062
No. 241 WE Dated 01/02/2023

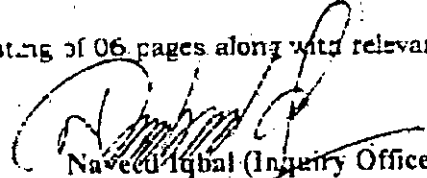
To,
The Superintendent,
District Jail Timergara,

Subject: INQUIRY REPORT AGAINST SWEEPER 1.HABIB KHAN 2.MUHAMMAD RASOOL KHAN 3.IHSAN ULLAH ATTACHED TO DISTRICT JAIL TIMERGARA

R/Sr.

Reference to your good-self office Enclat: No.1089-93 dated 26-12-2022 on the subject noted above.

I enclosed herewith my inquiry report consisting of 06 pages along with relevant annex A to I for favour of further disposal please


Naveed Iqbal (Inquiry Officer)
Assistant Superintendent
Sub-Jail Dir Upper.

OFFICE OF THE SUDPT DIST JAIL
TIMERGARA
No 133
16-02-2023

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true.
Adh. Hameed Khan

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OFFICE OF THE,
SUPERINTENDENT,
DISTRICT JAIL TIMERGARA
NO 302-1, Dt 06/03 /2023

To,

- 1- Sweeper Muhammad Rasool,
- 2- Sweeper Habib Khan,
- 3- Sweeper Ihsanullah,
Attached to District Jail Timergara.

Subject:- PERSONAL HEARING.

Memo:

Reference Superintendent Orders Sheet dated 6-3-2023.

You are directed to attend the office of the undersigned on date and time mentioned against your names positively for "Personal Hearing" in a disciplinary case.

| S/No | Name of official | Date and time of Personal hearing |
|------|----------------------|-----------------------------------|
| 1 | Muhammad Rasool Khan | 8-3-2023 at 12:00PM |
| 2 | Habib Khan | 8-3-2023 at 12:30PM |
| 3 | Ihsanullah | 9-3-2023 at 11:00 AM |


SUPERINTENDENT
DISTRICT JAIL TIMERGARA



Attested to be
true.

Adv Hamid Chah

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10
The Superintendent,
District Jail Timergara.

(13)
Subject: DISCIPLINARY ACTION AGAINST ACCUSED SWEEPER
LHABIB KHAN 2.MUHAMMAD RASOOL 3.IHSAN ULLAH
ATTACHED TO DISTRICT JAIL TIMERGARA.

R/Sir

Reference to your good-self office Endst: No.1089-93, dated 26-12-2022
on the subject noted above.

As per Charge sheet, Sweeper Habib Khan, Muhammad Rasool and
Ihsan Ullah attached to District Jail Timergara have committed an act of misconduct,
while performing their duties inside the jail on 13-12-2022. They refused to clean the
toilets of high security zone. The accused sweepers were further directed to furnish
their written reply in defence within the stipulated period to the Inquiry officer.

The Superintendent District Jail Timergara, being competent authority, is
pleased to appoint the undersigned as Inquiry officer in this case under the provisions of
the KPK Government Servant E&D Rules. In the light of above-mentioned order, the
undersigned proceeded to District Jail Timergara on 16-01-2023, being an Inquiry
officer, to conduct proper inquiry. Inquiry of the said accused sweepers was conducted
in District Jail Timergara on 16-01-2023. Findings and recommendations are as under.

Written Reply of Accused Habib Khan Sweeper (BPS-03)

As per his reply (Annex-A) accused sweeper stated, that on 13-12-2022,
he was performing his duty inside the jail. The Chakkar Chief, Ilyas Khan, asked him
to clean the blocked toilet of four cells of High security zone. And that he obeyed the
order and started cleaning them, but he failed to open blocked toilets. He asked the
Chakkar Chief, Ilyas Khan, and Sector Incharge, Taj Muhammad, to arrange a plumber
for it because these toilets/bathrooms are very old and they have no arrangements to
repair it. Due to which a disciplinary proceeding was started against them. According
to him he was ready to clean bathroom. But cleanliness of block pipes was not possible
without plumber. And that he never neglected his duties. He apologised and requested
for removal of all these allegations.

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the
Ad. Hameer Khan

Cross Examination.

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The questionnaire duly answered by the accused sweeper as (Annex-B). While responding to question No.1, He was appointed as sweeper on dated 25-01-2021 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper is cleanliness. Responding to question No.03 Cleanliness of toilets/bathroom is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilets, He tried his best to clean the toilet but he failed to clear block flush system. When Chakkar Chief, Ilyas Khan, and sector Incharge, Taj Muhammad, reported him to the Superintendent Jail, he appeared and told him that these flush are totally out of order and they required reconstruction. Responding to question No.05, No on the incident day, He had not cleaned the toilet/bathroom.

Written Reply of Accused Muhammad Rasool Sweeper (BPS-03)

As per his reply (Annex-C) accused sweeper stated, that on 13-12-2022, he was performing his duty inside the jail. The Chakkar Chief, Ilyas Khan, asked him to clean the blocked toilets of four cells of high security zone. He obeyed the order and started cleaning of blocked toilets but he failed to clear the blocked toilets. He asked the Chakkar Chief, Ilyas Khan, and Sector Incharge, Taj Muahmmad, to arrange a plumber for it. Because these toilets/bathrooms are very old and that they had no arrangements to repair them. Due to which a disciplinary proceeding was started against them. And that he was ready to clean bathroom. But cleanliness of blocked-pipes was not possible without plumber. That he never neglected his duties. He apologised and requested for removal of all these allegations.

Cross Examination.

The questionnaire duly answered by the accused sweeper as (Annex-D). While responding to question No.1, He was appointed as sweeper on dated 06-06-2006 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper is cleanliness. Responding to question No.03 Cleanliness of toilets/bathrooms is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilets, He tried his best to clean the toilets but he was failed to clear blocked toilets. Responding to question No.05, yes it is.

Written Reply of Accused Ihsan Ullah Sweeper (BPS-03)

As per his reply (Annex-E) accused sweeper stated, that on 13-12-2022, he was performing his duty inside the jail. That the Chakkar Chief, Ilyas Khan, asked



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Adv. Hameez Khan

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him to clean the blocked toilets of four cells of high security zone. He obeyed the order and started opening the blocked toilets but in vain. He then asked the Chakkar Chief, Ilyas Khan and Sector Incharge, Taj Muahmmad, to arrange a plumber for it. Because these toilets/bathrooms are very old and that they have no arrangements to repair them. Due to which a disciplinary proceeding was started against them. He was ready to clean the bathrooms. But cleanliness of block pipes is not possible without plumber. That he never neglected his duties. He apologised and requested for removal of all these allegations.

Cross Examination.

The questionnaire duly answered by the accused sweeper as (Annex-F). While responding to question No.1, He was appointed as sweeper on dated 25-01-2021 in District Jail Timergara. Responding to question No.02, Yes, He knows that the duties of a sweeper are cleanliness. Responding to question No.03 Cleanliness of toilets/bathrooms is the responsibility of Christian. Responding to Question No.04, He never refused to clean toilet, that he tried his best to clean the toilet but all in vain. Then he told Chakkar Chief, Ilyas Khan, and sector Incharge, Taj Muahmmad, that assistance of plumber is needed for it. Responding to question No.05. No, on the incident day, I have not cleaned the toilet/bathroom because it's the responsibility of Christian.

Statement of Ilyas Khan Chakkar Chief

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. We, on duty staff, asked sweepers, Habib Khan and Ihsan Ullah, to clean the dirty materials/wastages and clean the toilets. But they refused and told that this is not their responsibility, then we asked sweeper, Muhammad Rasool, to clean these dirty materials/wastages and clean washrooms, but he also refused and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then why he should do it.

Cross Examination.

The questionnaire duly answered by the Chakkar Chief as (Annex-G). Responding to question No.1, he was appointed on 04-11-1992. Responding to question No.02, he performed his duties at Central Prison D.I Khan, District Jail Timergara, Sub Jail Dir Upper, District Jail Swat and Internment Center Paitham. Responding to

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Adv. Hamid Khan

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Question No.03, Sector Incharge, Taj Muhammad, reported that toilets of four cells of high security zone were completely out of order. Responding to question No.04, he called sweepers Habib Khan, Muhammad Rasool, Ihsan Ullah and Suliman and asked them to clean the dirty materials/wastages and toilets. Sweeper Habib Khan replied that it is not our responsibility, it is the responsibility of Christian. Sweeper Ihsan Ullah also replied the same. Sweeper Muhammad Rasool also refused and stated that if the other sweepers are not ready to clean these wastages then why I should do it. Sweeper Suliman Khan said that he is a servant and poor and that he is ready to clean these wastages and started cleaning them. Responding to question No.05, sweeper Habib Khan and Ihsan Ullah refused to clean the wastages and toilets while sweeper Muhammad Rasool stated, that if these two sweepers are not ready to clean these wastages then I, too, am not ready.

Statement of Mr. Taj Muhammad (Sector Incharge)

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. We, on-duty staff, asked sweeper Habib Khan and Ihsan Ullah to clean the dirty materials/wastages and clean the toilets. But they refused and told that this is not their responsibility, then we asked sweeper Muhammad Rasool to clean these dirty materials/wastages and clean washroom, but he also refused and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then why I should do it.

Cross Examination.

The questionnaire duly answered by the sector Incharge as (Annex-B). Responding to question No.1, he was appointed on 08-03-2006. Responding to question No.02, he performed his duties at Central Prison Mardan, District Jail Timergara and Sub Jail Dir Upper. Responding to question No.03, Sector Incharge, Taj Muhammad, reported that four cells of high security zone were completely out of order. Responding to question No.04, he called sweepers Habib Khan, Muhammad Rasool, Ihsan Ullah and Suliman and asked them to clean the dirty materials/wastages and toilets. Sweeper Habib Khan replied that it is not their responsibility, it is the responsibility of Christian. Sweeper Ihsan Ullah also replied the same. Sweeper Muhammad Rasool also refused

Taj Muhammad

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be true

Abul Hasan Khan

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and stated that if sweeper Habib Khan and sweeper Ihsan Ullah are not ready to clean these wastages then he, too, is not ready. Sweeper Suliman Khan said that he is a servant and poor, and that he is ready to clean these wastages and he started cleanliness. Responding to question No.05, sweeper Habib Khan and Ihsan Ullah refused to clean the wastages and toilets while sweeper Muhammad Rasool stated that if these two sweepers are not ready to clean these wastages he too denied the same.

Statement of Mr. Asghar Ali (Warder)

On 13-12-2022 washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. At that time the total population of high security zone was 66 prisoners. His duty was on high security zone from 08:00 AM to 12:00 PM. From last one week he continuously brought in the notice of sector Incharge but no action was taken on it.

Cross Examination

The questionnaire duly answered by the on duty Warder, Asghar Ali, is attached as (Annex-I). Responding to question No.1, he was appointed on 18-10-2021. Responding to question No.02, he performed his duties at Central Prison Mardan and District Jail Timergara. Responding to question No.03, he himself checked and saw that the toilets/Bathrooms were disordered then he immediately reported to Sector Incharge, Taj Muhammad, and Chakkar Chief, Ilyas Khan. Responding to question No.04, No, sweeper Habib Khan, Muhammad Rasool and Ihsan Ullah were not ready to clean the toilets/Bathrooms.

Statement of Mr. Muhammad Ismail (Line Officer)

The Chakkar Chief sent report that washrooms of four cells of high security zone were completely out of order. The dirt and wastages were flowing on floor, due to which odour was spread in high security zone cells. On duty staff asked sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah to clean the dirt and wastages but they denied to clean the toilets, due to which the Chakkar Chief sent report to the Deputy Superintendent against these sweepers.

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Record:

Relevant record produced before me which was physically examined.

Findings:

After going through the relevant record and statements of all concerned, it has been observed and found that:-

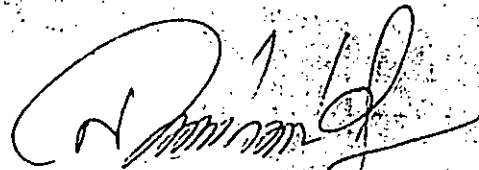
- I. The accused Sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah were found guilty.
- II. Allegation levelled against them is correct and genuine/authentic.

The charge levelled against them, thus, stands proved.

Recommendations.

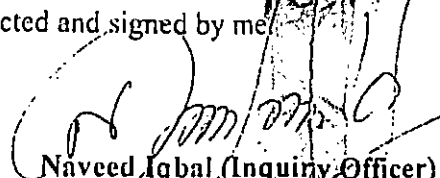
The allegation levelled against the accused officials is **PROVED** for which they are liable to be proceeded under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011.

It is, therefore, recommended that the accused officials may be awarded the penalty of, "Stoppage of 03 Annual increments without future effect".


Naveed Iqbal (Inquiry Officer)
Assistant Superintendent
Sub Jail Dir Upper

CERTIFICATE

It is Certified that the report regarding the accused sweepers Habib Khan, Muhammad Rasool and Ihsan Ullah (BPS-03), attached to District Jail Timergara is consisting on six (06) number of pages duly corrected and signed by me.


Naveed Iqbal (Inquiry Officer)
Assistant Superintendent
Sub Jail Dir Upper.



Attested to be
the
Adw Hameez Khan

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374 dated 22/3/2023

OFFICE ORDER

WHEREAS, accused official - Sweeper (BPS-03) Ihsanullah (subject) of District Jail Timernah was charged within the meaning of Rule 1 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011 for the charge of the misconduct contained in statement of Allegations/Charge Sheet served upon him vide this office endorsement No. 1083 dated 26.12.2022 and in Mr. Naveed Iqbal Assistant Superintendent, Sub Jail Dir, Upper was appointed as Inquiry Officer.

AND WHEREAS, he appeared before the Inquiry Officer, who inquired into his case, and through the available record and provide him reasonable opportunity of hearing and if his charges/allegations were proved and the Inquiry Officer recommended that he is liable to be proceeded against under the Rules, ibid.

AND WHEREAS, the accused official was proceeded against under Rule 4-4F for the Charge of misconduct/as mentioned in the Show Cause Notice No. 10-41 dated 22.01.2023.

AND WHEREAS, he furnished his written reply/defence to the Show Cause Notice which was found unsatisfactory.

AND WHEREAS, the undersigned being competent authority, granted him the opportunity of personal hearing on 09.03.2023 as provided for under rules, ibid. The accused official completely failed to defend his case with documentary proof/evidence.

NOW THEREFORE, in exercise of powers conferred under Rule 1 of the Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules, 2011, having considered the charge levelled against him, Inquiry report, evidence available on record and recommendation of Inquiry Officer, the undersigned being competent Authority, he is hereby awarded the penalty of "Stoppage of three annual increment" with immediate effect.

[Handwritten Signature]
SUPERINTENDENT
DISTRICT JAIL

Encls. No. 1

Copy of the above is forwarded to:

- 1. The Inspector General of Prisons, Khyber Pakhtunkhwa Peshawar
- 2. Mr. Naveed Iqbal Assistant Superintendent (IO) Sub Jail Dir, Upper
- 3. The District Account Officer, Dir Lower for information and record
- 4. Ihsanullah Sweeper BPS-03 (accused) District Jail Timernah

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Attested to be
the
Add. Hanza Khan

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SUPERINTENDENT
DISTRICT JAIL

۱۹۶۵ء کی جیل خانہ جات صدر دکن خواہ
 حکومت ماب - الی جی ماب - جیل خانہ جات صدر دکن خواہ
 درخواست براد - عالی اینٹرٹینمنٹ -
 ماب عالی

معروف ندرت ہوں۔ سائل کثرت کلاس فور (سویڈن)
 ڈسٹرکٹ جیل پیررہ میں عورتی ہوا ہوں۔ ایک عزیز گھوڑے
 سے تعلق رکھتا ہوں۔ یتیم ہوں۔ اور یتیم ہیں، بھائیوں
 کا کفالت کا دادر سہارہ ہوں۔ اپنا ڈیڑھی نہایت ایماندار
 سے سراپا بخ دے رہا ہوں۔ بلو باوجود بھی سائل سے
 تین سال کے اینٹرٹینمنٹ شاف ہو چکی ہیں۔

لہذا اد - صاحبان سے عاجزانہ عرض کیا جاتا ہے کہ
 اد - صاحبان سائل کے حال پر رحم فرما کر عزت کو
 مد نظر رکھ کر اینٹرٹینمنٹ کو بحال کرنے کا فیصلہ صادر فرمائیں
 تو سائل بے یتیم اہل خانہ کی جان و مال سے دعا گو رہتا ہے۔

درجہ 7
 8 (2023)

العارض

نام سائل احمد علی کلاس (سویڈن) ڈسٹرکٹ جیل پیررہ
 نیکول (Nicol) صاحب
 Mob: 03492272052



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OFFICE OF THE
INSPECTOR GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

☎ 091-9210334, 9210406 📠 091-9213445

No.Estb/Ward-/Orders/ 2718 /-

Dated 27-07-2023 /-

ORDER:

WHEREAS, Mr. Ihsan Ullah, Sweeper (BPS-03) attached to District Jail Timergara was awarded the minor penalty of "Stoppage of 03 annual increments" by Superintendent District Jail Timergara vide Order No.374-78 dated 22-03-2023 due to his misconduct.

AND WHEREAS, the said Sweeper preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

AND WHEREAS, his appeal was examined in light of the available record of the case and it was observed that the penalty was awarded to him by the competent authority due to his misconduct after observing all legal and codal formalities as required under Government Servants (Efficiency & Discipline) Rules, 2011. Moreover, the appeal was filed on 13-07-2023 and is time barred by 02 months and 21 days.

NOW THEREFORE, having considered the charges, evidences/facts on record, explanation of the accused official, the provision of rules in vogue and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance and badly time-barred.

— sd —

**INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR**

ENDST: NO. 2719-20 /-

Copy of the above is forwarded to the:

1. Superintendent District Jail Timergara for information and necessary action with reference to above. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book with proper attestation.
2. Mr Ihsan Ullah, Sweeper (BPS-03) C/O Superintendent District Jail Timergara for information.

Amir

*Attested to be true.
Adv Hamza Khan*

**DEPUTY DIRECTOR
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR**



ڈسٹرکٹ بار ایسوسی ایشن

تیمبرگرہ ڈیپارٹمنٹ

23



ایڈوکیٹ بار کونسل نمبر:

BC-_____

2049

خیر اکٹونخوا سروس ٹریبونل منٹنام سوان

بعدالت جناب

احسان اللہ

سپر ڈنٹ ڈسٹرکٹ جیل سمرگہ وٹیرہ

بنام

ایڈوائٹ

منجانب:

ایڈوائٹ

دعویٰ / اپیل / نگرانی / درخواست:

تھانہ:

جرم:

مورخہ:

مقدمہ علت نمبر:

باعث تحریر انکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام عدالت عالیہ منگورہ بیچ / تیمگرہ / چکدرہ / العل قلعہ / شرباغ کیلئے ایڈووکیٹس خورشید علی، سمرگہ، خال، اظہر اللہ، کوٹیل / وکلاء 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 و تقررات و فیصلہ، برحلف دینے، جواب دعویٰ، اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا حقدار ہوگا کوئی تاریخ پیشی مقام دور یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند ہے۔

المرقوم: 14-9-2013

احسان اللہ

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مقام: عدالت عالیہ منگورہ بیچ / تیمگرہ / چکدرہ / العل قلعہ / شرباغ کیلئے منظور ہے۔

Handwritten signature

Handwritten signature and name: Adnan

Handwritten signature and name: Adnan

ایڈوکیٹ / دستخط: 0346-9841042

رابطہ نمبر: 0348-8972936



نوٹ: فوٹوکاپی ناقابل قبول ہوگی