


Form-A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 690/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1	26.09.2023	<p>The implementation petition of Mr. Muhammad Ishaq submitted today by Mr. Saadullah Khan Marwat Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>28-09-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 690/23

Misc Pett: No. _____ /2023

IN

S.A. No. 16444/2020

Muhammad Ishaq

versus

DEO (F) & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Misc Petition		1-3
2.	Copy of Appeal dated 11-12-2020	"A"	4-7
3.	Copy of Judgment dated 30-06-2022	"B"	8-13
4.	Order dated 19-01-2023	"C"	14

Applicant

Through

h Saadullah Khan

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar.
Ph: 0300-5872676

Dated: 22-09-2023

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR*Execution Petition No. 690/23*

Misc Pett: No. _____ /2023

IN

S.A. No. 16444/2020

Muhammad Ishaq S/O Akbar Zaman Khan,

R/O Nar Abu Samand Begu Khel,

Serai Naurang, Lakki Marwat.

Chowkidar, GGPS Nar Abu Samand

Begu Khel, Lakki Marwat Applicant

Khyber Pakhtunkhwa
Service TribunalDiary No. 7911Dated 26-07-23**VERSUS**

1. District Education Officer (F),
Lakki Marwat.
2. Director, Elementary & Secondary
Education Department, Peshawar.
3. Secretary, Govt. of KP, Elementary &
Secondary Education Department
Peshawar. Respondents

**APPLICATION FOR IMPLEMENTATION OF THE
JUDGMENT DATED 30-06-2022 OF THE HON'BLE
TRIBUNAL, PESHAWAR:**

Respectfully Sheweth:

1. That on 11-12-2020, applicant filed Service Appeal before this hon'ble Tribunal for setting aside the impugned orders and restoration at GGPS Nar Abu Samand Begu Khel, Lakki Marwat with further request to release the withheld monthly salaries since 04-08-2020 with all back benefits. (Copy as annex "A")

2. That the said appeal came up for hearing on 30-06-2022 and then the hon'ble Tribunal was pleased to hold that:-

"That the appeal is allowed as prayed for". (Copy as annex "B")

3. That in pursuance of the said judgment, R. No. 01 issued office order on 19-01-2023 wherein applicant was adjusted at GGPS Nar Abu Samand Begu Khel, Lakki Marwat but no salaries was paid to the applicant till date. (Copy as annex "C")

It is, therefore, most humbly requested that the judgment dated 30-06-2022 of the hon'ble Tribunal be complied with hence forthwith.

OR

In the alternate, respondents be proceeded for contempt of court and they be punished in accordance with Law.

M. Ishak.

Applicant

Through

Saadullah Khan Marwat

Saadullah Khan Marwat

Arbab Saif-ul-Kamal

Arbab Saif-ul-Kamal

Amjad Nawaz


Amjad Nawaz
Advocates

Dated: 22-09-2023

AFFIDAVIT

I, Muhammad Ishaq S/O Akbar Zaman Khan, R/O Nar Abu Samand Begu Khel, SeraiNaurang, Lakki Marwat. Chowkidar, GGPS Nar Abu Samand Begu Khel, Lakki Marwat (Applicant), do hereby solemnly affirm and declare that contents of **Implementation Petition** are true and correct to the best of my knowledge and belief.

Muhammad Ishaq
23 M. Ishaq.
26-9
DEPONENT



CERTIFICATE:

As per instructions of my client, no such like Implementation Petition has earlier been filed by the appellant before this Hon'ble Tribunal.

[Signature]
ADVOCATE



A 4

BEFORE KPK SERVICE TRIBUNAL PESHAWAR



S.A No. 16425/2020

Muhammad Ishaq
S/O Akbar Zaman Khan,
R/o Nar Abu Samand Begu Khel,
Serai Naurang, Lakki Marwat,
Chowkidar Office of DEO (F)
Lakki Marwat Appellant

Khayber Pakhtunkhwa
Service Tribunal

Diary No. 16425

Dated 11/12/2020

VERSUS

1. District Education Officer (F),
Lakki Marwat.
2. Director, Elementary &
Secondary Education,
Peshawar.
3. Secretary, Govt. of KP,
Elementary & Secondary
Education Department,
Peshawar.
4. Abdul Wahid
S/O Abdur Rasheed Khan,
Chowkidar, Govt. Girls
Primary School Abdullah Khan
Bettani, Now Chowkidar GGPS
Nar Abu Samand Begu Khel,
Serai Naurang, Lakki Marwat Respondents

ATTESTED
[Signature]
EXAMINER
Khayber Pakhtunkhwa
Service Tribunal
Peshawar

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 29317 DATED 04-08-
2020 OF R. NO. 01 WHEREBY APPELLANT WAS NOT
ADJUSTED IN THE SCHOOL AND HIS SALARY WAS
WITHHELD SINCE APRIL 2020 AND OFFICE ORDER
NO 782-85 DATED 07-03-20 OF R. NO. 01 WHEREBY
R. NO. 04 WAS ADJUSTED IN GGPS NAR ABU
SAMAND BEGU KHEL AGAINST THE POST OF
APPELLANT:

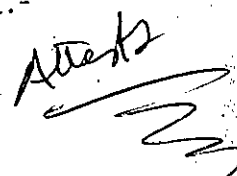
[Signature]

Filed to-day
[Signature]
Registrar
11/12/2020
Re-submitted to-day
and filed.
[Signature]
Registrar
11/12/20

Respectfully Sheweth:

1. That on 24-10-2019, appellant along with R. No. 04 was appointed as Chowkidar and he was posted at GGPS Nar Abu Samad Begu Khel against vacant post and R. No. 04 was posted at GGPS Abdullah Khan Bettani against vacant post by R. No. 01. (Copy as Annex "A")
2. That in pursuance of the aforesaid order, appellant assumed the change of the said assignment on 26-10-2019. (Copy as Annex "B")
3. That on 04-03-2020, R. No. 01 adjusted R. No. 04 in her office due to the merger of schools till further orders, but the said school is functioning till date at GGPS Abdullah Khan Bettani. (Copy as Annex "C")
4. That on 07-03-2020, R. No. 04 was transferred to GGPS Nar Abu Samad Begu Khel and appellant was transferred to the office of R. No. 01 by placing his services at the disposal of R. No. 01.

Here it would be not out of place to mention that neither appellant nor R. No. 04 has completed normal tenure of posting and transfer at their respective Stations/Schools. (Copy as Annex "D")
5. That on 16-03-2020, appellant submitted representation before R. No. 02 to cancel order dated 07-03-2020, being illegal and based on the recommendation of Political vendetta, as services of appellant were placed at the disposal of R. No. 01. (Copy as Annex "E")
6. That on 02-06-2020, Ikramullah Khan, Deputy DEO (M) Bannu was nominated to conduct enquiry in to the appeal of appellant and to submit recommendations within fortnight. (Copy as annex "F")
7. That regarding the posting transfer order of R. No. 01 and in pursuance of the representation of appellant enquiry was conducted by Ikramullah Khan DEO (M) Bannu and made recommendations on 10-07-2020 to the effect:-

Attests



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 EXAMINER
 Khayber-Pakhtunkhwa

- i. Competent Authority should be directed as to why pension case of ex-chowkidar Abdur Rasheed (father of R. No. 04) was perused on medical grounds though he was fit for premature pension rather on Medical Board basis as after lapse of 54 days, he could be proceeded on 60 years. (superannuation pension)
 - ii. Transfer of Muhammad Chowkidar from GGPS Nar Abu Samand Begu Khel to office of R. No. 01 without any post and stoppage of his pay is against the service laws, hence needs immediate cancellation.
 - iii. Competent authority (R. No. 01) should penalized with "**CENSURE**" under E & D Rules so that such kind of mal-practices could be discouraged which would become basis for unnecessary litigation against government. (Copy as annex "G")
8. That on 04-08-2020, R. No. 02 wrote letter to R. No. 01, stating there in that no question, whatsoever, arose to stop pay of appellant appointed on merit, the same be released and he be adjusted properly. (GGPS Nar Abu Samad Begu Khel) against the recommendation of the Inquiry Officer. (Copy as Annex "H")
9. That on 25-08-2020, appellant submitted application before R. No. 02 to honor the recommendation of the Inquiry Officer but in-vain. (Copy as annex "I")
10. That on 14-09-2020, appellant filled Writ Petition before Peshawar High Court Peshawar, Circuit Bench Bannu for cancellation of the impugned order and to release withheld monthly salaries, which came up for hearing on 29-09-2020 and then the Hon'ble Court was pleased to direct respondents to treat the same as departmental appeal and to decide the same within 30 days or if appellant is still aggrieved of the decisions of the respondent, he may approach to proper forum for relief. (Copies as annex "J" & "K")

Hence this appeal, Inter Alia, on the following grounds;

Attest

ATTESTED

EXAMINER
 Khushu Pakhtunkhwa
 Service Tribunal
 Peshawar

G R O U N D S

- a. That the impugned orders are not per the mandate of law as neither appellant nor R. No. 04 has completed normal tenure at their respective schools.
- b. That the enquiry was conducted to dig-out the misshape in the matter and has submitted its recommendation which was binding upon on R. No. 01 but the same were not honored due to personal interest by R. No. 01 to favor R. No. 04.
- c. That even R. No. 01 was recommended for penalty in the matter.
- d. That R. No. 01 did not show any heed either to the recommendation of the Inquiry Officer or to the direction of the judgment of the hon'ble court, so is required to be dealt with under the law.
- e. That no one can stop salary of a servant but R. No. 01 showed her high handedness and appellant is serving the department till date without any salary.
- f. That the impugned orders are based on favoritism, malafide and political vendetta so is liable to set aside.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 04-08-2020 of R. No. 01 and 07-03-2020 be set aside and appellant be restored / posted at GGPS Nar Abu Samand Begu Khel Lakki Marwat with further request to release the withheld monthly salaries.

M. Ishaq
Appellant

April 2020
March 2023

Through
Saadullah Khan Marwat
Saadullah Khan Marwat

Arbab Saiful Kamal
Arbab Saiful Kamal

Miss Rubina Naz
Miss Rubina Naz

Amjad Nawaz
Amjad Nawaz

Dated: 10-12-2020

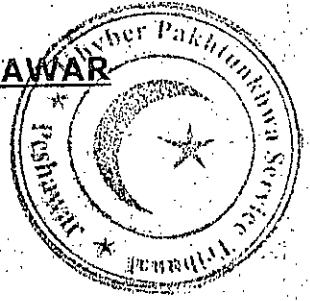
Advocates

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Atul

B 8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 16444/2020

Date of Institution ... 11.12.2020
Date of Decision ... 30.06.2022

Muhammad Ishaq, S/O Akbar Zaman Khan, R/O Nar Abu Samand
Begu Khel, Serai Naurang, Lakki Marwat, Chowkidar Office of DEO (F)
Lakki Marwat.

(Appellant)

VERSUS

District Education Officer (F), Lakki Marwat and three others.

(Respondents)

Arbab Saiful Kamal,
Advocate,

For appellant.

Naseer Ud Din Shah,
Assistant Advocate General

For respondents.

Salah Ud Din
Rozina Rehman

Member (J)
Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the
jurisdiction of this Tribunal through above titled appeal with the prayer
as copied below:

"That on acceptance of the appeal, order dated
04.08.2020 of R.No.01 and 07.03.2020 be set aside
and appellant be restored/posted at GGPS Nar Abu
Samand Begu Khel Lakki Marwat with further request
to release the withheld monthly salaries".

2. Brief facts of the case are that appellant alongwith respondent

No.4 was appointed as Chowkidar on 24.10.2019 and was posted at

ATTESTED

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

Attested

GGPS Nar Abo Samand Begu Khel against vacant post while private respondent No.4 was posted in GGPS Abullah Khan Betani against vacant post. It was on 04.03.2020 when respondent No.1 adjusted respondent No.4 in her office due to the merger of schools but the said School is still functioning at GGPS. Later on, respondent No.4 was transferred to GGPS Nar Abu Samand Begu Khel on 07.03.2020 while appellant was transferred to the office of respondent No.1 by placing his services at the disposal of respondent No.1. He submitted representation for cancellation of order dated 07.03.2020 being based on the recommendation of political vendetta and in this record, proper inquiry was conducted. Despite recommendation of the Inquiry Officer, pay of the appellant was stopped, he therefore, filed writ petition and the Hon'ble Peshawar High Court was pleased to direct respondents to treat the same as departmental appeal and to decide the same within 30 days, hence, the instant service appeal.

3. We have heard Arbab Saiful Kamal, Advocate learned counsel for the appellant and Naseer Ud Din Shah, learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Arbab Saiful Kamal Advocate, learned counsel for the appellant inter-alia contended that the impugned orders are not as per mandate of law as neither the appellant nor respondent No.4 had completed normal tenure at their respective schools. He contended that proper inquiry was conducted to unearth the hidden facts and that the inquiry officer submitted his report but the same was not honored by the respondents. That the respondent No.1 did not show any heed to the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Arbab Saiful Kamal

recommendation of the Inquiry Officer and the appellant suffered due to the harsh attitude of the respondents by stopping his salary for no fault of the appellant which act of the respondents is illegal, against law and facts. That the appellant was never dealt in accordance with law nor was treated equally before law in violation of Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973. He, therefore, requested for acceptance of the instant service appeal.

5. Conversely, learned AAG submitted that the appellant took charge of his duty but from the very first day he became problematic for the administration of school and was not willing to perform his duty. He was, therefore, transferred and posted in the office of respondent No.1 while respondent No.4 was transferred to GPS Nar Abu Samand for smooth working.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us we are of the opinion that vide office order dated 24.10.2019 upon the recommendation of departmental selection committee appellant was appointed as Chowkidar on merit against vacant post at GGPS Nar Abu Samand Begu Khel while respondent No.4 Abdul Wahid was appointed as Chowkidar against Medical Board quota and was posted at GGPS Abdullah Khan Betani. Appellant assumed charge of his post on 26.10.2019. It was on 04.03.2020, when respondent No.4 was temporary adjusted at the office of District Education Officer (Female) Lakki Marwat due to the merger of school and vide order dated 07.03.2020 respondent No.4

was transferred to his native village GGPS Nar Abu Samand Begu Khel

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ATTESTED

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while the appellant was placed at the disposal of DEO (F) and order in respect of temporary adjustment of respondent No.4 was withdrawn. The appellant filed departmental appeal on 16.03.2020 and one Ikram Ullah Deputy DEO (Male) Bannu was appointed as Inquiry officer to conduct proper inquiry in view of appeal filed by the present appellant. Inquiry report is available on file which favors the appellant. The recommendations of the Inquiry Officer are hereby reproduced for ready reference:

- "1. Competent authority should be directed as to why the pension case of Ex-chowkidar Abdul Rashid was perused on Medical grounds though he was fit for premature pension rather on medical board basis as after lapse of 54 days he could be proceeded on 60 years (superannuation pension).***
- 2. Transfer of Muhammad Ishaq chowkidar from GGPS Nar Abusamand Begu Khel to office without any post & stoppage of his pay is against the service laws, hence needs immediate cancellation.***
- 3. Competent authority should be penalized with "CENSURE" under E&D proceedings so that such kind of mal practices could be discouraged which could become basis for unnecessary litigation against government."***

The inquiry report was submitted before the authority on 10.07.2020 and the District Education officer Female Lakki Marwat was directed to adjust appellant properly and his salary may be released. Despite inquiry report and order by the Assistant Director (Admin) Directorate

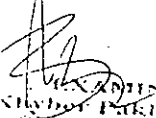
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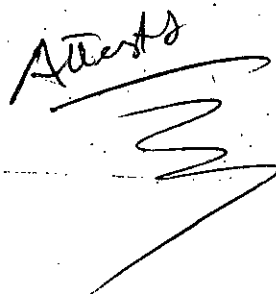
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[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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of Elementary & Secondary Education Peshawar dated 04.08.2020 appellant was neither adjusted nor his salary was released. He, therefore, knocked at the door of Peshawar High Court, Bannu Bench by filing Writ Petition No.89-B which was sent to the respondents with direction to treat the same as representation and decide within a period of 30 days. Again, no step was taken by the authorities with the result that present service appeal was filed. It is crystal clear from the record that Abdur Rasheed Ex-Chowkidar who was father of respondent No.4 was serving in the Department. He had gone through Medical Board though he was not entitled for the same. As per inquiry report, his age at the relevant time was 59 years, 10 month and 06 days. Thus 54 days were less than 60 years and was proceeded through Medical Board which was against rules because in case of fulfillment of 60 years service, he could enjoy 25% quota of the retired employees son but he manipulated and Abdur Rasheed was proceeded through Medical Board where 100% quota is specified and which was availed. Appointing authority had fully supported the respondent No.4 and the appellant was deprived of his posting as well as salary. The present respondent was benefitted being the son of ex-employee Abdur Rasheed. The present appellant was transferred to the office of District Education Officer Lakki Marwat without post and stoppage of pay is against the service laws. There is no departmental proceedings initiated against the appellant in order to show any misconduct on the part of appellant rather the inquiry Officer submitted report which goes against the District Education Officer (Female). A letter No.4828 dated 16.12.2020 was submitted during arguments which shows that Sub.

ATTESTED


JUDGE
Chamber Pakhtunkhwa
Service Tribunal
Peshawar


Attested

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Divisional Education Officer (Female) Serai Naurang was directed to adjust appellant against any vacant post of Chowkidar in the respective Sub Division for purpose of pay with further direction to release his pay. It is astonishing that this letter was not annexed with the comments nor it was brought before this Bench. This letter was not acted upon because Assistant Director Admin directed the District Education Officer Female on 04.08.2020 to release her salary but fiasco. The appellant submitted an application before the Director in the light of the inquiry report on 25.08.2020 but to no avail. He, then filed writ petition on 14.09.2020 which was disposed of on 29.09.2020 but even then, no step was taken by the respondents. This letter dated 16.12.2020 in respect of transfer and release of salary was produced today but it was never acted upon.

7. In view of the above discussion, instant service appeal is allowed as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

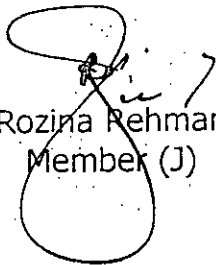
ANNOUNCED.
30.06.2022



(Salah Ud Din)
Member (J)

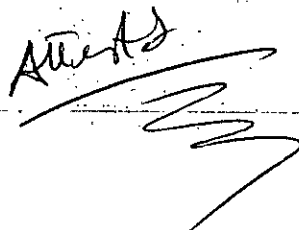
Certified to be true copy

1
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



(Rozina Rehman)
Member (J)

Date of Presentation of Application 30/6/2022
Number of Words 2800
Copying Fee 30/-
Urgent _____
Total 30/-
Name of Copies _____
Date of Completion of Copy 05/10/22
Date of Delivery of Copy 05/10/22



C 14

OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) LAKKI MARWAT

Ph & Fax: (0969) 538080, Email: deoflakki@gmail.com,

OFFICE ORDER:-

In compliance to the judgment passed by Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar in service appeal No: 16444/2020 dated: 30-06-2022 and in pursuance to the letter issued by Govt: of Khyber Pakhtunkhwa E&SE Department vide No. SO(Lit-II)E&SED/1-3/SA#16444/2020/M. Ishaq dated: 19-12-2022 endorsed to this office vide Directorate of E&SE Department No. 2816/AD (Lit:II) dated: 26-12-2022, Muhammad Ishaq Chowkidar BPS-03 is hereby adjusted at GGPS Nar Abu Samand Begu Khel .

NOTE:- The services of Mr. Abdul Wahid chowkidar GGPS Nar Abu Samand Begu Khel are hereby placed at the disposal of SDEO (F) Serai Naurang for further adjustment against the vacant post of Chowkidar BPS-03 in the interest of public service.

District Education Officer
(Female) Lakki Marwat

Endst: No. 358-66

Dated. 19-01-2023

Copy to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. Section Officer (Lit-II) Govt: of Khyber Pakhtunkhwa E&SE Department.
3. SDEO (F) concerned for strict compliance and necessary action within three days being court matter.
4. PS to Secretary to Govt: of Khyber Pakhtunkhwa E&SE Department.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. ASDEO (F) circle concerned.
7. Head Teacher concerned school.
8. Officials concerned.
9. Master File.

District Education Officer
(Female) Lakki Marwat

Adits

بعد التّ جہاں سرسٹریٹ ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ

مخاطب ایڈریس

محمد اسحاق نام صحیح تعلیم

دعویٰ اپیل
Execution

باعتبار تحریر یہ ایسٹیک

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی مستعاضہ آن مقام اپنا اور
کیسٹیم اسٹاکس انڈیا پرائیویٹ لمیٹڈ کے ہائی کورٹ کو وکیل مقرر کر کے اپنا کیا جاتا ہے کہ صاحب
موقوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کہنے والی نامہ و آفیشز ٹالکٹ و آفیشز برٹلف
دینے جواب دہی اور اقبال دعویٰ اور لیکچر ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست
ہر قسم کی تصدیق اور ان پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بکلافہ یا اپیل کی برکائی
اور کسی بھی چیز دائرہ کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندرجہ
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی نمائندگی کا اختیار ہوگا
اور وہ اپنے مقرر شدہ کو بھی وہی جملہ مندرجہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور
قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ترہانہ الزام مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب
موقوف ہوں گے نیز بقایا و فرسبہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روزہ
پر ہو یا عدسے باہر ہو تو وکیل صاحب یا ہمد نہ ہوں گے کہ پیروی مندرجہ کریں
لہذا وکالت نامہ دیکھ دیا کہ سند ہے۔

الرقوم - 23-09-20

التعبید التعبید التعبید

11
اور بابینف اہمال
ایڈووکیٹ

محمد اسحاق
سیدہ اللہ خاتون درگت
ایڈووکیٹ

محمد اسحاق
ایڈووکیٹ

M-Ishak
محمد اسحاق