


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 700 /2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	27.09.2023	<p>The implementation petition of Syed Shahabul Amin submitted today by Syed Ghufanullah Shah Advocate. It is fixed for implementation report before Single Bench at Peshawar on <u>02-10-2023</u>. Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL PESHAWAR

Execution Petition No.....700...../.....2023

In

Service Appeal No. 1105/ 2018.

Syed Shahab ul Amin

VERSUS

Government of Khyber Pakhtunkhwa & others

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5.	Copy of the application	"B"	16
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Appellant / Petitioner

Through

.....
Syed Ghufanullah Shah
(Advocate Supreme Court of Pakistan)
Office; 22-A Nasir Mansion
Railway Road, Peshawar
Cell No.0334-9185580

(1)

BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL PESHAWAR

Execution Petition No.....700.....2023
In
Service Appeal No. 1105/ 2018.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7952

Dated 27/09/23

Syed Shahab ul Amin

S/o Syed Islam Shah R/o Village Xupu, P/O Xupu, Tehsil Mastuj District
Chitral.

.....Petitioner /Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pukhtunkwa Peshawar.
3. Regional Police Officer Malakand Division at Saidu Sharif Sawat.
4. District Police Officer Chitral.(lower)
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

APPLICATION FOR IMPLEMENTATION OF THE ORDER/JUDGMENT
OF THIS HONOURABLE TRIBUNAL DATED 06/06/2023
PASSED IN SERVICE APPEAL NO. 1105/2018, WHEREBY THE
PENALTY IMPOSED AGAINST THE PETITIONER /APPELLANT HAS
BEEN RE INSTATED IN SERVICE WITH ALL BACK BENEFITS .

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PRAYER;

ON ACCEPTANCE OF THE INSTANT APPLICATION THE SUBJECT ORDER & JUDGEMENT OF THIS HONOURABLE TRIBUNAL DATED 6-06-2023 BE IMPLEMENTED /SATISFIED IN ITS TRUE SPIRIT AND ANY OTHER RELIEF ACCORDING TO THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE PETITIONER AGAINST RESPONDENTS.

RESPECTFULLY SHEWETH:-

1. *That the above titled Service Appeal was decided by this honorable tribunal in favour of the petitioner /appellant vide order/judgment dated 06/06/2023.*
(Copy of order/judgment dated 06/06/2023 is annexure "A")
2. *That this Honorable Tribunal has allowed appeal of the petitioner/appellant by setting aside the impugned order of his removal from service and has been re-instated with all back benefits.*
3. *That accordingly the applicant/petitioner is entitled to join his service with arrears and seniority etc for but the respondents are deliberately defying for about 03/04 months of the judgment.*
4. *That the appellant several times approached to the respondents for the implementation of the judgment and order passed by this*

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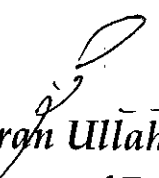
honorable tribunal, vide order and judgment dated 06-06-2023 but in vain. **(Copy of the application is annexed as annexure "B")**

5. That since date respondents have been failed to comply with the order/judgment dated 06-06-2023 passed by this honorable tribunal; and the petitioner is suffering from their deliberate delaying tactics.
6. That any other ground will be furnished at any stage of the proceeding with the prior permission of this Honorable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application, the respondents may kindly be directed to implement the order/judgment of this Honourable Tribunal dated 06-06-2023 with all consequential relief.

Petitioner /Appellant

Through


Syed Ghufron Ullah Shah
Advocate Supreme Court of Pakistan

(4)

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

Execution
in
Service
Appeal No.1105-P/2018

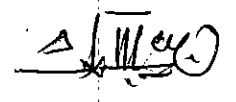
Syed Shahab Ul Amin

Versus

Govt. of Khyber Pakhtunkhwa, Peshawar Through Secretary
Home and Tribal Affairs Khyber Pakhtunkhwa, Peshawar &
others

AFFIDAVIT

I, Syed Shahab Ul Amin S/o Syed Islam Shah R/o Village
Xupu, Post Office Xupu, Tehsil Mastuj District Chitral, do
hereby solemnly affirm and declare on oath that the contents
of the accompanying **Execution Petition** are true and
correct to the best of my knowledge and belief and nothing
has been concealed from this Hon'ble Court.



Identified by

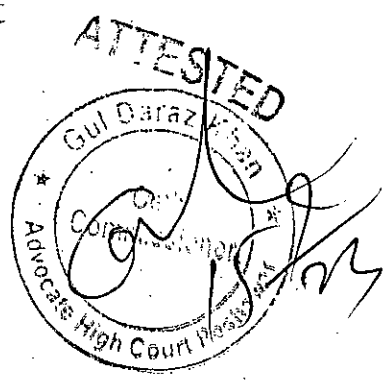
DEPONENT

CNIC: 15202-2927623-9

Cell: 0346-4728494

SYED GHUFRAN ULLAH SHAH
Advocate Supreme Court

ATTESTED
Gul Garaz
Advocate High Court Peshawar



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BEFORE THE KHYBER PAKHTUNKHUWA SERVICE
TRIBUNAL PESHAWAR

Execution Petition No.....2023

In

Service Appeal No. 1105/ 2018.

Syed Shahab ul Amin

V E R S U S

Government of Khyber Pakhtunkhwa (KPK) through the Secretary
Home & others

ADDRESSES OF PARTIES

PETITIONER;

Syed Shahab ul Amin

S/o Syed Islam Shah R/o Village Xupu, P/O Xupu, Tehsil Mastuj District
Chitral.

RESPONDENTS;

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pukhtunkwa Peshawar.
3. Regional Police Officer Malakand Division at Saidu Sharif Sawat.
4. District Police Officer Chitral.
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

Petitioner/Appellant

Through

Syed Ghufraan Ullah Shah
Advocate Supreme Court of Pakistan

(B)

Ameed-A'

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR



Service Appeal No. _____ 2018.

Syed Shahab ul Amin
S/o Syed Islam Shah R/o Village Xupu, P/O Xupu, Tehsil Mastuj
District Chitral.

.....Appellant

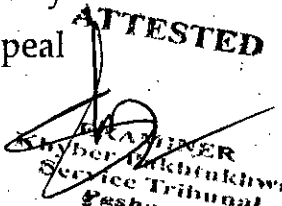
V E R S U S

1. Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar.
2. Inspector General of Police Khyber Pukhtunkwa Peshawar.
3. Regional Police Officer Malakand Division at Saidu Sharif Sawat.
4. District Police Officer Chitral.
5. Secretary Finance Government of K.P.K at Civil Secretariat Peshawar.

.....Respondents

Appeal against impugned Order bearing No. 2763-66 dated 09-04-2018 issued by District Police Officer Chitral/Respondent No.4 as well as impugned order bearing No. 6860 dated 06-08-2018 issued by Regional Police Officer Malakand Division/Respondent No.3; whereby the appellant has been imposed major Penalty of dismissal from service and his departmental appeal has been rejected respectively.

Prayer;

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(7)

On acceptance of the instant Service Appeal both the impugned orders bearing No. 2763-66 dated 09-04-2018 issued by District Police Officer Chitral/Respondent No.4 and order bearing No. 6860 dated 06-08-2018 issued by issued by Regional Police Officer Malakand Division/Respondent No.4; be set aside and the appellant be reinstated in service with all subsequential benefits.

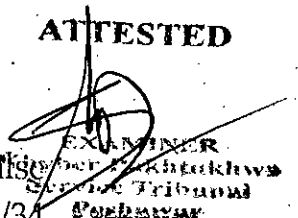
Any other relief including keeping the service of the appellant suspended till final disposal of the Criminal case may also be granted to the appellant.

Respectfully Sheweth:

Brief facts and grounds giving rise to the instant Service Appeal are as under:

1. That the appellant joined Service in Police department as constable on 03-10-2012 at Malakand Region Police and was lastly transferred to District Police Chitral in May, 2017. The appellant rendered spotless service and no adverse remarks whatsoever assigned to him from any quarter during his entire service.
2. That the appellant served Police Department about 06/07 years with full commitment and professionalism.
3. That the appellant was charged in a fabricated and false case vide F.I.R No. 72 dated 18-10-2017 Under Section 302/34 Pakistan Penal Code at Police Station Mastuj Chitral, where he has already been granted Bail by the Additional Session Judge Chitral vide order dated 15-12-2017 and trial of the case is in progress.

ATTESTED


EXAMINER
District Police Chitral
Service Tribunal
Chitral

4. That solely on the basis of the subject F.I.R the appellant has been imposed major penalty of dismissal from service vide impugned order bearing No. 2763-66 dated 09-04-2018.

(Copy of impugned order is annexure "B")

5. That the appellant filed departmental appeal before the Regional Police Officer Malakand/ Respondent No.3 on 08-05-2018, which was dismissed on 06-08-2018 and communicated to the appellant on 13-08-2018.


(Copy of Memo of appeal along with impugned order is Annexure "C")

6. That the appellant being aggrieved from both the impugned orders and having statutory rights approaches this honourable Tribunal through the instant appeal amongst the following other grounds.

GROUND:

- A. That respondents have failed to deal the appellant in accordance with law because according to the applicable Law and Rules the it was mandatory for Respondents to suspend service of the appellant till the decision criminal case pending before the competent court of law and the allegation leveled against the appellant in criminal case are same and similar, which require to be proved through witnesses.

- B. That no proper Enquiry has been conducted by the department neither the proceedings required for Enquiry in the case has been complied. Furthermore the so-called inquiry was defective one because no witness has been shown to the appellant neither the involvement of the appellant in the alleged offence has been established nor the appellant has been given opportunity to cross-examine the witness deposed against him.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- C. That the solely ground for the punishment against the appellant is that the appellant has been charged for the reason that he has married with the wife of the deceased after death of her husband about 06 months of his death and no single point is part of the proceeding about the occurrence and the F.I.R has also been lodged after marriage of the appellant. Furthermore it is not yet determined that the occurrence was due to murder or natural death neither it is part of departmental proceedings.
- D. The departmental proceedings are also illegal with effect to judge place of posting of the appellant and to establish role of appellant.
- E. That the impugned orders are based on material irregularities and illegal grounds, which are neither justified nor legal in circumstances of the case, therefore void.
- F. That just to use the preposition that the departmental proceeding and criminal case may be proceeded side by side keeps no meaning in the subject case because the alleged offence is not related to the performance of duty of the appellant and the only ground for termination of his service or imposition of any other punishment may be conviction of the appellant in the alleged case.
- G. That the appellate authority has also failed to read and understand the order of Bail furnished by the competent court of law.
- H. That the allegations leveled against the appellant are not related to act or omission done under color of uniform of the

ATTESTED

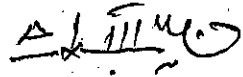
[Signature]
 EXAMINER
 Cyber Tribunal
 Service Tribunal
 Feshawar

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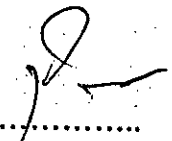
appellant therefore under the police Rule terms and condition of the appellant cannot be determined solely.

- I. That the punishment is too severe and is not proportionate to the gravity of offence.
- J. That the appellant was given no chance of personal hearing and it is a demand of natural justice that no one should be condemned unheard.
- K. That in light of the afore mentioned situation the imposed penalty is not only arbitrary and illegal but also harsh and unnatural beside being void and illegal.
- L. That the acts and omission of respondents is against the Civil Service Act 1973, Efficiency and Disciplinary Rules and applicable Fundamental and Supplementary Rules.
- M. That he instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- N. That any other ground be furnished when ever required for the assistance of this honourable Tribunal in support of the subject appeal with prior permission as required by procedure.

It is, therefore, most humbly prayed that the instant Service Appeal be allowed as prayed for.


Appellant

Through


.....
Syed Ghufan ullah Shah
Advocate Peshawar

Certified to be true copy
E.S.
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHUWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ 2018

Rahmat-ud-Din

V E R S U S

Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and Tribal affair KPK Peshawar

AFFIDAVIT

I, Syed Shahab ul Amin S/o Syed Islam Shah R/o Village Xupu, P/O Xupu, Tehsil Mastuj District Chitral/Appellant; do hereby solemnly verify and declare on oath that all the contents of the subject appeal; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

[Handwritten Signature]

Deponent

C.N.I.C No 15202-2927623-9

Certified to be true copy

Verified by:

[Handwritten Signature]
Syed Ghufan ullah Shah
Advocate Peshawar

[Stamp: Khyber Pakhtunkhwa Service Tribunal Peshawar 15/6/23]

Date of Presentation of Application 07/6/23

Number of Pages Page 6

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Total 36/-

Name of Applicant [Signature]

Date of Copy 15/6/23

Date of Delivery of Copy 15/6/23

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1105/2018

Date of Institution ... 06.09.2018

Date of Decision... 06.06.2023



Syed Shahab-ul-Amin S/O Syed Islam Shah R/O Village Xupu, P/O Xupu,
Tehsil Mastuj District Chitral.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa (KPK) through the Secretary Home and
Tribal Affairs Khyber Pakhtunkhwa Peshawar and 04 others.

... (Respondents)

SYED GHUFRAN ULLAH SHAH,
Advocate

--- For appellant.

MR. ASAD ALI KHAN,
Assistant Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MS. FAREEHA PAUL

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts forming background of the instant appeal are that the appellant was proceeded against departmentally on the allegations that he while on ATS course had been involved in case FIR No. 72 dated 20.10.2017 under sections 302/34 PPC Police Station Mastuj. On conclusion of the inquiry, the appellant was awarded major penalty of dismissal from service vide order dated 09.04.2018 passed by District Police Officer Chitral. The departmental appeal of the appellant was declined vide order dated 06.08.2018, hence the instant service appeal.

ATTESTED

MEMBER (JUDICIAL)
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

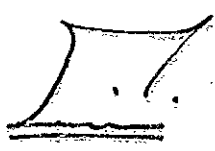
2. On receipt of the appeal and its admission to full hearing, respondents were summoned, who put appearance and contested the appeal by filing written reply raising therein numerous

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legal and factual objections. The defense setup was a total denial of the claim of the appellant.

3. Learned counsel for the appellant argued that the mandatory provisions of Police Rules, 1975 were not complied in the inquiry proceedings and the impugned orders are thus nullity in the eye of law; that disciplinary action was taken against the appellant on the allegations of his involvement in the criminal case, however the appellant has been acquitted by the competent court of law, therefore, the competent Authority was not justified in awarding him the impugned penalty; that one Aslam Baig had died on 14.04.2017, while the appellant was charged for his murder through a belated registration of FIR after a delay of about 06 months; that the appellant was charged in the murder case for ulterior motive with mala-fide intention; that no evidence whatsoever was recorded by the inquiry officer in support of the allegations leveled against the appellant, therefore, the impugned orders are liable to be set-aside.

4. On the other hand, learned Assistant Advocate General contended that the appellant was involved in case FIR No. 72 dated 20.10.2017 under sections 302/34 PPC Police Station Mastuj, therefore, disciplinary action was taken against him in accordance with Police Rules, 1975 and the allegations against him stood proved in proper inquiry; that departmental proceedings are different from criminal proceedings, therefore, mere acquittal of the appellant in the criminal case could not be considered as ground for his exoneration in the departmental proceedings; that regular inquiry was conducted in the matter by complying all legal as well as codal



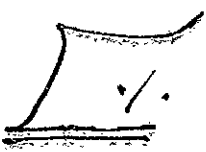
ATTESTED
K. S. SINGH
Member
Service Tribunal
15/6/23

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formalities and the appellant was afforded ample opportunity to defend himself; that statements of seven witnesses were also recorded under section 164 Cr.PC, which corroborated version of the complainant as given the FIR, therefore, the appellant has rightly been dismissed from service.

5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that disciplinary action was taken against the appellant on the allegations that he was involved in case FIR No. 72 dated 20.10.2017 under sections 302/34 PPC Police Station Mastuj. Mr. Muhy-ud-Din DSP/HQ Chitral was appointed as inquiry officer in the matter. We have gone through the inquiry report, which would show that the inquiry officer has not bothered to record statement of any witness in support of the allegations leveled against the appellant. The inquiry officer had not even recorded the statement of complainant of the criminal case. What the inquiry officer had done is that the statements of the witnesses recorded under Section 164 Cr.PC in the court of learned Civil Judge/Judicial Magistrate Booni Chitral were annexed by him with the inquiry report. In absence of any cogent and convincing evidence in support of the allegation against the appellant, it is not understandable as to how the inquiry officer come to the conclusion that the allegations against the appellant stood proved.



ATTESTED

7. The department had initiated disciplinary action against the appellant on the sole ground that he was charged in case FIR No. 72

ATTESTED
Muzaffer P. Khatun
Service Tribunal
Peshawar
15/6/23

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dated 20.10.2017 under sections 302/34 PPC Police Station Mastuj, however the appellant has already been acquitted in the said case vide order dated 05.08.2022 passed by learned District & Sessions Judge Upper Chitral. Nothing is available on the record, which could show that the acquittal of the appellant has been challenged by the respondents through filing of appeal before the higher forum, therefore, the order of acquittal of the appellant has gained finality. It is now well settled that acquittal of an accused in a criminal case, even if based on compromise, would be considered as honourable. The appellant was dismissed from service on the sole ground of his involvement in criminal case, however upon acquittal of the appellant, the very ground on the basis of which disciplinary action was taken against him, has vanished away, therefore, the order of dismissal of the appellant cannot remain in field.

8. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned orders and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
06.06.2023



(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(FAREEHA PAUL)
MEMBER (EXECUTIVE)

Date of Presentation of Application 07/6/23
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 Date of Delivery of Copy 15/6/23

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 EXECUTIVE MEMBER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar
18/6/23

Amir B

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بخدمت جناب ڈسٹرکٹ پولیس افسر صاحب ضلع چترال لوئر

عنوان: بحالی ملازمت

موبانہ گزارش ہے کہ سائل کو سال 2017 میں ایک جھوٹے مقدمہ میں ملوث کر کے نوکری سے برخاست کیا گیا تھا حکم برخاستگی کے خلاف محکمہ پولیس کے افسران بالا کو درخواست اپیل کی گئی جو کہ مسترد ہوئے، تو سائل سروس ٹریبونل میں اپیل بعنوان سید شہاب الامین بنام آئی جی پی خیبر پختونخواہ وغیرہ سروس اپیل نمبر 1105/2018 دائر کی جو کہ مورخہ 06.06.2023 سائل کے حق میں فیصلہ ہوا۔

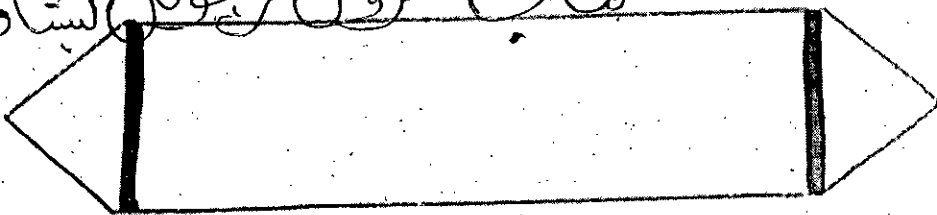
ارڈر سروس ٹریبونل حکم مورخہ 06.06.2023 لف درخواست ہوا ہے۔

لہذا استدعا ہے کہ سائل کو از روئے ارڈر سروس ٹریبونل حکم مورخہ 06.06.2023 ملازمت پر بحال فرمائی جاوے۔
عین ماتحت پروا رہی ہوگی۔

دینا اللہ
الحارث: 29-07-2023
سابقہ کنشیل سید شہاب الامین ولد سید اسلام شاہ
کننڈو پوپا یارخون ضلع چترال اپر
حال طور رو اشش ضلع چترال لوئر

Attested

بعد التمهات سروس ٹریبونل استاد



موزونہ
مقدمہ
ذکوئی
م.ج

سید شہاب الدین
بنام کورٹنٹ و لیسر

باعث تخریب آنکھ

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ کر دوائی متعلقہ و
آن مقام سید شہاب الدین کیلئے سید شہاب الدین کے لئے
مقررہ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
دیکھ صاحب کو راضی نامہ کرنے و تقررنالت و فیصلہ برحلاف دینے جواب دہی اور اقبال و دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زراں پر دستا کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور دیکھ یا اختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساخت
پر داختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکھ صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

Handwritten signature

المرقوم 15 ماہ 9 2022

المب _____ واہ المب _____

مقام استاد کے لئے منظور ہے۔

B-C 11-1272
152022-4540915-7
033401185580

E-mail: ghufraullahshah@gmail.com
ghufraullahshah@gmail.com