

4

30.07.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as DPE (BPS-18) at GGHS Shaidu District Nowshera when subjected to inquiry on the allegations of wilful absence from duty and vide impugned order dated 4.2.2015 one increment for one year was stopped and the absence period was treated as leave without pay against which she preferred departmental appeal on 24.2.2015 which was rejected on 18.3.2015 but communicated to the appellant on 25.3.2015 where-after the instant service appeal was preferred on 24.4.2015.

That the appellant was on deputation and her absence was not wilful and the impugned order of withholding one increment as well as treating the absence period as leave without pay is against facts and law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.10.2015 before S.B.


Chairman

5

28.10.2015

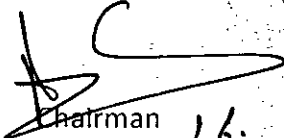
Counsel for the appellant present. Security and process fee not deposited. Requested for further time. The same be deposited within a week, where-after notices be issued to the respondents for written reply/comments for 23.2.2016 before S.B.


Chairman

23.02.2016

None present for appellant despite repeated calls. Security and process fee also not deposited.

Dismissed for want of prosecution. File be consigned to the record room.



Chairman
23.02.16.

ANNOUNCED
23.02.2016

3.

13.05.2015

Counsel for the appellant present and requested for adjournment. Adjourned to 27.05.2015 for preliminary hearing before S.B.


Chairman

4

27.05.2015

Junior to counsel for the appellant present. Counsel for the appellant is not in attendance due to death of his relative. Adjourned for preliminary hearing to 10.6.2015 before S.B.


Chairman

5

10.06.2015

Junior to counsel for the appellant present. Counsel for the appellant is not in attendance. Seeks adjournment. Adjourned to 26.6.2015 for preliminary hearing before S.B.


Chairman

6

26.06.2015

Agent of counsel for the appellant present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned to 30.7.2015 for preliminary hearing before S.B.


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____

420/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	07/05/2015	<p>The appeal of Mst. Safina Baber resubmitted today by Mr. Abid Ali Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	<u>11-5-15</u>	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>13-5-2015</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

The appeal of Mst. Safina Baber DPE GGSS Shaidu District Nowshera received to-day i.e. on 24.04.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-D of the appeal is illegible which may be replaced by legible/better one.
- 2- Copies charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- ③ Eleven more copies/sets of the appeal along with annexures i. e complete in all respect may also be submitted with the appeal.

No. 615 /S.T,

Dt. 24/4 /2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Abid Ali Khan Adv. Pesh.

Resubmitted by removing the objection
of illegible copy of Annexure "D"
which is replaced & also dozen
more spare copies are also submitted
so far as the the copy of charge
sheet and other documents are
concerned they have not been issued
to the appellant.

AK
7-5-15

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 420/2015

Miss Safina Baber, DPE GGHSS, Shaidu, District Nowshera.

Appellant

Versus

Govt of KPK, through Secretary Elementary and Secondary, Education, Civil Secretariat
Peshawar.


Respondents

INDEX

S.No	Description of Document	Annexure	Pages
1	Copy of appeal		1-2
2	Affidavit		3
3	Copy of Notification	"A"	4
4.	Copy of Order	"B"	5
5.	Copy of Application	"C"	6
6.	Copy of notification	"D"	7
7.	Copy of appeal and order	E & F	8&9
8.	Wakalatnama		

Appellant

Through


Abid Ali Khan,
Advocate,
Peshawar.

①

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 420/2015

W.P. Province
Service Tribunal

Case No. 412

Date 24-4-2015

Miss Safina Baber, DPE GGHSS, Shaidu, District Nowshera.

Appellant

Versus

1. Govt of KPK, through Secretary Elementary and Secondary, Education, Civil Secretariat Peshawar.
2. Govt of KPK, through Secretary Sports, Tourism, Archeology, Museums and Youth Affairs Department, Civil Secretariat Peshawar.
3. Director Elementary and Secondary Education, KPK, Peshawar.
4. Director General Sports and Youth Affairs Department, Civil Secretariat Peshawar.
5. Accountant General Khyber Pakhtoonkhwa.
6. Chief Minister Khyber Pakhtoonkhwa.
7. District Education Officer (Female) Nowshera.
8. District Account Officer Nowshera.
9. Priciple GGHSS Shaidu Nowshera.

Respondents

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION BEARING NO. S.O(S/F)E&SED/4-17/2015/APPEAL, DATED 18.03.2015 WHEREBY THE DEPARTMENTAL APPEAL FIELD BY THE APPELLANT WAS DISMISSED/REJECTED AND THE IMPUGNED ORDER/NOTIFICATION NO. S.O(S/F)E&SED/4-17/2014/SAFINA BABER DPE WAS UPHELD WHEREBY PENALTY WAS IMPOSED ON THE APPELLANT BY WITHHOLDING OF ONE INCREMENT FOR ONE YEAR WITHOUT CUMULATE EFFECT AND ABSENCE FROM DUTY W.E.F 07-08-2013 TO 03-07-2014 WAS DECLARED AS LEAVE WITHOUT PAY.

PRAYER:- on acceptance of this appeal the impugned notification bearing no. S.O(S/F)E&SED/4-17/2014/Safina Baber DPE, dated 04.4.2015 may graciously be set aside and the penalty imposed by the Respondent to the appellant be declared null and void be withdrawn in the large interest of justice.

Respectfully Sheweth:

1. That the appellant was serving in the elementary and secondary education Khyber Pakhtoonkhwa as DPE BPS-18.
2. That the appellant was posted as Assistant Directress in Sports Department Khyber Pakhtoonkhwa on deputation basis vide notification No.SO/(F)E&SE/4-16/2011/Ms.Safina Baber dated 22.09.2011 for a period of three years. (Copy of notification is annexed as annexure "A").

2

3. That the prior to maturity of deputation period appellant was repatriated to his parent department vide order No.SO(S)I-12/2011 dated: 07-08-2013. (Copy of the Order annexed as annexure "B").

4. That appellant submitted an application to Hon'ble Chief Minister Khyber Pakhtoonkhwa to allow the appellant to complete his deputation period in the Sports Department on 15-08-2013. (Copy of the application is annexed as annexure "C")

5. That the appellant waited for the decision of the application to allow her on deputation and also appeared to do her duties in the Sports Department but she was surprised when receive a notification bearing No.S.O(S/F)E&SED/4-17/2014/Safina Baber DPE, dated 04.4.2015 wherein a penalty was imposed by withholding of one increment for one year without cumulative effect and also leave without pay w.e.from 07-08-2013 to 03-07-2014.(Copy of the notification is annexed as Annexure "D")

That aggrieved therefrom the appellant preferred departmental appeal before the competent authority which was regretted/rejected on 18-03-2015 No.SO(S/F)E&SE/4/17/2015/Appeal. (Copy of the Appeal and order are annexed as annexure "E" and "F").

6. That being aggrieved hence the appellant this Hon'ble Tribunal for redresal of his grievance in this service appeal inter-alia on the following grounds.

GROUND:-

- a) That the imposition of penalty upon the appellant by the respondent is against law facts and circumstances of the case.
- b) That the non arrival of the appellant to his parent department is not intestinal rather she waited for the decision upon the application for continuation of her deputation period.
- c) That the respondent department by imposing the penalty of leave without pay comes with in the preview of forced labour which speaks malafide and illwell on the part of respondents.
- d) That the penalty imposed by the respondent department is harsh in nature as appellant never absented she regularly appeared in the sports department for performing of her duties.
- e) That the appellant be allowed to add/rely upon other grounds at the time of his arguments.

Safina Baber
Appellant Baber

Through:

Abid Ali Khan
(Abid Ali Khan)
Advocate.

3

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. /2015

Miss Safina Baber, DPE GGHSS, Shaidu, District Nowshera.

Appellant

Versus

Govt of KPK, through Secretary Elementary and Secondary, Education, Civil Secretariat
Peshawar.

Respondents

AFFIDAVIT

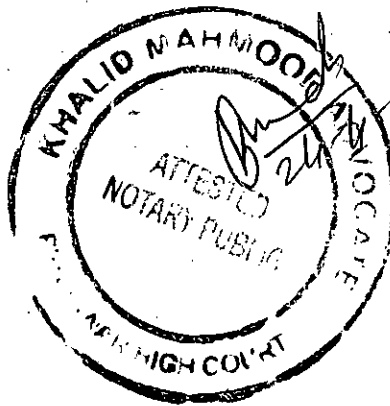
I, Miss Safina Baber, DPE GGHSS, Shaidu, District Nowshera. , do hereby solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

Abid Ali Khan

Identified by:

Abid Ali Khan,
Advocate Peshawar.

Safina Baber
Deponent





A (4)
SPORTS, TOURISM, ARCHAEOLOGY, MUSEUMS
& YOUTH AFFAIRS DEPARTMENT.

No.SO (Sports)1-12/2011.
Dated Peshawar, the 29th September, 2011.

Annex A

NOTIFICATION

No.SO(S)1-12/2011. In pursuance of the Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Notification No. SO(S/F)E&SE/4-16/2011/Ms. Safina Babar, dated 22.9.2011, Ms. Safeena Babar, DPE (BPS-17) is hereby posted as Assistant Directress (BS-17), in the Directorate General of Sports & Youth Affairs, Khyber Pakhtunkhwa against the vacant post on deputation basis for initial period of three years with immediate effect in the best interest of public services.

2. Her terms and conditions on deputation will be settled in consultation with Finance Department, Khyber Pakhtunkhwa, later on.

Secretary to Govt. of Khyber Pakhtunkhwa,
Sports, Tourism, Archaeology, Museums & Youth
Affairs Department.

Endst: No.SO(S)1-12/2011/5822-28 Dated Peshawar, the 29th September, 2011.

Copy to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department w/r to their Notification No. as quoted above.
3. Director General, Sports & Youth Affairs, Khyber Pakhtunkhwa, Peshawar.
4. PS to Minister for Sports, Khyber Pakhtunkhwa.
5. PS to Secretary Sports & Youth Affairs Department, Khyber Pakhtunkhwa.
6. Officer concerned.
7. Personal File

(Sher Alam Khan)
Section Office(Sports)

29/09/11

115
3/10/11

13/10
4/11

Attested

AZE

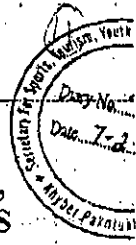
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181

Annex B



DEPARTMENT OF KHYBER PAKHTUNKHWA,
SPORTS, TOURISM, ARCHAEOLOGY, MUSEUMS
& YOUTH AFFAIRS DEPARTMENT.



Dated Peshawar, the 7th August, 2013.

ORDER

No. SO(S)1-12/2011. The Competent Authority is pleased to repatriate Ms. Safina Babar (DPE (BS-18) E&SE) Assistant Directress Directorate General Sports Khyber Pakhtunkhwa and direct her to report to her parent Department i.e. Elementary and Secondary Education Department, in the public interest, with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa,
Sports, Tourism, Archaeology, Museums & Youth Affairs
Department.

Encls: No. & date even

Dated Peshawar, the 7th August, 2013.

A copy is forwarded to the:-

1. Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department.
2. Accountant General, Khyber Pakhtunkhwa.
3. Director General, Sports & Youth Affairs, Khyber Pakhtunkhwa, Peshawar.
4. Director Elementary & Secondary Education.
5. Officer concerned.

*Seet (Sports)
Kindly retain her.
Thanks
[Signature]*

*A.S.
not in this
course.*
[Signature]
7/8/13
(SHAISTA)
Section Office (Sports)

*SO(S)
A
7-2*

*Put up on
SA(S) file.*

[Handwritten signature]

[Handwritten signature]

To

The Honorable
Chief Minister
Khyber Pakhtunkhwa

SUBJECT: TENURE OF DEPUTATION PERIOD

Respected Sir,

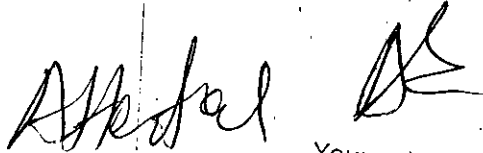
Respectfully I beg to state that my Services were placed on deputation from Elementary and Secondary Education Department to the Sports and Youth Affairs Department vide order No.SO(S/F) E& SE/4-16/ 2011-Ms Safena Babar dated 22-12-2011 for a period of three years.

2. The Sports and Youth Affairs Department has terminated my deputation without completion my tenure of three years and directed to report to my parent Department that is Elementary and Secondary Education.

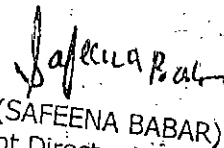
3. My deputation according to the notification have been terminated on the basis of a so called charge of lack of interest and non willingness despite the fact that no official duties have been assigned/ notified to me even then certain events of international repute that is A.riokie Wrestling and other Provincial/National/Traditional and International events and many others have been organized by me without notifying my job description officially The Sports & Youth Department since my arrival and posting in the Sports & Youth Department they did not show any warmth and instead malafied and an act of partisan altitude adopted towards me.

4. In view of the above, I very respectfully request that my deputation as terminated by a notification mentioned above may please be reviewed and allowed to continue till the completion of 3 years according to the terms of the same whereunder the tenure has been specified and fixed.

5. Thanking you in anticipation.



Yours obediently


(SAFEENA BABAR)

Assistant Director Women Sports
u/o Director General Sports &
Youth Affairs, Khyber Pakhtunkhwa

Dated 15-08-2013

REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the, February. 4, 2015.

NOTIFICATION

NO.SO(S/F)E&SED/4-17/2014/Safina Baber DPE: WHEREAS Ms. Safina Baber Director Physical Education (BS-18) GGHSS Shaidu, Nowshera was proceeded against under the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the Show Cause Notice.

2. **AND WHEREAS** Elementary & Secondary Education Department Khyber Pakhtunkhwa, with approval of the Competent Authority, issued show cause notice to her on 10-11-2014.

3. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, reply of the accused officer in response to the show cause notice and personal hearing granted to her by Secretary Establishment Department on behalf of Chief Minister on 06-01-2015, of the view that the charges against the accused officer have been proved.

4. **NOW, THEREFORE**, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa. Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose, a minor penalty of "**Withholding of one increment for one year without cumulative effect**" upon Ms. Safina Baber Director Physical Education (BS-18) GGHSS Shaidu, Nowshera with immediate effect. The period of unauthorized absence from duty w.e.f. 07-08-2013 to 03-07-2014 is hereby treated as leave without pay.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

1. Secretary to Govt. of Khyber Pakhtunkhwa Sports, Tourism, Archaeology, Museums & Youth Affairs Department.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar
3. Director, Elementary & Secondary Education, Peshawar.
4. DEO (F) Nowshera.
5. District Accounts Officer Nowshera.
6. Principal GGHSS Shaidu, Nowshera.
7. Ms. Safina Baber DPE GGHSS Shaidu, Nowshera.
8. PS to Chief Minister Khyber Pakhtunkhwa.
9. PS to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary Establishment Department
11. PS to Secretary, E&SE Department.
12. Officer concerned.

A. H. H. H. H.
F. Naz
(FOZIA NAZ)
SECTION OFFICER (S/F)

Annexure "E"

8

To

The Hon'ble Chief Minister
Khyber Pakhtunkhwa, Peshawar.

Through: The Secretary to Govt of Khyber Pakhtunkhwa
Elementary & Secondary Education Department
Peshawar.

Subject: - Appeal for Withdrawal of Minor Penalty of "Withholding of one increment for one year with cumulative effect"

Respected Sir,

With profound veneration it is stated that I was serving in the Elementary & Secondary Education Department, Khyber Pakhtunkhwa as DPE (BPS-18). Thereafter, I was posted as Assistant Directress in the Sports Department, Khyber Pakhtunkhwa on deputation basis vide Notification No. SO(/F)E&SE/4-16/2011/Ms.Safina Babar dated 22.9.2011. (Annex-I) Prior to maturity of my deputation period, I was repatriated to my parent Department vide Order No. SO(S)1-12/2011(Annex-II) dated 7.8.2013. I submitted an application to the Hon'ble Chief Minister to allow me to continue my job in Sports Department KP till the completion of my deputation period. (Annex-III)

Unaware of the fact and rule that I have to submit my arrival report to my parent department I kept on waiting for response of my application which neither decided nor replied.

In the circumstance explained above, period of 11 months had been passed in submitting my arrival report for duties in the GGHS School Shaidu Nowshera where my posting was made later on to my repatriation to my parent department. During that period of 11 months I have not received any pay.

Later on, I was served a Show Cause Notice (Annex-IV) for *withholding of one increment for one year* on the charges of delay in submission of arrival report. In response to my reply of the Show Cause Notice I submitted a detail reply and requested for personal hearing. My interview with the Enquiry Officer i.e Secretary Establishment KP was held. Now the E&SE KP vide their Notification SO(S/E&SE/4-17/2014/Safina Baber DPE dated 4.2.2015 (Annex-V) imposed the penalty of "Withholding of one increment for one year without cumulative effect: and the period of unauthorized absence from duty w.e.f 07.08.2013 to 02.07.2014.

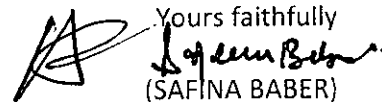
In this regard, I request you that since I was unaware of the rule to submit my arrival report in my parent department as I was await of the response of CM Secretariat therefore I could not submit my arrival report and continued my duties in the Sports Department as usual and that I did not received my pay for 11 months which made me indebted of many friends and relatives. Now I am in insolvent position. The withhold of increment and treatment of the absence period as leave without pay will create more financial problems for me.

In view of the above, it is earnestly requested that the imposed penalty of "Withholding of one increment for one year without cumulative effect: and treatment of unauthorized absence from duty w.e.f 07.08.2013 to 03.7.2014 may kindly be withdrawn on compassionate ground.

Thanking you in anticipation.



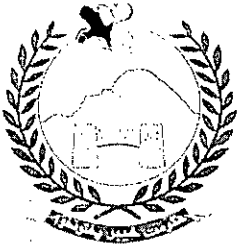
Yours faithfully


(SAFINA BABER)

O/c

DPE 9BPS-18) Govt Girls High School
Shaidu, Nowshera

Annexure "VF" (9)



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(S/F)E&SE/4-17/2015/Appeal
Dated Peshawar March 18, 2015.

To

The Section Officer-I,
Chief Minister's Secretariat,
Khyber Pakhtunkhwa, Peshawar.

SUBJECT:- APPEAL FOR WITHDRAWAL OF MINOR PENALTY OF
"WITHHOLDING OF ONE INCREMENT FOR ONE YEAR IWTHOUT
CUMULATIVE EFFECT"

I am directed to refer to your letter No.SO-I/CMS/KP/3-1/2015/2772 dated 24-02-2015 on the subject noted above and to intimate that Ms. Safina Baber Director Physical Education (BS-18) GGHSS Shaidu, Nowshera is penalized by the competent authority i.e Chief Minister Khyber Pakhtunkhwa after completion of all the codal formalities and proceedings initiated against her under E&D rules, 2011. Furthermore, contents of the appeal is the same which was earlier mentioned in her reply to show cause (Annex-A) & considered by the Secretary Establishment on behalf of Chief Minister during her personal hearing.

As nothing new in mentioned in her appeal, hence, the appellate authority i.e Chief Minister may be asked to regret her appeal having no genuine grounds.

(FOZIA NAZ)
SECTION OFFICER (S/F)

Endst.of even No & Date

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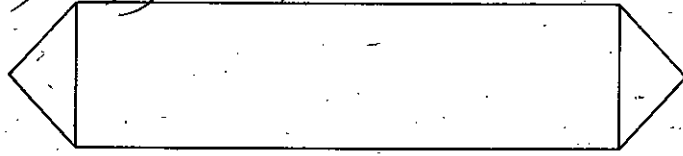
1. Director E&SE Peshawar.
2. DEO (F) Nowshera.
3. Ms. Safina Baber DPE GGHSS Shaidu, Nowshera.
4. PS to Secretary E&SE Department.

SECTION OFFICER (S/F)

Received
25/3. 2015



بعدالت جناب سر و سبز ڈسٹریکٹ سیکرٹری



Appellant کا 2 نمبر پنجاب

مورخہ 15-4-24

مسماحہ صفحہ ہائے پنجم حکومت وینڈ

Service appeal

مقدمہ
دعویٰ

جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سینا اور کیلئے نا بر علی خان اسٹریٹ
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 تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے۔
اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2015

ماہ اپریل

24

الرقوم

Safdar
Bains

Attest

العبد گواہ العبد

عبدنار علی مارٹ
چوک مشگوری بازار شی ٹون: 2220193

Mob: 0345-9223239

مقام سینا اور