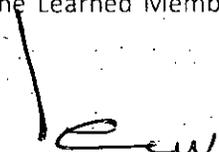


Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. - 14115 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/11/2020	<p>The appeal presented today by Mr. Umar Farooq Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	08-02-21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>1-3-2021</u></p> <p style="text-align: right;"> MEMBER(J)</p>
01.03.2021		<p>The learned Member Judicial Mr. Muhammad Jamal Khan is on leave, therefore, the case is adjourned. To come up for the same before S.B on 26.07.2021.</p> <p style="text-align: right;"> Reader</p>

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

**APPEAL NO. \_\_\_\_\_/2020**

**FAZAL GHANI**

**VS**

**EDUCATION DEPTT:**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
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2.	Notification	<b>A</b>	4
3.	Pay slips	<b>B &amp; C</b>	5-6
4.	Departmental appeal	<b>D</b>	7
5.	Service Tribunal judgment	<b>E</b>	8-9
6.	Vakalatnama		10

**APPELLANT**

THROUGH:

**UMAR FAROOQ**

**ADOCATE HIGH COURT**

**FLAT NO.4 2<sup>ND</sup> FLOOR, JUMMA KHAN PLAZA**

**WARSAK ROAD, PESHAWAR**

**CELL NO 0313-8901647**

Note:  
Sir,

Spare copies will be submitted  
After submission of the case.

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

**APPEAL NO. 14115 /2020**

Khyber Pakhtunkhwa  
Service Tribunal

Diar. No. 14115

Dated 11/11/2020

Mr, **FAZAL GHANI SAT(BPS-16)**  
GMS GUL BADSHAH SARO KELLY DIST MOHMAND.  
Personnel Number:00102994

.....**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE  
OKHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY  
ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE  
ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER  
VACATIONS AND AGAINST NO ACTION TAKEN ON THE  
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE  
STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That the appellant is serving in the Elementary & Secondary Education Department as **SAT (BPS-16)** quite efficiently and up to the entire satisfaction of their superiors.
- 2- That the Conveyance Allowance is admissible to all the Civil Servants and to this effect a Notification No. FD (PRC)1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from

Filed to-day  
Registrar  
11/11/20

BPS- 16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Copy of the Notification dated 20.12.2012 are attached as annexure..... **A.**

3- That appellant was receiving the conveyance allowances as admissible under the law and rules but the respondents without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. Copies of the Salary Slips of working/serving month and vacations (deduction period) are attached as annexure..... **B & C.**

4- That appellant feeling aggrieved from the action of the respondents regarding deduction of conveyance allowance in vacations period/months filed Departmental appeal but no reply has been received so far. Copy of the Departmental appeal & is attached as annexure..... **D.**

5- That colleges of appellant of different cader approached to this august tribunal in different service appeals which allowed by this august tribunal vide its judgment no 1452/2019 titled maqsad Hayat versus Education Department Dated 11-11-2019..... **E.**

6- That the appellant also prayed to be treated through the principals of consistency for allowing such relief which was granted in appeal No. 1452/2019 titled Maqsad Hayat versus Education Department in Judgment Dated 11.11.2019.

7- That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents. That appellant feeling aggrieved and having no other remedy filed the instant service appeal on the following grounds amongst the others.

**GROUND:**

A- That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period/months is illegal, against the law, facts, norms of natural justice.

B- That the appellant have not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

C- That the action of the respondents is without any legal authority, discriminatory and in clear violation of fundamental rights duly conferred by the Constitution and is liable to be declared as null and void.

A-4



GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO. FDSO(SR-11)/8-52/2012  
Dated Peshawar the: 20-12-2012

From

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Finance Department,  
Peshawar.

To:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers in Khyber Pakhtunkhwa.
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa.
9. The Registrar, Peshawar High Court, Peshawar.
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject

REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE  
CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL  
GOVERNMENT BPS 1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance /  
revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants, Govt.  
of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1<sup>st</sup> September, 2012 at  
the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19  
will remain unchanged.

S.NO	BPS	EXISTING RATE (PM)	REVISED RATE (PM)
1.	1-4	Rs. 1,500/-	Rs. 1,700/-
2.	5-10	Rs. 1,500/-	Rs. 1,840/-
3.	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to  
those BPS-17, 18 and 19 officers who have not been sanctioned official vehicles.

Yours Faithfully,

(Sahibzada Saad Ahmad)  
Secretary Finance

Encls: NO. FDSO(SR-11)/8-52/2012

Dated Peshawar the 20<sup>th</sup> December, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, Sindh & Balochistan Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

(INTIAZ AYUB)  
Additional Secretary (Revenue)

A-4

GOVERNMENT OF KHYBER PAKHTUNKHWA  
FINANCE DEPARTMENT  
(REGULATION WING)

NO.FD/SO(SR-II)/52/2012

Dated Peshawar the: 20.12.2012

From:

The Secretary to Govt. of Khyber Pakhtunkhwa.  
Finance Department, Peshawar.

To:

1. All administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Secretary to Governor, Khyber Pakhtunkhwa.
4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
6. All Heads of attached Departments in Khyber Pakhtunkhwa.
7. All District Coordination Officers of Khyber Pakhtunkhwa.
8. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
9. The Registrar Peshawar High Court, Peshawar.
10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject: REVISION IN THE RATE OF CONVEYANCE ALLOWANCE FOR THE CIVIL EMPLOYEES OF THE KHYBER PAKHTUNKHWA, PROVINCIAL GOVERNMENT BPS-1-19

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance/revise the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govt. of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1<sup>st</sup> September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain unchanged.

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3.	11-15	Rs. 2,000/-	Rs. 2,720/-
4.	16-19	Rs. 5,000/-	Rs. 5,000/-

2. Conveyance Allowance at the above rates per month shall be admissible to those BPS-17, 18 and 19 officers who have not been sanctioned official vehicle.

Your Faithfully

(Sahibzada Saeed Ahmad)  
Secretary Finance

Endst No. FD/SO(SR-II)8-52/2012 Dated Peshawar the 20<sup>th</sup> December, 2012

**Dist. Govt. KP-Provincial**  
**District Accounts Office GHALLANAI**  
**Monthly Salary Statement (August-2020)**

5 = 8



**Personal Information of Mr FAZAL GHANI d/w/s of GUL KHAN**

Personnel Number: 00102994      CNIC: 0013998831192      NTN:  
 Date of Birth: 15.10.1969      Entry into Govt. Service: 01.01.1994      Length of Service: 26 Years 08 Months 001 Days

**Employment Category: Active Temporary**

Designation: SENIOR ARABIC TEACHER      80926292-DISTRICT GOVERNMENT KHYBE

DDO Code: MG6015-Government Middle Schools Mohmand

Payroll Section: 001      GPF Section: 001      Cash Center:

GPF A/C No: 7477      Interest Applied: Yes      **GPF Balance:**      494,513.00

Vendor Number: -

**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 16      Pay Stage: 25

Wage type		Amount	Wage type		Amount
0001	Basic Pay	56,910.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1528	Unattractive Area Allow	2,500.00
1947	Medical Allow 15% (16-22)	1,500.00	2148	15% Adhoc Relief All-2013	1,260.00
2199	Adhoc Relief Allow @10%	840.00	2211	Adhoc Relief All 2016 10%	4,276.00
2224	Adhoc Relief All 2017 10%	5,691.00	2247	Adhoc Relief All 2018 10%	5,691.00
2264	Adhoc Relief All 2019 10%	5,691.00			0.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-2,105.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 25,251.55      Recovered till AUG-2020: 4,210.00      Exempted: 0.85-      Recoverable: 21,042.40

**Gross Pay (Rs.): 92,086.00      Deductions: (Rs.): -7,045.00      Net Pay: (Rs.): 85,041.00**

Payee Name: FAZAL GHANI

Account Number: 4897-5

Bank Details: NATIONAL BANK OF PAKISTAN, 231435 SHABQADAR SHABQADAR,

Leaves:      Opening Balance:      Aailed:      Earned:      Balance:

~~RECEIVED~~

Permanent Address: CHARASADDA GHALLANAI MOHMAND AGENCY

City: GHALLANAI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: fazalighanisat@gmail.com

32

**Government of Pakistan**  
**District Accounts Office GHALANAI**  
**Monthly Salary Statement (July-2016)**

B = C



**Personal Information of Mr FAZAL GHANI d/w/s of GUL KHAN**

Personnel Number: 00102994      CNIC: 0013998831192      NTN:  
 Date of Birth: 15.10.1969      Entry into Govt. Service: 01.01.1994      Length of Service: 22 Years 07 Months 001 Days

**Employment Category: Active Permanent**

Designation: ARABIC TEACHER      00000016-Min. Of K.A & N.A & S.F.R  
 DDO Code: MG0004-Agency Education Officer Mohmand  
 Payroll Section: 001      GPF Section: 001      Cash Center:  
 GPF A/C No: IV.EDU.KT.7477      Interest Applied: Yes      GPF Balance: 180,117.00  
 Vendor Number: -

**Pay and Allowances:**      Pay scale: BPS For --2016      Pay Scale Type: Civil      BPS: 16      Pay Stage: 20

Wage type		Amount	Wage type		Amount
0001	Basic Pay	41,480.00	1000	House Rent Allowance	1,818.00
1300	Medical Allowance	1,500.00	1528	Unattractive Area Allow	1,000.00
1948	Adhoc Allowance 2010@ 50%	6,390.00	2148	15% Adhoc Relief All-2013	1,260.00
2199	Adhoc Relief Allow @10%	840.00	2211	Adhoc Relief All 2016 10%	4,148.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3300	GPF Other Govt. Emp	-2,275.00	3609	Income Tax	-252.00
3661	E.E.F (Exchange)	-125.00	3701	Benevolent Fund(Exchange)	-250.00
3704	Group Insurance(Exchange)	-173.00	3711	Addl Group Insuranc(Exch)	-19.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	108,000.00	-3,000.00	54,000.00

**Deductions - Income Tax**

Payable: 12,061.55      Recovered till July-2016: 252.00      Exempted: 9045.47      Recoverable: 2,764.08

**Gross Pay (Rs.): 58,436.00      Deductions: (Rs.): -6,094.00      Net Pay: (Rs.): 52,342.00**

Payee Name: FAZAL GHANI  
 Account Number: 4897-5  
 Bank Details: NATIONAL BANK OF PAKISTAN, 231435 SHABQADAR SHABQADAR, GILGIT

**Leaves:**      Opening Balance:      Aailed:      Earned:      Balance:

Permanent Address: CHARASADDA GHALLANAI MOHMAND AGENCY  
 City: GHALLANAI      Domicile: NW - Khyber Pakhtunkhwa      Housing Status: No Official  
 Temp. Address:  
 City:      Email: fazalighanisat@gmail.com

~~RECEIVED~~



To

The Secretary (E&SE) Department,  
Khyber Pakhtunkhwa, Peshawar.

7 = 0

**Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ACTION OF THE CONCERNED AUTHORITY BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE DURING WINTER & SUMMER VACATIONS**

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as SAT (BPS-16) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011. was issued. Later ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees working in BPS 1 to 15 were enhance/revised while employees from BPS-15 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Respected Sir, I was receiving the conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justifiable reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. One of the employee of Education Department in Islamabad filed service appeal No.1888 (R) CS/2016 before the Federal Service Tribunal, Islamabad regarding conveyance allowance which was accepted by the Honorable Service Tribunal vide its judgment dated 03.12.2018. That the august K.P.K service tribunal also allowed the restoration of the convece allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Maqsd Hayat versus Education Derpartment. **Copy attached.** That I also the similar employee of Education Department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granting to other employees. **Copy attached.** I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 20.07.2020

Your Obediently

FAZAL GHANI



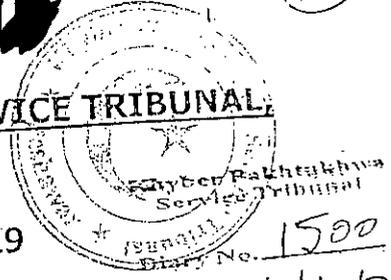
GMS GUL BADSHAH SARO KELLY DIST MOHMAND

**ATTESTED**

To Be True Copy

E-8

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**



APPEAL NO. 1452 /2019

Date: 24/10/2019

Mr. Maqсад Hayat, SCT (BPS-16),  
GHS Masho Gagar, Peshawar.....**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
  - 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
  - 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
  - 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
  - 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- .....**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**ATTESTED**

**R/SHEWETH:**  
**ON FACTS:**

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal

Recd to-day  
Registrar  
24/10/19

M  
Registrar  
11/11/19

Recd to-day  
Registrar

Appeal No. 1452/2019  
Marbad Hayat vs Govt

(F)

11.11.2019

Counsel for the appellant present.

9 9

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

Certified  
Peshawar

File be consigned to the record.

ATTESTED

ATTESTED  
Chairman

ANNOUNCED

11.11.2019

EX-1143  
Se

Chairman

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

**FAZAL GHANI**

(APPELLANT)

(PLAINTIFF)

(PETITIONER)

**VERSUS**

(RESPONDENT)

Education Department

(DEFENDANT)

I/We **FAZAL GHANI**

do hereby appoint and constitute **UMAR FAROOQ, Advocate, High court, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2020

  
\_\_\_\_\_  
**CLIENT**

  
\_\_\_\_\_  
**ACCEPTED**  
**UMAR FAROOQ**  
**ADVOCATE**