Form- A

FORM OF ORDER SHEET

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	Case No	13957 /2020	
No.	Date of order proceedings	Order or other proceedings with signature of judge	
1 .	2	3	
1	28/10/2020	The appeal presented today by Mr. Umar Farod may be entered in the Institution Register and put to the Lear	
		for proper order please.	-W RAR !
•	08-02-21	This case is entrusted to S. Bench for preliminary hear up there on $4/3/21$	•
		MEMBER(J)	
01.	03.2021	The learned Member Judicial Mr. Muhammad J	amal Khar
		eave, therefore, the case is adjourned. To con	
	sam	e before S.B on 26.07.2021.	
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		Re	ader

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

-	APPEAL	NO.	·		_/ 2020	J	
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HUSSAIN KHAN VS EDUCATION DEPTT:

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S.NO.	DOCUMENTS	ANNEXURE PAGE
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6.	Vakalatnama	10

THROUGH:

APPELLANT

UMAR FAROOO **ADOCATE HIGH COURT** CELL NO 0313-8901647

Note: Sir,

Spare copies will be submitted After submission of the case.

43EFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 13257 /2020 Khyber Pakhtukhwa

Mr, HUSSAIN KHAN PST(BPS-15)

GPS GALANYE, District Monmand.
Personnel Number:00104057

Dated 28 110 2020

.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 OKHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 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 DEPARTMENTAL APPEAL OF THE APPELLANT 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 a wacations 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 **PST (BPS-15)** 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

- 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
- 5- That colleges of appellant of different caderapproached to this august tribunal in different service appeals which allowed by this august tribunal vide its judgment no 1452/2019 titled magsadHayat versus Education Department Dated 11-11-2019.
- 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.

GROUNDS:

- 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.
- D- That there is clear difference between leave and vacation as leave is applied by the Civil Servant in light Government Servant Revised Leave Rules, 1981 while the vacations are always announced by the Government,

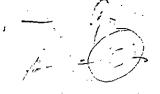
- therefore under the law and Rules the appellant fully entitled for the grant of conveyance allowance during vacations period.
 - E- That the Government Servants Revised Leave Rules, 1981 clearly explain that the civil servants who avail the vacations are allowed only one leave in a month whereas, the other civil servants may avail 04 days leave in a calendar months and the same are credited to his account and in this way he may avail 48 days earned leave with full pay, whereas the Government servants to avail vacation such as appellant is allowed one day leave in a month and twelve (12) days in a year and earned leave for twelve days in a year are credited to his account and there is no question of deduction of conveyance allowance for vacation period, the respondents while making the deduction of conveyance allowance lost sight of this legal aspect and illegally and without any authority started the recovery and deduction of conveyance allowance from appellant.
 - F- That as the act of the respondents is illegal, unconstitutional, without any legal authority and not only discriminatory but is also the result of malafide on the part of respondents.
 - G- That appellant has the vested right of equal treatment before law and the act of the respondents to deprive the petitioners from the conveyance/allowance is unconstitutional and clear violation of fundamental rights.
 - H- That according to Government Servants Revised leave Rules, 1981 vacations are holidays and not leave of any kind, therefore, the deduction of conveyance allowance in vacations is against the law and rules.
 - I- That according to Article 38 (e) of the Constitution of Islamic Republic of Pakistan, 1973 the state is bound to reduce disparity in the income and earning of individuals including persons in the services of the federation, therefore in light of the said Article the appellant fully entitle for the grant of conveyance allowance during vacations.
 - J- That the petitioners seeks permission of this Honorable Court to raise any other grounds available at the time of arguments.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for under the golden principals of consistency.

APPELLANT HUSSAIN KHAN

THROUGH:

UMAR FAROOQ
ADVOCATE HIGH COURT





GÖVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO(SR-II/78-52/2012) Dated Peshawar the: 20-12-2012

From

The Secretary to Govt, of Khyber Pazhtunkhwa, Finance Department, Penhawar,

To-

- All Administrative Secretaries to Gov. of Kington Pakintonishwa.
- The Senior Member, Board of Revenue, Knyber Pakhundhan.
- 3. The Secretary to Governor Kriyber Pakhtunkawa
- 4 The Secretary to Chief Minster, Khyber Pakhtunkings.
- 5: The Secretary, Francial Ayoundly, Khyber Pakallerkhisa
- 5. All Heads of Altaches Departments in Knyher Pakhtunkhwa
- Af District Coordination Officerous Khytter Paklitonkhwa.

 S. Ak Political Agents / District & Semions Judges in Khytter Paklitunkhwa.
- The Registral Peshapar High Court, Peshapar
- 10 The Chairman Public Service Convincion, Khyber Pokhlunkiwa.

The Chairman, Sewers Tabenel, Klyper Pakhtonkhwa.

Saft ext

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

Dear Sir.

The Government of Khybet Pakhturahyra has been pleased to enhance / viviso the rate of Conveyonce Allowance admissible to all the Provinced Civil Servants, Govern Vivisor Pakhturahyra (violating in BPS-1 to BPS-15) w.e.f from 1° September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-15 to BPS-19 will remain unchanged.

A Company of the last of the l		·	
SNO	BP5	EXISTING RATE (PM)	REVISED RATE (PM)
1.	1-4	₹\$.1,500/-	Rs.1,700/-
. 2.	5-10	Ps.1,500/-	R\$.1,840/-
3,	11-15	Rs.2,000/-	Rs.2,720/-
<u>.</u>	16-19	Rs.5,000/-	R\$.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 afficial vehicles.

Yours Faithfully,

(Sahibzada Sacod Atymad) Secretary Finance

Endyt: NO. FDESO/SR-117/8-52/2012

Dated Legiawar the 20th Decomber, 2012

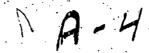
A Copy is forwarded for information to the:-

- 1. Accountant General Kander Pakhturking, Peyligiger
- ্বিভাগেরসাহর to Goyeshirazi of Punjab, জিতান & Salpsifization দিক্ষাস্থাত Depositation হ

3. All Auguromous / Semi Autonomous Socies in Kindog Pakhtankhas

(MTĪĀZ ĀYUB)

Additional Secondary (Rose)



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION 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 Gove of Khyber Pakhtunkhwa (working in BPS-1 to BPS-15) w.e.f from 1st September, 2012 at the following rates. However, the conveyance allowance for employees in BPS-16 to BPS-19 will remain unchanged.

			_ <u></u>
S.No.	BPS	Existing Rate (PM)	Revised Rate (PN)
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/-

Conveyance Allowance at the above rates per month shall be admissible to those BPS-17,
 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 20th December, 2012



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





Personal Tormation of Mr HUSSAIN KHAN d/w/s of NASAR KHAN

Personnel Number: 00104057

CNIC: 2140293208719

Date of Birth: 15.06.1957

Entry into Govt. Service: 01.01.1980

NTN:

Length of Service: 36 Years 06 Months 001 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL TEACHER

Wage type

00000016-Min. Of K.A & N.A & S.F.R

2174 Adhoc Relief Allow-2014

Payroll Section: 001

DDO Code: MG0005-Agency Education Officer Mohmand

GPF Section: 001

Cash Center: 39

GPF A/C No:

0001

1300

Interest Applied: Yes

GPF Balance:

1000

1505

1948

388,629.00

Pay Stage: 19

Vendor Number: -

Pay and Allowances:

Basic Pay

Medical Allowance

1528 Unattractive Area Allow

2148 15% Adhoc Relief All-2013

2199 Adhoc Relief Allow @10%

Pay scale: BPS For - 2015

Amount

28,180.00

1,500.00

1,000.00

3,165.00

2,818.00

Pay Scale Type: Civil

BPS: 15

Wage type	Amount
House Rent Allowance	1,566.00
Charge Allowance	40.00
Adhoc Allowance 2010@ 50%	5,587.00
Adhoc Relief Allow-2014	2 110 00

0.00

Deductions - General

Wage type		Wage type Amount		Wage type	Amount
3300	GPF Other Govt.Emp	-1,965.00	3609	Income Tax	-96.00
3661	E.E.F (Exchange)	-100.00	3701	Benevolent Fund(Exchange)	-180.00
3704	Group Insurance(Exchange)	-115.00	3711	Addl Group Insuranc(Exch)	-13.00

Deductions - Loans and Advances

	<u> </u>		 		
Loan		Description	 Principal amount	Deduction	Balance
			 		· · · · · · · · · · · · · · · · · · ·
			,	•	

Deductions - Income Tax

Payable: 4,579.83

Recovered till June-2016:

Bank Details: UNITED BANK LTD., 211384 GHALANAI GHALANAI,

96.00

Exempted: 3434.32

Recoverable:

1,049.51

Gross Pay (Rs.): 45,966.00

Deductions: (Rs.):

-2,469.00

et Pay: (Rs.): 43,497.00

Payee Name: HUSSAIN KHAN

Account Number: 010-0880-7

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: CIVIL COLONY GHALANAI GHALLANAI MOHMAND AGENCY

City: GHALLANAI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: hussainkhan5557273@gmail.com

Hussain Khan

Government of Pakistan District Accounts Office GHALANAI Monthly Salary Statement (January-2017)



Personnel Number: 00104057

CNIC: 2140293208719

Date of Birth: 15.06.1957

Entry into Govt. Service: 01.01.1980

Length of Service: 37 Years 01 Months 001 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL TEACHER

00000016-Min. Of K.A & N.A & S.F.R

DDO Code: MG0005-Agency Education Officer Mohmand

Payroll Section: 001

GPF Section: 001

Cash Center: 39

GPF A/C No:

Interest Applied: Yes

GPF Balance:

443,983.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2016

Pay Scale Type: Civil BPS: 15

Pay Stage: 20

Wage type		Amount		Wage type	Amount
0001	Basic Pay	35,910.00	1000	House Rent Allowance	1,566.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1505	Charge Allowance	40.00	1528	Unattractive Area Allow	1,000.00
1948	Adhoc Allowance 2010@ 50%	5,587.00	2148	15% Adhoc Relief All-2013	1,055.00
2199	Adhoc Relief Allow @10%	705.00	2211	Adhoc Relief All 2016 10%	3,591.00

ns - General

Wage type		Amount Wage typ		Wage type	Amount
3300	GPF Other Govt.Emp	-2,425.00	3609	Income Tax	-197.00
3661	E.E.F (Exchange)	-100.00	3701	Benevolent Fund(Exchange)	-180.00
3704	Group Insurance(Exchange)	-115.00	3711	Addl Group Insuranc(Exch)	-13.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 9,120.88

Recovered till January-2017:

1,300.00

Exempted: 6839.83

Recoverable:

981.05

Gross Pay (Rs.): 53,810.00

Deductions: (Rs.):

-3,030.00

Net Pay: (Rs.): 50,780.00

Payee Name: HUSSAIN KHAN

Account Number: 01.0-0880-7

Bank Details: UNITED BANK LTD., 211384 GHALANAI GHALANAI,

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: CIVIL COLONY GHALANAI GHALLANAI MOHMAND AGENCY

City: GHALLANAI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: hussainkhan5557273@gmail.com

Te

The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar. 7-D

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 PST (BPS-15) 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 convence allowance in its judgment dated 11.11.2019 in appeal No 1452/2019 titled Magsad 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: 09.062020

HUSSAIN KHAN GPS GALANYE

ATTESTED ATTO BE True COOM



TUNKHWA SERVICE TRIBUNA BEFORE THE KHYBER PAKH PESHAWAR

APPEAL NO. 1452 /2019

Mr. Maqsad Hayat, SCT (BPS-16), GHS Masho Gagar, Peshawar.....

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 UDNER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED RESPONDENTS BY ILLEGALLY ACTION OF THE UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE THE APPELLANT DURING WINTER & VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN 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 Fledto-daypreviously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in Registrar favor of the appellant.

R/SHEWETH: ON FACTS:

2-14/18/16

- 1- That the appellant is serving in the elementary and esecondary 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 ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Appeal No. 1452/2019 Markad Hayat vs Gort 122 (F)

11.11.2019

Counsel for the appellant present.

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.

Cartifical

Poshawar

File be consigned to the regord.

ANNOUNCED

11.11.2019

EX-D

Chairman

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKE	IWA SERVICE TIBUNAL, PESHAWAR
	OF 2020
III.CCAYN IZHAN	(APPELLANT)
HUSSAIN KHAN	(PLAINTIFF)
	(PETITIONER)
<u>Ver</u>	<u>ssus</u>
Education Department	(RESPONDENT) (DEFENDANT)
I/WeHUSSAIN KHAN	AD FAROOS Advantages
	IAR FAROOQ, Advocate, High court
for me/us as my/our Counsel/Advocate liability for his default and with the Advocate Counsel on my/our cost. I/we	promise, withdraw or refer to arbitration in the above noted matter, without any authority to engage/appoint any othe authorize the said Advocate to deposit half all sums and amounts payable ove noted matter.
Dated/2020	

ACCEPTED
UMAR FAROOQ
ADVOCATE