


## FORM OF ORDER SHEET

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

Implementation Petition No. 814/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.11.2023	<p>The implementation petition of Mst. Asia Bibi &amp; others Legal Heir of Late Latif Khan submitted today by Mr. Akhtar Ilyas Advocate. It is fixed for implementation report before touring Single Bench at Swat on - _____ Original file be requisitioned. AAG has noted the next date.</p> <p>By the order of Chairman  REGISTRAR</p>

**BEFORE KP SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 814 /2023

In

Service Appeal No. 488/2022

Decided on 08.03.2023

**Latif Khan through LRs Mst. Asia Bibi and others**

.....Petitioners

**Versus**

**Superintendent of Police and others**

.....Respondents

**INDEX**

S.No	Description of Documents	Annexure	Pages
1.	Execution Petition with Affidavit		1-3
2.	Copy of Order dated 08.03.2023	A	4-8/2A
3.	Copy of CM and Vakalatnama	B	9-15

*Latif Khan*  
Petitioners

Through

*Akhtar Ilyas*

**AKHTAR ILYAS**  
ADVOCATE HIGH COURT

*Abdul Majeed Yousafzai*  
**ABDUL MAJEED YOUSAFZAI**  
ADVOCATE, PESHAWAR.

0333-9417974

**BEFORE KP SERVICE TRIBUNAL PESHAWAR**

Execution Petition No. 814 /2023

In

Service Appeal No. 488/2022

Decided on 08.03.2023

**Latif Khan through LRs:**  
*EX-H.C NO. 582 DIST. POLICE Buner*

- 1. Mst. Asia Bibi (Widow)**
- 2. Mst. Aqsa Khan (Daughter)**
- 3. Hashim Khan (Son)**
- 4. Mst. ~~Hodzen~~ Khan (Daughter)**
- 5. Mst. Zar Lal (Daughter) LRs of Latif Khan**  
**Residents of Village Nawagai, Tehsil Mandanr,**  
**District Buner.**

.....**Petitioners**

**Versus**

- 1. Superintendent of Police, (Investigation), District Buner.
- 2. District Police officer, Buner at Daggar.
- 3. Regional Police Officer / DIG Malakand at Saidu Sharif Swat.
- 4. PPO / IG Police, Khyber Pakhtunkhwa, Peshawar.

.....**Respondents**

**PETITION FOR DIRECTING  
RESPONDENTS TO IMPLEMENT THE  
ORDER DATED 08.03.2023 PASSED  
IN SERVICE APPEAL NO. 488/2022.**

---

**Sheweth!**

1. That the predecessor of the petitioners namely Latif Khan (late) filed a Service Appeal No. 488/2022, the same has been accepted vide order dated 08.03.2023. **(Copy of Order dated 08.03.2023 is attached as annexure-A).**
2. That the above referred judgment has been remitted to respondents No. 1 and 2 through an application.
3. That the letter for compliance of the order has also been sent by worthy Registrar of this Honorable Tribunal as well.
4. That during the pendency of appeal, the appellant Latif Khan (late) LRs of the appellant was brought on file through CM **(Copy of CM is attached as annexure "B")** but the same has not been mentioned in the final judgment.

- 5. That petitioners being LR's of the appellant Latif Khan are entitled to receive the family pension of Latif Khan (late).
- 6. That the respondents are under legal obligations to implement the order passed by the worthy Service Tribunal in letter and spirit but they failed to do so, hence this petition for implementation.
- 7. That the appellants seek leave of the Court to urge additional ground at the time of arguments.

**PRAYER:**

**It is, therefore, prayed that the order dated 08.03.2023 passed in Service appeal No. 488/2022 may kindly be implemented in letter and spirit without further amount of delay and the respondents be directed to process the case of the Latif Khan (late) for purpose of pension and other emoluments.**

*CCS*  
Petitioners

Through

*Ilyas*

**AKHTAR ILYAS  
ADVOCATE HIGH COURT**

*Abdul Majeed*

**ABDUL MAJEED YOUSAFZAI  
ADVOCATE, PESHAWAR.**

0333-9417974

**AFFIDAVIT**

It is hereby affirmed and declared on oath that the contents of above Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*CCS*  
**Deponent**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT, SWAT**

Service Appeal No. 488/2022

Date of Institution ... 01.04.2022  
Date of Decision ... 08.03.2023



Latif Khan, Ex-HC No.582 District Police Buner R/O Village Nawagai,  
Tehsil Mandanr, District Buner.

... (Appellant)

**VERSUS**

Superintendent of Police (Investigation), District Police, Buner and three  
others.

... (Respondents)

Akhtar Ilyas,  
Advocate

... For appellant

Muhammad Jan,  
District Attorney

... For respondents

Mrs. Rozina Rehman

... Member (J)

Miss. Fareeha Paul

... Member (E)

**JUDGMENT**

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

“That the impugned orders dated 02.06.2021 and  
24.03.2022 may please be set aside and the respondents be  
directed to reinstate the appellant into service with all  
back benefits.”

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

2. Brief facts of the case are that the appellant was appointed as  
Constable in the Police Department in 2007. He was charged in case FIR  
No.493 dated 20.12.2020 U/S 302, 324/34 PPC registered at Police  
Station Nawagai District Buner and was sent to Judicial Lockup by  
competent court of Law. Resultantly he was dismissed from service on

02.06.2021 without waiting for the fate of trial. He filed departmental appeal through Superintendent District Jail Buner at Daggar, which was kept pending till the decision of the case. He was acquitted by the learned court of ASJ-I Buner but his departmental appeal was rejected. Feeling aggrieved, he filed the present service appeal.

3. We have heard Akhtar Ilyas Advocate, learned counsel for the appellant and Muhammad Jan, learned District Attorney for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Akhtar Ilyas Advocate, learned counsel for the appellant argued inter-alia that the impugned orders are against law and facts being based on conjectures and surmises hence not tenable. He contended that the appellant was in judicial custody and his trial was under process but the Department failed to associate him with any sort of inquiry, therefore, the impugned order has got no force. Learned counsel argued that his acquittal was not taken into consideration by the competent authority as well as by the departmental authority and the order was passed at the back of the appellant. Lastly, he submitted that the appellant was not treated in accordance with law by violating Articles-4 & 25 of the Constitution of Islamic Republic of Pakistan, 1973.

5. Conversely, learned District Attorney argued that appellant was directly charged in a murder case vide FIR No.493 dated 20.12.2020 who absconded after the commission of offence. He was arrested on 10.02.2021 and was properly interrogated. During interrogation, he admitted his guilt and he was sent to judicial lockup. Being a civil servant, he was proceeded against departmentally, wherein, he was found

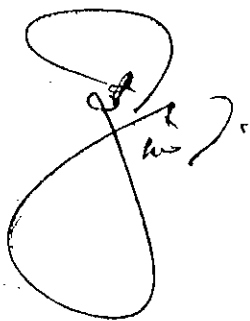
*Handwritten signature/initials*

**ATTESTED**

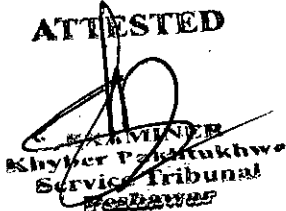
**EXAMINER  
Hydrabad Pakhtukhwa  
Service Tribunal  
Hydrabad**

guilty for the commission of offence, therefore, he was rightly dismissed from service after fulfillment of all codal formalities.

6. From the record, it is evident that appellant was serving in the Police Department as Head Constable. While posted at Investigation Police Station Peer Baba, he was found involved in case FIR No.493 dated 20.12.2020. From the impugned order, it is evident that he was suspended and closed to Investigation Headquarters vide OB No.65 dated 22.12.2020. This order was not produced before the Bench in order to show his suspension. It is on record that after registration of FIR, he was arrested on 10.02.2021 which is evident from the card of arrest available on file as "Annexure-B" with the comments. Charge sheet available on file alongwith statement of allegations would reveal that the same was issued on 31.12.2020. however the record is silent as to whether the same was served upon the appellant as he had not been arrested in the criminal case and it was on 10.02.2021 when he was arrested. It is also on record that as per Nakalmd No.15 of Daily Dairy dated 20.12.2020 one day casual leave was granted to the appellant and on the same very date, he was nominated in FIR No.493 dated 20.12.2020. He was arrested on 10.02.2021. People do abscond due to fear and it was after about one and a half month of the occurrence when he was arrested in the above mentioned case and was sent to the judicial lockup. One Zahir Rehman Khan DSP Investigation had been appointed as Inquiry Officer who did nothing as appellant was confined in jail and the only letter available on file on behalf of the Superintendent of Police Investigation Buner addressed to the Superintendent of Jail Buner at Daggar, wherein, Superintendent of Jail was requested that the inquiry officer may be allowed to record the statement of appellant in order to




**ATTESTED**




Khyber Pakhtunkhwa  
Service Tribunal  
Buner



finalize his departmental inquiry. The Inquiry Officer in his finding report recommended that the inquiry proceedings be kept pending till the decision of court in criminal case but the Superintendent of Police, Investigation, Buner awarded major punishment of dismissal from service on 02.06.2021 while the appellant was acquitted of the charges leveled against him in murder case by the learned Additional Sessions Judge, Buner at Daggar vide judgment dated 24.02.2022. Order of Regional Police Officer dated 24.03.2022 would reveal that he did not take into consideration the acquittal order of the appellant and his appeal was rejected vide order dated 24.03.2022. From the record, it is very much evident that no proper suspension order of the appellant was passed and produced. No proper inquiry was conducted and the appellant was not afforded any opportunity of defense. He was not given the opportunity of cross examination. He was condemned unheard as admittedly he was confined in District Jail. His acquittal was not taken into consideration and he was punished. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Nomination/Involvement of the appellant in criminal case was the sole ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.




**ATTESTED**

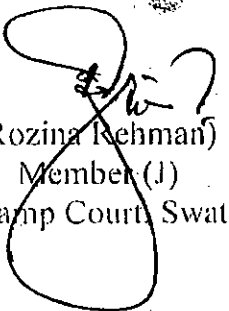


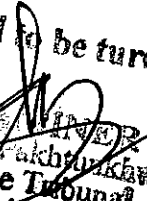
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

7. For the above mentioned facts and circumstances, this appeal is accepted. Appellant is reinstated into service from the date of his dismissal from service i.e. 02.06.2021 with all back benefits. While the absence period w.e.f. the date of registration of FIR No.493 dated 20.12.2020 till the date of his arrest i.e. 10.02.2021 be considered as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
08.03.2023

  
(Farzana Paul)  
Member (E)  
Camp Court, Swat

  
(Rozina Rehman)  
Member (J)  
Camp Court, Swat

**Certified to be true copy**  
  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 11/04/2023  
 Number of Words page 5  
 Copying Fee 25/-  
 Urgent 5  
 Total 25/-  
 Name of Applicant \_\_\_\_\_  
 Date of Completion of Copy 08/05/2023  
 Date of Delivery of Copy 08/05/2023

خدمت جناب SP انسپریکشن ضلع بونین مقام ڈگر

درخواست بھراد عملہ آفد

برفیلہ نمبر 08 <sup>03</sup>/<sub>2023</sub>

جناب عالی! سائڈان صاحب ذیل اسکاں ہے!

۱۔ یہ کہ فورٹ اعلیٰ میں لطف خان کو حکیم نے درخواست کیا تھا  
جیلو ایٹوں نے اپنی ہی زندگی میں سروس ریٹیریٹیوٹی میں صلح  
کیا تھا۔

② یہ کہ نمبر 08 <sup>03</sup>/<sub>2023</sub> صفحہ عدالت جیٹریٹوں کو نے منظور  
کیا رفیع لفظ ہے

③ یہ کہ فورٹ اعلیٰ میں لطف خان مرحوم کی برخاستگی قسم کرک  
ان کے جملہ بقایا جات بشمول تنخواہ، پنشن، گریجویٹی اور  
میں پنشن پراسس کرکے سائڈان کے وارڈس کریں

استدعا ہے کہ سائڈان کو اسکا جائزہ  
قانون حق بشکل تنخواہ، پنشن، گریجویٹی  
اور میں پنشن وغیرہ ادائیگی کے حکام  
صادر فرمایا جائے

المرقوم <sup>05</sup>/<sub>15</sub> 2023

صدا آسیا وغیرہ

سائڈان تارکے تحصیل منڈو ضلع بونین  
بوسالت کرتا جان

Attested  
[Signature]

**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR**


In Re:

S.A No. 488/2022**Latif Khan****Versus****Superintendent of Police****INDEX**

S.No	Description of Documents	Annex	Pages
1.	Application for impleadment with Affidavit		1-2
2.	Copy of Death Certificate	A	3
3.	Form-B	B	4-5
4.	Vakalat Nama		6

Applicants

Through


**Akhtar Ilyas**

Advocate High Court.

Off. TF-287, Deans Trade

Center, Saddar Cantt,

Peshawar.

Cell # 0333-9417974

**BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR**

In Re:

S.A No. 488 /2022

**Latif Khan**

**Versus**

**Superintendent of Police**

**APPLICATION FOR IMPLEADMENT OF LR's OF APPELLANT IN THE TITLED SERVICE APPEAL**

**Sheweth**

1. That the Service Appeal is pending disposal in this Hon'ble Tribunal and is fixed for arguments on 10.02.2023 in Camp Court, Swat.
2. That on 26.11.2022, the appellant has breathed his lost. **(Copy of Death Certificate is attached as annexure "A")**.
3. That as per law laid down by the August Supreme Court of Pakistan reported as **2021 SCMR 702** the LR's of appellant needs to be impleaded in the penal of appellant as the cause of action involved in the titled Service Appeal is survival rights. In such eventuality,

11

12

the survival rights flowed down to the LR's to pursue the lis and take the same to its logical conclusion.

2 following  
4. That ~~nothing~~ are the LR's/Successors of the appellant:

- i. Asia Bibi (Widow)
- ii. Aqsa Khan (Daughter)
- iii. Hashim Khan (Son)
- iv. Horeen Khan (Daughter)
- v. Zar Lal (Daughter)

**(Form-B is attached as "B").**

The same needs to be impleaded as successors/LR's of appellant.


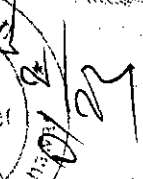
**It is, therefore, prayed that the LR's of appellant mentioned in the preceding para may kindly be impleaded in the Service Appeal.**

Applicants  
Through 

**Akhtar Ilyas**  
Advocate High Court.  
Off. TF-287, Deans Trade  
Center, Saddar Cantt,  
Peshawar.  
Cell # 0333-9417974

**AFFIDAVIT:**

I, do hereby solemnly affirm and declare on Oath that the contents of the Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

ATTESTED  
Gul Daraz Khan  
Oath Commissioner  
Advocate High Ct  
  


12



حکومت خیبر پختونخوا پاکستان  
Govt of Khyber Pakhtunkhwa Pakistan

Annex-A  
8

اندراج وفات سرٹیفکیٹ

Death Registration Certificate

دفتر اندراج : Nawagai\_500462

Tracking Id: 91100012873759

CRMS No. D746653144

OLD/M REG #:

Old CRMS No.:

Deceased Person's Details		متوفی کے کوائف
Name :	Latif Khan	نام : لطیف خان
Nationality :	Pakistan	قومیت : پاکستان
CNIC No :	15101-0421154-3	شناختی کارڈ : 15101-0421154-3
Date of Birth :	03-Apr-1980	تاریخ پیدائش : 03-Apr-1980
Gender :	Male	جنس : مرد
Religion :	Islam	مذہب : اسلام
Sickness Period :	0 Days 0 Months 0 Years	مدت علالت : 0 دن 0 ماہ 0 سال
Date of Death :	26-Nov-2022	تاریخ وفات : 26-Nov-2022
Date of Burial/Last rite :	26-Nov-2022	تاریخ تدفین/آخری رسومات : 26-Nov-2022
Place of Death :	hospital	جائے وفات : ہسپتال
Reason of Death :	Un-Natural	وجہ وفات : غیر قدرتی
Nature of Death :	Still Birth	کیفیت وفات : پیدائشی
Buried/Last rite at :	Motasham Baba	جگہ تدفین/آخری رسومات : معیشم بابا

Parental Information		والدین کے کوائف
Father's Name :	Shah Beroz Khan	والد کا نام : شاہروز خان
CNIC No :		شناختی کارڈ :
Mother's Name :	Naza Mena	والدہ کا نام : نازہ مینہ
CNIC No :		شناختی کارڈ :

Address		پتہ
Address :	nill Muhallah alezai , Village Nawagai , Post Office nawagai	پتہ : نہیں محلہ علیزئی ، گاؤں ناوگئی ، ڈاکخانہ ناوہ گئی
Ehsil :	Mandaur	تحصیل : منڈاؤر
District :	Buner	ضلع : بونیر

Applicant's Details		درخواست دہندہ کے کوائف
Name :	Asia Bibi	نام : آسیہ بی بی
CNIC No :	15101-1328172-2	شناختی کارڈ : 15101-1328172-2
Relation with Deceased :	Husband	متوفی سے رشتہ : خاوند

Information of Burial/Last rite by		تدفین/آخری رسومات کنندہ کے کوائف
Name :	Sartaj Khan	نام : سرتاج خان
CNIC No :	15101-8923114-3	شناختی کارڈ : 15101-8923114-3
Relation with Deceased :	Brother	متوفی سے رشتہ : بھائی
Entry Date :	23-Dec-2022	تاریخ اندراج : 23-Dec-2022
Issue Date :	23-Dec-2022	تاریخ اجراء : 23-Dec-2022
Entry Status :	Normal	اندراج اسٹیٹس : نارمل
Additional Information :		اضافی معلومات :



دستخط سیکرٹری  
ویج کونسل ناوگئی 1

تحصیل منڈاؤر ضلع بونیر

SECRETARY  
Village Council Nawagai  
District Buner

Attested

CRC No 29706334

حکومت پاکستان  
نیشنل ڈیٹا بیس اینڈ رجسٹریشن اتھارٹی (وزارت داخلہ)  
اٹھارہ سال سے کم عمر بچوں کا سرٹیفکیٹ \*

Annex-B (4)

15101-1328172-2

درخواست دہندہ کا شناختی کارڈ نمبر

آسرینی

درخواست دہندہ کا نام

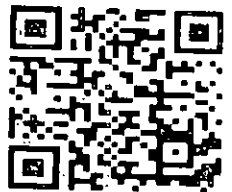
معدودی	پیدائش کا ضلع و تعلقہ	جنس / رشتہ	والدہ کا نام اور شناختی کارڈ نمبر	والد کا نام اور شناختی کارڈ نمبر	بچے کا نام اور رجسٹریشن نمبر	نمبر شمار
کوئی نہیں	مند تو بویر 2010-04-01	لڑکی بیٹی	آسرینی 15101-1328172-2	لطیف خان 15101-0421154-3	اقصی خان 15101-3679913-6	1
کوئی نہیں	مند تو بویر 2010-04-01	لڑکا بیٹا	آسرینی 15101-1328172-2	لطیف خان 15101-0421154-3	حاشم خان 15101-0705568-1	2
کوئی نہیں	مند تو بویر 2017-03-30	لڑکی بیٹی	آسرینی 15101-1328172-2	لطیف خان 15101-0421154-3	حورین خان 15101-3678868-6	3
کوئی نہیں	مند تو بویر 2018-08-06	لڑکی بیٹی	آسرینی 15101-1328172-2	لطیف خان 15101-0421154-3	زرین 15101-3784413-6	4

- 1- اس فیملی کے مندرجہ بالا اٹھارہ سال سے کم عمر 4 بچے ایجنوں کا اندراج ہمارے ریکارڈ میں موجود ہے۔
- 2- درج شدہ بچے کی عمر اٹھارہ سال ہوتے ہی شناختی کارڈ کے حصول کیلئے درخواست جمع کروائیں۔
- 3- اس سرٹیفکیٹ کو مستحصال کر رکھیں کیونکہ بچوں کے اٹھارہ سال کی عمر کو پہنچنے پر انہی بچوں کے شناختی کارڈ تیار کئے جائیں گے۔
- 4- نوزائیدہ بچے کا فوری طور پر اندراج کروائیں اور نیا رجسٹریشن سرٹیفکیٹ حاصل کروائیں۔
- 5- کوآف کی تبدیلی کی صورت میں نیا رجسٹریشن سرٹیفکیٹ حاصل کروائیں۔

محمد طارق ملک

رستخار جسٹس جرنل

تاریخ اجراء 2023-01-16



Attest

علیٰ زئی، ناوہ مہنی، تحصیل ذمہ، ضلع بویر



1510113281722



14

5

Certificate No:  
62641995

NATIONAL DATABASE AND REGISTRATION AUTHORITY

Ministry of Interior, Government of Pakistan

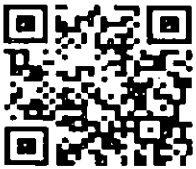
RECEIPT FOR ID CANCELLATION\*

(Due to Death فوت )

Under Section 17(3) of NADRA ordinance 2000

زیر دفعہ (3) 17 نادر آرڈی نانس 2000

Applicant Details		درخواست دہندہ کی تفصیلات	
Identity Number: 15101-1328172-2	شخصی کارڈ نمبر	Name: Asia Bibi	نام: آسیہ بی بی
Relation with Deceased: Spouse	متوفی سے رشتہ زوجہ		
Deceased Details		متوفی کی تفصیلات	
Father's Name: Shah Beroz Khan	شہزاد شاہ	Name: Latif Khan	نام: لطیف خان
Date of Death: 26 November, 2022	وفات کی تاریخ	Identity Number: 15101-0421154-3	شخصی کارڈ نمبر



*Dr. Faqir Ahmad*

REGISTRAR GENERAL OF PAKISTAN

دستخط رجسٹرار جنرل

Issuance Date

تاریخ اجراء

06 January, 2023

Attested



1510113281722

\*This receipt is legally admissible as evidence to prove the above-mentioned data and information of the aforesaid deceased under section 17(4) of NADRA ordinance 2000.

(یہ رسید مذکورہ بالا متوفی کے درج بالا کوآف و معلومات ثابت کرنے کے لیے قانوناً برائے دفعہ (4) 17 نادر آرڈی نانس 2000 بطور ثبوت قابل قبول ہے)

POWER OF ATTORNEY / VAKALATNAMA

(18)

IN THE COURT OF Kp Service Tribunal Peshawar

In the matter of

Latif Khan Through Lrs. Petitioner (s)

Supertendent of Police. Respondent (s)  
VERSUS

I/We Petitioner do hereby appoint Akhtar Ilyas Advocate High Court & Abdul Majeed Yousafzai Advocate Peshawar in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me in the above mentioned case in this or any other court/tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by aim for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may or power and authorities hereby conferred on the advocate whenever he may think fit to do so.

AND hereby agree:

That the advocate shall be entitled to withdraw from the prosecution/defence of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof I/We have signed this Power of Attorney hereunder, the contents of which have been read/explained to me/us and fully understood by me/us on this 17<sup>th</sup> day of October, 2023.

آسیب بی زعفران بنانی  
Signature of Executant (s)

آسیب بی زعفران بنانی  
و ولیہ بدیعہ نوابخان  
صہبان حاتم خان، روضی خان  
حورین خان و زر لعل

Attested & Accepted by

Akhtar Ilyas  
Advocate High Court  
BC No. 11-1572  
Cell # 0345-9147612

& Abdul Majeed Yousafzai  
Advocate Peshawar  
BC No. 21-3544  
Cell # 0344-9747295  
Office Address: TF 287,  
Deans Trade Center,  
Peshawar Cantt.