FORM OF ORDER SHEET

Court.of

2317/2023

Appeal No. Order or other proceedings with signature of judge S.No. Date of order proceedings 1 2 1-10/11/2023 The appeal of Mr. Sajjad Ahmad Khan resubmitted today by Mr. Wajid Ali Shahzad Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant. By the order of Chairman REGISTRAR

The appeal of Mr. Sajjad Anmad Khan son of Amia Ullah Jan r/o Opazi Bala Mathra District Peshawar received today i.e on 23.10.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- Appeal has not been flagged/marked with annexures marks.
- 2- Memorandum of appeal is not signed by the appellant.
- Affidavit is not attested by the Oath Commissioner.
- Annexures of the appeal are unattested.
- 5- Annexures A & B of the appeal are illegible which may be replaced by legible/better one.
- $\sqrt{6}$ Departmental appeal having no date be dated.
 - 7- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3453 /S.T. Dt. 25/10/2023.

REGISTRAR SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Mr. Wajid Ali Shahzad Adv. High Court Peshawar .

- 1 => Objection 1 Remove
- 2 => objection 2, Remove 3 => objection 3 Remove 4 => objection 4 Remove 5 => objection 5 Remove 6 => objection 5 Remove 7 => objection 7 Remove

All The objection are Remove and Resubmitted. by wajed the shahzard Advo

The Was 10-11-2023

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No. 3/7_/2023

Sajjad Ahmad Khan

_(Appellant)

VERSUS

The Inspector General of Police and others

(Respondents)

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Appellant

Through

Wajid Ali Shahzad Advocate High Court, Peshawar

Dated: 20.10.2023

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No 23/7 /2023

Sajjad Ahmad Khan S/o Amin Ullah Jan

R/o Opazi Bala, Mathra, Tehsil & District Peshawar

VERSUS

 The Inspector General of Police, Police Department, Khyber Pakhtunkhwa, Peshawar

2) Deputy Inspector General of Police, Police Department, Khyber Pakhtunkhwa, Peshawar

3) Chief Capital City Police Officer, Police Department, Khyber Pakhtunkhwa, Peshawar

4) Sr. Superintendent of Police Investigation, Peshawar

_____(Respondents)

8569

(Appellant)

23-10-2023

<u>Appeal Under Section 4 of the Khyber</u> <u>Pakhtunkhwa Service Tribunal Act 1974,</u> <u>against the order dated 26.05.2023 whereby</u> <u>the appellant was punished in the shape of</u> forfeiture of 6 months approves service". whereby the appellant preferred departmental appeal against the said order before the respondent No. 1 but no order whatsoever has been announced till date.

Prayer:

On acceptance of the instant appeal, the order dated 26.05.2023 of respondent No. 3 may kindly be set aside and the appellant's service position may kindly be restored and thereby the pay to which the appellant according to experience & seniority is entitled be kindly be granted to the appellant and the seniority of the appellant may kindly be restored with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:

 That the appellant is law abiding citizen of Islamic Republic of Pakistan and residing in Opazi Bala, Mathra, Tehsil & District Peshawar. (Copy of CNIC is attached as Annexure A) That the appellant is highly qualified and was serving in respondent's department as Inspector bearing Belt No. P/407 at Tatara Police Station, Peshawar.

2)

3)

5)

That during the service period of the appellant, the appellant served various police stations in District Peshawar, during the entire service period there was no complaint whatsoever against the appellant. The appellant regularly and honestly performing his duties with great zeal and enthusiasm to the best of his ability and honesty and never committed any sort of misconduct.

4) That the appellant was suspended by respondent No.
 4 vide order dated 23.05.2023. (Copy of suspension order dated 23.05.2023 is attached as Annexure B)

That on 26.05.2023 the transfer / posting order was issued to the appellant and the appellant was transferred from Peshawar to Bannu Region and the appellant was punished with "forfeiture of 6 months approved service" it is important to mention here that the impugned order was received to the appellant on 30.05.2023. (Copy of order dated 26.05.2023 is attached as Annexure C)

6) That the appellant feeling aggrieved from the above said order, preferred departmental appeal before the respondent No. 1 but till date no appropriate order has been passed. (Copy of departmental appeal is attached as Annexure D)

7) That feeling aggrieved from the above said impugned order, the appellant has no other efficacious, speedy remedy, hence to approach this hon'ble tribunal for redressal of his grievances, inter alia, on the following grounds.

<u>GROUNDS</u>

a)

c)

- That the impugned order is against the law facts material available on record, hence not tenable in the eyes of law.
- The worthy Inquiry Officer did not follow prescribed b) procedure as per Rule 6 of KP Police Rules 1975 (Amended 2014), relevant para whereof is reproduced as Under: "The inquiry officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of accused as may considered necessary and the witnesses against him". The worthy inquiry officer has examined not witness any or brought any incriminating material in shape of documentary evidence on record, therefore the fining report is void ab-initio and not tenable.

That as per Rule 6(v) of KP Police Rules 1975, the

inquiry officer had to submit cogent ground sin finding report to connect the accused officer/ appellant with alleged charge but no ground has so far been collected and brought on record, therefore, recommendation of the Inquiry Officer to the extent for not interrogating accused of case FIR No. 107/2023 PS Tatara is not tenable. (The finding report is enclosed as Annexure E)

That even for the sake of arguments, the finding report / recommendation of inquiry officer is admitted for a while (which is strongly denied) there is nothing incriminating that how this fact is surfaced out that accused of case FIR No. 107/2023 PS Tatara could not be properly interrogated.

d)

e)

f)

That reply to charge sheet is self-explanatory and worth of consideration by this hon'ble forum having not been given any weight by inquiry officer rather by the authority.

That personal hearing is mandatory whether provided in statue or not, reported in judgment 2005 PLC(CS) 1982 but appellant was not heard by authority in person to explain the circumstances behind the alleged charge, hence the penalty is not sustainable, as per afore-stated judgment.

g) That the appellant have been treated discriminately,

involving infringement of rights, therefore, the awarded punishment in principle violates Pakistan Constitution 1973 and prevailed laws.

That the inquiry proceedings have not been conducted as per provision, contained under Police Rules 1975. It has been held by superior court, relevant observation is as under:

h)

i)

"Sketchy inquiry is not sufficient to prove any charge against appellant, no witness was examined in inquiry proceedings, appellant was found guilty by inquiry officer without any substantive evidence, impugned order was set-aside"

That the alleged charges are not justifiable and is considerable on the following few stances:

The appellant was not associated with departmental inquiry, conducted by respondent No. 4, which is per law is without lawful authority hence is not tenable.

The inquiry process, if is checked nakedly, there is nothing incriminating which could speak the indulgence of appellant in the act of misconduct. Worth to clarify that the worthy inquiry officer in his finding report clearly in his conclusion pointed out that the act of corrupt practices could not be established but he made accountable the appellant for unattended accused of Case FIR No. 107/2023 PS Tatara.

The principle of natural justice would be violated only when an action is taken against a person without his knowledge (NLR 214 April QTA). It has been held by Hon'ble Court that without knowledge, conviction is illegal and it was set aside (NCR 2004 Feb P-84 Peshawar). I swear that there is nothing any lapse on the part of appellant for not properly interrogating accused of the case in issue.

The appellant has spotless service record, belongs to middle class family, always acted beyond the call of duty at the risk of life and also performed / worked to the entire satisfaction of superiors. The awarded penalty shall cause irreparable loss to the appellant and his family.

That findings of worthy inquiry officer is based on hearsay as no direct or indirect evidence is collected and brought on record to connect the appellant with alleged misconduct hence as per judgment in case (2005 PLC (C.S) Page 559) is without jurisdiction and not considerable against appellant.

That the impugned order is against law and

iii.

I).

k)

fundamental rights of the appellant, hence the same needs to be set aside.

That any other grounds will be raised with permission during the course of arguments.

It is, therefore, humbly requested that On acceptance of the instant appeal, the order dated 26.05.2023 of respondent No. 3 may kindly be set aside and the appellant's service position may kindly be restored and thereby the pay to which the appellant according to experience & seniority is entitled be kindly be granted to the appellant and the seniority of the appellant may kindly be restored with all back benefits.

Appellant

MG

Through

Wajid Ali Shahzad Advocate High Court, Peshawar

W IA

Dated: 10.10.2023

<u>m)</u>

<u>Note:</u>

No such service appeal on the same subject matter has earlier been filed before this honourable court.

ADVOCATE

BEFORE THE HONOURABLE SERVICE TRIBUNAL, KP PESHAWAR

Service Appeal No.____/2023

Sajjad Ahmad Khan

(Appellant)

VERSUS

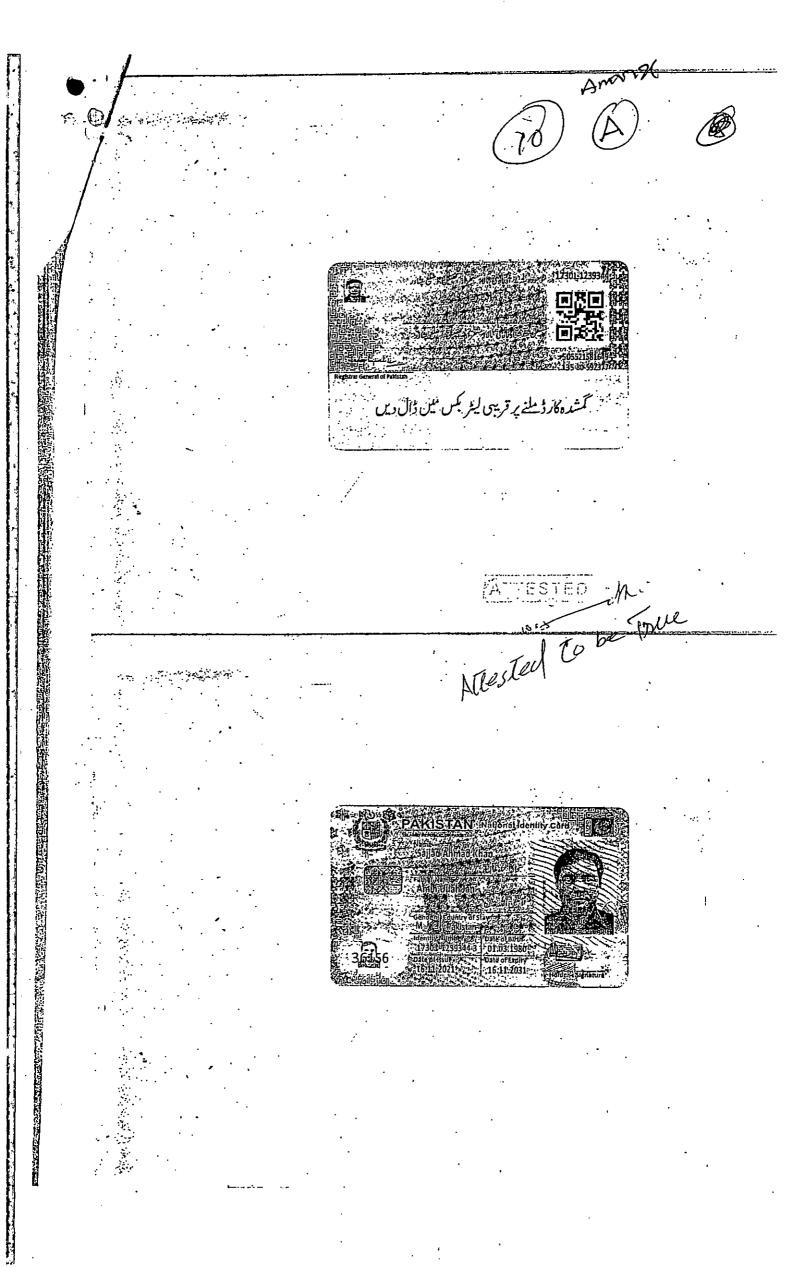
The Inspector General of Police and others

(Respondents)

AFFIDAVIT

I, Sajjad Ahmad Khan S/o Amin Ullah Jan R/o Opazi Bala, Mathra, Tehsil & District Peshawar, do hereby solemnly affirm and declare on Oath that the contents of instant "SERVICE APPEAL" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

DEPONENT



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SUSPENSION ORDER			· · ·
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OFFICE OF THE SR: SUPERINTENDENT OF POLICE INVESTIGATION, PESHAWAR

SUSPENSION ORDER

Sr. No.	Name Number &Rank	Closed District	Closed Wing	Closed Station	Recommended by	Suspension Remarks
1	INSPECTOR Sajjad Amad P/407	Peshawar	INVESTIGATION	PR: HQRS	Senior Superintendent of Police	On Complaint

SHAHZADA KAUKABFAROOQ (PSP) SR: SUPERINTENDENT OF POLICE INVESTIGATION, PESHAWAR

No.2619-28/PA Dated Peshawar the 23/05/2023

Copy forwarded to the:

2.

- 1. The Capital City Police Officer, Peshawar
 - The SSP Operation, Peshawar
- 3. The SP Inv: PBI/HQrs. Peshawar
- 4. The SP Cantt, Peshawar
- 5. The SPInv: Cantt, Peshawar
- 6. DSP Cantt, Investigation Peshawar
- 7. EC-I, EC-II, Peshawar
- 8. FP, PBI/HQrs, Peshawar
- 9. I/C Computer Cell CCP Peshawar
- 10. TP.O RK PBII/HQrs, Peshawar
- 11. All Concerned

OFFICE OF THE SSP

<u>ORDER</u>

This order will dispose of the departmental enquiry against Inspector Sallad Ahmad No: 19/407 Off Police Station Tatara, Peshawar-who was proceed against departmentally on the following charges:-

He while posted as OII Police Station Tatara, Peshawar has been reported to be morally and inancially corrupt.

He carries a bad reputation and is infamous for exploiting innocent folk through various influences and fraudulent means.

He remains out of station/absent from his place of posting, which speaks highly indiscipline and disinterest in performance of his official duties.

2. He was issued proper Charge Sheet and Summary of Allegations and SP/Investigation Headquarters, Peshawar was appointed as enquiry officer to scrutinize the conduct of the accused officer. The Enquiry Officer after conducting departmental enquiry, submitted his findings and reported that the delinquent officer had failed to interrogate an accused involved in case of FIR No. 107, dated 01.03.2023 in PS Tatara and left him unautended and proceeded himself to Islamabad without prior permission from schiors. Beings a schior/supervisory officer he should had intimated his senior before leaving the duty station; for which he has to be reprimanded.

3. After perusal of the findings of Enquiry Officer and keeping in view his general reputation L being competent authority hereby award him a minor punishment of "forfeiture of being norther and service".

"Order is announced"

2/13/1-2

SYED ASHFAO ANWAR CAPITAL CITY POLICE OFFICE PESHAWAR

Before the Hon'able Provincial Police Officer, Peshawar

Subject:

Departmental Appeal u/r 11(2) of Police Rules 1975 (Amended 2014), against the impugned order, Passed by W/CCPO vide Diary No 2988/PA dated 26.05.2023.

Respected Sir,

The appellant respectfully prefers this appeal against the impugned order of W/CCPO, inter-alia on the following grounds, amongst others. (Order enclosed as Annexure A).

PRELIMINARIES:

1.

З.

5.

6.

- The worthy inquiry officer did not follow prescribed procedure as per rule 6 of KP Police Rules 1975(Amended 2014), relevant para whereof is reproduced as under:- "The inquiry officer shall inquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of accused as may considered necessary and the witnesses against him" The worthy inquiry officer has not examined any witness or brought any incriminating material in shape of documentary evidence on record, therefore, the finding report is void-abi-nitio and not tenable.
- 2. As per rule 6(v) of rule 1975, the inquiry officer had to submit cogent grounds in finding report to connect the accused officer/appellant with alleged charge but no ground has so far been collected and brought on record, therefore, recommendation of the inquiry officer to the extant for not interrogating accused of case FIR No 107/2023 PS Tatara is not tenable. (the finding report is enclosed as **Annexure B**)
 - Even for the sake of arguments, the finding report / recommendation of inquiry officer is admitted for a while (Which is strongly denied) there is nothing incriminating that how this fact is surfaced out that accused of case FIR 107/2023 PS Tatara could not be properly interrogated.

Reply to charge sheet is self explanatory and worth of consideration by this Hon'able forum which is annexed as **Annexure-B**, having not been given any weight by w/inquiry officer rather by the authority.

Personal hearing is mandatory whether provided in statute or not, reported in judgment 2005 PLC(CS) 1982 but appellant was not heard by authority in person to explain the circumstances behind the alleged charge, hence the penalty is not sustainable, as per afore-stated judgment.

I have been treated discriminately, involving infringement of rights, therefore, the awarded punishment in principle violates Pakistan Constitution 1973 and prevailed laws.

ON FACTS:

i.

Short facts are that the authority received anonymous complaint against the appellant that he is morally and financially corrupt, having bad reputation and is infamous for exploiting innocent person through fraudulent means. He also

remains out of his place of duty which speaks indiscipline and disinterest in the performance of his official duties.

The appellant was issued charge sheet for act of misconduct which was properly answered but not considered by worthy inquiry officer as well worthy authority / CCPO.

On submission of finding report by worthy inquiry officer SP (investigation), the authority without going into the merits of the case, passed the impugned order dated 26.05.2023 and forfeited 06 months approved service.

GROUNDS OF APPEAL:

ii.

iii.

The impugned order of W/CCPO is assailable on the following grounds.

a. The inquiry proceedings have not been conducted as per provision, contained under police rules 1975. It has been held by superior court, relevant observation is as under:

"Sketchy inquiry is not sufficient to prove any charge against appellant – no witness was examined in inquiry proceedings – appellant was found guilty by inquiry officer without any substantive evidence – impugned order was set-aside".

b.

ii.

iv.

The alleged charges are not justifiable and is considerable on the following few stances:-

The appellant was not associated with departmental inquiry, conducted by Worthy SP(Investigation), which as per law is without lawful authority hence is not tenable. The inquiry process, if is checked nakedly, there is nothing incriminating which could speak the indulgence of appellant in the act of misconduct. Worth to clarify that the worthy inquiry officers in his finding report clearly in his conclusion pointed out that the act of corrupt practices couldn't be established but he made accountable the appellant for unattended accused of case FIR 107/2023 PS

The principle of natural justices would be violated only when an action is taken against a person without his knowledge (NLR 214 April QTA). It has been held by Hon'able Court that without knowledge, conviction is illegal and it was set aside (NCR 2004 (Feb P-84 Peshawar). I swear that there is nothing any lapse on the part of appellant for not properly interrogating accused of the case in issue.

The appellant has spotless service record, belongs to middle class family, always acted beyond the call of duty at the risk of life and also performed/worked to the entire satisfaction of superiors. The awarded penalty shall cause irreparable loss to the appellant and his family.

c. Findings of worthy inquiry officer is based on hearsay as no direct or indirect evidence is collected and brought on record to connect the appellant with alleged misconduct hence as per judgement in case (2005 PLC (C.S)page 559) is without jurisdiction and not considerable against appellant. PRAYER

Above in view, it is humbly prayed that by accepting this appeal, the impugned order vide diary No 2988 dated 26.05.2023 (forfeiture of 06 months approved service) may very kindly be set aside, to meet the ends of justice.

Soliently yours

Inspector Sajjad Ahmad No P/407 (Appellant)

22-6-2023 daisy No#12105/SB

Apri

84 /PA, Dated The Capital City Police Officer, To Peshawar:

ENQUIRY AGAINST INSPECTOR SAUJAD AHMAD OIL PS TATARA PESHAWAR Subject:

Memo:

ii.

Kindly refer to your office memo: No. 34-E/PA-, dated 13.02:2023.

Brief fact;-It is submitted that that Inspector Sajjad Ahmad he while posted as OII PS Tatara, Peshawar was charge sheeted by your good office against allegations that:-

He has been reported to be morally and financially corrupt.

He he carries a bad reputation and is infamous for exploiting innocent folks through

UPERINTENDENT OF POLICE IN

CABITAL CITY POLICE HISHA

various influences and fraudulent means.

He remains out of station/absent from his place of posing which speaks volumes of iii. 👘 his indiscipline and disinterest in performance of his official duties, which renders him liable for disciplinary proceedings under Police Rules 1975.

Proceedings:-

The alleged Inspector was called to appear before, the E.O. He appeared and submits his reply on 24.03.2023 he was also crossed examined.

Statement of alleged Inspector Saijad Ahmad OII PS Tatara.

The alleged Inspector appeared on 27.04.2023 and submitted his written statement which is hereby reproducing:-

Respected Sir,

Kindly refer to the subject charge sheet, received on 21.04.2023, at the very outset I respectfully submit that the alleged charges, vocalized in the summary of allegations are based on malafide and miscommunication, I am ready to swear upon oath that alleged charges bear no authenticity or veracity but based on concoction.

With due regret, it has become very common that when some differences are stirred up with criminals or relations with colleagues and subordinates become strained, complaints emerged in the shape of anonymous status with serious allegations against officer, without any solid materials/justification.

The alleged charges as per statement of allegations, are answered para-wisely as

following.

i. Mothe charges are baseless and there is no single instance of my involvement in corruption or corrupt practices and involve in habits of habits of moral turpitude. There is no any incriminating material or evidence which could connet me with any such charge. Needless to say that corruption charge/persistent corruption requires solid materials but here on record,

rules 16.39 r/w 16:16 PR-1934 wherein corruption record is required to be maintained on personal file, character fole or fauji missal and attested copy thereof shall be furnished to the Police officer concerned, but such record has not so far been maintained or is available against me hence the charge does not carry legal footings.

reported to be corrupt or involved in corrupt practices.

support is available. Rules regarding

The second charge of bad reputation is also misleading and baseless rather the information is false, basing on misinterpretation and just to defame/damage my carrier.

The 3rd alleged charge is also based on mala-fide and misconception and I totally deny this charge. In fact, I had to visit my ailing wife each weekend admitted for five months in Madixy Hospital Saudi Pak Tower Islamabad with due permission from immediate high-ups. This charge, I shall explain along with record during personal hearing, if allowed.

On the face of available record, the alleged charges, seem to be anonymous, therefore, entails the barring provision, issued by Provincial Govt/Law, depicted as under

a. S & GAD letter No. SORII (S&GAD) 5 (29)/97-II dated 20.07.1998.

b. S & GAD letter No. SORII (S&GAD) 5 (29)/97-II dated 15.11.1999. A

c. Section 4 Federal Investigation rule 2002.

jii.

d. SRO(I)2015 dt 6/11/2015 Section 4(5) Act 2012 (XIV)

Under the above provisions, the disciplinary proceedings are void abenitio/without jurisdiction hence not legally entertain-able.

WOX

Since, I have joined this August Force, I always performed honestly, dedicatedly and to the entire satisfaction of my superiors. I always acted beyond the call of duty at the risk of my life and never hesitated to culminate the menace of crime/drug from the area, where I remain posted. My clean service career with unblemished record can be verified from my ACRs and from the officers under whom subordination, I remain posted which clearly speaks my integrity and professional attitude. I have been rewarded on number occasinos for meritorious services/outstanding performance.

In circumstances, the alleged charges bear no authenticity, being without merit and substance, therefore, request that the charge sheet my very kindly be filed without further proceedings.

Further requests for Personal Hearing, to explain the circumstance, behind alleged charges.

مكالمت نام service Triburval elles 2-10 مسيع بخانية سائل BC- 13-4193 مسي د المو 50186974 @ gmail.com Inspector Greneral Police Come 03338867513 مقدمه مندرج متوان بإلاش الي طرف = داسط بي دي دجواب دي دكل كاردائي متعلقه Tن متام بيشاور كيل واجر متبسيا داين أيتوكيك مترركر ب اقراركيا جاتاب ركدوكل موصوف كومتدمد كى كل كارداتى كالمل التشار ماصل موكا فيزوكل ماجب كوم في داول داش كرف ، جواب داول ، الحل ، نظر تانى كالجمي القيار مامل بو کا نیزوکل مساحب بسورت ذکری برخالف س اختیار و بستره ایل بگرانی منظرتانی از عدالت ابتداء تا مدالت انتها لین میریم کورت آف باکتان دائر کرسکا ب وکس موسوف بعودت عدم وروی کاردائی مکمرد. با در کی مکمرد کالف درخواست داتر کرسکا ب اور دیک موصوف میری باب ے مقدم میں بھورت وکری جیک او نقد روپ کا شک مول کر سکے کا اور جرید ہے کہ وکسل موصوف متدر متذكره كال اجردال كاردانى كيلخانى بجائ وكردكل محااسة ماتو متردكرمك بدج كويكى دوجلدا تقيار مامل اوتل جوكدوك موموف كومامل إلى تحصال مودت عى تمام ماختدى واختد معود وقول موكالهذاب ف وكالت نامد بذاتح يركر كاس يرد يخط انتان المحشت فجعت كمزداجة كدمزدجد 1 2) 10 <u>کے لیے توریب</u> بمقام