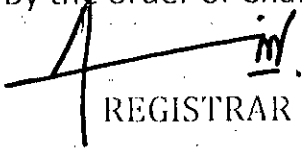


Form- A
FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 865/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.11.2023	<p>The implementation petition of Mr. Usmani Gul submitted today by Mr. Fazal Hadi Advocate It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. Parcha peshi is given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 865 /2023

IN

S.A. No.7026/2021

Usmani Gul SIPetitioner/ Appellant

Inspector General of Police and others..... Respondents

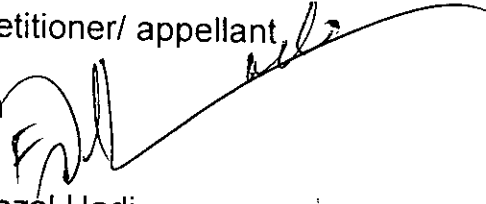
Application for hearing/ fixation of the above
titled execution petition at principal seat of
the hon'ble Tribunal at Peshawar.

Respectfully submitted;

- 1) That the applicant/ petitioner filed above titled service appeal against the impugned order No.3270E dated 03.12.2020 which was heard by the Hon'ble Tribunal on 04.05.2023, the Hon'ble Tribunal is kind enough to allow as prayed for and respondents were directed to promote and confirm the appellant to list-F from the date he qualified the upper college course with all back benefits.
- 2) That the applicant also filed application to respondents for the implementation of judgment. Respondents were totally failed to taking any action regarded the order dated 04.05.2023.
- 3) That no regular Bench of the Hon'ble Tribunal is working at Shangla, therefore, through the instant application the applicant/ petitioner request this Hon'ble Tribunal to fix and heard the titled execution petition at the principal at Peshawar.

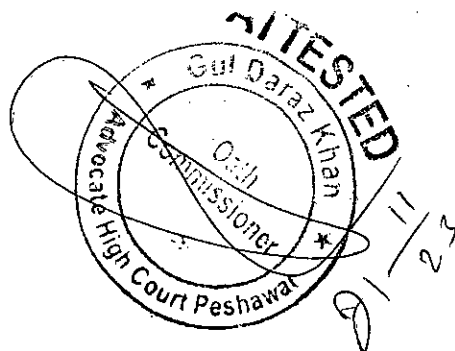
- 4) That if the instant execution petition is not heard at the principal seat the very purpose of the petition will be fruitless.
- 5) That it is just, fair and proper for fair conclusion of the matter cited above to hear the titled execution petition at principal seat of this hon'ble Tribunal at Peshawar.

It is, therefore, requested that the above titled execution petition may be heard at the Principal Seat at Peshawar.

Petitioner/ appellant
Through 
Fazal Hadi
Advocate High Court.

AFFIDAVIT

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



Deponent

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

EXECUTION PETITION No. 865 /2023
IN
SERVICE APPEAL No. 7026/2021

**USMANI GUL SI
PETITIONER/APELLANT**

V/S

**INSPETOR GENERAL OF POLICE & OTHERS
RESPONDENTS**

INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of Execution.Petition	-----	1-2
2.	Copy of <i>Appeal & Judgment</i>	- A -	3-13
3.	Copy of Application	-B-	-14-
4.	Vakalat Nama		-15-

PETITIONER/APPLICANT

THROUGH:

FAH

**FAZAL HADI
ADVOCATE**

Cell No: 0336-9692309

Date: 21-11-2023

①

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

EXECUTION PETITION No. _____/2023

IN

SERVICE APPEAL No. 7026/2021

MR. USMANI GUL SI/667/M POSTED AT SHANGLA POLICE R/O
P.O SHAH PUR KOZ KANA TEHSIL ALPURI DISTRICT SHANGLA.

(PETITIONER)

VERSUS

1. INSPECTOR GENERAL OF POLICE KHYBER
PAKHTUNKHWA
2. DISTRICT POLICE OFFICER SHANGLA.
3. REGIONAL POLICE OFFICER, MALAKAND OFFICE AT SAIDU
SHARIF SWAT.

(RESPONDENTS)

**EXECUTION PETITION FOR DIRECTING
THE RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED: 04/05/2023 OF THIS
HONORABLE TRIBUNAL IN LETTER AND
SPIRIT.**

RESPECTFULLY SHEWETH:

1. That the applicant/Petitioner filed Service Appeal No-7026/2021 against the impugned order No. 3270E dated 03-12-2020.
2. That the said appeal was finally heard by the Honorable Tribunal on 04/05/2023. The Honorable Tribunal is kind enough to allow as prayed for and respondents are directed to promote and confirm the appellant to list-F from the Date he qualified the upper college course with all back benefits.
(Copy of judgment is attached as Annexure-A).
3. That the appellant also filed application to respondents for the implementation of judgment. The respondents were totally failed in taking any action regarded the Hon'able Tribunal judgment dated - 04/05/2023.
(Copy of Application is attached as Annexure-B)

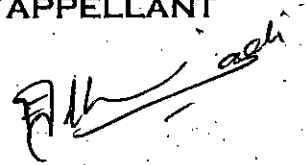
(2)

4. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 04/05/2023.
5. That the respondent totally violated the judgment of Hon'able Service Tribunal is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the same in letter and spirit.
7. That the petitioner has having no other remedy to file this Execution Petition.

IT IS, THEREFORE, MOST HUMBLY PRAYED THAT THE RESPONDENTS MAY BE DIRECTED TO OBEY THE JUDGMENT DATED 04/05/2023 OF THIS AUGUST TRIBUNAL IN LETTER AND SPIRIT. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOR OF APPLICANT/APELLANT.

PETITIONER/APELLANT

THROUGH

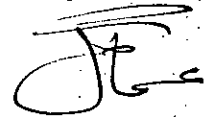


FAZAL HADI
ADVOCATE.

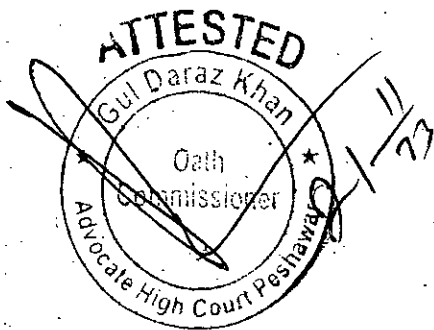
Dated: 21-11-2023

AFFIDAVIT:

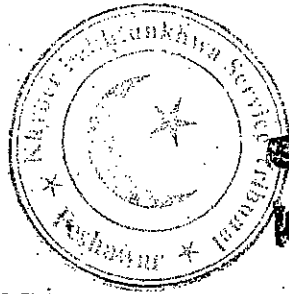
It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.



DEPONENT



ANNEXURE 'A'



3

SCANNED
KPST
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR** Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 7026 /2021

Diary No. 4870

Dated 14/4/2021

Usmani Gul SI/667/M Posted at Shangla Police
R/o P.O Shah Pur Koz Kana Tehsil Alpuri District
Shangla

.....Appellant

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa
2. District Police Officer Shangla
3. Additional Inspector General, Establishment,
Khyber Pakhtunkhwa, Office at Central Police
Office/Lane, KP, Peshawar.
4. Regional Police Officer, Malakand office at Saidu
Sharif Swat.
5. Fazal Rahim No. 694. *R/o Charbagh Distt Swat (Malakand)*
6. Ahmad Ali No. 794. *R/o village, Distt Kohat, District Dir Upper.*
7. Tahir Muhammad No. 739, presently posted at
Police Lane, Shangla, *Darora District Dir Upper.*

.....Respondents

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER
NO. 3270E-III DATED 03/12/2020,
WHEREBY JUNIORS TO THE APPELLANT
I.E. RESPONDENT NO. 5 TO 7 WERE
PROMOTED/CONFIRMED TO LIST "F"
AGAINST THE LAW AND RULES, BY**

ATTESTED

Registrar
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

12/12/2021

(2) (4)

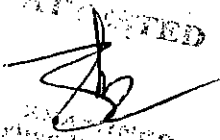
**SUPERSEDING THE APPELLANT WITHOUT
ANY LEGAL JUSTIFICATION.**

Prayer:-

On acceptance of this appeal, the impugned order dated 03/12/2020, may kindly be set aside and the appellant may kindly be promoted/confirmed to list-"F" with all back benefits according to law and rules.

Respectfully Sheweth:-

1. That initially the appellant was recommended/promoted to list-"D" as officiating Sub-inspector alongwith the respondent No. 5 to 7 on 04/08/2011 and later on through order dated 16/03/2015 the appellant alongwith respondent No. 5 to 7 were confirmed as ASI's/PASI to list-"E". (Copy of list "D" & list "E" are attached as annexure A & B)
2. That later on, on 09/02/2016, the appellant and respondent No. 5 to 7 were promoted on officiating basis to list-"F", so after recommending the appellant for the list-"F" on officiating basis, the appellant through written requests approached through official respondents for recommending his

APPOINTED

Sub-Inspector
Service Department

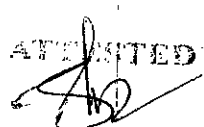
name for the various mandatory courses of police because for promotion and for confirming his name to list "F" these courses were essential and mandatory according to law and rules. (Copy of order dated 09/02/2016/list-"F" and applications are attached as annexure C & D)

3. That thereafter, without considering the seniority of the appellant and that too no fault of the appellant confirmation/promotion to list-"F" was differed through impugned order dated 03/12/2020 and Juniors to appellant i.e. respondent No. 5 to 7 were confirmed/promoted to list "F". (Copy of impugned order dated 03/12/2020 is attached as annexure E)

4. That against the impugned order dated 03/12/2020 the appellant preferred departmental appeal to respondent No. 1 but the same was not decided in the statutory period. (Copy of departmental appeal is attached as annexure F)

5. That feeling aggrieved from the impugned order the appellant filing this service appeal on the following grounds inter alia.

GROUNDS:-

ATTESTED


WALINDER
401, 402, 403, 404, 405
Service Building
KOTA-324001

4 6

A. That the impugned order dated 03/12/2020 is against the law rules and seniority, and also against the principle of natural justice hence liable to be set aside.

B. That the appellant was condemned unheard as no opportunity of personal hearing/defense has been provided to the appellant.

C. That the appellant's promotion was differed on the ground that the appellant has not undergone the requisite mandatory courses to the list "F" and as such without any fault of the appellant his promotion was differed and without carrying for the seniority and law and rules juniors to appellant were promoted, which is against the norms of justice.

D. That when the appellant was promoted to list "F" on officiating basis in the year 2016, so time and again the appellant made several written requests to official respondent for recommending his name for requisite/mandatory courses, but no fruitful result.

That the grounds on which the appellant was not promoted to list "F"/confirmation is against the law

ATTESTED
MEMBERS
Kashmir High Court
Service Tribunal
Srinagar

5 7

and rules, because according to relevant rules the courses are not mandatory for confirmation to list "F" but the official respondents totally ignored the aspect and with ill intention promoted/confirmed his blue eyed i.e. respondents No. 5 to 7.

- F. That the appellant seeks permission to added other grounds during the course of arguments.

It is, therefore, most humbly prayed that On acceptance of this appeal, the impugned order dated 03/12/2020, may kindly be set aside and the appellant may kindly be promoted/confirmed to list-"F" with all back benefits according to law and rules.

Any other relief available in the circumstances of the case, not specifically asked for, may also be granted to the appellant.

Through

Appellant

Shamsul Hadi
Advocate, High Court
Peshawar

Date: 04/04/2021

ATTESTED

Shamsul Hadi
Advocate, High Court
Peshawar

8



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, SWAT.

Service Appeal No. 7026/2021

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)
MISS FAREEHA PAUL ... MEMBER(E)

Usmani Gul SI/667/M Posted at Shangla Police R/O P.O Shah Pur
Koz Kana Tehsil Alpuri District Shangla. (Appellant)

Versus

1. Inspector General of Police Khyber Pakhtunkhwa Peshawar.
2. District Police Officer, Shangla.
3. Additional Inspector General, Establishment, Khyber Pakhtunkhwa, Office at Central Police Office/Lane, Peshawar.
4. Regional Police Officer, Malakand office at Saidu Sharif, Swat.
5. Fazal Rahim No. 694 R/O Charbagh District Swat (Malakand).
6. Ahmad Ali No. 794 R/O R/O Village Dir Khas District Dir Upper.
7. Tahir Muhammad No. 739, presently posted at Police Lane, Shangla, Darorar District Dir Upper. (Respondents)

Mr. Shams-ul-Hadi,
Advocate

... For appellant

Mr. Muhammad Jan,
District Attorney.

... For respondents No. 1 to 4.

Date of Institution.....14.04.2021
Date of Hearing.....04.05.2023
Date of Decision..... 04.05.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 03.12.2020,

ATTESTED

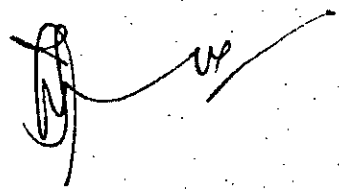
District Attorney
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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whereby juniors to the appellant i.e. respondents No. 5 to 7, were promoted/confirmed to List- F against the law and rules, by superseding the appellant without any legal justification. It has been prayed that on acceptance of the appeal, the impugned order dated 03.12.2020 might be set aside and the appellant might be promoted/confirmed to list- F with all back benefits according to law and rules.

2. Brief facts of the case, as given in the memorandum of appeal, are that initially the appellant was recommended/promoted to list-"D" as officiating Sub-Inspector, alongwith private respondent No. 5 to 7, on 04.08.2011 and later on through order dated 16.03.2015, he, alongwith respondents No. 5 to 7, was confirmed as ASI/PASI to list- E. Later on, on 09.02.2016, the appellant and respondents No. 5 to 7 were promoted on officiating basis to List- F, where-after the appellant, through written requests, approached the official respondents for recommending his name for various courses mandatory for promotion and confirmation of his name to list- F. The respondents, without considering the seniority of the appellant and that too without any fault on his part, deferred him for confirmation/promotion to list- F while juniors to him, i.e. respondents No. 5 to 7, were confirmed/promoted to list- F vide order dated 03.12.2020. Feeling aggrieved, he preferred departmental appeal to respondent No. 1 which was not decided within the statutory period; hence the instant appeal.

TESTED
EXAMINER
Service Tribunal
Pune



3. Respondents were put on notice. Official respondents No. 1 to 4 submitted their joint written reply/comments on the appeal. Respondents No. 5 to 7 did not submit reply/comments and were hence placed ex-parte. We have heard the learned counsel for the appellant as well as the learned District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the details of the case and contended that the impugned order dated 03.12.2020 was against the law, rules and seniority, and also against the principles of natural justice, hence liable to be set aside. He further argued that the appellant was condemned unheard as no opportunity of personal hearing and defence was provided to him. He further argued that appellant's promotion was deferred on the ground that he had not undergone the mandatory courses required for confirming his name in list- F and juniors to him were promoted, which was against the law, rules and norms of justice. He further argued that according to relevant rules, the courses were not mandatory for confirmation to list- F but the official respondents, with ill intention, promoted/confirmed their blue eyed i.e. respondents No. 5 to 7. He requested that the appeal might be accepted as prayed for.


5. The learned District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that Police Department was a

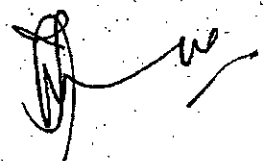
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 MEMBER
 SERVICE TRIBUNAL
 PUNJAB

[Handwritten signature]

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disciplined force having its rules and regulations which were being followed in letter and spirit. Promotion from one rank to another rank was being dealt with in accordance with seniority-cum-fitness as envisaged in Rule 13.1 of Police Rules. Similarly confirmation in the substantive rank was also governed by Police Rules which were being strictly adhered by the respondent department. Prior to confirmation in the rank of Sub Inspector one had to fulfill some criteria mentioned for confirmation in the rank of Sub-Inspector. The appellant was promoted to the rank of Sub-Inspector on 09.09.2016, however for the confirmation in the rank of Sub Inspector, he was required to fulfill certain criteria for the confirmation i.e. passing of Upper College Course and criteria mentioned in Rule 13.10(2) and 13.18 of Police Rules which was not completed at that time, therefore, the stance taken by the appellant for recommending his name to list- F was not prudent to the mind. So far as the confirmation of private respondents No. 5 to 7 was concerned, they had been confirmed in the rank of Sub Inspector on 20.02.2020, after fulfilling the requisite criteria for confirmation i.e. passing of upper college course and other mandatory provisions as envisaged in Police Rules, 1934. He further argued that name of the appellant was not recommended for inclusion in list- F because he did not pass the upper college course till 2020. He informed that name of the appellant was also sent for upper college course vide order dated 09.08.2018, however, he returned as unqualified on 25.09.2018 whereas his other colleagues, private respondents No. 5 to 7,

ATTESTED

 Attester
 Kalyan Singh
 Senior Joint Magistrate
 District Court, Jaipur



qualified the upper college course before the appellant. He requested that the appeal might be dismissed.

6. After hearing the arguments from both sides and going through the record presented before us, it is clear that there was no issue till 2015 when the appellant was confirmed, alongwith respondents No. 5 to 7, as ASI/PASI to list-E. Later on, on 09.09.2016, appellant, alongwith respondents No. 5 to 7, was approved for promotion as Officiating Sub Inspector, conditionally, subject to the production of satisfactory ACRs for the period and qualifying mandatory training/course according to Standing Order No. 3/2015. As their confirmation was linked with qualifying the mandatory training/course, the appellant was selected for the upper college course on 09.08.2018 but he could not complete and qualify the said course because of his illness. He was selected again for that course and qualified it in 2021. During that period, respondents No. 5 to 7 had already qualified the Upper College Course and they were, therefore, confirmed and included in List-F vide order dated 03.12.2020, that has been impugned before us.

7. Record produced before us by the learned counsel for appellant during the course of hearing indicates that various meetings of Departmental Promotion Committee were held after June 2021, the month the appellant qualified the Upper College Course, but his name was not considered for confirmation in list-F despite the fact that he had fulfilled

ATTESTED


[Signature]
EXAMINER
Khyati P. Mahabadi,
Service Tribunal
Pune


[Signature]

the criteria required for including his name in list-F and without giving any heed to the fact that his juniors were already included in list-F.

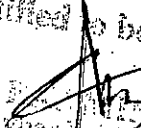
8. In view of the above discussion, the appeal in hand is allowed as prayed for and respondents are directed to promote and confirm the appellant to list-F from the date he qualified the Upper College Course with all back benefits. Parties are left to bear their own costs. Consign.

9. Pronounced in open court at camp court, Swat and given under our hands and seal of the Tribunal this 04th day of May, 2023.


(FAREIHA PAUL)
Member (F)
(Camp Court, Swat)


(ROZINA REHMAN)
Member (J)
(Camp Court, Swat)

Fazle Subhan, P:S

Certified to be true copy

MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Petition 21-11-23
Number of Words 11-P
Copying Fee 55
Urgent _____
Total 60/5
Name of Copypastor _____
Date of Completion of Petition 21-11-23
Date of Delivery of Copy 21-11-23

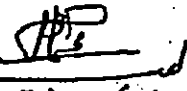
ضابعا علی ڈی پی او ڈسٹرکٹ سٹانڈنگ

گذارش ہے کہ بحالہ اپیل نمبر $\frac{7026}{2021}$ جس پر فیوچر ڈیوٹی سروس


ڈیوٹی سروس ٹیمپ کورٹ سوات سے برطرف 04.05.2023 سائیل کے ایئر کالج کورس
کو الٹیمٹ رٹ کی تاریخ سے سائیل کی میناری بحال کر پورے سائیل کو کنفرم کرنا
اور لسٹ و ہیو، میں شامل کرنا کا حکم صادر فرمایا ہے۔ نقل آرڈر لیا ہے۔



دستور عائد ایئر کالج کورس کے مکمل پورے کی تاریخ سے سائیل کی میناری بحال کرنا
کنفرم کرنا اور سائیل کا نام اپنے نمبر پر میسج کا بنیاد میر لسٹ و ہیو، میں
درج رٹ کا حکم صادر فرمایا جاتے۔ سائیل دناؤ و رہے۔

عزیم

سائیل تاجدار  مقیمہ تھانہ کالا (سوات)
عثمانی گل Si نمبر/667

ورقم 15.06.2023

ATTESTED 

قیمت ₹ 50	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویٹ: 19429	 
بار کونسل ایسوسی ایشن نمبر: BC-21-3408	
رابطہ نمبر: 0333-9547908	

بعدالت جناب: سروس ٹریڈنگ انٹرنیشنل پرائیویٹ لمیٹڈ

مخاب: Plaintiff	دعویٰ: Execution Petition
عنوان کل S1	علت نمبر 2023/6702
بنام انسٹریٹ منیجمنٹ آف پورٹریس کمپنی	موردہ:
	جرم:
	تھانہ:

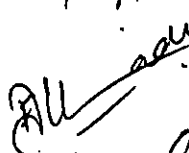
باعت تحریر آگے


مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لٹیم کیلئے صفحہ ۱۷۱۱ الٹریٹ منیجمنٹ آف پورٹریس کمپنی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 21/01/2023

العبد سروس ٹریڈنگ انٹرنیشنل پرائیویٹ لمیٹڈ العبد
مقام _____ کے لیے منظور ہے۔

Attested & Accepted By


Fajal Hasdi
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Imdad Ali
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Usmani Gul

