Form- A

FORM OF ORDER SHEET

(2)		Court of
Case No () /~1 /2021 * (1521 /2021 21	Case No. 1521

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/01/2021	The appeal presented today by Mr. Adnan Aman Advocate ma
•		be entered in the Institution Register and put to the Learned Member fo
		proper order please.
. •		REGISTRAR
- - -		This case is entrusted to S. Bench for preliminary hearing to be pu
	08-02-21	up there on 01-03-21
		MEMBER(J)
	. * * * * *	
1.03	.2021 Th	e learned Member Judicial Mr. Muhammad Jamal Khan
	on lea	ve, therefore, the case is adjourned. To come up for the
٠.	same	before S.B on 26.07.2021.
	same	
	same	
4	same	
	same	
4	same	
4	same	
	same	

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

APPEAL NO.		/2021
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NAZIR UL HAQ

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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APPELLANT

THROUGH:

ADNAN AMAN ADVOCATE HIGH COURT (S)

CELL NO 0321-9853530

Note:

Sir,

Spare copies will be submitted After submission of the case.

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

APPEAL NO. 1521 /2021

Khybor Palchtukhwa Service Tribunal

Mr. NAZIR UL HAQ, PST (BPS-12)

GPS, GANDHERAI SAMARBAGH, LOWER DIR

Personnel Number: 00858395

..APPELLANT

VERSUS

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

......RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS WHO VIDE THE SAME ARE ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST IN ACTION OF THE DEPARTMENTAL APPEALLATE AUTHORITY WHO <u>VIDE THE SAME DID NOT PASS ANY APPROPRIATE ORDER OVER</u> THE DEPARTMENTAL APPEAL OF THE APPEALLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

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

R/SHEWETH:

ON FACTS:

- 1- That the appellant is serving in the Elementary & Secondary Education Department as PRIMARY SCHOOL TEACHER (PST) BPS-12 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 BPS- 16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance. Copy of the Notification dated

20.12.2012 are attached as annexure.....

- 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.

- 6- That the appellant also prayed to be treated alike through the principles 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 has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents have violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned action of the respondents is without any legal & lawful 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 lawful 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 appellant 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 appellant seeks permission of this Honorable Tribunal 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 7
NAZIR UL HAQ

THROUGH:

ADVOCATE
HIGH COURT(S)



GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO(SR-IIV8-52/2012 Dated Peshawar the: 20-12-2012

From

The Secretary to Govf. of Khyteer Pashtupkhwa, Finance Department.

Penhayear.

To:

All Administrative Scorcaries to Gov. of Kiryter Pakitturishwa.

The Senior Member, Board of Revenue, Knyber Pakhiumitran.

The Secretary to Governor Knyber Pakitinkawa

The Secretary to Chief Minster, Khyter Pakhishidma.

The Secretary, Provided Ascenby, Khyber Pakhlerkhwa

All Heads of Attaches Departments in Knyher Pakhtun Www

Ar District Coordination Officers to Khyber Paklitonkines.

All Political Agents (District & Sessions Judges in Klyder Pakistorkhwa

The Registral Pashaver Hybridact. Pashavir

The Charman Public Service Commeston, Khyber Pokhlunkawa.

The Chairman, Berviers Tribenel: Knyper Pakhionahwa.

Sant, etc.

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

Dear Sr.

The Government of Khyber Pekintershivic has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provinced Civil Servants, Gove of Khyber Pakhtinkhya (Working in BPS-1 to BPS-15) w.e.f from 1° September, 2012 it the following rates. However, the conveyance allowance for employees in SFS-15 to SPS-19: क्ष्मी त्राह्मित 💎 प्रस्कृतत्रविष्ट्र

			SERVER DATE (DM)
SNO	BP5	EXISTING RATE (PM)	EVISED RATE (PM)
1 .		₹5.1,500/-	Rs.1.700/-
		Fs.1,500/-	Rs.1.840/-
<u> </u>	5-10	·	Rs.2,720/-
3.	11-15	9s.2,600/-	
	16-19	Rs.5,000/	Rs.5,000/-

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

Yours Faithfully,

(Sahibzada Sacod Alumad) Secretary Finance

Endst: NO. FD-SO(SR-11):8-52/2012

Dated Postawar the 200 December, 2012

A Copy is forwarded for information to the:-

Accountant General, Kingber Pokht Historica, Pestidian । Secretaries to Goyamarizat of Punjab, Secan & Salboration, Fandisco Depointment

AN AUTOMOTIVOUS / Stand Automotivious Socies in Kingoer Pakt Lankhard

MATIAZ AYUB!

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1 A-4

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 Chauman Public Service Commission, Khyber Pakhtunkhwa.
- 11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject:

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

Dear Sir,

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

S.No. BPS	Existing Rate (PM)	Revised Rate (PM)
1 1-4	Rs. 1,500/-	Rs. 1,700/-
2 5-10	Rs. 1,500/-	Rs. 1,840/-
3 11-15	Rs. 2,000/-	Rs. 2,720/-
4 16-19	Rs. 5,000/-	Rs 5,000/-

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

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

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

S/B

Dist. Govt. KP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (August-2020)



Personal Information of Mr NAZEERUL HAQ d/w/s of MAHFOOZ UL HAQ

Personnel Number: 00858395

CNIC: 1530361890065

NTN.

Date of Birth: 01.03,1994

Entry into Govt. Service: 20.03.2017

Length of Service: 03 Years 05 Months 013 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER

80001409-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6140-GOVT. PRIMARY SCHOOLS (M) SAMARBAGH

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center: GPF Balance:

47,363.00

GPF A/C No: Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil B

BPS: 12

Pay Stage: 3

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	16,200.00	1000	House Rent Allowance	1,961.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1923	UAA-OTHER 20%(1-15)	1,000.00	2211	Adhoc Relief All 2016 10%	1,114.00
2224	Adhoc Relief All 2017 10%	1,620.00	2247	Adhoc Relief All 2018 10%	1,620.00
2264	Adhoc Relief All 2019 10%	1,620.00			0.00

Deductions - General

	Wage type	Amount	Wage type	Amount
3012	GPF Subscription	-2,220.00	3501 Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004 R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances -

	Loan	Description	Principal amount	Deduction	Balance
--	------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable:

0.00

Recovered till AUG-2020:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

29,491.00

Deductions: (Rs.):

-3,545.00

Net Pay: (Rs.):

25,946.00

Payee Name: NAZEERUL HAQ Account Number: 17447900453603

Bank Details: HABIB BANK LIMITED, 221744 SAMAR BAGH SAMAR BAGH, SAMAR BAGH

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SADBAR KALY

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: nazeerulhaq67@gmail.com



Dist. Govt. KP-Provincial

District Accounts Office Dir at Timargar Monthly Salary Statement (July-2020)



Personal Information of Mr NAZEERUL HAQ d/w/s of MAHFOOZ UL HAQ

Personnel Number: 00858395

Date of Birth: 01.03.1994

CNIC: 1530361890065

Entry into Govt. Service: 20.03.2017

NTN:

Length of Service: 03 Years 04 Months 013 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL TEACHER

80001409-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6140-GOVT. PRIMARY SCHOOLS (M) SAMARBAGH

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center: GPF Balance:

45,143.00

GPF A/C No: Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 12

Pay Stage: 3

Wage type Amount			Wage type	Amount	
0001	Basic Pay	16,200.00	1000	House Rent Allowance	1,961.00
1300	Medical Allowance	1,500.00	1923	UAA-OTHER 20%(1-15)	1,000.00
2211	Adhoc Relief All 2016 10%	1,114.00	2224	Adhoc Relief All 2017 10%	1,620.00
2247	Adhoc Relief All 2018 10%	1,620.00	2264	Adhoc Relief All 2019 10%	1,620.00

Deductions - General

	Wage type	Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

		,		
T	The sector of th	n	D 1 ()	1 - 1
Loan	Description	Principal amount	l Deduction	i Balance i
	D CSC115CO1.	I I III CI PUI UIII CUIIC		Datance
			•	

Deductions - Income Tax

Payable:

0.00

Recovered till JUL-2020:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

26,635.00

Deductions: (Rs.):

-3,545.00

Net Pay: (Rs.):

23,090.00

Payee Name: NAZEERUL HAQ

Account Number: 17447900453603

Bank Details: HABIB BANK LIMITED, 221744 SAMAR BAGH SAMAR BAGH, SAMAR BAGH

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SADBAR KALY

* Errors & omissions excepted

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: nazeerulhaq67@gmail.com

ATTESTED

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

7=0

Subject:

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

Respected Sir,

With due respect it is stated that I am the employee of your good self Department and is serving as PST (BPS-12) 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 Maqsad 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: 24.09.2020

Your Obediently

NAZIR UL HAQ

to be true copy

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR . APPEAL NO. 1452 /2019 Dama 24 10/201 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 ACTION OF THE RESPONDENTS BY ILLEGALLY UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE VACATIONS AND AGAINST NO ACTION TAKEN ON THE THE APPELLANT DURING 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 Conveyance allowance which have been deducted Recito-day previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in RESISTIAT favor of the appellant. EXAMINER

24/18/16 R/SHEWETH: ON FACTS:

- 1- That the appellant is serving in the elementary and essecondary 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 Marbad Hayat vs Giort

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 downon 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 Wat. 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

লেই reasonable time. Cartified

File be consigned to the regord.

Postawas

ANNOUNCED

11.11.2019

Chairman

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TIBUNAL, PESHAWAR	
	OF 2021
	(APPELLANT)
NAZIR UL HAQ	
	_(PLAINTIFF)
	(PETITIONER)
· <u>VERSUS</u>	
Education Department	(RESPONDENT) (DEFENDANT)
I/We NAZIR UL HAQ	
do hereby appoint and constitute ADNAN A	MAN. Advocate. High Court.
Peshawar to appear, plead, act, compromise, for me/us as my/our Counsel/Advocate in the any liability for his default and with the author Advocate Counsel on my/our cost. I/we author withdraw and receive on my/our behalf all deposited on my/our account in the above note	ne above noted matter, without rity to engage/appoint any other rize the said Advocate to deposit, sums and amounts payable or
Dated/2021	
	1
	CLIENT
	CLIENI
	1
	ACCEPTED
	ADNAN AMAN

ADVOCATE