# Form- A FORM OF ORDER SHEET

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S.No.	Date of order proceedings	Order or other proceedings with signature of judge
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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
, 4		This case is entrusted to S. Bench for preliminary hearing to be pu
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## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL	NO.	/	202	1

**MUHAMMAD SHAHAB KHAN** 

· VS

**EDUCATION DEPTT:** 

#### **INDEX**

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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. / 282/2021

Khybor Pakhtukhwa Service Tribunal

Mr. **MUHAMMAD SHAHAB KHAN**, PST (BPS-12) GPS, GAMBEER SAMARBAGH, **LOWER DIR**  Diary No. 13 13

Dates 19 1 22

Personnel Number: 00921966

.....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 VIDE THE SAME DID NOT PASS ANY APPROPRIATE ORDER OVER 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 dayuring 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

- 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:**

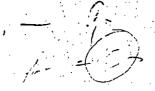
- A- That the action and inaction of the respondents regarding deduction of conveyance allowance for vacations period/months is illegal, against the law, facts, norms of natural justice.
- B- That the appellant has not been treated by the respondent Department in accordance with law and Rules on the 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
MUHAMMAD SHAHAB KHAN
THROUGH:

ADNAN AMAN ADVOCATE HIGH COURT(S)





#### GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGULATION WING)

NO. FD/SO(SR-II)-8-52/2012 Dated Peshawar the: 20-12-2012

From

The Secretary to Govt, of Khyter Pachtunkhwa, Finance Department.

Penhawar.

To:

All Administrative Secretaries to Govi. of Kingten Pakintumbrana.

The Social Member, Board of Revenue, Whyber Posteunidisco.

The Secretary to Governor Knyber Pakitalahawa

The Secretary to Chief Minstel, Khyser Pakhunkhua.

The Secretary, Province Ascerby, Knyber Pakatunkhwa

All Heads of Altaened Departments in Knyher Pakhturkhwa

AF District Codedination Officers to Khyteli Paklitunkings.

All Political Agents / District & Sessions Judges in Khyper Pakistankhwa

The Registral Pashabar High Court Poshawa

The Chairman Public Service Corregation, Knyber Pokhlunkowa.

The Chairman, Services Tribunal Kryper Fakhtunkhwa

Satt, Edi.

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 Khylie: Pakhturahwa has been pleased to enhance / revise the rate of Conveyance Allowance admissible to all the Provinces Civil Servantia Gover of Nayber Pashtunishwa (Working in BPS-1 to BPS-15) w.e.f from 15 September, 2012 St the following rates. However, the conveyance allowance for employees in SFS-15 to BPS-19 will remain unknanged.

19-19-1	We continued a min		
S.NO	BP5	EXISTING RATE (PM)	REVISED RATE (PM)
3.110		२८ 1,500/-	Rs.1,700/-
1			R < 1 840/-
$\frac{2}{1}$	_ 5-10,	Ps.1,500/-	ק אַ אַ אַרָּייִי
3	11-15	95.2,000/-	Rs.2,720/-
	16.10	85,5,000/-	Rs.5,000/-

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

Yours Faithfully,

Sahibzada Sacod Ahmadi Secretary Firence

Endate NO. FINSOISTE-117-8-52/2012

Bated Pessawar the 20", December, 2013

A Copy is forwarded for information to the:-

Associations General Kingber Pakhturikhna, Pesiglader

Secretaries to Government of Punjob, जिल्ला है देव boresten Foreign Destriction

To All Automotivous / State Automotious Eccles in Kingoot Pakh Lankhara

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#### BETTER COPY PAGE-5

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#### GOVERNMENT OF KHYBER PAKHTUNKHWA FINANCE DEPARTMENT (REGUALTION WING)

NO.FD/SO(SR-II)/52/2012 Dated Peshawar the: 20:12.2012

From

The Secretary to Govt: of Khyber Pakhtunkhwa. Finance Department, Peshawar.

To:

- 1. All administrative Secretaries to Govt: of Khyber Pakhtunkhwa.
- 2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
- 3. The Secretary to Governor, Khyber Pakhtunkhwa.
- 4. The Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa.
- 6. All Heads of attached Departments in Khyber Pakhtunkhwa.
- 7. All District Coordination Officers of Khyber Pakhtunkhwa:
- 8. All Political Agents/District & Session Judge in Khyber Pakhtunkhwa.
- 9. The Registrar Peshawar High Court, Peshawar.
- 10. The Chairman Public Service Commission, Khyber Pakhtunkhwa.
- 11. The Chairman, Service Tribunal, Khyber Pakhtunkhwa.

Subject:

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

Dear Sir,

The Government of Khyber Pakhtunkhwa has been pleased to enhance the rate of Conveyance Allowance admissible to all the Provincial Civil Servants Govts 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/-
12	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/-

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

Your Faithfully

(Sahibzada Saeed Ahmad) Secretary Finance

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

TOE:

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





## Personal-Laformation of Mr MUHAMMAD SHAHAB KHAN d/w/s of AFZAL KHAN

Personnel Number: 00921966

CNIC: 7150172148047

NTN:

Date of Birth: 01.03.1994

Entry into Govt. Service: 01.03.2019

Length of Service: 01 Years 09 Months 001 Days

**Employment Category: Vocational Temporary** 

Designation: PRIMARY SCHOOL TEACHER

80001409-DISTRICT GOVERNMENT KHYBE

Payroll Section: 001

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

GPF Section: 001

Cash Center:

GPF A/C No: 921966 Vendor Number: -

Interest Applied: Yes

**GPF** Balance:

0.00

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

**BPS: 12** 

Pay Stage: 0

Wage type	Amount	Wage type	Amound
0001 Basic Pay	13,320.00	1000 House Rent Allowance	Amount
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%	1,332.00	2247 Adhoc Relief All 2018 10%	1,332.00
2264 Adhoc Relief All 2019 10%	1,332.00	1 2010 7070	0.00

#### **Deductions - General**

Wage type	Amount	Wage type	Amount
3501 Benevolent Fund	-600.00	3534 R. Ben & Death Comp Fresh	-600.00
3990 Emp.Edu. Fund KPK	-125.00		0.00

#### **Deductions - Loans and Advances**

	<del></del>		,	
Loan	Description	Principal amount	Deduction	Balance
				Datance

**Deductions - Income Tax** 

Payable:

0.00

Recovered till NOV-2020:

0.00

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

25,747.00

Deductions: (Rs.):

-1,325.00

Net Pay: (Rs.):

24,422.00

Payee Name: MUHAMMAD SHAHAB KHAN

Account Number: 260523114

Bank Details: UNITED BANK LIMITED, 211157 UBL MAYAR UBL MAYAR, MARDAN

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SAMAR BAGH

\* Errors & omissions excepted

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: shahab.bba@gmail.com

#### Dist. Govt. NWFP-Provincial District Accounts Office Dir at Timargar Monthly Salary Statement (February-2020)



Personal Information of Mr MUHAMMAD SHAHAB KHAN d/w/s of AFZAL KHAN

Personnel Number: 00921966

CNIC: 7150172148047

Date of Birth: 01.03.1994

Entry into Govt. Service: 01.03.2019

Length of Service: 01 Years 00 Months 001 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

Cash Center:

GPF A/C No: 921966

Interest Applied: Yes

**GPF** Balance:

0.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

**BPS: 12** 

Pay Stage: 1

Wage type	Amount	Wage type	Amount
0001 Basic Pay	14,280.00	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%	1,428.00
2247 Adhoc Relief All 2018 10%	1,428.00	2264 Adhoc Relief All 2019 10%	1,428.00

#### **Deductions - General**

	Wage type	Amount		Wage type	Amount
$\overline{}$	Benevolent Fund	<u>-600.0</u> 0	3534	R. Ben & Death Comp Fresh	-600.00
3990 1	Emp.Edu. Fund KPK	-125.00			0.00

#### **Deductions - Loans and Advances**

	<del></del>		<u>:</u>
Loan Description	Principal amount	Deduction	Balance

**Deductions - Income Tax** 

Payable:

0.00

Recovered till FEB-2020:

Exempted: 0.00

Recoverable:

0.00

Gross Pay (Rs.):

24.139.00

Deductions: (Rs.):

-1,325.00

Net Pay: (Rs.):

22,814.00

Payee Name: MUHAMMAD SHAHAB KHAN

Account Number: 260523114

Bank Details: UNITED BANK LIMITED, 211157 UBL MAYAR UBL MAYAR, MARDAN

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: SAMAR BAGH

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: shahab.bba@gmail.com

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

77

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,

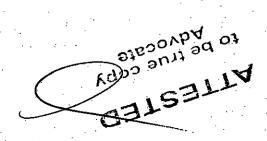
'With due respect it is stated that I am the employee of your good self Department and is serving as PST (BPS-12) quite efficiency and up to the entire satisfaction of the superiors. It is stated for kind information that Conveyance Allowance is admissible to all the civil servants and to this effect 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 Magsad Hayat versus Education Derpartment. Copy attached. That I also the similar employee of Education Department and under the principle of consistency I am also entitled for the same treatment meted out in the above mentioned service appeal but the concerned authority is not willing to issue/grant the same conveyance allowance which is granting to other employees. Copy attached. I am feeling aggrieved from the action of the concerned authority regarding deduction of conveyance allowance in vacations period/months preferred this Departmental appeal before your good self.

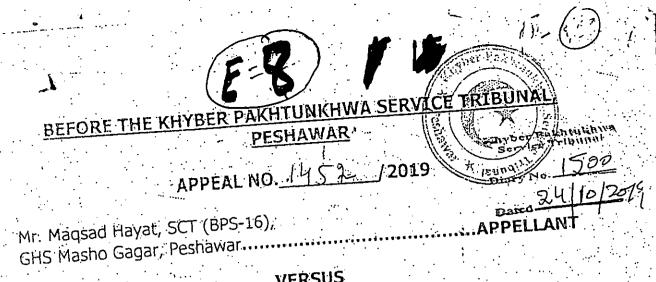
It is therefore, most humbly prayed that on acceptance of this Departmental appeal the concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during the winter & summer vacations.

Dated: 24.09.2020

Your Obediently

**MUHAMMAD SHAHAB KHAN** 





### VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary,
- 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 THE RESPONDENTS BY UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE SUMMER APPELLANT DURING WINTER & VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

#### PRAYER:

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

## R/SHEWETH:

- 1- That the appellant is serving in the elementary and esecondary ON FACTS: education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
  - 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later ion vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Appeal No. 1452/2019 Markad Hayat is 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 down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement, and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3152-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a

reasonable time.

File be consigned to the record.

ANNOUNCED

11:11.2019

Chairmán

Roshawar.

Certified

#### **VAKALATNAMA**

	OF 2021
MUHAMMAD SHAHAB KHAN	(APPELLANT)
MUNAMMAD SHANAD KHAN	
(PLAINTIFF)	
	(PETITIONER)
VERSUS	
VERSUS	
	(RESPONDENT)
Education Department	(DEFENDANT)
/We <b>MUHAMMAD SHAHAB KHAN</b>	
<b>Peshawar</b> to appear, plead, act, compromise for me/us as my/our Counsel/Advocate in	e, withdraw or refer to arbitration the above noted matter, withou
Peshawar to appear, plead, act, compromise for me/us as my/our Counsel/Advocate in any liability for his default and with the auth Advocate Counsel on my/our cost. I/we auth withdraw and receive on my/our behalf all	the above noted matter, withou nority to engage/appoint any othe norize the said Advocate to deposi Il sums and amounts payable of
Peshawar to appear, plead, act, compromise for me/us as my/our Counsel/Advocate in any liability for his default and with the auth Advocate Counsel on my/our cost. I/we auth withdraw and receive on my/our behalf all deposited on my/our account in the above no	e, withdraw or refer to arbitration the above noted matter, without nority to engage/appoint any other norize the said Advocate to deposible sums and amounts payable of
Peshawar to appear, plead, act, compromise for me/us as my/our Counsel/Advocate in any liability for his default and with the auth Advocate Counsel on my/our cost. I/we auth withdraw and receive on my/our behalf all deposited on my/our account in the above no	e, withdraw or refer to arbitration the above noted matter, without nority to engage/appoint any other control the said Advocate to deposible sums and amounts payable of
Peshawar to appear, plead, act, compromise for me/us as my/our Counsel/Advocate in any liability for his default and with the auth Advocate Counsel on my/our cost. I/we auth withdraw and receive on my/our behalf all deposited on my/our account in the above no	e, withdraw or refer to arbitration the above noted matter, without nority to engage/appoint any other control the said Advocate to deposible sums and amounts payable of
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