


FORM OF ORDER SHEET

Court of _____

Appeal No. 2608/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/12/2023	<p>The appeal of Mr. Nasru Minallah resubmitted today by Mr. Khadim Ul Islam Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ . Parcha Peshi is given to the counsel for the appellant.</p> <p style="text-align: right;">By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Nasru Minallah received today i.e on 04.12.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- ✓ Check list is not attached with the appeal.
- 2- ✓ Annexures of the appeal are unattested.
- 3- ✓ Appeal has not been flagged/ marked with annexures marks.
- 4- ✓ Heading of the appeal is not according to the Khyber Pakhtunkhwa Service Tribunal Act 1974.
- 5- ✓ Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal.
- 6- ✓ Approved file cover is not used.
- 7- ✓ The documents that are to be provided must be readable/legible.
- 8- ✓ 5 more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 3778 /S.T.

Dt. 05-12 /2023.

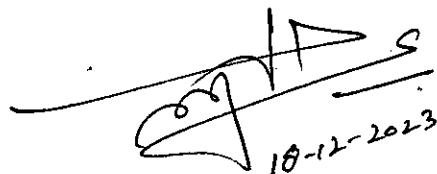


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Shakir ud Din Shahid Adv.
High Court Peshawar.

Note: objections are removed and re-submitted.

Objection no 5 has not been removed as the charge sheets, statements of allegation etc are not available with the appellant as he has submitted the same along with his departmental appeal and are in the possession of concerned department; kindly appeal to be put before the Honble Service Tribunal.



10-12-2023

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 2608/2023

Nasru MinallahAppellant

Versus

Govt. of Khyber Pakhtunkhwa through Inspector General of Prisons & others..... Respondents

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Dated: 04-12-2023

through

Appellant

Khadiam Ul Islam

&

Shakir Uddin Shahid
Advocates, High Court

(2)

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No 2608/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9678

Dated 04-12-2023

Warder, Nasru Minallah, son of Sher Wazir Hussain Resident of District and Tehsil Lower Chitral Post Office Drosh Village Langa Drosh. _____Appellant

VS

1. Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.
2. Additional Inspector General of Prisons Pakhtunkhwa Peshawar.
3. Superintendent Circle Head Quarter Prisons District Mardan.

Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDERS DATED, 30-08-2023 AND 06-10-2023.

Respectfully Sheweth:

1. That the appellant was appointed as awarder in prisons department Khyber pakhtunkhwa. Copy of service card is annexed As "A")
2. That on 30-08-2023, the appellant was awarded, the major penalty of compulsory retirement from service on account of his alleged absence from 02-08-2023 to 16-08-2023, which is fourteen days in total. (Copy of compulsory retirement order is annexed As "B")
3. That against the aforesaid compulsory retirement order the appellant moved departmental appeal before the appellate

authority, which was also dismissed. (Copies of the appeal and order are annexed As "C" & "D.")

4. That feeling aggrieved from the above mentioned orders, the appellant approached this Honorable Service Tribunal on the following grounds amongst other.

Grounds:

A. That the impugned orders are against the law, facts and circumstances of the case, hence not tenable in the eye of law and liable to be set aside.

B. That the appellant has fully explained his position/defense to the senior official authorities in the departmental appeal submitted by him but the material and defense of the appellant was totally over looked by official authorities, hence the impugned order.

C. That on 28- July-2023 the appellant suddenly got the sad news of the demised of his real uncle, the appellant went to Chitral to attend the burial ceremony of his uncle after writing leave application to senior official (Respondent No 3.). (Copy of leave application is annexed As "E")

D. That despite the written leave application of the appellant the Jail superintendent (Respondent No 3) have marked him absent from duty on account of 14th days and similarly he has been awarded major punishment in the shape of compulsory retirement from the service without any back benefits, which is illegal against the right of the appellant as he given his precious about 11th years of his life to the prisons department.

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- E. That the reasoning advanced by the senior authorities in the impugned order are based on conjectures surmises and assumptions and cannot be sustained in law.
- F. That the appellant has rendered about 11th years of exemplary and outstanding service to the department and is qualified committed and entitle to continue his remaining service till his superannuation with all back benefits.
- G. That the appellant has faced all these situation due to the ill will of the respondent No 3 as he has not taken the leave application of the appellant malafidely, which was moved by the appellant before his departure to Chitral as the appellant has not been able to full fill the demands of the respondent No 3 earlier, on account of which he has been removed from his service when he was there to full fill his domestic obligation being the elder son of his father and it was incumbent upon him attend the burial ceremony of his uncle.
- H. That it is apparent from the record that the appellant has given different penalties without giving proper opportunity of defense and the appellant being not in knowledge of the law has bear all the mal treatment on the part of respondent No 3 and similarly the appellant has never been given a chance to serve the department for a reasonable period in one situation and he been transferred from one Jail to another Jail on account of his refusal to full fill the ~~allegation~~ ^{illegal} demands of the Respondent No 3.
- I. That the appellant is the sole bread earner of his family and now due to biased attitude of the authorities is facing hardship in his life after serving the department with full zeal

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and passions and he is still ready to serve the department with the same energy.


J. That any other grounds with the leave of this Honorable service Tribunal will be raised at the time of arguments.

It is therefore, humbly prayed that on acceptance of this appeal the impugned orders dated 30-08-2023 & 06-10-2023 may kindly be set aside and the appellant may kindly be reinstated with all back benefits.

Any other relief to which the appellant is entitled under the facts and circumstances of the case may also be granted to the appellant.


Appellant

Through


Khadim Ul Islam

&


Shakir ud din Shahid

Advocates High Court

Dated; 04-11-2023

NOTE: -

No such like appeal for the same appellant, upon the same subject matter has earlier been filed by me, prior to the instant one, before this Hon'ble Tribunal.


ADVOCATE.

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BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR

Service Appeal No-----/2023

Warder, Nasru Minallah, -----Appellant

VERSUS

Inspector of General of Prisons & others -----Respondents

AFFIDAVIT

I Nasru Minallah son Sher Wazir Hussain Hussain Resident of district and Tehsil lower Chitral Post office Drosh village langa Drosh solemnly affirmed on oath and declare that the contents of this service appeal are true and correct to the best of my knowledge, and belief and nothing has been concealed from this Hon'ble Service Tribunal.


DEPONENT

CNIC No# 15201-0253589-3

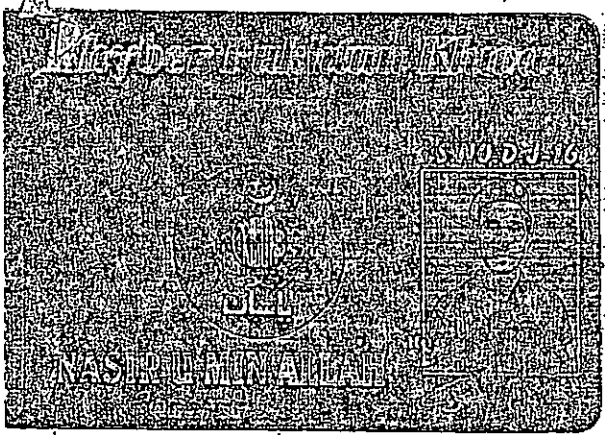
Cell No# 0347-5166988

DATED; 04-12-2023



02 DEC 2023

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	Name:	AYZAM HUSSAIN
	N.I.C. No.:	013201-0253520
	D.O. Birth:	10-02-1990
	Date of App.:	30-05-2013
	Cell No.:	03475166988
	Date of Issue:	12-06-2013
	Valid Up to:	12-06-2016
	Blood group:	A+ Rh+ve
	Eyes Color:	BLACK
	Designation:	Constable
Height:	5'6"	
Home Address:	VILLAGE LANGUDD TENSIKER DISTRICT	
<small>The Card is self Transmittable and is the property of PK In the event of loss report immediately to the nearest PK and issuing authority giving original number of the Finder of the card pay Rs. 100 nearest PK. S. 1. OR In Case of Emergency Please Contact 12111211</small>		

[Handwritten signature]
4/12/2023

OFFICE OF THE SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. /PB Dated. /08/2023, E-Mail: mardajail@gmail.com, 0937-843114

OFFICE ORDER

WHEREAS, the accused official/Warder Nasru Minallah S/O Wazir Hussain attached to Central Prison Mardan was proceeded against under Rule-5 read with 7 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges of his misconduct as mentioned in the Show Cause Notice No. 233-34 dated. 17.08.2023 served upon him on his misconduct/wilful absence.

AND WHEREAS, he furnished his written reply/defence without any documentary proof/evidence which were found un-satisfactory.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 29.08.2023 as provided for under rules ibid. The accused official completely failed to defend his case with documentary proof/evidence.

AND WHEREAS, the accused official/warder is habitual of absenting himself from line and duties without permission and sanction of leave and undisciplined, having lethargic duty attitude, which is crystal cleared from his service book record, 1- as the inquiry against the said accused official with Mr. Bakht Rawan Deputy Superintendent District Jail Timergara of Twenty Six (26) days wilful absence from Central Prison Mardan is also ending. 2- the period of absentees of 09 days treated as leave without pay vide Superintendent HQ's Prison Peshawar Order No. 1639-40 dated 16.06.2014, 3- absence period of 10 days as leave without pay vide Superintendent District Jail Chitral Office order No. 1172 dated 09.12.2014, 4-, absent period of 06 days without pay vide Superintendent District Jail Chitral Office order No. 146 dated 06.02.2015, 5- the absence period of the accused official/warder for 19 days is hereby ordered as to be treated as leave without pay and awarded the minor penalty of "Censure" vide Superintendent High Security Prison Mardan order No. 156-99 dated 16.01.2017, 6- absence period of seven (07) days is hereby treated as leave without pay vide Superintendent Circle Headquarter Prison Mardan Order No. 1570-73 dated 10.05.2017, 7- the accused official was relieved on administrative grounds Superintendent Circle Headquarter Prison Mardan upon preliminary inquiry report and the gravity of misconduct vide Superintendent District Jail Chitral office order Endst No. 634-35 dated 24.06.2017, 8- the accused warder was awarded minor penalty of "Censure" while attached to District Jail Chitral and absence period of 10 days is hereby treated as leave without pay vide Superintendent Circle Headquarter Prison Mardan Order No. 701-05 dated 03.2018, 9- the accused warder was awarded minor penalty of "Censure" and absence period of 03 days is hereby treated as leave without pay vide Superintendent Circle Headquarter Prison Mardan Order No. 1520-23 dated 02.2018, 10- the accused official/warder was awarded penalty of "Three (03) increment stopped for three (03) year" vide Superintendent HQ's Prison Mardan Order No. 1521-26 dated 20.10.2020, 11- the accused official/warder was awarded minor penalty of "One (01) increment stopped for one (01) year" and absence period of six (06) days is hereby treated as leave without pay vide Superintendent HQ's Prison Mardan Order No. 2087-90 dated 19.11.2020, 12- the absence period of the accused official/warder for six (06) days is hereby ordered to be treated as leave without pay vide Superintendent Central Prison Mardan Office order No. 12291-92 dated 10.11.2021, 13- the absence period of the accused official/warder while attached to Central Prison Mardan and presently attached to District Jail Chitral for 27 days out of which 18 days is hereby treated as leave on medical grounds subject to title while the remaining 09 days shall be treated as leave without pay vide Superintendent Central Prison Mardan order No. 1159 dated 12.2022.

NOW THEREFORE, in exercise of powers conferred under Rule-14(5) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, being considered the charges, evidence on record, the sanction of the accused official and after affording the opportunity of personal hearing, the undersigned being competent authority after observing all legal procedural formalities, is hereby awarded the major penalty of "Compulsory Retired from Service" with immediate effect to the accused official/ Warder Nasru Minallah S/O Wazir Hussain attached to Central Prison Mardan for his misconduct/ wilful absence, his absence period with effect from 02.08.2023 to 16.08.2023 Fourteen (14) days, he is not entitled for any remuneration under rule 19 of the Khyber Pakhtunkhwa Government Servant Revised Leave Rules 1981.

SUPERINTENDENT CIRCLE HQS. PRISON MARDAN

No. 2340-43 / Dated: 30/08/2023

Copy of the above is forwarded to:-

- The Worthy Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information, please.
- The Superintendent Central Prison Mardan, for information and necessary action, please.
- The District Accounts Officer, Mardan for information and necessary action please.

Official concerned C/O Superintendent Central Prison Mardan.

SUPERINTENDENT CIRCLE HQS. PRISON MARDAN 30/08/23

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**THE INSPECTOR GENERAL
PRISONS DEPARTMENT, GOVERNMENT OF KHYBER
PAKHTUNKHWA AT CIVIL SECRETARIATE PESHAWAR**

**SUBJECT: DEPARTMENTAL APPEAL/REPRESENTATION FOR
REINSTATEMENT OF SERVICE AGAINST THE IMPUGNED
ORDER BEARING NO. 2340-43; DATED 30-08-2023; ISSUED
BY THE SUPERINTENDENT CIRCLE HQS. PRISON
MARDAN; WHEREBY THE APPELLANT HAS BEEN
GRANTED MAJOR PENALTY OF COMPULSORY
RETIREMENT FORM THE SERVICE.**

PRAYER;

On acceptance of the instant Departmental Appeal/Representation the Impugned Order bearing No. 2340-43; Dated 30-08-2023; issued by the Superintendent Circle Hqs. Prison Mardan KPK be set aside and the appellant be re-instated in service with all accruing back benefits. Any other relief deems just and proper in the circumstances of the representation may also granted to the appellant.

Respectfully Stated;

Facts and Grounds giving rise to the instant departmental appeal are as under;

1. That the appellant is belong to District Chitral and been serving as Warder (BPS-7) since 2013 at Prison Department Khyber Pakhtunkhwa, at Circle Hqs. Prison Mardan KPK.
2. That throughout his service the appellant performed his duty honestly, fairly, and devotedly without any complaint or mistakes.
3. That on the 28-08-2023 at night the appellant Uncle had been died in accidental death and upon the telephonic information the appellant informed his superiors at his duty station and being the only elder of his whole family leave for his home

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5-9-23

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town Chitral, after funeral of his diseased uncle a few days later due to the sudden demise of the diseased the family members gone through a server depressive illness and have been admitted for Psychiatric treatment and kept in hospitalization/rehabilitation under the supervision of consultants.

4. That the appellant after getting hospitalization and crossing the pandemic situation return back to his duty on 15-08-2023, the officials told him that you have been removed from service, upon information the appellant present before the concerned official and informed him about the whole incident but unfortunately on 30-08-2023; the official surprisingly handed him the compulsory retirement order on account of 14 days absentee.

(Order of Compulsory Retirement from service Annexed)

5. Hence the instant appeal/ representation amongst the following grounds;

GROUND:

- A. That admittedly there is no case exist, established or connect the appellant with any offence, miss conduct or negligence with effect to liable him for any departmental proceeding or major penalty removal from service; therefore, imposition of major penalty of Compulsory Retirement is void *ab initio*, illegal, unlawful and ineffective upon the terms and conditions of service of the appellant.
- B. That the gross malice and grave malafide of the Superintendent Circle Hqs. Prison Mardan with effect to impose the impugned order of direct Compulsory Retirement is self-evident and illegal/unlawful from without fulfilling the codal formalities show cause / notice etc.
- C. That the direction of illegal removal order all being conducted in malice on behest of one and single authority who happened to be Departmental Head Circle Hqs. Prison Mardan as well as Administrative Head/Appellate Authority (So called Competent Authority) confirms grave illegality and violation of law, rules and office procedures.
- D. Whether an authority as per administration of public office be a judge in his own cause and that's too in dual capacity?
- E. Whether such inquiry officer suggest penalty in his inquiry report?

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MK
2023

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- F. Whether such inquiry officer sign order of Compulsory Retirement?
- G. That the impugned order is backed by illegal and irregular exercise of power and based on mis-application of law/rules on the subject as well as against the well settled norms of administration of justice, hence; highly illegal, arbitrary, cursory, whimsical and full of surmises and conjectures.
- H. That the impugned order to impose penalty is totally based on evasive and self-made grounds. In fact the Superintendent Circle Hqs. Prison Mardan has failed to proceed on the substantial reasons and exhibited lack of application of administrative mind. The impugned order is, therefore, liable to be struck down.
- I. That the appellant has rendered about 11 years exemplary and outstanding service to the Department and is qualified committed and entitle to continue his remaining service till his superannuation with all benefits.
- J. That there is a fundamental principle of law "**No One Can be Penalized Unheard**" the right to a fair hearing requires that individuals should not be penalized by decisions affecting their rights or legitimate expectations unless they have been given prior notice of the case, a fair opportunity to answer it, and the opportunity to present their reply of show cause.
- K. That any other ground be furnished whenever required for the assistance of your good authority in support of his appeal.

It is, therefore, humbly prayed to allow the subject departmental appeal and the appellant be re-instated in service with all accruing back benefits.

Dated; 04-09-2023

Appellant 

Nasru Minallah
Warder (BPS-3)
Circle Hqs. Prison Mardan.
Cell;0321-5877605

RECEIVED

18-12-23

ORDER:

091-9210334, 9210406

091-9213445

No. Estb/Ward-Orders/ 365301

Dated 06.11.2023

WHEREAS, Ex-Warder Nasru Minallah S/o Wazir Hussain, while attached to Central Prison Mardan was awarded the major penalty of "Compulsory Retirement from Service" and "non-entitlement for any remuneration for his absence period under rule-19 of Khyber Pakhtunkhwa Government Servants Revised Leave Rules, 1981" by Superintendent HQs Friscn Mardan vide order No. 2339-43 dated 30-08-2023 due to his misconduct / willful absence w.e.f. 02-08-2023 to 16-08-2023.

AND WHEREAS, the said Ex-Warder preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

AND WHEREAS, he was afforded an opportunity of personal hearing on 05-10-2023. His appeal was examined in light of the available record of the case and it was observed that the penalty was awarded to him by the competent authority on his willful absence after observing all legal and codal formalities as required under Government Servants (Efficiency & Discipline) Rules, 2011. During the course of hearing, the appellant failed to justify his innocence.

AND WHEREAS, entire service history of the appellant is filled with red entries and he had been awarded 14 penalties which have been recorded in order of the competent authority referred to above. He is habitual of absenting himself from duties as per his service record.

NOW THEREFORE, having considered the charges, evidences/facts on record, explanation of the accused official, his entire service history, the provision of rules in vogue and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance & facts and devoid of merit.

ADDL: INSPECTOR GENERAL OF PRISONS,
KHYBER PAKHTUNKHWA, PESHAWAR

ENDST: NO. 36531-351

Copy of the above is forwarded to the:

1. Deputy Inspector General of Prisons Regional Prison Office Mardan for information.
2. Superintendent, Headquarters Prison Mardan for information and necessary action with reference to his letter No. 2462/WE/PB dated 12-09-2023.
3. Superintendent Central Prison Mardan for information and necessary action. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
4. The appellant C/o Superintendent Central Prison Mardan for information.
5. PS to Inspector General of Prisons Khyber Pakhtunkhwa Peshawar for information.

DEPUTY DIRECTOR
INSPECTORATE GENERAL OF PRISONS
KHYBER PAKHTUNKHWA PESHAWAR

D/Vo 2578
11/10-23

DS/PBO

SP/11

18-11-2023

خدمت جناب سپردہ نشینہ جیل سردان

ممنون: رفوالتہ غفرار جی لہرانہ 2023

جناب عالی:

گزارش ہے کہ آج رات تقریباً 1 بجے گھر سے فون آیا۔ اور بتایا گیا کہ میرا منہ چھو کا انتقال ہو گیا ہے اور میرا بچا لالہ تھا اور میرا والد کا بھی انتقال ہو گیا ہے۔ اور گھر کا بڑا اور والد کفیل میں ہیں اور میرا بچا کا جنازہ شام کے بچے کا وقت دیا گیا۔ اور میں گھر کا بڑا بیوی بھائی بناد چکا ہوں۔

زرستن کیلئے جا رہا ہوں اہل بیت انجمن کی فہرست میں گزارش کرتا ہوں کہ جناب واہ منظور فرما کر کے مجھے 2023 کی جی عنایت فرما کر مشکور رہتا ہوں۔

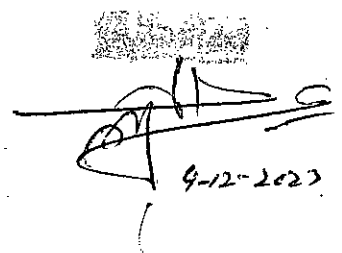
28/07/2023

الغرض



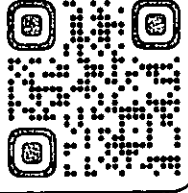
وارثہ نسرین اہل بیت

سنٹرل جیل سردان!

4-12-2023



(13)

50	22775	پشاور بار ایسوسی ایشن، خیبر پختونخوا
ایڈویکٹ: خادم ارا سراج	PESHAWAR BAR ASSOCIATION	
بار کونسل ایسوسی ایشن نمبر: BC-21-3764		
رابطہ نمبر: 0345-9541983		

بعدالت جناب: مہدر سروس ٹیوشنل شاور Shokiruddinshahid.3@gmail.com

منجانب: محل	دعویٰ: Service Appeal
لعل محمد اللہ	علت نمبر:
بنام	مورخہ:
انٹیکلڈ فیصلہ جیل فائدہ حاصل	جرم:
محکمہ	تھانہ:
نامت بحریہ آفک	

لم من اللہ ولا فی الحسب

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سینا اور کلیہ خادم ارا سراج، عمارتیں سید انور گل کو وکیل 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 تقریر نمائندگی و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا کسی طرفہ 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 یا ایڈووکیٹ اپنے ہمراہ یا اپنے وکیل کے اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ ساتھ ہر ذمہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانب سے ہوا اس کے سبب سے ہوگا یا کوئی سزا یا جزی یا جزی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی نہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 27/4/2023

بد گواہ شد الع بد

مقام: سینا کے لیے منظور ہے۔

کے ان کوکٹ ایسی درجہ کی اقبال من سراج

Accepted & Accepted

PC-19-237