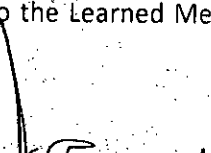
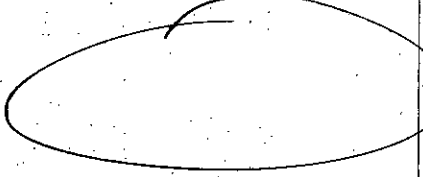
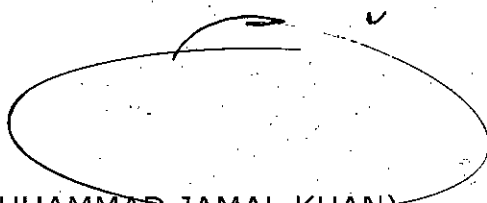


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 14760 /2020 20

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	23/11/2020	<p>The appeal presented today by Mr. Shahid Hussain Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p>	02.03.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>2.3.2021</u></p> <p style="text-align: right;"> MEMBER(J)</p> <p>Due to general strike on the call of Khyber Pakhtunkhwa Bar Counsel, learned counsel for appellant is not available today, therefore, the appeal is adjourned to 27.07.2021 on which date file to come up for preliminary arguments before S.B.</p> <p style="text-align: right;"> (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p>

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No _____ /2020

MUHAMMAD RAFIQ VS EDUCATION DEPTT:

INDEX

S.N	Descriptions of Documents	Annexure	Page
1.	Memo of appeal		1-3
2.	Copy of Notification dated	A	4
3.	Copy of the salary slips of working/Serving month and vacation (deduction period)	B&C	5-6
4.	Copy of Departmental Appeal	D	7
5.	Service Tribunal Judgment	E	8-9
6.	Wakalat Nama		10

APPELLANT

THROUGH:



SHAHID HUSSAIN

ADVOCATE HIGH COURT

CELL NO 03003959446

Note:

Sir,

Spare Copies will be submitted

After submission of the case.

Before the Khyber Pakhtunkhwa Service Tribunal Peshawar

Service Appeal No 14760 /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15283

Dated 23/11/2020

Mr. MUHAMMAD RAFIQ S, TT(BPS-16)
GHSS DHAKKI, CHARSADDA

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

.....RESPONDENTS

APPEAL UNDER SECTION -4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT.1974 AGAINST THE INACTION OF THE RESPONDENTS BY ILLEGAL AND UNLAWFUL DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATION AND AGAINST NO ACTION TAKEN ON THE DEPARTMENT APPEAL OF APPELLANT WITHIN THE STATUORY 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 the winter & summer 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.

RESPECTFULLY SHEWETH:

1. That the appellant is serving in the Elementary and Secondary Education department as STT (BPS-16) 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 20-12-2012 whereby the conveyance Allowance for employees working in BPS 1 to 15 were

Filed to-day

Registrar

23/11/20

enhance / revised while employees from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance.

Copy of Notification dated 20/12/2012 are attached as annexure.....A

3. That appellant was receiving the conveyance allowance as admissible under the law and rules but the respondents without any valid and justifiable reason stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for the leave period. **(Copy of the salary slips of working/ serving month and Vacation Period are Annex B&C)**

4. That the appellant was feeling aggrieved from the action of the respondents regarding the deduction of conveyance allowance in vacations period/months filed departmental appeal but no reply has been received so far. That feeling aggrieved some others colleagues filed writ petition No. 3162-p/2019 before the Peshawar High Court Peshawar, which was disposed of vide judgments dated 01/10/2019 with the direction to approached the proper forum i.e service tribunal. **(Copy of Departmental appeal as Annexure D)**

5. That some of the colleagues of the appellant approached to this August Tribunal in different service appeal which was allowed by this Tribunal vide S.A No. 1452/2019 judgments dated 11/11/2019 and many others cases. **(copy judgments dated 11/11/2019 attached as annexureE**

6. That where after the appellant waited for the statutory period of ninety days but no reply has been received from the respondents so far. That feeling aggrieved and having no other remedy file the instant service appeal on the following grounds:-
GROUND:-
 - a. That the action of the respondents regarding deduction of the conveyance allowance for vacations period/ months is illegal against the law, facts and norms of natural justice.
 - b. That the appellant have not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
 - c. That the action of the respondent is without any legal authority discriminatory and clear violation of fundamental rights duly conferred by the Constitution and is liable to declared is null and void.

- d. That there is cleared difference between leave and vacation as leave is applied by the civil servant in the light Government servant revised leave rules 1989 while the vacation are always announced by the government, therefore under the law and rules the appellant fully entitled for the grant of conveyance during vacation period.
- e. That the Government Servant revised leave rules 1989 clearly explained that the civil servant who avail the vacation are allowed only one leave in a month where is the other civil servant may avail 4 days leave in colander months and the same are credit to his account in this way he may to earned leave with fully pay, where is government servants to avail vacations such is appellant is allowed one day leave in a month and 12 days in a year and earned leave for 12 days in a year for credit to his account and there is no question of deduction of conveyance allowance . The respondent illegally and without any authority started the recovery and deduction of conveyance allowance from the appellant.
- f. That is the act of the respondent is illegal, unconstitutional, without any legal authority and not only discriminatory but the result of Malafiede on the part of respondents.
- g. That appellant has vested right of equal treatment before law and the act of the respondents to deprived the appellant from the conveyance allowance is unconstitutional and clear violation of fundamental right.
- h. That according to government servant revised leave rules 1989 vacations or holly days are not leave of any kind, therefore the deduction of conveyance allowance in vacation is against the law and rules.
- i. That according 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 individual including person in the service of federation therefore in the light the said article the appellant is fully entitled for the grant of fully conveyance allowance during vacations.
- j. That the appellant seeks permission of this honorable to raise any other grounds at the time arguments.

It is therefore, most humbly prayed the appeal of the appellant may be accepted as prayed for.

APPELLANT



MUHAMMAD RAFIQ

THROUGH:


SHAHID HUSSAIN

ADVOCATE HIGH COURT

A-04



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

NO. FD/SD(SR-IF)8-52/2012
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 Government, 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 in Khyber Pakhtunkhwa
8. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
9. The Registrar, Peshawar High Court, Peshawar
10. The Chairman, Public Service Commission, Khyber Pakhtunkhwa
11. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.

Subject

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

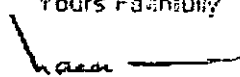
Dear Sir,

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/-

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 vehicles

Yours Faithfully

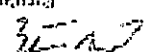

(Sahibzada Saad Ahmad)
Secretary Finance

Encl: NO. FD/SD(SR-IF)8-52/2012

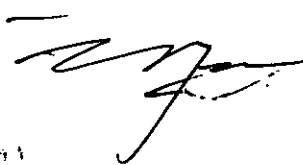
Dated Peshawar the 20th December, 2012

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Secretaries to Government of Punjab, Sindh & Balochistan, Finance Department
3. All Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa


(IMTIAZ AYUB)
Additional Secretary (Rm 1)

ATTESTED



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

BS

Personal Information of Mr MUHAMMAD RAFIQ d/w/s of YAR MUHAMMAD

Personnel Number: 00149205 CNIC: 1710111464085 NTN:
Date of Birth: 06.03.1962 Entry into Govt. Service: 16.01.1992 Length of Service: 28 Years,07 Months 017 Days

Employment Category: Vocational Permanent

Designation: SENIOR THEOLOGY TEACHER 80001059-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6039-PRINCIPAL GOVERNMENT HIGHER SECONDA SCHOOL DHAKKI CHARSAADA

Payroll Section: 001 GPF Section: 001 Cash Center: 5
GPF A/C No: 2503 Interest Applied: Yes GPF Balance: 403,946.00

Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 16 Pay Stage: 16

Wage type		Amount	Wage type		Amount
0001	Basic Pay	43,230.00	1000	House Rent Allowance	2,727.00
1210	Convey Allowance 2005	5,000.00	1947	Medical Allow 15% (16-22)	1,635.00
2148	15% Adhoc Relief All-2013	940.00	2199	Adhoc Relief Allow @10%	633.00
2211	Adhoc Relief All 2016 10%	3,252.00	2224	Adhoc Relief All 2017 10%	4,323.00
2247	Adhoc Relief All 2018 10%	4,323.00	2264	Adhoc Relief All 2019 10%	4,323.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-765.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-650.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 12,231.55 Recovered till AUG-2020: 1,530.00 Exempted: 3057.25 Recoverable: 7,644.30

Gross Pay (Rs.): 70,386.00 Deductions: (Rs.): -5,705.00 Net Pay: (Rs.): 64,681.00

Payee Name: MUHAMMAD RAFIQ
Account Number: PLS 103254
Bank Details: HABIB BANK LIMITED, 221202 SHAKH NO.6, CHARSAADA, SHAKH NO.6, CHARSAADA, CHARSAADA

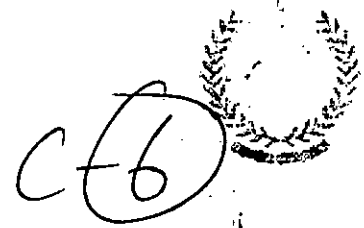
Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: SDEO MALE TANGI City: CHARSAADA Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email: muhammadrafiq1857@gmail.com

TESTED

[Signature]

Dist. Govt. NWFP-Provincial
District Accounts Office Charsadda
Monthly Salary Statement (July-2019)



Personal Information of Mr MUHAMMAD RAFIQ d/w/s of YAR MUHAMMAD

Personnel Number: 00149205

CNIC: 1710111464085

NTN:

Date of Birth: 06.03.1962

Entry into Govt. Service: 16.01.1992

Length of Service: 27 Years 06 Months 017 Days

Employment Category: Vocational Permanent

Designation: SENIOR THEOLOGY TEACHER

80001059-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6039-PRINCIPAL GOVERNMENT HIGHER SECONDA SCHOOL DHAKKI CHARSADA

Payroll Section: 001

GPF Section: 001

Cash Center: 5

GPF A/C No: 2503

Interest Applied: Yes

GPF Balance:

498,661.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

BPS: 16

Pay Stage: 15

Wage type		Amount	Wage type		Amount
0001	Basic Pay	41,710.00	1000	House Rent Allowance	2,727.00
1947	Medical Allow 15% (16-22)	1,635.00	2148	15% Adhoc Relief All-2013	940.00
2199	Adhoc Relief Allow @10%	633.00	2211	Adhoc Relief All 2016 10%	3,252.00
2224	Adhoc Relief All 2017 10%	4,171.00	2247	Adhoc Relief All 2018 10%	4,171.00
2264	Adhoc Relief All 2019 10%	4,171.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3016	GPF Subscription - Rs3340	-3,340.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-403.00	3990	Emp.Edu. Fund KPK	-150.00
4004	R. Benefits & Death Comp:	-1,089.00			0.00

Deductions - Loans and Advances

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

Deductions - Income Tax

Payable: 8,045.95 Recovered till JUL-2019: 403.00 Exempted: 3217.65 Recoverable: 4,425.30

Gross Pay (Rs.): 63,410.00 Deductions: (Rs.): -5,782.00 Net Pay: (Rs.): 57,628.00

Payee Name: MUHAMMAD RAFIQ

Account Number: PLS 103254

Bank Details: HABIB BANK LIMITED, 221202 SHAKH NO.6, CHARSADDA. SHAKH NO.6, CHARSADDA., CHARSADDA

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: SDEO MALE TANGI

City: CHARSADDA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: muhammadrafiq1857@gmail.com

ATTESTED

To:

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

D-7

Subject:

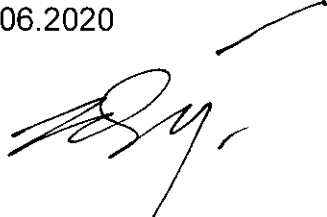
**DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ACTION OF THE CONCERNED AUTHORITY BY THE
ILLEGALLY AND UNLAWFULLY DEDUCTION, THE
CONVEYANCE, ALLOWANCE DURING WINTER &
SUMMER VACATIONS**

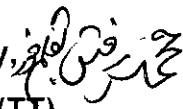
Respected sir,

With due respect it is stated that I am the employee of your good self-Department and is serving as **STT (BPS-16)** 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 effects a notification No. FD (PRC) 1-1-/2011 dated 14/7/2011 was issued. Later on vide revised Notification dated 20/12/2012 whereby the conveyance allowance for the employee working in BPS 1 to 15 were enhance/revised while employee from BPS-16 to 19 have been treated under the previous Notification by not enhancing their conveyance allowance as admissible under the law and rules but the concerned authority without any valid and justified reasons stopped/deducted the payment of conveyance allowance under the wrong and illegal pretext that the same is not allowed for leave period. One of the employees 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 judgment dated 03/12/2018 that I am also the similar employee of education Department and under the principle of consistency I am also entitled for the similar treatment meted out in the above mentioned service appeal but the concerned authority is not walling to issued/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 concerned authority may very kindly be directed the conveyance allowance may not be deducted from my monthly salary during winter & summer vacations.

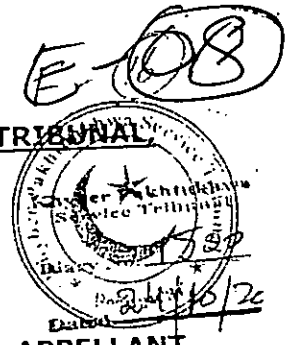
Dated:04.06.2020



Yours Obediently, 
MUHAMMAD RAFIQ(TT),
GHSS DHAKKI,
District Charsadda .

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1452 /2019



Mr. Maqsd Hayat, SCT (BPS-16),
GHS Masho Gagar, Peshawar.....**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 (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
-**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER 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 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:
ATTESTATION FACTS:

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficient and up to the entire satisfaction of the superiors.

ATTESTED

2- That the Conveyance Allowance is admissible to all the civil servant and to this effect a Notification No. FD (PRC) 1-1/2011 date 14.07.2011 was issued. That later on vide revised Notification date 20.12.2012 whereby the conveyance allowance for employee

Handwritten signature and date '24/10/19'.

Appeal No. 1452/2019
Masood Hayat vs Govt

(17) (9)

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. 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 reasonable time.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

File be consigned to the record.

ANNOUNCED

11.11.2019

Chairman

10

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2020

MUHAMMAD RAFIQ

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

EDUCATION DEPARTMENT

(RESPONDENT)
(DEFENDANT)

I/We **MUHAMMAD RAFIQ**

Do hereby appoint and constitute SHAHID HUSSAIN, Advocate High Court, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2020


CLIENT


ACCEPTED
SHAHID HUSSAIN
ADVOCATE HIGH COURT

Cell Number:
0300-3959446