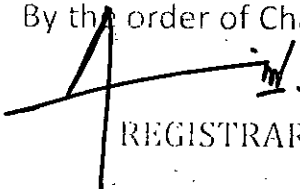


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 59/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	10.01.2024	<p>The implementation petition of Mr. Muhammad Khan submitted today by Mr. Hassan U.K Afridi Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. Parcha Peshi is given to the counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution petition No. 59 /2024
In
Service Appeal No.6223/2020

Muhammad Khan.....**Appellant/Applicant**

V E R S U S

Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar & others.....**Respondents**

I N D E X

S#	Description of Documents	Annex	Pages
1.	Execution petition		1-3
2.	Affidavit		4
3.	Judgment dated 17.05.2022	A	5-8
4.	Previous Execution Petition with Order sheets	B	9-12
5.	CPLA	C	13-14
6.	Wakalatnama		15

Through

Appellant

Dated 10.01.2024

Hassan U.K Afridi
Advocate Supreme Court
Cell No.0300-9151963

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Execution petition No. 59 /2024
In
Service Appeal No.6223/2020

Diary No. 10489

Dated 10-1-2024

Muhammad Khan Son of Khan Muhammad,
R/o Darra Adam Khel, presently resided in
Jarma Kohat, posted as ASI,
Special Branch Office, Kohat

.....**Appellant/Applicant**

V E R S U S

1. Inspector General of Police (IGP), Khyber Pakhtunkhwa, Peshawar
2. Deputy Inspector General of Police (DIG), Kohat Region Kohat
3. District Police Officer (DPO), Kohat
4. Deputy Inspector General (DIG) of Police Training School, Kohat

.....**Respondents**

**APPLICATION FOR IMPLEMENTATION/
COMPLIANCE OF JUDGMENT OF THIS
HON'BLE TRIBUNAL VIDE DATED 17.05.2022**

Respectfully Sheweth:-

1. That the applicant/appellant has filed service Appeal before this Hon'ble Tribunal, which was decided in favour of applicant/appellant vide

judgment dated 17.05.2022. **(Copy of judgment dated 17.05.2022 is attached).**

2. That before the present application, the applicant/appellant filed the execution petition on 03.08.2022, which was disposed off on 26.09.2022 and the respondents submitted the compliance report and reinstated the applicant/appellant, subject to the outcome of CPLA pending before the August Supreme Court of Pakistan.
3. That the applicant/appellant has been reinstated with all back benefits, but still the appellant has deprived from the back benefits.
4. That the applicant/appellant waited since 26.09.2022 but in vain.
5. That the respondents are denying to award back benefit on the pretext that the CPLA is pending, before the August Supreme Court of Pakistan, but since 2022, the CPLA has not been fixed, so till now no leave to appeal or stay has been granted.
6. That the respondents are legally bound to award the back benefits since 04.03.2020 till reinstatement.
7. That some other ground may be adduced at the time of arguments with the permission of this Honourable Court.

3

It is, therefore most humbly prayed that on acceptance of this application, the respondents may kindly be directed to implement the judgment dated 17.05.2022 of this Hon'ble Tribunal and awarded/grant the back benefit to the applicant/appellant since 0403.2022 till reinstatement.


Appellant

Through


Hassan U.K Afridi
Advocate Supreme Court

Dated 10.01.2024

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Execution petition No. _____/2024

In

Service Appeal No.6223/2020

Muhammad Khan.....**Appellant/Applicant**

V E R S U S

Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar & others.....**Respondents**

A F F I D A V I T

I, Muhammad Khan Son of Khan Muhammad, R/o Darra Adam Khel, presently resided in Jarma Kohat, posted as ASI, Special Branch Office, Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Execution petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




DEPONENT

A. Ahmad

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.6223/2020

Date of Institution ... 22.06.2020
Date of Decision ... 17.05.2022

Muhammad Khan Ex Police ASI R/O Jerma Koha.

(Appellant)

VERSUS

Inspector General of Police Khyber Pakhtunkhwa, Peshawar and two others.

... (Respondents)

Syed Mudasir Pirzada,
Advocate

... For appellant.

Kabir Ullah Khattak,
Additional Advocate General

... For respondents.

Salah-Ud-Din
Rozina Rehman

... Member (J)
... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"By accepting of instant service appeal the impugned order of respondent No.3 may please be set aside and the present appellant may please be reinstated with all back benefits."

2. Brief facts of the case are that the appellant was serving as an ASI. During service, a criminal case vide FIR No.48 dated 16.01.2020 U/S 15/17-AA was registered at Police Station Muhammad Riaz Shaheed. He was served with charge sheet which

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was replied, where-after, he was served with final show cause notice and ultimately, he was dismissed from service on 04.03.2020. He filed departmental appeal which was rejected, hence, the present service appeal. (6)

3. We have heard Syed Mudasir Pirzada Advocate learned counsel for appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Syed Mudasir Pirzada Advocate learned counsel appearing on behalf of appellant, inter-alia, submitted that the impugned orders are illegal, unlawful, without authority, hence the same are liable to be set aside being based on surmises and conjunctures. It was submitted that the reply to the charge sheet submitted by the appellant was not taken into consideration and that proper procedure was not adopted. It was contended that no proper regular inquiry was conducted in order to scrutinize the conduct of the appellant with reference to the charges. The learned counsel further contended that the appellant was falsely implicated in case FIR No.48. Lastly, it was submitted that no proper opportunity of personal hearing was provided to the appellant and he was condemned unheard.

5. Conversely, learned AAG contended that appellant while posted in Field Office Special Branch, AGO Kohat was found involved in smuggling of arms and ammunition vide FIR No.48 dated 16.01.2020, therefore, he was proceeded against departmentally and the charge was found proved during regular inquiry as he failed to rebut the

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departmental charges, therefore, he was dismissed from service under the Khyber Pakhtunkhwa Police Rules, 1975. (7)

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that appellant was dismissed from service vide impugned order dated 04.03.2020 of Senior Superintendent of Police Admn, Special Branch, Khyber Pakhtunkhwa Peshawar due to involvement of the appellant in criminal case bearing FIR No.48 dated 16.01.2020 U/S 15/17-AA of PS Muhammad Riaz Shaheed District Kohat. The prosecution case as per FIR was that the local police was on Nakabandi when in the meanwhile, a motorcar bearing registration No.8 1711 Mardan was signaled to stop. Upon query, the driver disclosed his name as Muhammad Ali while the person seated on the front seat disclosed his name as Muhammad Khan ASI i.e. the present appellant. The motorcar was parked on roadside and both the persons were deboarded from the motor car where-after proper chacking of the motorcar was started. In the meanwhile, the present appellant made his escape good from spot while taking the benefit of darkness. It is astonishing that two persons who were allegedly present in the motorcar and both were deboarded but one was arrested while the other was not arrested rather he escaped due to darkness. How the present appellant escaped from the clutches of a well equipped police party is a big question mark on the part of police party and the result is quite clear as both the accused i.e. Muhammad Ali and the present appellant Muhammad Khan were acquitted by the learned Judicial

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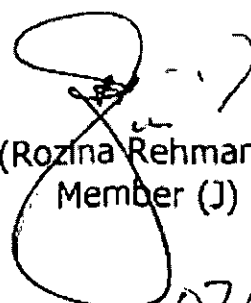
Magistrate-I, Kohat vide order dated 30.06.2021 in view of discrepancies in the evidence produced by the prosecution against the accused.


7. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Conviction of the appellant in the case of arms and ammunition was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service.

8. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988 PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

9. For what has been discussed above, instant service appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
17.05.2022


(Rozina Rehman)
Member (J)


(Salah-ud-Din)
Member (J)

07/06/22

to be three copies
to be filed in
Service Tribunal
Peshawar

Case of Presentation of Application

Number of Words 2000

Copy Fee 22/-

Stamp Fee 4/-

Total 26/-

Date of Filing of Application 07/06/22

Date of Delivery of Judgment 07/06/22

B. H. ...

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**BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR**

Execution petition No. 450/2022

In

Service Appeal No. 6223/2020



Khyber Pakhtunkhwa
Services Tribunal

Case No. 912

Date: 03/08/2022

Muhammad Khan ASI S/O Khan Muhammad R/O Dara Adam Khel,
presently Jarma Kohat..... Applicant/Appellant

VERSUS

1. Inspector General of Police, KP Peshawar.
2. Deputy Inspector general of Kohat region.
3. District Police Officer Kohat..... Respondents

Execution Petition on behalf of appellant for
implementation of judgment and order dated:17-
05-2022 passed by this Honorable Court in its
letter and spirit

Respectfully Submitted;

1. That the aforementioned service appeal was filed before this Honorable tribunal and was decided on 17-05-2022. (copies of Appeal, judgment and order are attached as Annexure A&B)
2. That this Honorable tribunal vide judgment and order dated 17-05-2022 accepted service appeal of the petitioner as prayed for:

"By acceptance of the instant service appeal the impugned order of respondent No.3 may please be set aside and the present appellant may please be reinstated with all back benefits"
3. That the judgment and order of this Honorable tribunal was duly communicated to the respondent/department, however, the respondents/department have not yet considered the appellant for reinstatement with all back benefits.
4. That in spite of clear directions to the respondents/department for reinstatement of the appellant with all back benefits is still pending with

Certified to be true copy

ASAD KHAN
Khyber Pakhtunkhwa
Services Tribunal

ATTACHED

E.P. No. 450/2022
Muhammad Khan vs Govt

10

26.09.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak,
Additional Advocate General alongwith Mr. Muhammad Ayaz, S.I (Legal)
for the respondents present.



02. Representative of respondent department produced a copy of the office order bearing No. 9150/SB dated 22.09.2022 whereby the petitioner has been reinstated in service with immediate effect subject to the outcome of CPLA pending before the august Supreme Court of Pakistan. Since, the Service Tribunal judgement dated 17.05.2022 has been conditionally/provisionally implemented vide the said office order and the learned counsel for petitioner stated at the Bar that he feels satisfied with the implementation report, as such the Service Tribunal judgement stands implemented. Consign.

03. Pronounced in open at Peshawar and given under my hand and seal of the Tribunal this 26th of September, 2022.



(Mian Muhammad)
Member (E)

Certified to be true copy

EXAMINED
Khayr Uddin
Service Tribunal
Peshawar

Date of Presentation of Application 03/10/22
Number of Words 800
Copying Fee 10/-
Pages 4/1
Total 14/-
Name of Copyies -
Date of Completion of Copy 03/10/22
Date of Delivery of Copy 03/10/22

E.P. No. 450/2022
Muhammad Khan vs Govt (10) A

26.09.2022

Learned counsel for the petitioner present. Mr. Kabirullah Khattak,
Additional Advocate General alongwith Mr. Muhammad Ayaz, S.I (Legal)
for the respondents present.

02. Representative of respondent department produced a copy of the office order bearing No. 9150/SB dated 22.09.2022 whereby the petitioner has been reinstated in service with immediate effect subject to the outcome of CPLA pending before the august Supreme Court of Pakistan. Since the Service Tribunal judgement dated 17.05.2022 has been conditionally/provisionally implemented vide the said office order and the learned counsel for petitioner stated at the Bar that he feels satisfied with the implementation report, as such the Service Tribunal judgement stands implemented. Consign.

03. *Pronounced in open at Peshawar and given under my hand and seal of the Tribunal this 26th of September, 2022.*



(Mian Muhammad)
Member (E)

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BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA,
PESHAWAR

Execution petition No. 1150/2022

In

Service Appeal No. 6223/2020



9/12

03/08/2022

Muhammad Khan ASI S/O Khan. Muhammad R/O Dara Adam Khel,
presently Jarma Kohat..... Applicant/Appellant

VERSUS

1. Inspector General of Police, KP Peshawar.
2. Deputy Inspector general of ^{SB/HQ} Kohat region.
3. District Police Officer Kohat..... Respondents

Execution Petition on behalf of appellant for
implementation of Judgment and order dated: 17-
05-2022 passed by this Honorable Court in its
letter and spirit

Respectfully Submitted;

1. That the aforementioned service appeal was filed before this Honorable tribunal and was decided on 17-05-2022. (copies of Appeal, judgment and order are attached as Annexure A&B)

2. That this Honorable tribunal vide judgment and order dated 17-05-2022 accepted service appeal of the petitioner as prayed for:

"By acceptance of the instant service appeal the impugned order of respondent No.3 may please be set aside and the present appellant may please be reinstated with all back benefits"

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

3. That the judgment and order of this Honorable tribunal was duly communicated to the respondent/department. however, the respondents/department have not yet considered the appellant for reinstatement with all back benefits.

4. That in spite of clear directions to the respondents/department for reinstatement of the appellant with all back benefits is still pending with

ATTACHED

12

Form-A

FORM OF ORDER SHEET

Court of

Execution Petition No. 450/2022



Date of order proceedings

Order or other proceedings with signature of judge

03.08.2022

The execution petition of Mr. Muhammad Khan submitted today by Mr. Muhammad Liaqat Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on 04-08-2022. Original file be requisitioned.

REGISTRAR

04.08.2022

Petitioner present in person.

Notice be issued to respondents for submission of implementation report. To come up for implementation report on 30.08.2022 before S.B.

(Fareeha Paul) Member (E)

30.08.2022

Learned counsel for the petitioner present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General alongwith Mr. Suleman Reader for the respondents present.

Implementation report not submitted. Learned Assistant Advocate General requested for time to submit implementation report on the next date. Adjourned. To come up for implementation report on 26.09.2022 before S.B.

Certified to be true copy

EXCISE OFFICER Khayber Pakhtunkhwa Service Tribunal

(Mian Muhammad) Member (E)



ATTACHED

120 A

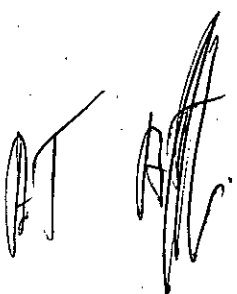
Form- A
FORM OF ORDER SHEET

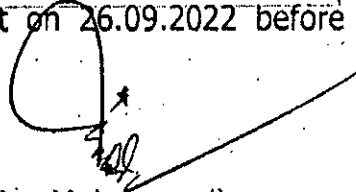
Court of _____

Execution Petition No. 450/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	03.08.2022	<p>The execution petition of Mr. Muhammad Khan submitted today by Mr. Muhammad Liaqat Advocate may be entered in the relevant register. This execution petition be put up before Single Bench at Peshawar on <u>04-08-2022</u>. Original file be requisitioned.</p> <p style="text-align: right;"> REGISTRAR</p>
	04.08.2022	<p>Petitioner present in person.</p> <p>Notice be issued to respondents for submission of implementation report. To come up for implementation report on 30.08.2022 before S.B.</p> <p style="text-align: right;"> (Fareeha Paul) Member (E)</p>
	30.08.2022	<p>Learned counsel for the petitioner present. Mr. Naseer-Ud-Din Shah, Assistant Advocate General along with Mr. Suleman Reader for the respondents present.</p> <p>Implementation report not submitted. Learned Assistant Advocate General requested for time to submit implementation report on the next date. Adjourned. To come up for implementation report on 26.09.2022 before S.B.</p>

SCANNED
KPST
Peshawar




(Mian Muhammad)
Member (E)

C. Army (13)

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA NO. 628-P/2022

Provincial Police Officer, Khyber Pakhtunkhwa,
Peshawar & others

-----PETITIONERS

VERSUS

Muhammad Khan

-----RESPONDENT

NOTICE

*Advocate-on-Record
Supreme Court of Pakistan
Govt. of Khyber Pakhtunkhwa
Peshawar*

To

Muhammad Khan Ex-Police ASI R/o Jerma Kohat

Please take notice Registered A/D post to the effect that I am filing CPLA with stay application in the above titled case against the judgment of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 17/05/2022 in Service Appeal No.6223/2020 before the Supreme Court of Pakistan in its Branch Registry at Peshawar.

(Moin-ud-Din Humayun)
Advocate-on-Record
Supreme Court of Pakistan
For Government

ATTACHED



(14)

ORDER

This order is passed in compliance with the Judgment of the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 17.05.2022 passed in Service Appeal No. 6223/2020 filed by Muhammad Khan Ex-Assistant Sub Inspector (hereinafter referred as accused officer) against impugned Order of Dismissed from Service under the Khyber Pakhtunkhwa Police Rules 1975 (amended 2014) vide Order dated 04.03.2020. Facts in brief leading to the instant departmental action of imposing Major Punishment of Dismissed from service against the accused officer are as follows:-

Ex-Assistant Sub Inspector Muhammad Khan was posted in field office, GO Special Branch Kohat got involved in criminal case bearing FIR No. 48 dated 16.01.2020 u/s 15AA/17/AA, PS Muhammad Riaz Shaheed (MRS) District Kohat while smuggling an Arms cache comprising Kalashnikov rifles, Pistols and Ammunition, in motorcar No. B7111/Mardan, however, appellant decamped from the scene.

Proper departmental proceedings were initiated under ibid Rules by issuing Charge Sheet and Statement of Allegations against the accused officer. Mr. Fazal Hanif Khan DSP/Alien Special Branch was appointed as Enquiry Officer to probe into the matter. The Enquiry Officer after conduct of detailed enquiry, found the accused officer guilty of misconduct within the meaning of ibid Rules. The competent authority after perusal of the enquiry imposed Major Punishment of Dismissal from Service upon the accused officer under ibid Rules vide Order dated 04.03.2020. Where after, the accused officer filed Appeal to Deputy Inspector General of Police Special Branch, but filed by the competent authority on 19.05.2020. Later on, the accused officer filed Service Appeal No. 6223/2020 in Khyber Pakhtunkhwa Service Tribunal which was accordingly allowed/accepted on 17.05.2022 as prayer for.

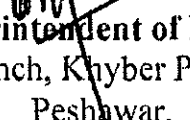
Department approached Law Department for lodging appeal/CPLA wherein the Scrutiny Committee headed by Secretary Law approved the case hence CPLA against the impugned Judgment/Order has been filed by this establishment in the August Supreme Court of Pakistan.

In the meanwhile, accused officer filed Execution Petition No. 450/2022 in Service Appeal No. 6223 of 2020 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar for implementation of the judgement. The case was fixed for hearing on 04.08.2022 wherein the Hon'ble Tribunal was pressing hard and directed for implementation of the Judgment with the following remarks passed:-




"Learned Assistant Advocate General requested for time to submit implementation report on the next date. Adjourned. To come up for implementation report on 26.09.2022 before S.B.

Proper guidance was sought from CPO vide letter No. 94/Legal/SB dated 08.09.2022 and the competent authority directed to implement the judgment dated 17.05.2022 conditionally and provisionally subject to outcome of CPLA vide letter No. 4602/Legal dated 19.09.2022.

As the Hon'ble Tribunal is pressing hard and directed for implementation of the Judgment and to come up for report in compliance on 26.09.2022 therefore, the judgment has become final and there is no other option but to implement the judgment hence is provisionally implemented and Muhammad Khan Ex-Assistant Sub Inspector is re-instated in service with immediate effect. Further the accused officer shall submit proper affidavit on stamp paper that he will return the payment made to him if CPLA was accepted.


Senior Superintendent of Police, Admin
Special Branch, Khyber Pakhtunkhwa,
Peshawar.

No. 9150 15B, dated, the Peshawar 22 / 09 /2022
Copy of the above is forwarded to all concerned.

قیمت 50 روپے	21223	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈویٹ: <u>حسن بگوئے افریدی</u>	بار کونسل ایسوسی ایشن نمبر: BC. 104342	  
	رابطہ نمبر: 0300. 9151963	

بعدالت جناب: سروسز ٹریبیونل میٹروپولیٹن پشاور K.P.

مخانب:	دعویٰ:
محرران بنام گورنمنٹ	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

بابت تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آگے مقام میٹروپولیٹن ٹریبیونل کے آفریدی حسن بگوئے افریدی کے وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کرنے و تقریر ثالثت و فیصلہ برحلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کارروائی کے واسطے اور وکیل یا مختار قانونی ہو جائے ہرگز یا اسے بجائے تقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا سہا ختم پر داخلہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوا کے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 10/01/2024

14301-2013003-1
 Mob: 0333-9636269

العبد العبد الوالد العبد
 مقام

ATTESTED
 14301-197
 0300-9
 bc. 1043

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔