


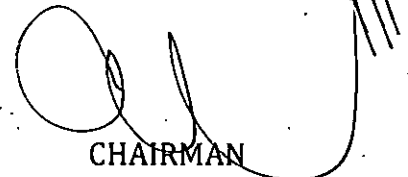
Form- A

FORM OF ORDER SHEET

Court of

Case No.


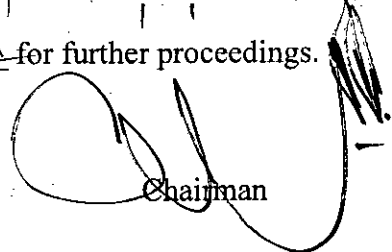
1578/2013

S.No	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/12/2013	<p>The appeal of Mr. Rashid Mehmood presented today by Mr. M. Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing</p> <p style="text-align: right;"> REGISTRAR</p>
2	9-12-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <del>31-12-2013</del></p> <p style="text-align: right;"> CHAIRMAN</p>

31.12.2013

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant filed Departmental Appeal on 14.02.2013 against the original order dated 14.01.2013, which has been rejected on 04.11.2013, hence the present appeal on 03.12.2013. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The impugned order is not a speaking order and in violation of Rule-5 of the Civil Servant (Appeal) Rules-1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents. Appellant has also filed an application for the suspension of recovery order dated 14.01.2013. Notice of application should also be issued to the respondents. To come up for written reply on main appeal on 06.03.2014 as well as reply arguments on stay application on 20.01.2014.

31.12.2013

This case be put before the Final Bench  for further proceedings. 

Member

Chairman

20.1.2014

Counsel for the appellant and Muhammad Adeel Butt, AAG with Khursheed Khan, SO, Mosam Khan, AD for respondents No. 1 and 2 present and stated that notices have not been served upon them. None is available on behalf of respondents No. 3 to 5. Notices be issued to all the respondents. To come up for written reply on main appeal as well as reply/arguments on stay application on 17.2.2014. The impugned order to the extent of recovery from the appellant is suspended till the date fixed.

MEMBER 

MEMBER 

17.2.2014

Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Khursheed Khan, SO for respondent No.1, Sajjad Rashid, AD for respondent No. 2 and Muhammad Bashir, Supdt. for respondents No. 3 and 4 and Muhammad Sajjad, AAO for respondent No. 5 present and requested for time. To come up for written reply on main appeal as well as reply/arguments on stay application on 17.3.2014. The impugned order to the extent of recovery is suspended till the date fixed.

MEMBER

MEMBER

17.3.2014

Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Khursheed Khan, SO, Rehana Yasmeen, SDEO, Peer Muhammad, ADO and Muhammad Sajjad, AAO for the respondents present and requested for time to file joint parawise comments. To come up for written reply on main appeal as well as reply/arguments on stay application on 23.4.2014. Till then status quo is extended.

MEMBER

MEMBER

23.4.2014

Junior to counsel for the appellant and Mr. Ziaullah, GP with Khursheed Khan, SO for respondent No.1, Sajjad Rashid, AD for respondent No.2 and Muhammad Bashir, Supdt. for respondents No. 3 and 4 and Muhammad Sajjad, AAO for respondent No. 5 present and requested for further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 4.6.2014. Status quo, as before, is extended till the date fixed.

MEMBER

MEMBER

04.6.2014

Counsel for appellant and Mr. Muhammad Jan, GP with Mr. Muhammad Bashir, Supdt. and Mst. Saima ADO and Sajjad, AAO for the respondents present and requested for further time. To come up for written reply on main appeal as well as stay application on 17.7.2014. Status quo, as before, is extended till the date fixed.

  
MEMBER

  
MEMBER

17.07.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with Sajjad Rashid, AD for respondents No. 1 & 2 present and requested for time. The learned GP needs time to contact other respondents. To come up for written reply on main appeal as well as reply/arguments on stay application on 18.09.2014. Status quo, as before, is extended till the date fixed.

  
MEMBER

  
MEMBER

18.09.2014

Counsel for the appellant, and Mr. Kabeerullah, Asstt. A.G with Khursheed Khan, SO, Sajjad Rashid, AD, Mst. Azra Afridi, ASDEO(F) and Muhammad Sajjad AAO for the respondents present and requested for further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 12.11.2014.

  
MEMBER

12.11.2014

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Mr. Khursheed Khan, SO and Javed Ahmad, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 22.1.2015.

  
READER

22.1.2015

Counsel for the appellant present. Mr. Muhammad Adeel Butt, AAG with Muhammad Bashir, Supdt. for the respondents present and submitted before the court that written reply of the respondents is in process of completion and requested for adjournment. Therefore, case is adjourned to 18.2.2015. Till then status quo is extended.

  
MEMBER

19.2.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Bashir Supdt. for the respondents present. Representative of the respondents submitted that written reply prepared and placed before the respondents for signature. Therefore, case to come up for written reply on 07.4.2015 without fail.

  
MEMBER

07.4.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Bashir, Supdt. for the respondents present. Written replies have not been submitted despite the fact that last chance was given to the respondents. On assurance of the representative another last chance is given to the respondents for submission of written replies. In case the respondents failed to file written replies, no other chance will be given to them. To come up for written reply on main appeal as well as reply/arguments on stay application on 13.5.2015.

  
MEMBER

13.05.2015

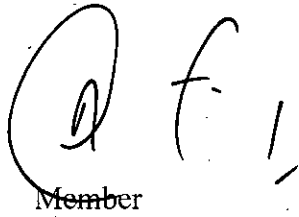
Counsel for the appellant, M/S Javed Ahmed, Supdt. and Saima Raza, ADO alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder as well as final hearing at Camp Court Abbottabad for 18.8.2015 as the matter pertains to territorial limits of Hazara Division.

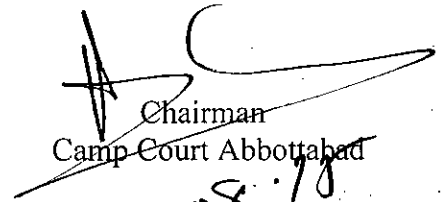
  
Chairman

18.08.2015

Counsel for the appellant, Ms Saima Raza, ADO and Mr. Bashir Ahmad, Supdt alongwith Mr. Muhammad Tahir Aurangzeb, GP for the respondents present. Rejoinder submitted. Arguments heard and record perused.

Vide our detailed judgment of today in connected appeal No. 1563/2013 titled Robina Shaheen-vs-Secretary Education Government of KPK, Peshawar etc we are of the view that on the basis of the said audit para the respondents should have issued notice to the appellant and should have dealt with the matter in accordance with the prescribed procedure which was not adopted leaving us with no option but to accept the instant appeal and set aside the impugned orders and direct that no recovery be made from the appellant unless the audit para is looked into by the concerned authority in the prescribed manners and an opportunity of hearing is afforded to him where-after decision deemed appropriate ~~is~~ taken by the authority. The appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record.

  
Member

  
Chairman  
Camp Court Abbottabad  
18.08.15

ANNOUNCED

18.08.2015

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

Appeal No. 1578 /2013

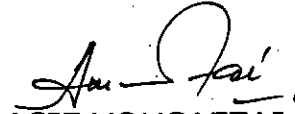
Mst: Rashid Mehmood V/S Education Department.

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1.	Memo of Appeal	-----	01-03
2.	Stay Application & Affidavit	----	04-05
3.	Copy of Register & Report	- A -	6-8
4.	Copy of Order (14.01.2013)	- B -	9-
5.	Copy of Appeal	- C -	10
6.	Copy of Order (04.11.2013)	- D -	11-
7.	Vakalat Nama	-----	12

APPELLANT

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.



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

Appeal No. 1578 /2013

Mr. Rashid Mehmood, Chowkidar,  
GGPS, Pharalla, Haripur.

**A.W.P. Peshawar**  
**1622**  
**03/12/13**

**APPELLANT**

VERSUS

1. The Secretary, Government of Khyber Pakhtunkhwa, Education (E&SE) Department, Civil Secretariat, Peshawar.
2. The Director of Education (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Female) Haripur.
4. The Sub-Divisional Education Officer, (Female), Haripur.
5. The District Accounts Officer, Haripur.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 04.11.2013 WHEREBY THE APPEAL AGAINST THE RECOVERY ORDER DATED 04.01.2013 HAS BEEN REJECTED FOR NO GOOD GROUND.

.....

**PRAYER:**

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 04.11.2013 AND 04.01.2013 MAY BE DECLARED AS ILLEGAL VOID ABINITIO AND MAY BE SET ASIDE. THE RESPONDENTS MAY FURTHER PLEASE BE DIRECTED TO REFUND THE RECOVERED AMOUNT MADE IN VIOLATION OF LAW AND RULES. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**THE ORDER**  
**3/12/13**

**RESPECTFULLY SHEWETH:**

1. That the appellant is a regular employee of the Education Department has been performing her duty as PST at GGPS Pharalla Haripur.
2. That the record shows that the appellant fully performed her duty at every station and not remained absent from duty. Copies of orders are attached as Annexure – A .
3. That up to the astonishment of the appellant, the recovery order was passed on 14.01.2013 for the reasons of so-called absence. In the said order the amount of Rs.116157/- was ordered to be recovered from the appellant. Copy of Order is attached as Annexure-B.
4. That the appellant filed an appeal against the said recovery order and the same was rejected for no good grounds on 4.11.2013. Copies of Appeal and Rejection Oder are attached as Annexure-C and D.
5. That now the appellant comes to this Honourable Tribunal on the following grounds amongst the others.

**GROUND:**

- A) That the order dated 14.01.2013 and 04.11.2013 are against the law, facts, material on record and norms of justice and liable to be set aside.
- B) That the recovery order has been passed in total violation of law and rules and even proper procedures was not adopted while passing the order.
- C) That the appellant was never remained absent from the duty and was present throughout as evident from the record.
- D) That the appellant has been condemned un-heard because the recovery is a punishment and while awarding such punishment, charge sheet, show

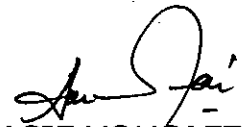
cause notice and enquiry are mandatory while in case of appellant no such procedures was adopted.

- E) That neither the regular enquiry was conducted nor the appellant was heard in person which amounts to **AUDI ALTERAM PARTEM.**
- F) That the whole action of the respondents is arbitrary in nature and not sustainable in the eyes of law.
- G) That not even final rejection order is not a speaking order which is also violation of Section-25(A) of the General Clauses Act and Judgment of the Supreme Court of Pakistan reported as 1991 SCMR Page-2330.
- H) That the appellant has not been treated according to law and rules.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.

APPELLANT   
Rahsid Mehommd

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

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

Appeal No. \_\_\_\_\_/2013

Mst. Rashid Mehmood

V/S

Education Department.

.....  
**APPLICATION FOR SUSPENDING THE  
OPERATION OF RECOVERY ORDER DATED  
14.01.2013 TILL THE DISPOSAL OF MAIN  
APPEAL.**

**RESPECTFULLY SHEWETH:**

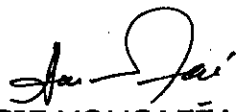
1. That the appellant has filed an appeal along with this application which no date has been fixed so far.
2. That the appellant has a good prima facie case and all the ingredients are in favour of the appellant necessary for suspension of order dated 14.01.2013.
3. That the order dated 14.01.2013 has been passed in total violation of law and rules.
4. That the grounds of main appeal may also be integral part of application.
5. That as the recovery order has been passed without following proper procedure and law and if it not suspended then the appellant would be suffer a lot specially it will amount to penalizing the appellant for no fault.

6. That if the recovery order is not suspended then the main appeal would become infructuous due to completion of penalty.

It is, therefore, most humbly prayed that the operation of order dated 14.01.2013 may be suspended till the disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Appellant   
Rashid Mehmood

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

**AFFIDAVIT:**

It is affirmed and declared that the contents of the above Application are true and correct to the best of my knowledge and belief.

  
Deponent

مدانند محمود چوگتیار  
 ریسپر حاضر می باشد  
 A 6

نواکند...  
 ابته ماه

نام	عده	تاریخ	آمد	دستخط	رواگی	دستخط	آمد	دستخط	رواگی	دستخط	آمد	دستخط	رواگی	دستخط	تاریخ	عده	تاریخ
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ATTESTED

دستخط...  
 حکومہ...  
 آڈیٹور...

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Assistant District Officer (R) E&S Education Haripur

(28/11/12)

by regular work  
 Deputy District Officer  
 Elementary Education Haripur

دستخط ہیڈ ماسٹر

عہدہ پرنسپل پریس-13- آرڈو بازار لاہور... 5

جنیٹرز حاضر کی ادائیگی

گورنمنٹ گزٹنگ ایجنسی سکول بھولہ

2018ء

بابت ماہ

گورنمنٹ گزٹنگ ایجنسی			لننمبر افتر			جسٹس ایجنسی			ریٹائرمنٹ ایجنسی			نمبر
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G.B 12:35	G.B 7:30	NA 12:35	NA 7:30	J.B 11:30	J.B 7:30	R.B 11:30	R.B 7:30					26
SUNDAY												27
G.B 12:35	G.B 7:30	NA 12:35	NA 7:30	J.B 12:35	J.B 7:30	R.B 12:35	R.B 7:30					28
G.B 12:35	G.B 7:30	NA 12:35	NA 7:30	J.B 12:35	J.B 7:30	R.B 12:35	R.B 7:30					29
G.B 12:35	G.B 7:30	NA 12:35	NA 7:30	J.B 12:35	J.B 7:30	R.B 12:35	R.B 7:30					30
G.B 1:35	G.B 7:30	NA 1:35	NA 7:30	J.B 1:35	J.B 7:30	R.B 1:35	R.B 7:30					31

دستخط ہیڈ ماسٹر

سکول گورنمنٹ پرنسنگ پریس-13، آرڈو بازار لاہور 54000

ATTESTED

تفصیلات  
استحقاق  
بیماری  
میزان کل





3  
9

**OFFICE OF THE SUB DIVISIONAL EDUCATION  
OFFICER (FEMALE) HARIPUR**

No. 49-62 /

Dated Haripur the 14/12/2013

To.

✓ 1. Rizwana Siddique PST	2010-11	300278/-	Rahaka
✓ 2. Sadia Mehfooz PST GGPS Kahaka ✓		149963/-	
✓ 3. Haseena Saheen PST GGPS Kahaka ✓		150593/-	
✓ 4. Riaz Bibi PST GGPS Pharallah ✓		333155/-	
✓ 5. Asmat Ara PST GGPS Pharallah ✓		226030/-	
✓ 6. Gulnaz PST GGPS Pharallah ✓		227672/-	
✓ 7. Shafqat Zohra GGPS Pharallah ✓		252347/-	
✓ 8. Raheela Begum PST GGPS Pharallah ✓		65496/-	
✓ 9. Jamila Bibi PST GGPS Pharallah ✓		150483/-	
✓ 10. Ashad Mehmood Chow GGPS Pharallah ✓		116157/-	
✓ 11. Mehnaz Zaib PST GGPS Kakotri ✓		180742/-	
✓ 12. Samina Shaheen PST GGPS Kakotri ✓		152732/-	
✓ 13. M. Siddique Chow GGPS Kakotri ✓		112179/-	
✓ 14. Sabra Siddiqi PST GGPS Kanger Amgah ✓		118258/-	
✓ 15. Mussrat Bibi PST GGPS Kanger Amgah ✓		275779/-	
✓ 16. Munir Khan Chow:: GGPS Kanger Amgah ✓		111363/-	

Subject:- RECOVERY OF OVERPAYMENT BY THE AUDIT PARTY ON THE REPORT OF ADO

Memo:-

It is stated to inform you that on report of Mst, Azra Afridi regarding unauthorised absent for the period noted against the name of each, the advance paras were developed by District Audit team and the same were discussed in the Meeting of DAC held on 27-28/11/2012, it has been decided that the over payment pointed out by the circle officer for absent period should be recovered from the concerned staff.

Therefore the period and amount recoverable from you is recorded against the name of each a/w absent period as pointed out by the circle ADO to the audit party for your information with the remarks the same may be deposited in Govt. treasury through office within 30 days in case of non deposited the overpayment in question will be recovered from your salary in instalment from February, 2013.

SDEO (F)  
HARIPUR  
SUB DIVISIONAL EDUCATION

ATTESTED

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر زمانہ مدارس ضلع ہری پور

مضمون:- اپیل بابت مراسلہ نمبر 62-49 مورخہ 14-1-2013

برائے منسوخی آرڈر ریکوری

15

جناب عالی۔

### گزارشات درج ذیل ہیں

- (1) یہ کہ فدوی بطور چوکیدار گورنمنٹ گرلز پرائمری سکول پھرہالہ میں اپنے فرائض منصبی سرانجام دے رہا ہے
- (2) یہ کہ فدوی نے چارج حاصل کرنے کے بعد تاریخ تقرری سے اب تک اپنے فرائض منصبی بطریق احسن سرانجام دے رہا ہے
- (3) یہ کہ فدوی کو بابت غیر حاضری کوئی محکمہ کی طرف سے نہ تو نوٹس ملا اور نہ ہی میں کبھی غیر حاضر رہا۔ اپنے فرائض بطریق احسن ہمیشہ سرانجام دیئے اور محکمہ کو بھی مجھ سے کبھی کوئی شکایت نہیں ہوئی۔
- (4) یہ کہ اچانک مجھے یہ نوٹس موصول ہوا جس میں میرے زمے غیر حاضری کے پیریڈ کی 116157 روپے ریکوری ظاہر کی گئی ہے جس سے مجھے انتہائی صدمہ ہوا۔ اس لیے کہ محکمہ نے میرے ساتھ اس ضمن میں نہ تو کبھی کوئی خط و کتابت کی ہے اور نہ ہی میں ڈیوٹی سے غیر حاضر ہوا۔
- (5) یہ کہ مجھے ریکوری کا جو لیٹر دفتر سے بذریعہ پوسٹ آفس بھیجا گیا یہ وہ مجھے مقررہ تاریخ سے بعد میں موصول ہوا لیٹر ہی اپیل جمع کروا رہا ہوں اس لیے میری اپیل کو منظور کیا جائے
- (6) یہ کہ میرے علم میں یہ بات بھی ابھی تک نہیں ہے کہ یہ مجھ سے کس پیریڈ کی ریکوری کر رہے ہیں اور کیوں کر رہے ہیں لہذا بذریعہ اپیل ملتمس ہوں کہ اس مراسلہ نمبر 78-63 مورخہ کو میری اپیل 14-1-2013 منظور کرتے ہوئے منسوخ کیا جائے بصورت دیگر فدوی یہ حق محفوظ رکھتی ہے کہ اس ضمن میں عدالت عالیہ یادگیر کسی اتھارٹی سے انصاف کے لیے رجوع کرے۔

العارضہ راجندر

راشد محمود چوکیدار گورنمنٹ پرائمری سکول پھرہالہ



# Office of the District Education Officer Female

D  
11

## Haripur

Tel No: 0995-613244 Fax: 0995-615140

No. 8749 /

Dated: 4 / 11 / 2013.

To:

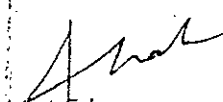
- Safia Razzaq, PST GGPS Kupri (Amazai) Haripur
- Nazia Bibi, PST GGPS Balanda Haripur
- Ghazala Shaheen, PST GGPS Degra (Amazai) Haripur
- Neelam Bano, PST GGPS Kingrach Haripur
- Musarat Bakhat, PST GGPS Gul Doga Haripur
- Samina Shaheen, PST GGPS Kakotari Haripur
- Musarat Bibi, PST GGPS Kingar Hamgah Haripur
- Asia Bibi, PST GGPS Guldoga Haripur
- Munir Khan, Chowkidar GGPS Kingar Amagah Haripur
- Muhammad Siddique, Chowkidar GGPS Kakotari Haripur
- Gul Rehman, Chowkidar GGPS Doga Haripur
- Aneesa Bano, PST GGPS Kupri (Amazai) Haripur
- Tahira Bibi, PST GGPS Shingri (Amazai) Haripur
- Nusrat Bibi, PST GGPS Gul Doga Haripur
- Shafqat Zohra, PST GGPS Pharhala Haripur
- Rashid Mehmood, Chowkidar GGPS Pharhala Haripur
- Robina Shaheen, PST GGPS Zahida (Amazai) Haripur
- Shazia Rasheed, PST GGPS Kupri (Amazai) Haripur
- Gul Naz, PST GGPS Pharhala Haripur
- Asmat Ara, PST GGPS Pharhala, Haripur
- Sabira Siddique, PST GGPS Kinger Amagah
- Mehnaz Zeb, PST GGPS Kakotari Haripur
- Riaz Bibi, PST GGPS Pharhala Haripur
- Sahdia Mahfooz, PST GGPS Kahaka Haripur
- Haseena Shaheen, PST GGPS Kahaka Haripur
- Raheela Begum, PST GGPS Pharhala
- Jameela Bibi, PST GGPS Pharhala
- Rizwana Siddique, PST GGPS Kahaka
- Saira Bibi, PST GGPS Gul Doga

Subject: APPEAL

Memo,

Reference your appeal for non-recovery of over payments.

It is stated to inform you that the recovery of over payment is under process by implementing the audit observation, therefore, this office is unable to accept your appeal at this stage, hence rejected.

  
District Education Officer (F)  
Haripur

**ATTESTED**

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# VAKALAT NAMA

NO. \_\_\_\_\_/20

IN THE COURT OF Service Tribunal Peshawar

Rashid Mahmood (Appellant)  
(Petitioner)  
(Plaintiff)

VERSUS

Educational Dept. (Respondent)  
(Defendant)

I/we Rashid Mahmood (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, 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 costs.

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 account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated \_\_\_\_\_/20

اشرف  
( CLIENT )

ACCEPTED

M. ASIF YOUSAFZAI  
Advocate

**M. ASIF YOUSAFZAI**  
Advocate High Court,  
Peshawar.

**OFFICE:**  
Room No.1, Upper Floor,  
Islamia Club Building,  
Khyber Bazar Peshawar.  
Ph.091-2211391-  
0333-9103240