

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2020

Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil
Adenzai, District Dir Lower.

.....**Appellant**

Versus

The Director, Elementary & Secondary Education
Department Peshawar & Others


.....**Respondents**

I N D E X

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Appellant

Through


Aman Ullah Pirzada
 Advocate, High Court
 Peshawar
 Cell# 0300-5818228

Dated: 23.12.2020

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. **1623** / 2020

Diary No. **16970**
Dated **29/12/2020**

Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil
Adenzai, District Dir Lower.

.....**Appellant**

Versus

1. The Director, Elementary & Secondary Education
Department Peshawar.
2. The District Education Officer (M) Lower Dir at
Timergarah.

.....**Respondents**

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974 AGAINST THE ORDER
NO.5238-40 DATED 06.08.2020 AND
ORDER NO.11007-09 DATED
07.12.2020 THROUGH WHICH THE
DEPARTMENTAL APPEAL OF THE
APPELLANT HAS BEEN DISMISSED
AND THE APPELLANT WAS NOT RE-
INSTATED IN THE POST OF PTC/PST.**

Filed to-day

Registrar

29/12/2020

Prayer in Appeal:-

Re-submitted to-day
and filed.

Registrar

25/11/2021

**(A) On acceptance of the instant appeal, the
impugned order mentioned above may**

kindly be set aside and the Departmental appeal of the appellant may kindly be accepted and as a result the appellant may very kindly be re-instated to his position/service along with all back benefits.

(B)The Appellant absentee may kindly be accepted a leave without pay and may kindly be re-instated as alternate remedy of prayer "A".

(C)The appellant may kindly be rewarded with compulsory retirement as of right which is his last alternate remedy after prayer "A" & "B".

(D)Any other relief which is not specifically asked may also be granted in favour of the appellant.

Respectfully Sheweth:

Brief Facts:-

The Appellant humbly submitted with great beseech as under:-

1. That the appellant was appointed as PTC/PST Teacher at GMPS/GPS Ouch Sharai Adenzai Dir Lower in Grade-10 Since 11.05.1983 performing his duty as Teacher till 2001. (Copy of appointment order is attached as Annexure "A").

2. That the appellant has performed his duty with full zeal for a long period of 18 years & 4 Months & 14 Days.
3. That in 2001 the appellant faced accidental situation applied for long leave and left the residential area for a long time because if the appellant not left the area he will face the music in shape of death or any his family members.
4. That when the situation is controlled and become favorable then the appellant came back to his home town along with his 7 family members.
5. That the appellant now living with his family members in unfavorable situation with mouth to hand.
6. That the appellant being a hard worker and devoted teacher with good health and mental condition and fit for service moved departmental appeal. **(Copy of Departmental Appeal is attached as Annexure "B")**.
7. That the Departmental Appeal was dismissed on 06.08.2020 by the respondent No.02.
8. That the appellant being aggrieved from the order of DEO Lower Dir appealed to Director Elementary & Secondary Education Department (Respondent No.1) on 25.08.2020. **(Copy of appeal is attached as Annexure "C")**.

9. *That the said appeal to Director Elementary and Secondary Education of appellant was also turned down on 07.12.2020.*
10. *That the appellant has no other adequate remedy now approached this Service Tribunal in this appeal on the following grounds inter alia.*

GROUND S:

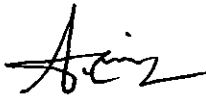
- A. *That the impugned order is against the law and facts cannon of natural justice have liable to be set aside and the appellant may be re-instated.*
- B. *That the appellant during his service was neither served with any removal order notice of inquiry nor any impartial inquiring by disregarding his 18 years of Service. Thus the appellant was deprived from his service.*
- C. *That the appellant has an unblemished service record and has served the department to the entire satisfaction of his Superior, neither remained absent from his service nor has received any adverse remarks throughout his service.*
- D. *That the appellant has been condemned unheard, which is not only against the law but also against the principle of natural justice and one should come un heard on the basis of mere technicalities.*
- E. *That the impugned order is pervasive illegal, unlawful, arbitrary, suffering from material*

irregularities/illegalities as such as major penalty has been passed against the appellant without observing any rules by disregarding his length of service and fitness for the job keeping in view his educational background.

- F. *That the absence of appellant is not willful but was absent in the state of compelling of time.*
- G. *That keeping in view the age and educational background of the appellant the impugned order of respondents is not tenable in the eye's of law on the ground that such act of respondents would amount to double jeopardy because the appellant due to his age will not able to secure job in such state of his age in any other department.*
- H. *That keeping in view the above law and facts, the appellant is entitled for re-instatement in his service along with all back benefits, keeping in view the facts that the impugned order of dismissal is totally against the law and facts hence liable to be set aside.*
- I. *That the appeal in hand as well as Departmental Appeal is within time.*
- J. *That appellant may also be allowed to rely on additional grounds at the time of arguments please.*

Therefore, it is humbly submitted that On acceptance of the instant appeal,

- (A) The impugned order mentioned above may kindly be set aside and the appeal of the appellant may kindly be accepted and as a result the appellant may very kindly be re-instated to his position/service along with all back benefits.**
- (B) The Appellant absenty may kindly be accepted a leave without pay and may kindly be re-instated as alternate remedy of prayer "A".**
- (C) The appellant may kindly be rewarded with compulsory retirement as of right which is his last alternate remedy after prayer "A" & "B".**
- (D) Any other relief which is not specifically asked may also be granted in favour of the appellant.**

Appellant 

Through



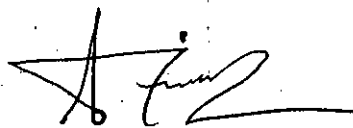
Aman Ullah Pirzada
 Advocate, High Court
 Peshawar
 Cell# 0300-5818228

Dated: 23.12.2020.

VERIFICATION:-

It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.

DEPONENT



**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2020

Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil
Adenzai, District Dir Lower.

.....**Appellant**

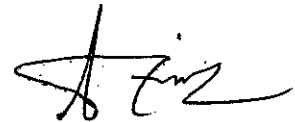
Versus

The Director, Elementary & Secondary Education
Department Peshawar & Others

.....**Respondents**

A F F I D A V I T

I, Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil Adenzai,
District Dir Lower, do hereby solemnly affirm and declare
on oath that the contents of the accompanying **Service
Appeal** are true and correct to the best of my knowledge
and belief and nothing has been concealed from this
Hon'ble Court.



DEPONENT

CNIC#15307-6773732-1

Cell#03459994022

Identified by



**Aman Ullah Pirzada
Advocate, High Court
Peshawar**



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

Service Appeal No. _____/2020

Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil Adenzai, District Dir Lower.

.....**Appellant**

Versus

The Director, Elementary & Secondary Education Department Peshawar & Others

.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:

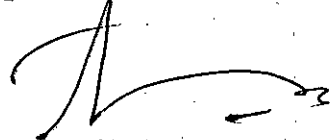
Fazli Azim S/O Fazle Wahid R/O Ouch, Tehsil Adenzai, District Dir Lower

RESPONDENTS:

1. The Director, Elementary & Secondary Education Department Peshawar.
2. The District Education Officer (M) Lower Dir at Timergarah.

Appellant

Through



Aman Ullah Pirzada
Advocate, High Court
Peshawar
Cell# 0300-5818228

Dated: 23.12.2020

١٦

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خارج رپورٹ

فیس نے آج بحورفہ ۱۱ مئی ۱۹۸۳ء بمطابق آرڈر نمبر ۹۳۱۴-۷۸

مدرسہ ۳۰ اپریل ۱۹۸۳ء آمدہ از دفتر ڈسٹرکٹ ایجوکیشن آفسر دیر اینڈ پیر گڑھ

گورنمنٹ پرائمری سکول بیلہ سب ڈویژن دیر میں بحیثیت
پی. ٹی. سی ٹیچر اپنے فرائض منصبی کا چارج سنبھال لیا۔
خارج رپورٹ برائے مزید کارروائی پیش خدمت ہے۔

Aziz

Fazli Azim

P.T.C

G. P. S Bela Dir

OFFICE ORDER

(9A)

The following transfers and appointments are hereby ordered in the interest of public service with immediate effect.

S. No	Name of candidate/teacher	Father's name	From	To	Remarks
1.	Mr. Sultan Mohd, village Bagh Dushkhel, F.C Shamshi Khan. Dir	Abdul Sadiq	Candidate	GPS Baloch	Vice No 2
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.	Mr Fazli Azim, Vill: ouch Dir	Fazle Wahab	Candidate	GPS Sharmai	New Post Vice No 10
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
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26.					
27.					

OFFICE ORDER.

The following transfers and appointments are hereby ordered in the interest of public service with immediate effect.

S. No.	Name of candidate/Teacher.	Father's Name.	From.	To.	Remarks.
1.	Mr. Sultan Mohd, Vill: Bugh Dushkbel, F.C. Shamshikhan Dir.	Abdul Sadia.	Candidate.	GPS. Kelahand.	nd. Vice No. 2
2.	Mr. Khadirullah.	-	-	GPS. Kelahand.	Against S.ivi: T. Para. V. post.
3.	Mr. Mohd. Baze Shah,	Mo' & Manif.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 4
4.	Mr. Bekht Koidar.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 6
5.	Mr. Sultan Zeb, Vill: Ierkhantepdr.	Mohd / Rafi.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 8
6.	Mr. Yar Mohd.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 8
7.	Mr. Sarfarez.	Ali Khan.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 10
8.	Mr. Mohd Naeem.	Fazle Wahab.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 10
9.	Mr. Fazli Azin, Vill: Ouch, Dir.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 12
10.	Mr. Abdul Jalal.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 12
11.	Mr. Mamedullom Vill: Khanpoor.	Abdul Wahid.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 12
12.	Mr. Mohd. Ibrahim.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 12
13.	Mr. Sultan Mohd.	Said Manif.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 12
14.	Mr. Abdul Mamid.	-	-	GPS. Kelahand.	Against V. Post. Vice No. 15
15.	Mr. Saqiyatullah, Peon. Vill: Jouro, (T).	Abdul	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 14
16.	Mr. Saqiyatullah, Vill: Khalil, Dir.	Said Mohd.	Candidate.	GPS. Kelahand.	Against V. Post. Vice No. 14
17.	Mr. Mohd Zeb, Vill: Bursandi, Khalil.	Masihullah.	-do-	GPS. Kelahand.	-do-
18.	Mr. Mir Afzal, Vill: Maknabala (Tari).	Welayat Khan.	-do-	GPS. Kelahand.	-do-
19.	Mr. Sherin Mohd, Vill: Tormang, F.C. Tormang.	Musafir Khan.	-do-	GPS. Kelahand.	-do-
20.	Mr. Sadshah Musain,	Mian	-do-	GPS. Kelahand.	-do-
21.	Mr. Bekht Zamin, Vill: Gugial (Tari).	Mheida Fecbe.	-do-	GPS. Kelahand.	-do-
22.	Mr. Mohd. Koz,	Jourro.	Candidate.	GPS. Kelahand.	-do-
23.	Mr. Taj Mohd, Vill: Shalkandzi.	Gul	Candidate.	GPS. Kelahand.	-do-
24.	Mr. Sher Mohd, Vill: Takoro.	Mohd	-do-	GPS. Kelahand.	-do-
25.	Mr. Mir Saman, Vill: Kotkicila (Gunda).	Sar	-do-	GPS. Kelahand.	-do-
26.	Mr. Hedayatullah.	Pahla	-do-	GPS. Kelahand.	-do-

ext Sheet.


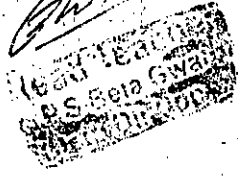
Attested
 V. PRINCIPAL
 G.H.S. Dushkbel
 28/9/98

DUTY CERTIFICATE

(10)

Certified that Mr. Fazli Azim, son of Fazal Wahid, CNIC No. 15307-6773732-1, resident of village Ouch, Tehsil Adenzai District Dir Lower, has performed his duties as P.T.C. (Primary School Teacher). at Govt. Primary School. Bela (Guldai Dara), Tehsil Kalkot, District Dir Upper, with effect from 11-05-1983 to 15-10-1983, according to the School Record.

He was a devoted teacher and performed his duties excellently.

HEAD TEACHER,
Govt. Primary School
Bela, Tehsil Kalkot,
District Dir Upper.

X




(11)

To,

The District Education Officer (M)

Dir Lower at Temergara.

Subject: **Departmental Appeal for Re-Instatement of service as PTC/PST**

R/Sir,

With due respect it is stated that the appellant has been serving the Education Department since 11.05.1983 as PTC/PST at GMPS /GPS Ouch Sharqi Adenzai Dir (L) in Grade – 10 in September 2001, the appellant faced accidental situation, applied for long leave & left the residential area for a long time (response of the leave application has not been received yet).

The appellant has come at home and living with 7 family members in unfavorable situation. The appellant has a hard worker and devoted Teacher with good health & mental condition and fit for service and it is expected to be pass the life with honor.

The bio-data of the appellant is as under.

1. **Fazle Azim s/o Fazle Wahid** resident of **Ouch Gharbi Tehsil Adenzai District Dir Lower.**
2. Date of birth: **01-02-1964**
3. Date of 1st Appointment in Edu: Deptt: **11-05-1983**
4. Length of Service: **18-years, 4-Months & 14-days**
5. Date of relieving the duties: **25-09-2001**

It is requested to Re-instate the service of the appellant on humanitarian grounds along with all benefits seniority.

Dated: 20-03-2019

Thanks:

Yours Obedient



Fazle Azim

Ex-PTC/PST, GPS Ouch Sharqi

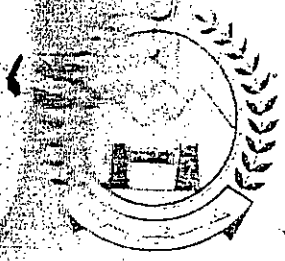
R/o Chirkarano Kalay

Ouch Gharbi, Tehsil Adenzai

District Dir Lower.



12



DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR

No. 3762 /F.No.100/Vol:28/appeals
Dated: 27/10 /2020

The District Education Officer
(Male) Dir Lower.

Subject: - DEPARTMENTAL APPEAL.

I am directed to refer to subject cited above and to ask you that appeal in respect of Mr. Fazli Azim Ex: PTC/PST GPS Ouch Sharqi District Dir Lower, has been rejected.

I am further directed to ask you to inform the appellant concerned accordingly under intimation to this office.

[Signature]
Assistant Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
o/c
23/10/2020

Endst No. 3763
Copy of the above is forwarded to:-

- 1. Mr. Fazli Azim Ex: PTC/PST GPS Ouch Sharqi District Dir Lower.
- 2. PA to Director E&SE local Office.
- 3. Master File.

[Signature]
Assistant Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
o/c
23/10/2020

[Signature]

13



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
DIR LOWER AT TIMERGARA.

E- Mail: deomaledirlower@gmail.com Tell: 0945-9250081-82

NOTIFICATION

1. WHEREAS. You Mr. Fazli Azim, Ex-PST were appointed in 1983.
2. AND WHEREAS. You remained in this department w.e.f 11.05.1983 to 25.09.2001.
3. AND WHEREAS. You remained willful absent from duty w.e.f 26.09.2001 as you confessed.
4. AND WHEREAS. You did not approached to your subdivision Education office for leave as you mentioned in your inquiry statement before the inquiry committee.
5. AND WHEREASE. Sub divisional Education office did not forwarded your case for leave you claimed for.
6. AND WHEREAS. You have confessed that you remained absent for long time from duty.
7. AND WHEREAS. As per rules your service is automatically ceased up after such a long absenteeism.

Hence based on the above reasons and recommendation of the inquiry committee concerned your appeal is not maintainable, hereby rejected.

(MEFTAH UDDIN)
District Education Officer
(M) Lower Dir.

Endst; No. 5238-40 / Dated. 06/8/2020

Copy of the above is forwarded to:-

1. The SDEO (M) concerned.
2. The Appellant concerned.

District Education Officer
(M) Lower Dir.

ATTESTED

(14) 3

To

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPEAL FOR RE-INSTATEMENT.

Respected Sir;

With due respect I state that:

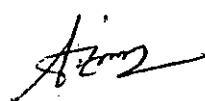
1. I had been appointed as PTC at GPS Bela, Sub-Division Dir, District Dir (Lower & Upper) on 30-04-1983, and had taken over charge on 11-05-1983, as per rules.
2. I had rendered services in Elementary and Secondary Education Department, Khyber Pakhtunkhwa, since 11-05-1983 to 25-09-2001 without contest by E&SED Dir Lower.
3. Due to untoward/unfavorable financial conditions/threats to my life & property, I had to think survival plan for my safety. I had applied for long leave to Executive District Officer, Education Dir Lower, but I had been unable to pursue till culmination/decision of leave. Furthermore, I have not known if my application had been rejected and disciplinary proceedings had been started under the rules or not without fulfilling codal formalities. If yes, then I had not been given right to defend myself, as per rules/law.
4. During my service in the Department, I had been regular contributory, to G.P. Fund, EEF, Benevolent Fund, Group Insurance, Addl: Group Insurance, along the right avail myself for LPR.

On my appeal under the rules to District Education Officer (Male), Elementary & Secondary Education Department, Dir Lower, subsequently inquiry has been conducted, but with wrong conclusion drawn, "To reject the un-rejectable appeal based on evidences or lack of evidences".

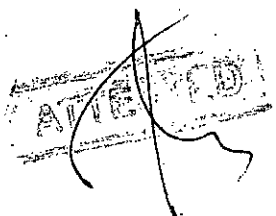
Hence, my appeal for re-inquiry and re-instatement may kindly be accepted, please.

Dated: 25-08-2020.

Thanks in anticipation



Fazli Azim, Ex-PTC/PST
GPS Ouch Sharqi,
Resident of Ouch, Tehsil Adenzai,
District Dir Lower.





(15)

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR**

No. 3762 /F.No.100/Vol:28/appeals.
Dated: 27/10 /2020.

To

The District Education Officer
(Male) Dir Lower.

Subject: - DEPARTMENTAL APPEAL.

I am directed to refer to subject cited above and to ask you that appeal in respect of Mr. Fazli Azim Ex: PTC/PST GPS Ouch Sharqi District Dir Lower, has been rejected.

I am further directed to ask you to inform the appellant concerned accordingly under intimation to this office.

Nasir's bailshah
10/11

[Signature]
Assistant Director Etab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst No. _____/

Copy of the above is forwarded to:-

1. Mr. Fazli Azim Ex: PTC/PST GPS Ouch Sharqi District Dir Lower.
2. PA to Director E&SE local Office.
3. Master File.

[Signature]
Assistant Director Etab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

OFFICE OF DISTRICT EDUCATION OFFICER (M) DIR LOWER AT TIMERGARA.

Endst: No. 14007-109 / Dated Timergara the 07/11/2020.

Copy of the above is forwarded to:-

1. The Director (Elementary & Secondary Edu) Khyber Pakhtunkhwa Peshawar.
2. The Sub-Divisional Education Officer (M) Adenzai to ask to inform the appellant concerned accordingly under intimation to this office.
3. The Fazli Azim Ex-PTC/PST GPS Ouch Sharqi Adenzai for information.

[Signature]
ATTACHED

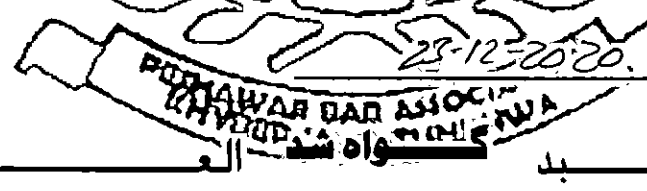
[Signature]
District Education Officer,
(M) Dir Lower at Timergara.

قیمت 50 روپے	67794	  
ایڈویٹ: اعلیٰ القدر سہروردی بار کونسل / ایسوسی ایشن نمبر: R-09-1785 رابطہ نمبر: 0300-5818278		
پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: سر سہیل سہروردی

مخانب: سہیل	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعث تحریر آگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام لگی ہے۔ اعلیٰ القدر سہروردی اور اس کی وکیل صاحبہ کو 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 کرہے و تقررات ثالث و فیصلہ بر خلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر 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 کو اپنے ہمراہ یا اپنے بجائے لقرر کا اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا ساختہ پر ساختہ منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانہ اتوائے 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 سندر ہے

المقوم: 25-12-2020


مقام: _____ کے لیے منظور ہے۔

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

فصل عظیم ولد فضل اوان سندھ اراج غیری محکمہ ایسوسی ایشن پشاور

Handwritten notes and signatures on the right margin.