


FORM OF ORDER SHEET

Court of _____

Appeal No. 274 / 2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	15/02/2024	<p>The appeal of Mr. Dawood Khan resubmitted today by Mr. Mujeeb Ullah Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 16.02.2024. Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Dawood Khan received today i.e on 31.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures-C&D of the appeal are illegible be replaced by legible/better one.
- 2- Annexures of the appeal are unattested.
- 3- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal be placed on it.

No. 212 /S.T.

Dt. 1/2 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mujibullah Adv.
High Court at Peshawar.

*Dear Sir,
Resubmitted after compliance, no show cause
charge sheet issued
to appellant
Mujibullah
15/2/2024*

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

Service Appeal No. 274 /2024.

Dawood Khan

VERSUS


Govt of Kp & Others

**APPLICATION FOR FIXATION OF THE INSTANT APPEAL FOR
PRELIMINARY HEARING AT PRINCIPAL SEAT.**

Respectfully Sheweth,

1. That the above titled appeal is filed before this Hon'ble Tribunal wherein no date of hearing is yet fixed.
2. That the Applicant/ counsel is requesting for fixation of the instant appeal before principal as no bench is currently available at camp court Swat
3. That most of the contesting Respondents also belong to Peshawar.
4. That there is no legal impediment on acceptance of this application.

In wake of above submissions, the instant appeal may kindly be fixed before principal seat for ends of justice.


Mujeeb Ullah
Advocate
Counsel for Appellant
Khalid & Law Associates
46 C, Cantonment Plaza
2nd Floor, Peshawar, Sadar.
Cell No. 03018521721

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

Service Appeal No. 276 /2024.

Dawood Khan

VERSUS

Govt of Kp & Others

INDEX OF DOCUMENTS

S.No	Description of documents	Annexure	Pages
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5	Copy of office order dated 03/06/2022 of Respondent No. 4	A	6
6	Copies of Appeal and appellate order dated 19/09/2022	B & C	7-8
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	Wakalatnama		



Appellant

Through



Mujeeb Ullah
Advocate,
High Court, Peshawar

Khalid & Law Associates
46 C, Cantonment Plaza
2nd Floor, Peshawar, Sadar.
Cell No. 03018521721

①

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

Service Appeal No. 274/2024.

Dawood Khan LHC No. 1346 District Police Office, Timergara Lower Dir.

APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
3. Regional Police Officer, Malakand.
4. District Police Officer, Timergara Lower Dir.

RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDERS DATED 03/06/2022, 19/09/2022 & 22/12/2023
COMMUNICATED TO APPELLANT ON 05/01/2024 WHEREBY
MAJOR PENALTY OF "REDUCTION IN PAY BY THREE
STAGES" WAS IMPOSED ON THE APPELLANT WITH
IMMEDIATE EFFECT IMPOSE UPON APPELLANT WAS
CONVERTED INTO MINOR PENALTY OF STOPPAGE OF ONE
ANNUAL INCREMENT BY RESPONDENT NO. 2.**

Prayer:

By accepting of this service appeal, the impugned order dated 22/12/2023 of Respondent No. 2 to the extent of stoppage of one annual increment may kindly be declared null and Void and kindly be set aside, consequently stoppage of one annual increment may kindly be restored. Any other relief, which this honorable court deems fit and appropriate, may also be granted in favor of appellant for the ends of justice.

Respectfully Sheweth:

Brief facts leading to the instant appeal are;

- 1- That appellant is an employee of the Respondents department and is performing his duties as Police Constable since 2010 at Timergara Lower Dir.

(2)

- 2- That the appellant is serving Respondents department with great zeal and devotion up to the entire satisfaction of their superiors and till date there is no complaint against the appellant. It is worth to note that appellant was on duty as Escort for transportation of accused to judicial complex at Balambat Lower Dir.
- 3- That on 20/04/2022 firing incident took place outside the judicial complex/court Balambat lower Dir for which appellant was held responsible for negligence in his official duty. In this respect disciplinary action was taken against the Appellant, and major Penalty of Reduction in pay by three stages was imposed upon appellant vide office order dated 03/06/2022.
{Copy of office order dated 03/06/2022 of Respondent No. 4 is annexed as A}
- 4- That feeling aggrieved from the office order dated 03/06/2022, appellant preferred an appeal before Respondent No. 3 (Regional Police Officer) the appellate authority, which was rejected vide order dated 09/09/2022.
{Copies of Appeal and appellate order dated 09/09/2022 are annexed as B & C}
- 5- That the appellant preferred Revision against the appellate order dated 09/09/2022. The Worthy Respondent No. 2 disposed of the said Revision Petition by converting the major penalty into minor penalty of stoppage of one annual increment for three years without cumulative effect vide office order dated 22/12/2023.
{Copies of revision and office order of Respondent No.2 are annexed as D & E}
10. That Appellant being aggrieved from the order dated 22/12/2023 whereby Revision of the Appellant was partially accepted/considered, having no other efficacious remedy available except to approach this Hon'ble Tribunal inter alia on the following grounds.

GROUND S

- A. That the impugned office orders dated 03/06/2022, 19/09/2022 & 22/12/2023 of Respondents are wrong, illegal, unfounded, unconstitutional, based on colorable exercise of power, hence, is liable to be set aside.
- B. That the impugned orders issued by Respondents are in sheer violation of the Fundamental Rights guaranteed to the Appellant as envisaged under the Constitution of Islamic Republic of Pakistan 1973.
- C. That the Appellant has not been treated in accordance with law and rules by the Respondents Department on the subject noted above and

as such the Respondents violated Article 4 of the Constitution of Islamic Republic of Pakistan 1973.


- D. That no show cause notice, charge sheet, and statement of allegations has been issued to the Appellant which is mandatory under the rules before imposing major penalty of removal from service.
- E. That no regular inquiry has been conducted and it is pertinent to note that no opportunity of personal hearing was given to Appellant. Which is against the principal of Natural Justice.
- F. That the whole proceedings took place on malafide, ill will intentions and just to harass the appellant, which is violation of fundamental rights guaranteed by Constitution of Islamic Republic of Pakistan 1973.
- G. That any other ground will be taken at the time of arguments with the kind permission of this Honorable Court.

In wake of above submissions, it is therefore, most humbly prayed that the instant appeal may kindly be accepted and stoppage of one annual increment for three years may kindly be restored as prayed for.

Any other relief this Hon'ble Court deems appropriate which has not been specifically prayed for may kindly be awarded to appellant for ends of justice.


Appellant

Through


Mujeeb Ullah
Advocate High Court,

Khalid & Law Associates
46 C, Cantonment Plaza
2nd Floor, Peshawar, Sadar.
Cell No. 03018521721

4

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

Service Appeal No. _____/2024.

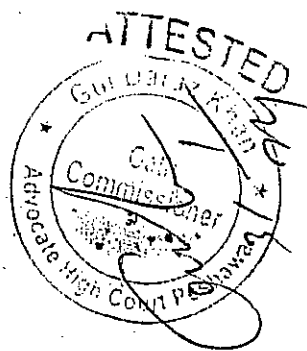
Dawood Khan

VERSUS

Govt. of KP & Others

AFFIDAVIT

I Dawood Khan LHC No. 1346 DPO office, Timergara Lower Dir do, hereby solemnly affirm and declare that the contents of the instant appeal are true and correct to the best of my knowledge and belief, and nothing has been concealed from this Honorable Court.



Dawood
DEPONENT

5

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

Service Appeal No. _____/2024.

Dawood Khan

VERSUS

Govt of Kp & Others

Appellant:

Dawood Khan LHC No. 1346 DPO office, Timergara Lower Dir.

Respondents:

1. Govt. of Khyber Pakhtunkhwa through Secretary Home & Tribal Affairs Department, Secretariat Peshawar.
2. Inspector General of Police Khyber Pakhtunkhwa, Peshawar
3. Regional Police Officer, Malakand.
4. District Police Officer, Timergara Lower Dir.



Appellant

Through



**Mujeeb Ullah
Advocate
High Court, Peshawar**

Khalid & Law Associates
46 C, Cantonment Plaza
2nd Floor, Peshawar, Sadar.
Cell No. 03018521721



Annex "A"

OFFICE OF THE
DISTRICT POLICE OFFICER
DIR LOWER

6

ORDER

1. This order will dispose of the departmental enquiry against LHC Dawood No.1346, that as per finding of preliminary enquiry conducted by DSP Legal Dir Lower, that while he posted at Judicial Complex Court Balambat, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat. In which 01 person was killed and one got seriously injured. He was held responsible for negligence in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part.
2. Therefore, he was issued charge sheet/ statement of allegation and Mr. Mushtaq Ahmad SP Investigation Dir Lower was appointed as enquiry officer, to conduct proper departmental enquiry against him and submit his finding report.
3. The enquiry officer, during the course of enquiry recorded the statements of all concerned as well as the official concerned and recommended him for major punishment.
4. He was called in Orderly Room on 02-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produced any cogent reason in his self defense nor satisfy the undersigned.
5. Therefore I, **Ikram Ullah (PSP)** District Police Officer, Dir Lower in exercise of power vested under (E & D) Rules 1975, with Amendment-2014, agreed with the finding of enquiry Officer and awarded a major punishment of "Reduction in pay by three stages" to LHC Dawood No.1346, with immediate effect.

ORDER ANNOUNCED

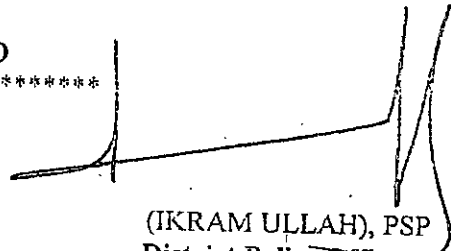
OB No. 454

Dated 13-06 2022

No. 5427-28 /EB,

Copy for information and necessary action to the:-

1. Pay Officer Local Office.
2. OHC Local Office.


(IKRAM ULLAH), PSP
District Police Officer
Dir Lower

بخدمت جناب ریجنل پولیس آفیسر صاحب، انٹرنیٹ سید و شریف سوات
 عنوان: درخواست برآمد بحالی 03 سالانہ انگریجیشن

جناب عالی!

- 1 سائیکل نہایت اداب کے ساتھ درجہ ذیل عرض معروض گزارش کرتے ہیں۔
- 2 یہ کہ سائیکل محکمہ پولیس دیر لویئر میں مورخہ 01-10-2010 کا بھرتی شدہ ہے۔
- 3 یہ کہ سائیکل نے محکمہ پولیس میں تاریخ بھرتی سے لے کر نہایت ایمانداری، پیشہ ورانہ ذمہ داری اور خوش اسلوبی کے ساتھ اپنی ڈیوٹی سرانجام دی ہے۔
- 4 یہ کہ سائیکل مورخہ 22-04-2022 سے عدالت گارڈ بلاک میں تعینات تھے۔
- 5 مورخہ 20-04-2022 کو حسب معمول عدالت گارڈ کے اندرونی حصے میں اپنے دوسرے ساتھیوں سمیت ڈیوٹی سرانجام دے رہے تھے۔
- 6 مورخہ 20-04-2022 کو عدالت ہائے پیشی سے فارغ شدہ زیر حراست قیدیوں/مزرمان جب مین گیٹ سے نکلے تو پہلے سے تاک میں بیٹھے نامعلوم اشخاص نے زیر حراست قیدیوں پر فائرنگ شروع کی۔ جس سے ایک قیدی موقع پر ہلاک اور دوسرا سانس زخمی ہوا تھا۔
- 7 یہ پورا واقعہ چند سیکنڈز پر مشتمل تھی۔ تاہم فائرنگ کے دوران ہم نے ڈسٹرکٹ کورٹس کی تمام بلاک کو اپنے ساتھیوں سمیت کسی بھی بڑی حادثاتی نقصان سے بچانے کے لئے بھرپور مشرتکہ کوشش کی ہے۔
- 8 یہ کہ سائیکل اس پوری واقعے میں بے گناہ ہے۔ اور سائیکل نے اپنے ذہنی استطاعت اور فزیکل صلاحیتوں کے مطابق ڈیوٹی سرانجام دی ہے۔
- 9 یہ کہ سائیکل کا اس واقعہ کے وجہ سے بحوالہ OB نمبری 45 مورخہ 03-06-2022 سروس سے 03 سالانہ انگریجیشن سے محروم کر دیا گیا ہے۔
- 10 یہ کہ سائیکل نہایت غریب خاندان سے تعلق رکھتا ہے۔ اور گھر کا واحد کفیل ہے۔ دوسرا کوئی کمانے والا نہیں ہے۔ لہذا بذریعہ درخواست نہایت مودبانہ التماس کی جاتی ہے کہ سائیکل کو مورخہ 03-06-2022 سے سروس کے 03 سالانہ انگریجیشن بحال کرنے کے احکامات صادر فرمائیں۔
- 11 سائیکل اپنے فیملی سمیت تاحیات دعا گو ہونگے۔

مورخہ 06-06-2022

العارض:

آپ کا تابع وار LHC داود خان نمبر 134 محکمہ پولیس ضلع لویئر دیر۔

رابطہ نمبر : 0342-9003542

Sis
 for [unclear]
 13-06-2022

Sis
 for [unclear]
 DSP/1405
 14.06.2022

Annex "C"

(8)

REGIONAL POLICE OFFICER, MALAKAND REGION
AT SAIDU SHARIF SWAT.
Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ehmalakandregion@gmail.com

5596
26/9/22

ORDER.

This order will dispose of appeal of LMC Dawood Khan No.1346 of Dir Lower District in connection with major punishment awarded by the District Police Officer, Dir Lower vide OB No.454, dated 03-06-2022 i.e. reduction in pay by three stages.

Brief facts of the case are that as per preliminary enquiry conducted by DSP Legal Dir Lower wherein he stated that LMC Dawood Khan No.1346 while posted to Judicial Complex Court Balambat, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat, in which 01 person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part. He was charged Charge Sheet/statement of allegation and SP Investigation Dir Lower was appointed as Enquiry Officer, to conduct proper departmental enquiry against delinquent official and submit his finding report. The Enquiry Officer, during the course of enquiry recorded statement of all concerned as well as the delinquent official and recommended him for awarding major punishment. He was called in orderly room by the District Police Officer, Dir Lower on 02-06-2022 for personal hearing and full opportunity was given to him to explain his position but he badly failed to produce any cogent reason in his self defense nor satisfied the District Police Officer, Dir Lower. Therefore, the District Police Officer, Lower Dir in exercise of power vested under (E&D) Rules 1975 with amended 2014, agreed with the finding of enquiry officer and awarded him major punishment of reduction in pay by three stages vide OB.No. 454, dated 03-06-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

EC/OAS

F. Behar
Regional Police Officer,
Malakand Region Swat

No. 9959 /E,
Dated: 19-9-2022.

District Police Officer,
Dir Lower at Balambat.

Copy to the District Police Officer, Dir Lower with reference to his office Memo: No.8165/EC, dated 15-07-2022 and No.8379/EC dated 22-07-2022. His Service Roll and Fuji Missal containing enquiry file received with the memo: under reference are returned herewith for record in your office.

E. S. R. R. Missal

**OFFICE OF THE
REGIONAL POLICE OFFICER, MALAKAND
AT SAIDU SHARIF SWAT**

Ph: 0946-9240388 & Fax No. 0946-9240390
Email: ebmalakandregion@gmail.com

ORDER

This order will dispose of appeal of LHC Dawood Khan No.1346 of Dir Lower District in connection with major punishment awarded by the District Police Officer, Dir Lower vide OB No.454, dated 03-06-2022 i.e. reduction in pay by three stages.

Brief facts of the case are that as per preliminary enquiry conducted by DSP Legal Dir Lower wherein he stated that LHC Dawood Khan No.1346 while posted on escort duty for transportation of accused, on 20-04-2022 a firing incident took place outside Judicial Complex/Court Balambat, in which 01 person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures. Which shows gross negligence and inefficiency on his part. He was issued Charge Sheet statement of allegation and SP Investigation Dir Lower was appointed as Enquiry Officer, to conduct proper departmental enquiry against delinquent official and submit his finding report. The Enquiry Officer, during the course of enquiry recorded statement of all concerned as well as the delinquent official and recommended him for awarding major punishment. He was called in orderly room by the District Police Officer, Dir Lower on 02-06-2022 for personal hearing and full opportunity was given to him so explain his position but he badly failed to produce any cogent reason in his self-defense nor satisfied the District Police Officer, Dir Lower. Therefore, the District Police Officer, Lower Dir in exercise of power vested under (E&D) Rules 1975 with amended 2014. agreed with the finding of enquiry officer and awarded him major punishment of reduction in pay by three stages vide OB No.454, dated 03-06-2022.

He was called in Orderly Room on 07-09-2022 and heard him in person, but he did not produced any cogent reason to defend the charges leveled against him, therefore, his appeal is hereby rejected.

**Regional Police Officer,
Malakand Region Swat**

**No.9958/E,
Dated 19.09.2022**

Copy to the District Police Officer, Dir Lower with reference to his office Memo: No.6193/EC, dated 23-06-2022 and No.8088/EC, dated 13-07-2022. His Service Roll and Fuji Missal containing enquiry file received with the memo: under reference are returned herewith for record in your office.





Annex 'E'

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

10
3/1/24

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by LHC Dawood Khan No. 1346. The petitioner was awarded major punishment of reduction in pay by three stages by DPO Dir Lower vide OB No. 454, dated 03.06.2022 on the allegations that he while posted on escort duty for transportation of accused, on 20.04.2022 a firing incident took place outside Judiciary complex/Court Balambat, in which one person was killed and one got seriously injured. He was held responsible in his official duty as he failed to adopt proper security measures which show gross negligence & efficiency on his part. The Appellate Authority i.e. RPO Malakand rejected his appeal vide Order Endst No. 9959/E, dated 19.09.2022.

Meeting of Appellate Board was held on 12.12.2023 wherein petitioner was heard in person. The petitioner contended that I was on daily duty within the court while the incident took place on the main road in front of the main gate.

The Board accepted the revision petition of the petitioner and his punishment of reduction in pay by three stages is modified into minor punishment of stoppage of one annual increment for three years without cumulative effect.

Sd/

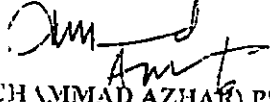
AWAL KHAN, PSP
Additional Inspector General of Police,
HQrs: Khyber Pakhtunkhwa, Peshawar.

No. SI 2921-26 /23, dated Peshawar, the 22-12- /2023.

Copy of the above is forwarded to the:

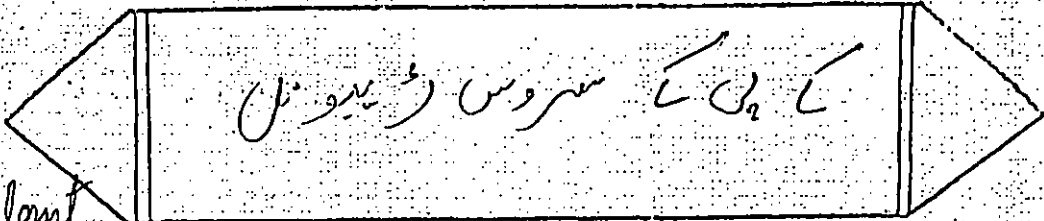
1. Regional Police Officer Malakand. Service Roll alongwith Fuji Missal and Enquiry File of the above named LHC received vide your office Memo. No. 13397-98/E, dated 01.12.2022 is returned herewith for your office record.
2. District Police Officer, Dir Lower.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs. Khyber Pakhtunkhwa, Peshawar
6. Office Supdt: F-IV CPO Peshawar.

RECEIVED


(MUHAMMAD AZHAR) PSP
AIG/Establishment,
Inspector General of Police,
Khyber Pakhtunkhwa, Peshawar.

3/1/24

بعد الت



Appellomt
Govt of KP

2 منجانب

بنام Dawood Khan

سورث
مقدمہ
دعویٰ
بزم

باعث تحریر آنکھ

مقدمہ مندرجہ عدالت بالا میں اپنی طرف سے واسطے پیردی و جواب نامی وکل کاروائی متعلقہ
Myjeeb Ullah کیلئے

آن مقام
مقررہ کرتے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا ہے
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب وہی اور اقبال دعویٰ اور
بلا ورت ذکر کی کرنے اجرام اور صولی چیک اور وپیار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
درمیان بدستفہ کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یا یکطرفہ یا ایبل کی براندگی اور منسوخی
نیز دائرہ کرنے اپیل نمرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے نقل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا سامانہ
راخیز منظور قبول ہوگا۔ اور ان مقدمہ میں جو خرچہ دہر جائز التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیردی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Dawood Khan

الترتوام 31 | ماہ 24 20

Accepted
Myjeeb Ullah

be 17-7302
03018521721

bc-22-5452
Syed Muneed Ali
Syed Ali