

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No. 305/2024

\_\_\_\_\_ with signature of judge

3

12/02/2024

The appeal of Mr. Muhammad Iqbal presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 22-2-2024. Parcha Peshi is given to counsel for the appellant.

By the order of Chairman

  
REGISTRAR

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In S.A # \_\_\_\_\_ 2024.

Muhammad Iqbal

Versus

Inspector General of Police Prison Khyber Pakhtukhwa and  
others

**APPLICATION FOR FAXATION THE ABOVE TITLED  
SERVICE APPEAL BEFORE THE PRINCIPAL BENCH  
PESHAWAR INSTEAD OF CAMP COURT ABBOTABAD  
BENCH.**

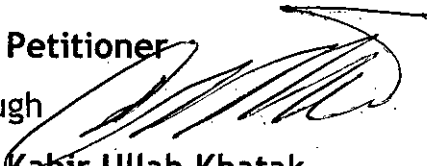
Respectfully Sheweth,

1. That the captioned service appeal is pending adjudication before this Hon'ble Tribunal in which no date is yet been fixed.
2. That the respondent no.1 as well as council of the appellant are practice in lawyer at district Peshawar.
3. That there is no legal bar for acceptance the instant application.

*It is, therefore, humbly prayed that on acceptance of the instant application, the instant service appeal may kindly be fixed for hereing before the principal seat Peshawar instead of camp court Abbotabad.*

**Dated: 21-02-2024**

*Dated*  
*21-2-24*

Petitioner  
Through   
Kabir Ullah Khatak  
Advocate High Court,  
Peshawar

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. 305 /2024

Muhammad Iqbal Ex-Head Ex-Warder

**VERSUS**

Inspector General of Police Prison Khyber  
Pakhtukhwa Peshawar & others

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Through

APPELLANT

**Kabir Ullah Khattak**  
Advocate, High Court  
Peshawar.

Dated: 17/02/2024

(1)

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. 305 /2024

Muhammad Iqbal Ex-Head Ex-Warder S/o  
Muhammad Rehman posted at Central Prison  
Haripur.

Appellant

**VERSUS**

1. Inspector General of ~~Prison~~ Prison Khyber  
Pakhtukhwa Peshawar.
2. Superintendent Circle Haed Quarters Prison Haripur.

Respondents

**APPEAL U/S-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICES TRIBUNAL**  
**ACT 1974 AGAINST THE IMPUGNED**  
**ORDER DATED 20/11/2023 PASSED BY**  
**THE (RESPONDENT NO.2) WHEREBY**  
**THE APPELLANT WAS IMPOSED TO**  
**MAJOR PENALTY OF COMPULSORY**  
**RETIREMENT FROM SERVICE**  
**AGAINST WHICH THE APPELLANT**  
**FILED DEPARTMENTAL APPEAL ON**  
**21.11.2023 WHICH WAS REJECTED ON**  
**22.01.2024 ON NO GOOD GROUNDS.**

Prayer:-

2

ON ACCEPTANCE OF THIS APPEAL BOTH THE IMPUGNED ORDERS DATED 20/11/2023 & 22/01/2024 PASSED BY THE RESPONDENTS MAY VERY GRACIOUSLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE REINSTATED IN SERVICE WITH FULL BACK WAGES AND BENEFITS. ANY OTHER RELIEF DEEMED APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE NOT SPECIFICALLY ASKED FOR, MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth,

1. That the Appellant has initially appointed against the post of Warder on 22.05.2013 with respondent Department.
2. That after appointment the appellant performed his official duty with full devotion and hard work and no complaint whatsoever has been made against him.
3. That a show cause notice has been issued against the appellant which was properly replied by the appellant whereby the appellant denied all the allegation leveled against him (copy of show cause notice and reply are attached as annexure "A & B").

4. That the impugned order has been issued on 20.11.2023 against the appellant whereby the appellant has been imposed to major punishment of compulsory retirement from service. **(Copy of impugned order is attached as annexure "C")**.
5. That the appellant submitted a departmental appeal on 21.11.2023 against the impugned order dated 20.11.2023 which was rejected on 22.01.2024 on no good grounds. **(Copy of Deptt. Appeal & rejection order are attached "D & E")**.
6. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

**GROUNDS:-**

- A. That the impugned orders 20.11.2023 & 22.01.2024 are come under the definition of void order because it has been passed without fulfilling the codal formalities.
- B. That no departmental and regular inquiry has been conducted by the Respondent department and no chance of personal hearing has been

provided to the appellant in this respect the appellant relied upon the judgment dated 2008 SCMR Page:1369.

- C. It is a well settled maxim no one can be condemned unheard because it is against the natural justice of law in this respect the appellant relied upon a judgment reported on 2008 SCMR page:678.
- D. That no statement of witness has been recorded and no opportunity of cross examination has been provided to the appellant.
- E. That the appellant has not been treated by the respondents according's 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.
- F. That the treatment meted out to the appellant is a clear violation of fundamental rights of the appellant is enshrined in the Constitution of Pakistan 1973.
- G. That there is no proof or evidence regarding the allegation leveled against of the appellant.



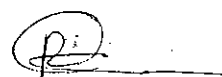
H. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the instant service appeal.

*It is therefore, most humbly prayed that on acceptance of this appeal both the impugned orders dated 20/11/2023 & 22/01/2024 passed by the respondents may very graciously be set aside and the appellant may kindly be reinstated in service with full back wages and benefits.*

*Any other relief deemed appropriate in the circumstances of the case not specifically asked for, may also be granted to the appellant.*

*Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.*

Through

  
APPELLANT  
  
Kabir Ullah Khattak  
&  
Roeda Khan   
Advocates, High Court  
Peshawar.

Dated: 17/02/2024

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.

  
Advocate.



6

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2024

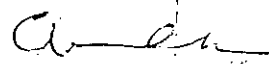
Muhammad Iqbal Ex-Head Ex-Warder

***VERSUS***

Inspector General of Police Prison Khyber Pakhtukhwa  
Peshawar & others

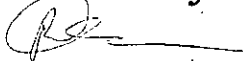
**AFFIDAVIT**

I, Muhammad Iqbal Ex-Head Ex-Warder S/o  
Muhammad Rehman posted at Central Prison  
Haripur, do hereby solemnly affirm and declare that all the  
contents of the instant appeal are true and correct to the  
best of my knowledge and belief and nothing has been  
concealed or withheld from this Hon'ble Court.



DEPONENT

***Identified by:***



Roeeda Khan  
Advocate High Court  
Peshawar.

Dated:17-02-2024

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2024

Muhammad Iqbal Ex-Head Ex-Warder

***VERSUS***

Inspector General of Police Prison Khyber  
Pakhtukhwa Peshawar & others

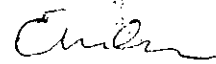
**ADDRESSES OF PARTIES**

***PETITIONER.***

Muhammad Iqbal Ex-Head Ex-Warder S/o  
Muhammad Rehman posted at Central Prison  
Haripur.

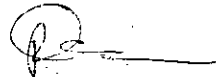
**ADDRESSES OF RESPONDENTS**

1. Inspector General of Police Prison Khyber  
Pakhtukhwa Peshawar.
2. Superintendent Circle Haed Quarters Prison Haripur.



APPELLANT

Through



**Roeeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 17/02/2024

SHOW CAUSE NOTICE

"A"

8

I, **Umair Khan, Superintendent Circle Headquarters Prison Haripur**, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, **Muhammad Iqbal S/O Muhammad Rehman Warder (under suspension)** posted at Central Prison Haripur as following:

- i. That consequent upon the completion of inquiry conducted against you by the Inquiry officer for which you were given opportunity of hearing;
- ii. That on going through the findings and recommendations of the Inquiry officer, the material on record and other connected papers including your defense before the Inquiry Officer;

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:-

(a). Charges smuggling of narcotics inside jail are fully proved.

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty of "**Removal from Service**" under rule-4 of the said rules.

3. You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen (15) days of its receipt, it shall be presumed that you have no defense to put in and in that case, ex-parte action shall be taken against you.

5. A copy of the findings of the Inquiry officer is enclosed.

  
SUPERINTENDENT  
CIRCLE H/Qs PRISON HARIPUR

جواب شوکازنوٹس جاری کردہ

مورخہ

انکوٹری افسر جناب طاہر جمال

صاحب سنٹرل جیل بری پور

جناب عالی

انتہائی آداب کیساتھ گزارش

کیجاتی ہے کہ میں وارڈر محمد

اقبال جو سنٹرل جیل بری پور میں

ڈیوٹی کر رہا ہوں اور حال ڈیوٹی

ہسپتال تالاشی پانک پر کر رہا تھا کہ

کچھ دن قبل قیدی حلیم کی

میں نے تالاشی لی اس تالاشی

کو اس نے برامان کر مجھے کہا کہ

کوئی میرا تالاشی اسانی سے نہیں

لے سکتا میں آپکو باقاعدہ پلان

کیساتھ بدنام کر کے نوکری اور اس

جیل سے نکال دوں گا۔

لہذا جب ان سے نشہ وار مواد برآمد

ہوئی تو انہوں نے میرا نام بدنام

کرنے کیلئے میرا نام استعمال کیا۔

باقی جو باہر بارک سے منشیات برآ

لہذا جب ان سے نشہ وار مواد برآمد ہوئی تو انہوں نے میرا نام بدنام کرنے کیلئے میرا نام استعمال کیا۔ باقی جو باہر بارک سے منشیات برآمد ہو وہ میرا نہیں ہے اور نہ اس کیساتھ میرا کوئی تعلق ہے کیونکہ اگر یہی میرا ہوتا تو کیوں میں اسکو اپنے بکسے "الماری" یا قمیص میں کھلے کیسے رکھتے تھے۔ لہذا یہ جو منشیات ہے میرا اس کیساتھ کوئی تعلق نہیں ہے یہ بھی مندرجہ بالا پلان کے تحت میرے بے عزتی اور بدنامی کیلئے پلان تیار کیا گیا تھا۔ میرا اس میں کوئی قصور نہیں لہذا میرے خلاف جوشو کا ز نوٹس جاری ہوا ہے مہربانی کر کے اسکو خارج کیا جائے ان حقائق کو مد نظر رکھتے ہوئے مجھے مخلصی دی جائے۔

آپ کا تابعدار وارڈر محمد اقبال

تاریخ۔ 30/10/2023

8:49 PM



OFFICE OF THE SUPERINTENDENT  
CIRCLE HQs PRISON HARIPUR

No. 5189 - 1-

Dated 20-11-2023

ORDER

WHEREAS, the accused warder (BPS-07) **Muhammad Iqbal S/O Muhammad Rehman** posted at **Central Prison Haripur** was placed under suspension and proceeded against under Rule-3 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the charges mentioned in the charge sheet served upon him.

AND WHEREAS, Mr. Tahir Jamal, Deputy Superintendent Central Prison Haripur was appointed as Inquiry Officer for conducting inquiry in the matter vide this office endst; No. 4765-67-WE dated 26-10-2023.

AND WHEREAS, the Inquiry Officer concerned submitted its findings according to which charges have been proved against him.

AND WHEREAS, the undersigned being competent authority granted him the opportunity of personal hearing on 20-11-2023 as provided under rules ibid. During the course of personal hearing the accused warder failed to justify his innocence.

NOW THEREFORE, in exercise of powers conferred under Rule-14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, having considered the charges, evidence on record, the explanation of the accused warder, as well as recommendation of the inquiry Officer and after affording the opportunity of personal hearing the undersigned being competent authority is pleased to impose major penalty of "**Compulsory Retirement**" on accused warder **Muhammad Iqbal** posted at Central Prison Haripur.

SUPERINTENDENT,  
CIRCLE HQs PRISON HARIPUR.

ENDST; NO. 5190-93

Copy of the above is forwarded to :-

1. The Superintendent, Central Prison Haripur for information and necessary action with reference to his letter; No.7201-WE dated 24-10-2023. Necessary entry may be made in his Service Book after proper attestation.
2. Mr. Tahir Jamal, Deputy Superintendent Central Prison Haripur (Inquiry Officer) for information with reference to his letter No. Nil dated 30-10-2023.
3. The District Accounts Officer Haripur for information.
4. Warder concerned C/O Superintendent Central Prison Haripur.

SUPERINTENDENT,  
CIRCLE HQs PRISON HARIPUR.

D (152) (1)

To

The I.G.P Prison  
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST  
THE IMPUGNED OFFICE ORDER  
DATED 20.11.2023 WHEREBY THE  
APPELLANT HAS BEEN IMPOSED  
UPON MAJOR PENALTY OF  
COMPULSORY RETIREMENT FROM  
SERVICE.

Respected Sir,

The appellant submits as under.

1. That appellant having been appointment against the post of Warder on 22.05.2013. The day first appellant has never ever been proceeded against departmentally and rendered meritorious service to the department.
2. That on the fateful day appellant was discharging his duty at hospital gate of the Central Jail Haripur, when he was called upon by the superior. As a matter of fact one accused namely Haleem Khan resident of District Mardan who had been booked in a murder case was in possession of Narcotics upon query he asserted to the Chakar relief Abdul Shakoor (Head Warder) that the said narcotics was handed over to me by the appellant.

*Dx-No 45213*  
*Date: 21-11-23*

- (3)
3. That there after appellant appeared before the high ups and denied the allegation as leveled against him but the same were not taken into consideration. All of sudden appellant was issued charge sheet and statements of allegations. Since the charges were baseless, unfounded, therefore appellant submitted a detail reply be denying all the allegation.
  4. That on the basis of fact finding inquiry which was conducted at the back of the appellant reached to the conclusion that appellant is supposed to be inflicted upon major penalty, therefore a show cause notice was also served upon to him which was also denied out right.
  5. That appellant was hopeful that he would be declared innocent by the inquiry officer as all the charges were not found to be proved against him and he was subjected to the impugned office order dated 20.11.2023 wherein a major penalty of compulsory retirement from service was imposed upon, hence this departmental appeal inter alia on the following grounds.

**GROUND:-**

- A. That the department has not treated appellant in accordance with law and rule and acted upon violation of Articles-4 & 10-A of the constitution of Islamic Republic of
-



(14)

Pakistan 1973, therefore the impugned order is liable to set aside.

B. That as a matter of fact the accused Mr. Haleem Khan had personal grudges towards the appellant as some days ago appellant searched the body of incumbent thereon he had annoyed on him and threaten dire consequences.

C. That it is an admitted fact that department proceeded appellant against departmentally by mentioning the word "Narcotics" but no specification has been offered that the whether the same was Heroin or otherwise? More important aspect of the matter is this that no FIR has been lodged against the accused Haleem Khan from whom position the contrabands were record.

D. That it is an admitted principal of law that were the department is going to impose upon a major penalty to a delinquent civil servant then they are supposed to conduct a regular inquiry but in case in hand of the appellant no regular inquiry has been initiated which is clear violation of the fundamental rights of the appellant. Therefore the impugned order is not sustainable in the eye of law.

E. That the superior court having consistent view that the subjected person must be afforded a chance of personal hearing before taking any adverse action against him.

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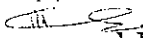
(15)

Moreover, when appellant denied the said allegations therefore the same could not be resolved by conducting a fact finding inquiry as under the law fact finding inquiry is only to a certain that weather there are sufficient material to indulge delinquent civil servant in the process of departmental inquiry or otherwise.

F. That neither appellant was afforded a meaning full chance of personal hearing nor the same was taken into the consideration by the inquiry officer. The statement of the accused namely Haleem Khan was not recorded by the inquiry officer, therefore appellant has been condemned unheard by imposing upon major penalty.

It is therefore, most humbly prayed that on acceptance of this departmental appeal the impugned office order dated 20.11.2023 whereby appellant was compulsory retired from service may very kindly be set aside and he be reinstated into service along with all consequential back benefits.

Dated: 21.11.2023

Appellant  
  
Muhammad Iqbal  
Ex-Warder Central Prison  
Haripur  
CNIC: 15501-4353422-9  
Cell: 0345-9010456

"E"

(16)



By Fax

OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR  
PHONE NO. 091-213446 FAX NO. 091-213446  
Date 23-11-2023

103

**ORDER:**

**WHEREAS,** Ex-Warder Muhammad S/o Muhammad Rehman, while attached to Central Prison Haripur was awarded the major penalty of "Compulsory Retirement from Service" by Superintendent, Central Prison Haripur vide order No. 5189 dated 20-11-2023 due to his misconduct / recovery of narcotics.

**AND WHEREAS,** the said Ex-Warder preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service.

**AND WHEREAS,** he was afforded an opportunity of personal hearing on 21-12-2023. His appeal was examined in light of the available record of the case and it was observed that the penalty was awarded by the competent authority due to his misconduct / supply and recovery of narcotics after observing all legal and codal formalities as required under Government of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011. During the course of hearing, the appellant failed to justify his innocence.

**NOW THEREFORE,** having considered the charges, evidences/facts on record as well as the provision of rules in dispute and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance & facts and devoid of merit.

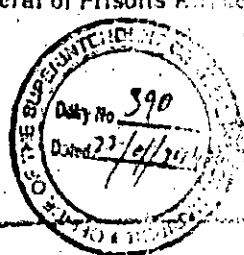
INSPECTOR GENERAL OF PRISONS,  
KHYBER PAKHTUNKHWA, PESHAWAR.

ENDST: NO. 299E -- 3001

Copy of the above is forwarded to the:

1. Superintendent, Headquarters Prisons Peshawar for information and w/r to his letter No. 5333/WE dated 27-11-2023.
2. Superintendent Central Prison Haripur for information and necessary action. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
3. The appellant C/o Superintendent Central Prison Haripur for information.
4. PS to Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.

OS/PB  
Supdt



DEPUTY DIRECTOR  
INSPECTORATE GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

(17)

**BETTER COPY**

**OFFICE OF THE  
INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR**

TEL:..... 9210406                      091-9213446

No. \_\_\_\_\_ 2447/-

Dated 22-01-2024/-

**ORDER**

**WHEREAS**, Ex-Warder Muhammad Iqbal S/o Muhammad Rehman, while attached to Central Prison Haripur was impose the major penalty of "Compulsory Retirement from Services" by Superintendent Prison Haripur vide order No.5189 dated 20-11-2023 due to his misconduct / supply/recovery of narcotics.

**AND WHEREAS**, the said Ex-warder preferred his departmental appeal for setting aside the penalty awarded to him and also requested for reinstatement in service and whereas he was afforded an opportunity of personal hearing on 21.12.2023 his appeal examined in light of the available record of the case and it was observed that the penalty was awarded him by the competent authority due to his misconduct / supply and recovery of narcotics after Observing all legal and codal formalities as required under Government efficiency & discipline) Rules, 2011. During the course of hearing, the appellant failed to justify his innocence.

**NOW THEREFORE**, having established of the charges, evidences/ facts on record as well as the provision of rules invoked and in exercise of powers conferred under Rule-17 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 read with Rule-05 of Khyber Pakhtunkhwa Service Appeal Rules 1986, the decision of the competent authority is upheld and appeal of the appellant is hereby rejected being without any substance & facts and devoid of merit.

INSPECTOR GENERAL OF PRISONS  
KHYBER PAKHTUNKHWA, PESHAWAR

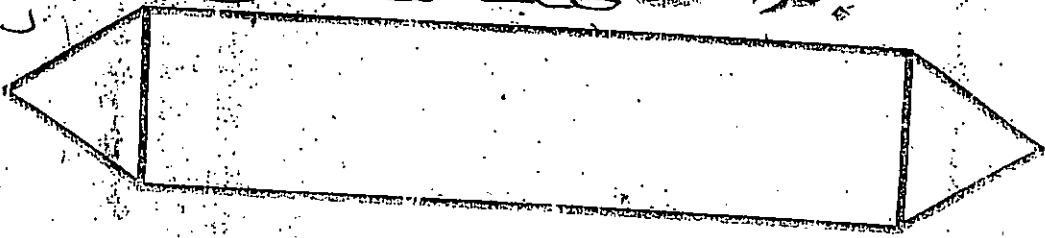
Endst: No.2998 – 300/-

Copy of the above is forwarded to the:

- 1) Superintendent, Headquarters Prisons Haripur for information and w/r to his letter No.5333/WE dated 27-11-2023.
- 2) Superintendent Central Prison Haripur for information and necessary action. He is directed to inform the appellant accordingly and to make necessary entry in his Service Book under proper attestation.
- 3) The appellant C/o Superintendent Central Prison Haripur for information.
- 4) PS to Inspector General of Prisons Khyber Pakhtunkhwa Peshawar.

DEPUTY DIRECTOR  
COMISSIONRATE GENERAL PRISONS  
KHYBER PAKHTUNKHWA PESHAWAR

# بجالات صلح سے واسطے پر



2024ء منجانب اسلام آباد

محمد اہلیک نام سے

مورخہ

مقدمہ

دعویٰ

جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی اور جواب دہی وکل کارروائی متعلقہ

کیلئے لکھنا

آن مقام

باجائے مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

نہ یا پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی 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 مذکور با اختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ ہوں گے

سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔

کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2024ء 20

فہدی

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المرقوم

ACCEPTED

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