

FORM OF ORDER SHEET

Appeal No. 282/2024

Serial	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3

1 16/02/2024

The appeal of Mr. Muhammad Ilyas resubmitted today by Roecda Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 19.02.2024. Particular Peshwa is given to counsel for the appellant.

By the order of Chairman

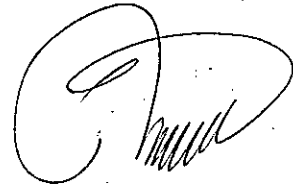

REGISTRAR

The appeal of Mr. Muhammad Ilyas received today i.e on 06.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Affidavit is not attested by the Oath Commissioner.
- 2- Copy of departmental appeal is not attached with the appeal be placed on it.
- 3- Respondent no.2 is un-necessary/improper party be deleted from the list of respondents and add the necessary party.

No. 295 /S.F.

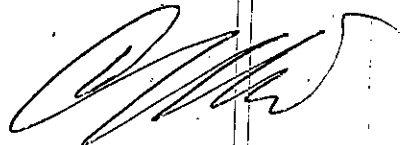
Dt. 14/2 /2024.



REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Kabir Ullah Khattak Adv.
High Court Peshawar.

In response of objection
No 1 it has been removed
objection No 2, Resm has already
been mentioned in para 8 of fact
objection No 3 has been removed



10/2/24

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 282/2024

Muhammad Ilyas Constable No.1150

VERSUS

The IGP KPK Peshawar & others


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Through

Dated: 02/02/2024

Alger
APPELLANT


Roeda Khan
Advocate, High Court
Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 282 /2024

Muhamamd Ilyas Constable Belt No. 1150 S/o
Muhammad Arif Tele Communication and Transport
Unit Khyber Pakhtunkhwa Peshawar.

Appellant

VERSUS

1. The Inspector General of Police KPK Peshawar.
2. Deputy Inspector General of Police Tele Communication and Transport KPK Peshawar.
3. The Superintendent of Police Tele Communication and Transport KPK Peshawar.

Respondents

APPEAL UNDER SECTION-4 OF THE
KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL ACT 1974 AGAINST THE ORDER
DATED 22/12/2023 WHEREBY THE
APPELLANT HAS BEEN IMPOSED TO
MINOR PENALTY OF STOPPAGE OF THREE
INCREMENTS WITH CUMULATED
EFFECTS AS WELL AS HIS ABSENCE
PERIOD IS TREATED IS LEAVE WITHOUT
PAY ON NO GOOD GROUNDS.

ON ACCEPTANCE OF THIS APPEAL THE
IMPUGNED ORDERS DATED 22/12/2023 TO
THE EXTENT OF MINOR PENALTY MAY
KINDLY BE SET ASIDE AND THE
APPELLANT MAY KINDLY BE ORDERED TO
BE RESTORED HIS THREE INCREMENTS
ALONG WITH ALL BACK BENEFITS.

Respectfully Sheweth,

Short facts giving rise to the present appeal are as under:-

1. That the appellant has been appointed as constable with respondent department since long time and after appointment he performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
2. That while performing his official duty with respondent department a false and fabricated criminal case FIR No.786 dated 12.08.2022 U/S 302 PPC PS: Hawiliyan District Abbottabad has been lodged against the appellant. (Copy of FIR is attached as annexure "A").

3)

3. That later on the appellant moved his BBA petition before the court concerned which has been confirmed on 19.07.2023 by the court concerned. **(Copy of BBA confirmation is attached as annexure "B").**
4. That on 14.06.2023 the appellant has been removed from service on the ground of involment of the above criminal case by the respondent department. **(Copy of removal order dated 14.06.2023 is attached as annexure "C").**
5. That the appellant submitted departmental appeal within one month from the communicating of the impugned order dated 14.06.2023 which was rejected on 22.09.2023 on no good grounds but unluckily copy of departmental appeal was not kept by the appellant. **(Copy of rejection order is attached as annexure "D").**
6. That after rejection of appellate order dated 22.09.2023 the appellant submitted Revision Petition on 02.10.2023 which was decided on 22.12.2023 whereby the appellant has been reinstated on his service while minor punishment of stoppage of three increment with cumulated effect as well as his absence period

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has been treated as leave without pay has been imposed to the appellant. (Copies of revision petition and impugned order dated 22.12.2023 are attached as annexure "E & F").

7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That the impugned order dated 22.12.2023 to the extent of minor punishment is come under the definition of void order because it has been passed without fulfilling codal formality.
- B. That the absence of the appellant is not intentional nor deliberately but due to involvement of criminal case.
- C. That no charge sheet and statement of allegation has been issued or served / communicated to the appellant which is clear cut violation of rules-6(A-1) of Police rules 1975.

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- D. 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.
- E. That no show cause notice has been issued or served to the appellant.
- F. 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.
- G. That the respondent department reinstated the appellant for the same alleged charges and that's sole ground is enough for setting aside the impugned order dated 22.12.2023.
- H. That the respondent department should be waited for the decision of criminal court.
- I. That any other ground not raised here may graciously be allowed to be raised at the time of arguments on the instant service appeal.

6)

It is therefore, most humbly prayed that on acceptance of this appeal the impugned orders dated 22/12/2023 to the extent of minor penalty may kindly be set aside and the appellant may kindly be ordered to be restored his three increments along with all back benefits.

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

Through

Alyas
APPELLANT

Kabir Ullah Khattak
&
Roeeda Khan
Advocates, High Court
Peshawar.

Dated: 02.02.2024

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.

Roeeda Khan
Advocate.

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2024

Muhammad Ilyas Constable No.1150

VERSUS

The IGP KPK Peshawar & others

AFFIDAVIT

I, Muhamamd Ilyas Constable Belt No. 1150 S/o Muhammad Arif Tele Communication and Transport Unit Khyber Pakhtunkhwa Peshawar, 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.

Alyes
DEPONENT

CNIC: 13101-4661224-8

Identified by

[Signature]
Roeeda Khan
Advocate High Court
Peshawar.

Dated:02.02.2024

BEFORE THE HONBLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2024

Muhammad Ilyas Constable No.1150

VERSUS

The IGP KPK Peshawar & others

ADDRESSES OF PARTIES

PETITIONER.

Muhamamd Ilyas Constable Belt No. 1150 S/o
Muhammad Arif Tele Communication and Transport
Unit Khyber Pakhtunkhwa Peshawar.

ADDRESSES OF RESPONDENTS

1. The Inspector General of Police KPK Peshawar.
2. Deputy Inspector General of Police Tele
Communication and Transport KPK Peshawar.
3. The Superintendent of Police Tele Communication and
Transport KPK Peshawar.



APPELLANT

Through



Roeeda Khan
Advocate, High Court
Peshawar.

Dated: 02/02/2024

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BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2024

Muhamamd Ilyas Constable Belt No. 1150

VERSUS

The IGP Pakhtunkhwa Peshawar & others

APPLICATION FOR CONDONATION OF DELAY (if any)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the respondent department reinstated the appelland for the same alleged charges and that's sole ground is enough for setting aside the impugned order dated 22.12.2023.

Grounds:

- A. That the impugned order dated 22.12.2023 to the extent of minor punishment is come under the definition of void order because it has been passed without fulfilling codal formality.

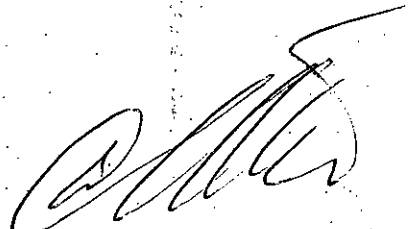
- B. That the impugned orders are void order and no limitation run against the void orders.
- C. That the impugned penalty imposed to the appellant is come under the definition of continuous cause of action and according to the judgment of Supreme Court as well as this Hon'ble Tribunal no limitation run against such order/penalty.
- D. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.


Appellant

Through

Date : 02.02.2024


Kabir Khan Khattak

& 
Roeda Khan

Advocates, High Court
Peshawar

"B"

12

2/3

Handwritten notes in Urdu script, including dates like 15/07/23 and other illegible text.

IN THE COURT OF RAJA MUHAMMAD SHOAB KHAN
ADDITIONAL SESSIONS JUDGE, ABBOTTABAD AT
HAVELIAN

Order # 01
15.07.2023

The instant B.B.A petition submitted by Mr. Abdur Raheem Khan Jadoon Advocate. It be checked and registered.

Accused/petitioner namely Muhammad Ilyas s/o ^{KARLAL} Muhammad Arif, Gaste Pathan r/o Mohalla Sher Khan Havelian, Tehsil Havelian & District Abbottabad present. Contends malafide and ulterior motive on part of the prosecution and apprehends arrest in case FIR No. 786 dated 12-08-2022 under sections 302 PPC registered at Police station Havelian, Abbottabad. Presently, there is no other record before this court except an application supported by an affidavit and a copy of FIR, therefore, in absence of record, accused/petitioner is allowed pre-arrest ad-interim bail on furnishing bail bonds in the sum of Rs. 80,000/- (Rupees Eighty thousand) each with two local, reliable and solvent sureties each in the like amount to the satisfaction

of this court.
Announced
15.07.2023

(Raja Muhammad Shoaib Khan)
Additional Sessions Judge
Abbottabad at Havelian.

Order # 02
15.07.2023

Accused/petitioner submitted requisite bail bonds which are attested accordingly and placed on file. Notice and record for 19/7/23. Accused/petitioner is directed to join the investigation and are further directed to attend the court regularly till further orders. Copy of this order be sent to the IO concerned through Whatsapp and also dispatch to PS concerned.

(Raja Muhammad Shoaib Khan)
Additional Sessions Judge
Abbottabad at Havelian.

(3)

IN THE COURT OF RAJA MUHAMMAD SHOAB KHAN,
ADDITIONAL SESSIONS JUDGE, ABBOTTABAD AT
HAVELIAN.

BBA Petition No. 329/4-B of 2023
Muhammad Ilyas Vs State

Order - 03
19.07.2023

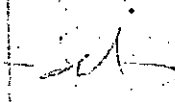
Sr.PP Muhammad Bilal Qureshi for State present
Accused/petitioner on ad-interim pre-arrest bail alongwith
counsel Mr. Abdur Raheem Khan, Jackson Advocate present.
Complainant Umer Bashir and LRs of deceased (Muhammad
Bashir) in person present. Record received.

Today at the very outset complainant and LRs of
deceased stated at the bar that they have effected compromise
with the accused/petitioner. In this respect their joint statement
was recorded, wherein they had charged the accused/petitioner
for the commission of offence. Now through the intervention of
elders of locality, they have patched up the matter with the
accused/petitioner and had pardoned them in the name of
Almighty ALLAH and waived off their rights of Qisas and
Diyat. In this respect they endorsed no objection on
confirmation of BBA of the accused/petitioner as well as on his
acquittal at the time, when the trial commence. To this effect
proforma under Qisas and Diyat is Ex. PA and copies of their
CNICs are Ex. PB to Ex. PJ. (original seen and return)

Keeping in view the statement of complainant, the
offence with which the accused/petitioner is charged are
compoundable in nature, hence, the BBA petition of the
accused/petitioner Muhammad Ilyas s/o Muhammad Arif is
accepted and ad-interim pre-arrest bail already granted to the
accused/petitioner is **confirmed** on the existing bail bonds.

Requisitioned record be returned along with copy of this
order. Consign.

Announced
19.07.2023


(Raja Muhammad Shoaib Khan)
ASJ Abbottabad at Havelian

ORDER

100 (14)

This order will dispose of the Departmental Enquiry initiated against Constable Muhammad Ilyas No. 1150 of Police Telecommunication & Transport Unit Khyber Pakhtunkhwa.

That Constable Muhammad Ilyas while posted at Control Abbottabad F.I.R No. 786 u/s 302 PPC dated 12.08.2022 lodged against him at Police Station Havelian District Abbottabad and he absented himself from his lawful duty. Proper Departmental Enquiry initiated against Muhammad Ilyas and placed under suspension from the date of occurrence and closed to Tele Line HQs, Peshawar.

He was served with Charge Sheet alongwith Statement of Allegation through Incharge Wireless Control Abbottabad which was received by his father Muhammad Arif as Constable Muhammad Ilyas was not present at his home.

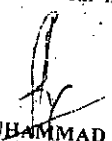
The Enquiry Officer after fulfilling all codal formalities recommended major punishment for official concerned under Khyber Pakhtunkhwa Police Rules 1975(Amended-2014).

Final Show Cause Notice was served upon official concerned on dated 21.12.2022 which was received his brother Muhammad Tariq and stated that after the occurrence of incident his brother has no contact with his family and will resume the enquiry proceeding when he came back. The official neither submitted his written reply nor resumes his duty up till now.

On 03rd March, 2023, the notice of his absence was published in News papers (Daily Mashriq & Daily Nai Baat) in which the official concerned was directed to resume his duties within fifteen days after publication of this notice, but he failed to resume his duties and still absent to till date.

Keeping in view of the recommendation of the enquiry officer and serious act of misconduct committed by Constable Muhammad Ilyas No. 1150, I **NISAR MUHAMMAD KHAN** Superintendent of Police Telecommunication & Transport, Khyber Pakhtunkhwa hereby awarded him major punishment Removal from Service under Khyber Pakhtunkhwa Police Rules, 1975(amended-2014) with immediate effect, as he has not performed any duty not entitled for the salary on the principal of no work no pay.

The cost of outstanding Govt. Kit and other dues if any should be recovered from him and credit to the Government Treasury under the relevant head of Account.


(NISAR MUHAMMAD KHAN)
Superintendent of Police,
Telecommunication & Transport,
Khyber Pakhtunkhwa, Peshawar.
14/16 2023.

No. 1150/8001

/Tele/OASI dated Peshawar the

Copies forwarded to following:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. SP/ Telecom & Motor Transport KP Peshawar
3. DSP/ Telecom & MT Peshawar.
4. Accountant Tele Peshawar
5. GSI/Tele Peshawar
6. OIC Tele Abbottabad (with direction to deliver one copy to official concerned.
7. Official Concerned.
8. OB/No 181 2023.

(MUHAMMAD NISAR Khan)
Superintendent of Police,
Telecommunication & Transport,
Khyber Pakhtunkhwa, Peshawar.

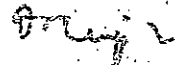
ORDER

D³

(15)

This order is hereby passed to dispose off Departmental Appeal under Rule-11 of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by Ex-Constable Muhammad Ilyas No. 1150. The appealant was removed from service by Superintendent of Police Telecommunication & Transport Unit Khyber Pakhtunkhwa Peshawar vide Order No. 7992-8000/Tele/OASI dated 14.06.2023.

The appealant was called in Orderly Room in the office of the Undersigned on 21.09.2023, heard in person, during the hearing, the appealant failed to prove himself innocent on the allegation levelled against him in the FIR No. 786 dated 12.08.2022 u/s 302 PPC Police Station Havelian Abbottabad. Therefore, the Departmental Appeal of Ex-Constable Muhammad Ilyas No. 1150 is hereby rejected.


(ABBAS MAJEED KHAN MARWAT)^{ISP}
Deputy Inspector General of Police,
Telecommunication & Transport,
Khyber Pakhtunkhwa, Peshawar.

NO. 11422-25 /Tele/OASI, dated Peshawar the 22 / 9 /2023.

1. SP/Telecomm: & Transport Peshawar.
2. DSP/ Telecomm: & Transport Peshawar.
3. SRC Tele Peshawar.
- ✓ Appealant concerned. (Ex-Constable Muhammad Ilyas No. 1150 s/o Muhammad Arif s/o Sher Khan Havelian Abbottabad)

ٲٲ

(ٲٲ)

Most Respected Honorable,

Inspector General Of Police /PPO, KPK Peshawar

Subject: APPEAL FOR RE-INSTATE IN SERVICE

جناب عالی!

مودبانہ گزارش ہے کہ سائل آپ کے زیر سایہ سال 2011 سے محکمہ ٹیلی کمیونیکیشن پولیس میں بطور RM اپریٹر کنٹرول ایسٹ آباد میں ڈیوٹی سرانجام دے رہا ہے مورخہ 12 اگست 2022 بروز جمعہ ڈیوٹی کے بعد گھر گیا اور ذاتی دشمنی پر ایک مکمل پلاننگ کے تحت ایک ناخوشگوار واقع میں جرم 302 مقدمہ علت 786 تھانہ حویلیاں میں ڈائریکٹ چارج کر دیا گیا۔ سائل اس کے بعد اپنی فیملی کو جانی خطرہ کی وجہ سے روپوشی اختیار کرنے اور مزید انسانی جانوں کا ضائع ہونے سے بچانے اور حالات کو مکمل طور پر ٹھنڈا ہونے تک روپوش رہا۔ اور جس کی وجہ سے سائل اپنے محکمہ سے رابطہ نہ کر سکا۔ اور سائل کو (Removal from letter No. 7992-8000 dated 14-06-2023 -SP-Tele-Peshawar Service) کیا گیا ہے۔

ٲ جناب عالی: اس دوران سائل نے معززین علاقہ کی بدولت علاقائی رواج کے مطابق جرگہ عمل میں لایا گیا۔ اور بالآخر مورخہ 10-08-2023 کو سائل کو گریڈ جرگہ میں فی سبیل اللہ معاف کیا گیا۔ اور عدالت میں بھی کفرم ضمانت بغیر سزا کے ہوئی سائل اس شدید مہنگائی کے دور میں گزارا وقت بڑی مشکل سے کر رہا ہے۔

٣ سائل نے درخواست برائے اپیل اپنے مجاز آفیسر جناب DIG Tele پر لگائی جسکو No. 11422-25/T/OASI Dated 22-09-2023 کو Rejected کیا گیا جسکا آڈر ساتھ منسلک ہے۔

٤ لہذا سائل آپ کو خدمت اقدس میں گزارش کرتا ہے کہ (Removal from Service) letter No. 7992-8000 dated 14-06-2023 کو withdraw کیا جائے۔ اور سائل کو انسانی عہد رومی کے تحت سروس میں بحال کرنے کے احکامات صادر فرمائیں۔ امید ہے کہ آپ میری درخواست پر ہمدردانہ غور فرمائیں گے۔ سائل آپ کے لئے تاحیات دُعا گو رہے گا۔

الم رقوم: 02-10-2023

الارض

X/Constabel C/1150 محمد الیاس

موتحیہ پولیس کنٹرول ایسٹ آباد (RM)



(E)

(17)

OFFICE OF THE
INSPECTOR GENERAL OF POLICE
KHYBER PAKHTUNKHWA
PESHAWAR.

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 Ex-FC Muhammad Ilyas No. 1150. The Appellant was removed from service by SP Telecommunication & Transport Peshawar vide Order Endst: No. 7992-8000/Tele/OASI, dated 14.06.2023 on the allegations that he while posted at control Abbottabad FIR No. 786 u/s 302 PPC, dated 12.08.2022 was lodged against him at PS Havelian District Abbottabad & he absented himself from his lawful duty. The Appellate Authority i.e. DIG Telecommunication & Transport KP, Peshawar rejected his appeal vide order Endst: No. 11422-25/Tele/OASI, dated 22.09.2023.

Meeting of Appellate Board was held on 12.12.2023 wherein petitioner was heard in person. The petitioner contended that he went into hiding to protect his family from the threat of death until the situation cooled down.

The petitioner has served for 12 years, 4 months. In view of the long service of the petitioner & by taking lenient view, the Board decided that his revision petition is hereby accepted. He is reinstated into service with immediate effect. His punishment is modified into stoppage of three increments with cumulative effect. His absence period and out of service period is treated as leave without pay.

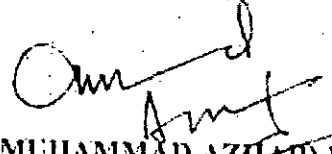
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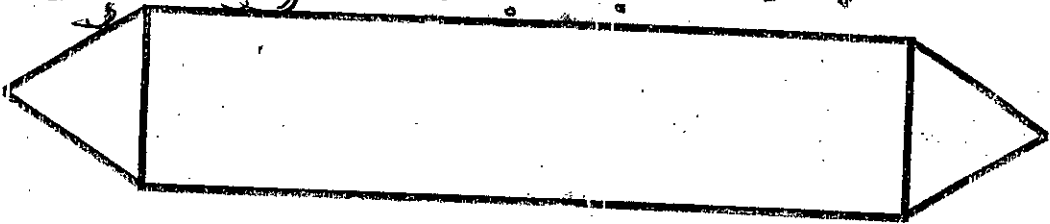
AWAL KHAN, PSP
Additional Inspector General of Police,
IIQrs: Khyber Pakhtunkhwa, Peshawar.

No. S/ 3041-46 /23, dated Peshawar, the 22-12-2023.

Copy of the above is forwarded to the:

1. Deputy Inspector General of Police Telecommunication & Transport, Khyber Pakhtunkhwa, Peshawar.
2. SP Telecommunication & Transport, Khyber Pakhtunkhwa, Peshawar.
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/IIQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/IIQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: I-IV CPO Peshawar.


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



بیت 2 منجانب

بنام Grant
of 10pk

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی وکل کاروائی متعلقہ

کیلئے کیوں اللہ خٹک (مکمل)

آن مقام شاد

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دینے جواب وہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں 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 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 مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخنتہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 سندر ہے۔

المرقوم 2 : 20

واہ العبد

Accepted By