

Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 240/2024

Date of order
proceedings

Order or other proceedings with signature of judge

14.03.2024

The implementation petition of Mr. Zawar Hussain received today by registered post through Mr. Imtiaz Ali Marwat Advocate. It is fixed for implementation report before touring Single Bench at D.I.Khan on _____. Original file be requisitioned. AAG has noted the next date. The counsel for the petitioner has been informed telephonically.

By the order of Chairman


REGISTRAR

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.**

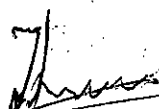
Implementation/Execution Petition No. 240 of 2024.
In Judgment dated 21/11/2023 in Service appeal No. 336/2023.

Zawar HussainPetitioner/Appellant
VERSUS
Inspector General of Police etcRespondents

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Your Humble Petitioner


Zawar Hussain
Through Counsel

Dated; 4/03/2024


Imtiaz Ali Khan Marwat
Advocate District Bar, DIKhan,
Cell#0346-7847274.

/

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR, CAMP AT D.I.KHAN.**

Implementation/Execution Petition No. 240 of 2024.
In Judgment dated 21/11/2023 in Service appeal No. 336/2023.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11757

Dated 14/3/24

Zawar Hussain son of Lal Khan Resident of Kot Jai,
Saidalian, Tehsil Paharpur District District Dera Ismail
Khan, Ex-Sub Inspector).

.....Petitioner

VERSUS

1. Inspector General of Police, Khyber Pakhtunkhwa,
Peshawar.
2. Regional Police Officer, DIKhan.

.....Respondents

**IMPLEMENTATION /EXECUTION PETITION
OF JUDGMENT DATED 21/11/2023 IN
SERVICE APPEAL NO. 336/2023 WHEREBY
THE HONOURABLE SERVICE TRIBUNAL
DIRECTED TO COMPLETE THE FURTHER
PROCESS OF SENIORITY ON LIST "F" IN
ACCORDANCE WITH THE ENTRIES IN LIST
"E" WITHIN 60 DAYS AND THE RIGHTS OF
RETIRED APPELLANT MAY ALSO BE
TREATED IN THE SAME MANNER AND THE
IN ACTION ON THE PART OF RESPONDENTS
TO COMPLY THE JUDGMENT.**

Respectfully Sheweth:-

Brief facts of the case are:

1. That the present petitioner lodged a service appeal No. 336/2023 against order bearing No. 259/ES dated 11/01/2023 of Regional Police Officer, Dikhan whereby appellant / petitioner was not granted revised seniority in promotion


list "E" and order No. CPO/CPB/329 dated 30/12/2022 and No. 317/CPB dated 08/12/2022 of Inspector General of Police depriving appellant / petitioner from right of seniority and back benefits for no good grounds.

2. That the Honourable Service Tribunal accepted the service appeal vide consolidated judgment dated 21/11/2023 and directed that rights of retired appellant may also be treated in the same manner. Copy of service appeal is enclosed as **Annexure "A"** and judgment dated 21/11/2023 is enclosed as **Annexure "B"**.
3. That the petitioner / appellant submitted an application along with copy of judgment for implementation / compliance, but the respondents are reluctant to obey the directions so far. Copy of application is enclosed as **Annexure "C"**.
4. That as per Section 7 of the KP Civil Servant Act, petitioner / appellant is entitled to confirmation / seniority and promotion from back date along with his colleagues and also entitled to promotion along with all back benefits / arrears as per Section 17 of the ibid Act even after retirement.
5. That the petitioner has no other remedy, but to file the instant implementation petition.

6. That counsel for the petitioner / appellant may kindly be allowed to raise additional grounds during the course of arguments.

In view of the above, it is, therefore, most respectfully prayed that on acceptance this petition, the judgment dated 21/11/2023 in Service Appeal No. 336/2023 may kindly be got implemented to ensure the justice.

Your Humble Petitioner

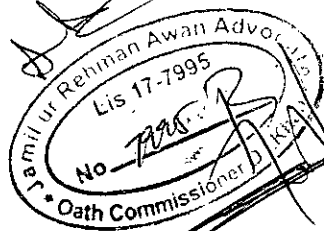

Zawar Hussain
 Through Counsel

Dated; 4/03/2024


Imtiaz Ali Khan Marwat
 Advocate District Bar, DIKhan,
 Cell#0346-7847274.

AFFIDAVIT:-

I, **Zawar Hussain** son of Lal Khan Resident of Kot Jai, Saidalia, Tehsil Paharpur District DIKhan, (Ex-Sub Inspector), the petitioner, do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.




Deponent

4

**BEFORE THE KHYBER PAKHUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT AT DERA ISMAIL KHAN.**

Service Appeal No. 336 /2023

Amir A

Zawar Hussain.(Appellant)

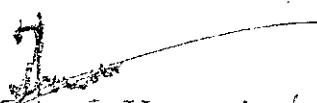
VERSUS

Govt. of KPK etc.....(Respondents).

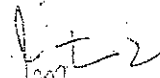
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Your Humble Appellant


Zawar Hussain ✓
Through Counsel

Dated: 01/02/2023


IMTIAZ ALI KHAN MARWAT

Advocate, District Bar,
Dera Ismail Khan
Mobile #0346-7847274

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT AT DERA ISMAIL KHAN.

Service Appeal No. _____/2023

Muhammad Hussain S/o Lal Khan Resident of Kot Jai,
Said Alian, Tehsil Paharpur District Dera Ismail
Khan, Sub-Inspector Police (Retired).

.....(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary to Govt. Khyber Pakhtunkhwa, Peshawar.
2. Inspector General Police, Khyber Pakhtunkhwa, Peshawar.
3. Regional Police Officer, Dera Ismail Khan.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST ORDER BEARING NO. 259/ES DATED
11/01/2023 OF REGIONAL POLICE OFFICER DERA
ISMAIL KHAN WHEREBY APPELLANT WAS NOT
GRANTED RESERVED SENIORITY IN PROMOTION LIST
"E" AND ORDER NO. CPO/CPB/329 DATED
30/12/2022 AND NO. 317/CPB DATED 08/12/2022 OF
INSPECTOR GENERAL POLICE DEPRIVING APPELLANT
FROM RIGHT OF SENIORITY AND BACK BENEFITS FOR
NO GOOD GROUNDS.

Respectfully Sheweth:-

1. That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan.
2. That appellant was appointed as constable in Police Department on 16/04/1983 and performed his duties with full zest and devotion. The appellant gained promotion to the rank of Head Constable in due course.
3. That appellant was promoted as officiating ASI vide order Gndst; No. 2950-56/E.S dated 12/11/2007 on two years probation. Copy of

order, dated 12/11/2007 is enclosed as Annexure "A".

4. That appellant was confirmed in the rank of ASI and name brought on promotion list "E" vide notification No. 268-82/ES dated 19/01/2017. Copy of confirmation order dated 19/01/2017 is enclosed as Annexure "B".

5. That appellant was promoted to the rank of officiating SI on 2 years probation vide RPO DIKhan office Endst; No. 3466-75/ES dated 31/08/2017. Copy of promotion as SI vide order dated 31/08/2017 is enclosed as Annexure "C".

6. That appellant was confirmed as S.I vide notification bearing Endst; No. 5842-60/E.S dated 31/12/2021. Copy of order dated 31/12/2021 is enclosed as Annexure "D".

7. That Regional Departmental Scrutiny committee was constituted for rectification / revised seniority strictly in accordance with Police Rules, 13-13.

8. That appellant submitted application for rectification of seniority / revised seniority strictly in accordance with Police Rules, 13-18.

9. That scrutiny Committee recommended for rectification / reserved seniority w.e.from 2009. Copy of recommendation is enclosed as Annexure "E".

10. That in the meanwhile appellant was retired from service vide District Police Officer DIKhan Office Order No. 2136-40/EC dated 14/06/2022. Copy of order dated 14/06/2022 is enclosed as Annexure "F".

11. That in compliance with kind verdicts of August Supreme Court of Pakistan, Honourable Peshawar High Court, Peshawar and this Honourable Tribunal, the I.G.P Khyber Pakhtunkhwa directed for bringing the names of promoted ASIs on list "E" from date of

officiating promotion as ASI on completion of successful probation period. Copy of impugned order dated 08/12/2022 is enclosed as Annexure "G".

12. That respondent No. 2, the I.G.P Khyber Pakhtunkhwa Peshawar vide letter No. CPO/CPB/329 dated 30/12/2022 directed to submit lists of revised seniority excluding the retired, deceased and Shuhada Officers Copy of impugned order dated 30/12/2022 is enclosed as Annexure "H".

13. That respondent No. 2 vide ibid order further directed for not allowing back benefits and promotion.

14. That now RPO DIKhan has assigned revised seniority as ASI vide No. 259/E.S dated 11/01/2023 without granting back benefits as well as consequential benefits of promotion at all stages. Copy of impugned seniority list is enclosed as Annexure "I".

15. That as per reported judgments of this Honourable Tribunal, the appellant is also entitled to all back benefits of revised seniority and promotion.

16. That feeling aggrieved by impugned orders the appellant has no others adequate remedy except to file the instant service appeal before this Honourable Tribunal, inter alia, on the following grounds;

GROUNDS:-

A. That the impugned orders are wrong, illegal and against norms of justice and needs to be set aside.

B. That the impugned orders are also contradictory to Police Rules and Service Laws, hence liable to be set aside.

C. That the impugned orders are unwarranted, illegal, hence not tenable in the eyes of law.

- D. That the impugned orders are also in violation of reported judgments of the August Supreme Court of Pakistan as well as this Honourable Tribunal.
- E. That as per Police Rules 13-18 an official shall be confirmed on completion of 02 Years probation period.
- F. That appellant was promoted as officiating ASI on 12/11/2007 and was required to be confirmed on 12/11/2009 on completion of 02 years probation period.
- G. That in the impugned order / letter dated 30/12/2022 respondents admits that beneficiary orders and notification have retrospective effect, but in the note para have deprived the appellant from their right of seniority and promotion.
- H. That the right of seniority and promotion has accrued to the appellant during service (before retirement), for which appellant may not be denied vested rights for no fault on his part.
- I. That appellant has applied for rectification of his seniority and the in-action on the part of respondents is violation of the Law & Rules.
- J. That the scrutiny committee has also recommended for correction / revised seniority since 2009.
- K. That any right accrued during service, shall be admissible to appellant even after retirement.
- L. That it is a crystal principle of law that where a law requires a thing to be done in a particular manner, the same is to be done in that manner and not otherwise.
- M. That from every angle appellant is entitled to revised seniority and all back benefits thereto.
- N. That the rights of appellant were infringed vide impugned order dated 30/12/2022 and order dated 11/01/2023, therefore, the instant

appeal is within time. However, application for condonation of delay is also attached.

0.

That counsel for the appellant may kindly be allowed to raise additional grounds at the time of arguments.

It is, therefore, humbly prayed that on acceptance of instant service appeal, the respondents may kindly be directed to grant revised seniority to appellant along with all back benefits as well as consequential benefits, at all stages.

Your Humble Appellant

Zawar Hussain
Zawar Hussain ✓
Through Counsel

Dated: 01/02/2023

imtiaz
IMTIAZ ALI KHAN MARWAT
Advocate, District Bar,
Dera Ismail Khan
Mobile #0346-7847274

CERTIFICATE:-

It is certified that no such like amended appeal has been lodged by appellant, prior to the instant one against impugned order of revision.

Zawar Hussain
Deponent ✓

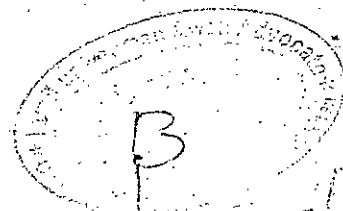
AFFIDAVIT:-

I, **Zawar Hussain** S/o Lal Khan Resident of Kot Jai, Said Alian, Tehsil Paharpur District Dera Ismail Khan, Sub-Inspector Police (Retired), the appellant, do hereby solemnly affirm declared on oath that contents of the Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court:

Zawar Hussain
Deponent ✓

IDENTIFIED BY:

imtiaz
IMTIAZ ALI KHAN MARWAT
Advocate, District Bar, DIK



06/02/23

8

Annex B

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT AT DERA ISMAIL KHAN.

Service Appeal No. 336 /2023

Zaver Hussain S/o Lal Khan Resident of Kot Jai,
Said Ali, Tehsil Paharpur District Dera Ismail
Khan, Sub-Inspector Police (Retired)

Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through ~~Govt.~~
Secretary to Govt. Khyber Pakhtunkhwa Peshawa.
2. Inspector General Police, Khyber Pakhtunkhwa,
Peshawa
3. Regional Police Officer, Dera Ismail Khan.

Respondents)

UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST ORDER BEARING NO. 259/ES DATED
21/01/2023 OF REGIONAL POLICE OFFICER DERA
ISMAIL KHAN WHEREBY APPELLANT WAS NOT
GRANTED RESERVED SENIORITY IN PROMOTION LIST
"D" AND ORDER NO. CPO/CPB/329 DATED
30/12/2022 AND NC. 317/CPB DATED 08/12/2022 OF
INSPECTOR GENERAL POLICE DEPRIVING APPELLANT
FROM RIGHT OF SENIORITY AND BACK BENEFITS FOR
NO GOOD GROUNDS.

Respectfully Sheweth:

1. That the appellant is naturally bonafide citizen of Islamic Republic of Pakistan and hails from respectable family of District Dera Ismail Khan.
2. That appellant was appointed as constable in Police Department on 16/04/1983 and performed his duties with full zest and devotion. The appellant gained promotion to the rank of Head Constable in due course.
3. That appellant was promoted as officiating ASI vide order Eadst; No. 2950-56/E.S dated 12/11/2007 on two years probation. Copy of

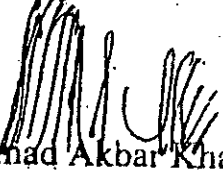
ORDER

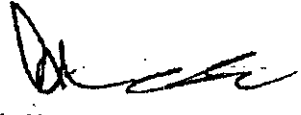
21st Nov. 2023

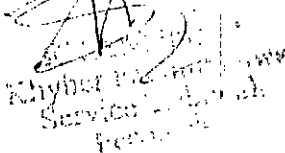
Kalim Arshad Khan, Chairman: Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

2. Vide our detailed order of today, placed on file of connected Service Appeal No.332/2021 titled "Shah Jehan Vs. Police Department" this case is also disposed of in terms of the said order. Copy of the order be placed on file of this case. Consign.

3. *Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 21st day of November, 2023.*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

Certified in the true copy

Khyber Pakhtunkhwa
Service Tribunal

Muhammad Shah

Service Appeal No.332/2023 titled "Shah Jehan & others Vs. Government of Khyber Pakhtunkhwa"

ORDER

21st Nov. 2023 Kalim Arshad Khan, Chairman: Learned counsel for the appellant

present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Khalid Nawaz, Inspector for the respondents present.

2. At the very outset, learned Deputy District Attorney produced copy of revised seniority list-E. After going through the revised seniority list-E, the learned counsel for appellant stated that although, the seniority position was corrected in accordance with part of the prayer of the appellant to the extent of bringing the appellant on List-F. Rest of the relief was also being granted, which was in process in accordance with the entries in List-E, on which, learned counsel says that the appellant would be satisfied, if the remaining process is completed within a period of 60 days. Learned counsel further says that the rights of the retired appellant may also be treated in the same manner. Order accordingly. This order shall also decide the connected Service Appeals No.333/2023, 334/2023, 335/2023, 336/2023, 337/2023, 338/2023, 339/2023, 340/2023, 341/2023, 342/2023, 343/2023, 344/2023, 345/2023, 346/2023 and 541/2023. Copy of this order be placed in files of all connected appeals. Consign.

3. *Pronounced in open Court at D.I.Khan and given under our hands and seal of the Tribunal on this 21st day of November, 2023.*

(Muhammad Akbar Khan)
Member (E)

(Kalim Arshad Khan)
Chairman

To,

(10)

The Inspector General of Police,
Khyber Pakhtunkhwa,
Peshawar.

Amstori C

SUBJECT:- IMPLEMENTATION OF ORDER DATED 21/11/2023 PASSED BY THE HONOURABLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR IN SERVICE APPEAL NO. 336 OF 2023 TITLED "ZAWAR HUSSAIN VS IGP ETC".

Respected Sir,

The applicant submits the following for yours kind and sympathetic consideration;-

1. That the applicant while serving in Police Department was promoted as officiating ASI vide order bearing No. 2950-56 dated 12/11/2007 and was confirmed as ASI vide order No. 268-82/ES dated 19/01/2017.
2. That consequent upon confirmation as ASI, the applicant was promoted as officiating SI vide No. 3466-75/ES dated 31/08/2017 and confirmed as SI vide notification No. 5842-60/ES dated 31/12/2021.
3. That due to grievances of ranker police officials a scrutiny committee was constituted to examine the cases to revise the confirmation that scrutiny committee recommended to revise the date of confirmation as ASI w.e.from 2009 but competent authority delayed the decision.
4. That applicant was retired on superannuation vide order No. 3136-40/EC dated 14/06/2022.
5. That yours good office vide order No. 317/CPB dated 08/12/2022 directed to revise / bring the names of ASIs on list E from the date of successful completion of probation period but again vide order / letter No. CPO/CPS/329 dated 30/12/2022 directed not to include the names of retired police officers, back benefits and promotion.
6. That being aggrieved from the impugned orders the applicant lodged a service appeal for revised seniority along with all back benefits.

7. That during hearing of appeal, a copy of revised seniority list-E was produced before Honourable Service Tribunal on behalf of respondents / competent authority with the assurance that further revision is in progress and will be completed within period of 02 months / 60 days.
8. That as per Section 7(4) of KP Civil Servant Act, the applicant is also entitled to revised confirmation and back benefits accruing there from.
9. That now the Honourable Service Tribunal vide order dated 21/11/2023 has accepted all the service appeals and ordered to complete the process of compliance within 60 days. That the right of retired appellant may also be treated in the same manner. Order accordingly. Copy of order is enclosed.

In view of above, it is humbly prayed that in compliance with order dated 21/11/2023 of the Service Tribunal, the applicant may kindly be granted proforma revised seniority in list-E and promotion as well as revised confirmation in list-F with all back benefits accruing there from as laid down in Section 7(4) of the KP Civil Servant Act. I shall be highly obliged.

Yours Faithfully,

Dated /12/2023

ZAWAR HUSSAIN

S/o Lal Khan

R/o Kot Jai,

District D.I.Khan.

(Sub-Inspector Police retired,

No.)

IMTIAZ ALI KHAN

Advocate

bc-11-2641

Date of issue: October 2021

Valid upto: October 2024



کورٹ
فیس

Secretary
KP Bar Council

بیماریات
جناب خیر محمد خواجہ سردار سید شہزاد لہنجا
منجانب زوال حسین و شہزاد لہنجا

دعویٰ یا جرم
Execution Petition in Service Appeal no 336/23

تفصیل دعویٰ یا جرم

باعث تڑپیرانکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی وجوہات ہی برائے پیشی یا تصفیہ مقدمہ بنام

امتیاز علی خان فریادہ دہیہ اعلیٰ خان

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا بڑا بڈریو رد برو عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طرز میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر مظہر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا معذرت مانگنے یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے کو کل ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسانے ڈگری نظر ثانی اپیل مگرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر ثالثی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکور بیرون از پکھری صدر بیرونی مقدمہ مذکور نظر ثانی اپیل و مگرانی و برآمدگی مقدمہ یا مسوغی ڈگری یک طرفہ یا درخواست حکم اقسائی یا قرقی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ معاہدہ بیرونی کا اختیار ہو گا اور تمام ساختہ پر داخستہ صاحب موصوف مثل کردہ از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مذکورہ یا اس کے کسی جزوی کاروائی یا بصورت درخواست نظر ثانی اپیل مگرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا ہیر سز کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیز قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التواہ پڑے گا وہ صاحب موصوف کا حق ہو گا مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے

موز 04 مارچ 2024

مضمون وکالت نامہ بن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Attested and Accepted,

Imtiaz
Advocate