


FORM OF ORDER SHEET

Court of _____


Appeal No. 411/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19/03/2024	<p>The appeal of Mr. Kamran Ullah resubmitted today by Mr. Bilal Ahmad Kakaizai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20.03.2024. Parcha Peshi is given to the counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

Copy of Mr. Iqbal Ullah received today i.e on 04.03.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

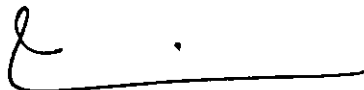
- 1. Name of the respondent of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 against nos. 1&2 are unnecessary/improper parties, in light of the rules and also on the written direction of the Worthy Chairman the above mentioned respondent number is deleted/struck out from the list of respondents.
- 2. Address of appellant is incomplete be completed according to the rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3. Affidavits of the appeal are unattested.
- 4. Check list is unsigned.
- 5. Three more copies/sets of the appeal along with annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

514 S.S.
6/3/2024


6/3/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Iqbal Ullah
Peshawar.

Re Submitted after Correction and removal
of objections


19/3/24

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: 411 / 2024

KAMRAN ULLAH vs Government of Khyber Pakhtunkhwa etc.

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Appellant,

Through:


BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)

213, Sunehri Masjid Road, Near HBL

Nothia Branch, Peshawar Cantt.

0300-9020098

(2)

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 411 /2024

Kamran Ullah,
Senior Clerk / Sub-Divisional Accountant, Executive Engineer
S/o Tila Muhammad R/o Post Office Nahqi, Daudzai, Nahqi, C & W, Highway
Tehsil and District Peshawar. Division, Khyber
Jamrud, District
Khyber.
..... Appellant

Versus

1. Secretary, Communication & Works Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary, Communication & Works Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Chief Engineer (Central), Communication & Works Department, Government of Khyber Pakhtunkhwa, Peshawar.
4. Executive Engineer, Communication & Works Department, Highway Division, Khyber, Tehsil Jamrud.
5. Hameedullah, Accounts Clerk, Additional Charge of SDA/Accounts Clerk, Highway Division, Khyber, Tehsil Jamrud.

..... Respondents

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APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT, 1974
AGAINST:

1. IMPUGNED TRANSFER ORDER DATED 08.12.2023 WHEREBY APPELLANT HAS BEEN, ILLEGALLY AND UNLAWFULLY, TRANSFERRED FROM THE POST OF SENIOR CLERK / SDA , XEN HIGHWAY DIVISION, KHYBER TO THE CHIEF ENGINEER (CENTRAL) FOR FURTHER POSTING.

AND

2. IMPUGNED APPELLATE ORDER DATED 02.02.2024 COMMUNICATED TO THE APPELLANT VIDE COVERING LETTER NO. SOE/C&WD/24-60/2023 DATED 29.02.2024 WHEREBY THE DEPARTMENTAL APPEAL / REPRESENTATION OF THE APPELLANT HAS BEEN REGRETTEED.

Prayer: That, on acceptance of this Service Appeal the Impugned Transfer Order dated 08.12.2023 as well as Impugned Appellate Order dated 02.02.2024 be set-aside and Appellant be allowed to perform his duty as per the position prevalent before the issuance of Impugned Order dated 08.12.2023, with such other relief as may deem fit in the circumstances of the case may also be granted..

Respectfully Sheweth,

Short facts, giving rise to present Service Appeal, are as under:

1. That, Appellant was performing his duties as Senior Clerk / Sub Divisional Accountant in the office of C&W Highway Division-I, Peshawar, when he was directed vide Order dated 16.08.2023 to report to the office of Chief Engineer (Centre) C & W Department, Peshawar, copy of the Office Order dated 16.08.2023 is attached as Annexure A.

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2. That, vide Letter dated 06.09.2023, Respondent No. 4 i.e. XEN Highway Division Khyber requested to Transfer the Appellant to Highway Division, Khyber instead of Peshawar, in pursuance whereof, the request was honored and Appellant was transferred, accordingly, vide Letter dated 13.09.2023, copies of the Letter dated 06.09.2023 & Office Order dated 13.09.2023 along with Arrival Report of the Appellant of even date are attached as Annexure B, C & D.
3. That, within a span of 3 months, on 04.12.2023, Appellant was again transferred from Highway Division, Khyber to office of the XEN C&W, Swat -I, copy of the Office Order dated 04.12.2023 is attached as Annexure E. It merits mentioning here that on 07.12.2023, the Office Order dated 04.12.2023 was cancelled by the Department, on its own, copy of the Office Order dated 07.12.2023 is attached as Annexure F.
4. That, once again on the very next day i.e. on 08.12.2023, Impugned Transfer Order was issued whereby Appellant was once again directed to report to Chief Engineer (Centre), Respondent No. 3, for further posting, copy of the Impugned Transfer Order dated 08.12.2023 is attached as Annexure G.
5. That, against the Impugned actions, inactions of the Department and issuance of Impugned Transfer Order dated 08.12.2023, the Appellant submitted his Departmental Appeal / Representation on 11.12.2023 before Respondent No. 2, copy of the Departmental Appeal / Representation is attached as Annexure H.
6. That, after filing the Departmental Appeal / Representation, Appellant approached Honorable Peshawar High Court, Peshawar in Writ Petition 6069-P / 2023. It is important to mention here that the Honorable Court initially vide Order dated 04.01.2024 suspended the operation of Impugned Transfer Order dated 08.12.2023, copies of memo of Writ Petition No. 6069-P / 2023 along with Interim Order dated 04.01.2024 are attached as Annexure J.
7. That, keeping in view the Interim Order dated 04.01.2024, the Respondents Department suspended the operation of Impugned Transfer Order dated 08.12.2023 vide Order dated 09.01.2024. It merits mentioning here that the Interim Order was in filed till 20.02.2024 when the Writ Petition was dismissed for want of

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jurisdiction, in pursuance of which the Impugned Order dated 08.12.2024 was restored, copies of the Order dated 09.01.2024, Court Order dated 20.02.2024 and Order dated 21.02.2024 are attached as Annexure K.

8. That, thereafter, the Respondents Department, rejected the Departmental Appeal / Representation of the Appellant vide Order dated 02.02.2024 communicated to the Appellant on 29.02.2024, copies of the Appellate Order dated 02.02.2024 and Covering Letter dated 29.02.2024 are attached as Annexure L, hence, this Service Appeal on the following amongst other grounds: –

GROUND:

- A. That, the Impugned Transfer Order dated 08.12.2023 as well as Impugned Appellate Order dated 02.02.2024 are illegal, unlawful, void and ineffective.
- B. That, the same are against the principles of natural justice, also.
- C. That, the Impugned Order is without lawful authority and without jurisdiction thus untenable and is liable to be set-aside.
- D. That, since last more 6 months, Appellant has been made a rolling stone between different offices / districts of the Respondents Department, which act of the Respondents is highly condemnable and is illegal as well.
- E. That, the Appellant served the Department with devotion and meritorious services were rendered without any complaint and he is unable to understand that why the Department has made him a shuttle cock between different offices.
- F. That, as per the policy governing the subject, the Appellant has a right to complete his normal tenure in one place, after which the Respondents are at liberty to post him at any place keeping in view the public interest and demand.

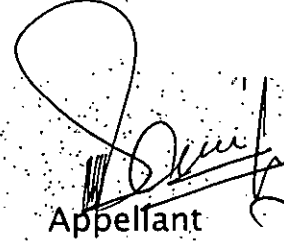
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- G. That, from the aforesaid annexed record, it becomes crystal clear that Appellant has been transferred in short span of time for no legal reasons
- H. That, the Impugned Order is politically motivated and has not been issued in the best interest of public.
- I. That, when the Competent Authority use to issue frequent transfer orders time and again, in favour or disfavor of an incumbent, the same not only reduces confidence but it also effects efficiency of a Civil Servant, for no just reason.
- J. That, the Impugned Order is based on malafides and has been issued on the behest of political vendetta.
- K. That, on 25.09.2023, Respondents Department also cancelled all the additional charges or status of OPS of all the officials, moreover as a matter of good governance it was also directed not to post or grant additional charge to any one; copy of the Order dated 25.09.2023 is attached as Annexure M.
- L. That, despite the clear cut directions of the Government, the Respondent No. 5 being a Senior Clerk was granted the charge of Sub Divisional Accountant additionally.
- M. That, the Impugned Transfer Order is itself against the spirit of directives contained in the Order dated 25.09.2023 as the Respondents Department allowed additional charge to one Hameed Ullah who is a promotee having a regular charge of Accounts Clerk in the office of Khyber Highway.
- N. That during the formation of caretaker government, the caretaker government, its ministers & the departments under the supervision of the ministers are strictly directed to not transfer / post any government employee / civil servant during the their caretaker tenure of government.
- O. That, the Appellant has not relinquished the Charge as yet nor someone has been posted in his place.

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P. That other grounds, if any, may be raised during the arguments with the permission of this Honorable Tribunal.

It is, therefore, requested that Appeal be accepted as prayed for.



Appellant

Through:



BILAL AHMAD KAKAIZAI

(Advocate, Supreme Court of Pakistan)

213, Sunehri Masjid Road, Near HBL

Nothia Branch, Peshawar Cantt.

0300-9020098.

8

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2024

KAMRAN ULLAH vs Government of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, KAMRAN ULLAH, S/o Tila Muhammad, R/o Post Office Nahqi, Daudzai, Nahqi, Tehsil and District Peshawar, Applicant / Appellant, do hereby on oath affirm and declare that the contents of the Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.

Identified by:


BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan).




Deponent

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BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No: _____ / 2024

KAMRAN ULLAH vs Government of Khyber Pakhtunkhwa etc.

ADDRESSES OF PARTIES.

APPELLANT:

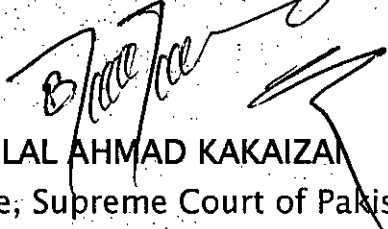
KAMRAN ULLAH, S/o Tila Muhammad, R/o Post Office Nahqi, Daudzai, Nahqi, Tehsil and District Peshawar.

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa, Through Chief Secretary, Civil Secretariat, Peshawar.
- 2) Secretary, Communication & Works Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3) Chief Engineer (Central), Communication & Works Department, Government of Khyber Pakhtunkhwa, Peshawar.
- 4) Executive Engineer, Communication & Works Department, Highway Division, Khyber, Tehsil Jamrud.
- 5) Hameedullah, Accounts Clerk, Additional Charge of SDA / Accounts Clerk, Communication & Works Department, Highway Division, Khyber, Tehsil Jamrud.


Appellant

Through:


BILAL AHMAD KAKAIZAN
(Advocate, Supreme Court of Pakistan)
213, Sunehri Masjid Road, Near HBL
Nothia Branch, Peshawar Cantt.
0300-9020098.

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

Civil Miscellaneous Application No. _____ / 2024

Service Appeal No: _____ / 2024

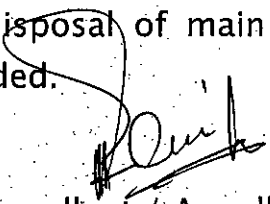
KAMRAN ULLAH vs Government of Khyber Pakhtunkhwa etc.

APPLICATION FOR INTERIM RELIEF BY WAY OF SUSPENSION OF IMPUGNED ORDER DATED 08.12.2023 AS WELL AS 02.02.2024.

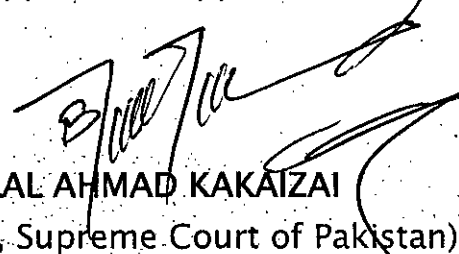
Respectfully Sheweth,

1. That, accompanied Service Appeal has been filed today by the Appellant / Applicant, in which no date has yet been fixed.
2. That, the contents of the Main Appeal may please be read as integral part of this Application.
3. That, the Appellant / Applicant has got prima facie case in his favour and as he has not relinquished his charge, therefore balance of convenience also lies in his favour.
4. That, Applicant / Appellant will suffer irreparable loss if the Impugned Orders are not suspended.

It is, therefore, requested that till the disposal of main Appeal the subject mentioned Impugned Orders be suspended.


Appellant / Appellant

Through:


BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan)
213, Sunehri Masjid Road, Near HBL
Nothia Branch, Peshawar Cantt.
0300-9020098.

BEFORE KPK SERVICE TRIBUNAL, PESHAWAR.

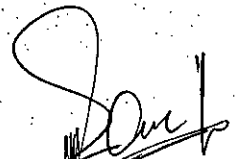
Civil Miscellaneous Application No. _____ / 2024

Service Appeal No: _____ / 2024

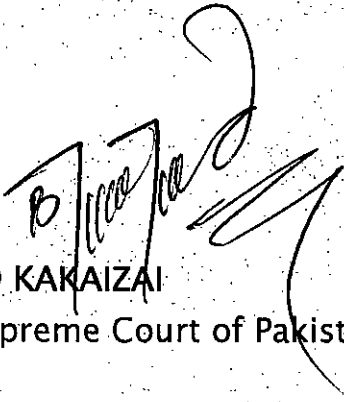
KAMRAN ULLAH vs Government of Khyber Pakhtunkhwa etc.

AFFIDAVIT

I, KAMRAN ULLAH, S/o Tila Muhammad, R/o Post Office Nahqi, Daudzai, Nahqi, Tehsil and District Peshawar, Applicant / Appellant, do hereby on oath affirm and declare that the contents of the Interim Relief Application are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.


Deponent

Identified by:



BILAL AHMAD KAKAIZAI
(Advocate, Supreme Court of Pakistan).

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Annex - A



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PUKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 392
Dated Peshawar the, 16/08/2023

OFFICE ORDER

Mr. Kamran Ullah, Senior Clerk/SDA (BPS-14) presently working against non-sanctioned post in the O/O Executive Engineer Highway Division-I, Peshawar is hereby directed to report to the O/O Chief Engineer (Centre) C&W Department, Peshawar for further posting on sanction post with immediate effect.

1
CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Superintending Engineer C&W Circle, Peshawar.
3. Executive Engineer Highway Division-I, Peshawar.
4. Executive Engineer Highway Division-II, Peshawar.
5. Official concerned.


CHIEF ENGINEER (CENTRE)



COMMUNICATION & WORKS DEPARTMENT
HIGHWAY DIVISION KHYBER
Jamrud Tehsil, C&W Highway Office
091-5820286

13

B

No. 1793/15-M

Date 06/09/2023

To

The Chief Engineer (Centre)
C&W Department
Peshawar

Subject: OFFICE ORDER/TRANSFER

Dear Sir,

The services of Mr. Kamran Ullah Senior Clerk/SDA BPS-14 have been transferred from Highway-I Peshawar to the office of the Chief Engineer (Centre) C&W Department Peshawar. It is brought to your kind notice that a post of Senior Clerk/SDA BPS-14 in Highway Division, Khyber, Sub Division Bara is laying Vacant from long.

Therefore, it is requested that Mr. Kamran Ullah, Senior Clerk/SDA may be Transfer/Posted as Senior Clerk/SDA in Highway Division Khyber in the best interest of the office and public, please.

EXECUTIVE ENGINEER

Copy to:

Superintending Engineer (Circle) Khyber, C&W Department for information and similar necessary action please.

EXECUTIVE ENGINEER



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PUKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A. 1092
Dated Peshawar the, 13/09/2023

OFFICE ORDER

Mr. Kamran Ullah Senior Clerk/SDA (BPS-14) waiting for posting is hereby transferred and posted as Senior Clerk/SDA (Sub Division Bara) in O/O Executive Engineer Highway Division Khyber against the vacant post, with immediate effect, in the best public interest.

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Superintending Engineer C&W Circle, Khyber.
3. Executive Engineer Highway Division Khyber.
4. District Accounts Officer, Khyber.
5. Official concerned.

CHIEF ENGINEER (CENTRE)

15

D

To

The Executive Engineer,
C&W Highway Division Khyber.

Subject: ARRIVAL REPORT.

R/Sir,

In compliance with the Chief Engineer (Centre), C&W Department Peshawar vide Office Order No. CEC/C&WD/2-3/E&A,1092, Dated: 13/09/2023, I hereby submit my Arrival Report today on 13-Sep-2023 (A.N).

Mi
M.A.

Yours Obediently

Kamran Ullah
13/9/2023

Kamran Ullah
Senior Clerk / SDA



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E3A. 1469
Dated Peshawar the. 04/12/2023

OFFICE ORDER

The Competent Authority has been pleased to transfer the following Senior Clerks/SDA (BPS-14) in C&W Department, with immediate effect, in the best public interest.

S.No.	Name	From	To	Remarks
1.	Mr. Zayyad (BPS-14)	Senior Clerk / SDA O/O XEN CSW Division, Swat-I	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Vice # 2
2.	Mr. Kamran Ullah (BPS-14)	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Senior Clerk / SDA O/O XEN CSW Division, Swat-I.	Vice # 1

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Chief Engineer (North) C&WD Swat At Saidu Sharif.
2. Superintending Engineer Circle C&W Swat / Khyber.
3. Executive Engineer Highway Division Swat-I / Khyber.
4. PS to Secretary C&W Department Peshawar
5. PS to Minister C&W Department Peshawar
6. District Accounts Officer, Swat-I / Khyber.
7. Official Concerned.
8. Personal File

Wme
CHIEF ENGINEER (CENTRE)

Better copy

16

11

No. CEC/C&WD/2-3/E&A,
Dated Peshawar the, 04/12/2023

OFFICE ORDER

The Competent Authority has been pleased to transfer the following Senior Clerks/SDA (BPS-14) in C&W Department, with immediate effect, in the best public interest.

S.No.	Name	From	To	Remarks
1.	Mr. Zayyad (BPS-14)	Senior Clerk / SDA O/O XEN C&W Division, Swat-I.	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Vice # 2
2.	Mr. Kamran Ullah (BPS-14)	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Senior Clerk / SDA O/O XEN C&W Division, Swat-I.	Vice # 1

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Chief Engineer (North) C&WD-Swat At Saidu Sharif.
2. Superintending Engineer Circle C&W Swat / Khyber.
3. Executive Engineer Highway Division Swat-I / Khyber.
4. PS to Secretary C&W Department Peshawar.
5. PS to Minister C&W Department Peshawar
6. District Accounts Officer, Swat-I / Khyber.
7. Official Concerned.
8. Personal File.

CHIEF ENGINEER (CENTRE)

S. J. W.
ATTESTED



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

17

F

No. CEC/C&WD/2-3/E&A, 1485
Dated Peshawar the, 07/12/2023

OFFICE ORDER

The Competent Authority has been pleased to cancelled/withdrawn this office order issued vide No. CEC/C&WD/2-3/E&A,1469, dated 04/12/2023 in respect of Mr. Zayyad Senior Clerk/SDA and Mr. Kamran Ullah Senior Clerk/SDA, with immediate effect, in the best public interest.

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Chief Engineer (North) C&WD Swat At Saidu Sharif.
2. Superintending Engineer Circle C&W Swat / Khyber.
3. Executive Engineer Highway Division Swat-I / Khyber.
4. PS to Secretary C&W Department Peshawar.
5. PS to Minister C&W Department Peshawar
6. District Accounts Officer, Swat-I / Khyber.
7. Official Concerned.
8. Personal File.

CHIEF ENGINEER (CENTRE)



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 1632
Dated Peshawar the, 08/12/2023

OFFICE ORDER

The Competent Authority has been pleased to transfer the following Officials in C&W Department, with immediate effect, in the best public interest.

S.No.	Name	From	To	Remarks
1.	Mr. Hameed Ullah (BPS-14)	Accounts Clerk O/O XEN Highway Division Khyber.	The Official to hold the additional charge of Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Vice # 2
2.	Mr. Kamran Ullah (BPS-14)	Senior Clerk/SDA O/O XEN Highway Division, Khyber.	Report to Chief Engineer (Centre) for further posting	

/
CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Superintending Engineer Circle C&W Khyber.
2. Executive Engineer Highway Division Khyber.
3. PS to Secretary C&W Department Peshawar.
4. PS to Minister C&W Department Peshawar
5. District Accounts Officer, Swat-I / Khyber.
6. Official Concerned.
7. Personal File.

W. Qureshi
CHIEF ENGINEER (CENTRE)

The Hon'ble Secretary to Govt. of
Khyber Pakhtunkhwa,
C&W Department Peshawar
(APPELLATE AUTHORITY)

H 19

THROUGH

PROPER CHANNEL

Subject: APPEAL AGAINST THE IMPUGNED TRANSFER ORDER DATED 04-12-2023

Sir, It is most humbly submitted :-

- 1) That I am serving in the C&W Department since 2010.
- 2) The Executive Engineer Highway Division Khyber requisitioned my services (for posting in his office), vide letter No. 1793/15-M dated 06-09-2023, against the existing vacancy (Annex-A).
- 3) The Worthy Chief Engineer (Center) issued my transfer order vide No. CEC/C&WD/2-3/E&A/1092, dated 13-09-2023 (Annex-B). Accordingly, I submitted arrival report on 13-09-2023 and performing my duties with full zeal and zest.
- 4) But after Two & a half months tenure, I was transferred pre-maturely to District Swat due to un-known reasons, vide Chief Engineer (Centre) C&WD office order No. CEC/C&WD/2-3/E&A/1469, dated 04-12-2023 (Annex-C). I accordingly requested the Chief Engineer (Centre) C&W and the order was withdrawn on 07-12-2023 (Annex-D).
- 5) Astonishingly, on the next day i.e. 08-12-2023, I was again transferred & directed to report to Chief Engineer (Centre) office vide office order No. CEC/C&WD/2-3/E&A/1632 dated 08-12-2023 (Annex-E). I being regular SDA was reported back due to un-known reasons and an official from other post / cadre i.e. Mr. Hamid Ullah Accounts Clerk was entrusted additional charge of my post (SDA).
- 6) As per Provincial Cabinet decision and Posting / Transfer Policy clearly spells out that all officials may be allowed to complete 2-years tenure, but the instructions have been ignored in my case, which is totally in-justice & seems malafide intentions, as 5-orders of the undersigned have been issued in a time period of two & a half months.
- 7) My recent pre-mature transfer orders is probably issued on Political Influence, as evident from itself, wherein copies have been made / forwarded to PS to Minister C&W alongwith others.
- 8) Furthermore, on the instructions of Caretaker Minister C&W, the Chief Engineer (Centre) had issued directions to all that **NO ADDITIONAL CHARGE, OPS OR DUAL CHARGE ORDER(S) MAY BE ISSUED / RETAINED WITH ANY OFFICIALS**, vide letter No. CEC/C&WD/2-3/E&A/1160 dated 25-09-2023 (Annex-F) but these instructions have also been totally ignored in my case.

Keeping in view the above explained facts, it is most humbly requested that the impugned transfer order dated 08-12-2023 may kindly be withdrawn and I may be allowed to complete normal tenure in Highway Division Khyber please.

Encls: / As above

Yours Obediently

Kamran Ullah (Senior Clerk)
Highway Division Khyber

Copy in advance to the Chief Engineer (Centre) C&WD Peshawar, with the request to forward my appeal to the Secretary C&W Department (Appellate Authority) for sympathetic consideration please.

(ii) PS to Caretaker Minister for C&W Department Khyber Pakhtunkhwa.

Kamran Ullah (Senior Clerk)

*As directed by
Secy: C&W dated 13/12/23
today on 13/12/23. They were protesting
frequent posting / transfer of the
Kamran Ullah.
Please seek
report form
the concerned
with a valid strike
in union side.
21/12/23
CamScanner*

20/12/23

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IN THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. 6068/2023



Kamran Ullah S/o Tila Muhammad R/o P/O Nahqi, Daudzal,
Nahqi, Tehsil and District Peshawar

.....Petitioner

VERSUS

1. Chief Engineer (Central) C&W Department, Khyber Pakhtunkhwa, Peshawar.
2. Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC
OF PAKISTAN, 1973**

Respectfully Submitted:

C.E. C&W Deptt. (Centre)
Dairy No. <u>2634</u>
Date <u>05-01-24</u>
Class No.
E. Caw
E. (I. O.)
E. (Bar)
O
O.
IAO
D.

1. That the petitioner is performing his duties as Senior Clerk / Sub Divisional Accountant in the office of C&W Highway Division, Tribal District Khyber.

ATTESTED
EXAMINER
Peshawar High Court
Peshawar

2. That during the last two and half months, the respondents illegally, without any sufficient reason, due to political pressure, transfer the services of the petitioner on five occasions despite of the facts that the Election Commission of Pakistan imposed ban on all kind of transfers and postings during the caretaker government and also without getting NOC from the Election Commission of Pakistan, all the transfers and postings are deemed to be illegal, without lawful authority and of no legal effect. **(Copies of all the transfer orders are attached as annexure "A").**
3. That on 19.09.2023, the Secretary to the Minister of C&W / Irrigation Department, who through the said letter circulated whereby asked the details of the officials, below and above BPS-17, on additional charge basis and OPS and thereafter the respondent No. 1 issued a letter dated 25.09.2023, issued governance initiatives on the direction of the caretaker Minister for C&W Department whereby he withdraws all the orders of the officials who are working on additional charges, own pay scale or on dual charges immediately. **(Copies of both the letters are enclosed as annexure "B").**
4. That prior to the impugned order dated 08.12.2023, the Executive Engineer vide office order dated 06.09.2023 asked / requisitioned the services of the petitioner from respondent No. 1 to award the service of the petitioner Senior Clerk / SDA in Highway Division

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Khyber being a competent and deserved in the best interest of the office and public. (Copy of the letter dated 06.09.2023 is enclosed as annexure "C"),

5. That despite of the above mentioned facts and circumstances, the respondents transferred the services of the petitioner thrice i.e. from 04.12.2023 which was cancelled on 07.12.2023 and on the next date i.e. 08.12.2023 again transferred the services of the petitioner who is a regular employee performing duties on the post of Senior Clerk / Sub Divisional Accountant office of the XEN Highway Division Khyber which is on the face of it, is illegal, without any lawful authority and of no legal effect which is liable to be set aside for the reasons that vide impugned order dated 08.12.2023, the respondents granted additional charge to one Hameed Ullah who is a promotee having also his own regular charge as an Accounts Clerk in the office Khyber Highway which is in direct conflict with the directions issued by the ministry of C&W as well as the governance initiative dated 25.09.2023 and also against the ban imposed on transfers/postings especially awarding additional charge to a promotee is unlawful, not justified, mala fide on the part of respondents, is the result of political interference and issued in utter violation of law on the subject matter, even otherwise, there is settled provincial policy of transfer that no government employee could be transferred before completing two years tenure at the same post, therefore, on this score alone, the impugned order

ATTESTED
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Peshawar High Court
Peshawar

WP6080-2023 KAMRAN ULLAH VS CHIEF ENGR CF PGS30 USB.pdf

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dated 08.12.2023 is totally unlawful, without lawful authority, ultra vires and of no legal effects, hence liable to be set aside.

6. That the petitioner also made a representation / appeal to respondent No. 2 for withdrawing the Impugned order dated 08.12.2023 being illegal, without any sufficient reason, having no backing of law and is the result of political consideration and also against the governance initiative, directive of withdrawing all the additional charges within the ministry and also against the laws of Election Commission, having caretaker government during which no transfer/posting is permissible without getting the prior NOC from the Election Commission of Pakistan. **(Copy of the Appeal/Representation is enclosed as annexure "D")**.

7. That petitioner has not been treated in accordance with law rather he was deprived his legal vested right and also against the cover of the issuance of governance initiatives by withdrawing all the additional charge amongst the ministry employees but even then vide impugned order dated 08.12.2023, a regular charge was awarded to a promotee Accounts Clerk as a additional charge which is against the directive of the government, therefore, on the basis of governance initiative directives, the impugned order on the face of it, is illegal and is liable to be set aside.

ATTESTED
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Peshawar High Court
Peshawar

8. That during the formation of caretaker government, the caretaker government, its ministries, departments under the supervision of the ministries are strictly directed to not transfer/posting of any government employees/civil servants during the caretaker government and also the policies and laws regulated by the Election Commission of Pakistan that no such kind of transfer/posting are permissible without getting the prior NOCs for such act from the Election Commission of Pakistan.
9. That other grounds, if any, may be raised during the arguments with the permission of this Hon'ble Court.

PRAYER:

It is, therefore, most humbly prayed that on acceptance of this writ petition, the impugned office order dated 08.12.2023 whereby the petitioner was transferred to report to the Chief Engineer (Central) for further posting and also to award his regular charge as an additional charge of Senior Clerk to the Accounts Clerk, may kindly be set aside.

Any other remedy deems fit and appropriate in the circumstances of the case may also be granted in favour of the petitioner.

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Peshawar High Court
Peshawar

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INTERIM RELIEF

In the meanwhile, in the circumstances of the above mentioned case, the Impugned office order dated 08.12.2023 issued by the respondents may kindly be suspended, till the final decision of the case.

Petitioner

Through

Sabit Ullah Khan Khali
Advocate Supreme Court.

Date: 20/12/2023

CERTIFICATE

Certified as per instruction of my client that no such like writ petition has earlier been filed before this Hon'ble Court.

Advocate

List of Books:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law book as per need

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Peshawar High Court
Peshawar

04/01/24

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**PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET**



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
04.01.2024	<p><u>W.P 6069- P/2023</u></p> <p>Present: Mr. Sabitullah Khan Khalil, advocate, for the petitioner.</p> <p>*****</p> <p>Comments be called from respondents No.1 & 2, so as to reach this Court within a fortnight, positively.</p> <p><u>Interim Relief:</u></p> <p>Notice to the other side for a date in office. In the meanwhile, impugned order dated 08.12.2023 shall remain suspended.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>
<p>Date of Presentation of Application.....</p> <p>No of Pages.....</p> <p>Copying fee.....</p> <p>Stamp.....</p> <p>Date of Preparation of Copy.....</p> <p>Date of Delivery of Copy.....</p> <p>Amount Paid.....</p>	<p>27638</p> <p>04-01-2024</p> <p>8-</p> <p>82-00</p> <p>04-01-2024</p> <p>04-01-2024</p> <p>J. b. U. Khan</p>

CERTIFIED TO BE TRUE COPY

[Signature]
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 107 of
the Constitution of Pakistan Act 1984
04 JAN 2024



OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 1829
Dated Peshawar the, 09/01/2024

OFFICE ORDER

In pursuance of Peshawar High Court Peshawar order sheet passed in respect of Mr. Kamranullah Senior Clerk/SDA and Mr. Hameed Ullah Accounts Clerk in W.P. No.6069-P/2023, dated: 04.01.2024, the transfer / posting order issued vide this office bearing No. CEC/C&WD/2-3/E&A/1632, dated 08-12-2023 is hereby suspended till vacation of Interim Relief.

CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Superintending Engineer Circle C&W Khyber.
3. Executive Engineer Highway Division Khyber.
4. Additional Advocate General Peshawar High Court Peshawar.
5. Section Officer (Litigation) C&W with reference to his letter No.SO(Lit)C&W/2-1/2024 dated 08.01.2024 for information.
6. PS to Secretary C&W Department Peshawar.
7. PS to Minister C&W Department Peshawar
8. Official Concerned.
9. Personal File.

CHIEF ENGINEER (CENTRE)

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

WP 6069-P/2023 with IR & CM 85-P/2024

Kamranullah
Versus
Chief Engineer (Central) C&W and 2 others

JUDGMENT

Date of hearing 20.02.2024
Petitioner by Mr. Sabitullah Khalil, Advocate
Respondents by M/s. Shakeela Begum, AAG & Asif Ali Shah, Advocate

IJAZ ANWAR, J.- Through the instant writ petition, the petitioner has expressed his grievance against the order dated 08.12.2023 passed by respondent No.01, whereby he has been transferred from the office of XEN Highway Division, Khyber to the office of respondent No.01.

2. As per contents of the petition, the petitioner alleges that he has been frequently transferred in short span of time and that too during the ban imposed by the Election Commission of Pakistan as well as without getting NOC from the latter.

3. Pursuant to notice, the respondents Nos.1 & 2 filed their joint Para-wise comments wherein they strongly resisted the issuance of the desired writ by raising various legal and factual objections, and prayed for its dismissal.

4. Heard; record perused.

5. Transfer and posting relate to terms and conditions of service of a civil servant where, in view of the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the jurisdiction of this Court is barred to entertain such petition as an alternate remedy is available to the petitioner under the law to approach the Khyber Pakhtunkhwa Service Tribunal for redressal of his grievance. Furthermore, in view of the judgment of the august Apex Court in case reported as **2007 SCMR 54 "Peer Muhammad vs. Government of Baluchistan through Chief Secretary and others"**, transfer order, on any ground can only be called in question before the concerned Service Tribunal.

6. In view thereof, the instant writ petition being not maintainable stands dismissed for want of jurisdiction. Needless to observe that the petitioner may seek his remedy from the Service Tribunal, if so advised.

Announced:
20.02.2024

JUDGE

JUDGE

Nazir

(DB)

Hon'ble Mr. Justice Ijaz Anwar, J
Hon'ble Mr. Justice Muhammad Faheem Wali, J

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OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-3/E&A, 263

Dated Peshawar the, 21/02/2024

OFFICE ORDER

In pursuance of Peshawar High Court Judgment passed in W.P. No.6069-P/2023, with IR & CM 85-P/2024 dated: 20.02.2024, titled Kamranullah Versus Chief Engineer (Centre) & 02 others, the transfer / posting order issued vide this office bearing No. CEC/C&WD/2-3/E&A/1829, dated 09.01.2024 in respect of Mr. Kamranullah Senior Clerk/SDA and Mr. Hameed Ullah Accounts Clerk is hereby withdrawn.

Qauq and
CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Superintending Engineer Circle C&W Khyber.
3. Executive Engineer Highway Division Khyber.
4. Additional Advocate General Peshawar High Court Peshawar.
5. PS to Secretary C&W Department Peshawar.
6. PS to Minister C&W Department Peshawar.
7. Official Concerned.
8. Personal File.

✓
CHIEF ENGINEER (CENTRE)

3634
05-01-24

Correct DT: 02/01/24

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OFFICE OF THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

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No. CEC/C&WD/2-3/E&A, 1802
Dated Peshawar the, 02/02/2024

To

The Section Officer (Establishment),
Communication & Works Department,
Peshawar.

SUBJECT: - APPEAL AGAINST THE IMPUGEND TRANSFER ORDER DATED 08.12.2023.

Ref: - Your office letter No. SOE/C&WD/24-60/2023/Suptd-Gen. File: dated: 15.12.2023.

With reference to the subject cited above, the appeal dated: 11.12.2023, was thoroughly examined, but did not find convincing. Moreover, the Civil Servant Act, of 1973 provides that every Civil Servant shall be liable to sought anywhere within the Province, or any post under the Provincial Government or Local Authority or Established by any such Government.


CHIEF ENGINEER (CENTRE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
COMMUNICATION & WORKS DEPARTMENT

No. SOE/C&WD/24-60/2023
Dated Peshawar, the February 29, 2024

To

Mr. Kamranullah,
the then Senior Clerk/SDA
O/O XEN Highways Division, Khyber.

Subject: APPEAL AGAINST THE IMPUGNED TRANSFER ORDER DATED
08.12.2023

I am directed to refer to the subject noted above and to state that your appeal dated: 11.12.2023 was processed and obtained comments/views of Chief Engineer (Center) C&W Peshawar. In the comments, the Chief Engineer (Center) C&W Peshawar has intimated through letter dated 02.01.2024 that your appeal examined but did not convincing on the basis that as per Civil Servant Act, 1973, "Every Civil Servant shall be liable to sought anywhere within the Province, or any post under Provincial Government or Local Authority or Established by any such Government". Therefore, Secretary C&W Department has filed/turned down your appeal/representation.

2. You are hereby informed accordingly.

QAM
29.02.2024
SECTION OFFICER (Estb)

Endst even No. & date

Copy forwarded to:

1. Chief Engineer (Center) C&W Peshawar.
2. PS to Secretary C&W Department, Peshawar
3. PA to Additional Secretary C&W Department Peshawar
4. PA to Deputy Secretary (Admn) C&W Department Peshawar.

SECTION OFFICER (Estb)



OFFICE THE CHIEF ENGINEER (CENTRE)
COMMUNICATION & WORKS DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR

No. CEC/C&WD/2-6/E&A, 1160
Dated Peshawar the, 25/09/2023

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To

- 1) The Chief Engineers (East)
C&W Department Abbottabad
- 2) The Chief Engineer (South-I)
C&W Department Peshawar.
- 3) The Chief Engineer (South-II)
C&W Department Abbottabad.
- 4) The Chief Engineer (Maintenance)
C&W Department Peshawar.

Subject: **GOOD GOVERNANCE INITIATIVES**

With reference to the direction of the Care-Taker Minister for C&W Department Peshawar, it is requested that withdraw all the orders of the officials who are working on Additional Charge, Own Pay Scales (OPS) or on Dual Charge immediately. It is further requested that if necessary of someone orders then the said case may be forwarded to this office for obtaining proper approval of the Competent Authority.

The report may be submitted to this office within 02-Days positively as desired by the Care-Taker Minister for C&W Department.


CHIEF ENGINEER (CENTRE)

COPY FORWARDED TO THE:

1. PS to Care-Taker Minister for C&W Department Peshawar for information.
2. PS to Secretary C&W Department Peshawar for information.


CHIEF ENGINEER (CENTRE)

S#:1 khyber
 P Sec:001 Month:February 2024
 KH4009 -Executive Engineer (C&W) H.
 EXECUTIVE ENGINEER HIGHWA
 Pers #: 00517102 Buckle:
 Name: KAMRAN ULLAH
 SENIOR CLERK
 CNIC No.1730187495433
 NTN:
 GPF #: 517102
 Old #:
 14 Active Temporary
 KH4009 -
 PAYS AND ALLOWANCES:
 0001-Basic Pay 38,190.00
 1001-House Rent Allowance 45% 3,321.00
 1210-Convey Allowance 2005 2,856.00
 1300-Medical Allowance 1,500.00
 1505-Charge Allowance 4,440.00
 1528-Unattractive Area Allow 1,000.00
 2148-15% Adhoc Relief All-2013 541.00
 2199-Adhoc Relief Allow @10% 374.00
 2315-Special Allowance 2021 3,500.00
 Gross Pay and Allowances 75,841.00
 DEDUCTIONS:
 IT Payable 2,582.12 Deducted 4,546.00 TAX: (3609) 646.00
 GPF Balance 338,059.00 Subrc: 3,900.00
 3501-Benevolent Fund 1,200.00
 4004-R. Benefits & Death Comp: 600.00
 Total Deductions 6,346.00
 69,495.00

D.O.B 08.04.1985
 14 Years 00 Months 023 Days
 LFP Quota:
 THE BANK OF KHYBER Charsadda Road Branc
 0074000001113006

S#:2 khyber
 P Sec:001 Month:February 2024
 KH4009 -Executive Engineer (C&W)
 EXECUTIVE ENGINEER HIGHWA
 Pers #: 00517102 Buckle:
 Name: KAMRAN ULLAH
 SENIOR CLERK
 CNIC No.1730187495433
 NTN:
 GPF #: 517102
 Old #:
 14 Active Temporary
 KH4009 -
 PAYS AND ALLOWANCES:
 2341-Dispr. Red All 15% 2022KP 3,681.00
 2347-Adhoc Rel Al 15% 22(PS17) 3,681.00
 2378-Adhoc Relief All 2023 35% 12,757.00
 Gross Pay and Allowances 75,841.00
 DEDUCTIONS:
 IT Payable 2,582.12 Deducted 4,546.00
 GPF Balance 338,059.00 Subrc:
 Total Deductions 6,346.00
 69,495.00

D.O.B 08.04.1985
 14 Years 00 Months 023 Days
 LFP Quota:
 THE BANK OF KHYBER Charsadda Road Br
 0074000001113006

بعدالت جناب خیبر پختونخواہ سروس ٹریڈیونل، پشاور

مخانب Appealant

مورخہ

Govt. of KPK etc. بنام Kamranullah

مقدمہ

دعویٰ

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کے لیے بلال احمد سکے زنی ایڈووکیٹ سپریم کورٹ آف پاکستان مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے، جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از 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 مذکورہ با اختیارات حاصل ہوں گے۔ اور اس کا ساختہ پرواختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا یا کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم

کے لیے منظور ہوا۔

بمقام

Attested & Accepted

bilalahmad78@gmail.com

Bar Council No. bc-11-1062

Mobile No: 0300-9020098