


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 253/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.03.2024	<p>The implementation petition of Mr. Zia ur Rehman submitted today by Mr. Muhammad Ilyas Orakzai Advocate. It is fixed for implementation report before Single Bench at Peshawar on Original file be requisitioned. AAG has noted the next date. Parcha Peshi is given to counsel for the Petitioner.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 253 /2024

In

Execution Petition No. 609/2023

In

Appeal No. 4306/2020

Zia ur Rehman(Applicant/Appellant)

VERSUS

The Secretary, Higher Education, Khyber Pakhtunkhwa,
Peshawar & Others.....(Respondents)

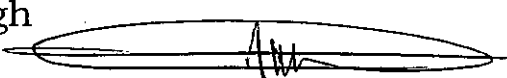
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4.	Copies of E.P No. 609/2023 and reinstatement order dated 18/11/2023	B	12-14
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Applicant/Appellant

Through

Dated: 19/03/2024


Muhammad Ilyas Orakzai
Advocate Supreme Court
Of Pakistan.
Cell No. 0333-9191892

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Execution Petition No. 253/2024

In

Execution Petition No. 609/2023

In

Appeal No. 4306/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11819

Dated 19-03-2024

Zia ur Rehman S/o Abdur Rahim, Naib Qasid, Government Degree College, Hangu R/o Mohallah Hayatabad, Tehsil & District Hangu.....(Applicant/Appellant)

VERSUS

1. The Secretary, Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. The Principle, Government Degree College, Hangu.(Respondents)

APPLICATION FOR EXECUTION TO EFFECT
THE ORDERS DATED 17/07/2023 AND
19/02/2024 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR PASSED IN ABOVE TITLED
SERVICE APPEAL NO. 4306/2020 AND
E.P. NO. 609/2023.

Respectfully Sheweth:

2

1. That the applicant/appellant has filed Service Appeal No. 4306/2020 under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the impugned order dated 20/08/2018 whereby the appellant has been removal from service against which the applicant/ appellant filed the above titled appeal which was allowed in favour of applicant/ appellant vide order dated 17/07/2023 as prayed for. (Copies of service appeal and order dated 17/07/2023 are attached as annexure "A").

2. That earlier the applicant/ appellant filed E.P. No. 609/2023 through which the judgment of the Hon'ble Tribunal was conditionally / partially implemented and the applicant/ appellant was reinstated on his service vide order 567-72 dated 18/11/2023 with all back benefits w.e.f. 20/08/2018 till 18/11/2023 and the respondents also made commitment before the Hon'ble Tribunal for releasing the back benefits of the appellant/ applicant, and thus the applicant/ appellant made

his arrival report and took charge of the same. (Copies of E.P No. 609/2023 and reinstatement order dated 18/11/2023 are attached as annexure "B").

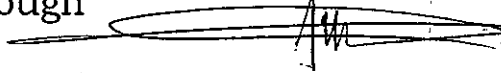
3. That thereafter the applicant/ appellant approached to respondents for his back benefits according to commitment and order dated 18/11/2023 of the respondents but respondents state away refused the back benefits of the applicant/ appellant hence this Execution Petition.
4. That in the above CPLA no leave has been granted to the respondents nor the order and judgment of this Hon'ble Tribunal has been set aside and that will take long time and its decision if in case of CPLA of the respondents would be succeeded then the back benefits of the intervening period of the applicant/ appellant may be adjusted/ recovered from the salaries of the applicant/ appellant.
5. That any other ground will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

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It is, therefore most humbly prayed on acceptance of this Execution Petition, the orders dated 17/07/2023 and 19/02/2024 of the Khyber Pakhtunkhwa Service Tribunal, Peshawar passed in above titled Service Appeal No. 4306/2020 and E.P. No. 609/2023 may kindly be implemented to the extent of salaries/ back benefits of the intervening period to the applicant/ appellant.


Applicant/Appellant

Through



Dated: 19/03/2024

Muhammad Ilyas Orakzai
Advocate Supreme Court
Of Pakistan.

5

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

CM (Implementation) No. _____/2024

In

CM (Implementation) No. 609/2023

In

Service Appeal No. 4306/2020

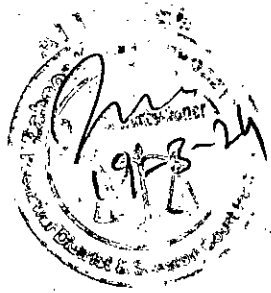
Zia ur Rehman.....(Appellant)

V E R S U S

The Secretary, Higher Education & others.....(Respondents)

AFFIDAVIT

I, **Zia ur Rehman** S/o Abdur Rahim, Naib Qasid, Government Degree College, Hangu, R/o Mohallah Hayatabad, Tehsil and District Hangu, do hereby solemnly affirm and declare that the contents of the accompanying **Application for implementation** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Zia Rili

DEPONENT

CNIC: 14101-9680788-1

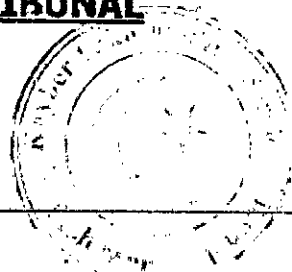
Cell No. 0335-4768368

6

ANNEX "A"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO 4306 /2020



Mr. Zia-Ur-Rehman, Ex- Naib Qasid (BPS-03),
Government Degree College, Hangu.....**APPELLANT**

VERSUS

- 1- The Secretary Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
- 3- The Principal, Government Degree College, Hangu,

.....**RESPONDENTS.**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ORDER DATED 20.08.2018 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED ON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on the acceptance of this service appeal, the impugned order dated 20.08.2018 may very kindly be set aside and the appellant be reinstated into service with all back benefits. And any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

REGISTERED

Khyber Pakhtunkhwa Service Tribunal
Peshawar

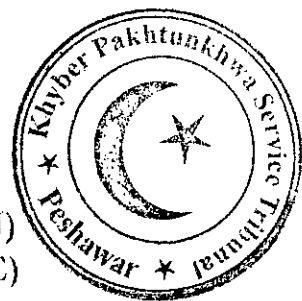
Brief facts giving rise to the present appeal are as under:

- 1- That appellant was initially appointed as Naib Qasid (9BPS-03) in the respondent Department vide order dated 15.12.2017. That after appointment against the said post the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order and medical certificate are attached as annexure.....**A & B.**

②

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 4306/2020



BEFORE: MRS RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Mr. Zia-ur-Rehman, Ex-Naib Qasid (BPS-03) Government Degree College,
Hangu..... (Appellant)

Versus

1. The Secretary Higher Education, Khyber Pakhtunkhwa Peshawar.
2. The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. The Principal, Government Degree College, Hangu.....(Respondents)


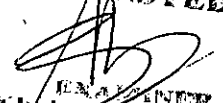
Mr. Noor Muhammad Khattak
Advocate ... For appellant

Mr. Fazal Shah Mohmand,
Addl. Advocate General ... For respondents

Date of Institution.....	13.05.2020
Date of Hearing.....	17.07.2023
Date of Decision.....	17.07.2023

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 20.08.2018 whereby major penalty of removal from service was imposed on the appellant and against no action taken on the departmental appeal of appellant within the statutory period of ninety days. It has been prayed that on acceptance of the appeal, the impugned order dated 20.08.2018 might be set aside and the appellant be reinstated into service with all back benefits alongwith any other remedy which this Tribunal deemed fit and appropriate.


ATTESTED

 MEMBER (E)
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

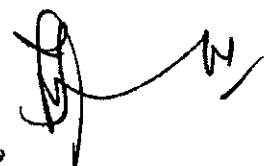
2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as Naib Qasid (BPS-03) in the respondent department vide order dated 15.12.2017. During service of the appellant an FIR No. 648 u/s 380 dated 08.07.2018 in P.S City Hangu was lodged against unknown person. Later on, appellant and two other employees of the college were falsely implicated in the aforementioned FIR. On the basis of the said FIR, the respondent department removed the appellant from service vide impugned order dated 20.08.2018 without fulfilling the legal formalities and without waiting for the decision of the learned trial court. Later on, the appellant was acquitted in the criminal case by the learned Additional Sessions Judge-II, Hangu vide judgment dated 27.11.2019. After acquittal in the criminal case, he filed departmental appeal on 24.12.2019 before the appellate authority but no reply was received till filing of the instant appeal on 13.05.2020.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We heard the learned counsel for the appellant as well as the learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that no charge sheet and statement of allegations were served upon the appellant before passing the impugned order dated 20.08.2018. He further argued that neither show cause notice was served upon the appellant nor chance of personal hearing/defence was afforded to him and that the

ATTESTED

Attestor
Kamaljit Singh
Service Tribunal
Jalandhar



⑨

complainant was not cross-examined by him. He requested that the appeal might be accepted.

5. Learned Additional Advocate General, while rebutting the arguments of learned counsel for the appellant, argued that on 07.07.2018, the appellant alongwith his two friends committed theft from Computer Lab. of the college. According to him, the appellant and his co-accused were identified through CCTV footage and all the three were arrested by the police and respondent No. 3 constituted a committee on 09.07.2018 to conduct fact finding inquiry. On the recommendation of the said inquiry, vide office order dated 17.07.2018, inquiry committee was constituted to conduct formal inquiry into the matter. Charge sheet was served upon the appellant and opportunity of personal hearing was afforded to him wherein he confessed his guilt. Thereafter, show cause notice was served upon him on 02.08.2018 and after fulfillment of all the codal formalities, he was removed from service vide order dated 20.08.2018. The learned AAG further argued that the appellant was convicted by the learned trial court vide judgment dated 18.09.2019 but later on acquitted by appellate court vide judgment dated 27.11.2019. He further argued that no departmental appeal was available in official record. He requested that the appeal might be dismissed.

6. From the arguments and record presented before us, it appears that the appellant, while serving as Naib Qasid in Government Degree College, Hangu was implicated in FIR u/s 380 PPC. As stated by the learned counsel for the appellant, no charge sheet and statement of allegations were served upon the appellant while he was behind the bar and that he was not afforded


ATTESTED

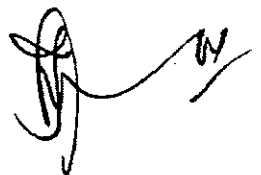
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



any opportunity to defend his case or cross examine any witness and hence any inquiry conducted by the respondent department was against the law and rules. The respondents on the other hand, have attached two inquiry reports, one is a preliminary inquiry and the other is a formal inquiry. Perusal of the inquiry report shows that the statement of the appellant was recorded in writing. He was inquired in the form of a questionnaire to which he responded in writing, and both the documents have been attested by the Incharge Judicial lockup, Hangu. It has further been noted that the Inquiry Committee states in its report that they cross examined the appellant in the light of his statement but the report is silent on an extremely important aspect of cross examination of witnesses by the appellant. The departmental inquiry report only identifies the appellant in the CCTV recording. There is no evidence of theft being committed by him. The judgment of learned Additional Sessions Judge-II, Hangu was also perused simultaneously to ascertain the facts. It was found in that judgment that the case of the prosecution was entirely based on circumstantial evidence; neither the appellant was charged in the initial report nor the occurrence was witnessed by anyone. Statement of the appellant taken in the custody of police has not been accepted by the learned ASJ. As the prosecution could not prove its case, the appellant was acquitted vide judgment dated 27.11.2019.

7. It is a well settled principle that "every acquittal is honourable" and when an accused official is acquitted from a criminal charge after trial by the competent court of law, he cannot be ousted from his service. When the charge could not be proved in the court of law, there was no reason to pass

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar




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any adverse order of punishment for the appellant by the departmental authority.

8. In view of above, the service appeal is allowed as prayed for with the directions to the respondent department to consider the appellant as under suspension from the date the FIR was lodged and he was arrested till his acquittal. Costs shall follow the event. Consign.

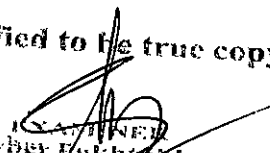
9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 17th day of July, 2023.*


(FAREEHA PAUL)
Member (I)

Fazle Subhan, P.S


(RASHIDA BANO)
Member (J)

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application

Number of Words

Copying Fee

Urgent

Total

Name of Debtor

Date of Delivery

Date of Delivery

15/3/24

67

30/-

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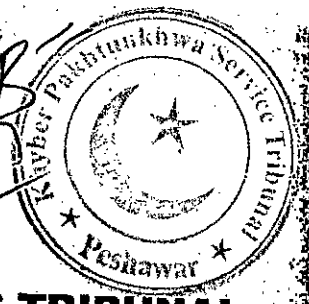
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15/3/24

15/3/24

(12)

Annex B



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR**

Execution Petition No. 609/2023

CM (Implementation) No:- _____/2023

In

Service Appeal No:- 4306/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7332

Dated 4/9/2023

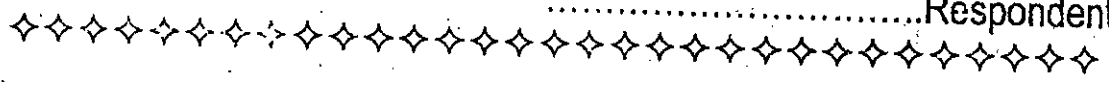
Zia Ur Rehman S/o Abdur Rahim, Ex-Naib Qasid, Government Degree
College, Hangu, R/o Mohallah Hayatabad, Tehsil & District Hangu.

..... Appellant

Versus

1. The Secretary, Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. The Principle, Government Degree College, Hangu.

..... Respondents



APPLICATION FOR IMPLEMENTATION OF THE ORDER/
JUDGMENT DATED 17/07/2023 OF THIS HONOURABLE
TRIBUNAL IN THE ABOVE TITLED SERVICE APPEAL.

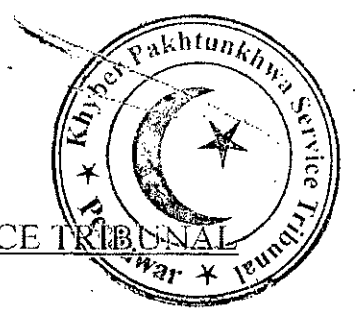
Respectfully Sheweth:-

1. That the above titled Service Appeal was decided in
favour of the applicant/appellant vide order/judgment
dated 17/07/2023. (Copy of order dated 17/07/2023 is
attached as annexure "A")

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Execution Petition No. 609/2023

Zia Ur Rehman S/O Abdur Rahim, Ex-Naib Qasid, Government Degree College, Hangu, R/O Mohallah Hayatabad, Tehsil & District Hangu.

VERSUS

The Secretary, Higher Education, Khyber Pakhtunkhwa, Peshawar and 02 others.

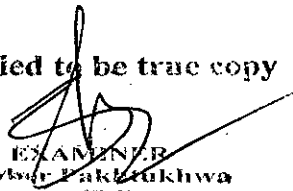
ORDER


19.02.2024

Learned counsel for the petitioner present. Mr. Sohrab Khan, Lecturer and Mr. Zahir Ullah, Librarian alongwith Mr. Habib Anwar, Additional Advocate General for the respondents present and submitted copy of Notification dated 18.12.2023, whereby the petitioner has been conditionally reinstated in service with all back benefits subject to outcome of CPLA. Copy of the same handed over to learned counsel for the petitioner, who stated that as the judgment under execution has been implemented, therefore, the execution petition in hand may be filed. In this respect, signature of learned counsel for the petitioner obtained at margin of order sheet.

In view of the above, the execution petition in hand stands filed. As the judgment under execution has been implemented, therefore, salaries of respondents No. 1 to 3 are hereby released, if not attached in any other matter/case. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.02.2024

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(Salah-Ud-Din)
Member (Judicial)

Muhammad Uyan's Order Advocate
19-02-2024

Date of Presentation of Application 15/3/24

Number of Words 2 p

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Urgent 9/7/

Total 15/

Name of C

Date

Date of ...

15/3/24

15/3/24

ZIA-UR-REHMAN

(14)



GOVERNMENT DEGREE COLLEGE HANGU

Thal Road, Hangu 26190, KPK, Pakistan, Phone No: 0925-621517
Email address: gdchangu1973@gmail.com | www.facebook.com/gdchangu



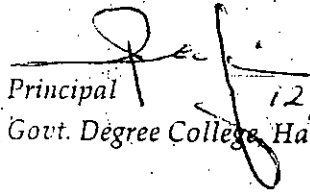
No. 567-72

Dated Hangu the November 18, 2023.

To be substituted with bearing the same number and date.

NOTIFICATION:

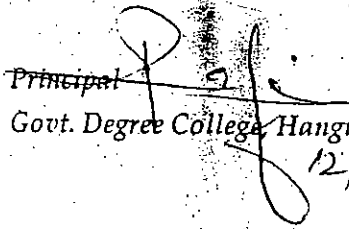
In compliance to the Khyber Pakhtunkhwa Service Tribunal judgment dated 17/7/2023 in Service Appeal No. 4306/2020 and the directions of Directorate of Higher Education, Khyber Pakhtunkhwa, Peshawar office letter No. 19637/Litigation Section/S, Appeal No. 4306/2020/Zia Ur Rehman/93 dated Peshawar the 3/11/2023 and letter No. 20276-77/CA-VII/Estt: Branch/A-167/GDC Hangu M 123 Vol-01 dated Peshawar the 16/11/2023, the undersigned is pleased to reinstate Mr. Zia Ur Rehman with all back benefits w.e.f (20/08/2018) against the post of Naib Qasid (BPS-03) today on November 18, 2023 conditionally subject to the final outcome of the CPLA filed by the Higher Education Department in the Honorable Supreme Court of Pakistan.


Principal
Govt. Degree College Hangu
12/12/2023

Endst. No. _____ Dated Hangu the _____

Copy forwarded to the:

1. P.S to Secretary, Higher Education, Khyber Pakhtunkhwa, Peshawar for information.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar for information.
3. Regional Director Directorate, Higher Education, South at Bannu for information.
4. District Accounts Officer, Hangu
5. Official concerned
6. Office record


Principal
Govt. Degree College Hangu
12/12/2023

وہو (1) سربراہ
Zia Rehman
12/12/2023

Attached
ATTACHED

15

﴿وگالت نامہ﴾
بعدالت صہاب صیدر کھٹون خواہ مہروس کورٹ سٹیٹ لیسٹام
ضلع: منگور
مقدمہ نوعداری ادویاتی

مقام: مورخہ: 16 مارچ 2024
بنام سید اے ایچ سی HEC منگور
باعث تحریر آنکا

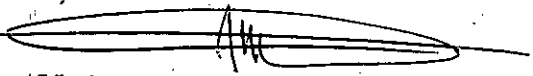
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ آن مقام۔ لیسٹام کے لیے
محمد الیاس اور کرنی ایڈوکیٹ سپریم کورٹ آف پاکستان شریک کے
قرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و
فیصلہ برعکف دینے جواب دعویٰ اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیہ عرضی دعویٰ اور درخواست
برہنہ کی تصدیق ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مشغولی تیراڑ
کرنے اپیل مگرانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا پیروی کاروائی کے واسطے اور وکیل یا
مقار 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 پرواخذ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہر جائز التوائے مقدمہ کے عیب سے ہوگا۔ کوئی تاریخ پیشی
مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔
لہذا وگالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم:- 16 مارچ 2024ء

Z. R. Rohi

السعدی
السعدی
بمقام لیسٹام
کے لفظ و رسم

Attested & Accepted


Muhammad Ilyas Orakzai
Advocate Supreme Court of Pakistan
SC Enrollment No:- 5801
BC No:- 10-3471
CNIC 14101-0798923-7
Cell 0333-9191892

صالح علی ولد عبدالرحمن
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ آن مقام۔ لیسٹام کے لیے
محمد الیاس اور کرنی ایڈوکیٹ سپریم کورٹ آف پاکستان شریک کے
قرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقررات و
فیصلہ برعکف دینے جواب دعویٰ اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیہ عرضی دعویٰ اور درخواست
برہنہ کی تصدیق ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مشغولی تیراڑ
کرنے اپیل مگرانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکورہ کے کل یا پیروی کاروائی کے واسطے اور وکیل یا
مقار 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 پرواخذ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہر جائز التوائے مقدمہ کے عیب سے ہوگا۔ کوئی تاریخ پیشی
مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں۔
لہذا وگالت نامہ لکھ دیا تاکہ سند رہے۔