

31.03.2015

None present for appellant. Mr. Sabir Khan, SO (Lit.) for respondent No. 1 alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 4.6.2015 before S.B.

  
Chairman

04.06.2015

None present for appellant. Addl: AG for the respondents present. Learned AAG is directed to contact the respondents for submission of written reply/comments. Adjourned to 10.08.2015 before S.B.

  
Member

10.08.2015

None present for appellant. Even security and process fee have not been deposited by the appellant. The Court time is over. Dismissed for want of prosecution. File be consigned to the record.

ANNOUNCED  
10.8.2015

  
Chairman  
10.08.15

Appeal No. 967/2014  
Dr. S. Waqar Khan

02.10.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under

Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974,

the appellant has impugned order dated 26.03.2014, whereby

respondent No.3 has ordered the recovery of Rs. 1,89,000/- from the

appellant. Against the above referred impugned order appellant filed

departmental appeal on 04.04.2014 which was not responded within

the statutory period of 90 days, hence the instant appeal on

18.07.2014.

Since the matter pertains to terms and conditions of service

of the appellant, hence admit for regular hearing subject to all legal

objections. The appellant is directed to deposit the security amount

and process fee within 10 days. Thereafter, Notice be issued to the

respondents for submission of written reply. To come up for written

reply/comments on 15.12.2014.

Member

02.10.2014

This case be put before the Final Bench for further proceedings.

Chairman

15.12.14


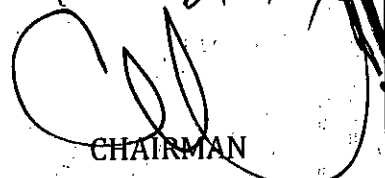
The Tribunal is an complete Refused  
case is opened to 31-3-15

Recd

Form- A  
FORM OF ORDER SHEET

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

Case No. 967/2014

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate                                                                                                                                                                                                                                                                |
|-------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | 2                         | 3                                                                                                                                                                                                                                                                                                                               |
| 1     | 18/07/2014                | <p>The appeal of Dr. Siddiq Khan presented today by Mr. Ijaz Ahmad Malik Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><br/>REGISTRAR</p> |
| 2     | 5-8-2014                  | <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <del>2-10-2014</del></p> <p style="text-align: right;"><br/>CHAIRMAN</p>                                                                          |

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES**

**TRIBUNAL, PESHAWAR.**

*Appeal No. 967/2014*

**Dr. Siddiq Khan Khattak.....Versus.....Government of KPK.  
through Secretary  
Health, Peshawar &  
others.**

**I N D E X .**

| S. No. | Contents of documents.                           | Annexure. | Page No. |
|--------|--------------------------------------------------|-----------|----------|
| 1.     | Appeal.                                          | ---       | 1 to 6   |
| 2.     | Copy of order No. 1385-89/DHO NSR dated 26/3/14. | A         | 7-8      |
| 3.     | Copy of Audit Para.                              | B         | 9        |
| 4.     | Copy of Departmental appeal/representation.      | C         | 10       |
| 5.     | Wakalatnama.                                     |           | 11       |

Appellant

Through: -

(Ijaz Ahmad Malik)

Advocate, Peshawar.

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

Appeal No. 967/2014

1004  
18/7/2014

Dr. Siddiq Khan Khattak, Surgical Specialist District Head  
Quarter Hospital, Nowshera.....Appellant.

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Health, Peshawar.
2. Director General (Health) Peshawar.
3. District Health Officer, Nowshera,
4. Medical Superintendent, Mian Rashid Hussain Shaheed Memorial Hospital, Pabbi, District Nowshera.....Respondents.

Appeal under section 4 of the Services Tribunal Act 1974 against the impugned order No. 1385-89/DHO NSR dated 26/3/2014 whereby the respondent No. 3 has ordered the recovery of Rs. 1,89,000/- from the appellant.

.....

**Prayer in appeal.**

On acceptance of this appeal, this Honourable Tribunal may very graciously

18/7/14

be pleased to declare the impugned order No. 1385-89/DHO NSR dated 26/3/2014 of the respondent No. 3 as illegal, unlawful and of no legal effect upon the rights of the appellant, hence, the same be set-aside.

.....

Respectfully Sheweth,

**Brief facts of the instant appeal are: -**

1. That the appellant is performing his duties as Surgical Specialist in District Head Quarter Hospital Nowshera, with full devotion and dedication without any complaint.
2. That the appellant has performed his duties as General Surgeon in Regional Health Centre (RHC) Pabbi (Mian Rashid Hussain Shaheed Memorial Hospital, Pabbi) w.e.f. March 2005, till August 2013.
3. That the Audit Team observed during audit that the illegal practice of collection of operation theatre charges from patient is invogue without any authority and approval of the competent forum since 2002.

4. That upon the audit report the respondent No.3 issued the impugned order No. 1385-89/DHO NSR dated 26/3/2014 and directed the recovery of Rs. 1,89,000/- in lumpsum or otherwise from the monthly salary of the appellant. Copies of impugned order No. 1385-89/DHO NSR dated 26/3/14 and Audit Para are enclosed as annexure "A" and "B" respectively.
5. That the appellant being aggrieved and having no nexus with the alleged collection, therefore, filed Departmental appeal/ representation before the respondents No. 1 ~~and 2~~ but in vain, (copy attached as annexure "C") hence, this appeal on the following amongst other grounds: -

GROUND.

- A. That the impugned order of the respondent No. 3 is illegal, against the law, facts and natural justice, hence the same is untenable in the eyes of law and is liable to be set-aside.
- B. That the alleged responsibility has illegally been fixed upon the appellant as the

appellant had no nexus with the alleged collection as the appellant was performing his duties as General Surgeon and not as Accountant or Administrative Head of the Hospital.

- C. That the impugned order is based on malafide and has been issued for ulterior motive purposely without any lawful justification and excuse.
- D. That the duty of the appellant was just to operate the patients while the provision of facilities is the duty of the administration of the Hospital, therefore, the appellant has no concern with the alleged collection.
- E. That even a single written notice was not issued to the appellant by respondent No. 3 to halt the process.
- F. That the then OT Technician was responsible of collection and expenditure of revenue through documentation and it was in the notice of respondents No. 3 and 4 and was done with their consent but the responsibility has illegally been fixed upon the appellant.




G. That operation theatre facility was not only used by the appellant, as the same was in the use of other Surgeons i.e. Orthopedic, ENT, Gynecologists and general surgeons in the said hospital who also availed the facility and it is astonishing to direct the appellant to deposit the amount in question, as the appellant was amongst one of the Surgeons and the appellant had nothing to do with revenue collection and expenditure.

H. That no opportunity of hearing has been granted to the appellant to defend himself before the Audit authority as well as before the other competent authority before issuing the impugned order and the appellant is condemned unheard.

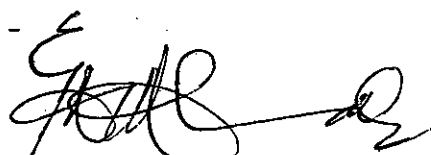
It is, therefore, requested that on acceptance of this appeal, this Honourable Tribunal may very graciously be pleased to declare the impugned order No. 1385-89/DHO NSR dated 26/3/2014 of the respondent No. 3 as illegal, unlawful and of no legal effect upon the rights

of the appellant, hence, the same be set-aside.

Dated: -15/7/14.


  
Appellant

Through: -

  
(Ijaz Ahmad Malik)  
Advocate, Peshawar.

**AFFIDAVIT.**

I, Dr. Siddiq Khan Khattak appellant do hereby solemnly affirm and declare on oath that the contents of the above appeal are true and correct and nothing has been concealed therefrom.

  
Deponent  
(Dr. Siddiq Khan Khattak)

**ATTESTED**



(7)

Annex - "A"



**OFFICE OF THE DISTRICT HEALTH OFFICER NOWSHERA**

Phone & Fax: 0923-580759

E-Mail: nowshera.edoh@gmail.com

No. 1385-89 / DHO NSR

Date: 26/03/2014

To

The Medical Superintendent,  
DHQ Hospital Nowshera.

Subject: AUDIT PARAS.

Memo,

It is to inform you that on 24.03.2014 PAC meeting was held in the Provincial Assembly, Khyber Pakhtunkhwa, Peshawar, to discuss the audit paras for the year 2010 - 2011. According to the para No. 1.2.3.6, a recovery amounting to Rs. 189,000/- needs to be recovered from Dr. Muhammad Sadiq (Surgeon) working under your control, on account of unauthorized collection of OT Charges.

You are hereby informed to direct the concerned surgeon to deposit the said amount into government treasury within two days positively, under intimation to this office. In case of non compliance of official order, the amount should be recovered from his salary immediately through system, in two installments from the next month positively.

*District Health Officer  
Nowshera*

Even No. & Date:

Copy forwarded to the:

1. Director General Health Services Khyber Pakhtunkhwa, Peshawar.
2. Director Audit, Main Shami Road, opposite Bilal Masjid, Peshawar Cantt.
3. Chairman, PAC, Provincial Assembly, Khyber Pakhtunkhwa, Peshawar.
4. Doctor concerned.

*Handwritten signature and scribbles*

*District Health Officer  
Nowshera*

*Handwritten signature and scribbles*

8

OFFICE OF THE MEDICAL SUPERINTENDENT D.H.Q HOSPITAL NOWSHERA.

No. 733-34/DHQ, Hosp:

dated. 01 /09/2014.

Copy forwarded to :-

1. District Health Officer Nowshera.
2. Dr. Muhammad Saddique Surgeon DHQ, Hospital Nowshera, for information & Necessary action.



MEDICAL SUPERINTENDENT.  
D.H.Q HOSPITAL NOWSHERA.

*True copy  
[Signature]*

9

Annex = "B"

AUDIT PARA NO.12 FOR THE YEARS 2010-11

During the audit of EDO (Health) Nowshera for the year 2010-11, it was observed by the audit team that in the ESH, Pabbi, Dr. Muhammad Sadeeq Surgeon had collected a sum of Rs. 189000 from the patients on account of O.T Charges during the last 03 years without any authority and approval of the competent forum. the collected amount.

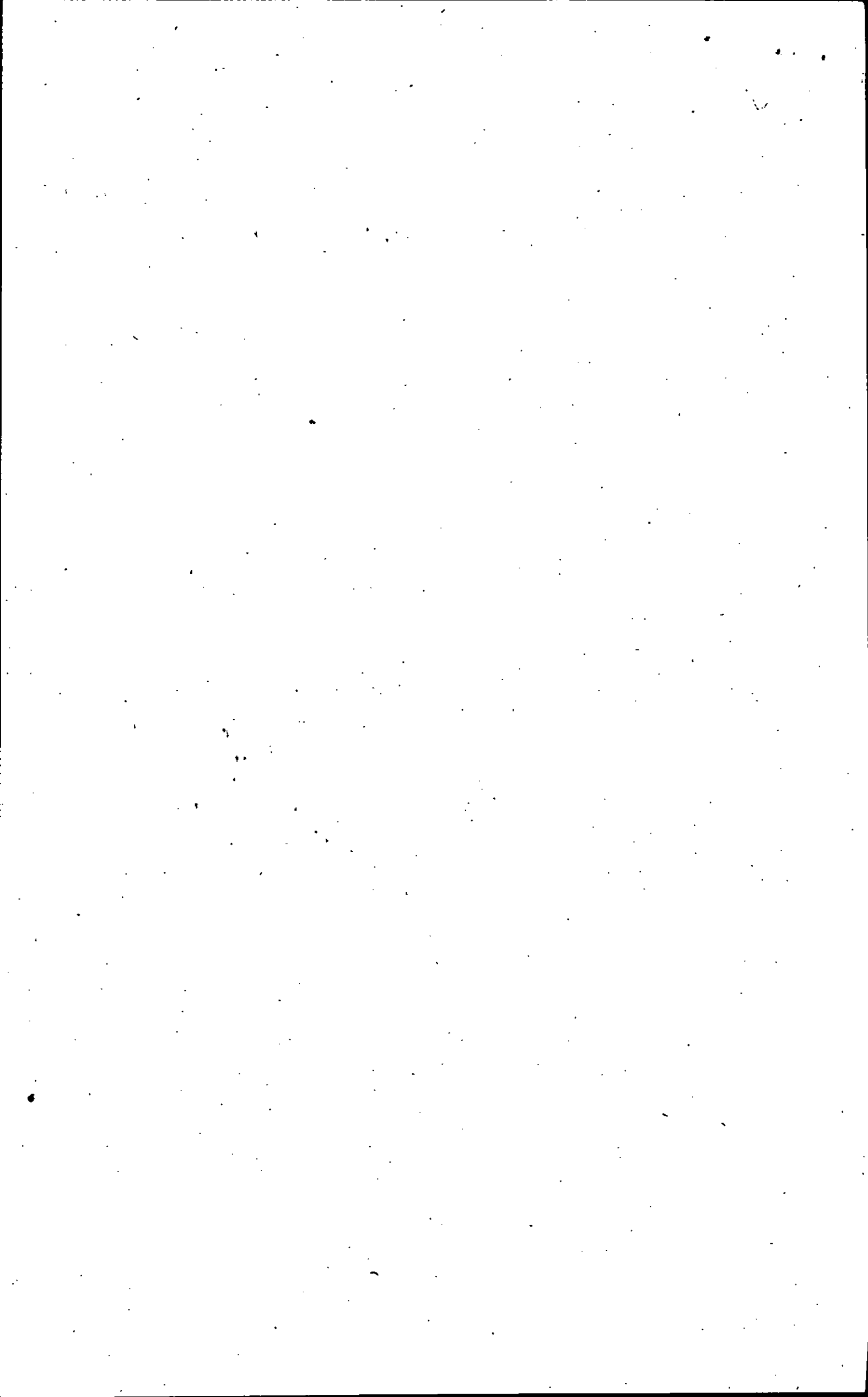
REPLY OF AUDIT PARA NO.12 FO THE YEAR 2010-11

In this connection it is stated that the Surgeon of this Hospital received the amount in question as donation on the approval of competent authority and has spent on the welfare of patients in the O.T of the Hospital because of less Budget for O.T

Therefore this audit para may be dropped.

MEDICAL SUPERINTENDENT  
MIAN RASHID HUSSAIN NAEEM  
MEMORIAL HOSPITAL PABBI

True Copy  
HSSD



(10)

Annex = "C"

To

Secretary Health

Peshawar, KPK

Subject: Response of letter No L385-89 dated 26-03-2014

Regarding audit paras, 1.2.3d 6.

Sir,

In regard of above mentioned letter I wish to clarify my situation due to following reservations.

→ At least a single notification should have been given prior to final order, as I reserve the right to justify my situation.

→ As a general district surgeon I assume the charge at Pabbi Satellite hospital in March 2005. The practice of nominal willful donation by affording patients was going on since 2002, all the written record, can be provided on demand. The then senior, OT technician was responsible of collection and expenditure of revenue through documentation and was in knowledge of medical superintendent and D.H.O. Furthermore not even a single written notice was issued to halt the process, from the concerned authority.

Secondly, Operation theater facility was not utilized only by general surgeon, also there were orthopaedic, ENT and gynecologists who were availing the facility, I wonder why only my name is being implicated in this regard to deposit the amount of Rs.189,000 as soon as possible. As I was among one of the rest of the surgeons and I had nothing to do with revenue collection and expenditure.

Finally I, request for in person meeting with the chairman public audit committee to further clarify the position and to provide the written documents.

Thanking you

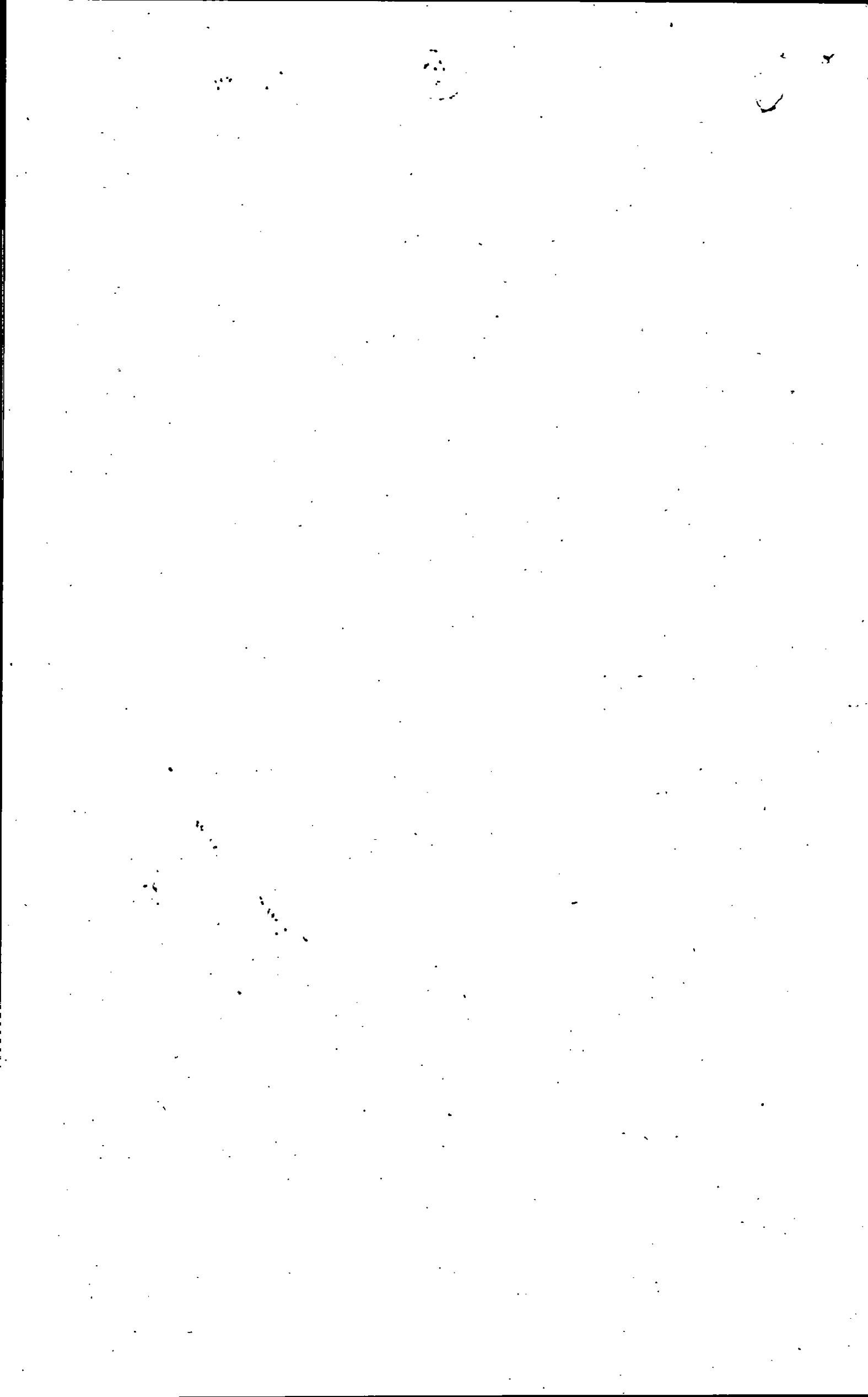
Sincerely

Dr. Sidique Khalil

District Specialist Nowshera

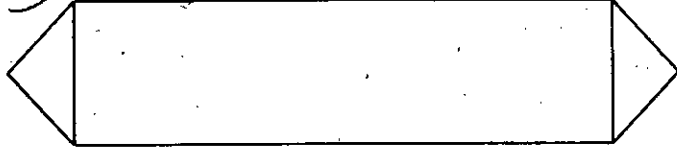
*[Handwritten signature and initials]*

*[Handwritten notes: "True Copy" and "Fresh" with a signature]*





بعدالت صواب۔ جس میں سروس ٹریبونل کی



2019ء پنجاب ایگزیکٹو  
بنام ڈاکٹر صدیق  
مندا

ڈاکٹر صدیق خان مندا

مقدمہ

دعویٰ

مورخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
آن مقام **ایستاد** کیلئے **رضی ترحمہما اللہ عنہما**  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

2019

12 ماہ جولائی

المرقوم  
بسم اللہ

واہ العبد

Accepted

کے لئے منظور ہے۔

و اشام

مقام