# Form- A FORM OF ORDER SHEET

| Court of | •    |  |               |  |  |  |
|----------|------|--|---------------|--|--|--|
|          | <br> |  | <del></del> - |  |  |  |
|          |      |  |               |  |  |  |
|          | <br> |  | 074           |  |  |  |

|   |           | Imp                       | olementation Petition No. 974 /2023  |
|---|-----------|---------------------------|--|
|   | 5.No.     | Date of order proceedings | Order or other proceedings with signature of judge   |
|   | 1         | 2                         | 3  |
|   | 1         | 15.12.2023                | The implementation petition of Mr. Muhammad  |
|   |           |                           | Sadiq submitted today by Uzma Syed Advocate. It is fixed                                     |
| i | AN<br>K-S |                           | for implementation report before Single Bench a Peshawar on 22-12-2023. Original file be     |
|   |           | <br>                      | requisitioned. AAG has noted the next date. Parcha Pesh                                      |
| - | ·•        | <br>                      | is given to the counsel for the petitioner.  |
|   | 1         |                           | By the order of Chairman<br>REGISTRAR  |
|   |           | 22 <sup>nd</sup> Dec, 20  | Learned counsel for the petitioner present.  |
|   |           |                           | Notice be issued to the respondents through  TCS for submission of implementation report. To |
|   |           |                           | come up for implementation report on 29.01.2024  |
|   |           |                           | before S.B. P.P given to learned counsel for the   |
|   |           | STAFED                    | petitioner.  |
|   |           | SOLCH POR                 | 3. Petitioner is directed to deposit TCS expenses  |
| i | . !       | ~ @                       | within three days  |

(Muhammad Akbar Khan) Member (E) 29<sup>th 1</sup> Jan. 2024



01. Petitioner alongwith counsel present. Mr. Muhammad Jan, District Attorney alongwith Wajid Khan, IHC for the respondents present.

O2. Implementation report has not been submitted. Learned District Attorney requested for time to submit implementation report. Granted. To come up for implementation report on 21.02.2024 before the S.B. PP given to the parties.

(Farceha Paul) Member(E)

\*Fazle subhan P.S

21.02.2024

Learned counsel for the petitioner present. Syed Amir Abbas, DSP (Legal) alongwith Mr. Habib Anwar, Additional Advocate General for the respondents present and stated at the bar that progress for implementation of the judgment under execution is in process, therefore, an adjournment may be granted. Adjourned. To come up for implementation report on 28.03.2024 before the S.B. Parcha Peshi given to the parties.



(Salah-ud-Din) Member (J)

\*Naeém Amin\*

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. 974 /2023 In Service Appeal No.710/2017

Muhammad Sadiq.

V/S

Police Deptt:

#### INDEX

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Muhammad Saler PETITIONER Muhammad Sadiq

THROUGH:

SYED NOMAN ALI BUKHARI

(UZMA SYED)
ADVOCATES, HIGH COURT

Cell No: 0311-9440376



#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtukhwa Service Tribunal

Diary No. 9938

Dated 15-12-208

Execution Petition No. 974 /2023 In Service Appeal No.710/2017

Muhammad Sadiq Ex-Constable, Police Line, Lakki Marwat.

#### **PETITIONER**

#### VERSUS

- 1. The Inspector General of Police, KPK, Peshawar.
- 2. The Deputy Inspector General of Police, CTD KP, Peshawar.
- 3. The Additional Inspector General of Police, CTD KP, Peshawar.
- 4. The District Police officer, Lakki Marwat.

5. The Regional Police Officer, Bannu Region Bannu.

#### RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED: 10-01-2023 OF THIS HONOURABLE TRIBUNAL IN LETTER AND SPIRIT.

#### **RESPECTFULLY SHEWETH:**

1. That the applicant/Petitioner filed Service Appeal No.710/2017 against the dismissal order.

- 2. That the said appeal was finally heard by the Honorable Tribunal on 10-01-2023 and the Honorable Tribunal is kind enough to accept the appeal vide judgment dated 10-01-2023 as prayed for. (Copy of judgment is attached as Annexure-A).
  - 3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 10-01-2023.
  - 4. That the respondent totally violated the judgment of Hon'able Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
- 5. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implemented the same in letter and spirit.
- 6. That the petitioner has having no other remedy filed Execution Petition No: 241/2023, during the execution petition the department produced the order dated 02/10/2023 whereby conditionally implemented the judgment In response to which the execution petition was consigned to record room. Copy of order and tribunal order is attached as annexure-B & C.

- 7. That the appellant filed application for compliance of the order produced before this Hon'able Tribunal and affidavit was also submitted to that extent but neither the appellant was adjusted against any post nor was salary of the appellant released till date. The grant of back benefits and other benefits was verbally refused to the petitioner and till date compliance was not made practically but to the extent of peace of paper. Copy of the documents are attached as annexure-D.
- 8. That the petitioner has having no other remedy to file this Execution Petition.

It is, therefore, most humbly prayed that the respondents may be directed to obey the judgment dated 10/01/2023 of this august Tribunal in letter and spirit and the respondent may be directed to adjust the appellant in CTD and salary of the appellant may also be released and other benefits may also be granted to appellant as per judgment and order dated 02/10/2023. Any other

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remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favor of applicant/appellant.

PETITIONER

Muhammad Sadiq

THROUGH:

SYED NOMÁN ALI BUKHARI

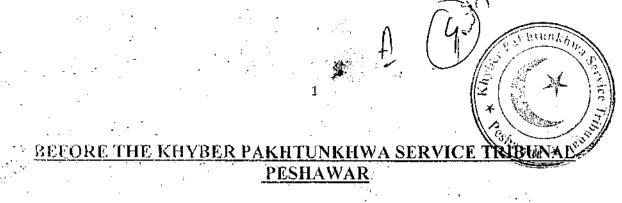
(UZMA SYED) ADVOCATES, HIGH COURT

## **AFFIDAVIT:**

It is affirmed and declared that the contents of the above Execution Petition are true and correct to the best of my knowledge and belief.

DEPONENT





#### Service Appeal No. 710/2017

BEFORE: MRS. ROZINA REHMAN

MEMBER (J)

MISS EAREEHA PAUL

. MEMBER (E)

Muhammad Sadiq Ex-Constable Police Line, Lakki Marwat. (Appellant)

#### Versus

1. Inspector General of Police, Khyber Pakhtunkhwa, Peshawar.

2. Deputy Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

3. Additional Inspector General of Police CTD, Khyber Pakhtunkhwa, Peshawar.

4. District Police Officer, Lakki Marwat.

5. Regional Police Officer, Bannu Range, District Bannu.

Miss Uzma Syed,

Advocate

For appellant

Mr. Asif Masood Ali Shah,

For respondents

Deputy District Attorney,

 Date of Institution
 06.07.2017

 Date of Hearing
 09.01.2023

 Date of Decision
 10.01.2023

### **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 impugned order dated 20.10.2016 whereby major penalty of compulsory retirement had been imposed upon the appellant and against the appellate order dated 14.06.2017, whereby departmental appeal

ATTESTED

EXAMINER

Bervice Pakhrokhwa

Bervice Tribunga

ORDER 17.04.2023

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Khalil Khan S.I (Legal) for respondents present.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal at hand is accepted. Consequently, the impugned order of imposition of penalty with disciplinary proceedings wherefrom it resulted, are set aside and the appellant is reinstated into service from the date of his dismissal from service with all back benefits. The concerned respondent on receipt of the copy of the judgment shall issue the order of appellant's reinstatement with all back benefits having accrued or accruable from the date of his dismissal from service. With no order as to costs. File be consigned to the record room.

<u>ANNOUNCED.</u> 17.04.2023

(Muhanmad Akbar Khan)

Member (E)

Camp Court, D.I.Khan

(Rozina Rehman)

Member (J)

Camp Court, D.I.Khan

\*Mutazem Shah\*

of appellant had been rejected on no good grounds. It has been prayed that by accepting this appeal, the impugned orders dated 20.10.2016 and 14.06.2017 might be set aside and the respondents be directed to reinstate the appellant in service with all back benefits and any other remedy which this august tribunal deems fit might also be awarded in favour of the appellant.

**つ**。 Brief facts of the case, as given in the memorandum of appeal, are that the appellant was an employee of the respondent department and was serving as Head Constable. He served the respondent department for more than 24 years quite efficiently and up to the entire satisfaction of his superiors. While performing his duty as Head Constable CTD Lakki Marwat, a criminal case was registered vide FIR No. 438 dated 20.07.2016 u/s 15-AA/9CNSA at Police Station Serai Naurang in which the appellant was not directly charged but he was arrested by the police on 11.08.2016 and was put in confinement till 21.10.2016. Thereafter he was taken to Peshawar in the office of AIG, CTD and there too he was kept in confinement for sufficient days based on a statement of Mr. Nasib before the police. Lastly major penalty of compulsory retirement was imposed upon him vide order dated 20.10.2016 (communicated to the appellant on 10.11.2016) without conducting fact finding inquiry in the matter. Feeling aggrieved from the impugned order, the appellant preferred departmental appeal before respondent No. 1: on 30.11.2016 which was rejected on 14.06.2017; hence the instant service appeal.

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- Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Deputy District Attorney 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 contended that the appellant was not directly charged in the FIR dated 20.07.2016 but the respondents malafidely involved him on the basis of baseless statement of one Naseeb. He further contended that no charge sheet and statement of allegations had been issued to the appellant nor show cause notice was served upon him which were mandatory before passing the impugned order. He further contended that no chance of personal hearing/defence had been afforded to him and the respondents acted in an arbitrary manner. He requested that the appeal might be accepted as prayed for.
- Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, contended that the appellant alongwith DSP Muhammad Subhan colluded with the notorious criminal gang of Naseebo who was involved in heinous offences including the murder of Police Officer and utilized the services of Zarpayon Jan alias Bajjan of District Karak, a notorious gambler and runner of gambling den, and planned the surrender of the members of that gang. The appellant also facilitated the said gang in fake recovery of weapons snatched from the Police Officers after killing them with sole aim and motive of weakening the

100



prosecution of criminal cases registered against that gang. They intended to surrender before Police, however, they colluded with the police officials, DSP CTD Muhammad Subhan and the present appellant. Later on certain persons of the said gang surrendered themselves to the local police on 04.08.2016 and during their interrogation they disclosed contact with Muhammad Sadiq, the present appellant. He further contended that after conducting preliminary inquiry, the appellant was issued charge sheet and statement of allegations and proper departmental inquiry was conducted. He was given a chance of personal hearing and cross examining the witnesses but he could not prove his innocence and had rightly been dismissed from service. Learned DDA requested that the appeal might be dismissed with cost.

from the arguments and record presented before us it transpires that the appellant, who was serving as Head Constable at CTD Lakki Marwat, was arrested and put behind bur on 11.08.2016 on the basis of FIR No. 438 dated 20.07.2016 u/s 15AA/9CNSA registered at P.S Naurang, despite the fact that he was not directly charged in that FIR. He was arrested on the allegations that he, alongwith DSP Muhammad Subhan, colluded with the notorious criminal gang of Naseebo who were involved in heinous offences including the murder of police officer and utilized the services of Zarpayon Jan alias Bajjan of District Karak, a notorious gambler and runner of gambling den, and planned the surrender of the members of the gang. It was further alleged that the appellant alongwith the DSP also facilitated fake



recovery of the weapons belonging to the gang with the sole aim and motive of weakening the prosecution of criminal cases registered against them. According to a copy of an order dated 20.10.2016 signed by the DIG H.Q an inquiry was conducted through a committee comprising of Mr. Sher Akbar Khan, RPO, D.I.Khan and Mian Nasceb Jan, DPO Karak and the allegations were established against the appellant and the DSP Muhammad Subhan. Prior to that the appellant had been put under suspension and later on, after the charges against him were proved, he was compulsory retired from service from the date of his suspension. Charge sheet signed by the DIG/HQrs for Inspector General of Police, Khyber Pakhtunkhwa, Peshawar is available in the case file, however statement of allegations is missing to ascertain the composition of Inquiry Committee. It has been noted here that the order of compulsory retirement of the appellant has been passed by the DIG, HQ declaring himself the competent authority. Departmental appeal of the appellant has been decided by the Additional IGP/Hqrs. Both the officers have passed their respective orders for the Inspector General of Police, Khyber Pakhtunkhwa. Now a point worth consideration here is that the Police Department Delegation of Powers Rules 1958 have clearly defined the authorities for appointment, awarding punishment, appellate authorities; transferring authorities and so on in the schedule appended with it. The appellant was Head Constable at CTD Lakki Marwat and as per the rules, the authority competent to award the punishment of compulsory retirement appointing authority which the Assistant P.A.R/Superintendent of Police concerned. Appellate authority in this case is

The very

the Additional i.G. While going through the entire proceedings of the case, it was noted that in case of the appellant, order of compulsory retirement was passed by the DIG, HQ for LG Police, Khyber Pakhtunkhwa and the appellate order was passed by the Additional IG, HQ for IG Police Khyber Pakhtunkhwa, which apparently means that both the orders were passed by the same authority i.e. the Inspector General of Police Khyber Pakhtunkhwa. On the order passed by the DIG HQ, he has declared himself the competent authority for the appellant, which in this case is not correct as the appellant was a Head Constable at CTD Lakki Marwat and his competent authority was the Superintendent of Police concerned. Hence the entire proceedings become void in the light of Police Department Delegation of Powers Rules 1958. Above all a judgment dated 22.06.2022 of the Judge Anti Terrorism Court Banau División was presented before the bench according to which the appellant along with Muhammad Subhan were discharged from the case FIR No. 438 dated 20.07.2016 u/s 9-CNSA/109/120-B/203 PPC/15AA of P.S Naurang District Lakki Marwat for want of evidence.

- 7: In view of the above discussion, the appeal in hand is allowed as prayed for. Parties are left to bear their own costs. Consign:
- 8. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 10<sup>th</sup> January; 2023.

(FALEEHA PAUL)

Member (E) Certified to

ture copy

Service Tribunal

(ROZHVA REHMAN Member (J) 

#### OFFICE OF THE SUPERINTENDENT OF POLICE, COUNTER TERRORISM DEPARTMENT, BANNU REGION-I

No 4973-91

// Reader/CTD Dated /2\_

#### CONDITIONAL ORDER OF REINSTATEMENT

In compliance of judgement dated 10-01-23 passed by honourable Service Tribunal in Service Appeal No. 710/2017 and approved by the competent authority vide CPO Letter No. 3880/ legal dated 27-09-23 Muhammad Sadiq, Ex-Head Constable No. 961, then posted at DFU CTD PS Norang is hereby conditionally/ provisionally re-instated in service with all back benefits.

However, his reinstatement order will remain valid subject to the outcome of CPLA No. 159-P/2023 preferred by the department against the above mentioned judgment.

> (WAOAR AHMED KHAN) Superintendent of Police, CTD, Bannu Region-L

#### Copy of above is submitted to the:

- 1. Additional Inspector General of Police, CTD Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Inspector General of Police, Operations, CTD Khyber Pakhtunkhwa.
- 3. Deputy Inspector General of Police, CTFU, CTD, Khyber Pakhtunkhwa.
- 4. Registrar Service Tribunal.
- 5. AIG Legal CPO with reference to his office letter No. 3880/Legal dated 27.09,2023
- 6. DSP HQrs: CTD, Khyber Pakhtunkhwa, Peshawar.
- Accounts, EC, OASI, SRC.
- 8. Muhammad Sadiq.
- 9. All concerned.

VAOAR AHMED KHAN) Superintendent of Police, CTD, Banna Region-I.



CE (II)

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. // /2023
In Service Appeal No.710/2017

Muhammad Sadiq Ex-Constable, Police Line, Lakki Marwat.

petitioner

#### **VERSUS**

- 1. The Inspector General of Police, KPK, Peshawar.
- 2. The Deputy Inspector General of Police, CTD KP, Peshawar.
- 3. The Additional Inspector General of Police, CTD KP, Peshawar.
- 4. The District Police officer, Lakki Marwat.
- 5. The Regional Police Officer, Bannu Region Bannu.

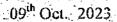
RESPONDENTS

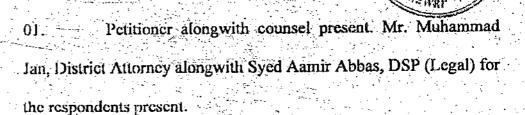
EXECUTION PETITION FOR DIRECTING THE RESPONDENTS TO IMPLEMENT THE JUDGMENT DATED: 10-01-2023 OF THIS HONOURABLE TRIBUNAL IN LETTER AND SPIRIT.

# RESPECTFULLY SHEWETH:

- 1. That the applicant/Petitioner filed Service Appeal No.710/2017 against the dismissal order.
- 2. That the said appeal was finally heard by the Honorable Tribunal on 10-01-2023 and the Honorable Tribunal is kind enough to accept the appeal vide judgment dated 10-01-2023 as prayed for. (Copy of judgment is attached as Annexure-A).
- 3. That the respondents were totally failed in taking any action regarded the Hon'able Tribunal Judgment dated 10-01=2023.







- 02.10.2023 vide which the words "with immediate effect" inserted in the order dated 28.09.2023 have been deleted. Order dated 02.10.2023 is placed on file and a copy whereof handed over to learned counsel for the petitioner who is satisfied with the revised order. Judgment of this Tribunal stand implemented. Salaries of the respondents No. 1 to 5 attached on 04.09.2023 are released. Consign.
- 03. Pronounced in open Court at Peshawar and given under my hand and the seal of the Tribunal on this 09th day of October, 2023.

(FAREEHA PAUL) Member(E)

Certified to be thre copy

Service Tribunal
Peshawas

Date of Presentation of Application.
Number of Word Application

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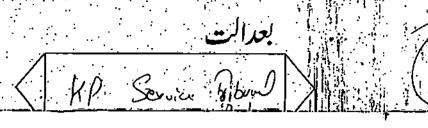
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Date of Delivery of Con

16/10/23







#### OFFICE OF THE, SUPERINTENDENT OF POLICE, COUNTER TERRORISM DEPARTMENT, CTD BANNU-I.

Ph: 0928-9270016, Email:spctdbannu@yandex.com No. <u>///</u> Acctt:/MTO/, dated <u>3///0/2023</u>

To,

The Additional Inspector General of Police,

Counter Terrorism Department (CTD),

Khyber Pakhtunkhwa Peshawar.

Subject:

RE STATEMENT OF EX-HC MUHAMMAD SADIO NO.961:

Memo:

961

It is submitted that EX-HC Muhammad Sadiq No.691 reinstatement vide AIG legal letter No.4973-81/Reader CTD on the subject cited above.

It is submitted that there is no vacancy of ASI/HC in this unit to adjust HC 401 Muhammad Sadiq No.691.

It is therefore requested that the salary of Muhammad Sadiq No.691 may kindly be transferred to any other District/unit in CTD Region, please.

(Waqar Ahmad Khan) Superintendent of Police, CTD Bannu-I

Additioned (90P) Had well of the parties of U.M.S. 20 U.M.S. 20 1/0/023







OFFICE OF THE, SUPERINTENDENT OF POLICE, COUNTER TERRORISM DEPARTMENT (CTD), BANNU-I.

Ph: 0928-9270016, Email:spctdbannu@yandex.com /SRC/OHC, dated / 7/10/2023 No.

To, The Additional Inspector General of Police,

Counter Terrorism Department (CTD), Khyber Pakhtunkhwa Peshawar.

Subject:

ORDER.

Мето:

Kindly refer to this office letter No.4984-92/Reader dated 02-10-2023 on the subject cited above.

Service record of EX-HC Muhammad Sadiq No.961 is required to this office for record.

It is therefore requested that service record of the above mentioned official may kindly be sent to this office please.

> (Waqar Khinad Khan) Superintendent of Police, CTD, Bannu-I





Office Of The

Additional Inspector Control of Police, Counter Terrorism Department (CID), Khyber l'akhtunkhwa, l'eshawar.

Ø# 091-9212518-19; ₩ 091-9212530. Dated

/EC/CTD/HQrs

To:

The Inspector General of Police Khyber Pakhtunkhwa

Peshawar.

Subject: REPATRIATION OF HEAD CONSTABLE

It is submitted that services of the Head Constable Muhammad Sadiq No. 961 of District Lakki Marwat presently posted on deputation basis in this Unit are no more required to this Unit.

It is therefore, requested that the transfer & posting order of above named Head Constable may kindly be issued, please.

-Sd-(SHAUKAT ABBAS) PEP Addl: Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar.

CC:

Copy of the above is forwarded for information to the: -

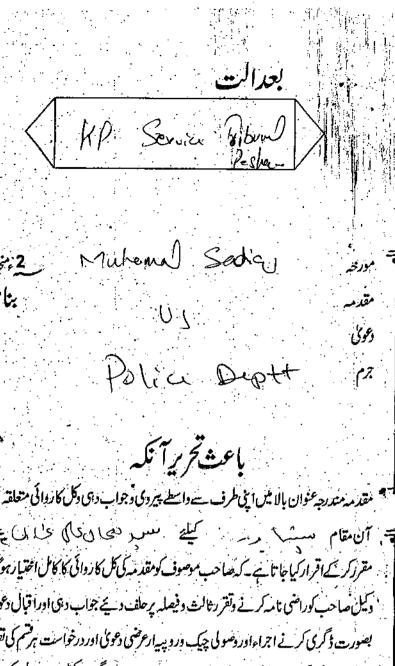
1. Superintendent of Police, CTD Bannu Region-I.

2. PSO to Additional Inspector General of Police CTD Khyber Pakhtunkhwa, Peshawar.

DIG CTD

For Addl: Inspector General of Police, CTD, Khyber Pakhtunkhwa, Peshawar





مقرر کرے اقرار کیاجا تا ہے۔ کہ صاحب موصوف کو مقد مدگی کل کا دوائی کا کا کل اختیار ہوگا۔ نیز

دیکن صاحب کوراضی نامہ کرنے وتقر رٹالٹ و فیصلہ پر حاف دیئے جواب دہی اورا قبال دعوی اور اقبال دعوی اور سورت و گری کرنے اجراء اور وصولی چیک ورو پیار عرضی دعوی اور درخواست ہر می کی تقد لین فررای پر دیخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا وگری کی ظرف یا پیل کی برامدگ اور منسوخی نیز دائر کرنے ایجل گرانی ونظر تائی و بیروی کرنے کا عثار ہوگا۔ از بصورت ضرورت مقدمہ نی وی عادی کا عثار ہوگا۔ از بصورت ضرورت نیز دائر کرنے ایجل گرانی ونظر تائی و بیروی کرنے کا عثار ہوگا۔ از بصورت ضرورت نیز دائر کرنے ایجل گرانی ونظر تائی وییروی کرنے کا عثار ہوگا۔ از بصورت نیز دائر کرنے ایجل گرانی ونظر تائی وییروی کرنے کا عثار ہوگا۔ اور صاحب مقرر شدہ کوجمی وہی جملہ ندگورہ با اختیارات حاصل ہوں گری سے اور اس کا ساختہ پر داختہ منظور وقبول ہوگا دوران مقدمہ میں جوئر چہ ہرجانہ التوائے مقدمہ کی سبب سے دہوگا۔ کو ل تاریخ بیشی مقام دورہ پر ہو یا حدسے باہر ہوتو دکیل صاحب پا برندہوں کے۔ کہ بیروی نہ کورکر ہیں۔ لہذا وکالت نامہ کھود یا کہ سندر ہے۔

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الرقوم

ماراف منتیفتوی مارت چوک منتظری چارزی ان 3220193 Mob: 0345-9223239 My hammay Sho