

18.12.2020

Mr. Fazal Shah Mohmand, Advocate, for appellant is present.

2. By way of the instant service appeal, the actions of respondents for keeping back the conveyance allowance, its deduction from the monthly pay of the appellant during the prevalence of summer and winter vacations, has been challenged, hitherto assailed through departmental appeal but to no avail thus a prayer was made directing the respondents not to make any deductions regarding the conveyance allowance during the vacations period and making payment of all outstanding amount/back benefits of the referred to allowance.

3. Learned counsel for the appellant placed reliance on the judgment of the Hon'ble Peshawar High Court, Peshawar, dated 1<sup>st</sup> of October, 2019, whereby it has been held that the pay of civil servant per mensem includes special pay, personal pay and other emoluments declared by the authority to be paid and that conveyance allowance is the integral part of pay. He submitted that in a judgment of Sindh Services Tribunal Karachi dated 23.12.2015 it has been held that vacations counts as duty and the civil servant in vacations departments are allowed to receive conveyance allowance during summer and winter vacations which are holidays and not leave of any kind.

4. Since it has been held consistently in categorical terms that conveyance allowance allowed to civil servants of vacation departments, is part and parcel of their pay, therefore, it cannot be separated from other emoluments to which they are held entitled, therefore, its deduction and consequent holding back during the sessions of summer and winter vacations is violation of law and rules in vogue, reliance is placed on judgment of this Tribunal vide Appeal No. 1452/2019 Captioned Maqсад Hayat Versus Government of Khyber Pakhtunkhwa decided on 11.11.2019, therefore, respondents are directed not to deduct conveyance allowance from the pay of appellant during the course of summer and winter vacations, respondents are also directed to give effect to the findings made above in its letter and spirit and in case of non-compliance the legal course of action is open to appellant. File be consigned to the record room.

ANNOUNCED

18.12.2020

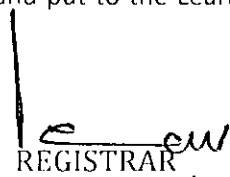

(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

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

Case No.- 14645 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/11/2020	<p>The appeal presented today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/12/2020</u></p> <p style="text-align: right;"> MEMBER(J)</p>
2-		

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2020

Mst.Sufia Afsar.....Appellant

**V E R S U S**

Govt. and Others.....Respondents

**I N D E X**

S. No	Description of Documents	Annexure	Pages
1.	Service Appeal		1-2
2.	Copy of Pay Slips	A	3-4
3.	Copy of departmental appeal	B	5
4.	Copies of Judgments	C	6-9
5.	Wakalat Nama		10

Dated:- 16-11-2020

  
Appellant

Through

  
Fazal Shah Mohmand  
Advocate Supreme Court

**OFFICE:-** Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell#  
0301 8804841

**Email:-** fazalshahmohmand@gmail.com

**Note:**

Spare copies will be provided after the admission of Service Appeal.

  
Advocate

①

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. 1464/2020

Mst. Sufia Afsar, Assistant Professor (Mathematics) (BPs-18) Govt. Girls Degree College Upper Chitral.....**Appellant**

Khyber Pakhtunkhwa  
Tribunal

Diary No. 15750

Dated 20/11/2020

**V E R S U S**

1. Govt. of KPK through Secretary Higher Education, Archives and Libraries Department Peshawar.
2. Director Higher Education, Govt. of Khyber Pakhtunkhwa Peshawar.
3. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa Peshawar.

.....**Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM THE APPELLANT DURING SUMMAR AND WINTER VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE TO THE APPELLANT MADE FROM HER IN THIS RESPECT, FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the Conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

Filed to-day

Registrar

20/11/20

**Respectfully Submitted:-**

1. That the appellant is serving as Assistant Professor (Mathematics) (BPs-18) Govt. Girls Degree College Upper Chitral in the respondent department and since then she performed her duties with honesty and full devotion with spotless service career.
2. That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and winter vacations in violation of **Rule 82 (b)** of the Fundamental Rules 1922, according to which **vacation counts as duty. (Copy of Pay Slip is enclosed as Annexure A).**
3. That the appellant approached respondents for directing respondents not to deduct and pay her the conveyance allowance

during summer and winter vacations with further directions to the respondents to pay the appellant the already illegally deducted amount in this regard, vide departmental appeal which has not been responded so far despite the lapse of the statutory period of ninety days. **(Copy of departmental appeal is enclosed as Annexure B).**

4. That this action of the respondents of not paying the appellant the conveyance allowance during the summer and winter vacations and not paying the appellant the illegally deducted amount in this respect, is against the law, facts and principles of justice on grounds inter alia as follows:-

**GROUND S:-**

- A. That the omissions and commissions of the respondents are illegal and void ab-initio.
- B. That **Rule 82 (b)** of the Fundamental Rules 1922, is very much clear on the point, according to which **vacation counts as duty**, hence deduction of conveyance allowance during the Summer and Winter vacations is illegal and against the **Rule 82 (b)** of the Fundamental Rules 1922.
- C. That even this issue was agitated before the Sindh Service Tribunal, Federal Service Tribunal and even before this honorable Tribunal which appeals were accepted and even that judgments have been implemented. **(Copy of Judgment is enclosed as Annexure C).**
- D. That the illegal deduction of the conveyance allowances during vacations cause monetary loss to the appellant and she is subjected to monetary loss illegally.

**It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.**

**Dated:- 16-11-2020**

  
**Appellant**  
(Mst. Sufia Afsar)

**Through**

  
**Fazal Shah Mohmand**  
**Advocate Supreme Court**

**Government of Khyber Pakhtunkhwa**  
**District Accounts Office Chitral**  
**Monthly Salary Statement (July-2020)**

3

"A"



**Personal Information of Miss SUFIA AFSAR d/w/s of AFSAR ALI**

Personnel Number: 00443968      CNIC: 1520208100054      NTN:  
 Date of Birth: 20.01.1983      Entry into Govt. Service: 15.04.2009      Length of Service: 11 Years 03 Months 018 Days

**Employment Category: Active Temporary**

Designation: ASSISTANT PROFESSOR      80001205-GOVERNMENT OF KHYBER PAKH  
 DDO Code: CL4264-  
 Payroll Section: 001      GPF Section: 005      Cash Center:  
 GPF A/C No: 443968      Interest Applied: Yes      **GPF Balance:**      586,266.00  
 Vendor Number: 30161580 - SUFIA AFSAR GGDC BOONI  
**Pay and Allowances:**      Pay scale: BPS For - 2017      Pay Scale Type: Civil      BPS: 18      Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	61,310.00	1000	House Rent Allowance	5,810.00
1916	UAA-CHITRAL 50%(17-22)	4,500.00	1947	Medical Allow 15% (16-22)	2,124.00
2148	15% Adhoc Relief All-2013	1,160.00	2199	Adhoc Relief Allow @10%	789.00
2211	Adhoc Relief All 2016 10%	4,088.00	2224	Adhoc Relief All 2017 10%	6,131.00
2247	Adhoc Relief All 2018 10%	6,131.00	2265	Adhoc Relief All 2019 05%	3,065.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3018	GPF Subscription	-5,360.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,692.00	4004	R. Benefits & Death Comp:	-1,350.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 27,065.03      Recovered till JUL-2020: 1,692.00      Exempted: 6765.76      Recoverable: 18,607.27

**Gross Pay (Rs.): 95,108.00      Deductions: (Rs.): -9,202.00      Net Pay: (Rs.): 85,906.00**

Payee Name: SUFIA AFSAR  
 Account Number: 03827900224101  
 Bank Details: HABIB BANK LIMITED, 220382 BUNY CHITRAL BUNY CHITRAL,

**Leaves:**      Opening Balance:      Aailed:      Earned:      Balance:

Permanent Address: VILL,BOONI P.O BOONI TEH; MASTUJ DISTT; CL  
 City: GGDC, CHITRAL      Domicile: NW - Khyber Pakhtunkhwa      Housing Status: No Official  
 Temp. Address:  
 City:      Email: sufiaafsar@gmail.com

**TESTED**  
**TO BE TRUE COPY**

Government of Khyber Pakhtunkhwa  
District Accounts Office Chitral  
Monthly Salary Statement (August-2020)

4



Personal Information of Miss SUFIA AFSAR d/w/s of AFSAR ALI

Personnel Number: 00443968 CNIC: 1520208100054 NTN:  
Date of Birth: 20.01.1983 Entry into Govt. Service: 15.04.2009 Length of Service: 11 Years 04 Months 018 Days

Employment Category: Active Temporary

Designation: ASSISTANT PROFESSOR 80001205-GOVERNMENT OF KHYBER PAKH

DDO Code: CL4264-

Payroll Section: 001 GPF Section: 005 Cash Center:  
GPF A/C No: 443968 Interest Applied: Yes GPF Balance: 591,626.00

Vendor Number: 30161580 - SUFIA AFSAR GGDC BOONI  
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 18 Pay Stage: 8

Wage type		Amount	Wage type		Amount
0001	Basic Pay	61,310.00	1000	House Rent Allowance	5,810.00
1210	Convey Allowance 2005	5,000.00	1916	UAA-CHITRAL 50%(17-22)	4,500.00
1947	Medical Allow 15% (16-22)	2,124.00	2148	15% Adhoc Relief All-2013	1,160.00
2199	Adhoc Relief Allow @10%	789.00	2211	Adhoc Relief All 2016 10%	4,088.00
2224	Adhoc Relief All 2017 10%	6,131.00	2247	Adhoc Relief All 2018 10%	6,131.00
2265	Adhoc Relief All 2019 05%	3,065.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3018	GPF Subscription	-5,360.00	3501	Benevolent Fund	-800.00
3609	Income Tax	-1,879.00	4004	R. Benefits & Death Comp:	-1,350.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 29,815.00 Recovered till AUG-2020: 3,571.00 Exempted: 7453.70 Recoverable: 18,790.30

Gross Pay (Rs.): 100,108.00 Deductions: (Rs.): -9,389.00 Net Pay: (Rs.): 90,719.00

Payee Name: SUFIA AFSAR  
Account Number: 03827900224101  
Bank Details: HABIB BANK LIMITED, 220382 BUNY CHITRAL BUNY CHITRAL,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL;BOONI P.O BOONI TEH; MASTUJ DISTT; CL  
City: GGDC, CHITRAL Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official  
Temp. Address: City: Email: sufiaafsar@gmail.com

ATTESTED  
TO BE TRUE COPY

5 CO B4

**BEFORE THE SECRETARY HIGHER EDUCATION,  
ARCHIVES AND LIBRARIES DEPARTMENT, KPK  
PESHAWAR**


**Subject:- Departmental Appeal for the payment  
of Conveyance Allowance during Summer and  
Winter vacations and declaring the deduction of  
the same as illegal and unlawful**

**Respectfully Submitted:-**

1. That the appellant is serving as Assistant Professor (Mathematics) (BPs-18) Govt. Girls Degree College, Upper Chitral and the department in which she is serving is vacation department wherein the conveyance allowance cannot be deducted as per law and rules. Even the deduction of conveyance has been declared illegal by the Service Tribunal in many appeals. The deduction of conveyance allowance as such during summer and winter vacations is illegal and the appellant is entitled to be paid the deducted amount in this respect.

**It is therefore prayed that on acceptance of this appeal, Conveyance Allowance during summer and winter vacations may not be deducted from the appellant and pay back the appellant the deducted amount in this respect.**

Dated:- 27-07-2020

  
**Mst. Sufia Afsar**  
Assistant Professor (Mathematics)  
(BPs-18) Govt. Girls Degree College  
Upper Chitral.

**ATTESTED  
TO BE TRUE COPY**



-6 - "C"



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 1452 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1500

Dated 24/10/2019

Mr. Maqсад Hayat, SCT (BPS-16),  
GHS Masho-Gagar, Peshawar.....

**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 5- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

**RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ACTION OF THE RESPONDENTS BY ILLEGALLY AND UNLAWFULLY DEDUCTING THE CONVEYANCE ALLOWANCE OF THE APPELLANT DURING WINTER & SUMMER VACATIONS AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the respondents may kindly be directed not to make deduction of conveyance allowance during vacations period (Summer & Winter Vacations) and make the payment of all outstanding amount of Conveyance allowance which have been deducted previously with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day  
Registrar  
24/10/19

**R/SHEWETH:  
ON FACTS:**

- 1- That the appellant is serving in the elementary and secondary education department as Certified Teacher (BPS-15) quite efficiency and up to the entire satisfaction of the superiors.
- 2- That the Conveyance Allowance is admissible to all the civil servants and to this effect a Notification No. FD (PRC) 1-1/2011 dated 14.07.2011 was issued. That later on vide revised Notification dated 20.12.2012 whereby the conveyance allowance for employees

Re-submitted to-day  
24/10/19

13

Appeal No. 1452/2019  
Marbad Hayat vs Govt



11.11.2019

Counsel for the appellant present.

Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.

Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.

The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.

In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.

File be consigned to the record.

Date of Presentation of Judgment to the Chairman: 11.2.2019

Number of Words: 800

ANNOUNCED Copying Fee: 10 -

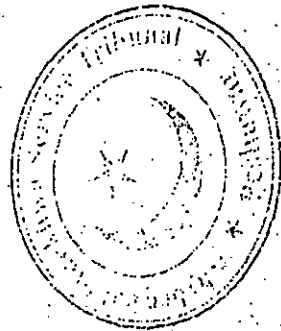
11.11.2019 Urgent: 4 -

Total: 14 -

Amount of Rs. 14/-

ATTESTED  
TO BE TRUE COPY

ATTESTED  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No 3823/2020

Shad Ali, Primary School Teacher, Govt. Primary School Ahmad Gul Banda District Mardan.....**Appellant**

Khyber Pakhtunkhwa Service Tribunal

Diary No. 2702

Dated 24/4/20

**V E R S U S**

1. Director Elementary and Secondary Education, KPK Peshawar.
2. District Education Officer (Male) Mardan.
3. Secretary, Elementary and Secondary Education, KPK Peshawar.
4. Govt. of Khyber Pakhtunkhwa through Secretary Finance Department, Peshawar.
5. Accountant General, Khyber Pakhtunkhwa Peshawar.

.....**Respondents**

Filed to-day

Registrar  
24/4/20

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ACTION OF RESPONDENTS OF ILLEGALLY DEDUCTING CONVEYANCE ALLOWANCE FROM THE APPELLANT DURING SUMMAR AND WINTER VACATIONS AND PAYMENT OF DEDUCTED AMOUNT MADE TO THE APPELLANT MADE FROM HIM IN THIS RESPECT, FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:-**

Resubmitted to-day  
Registrar

On acceptance of this appeal the respondents may kindly be directed not to deduct from the appellant the Conveyance allowance during the summer and winter vacations and pay the appellant the illegally deducted amount in this respect.

27/4/20

**Respectfully Submitted:-**

**ATTESTED**  
TO BE

1. That the appellant is serving in the respondent department and since then he performed his duties with honesty and full devotion with spotless service career.

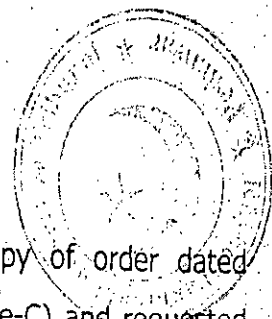
**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

2. That the department in which the appellant is serving is vacation department and the conveyance allowance is deducted from the appellant during summer and Winter vacations in violation of Rule 82 (b) of the Fundamental Rules 1922, according to which vacation counts as duty. (Copy of Pay Slip is enclosed as

03.05.2020

-9-



Counsel for the appellant present.

1. At the outset learned counsel referred to copy of order dated 11.11.2019 passed in Appeal No. 1452/2019 (annexure-C) and requested for disposal of instant appeal also in terms of the order.
2. It shall be useful for the purpose to reproduce hereunder the contents of referred order dated 11.11.2019:-

*"Learned counsel referred to the judgment passed by learned Federal Service Tribunal in Appeal No. 1888(R)CS/2016 which was handed down on 03.12.2018. Through the said judgment the issue of payment of Conveyance Allowance to a civil servant during summer and winter vacations was held to be within his entitlement and the deduction already made from him was to be reimbursed. Similar reference was made to the judgment by Honourable Peshawar High Court passed on 01.10.2019 in the case of appellant.*

*Learned counsel, when confronted with the proposition that the issue, in essence, was dilated upon by the Federal Service Tribunal and, more particularly, by the Honourable Peshawar High Court in the case of appellant, stated that in case the respondents are required to execute the judgment of Peshawar High Court, the appellant will have no cavil about disposal of instant appeal.*

*The record suggests that while handing down judgment in the Writ Petition preferred by the appellant, the Honourable High Court not only expounded the definition of "Pay" as well as "Salary" but also entitlement of a civil servant for the Conveyance Allowance during the period of vacations. It is important to note that the respondents were represented before the High Court during the proceedings.*

*In view of the above noted facts and circumstances and in order to protect the appellant from a fresh round of litigation which may protract over a formidable period, the appeal in hand is disposed of with observation that the judgment of Honourable Peshawar High Court passed in Writ Petitions including W.P. No. 3162-P/2019 shall be honoured and implemented by the respondents within shortest possible time. The appellant shall, however, be at liberty to seek remedy in accordance with law in case his grievance is not redressed by the respondents within a reasonable time.*

*File be consigned to the record."*

3. Having identical features instant appeal is disposed of accordingly.  
File be consigned to the record.

Chairman

ANNOUNCED

*Certified to be true copy*  
  
Khaydar Khatun  
Service Tribunal,  
Peshawar

ATTESTED  
TO BE TRUE COPY

(10)

**VAKALATNAMA**

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No. \_\_\_\_\_/2020

Mst: Sufia Afsar .....Appellant

**VERSUS**

Govt. and others ..... Respondents

I/We, the undersigned, do hereby appoint and constitute **Fazal Shah Mohmand** Advocate Supreme Court & **Rabia Muzaffar** Advocate Peshawar. To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned Advocate, wherever he may think fit to do so.

AND I/We hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I/We also hereby agree not to hold the Advocate or his substitute responsible for the result of the said matter in consequence of his absence from the Court when the said matter is called up for hearing. I/We further hereby agree that in the event for the whole or any part of the fee to be paid to the Advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 18-11-2020

**ACCEPTED BY:**



**FAZAL SHAH MOHMAND**  
Advocate,  
Supreme Court of Pakistan.



CLIENT(S)

&

**ACCEPTED BY:**



**RABIA MUZAFFAR**  
Advocate Peshawar.



**ZIA UD DIN**  
Advocate Peshawar.

OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841.  
(Clerk) Cell# 03339214136  
Email: - fazalshahmohmand@gmail.com.