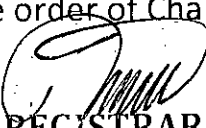


Form- A

FORM OF ORDER SHEET

Court of _____

Implementation Petition No. 285/2024

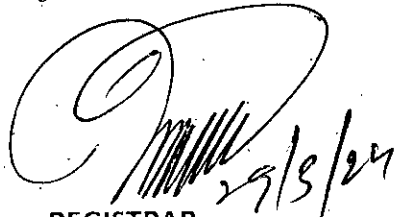
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.04.2024	<p>The implementation petition of Mr. Nawab Ali & Others submitted today by Mr. Kifayat Ullah Advocate. It is fixed for implementation report before Single Bench at Peshawar on .Original file be requisitioned. AAG has noted the next date. Parcha Peshi given to counsel for the Petitioners.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The joint execution petition in appeal no. 220/2023 received today i.e. on 28.03.2024 is returned to the counsel for the petitioner with the following remarks.

- 1- A copy of application moved by the petitioners to competent authority for the implementation of judgment is not attached with the petition. If the application has already been preferred and reasonable period of 30 days has been expired be placed on file, If not, the same process be completed and then after approach to this Tribunal for the implementation of Judgment.
- 2- The some documents have repeatedly been attached with the petition be removed.

No. 714 /S.T,

Dt. 29/3 /2024.


REGISTRAR
KHYBER PAKHTUNKWA
SERVICE TRIBUNAL
PESHAWAR

Kifayat ullah Shahabkhel Adv.
High Court Peshawar.

*objections resolved by
the counsel for
petitioners, Kifayat ullah Shahabkhel
AHC. SA*

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

Execution Petition

Service Appeal No. 220/2023

No-285/2024

Date of Judgment: 14/02/2024

NAWAB ALI

******* VERSUS *******

HAMEED UR REHMAN

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S#	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
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3	Copy of Appeal against the order dated 29/09/2022 of Ali Akber	"B"	13-14
4	Copy of Appeal against the order dated 29/09/2022 of Nisar Ali	"C"	15-16
5	Copy of Application to I.G, KP, Peshawar dated 06/03/2024 of Nisar Ali	"D"	17-18
6	Copy of Application to I.G, KP, Peshawar, dated 06/03/2024 of Nawab Ali	"E"	19-20
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Dated:

PETITIONERS

Through

SA
Kifayat Ullah Shahabkhel

Advocate, High Court,
Peshawar.

10

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

Execution Petition

Service Appeal No: 220/2023 *No 285/2024*
Date of judgment: 14/02/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. *11955*

Date *28-03-2024*

1. Nawab Ali S/o Shamsheer Khan R/o Bara Road
Sangu Peshawar presently Chief Head Warder BPS-
11 Central Jail, Peshawar
2. Nisar Ali, Assistant Superintendent, Central Jail,
Peshawar
3. Ali Akbar, Employee of Central Jail, Peshawar

.....**Petitioners/Appellants**

V E R S U S

1. Hameed Ur Rehman, Inspector General of Prisons
Khyber Pakhtunkhwa, Peshawar.
2. Home Sectary Khyber Pakhtunkhwa, Peshawar.

.....**Respondents**

**PETITION FOR EXECUTION/
IMPLEMENTATION OF THE
JUDGMENT DATED 14/02/2024
PASSED BY THIS HON'BLE
TRIBUNAL, IN LETTER AND SPIRIT
AND INITIATING PROCEEDINGS
AGAINST THE RESPONDENTS FOR
NOT HONORING THE JUDGMENT
PASSED BY THIS HON'BLE
TRIBUNAL**

Respectfully Sheweth:

1. That the petitioner had presented the service appeal in this Hon'ble Tribunal and this Hon'ble Tribunal vide judgment dated 14/02/2024 had accepted with the observations that:

“The Service Appeal in hand, as well as all the connected appeals, is allowed. Order dated 29/09/2022 is set aside. Appellants Mr. Nawab Ali, Mr. Nisar Ali and Mr. Ali Akbar are reinstated into service with all back benefits. In case of Mr. Rooh Ullah, the impugned orders are set aside and the appellant's service position is restored as prayed for”

(Copy of judgment dated 14/02/2024 is attached as Annexure-A)

2. That the petitioner provided the copy of the judgment dated 14/02/2024 to the respondents as well as through proper channel by this Hon'ble Tribunal for implementation but they

delaying the matter on one pretext to another and depriving the petitioner from the fruits of the judgment dated 14/02/2024.

3. That the petitioner having no other alternate remedy for impalement of judgment dated 14/02/2024 in letter and spirit except to knock the door of this Hon'ble Tribunal.
4. That the petitioner tired to make them see light of reason and implement the judgment passed by this Hon'ble Tribunal in letter in spirit but same proved as cry in the wildness, the said conduct of respondent falls within the mischief of law of COC and disobedience of Court orders, duly explained by the August Superior Court of Pakistan.
5. That any other grounds will be raised at time of arguments with prior permission of this Hon'ble Court.

It is, therefore most humbly requested that on acceptance of this execution petition the respondents may kindly be directed to implement the judgment dated 14/02/2024

u

be initiated against the respondents and punished . them under the relevant provisions of law.

Any other relief which this Hon'ble Tribunal deems appropriate may also be awarded to the petitioner.

Petitioners

Through



Kifayat Ullah Shahabkhel
Advocate, High Court
Peshawar

Date: 26/03/2024

5

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

Service Appeal No: 220/2023
Date of judgment: 14/02/2024

Nawab ali **VERSUS** Hameed Ur Rehman etc

AFFIDAVIT

I, Nawab Ali S/o Shamsheer Khan R/o Bara Road Sangu Peshawar presently Chief Head Warder BPS-11 Central Jail, Peshawar, do hereby solemnly affirm and declare on oath that the contents of accompanying **Implementation/Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal, intentionally.

Identified by



Kifayat Ullah Shahabkhel
Advocate, High Court,
Peshawar

Kif
DEPONENT



26 MAR 2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



Service Appeal No. 220/2023

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

Nawab Ali S/O Shamsheer Khan, R/O Bara Road Sangu Peshawar,
presently Chief Head Warder BPS- 11 Central Jail, Peshawar.
..... (Appellant)

Versus

1. Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar.
2. Home Secretary Khyber Pakhtunkhwa, Peshawar.
.....(Respondents)

Mr. Kifayatullah Shahabkhel, ... For appellant
Advocate

Mr. Asif Masood Ali Shah, ... For respondents
Deputy District Attorney


Date of Institution..... 13.01.2023
Date of Hearing..... 14.02.2024
Date of Decision..... 14.02.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): Through this single judgment, we intend to dispose of instant service appeal as well as connected service appeal No. 221/2023 titled "Ali Akbar Versus IG Prison, Khyber Pakhtunkhwa Peshawar etc.", service appeal No. 222/2023, titled "Nisar Ali Versus IG Prisons Khyber Pakhtunkhwa Peshawar etc." and service appeal No. 273/2023, titled "Rooh Ullah Versus Government of Khyber Pakhtunkhwa through Secretary Home, Civil Secretariat, Peshawar etc.", as in all the appeals, common questions of law and facts are involved.


ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

2. The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 29.09.2022, whereby the appellant was compulsory retired from service. It has been prayed that on acceptance of the appeal, the impugned order 29.09.2022 might be set aside and he might be reinstated into service with back benefits.
3. Brief facts of the case, as given in the memorandum of appeal, are that the appellant, while serving as Warder BPS-11 in the Central Prison, Peshawar, was deputed for the security of MPA Mr. Faisal Zaman, against whom there was allegation of murder, at Room No. 11 MPA Hostel Peshawar, which was declared Sub Jail. The prisoner escaped from the sub jail on 22.04.2022. As a result of that incident, the appellant was compulsory retired from service vide order dated 29.09.2022. Feeling aggrieved from the said order, he approached the Secretary to Government of Khyber Pakhtunkhwa, Home Department, through his departmental appeal but the same was not decided within the stipulated period; hence the instant service appeal.
4. Respondents were put on notice who submitted their joint written reply/comments on the appeal. We 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.
5. Learned counsel for the appellant, after presenting the case in detail, argued that on the relevant day, the appellant performed duty

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

from 8.00 A.M to 1.00 PM, whereas the incident of escape took-place at about 04.31 P.M, the time on which he was not on duty. He further argued that there was no instruction from the high ups regarding the access of the driver and personal security guard of MPA Faisal Zaman to his room, the sub jail and they frequently visited him. He further argued that he was guarding the front side of the room whereas it had a door and a balcony at its back side and the security of the back side of the room was not in the domain of the appellant. There were no orders from the authority to have access of the security staff of prison inside the room of the MPA. He further argued that the said MPA, secretly and with the connivance of his driver and personal security guard, escaped from the sub jail through back door. Learned counsel argued that according to the Khyber Pakhtunkhwa Prison Rules 2018, the appellant was bound for the internal security only and the police, as per law, had the authority for external security and transfer of the said MPA from the sub jail to the Provincial Assembly or the court of law. According to him, the moment the escape of the MPA was noted, the matter was timely reported to other officials present in the MPA hostel. CCTV footage was seen whereby it was clearly noted that the MPA Faisal Zaman escaped with his personal security guard and his driver due to the negligence of the security on the main gate of MPA hostel. He requested that the appeal might be accepted as prayed for.

6. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that Government of Khyber

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 Service Tribunal
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Pakhtunkhwa vide Home and Tribal Affairs Department declared Sub Jail at MPA Hostel Room No.11, Block-D, for confinement of the accused Faisal Zaman MPA, where he was shifted on 31.03.2022. For the purpose of duty, one Assistant Superintendent Jail Nisar Ali Khan Incharge Sub Jail, alongwith one Chief Head Warder namely Mr. Nawab Ali and 03 other warders namely Kashif, Rooh Ullah and Ali Akbar were deployed to perform further duty at the Sub Jail. He contended that due to the gross negligence and inefficiency in the performance of their duties on 22.04.2022, at about 04:31 PM, the accused MPA Faisal Zaman escaped from Sub Jail. The learned DDA argued that the appellant was on duty at the time of escape and he was required to monitor every act of the accused strictly and to have vigilant eye on his activities, but he failed to perform his assigned duties as per norms of the Khyber Pakhtunkhwa Prison Rules, 2018. According to him, the appellant also failed to inform the police staff timely for its prevention. He requested that the appeal might be dismissed.

7. From the arguments and record presented before us, it transpires that the appellants were deputed by the Superintendent Central Prison, Peshawar to perform duties at Room No. 11 of the MPA Hostel at Peshawar, which was declared as sub-jail for detention of an MPA, Mr Faisal Zaman, who was an under trial prisoner. On 22.04.2022, the prisoner escaped, as a result of which an inquiry was conducted and five officials of the Prison Department were proceeded against and penalties were imposed vide an order dated 29.09.2022 as follows:-

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 Service Tribunal
 Peshawar

S#	Name of officer/officials	Penalty awarded
1.	Mr. Nisar Ali, Assistant Superintendent Jail (BPS-16)	Compulsory retirement from service with immediate effect
2.	Mr. Nawab Ali, Chief Head Warder (BPS-11)	Compulsory retirement from service with immediate effect
3.	Muhammad Kashif S/O Fazal Mir, Warder (BPS-07)	Reduction to lower stages in time pay scale for a period of 03 years without cumulative effect.
4.	Roohullah S/O Shakirullah, Warder (BPS-07)	Reduction to lower stages in time pay scale for a period of 03 years without cumulative effect.
5.	Ali Akbar S/O Bakht Muhammad Khan Warder (BPS-07)	Removal from service with immediate effect


8. Out of the above five officials, service appeal of four officials namely Nawab Ali, Ali Akbar, Nisar Ali and Rooh Ullah are before us. After going through the record in all the appeals and the documents presented by the respondents, it appears that five officials of the Prison Department were deputed to perform duty at the sub-jail but no specific job description and duty rota was there in order to determine the nature of duty to be performed by every official, along with the time and duty hours. This point has been highlighted by the learned Judicial Magistrate-IV Peshawar also in his judgment dated 30.01.2023 wherein he has raised the point as follows:-

".....here the point of consideration is that whether the accused facing trial being public servants were deputed to hold the custody of absconding accused or otherwise, thus, after deep scrutiny of the record, this court holds that

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

there is nothing available on file in written form which may show that the accused facing trial being public servants were deputed to hold the lawful custody of absconding co-accused at the time of his escape. No order etc regarding the deployment of accused facing trial issued by Superintendent Jail or any competent authority is there on record-----."

The inquiry officer, in his report, has identified numerous loopholes in the security of facility that was declared as sub-jail. The question is whether it was the responsibility of the officials of the Prison Department deputed there or it was a task to have been looked into by the provincial government before declaring Room No. 11 of the MPA Hostel as sub-jail? Moreover as far as the security of the prison is concerned there are more than one tier/cordon and ultimately at the outermost level, there is the Police. The Inquiry Officer, in his report has identified that there was District Police Squad under the charge of Sub-Inspector Haroon deployed for providing the security to the sub-jail. He has also identified that there were no CCTV cameras in the corridors, rooms and around the building of the MPA Hostel to fully monitor the movement of the prisoner. Negligence of police deployed for security has also been highlighted by him. In the light of all the shortcomings identified by the Inquiry Officer in his report, one fails to understand that how the competent authority held the appellants responsible for escape of the Prisoner?

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

9. In view of the above discussion, the service appeal in hand, as well as all the connected appeals, is allowed. Order dated 29.09.2022 is set aside. Appellants Mr. Nawab Ali, Mr. Nisar Ali and Mr. Ali Akbar are reinstated into service with all back benefits. In case of Mr. Rooh Ullah, the impugned orders are set aside and the appellant's service position is restored as prayed for. Cost shall follow the event. Consign.

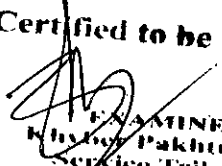
10. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 14th day of February, 2024.


(FAREEHA PAUL)
Member (E)


(RASHIDA BANO)
Member (J)

Fazle Subhan, P.S

Date of Presentation of Application 27-3-24
 Number of Words 77
 Copying Fee 300/-
 Urgent 300/-
 Total 600/-
 Name of Copy _____
 Date of Completion of Copy 27-3-24
 Date of Delivery of Copy 27-3-24

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 EXAMINER
 Khush Pakhtkhwa
 Service Tribunal
 Peshawar

13

**BEFORE THE HONORABLE SERVICE
TRIBUNAL KHYBER PAKHTUNKHWA,**

1

PESHAWAR

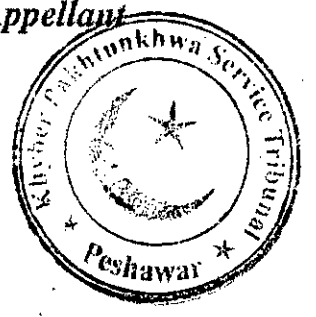
Appeal no. 221/2023

Ali Akber S/O Bakhat Muhammad Khan R/O Alabad Charbagh District Swat,
warder BPS-7 Central Jail Peshawar

..... *Appellant*

Versus

1. IG Prison KP, Peshawar
2. Home secretary KP, Peshawar



.....*Respondents*

Appeal against the impugned order dated 29/09/2022 whereby the appellant is removed from services.

“It is most humbly prayed before your honor that upon acceptance of this appeal the impugned order dated 29/09/2022 may kindly be set aside and the appellant ^e removed from service me kindly be reinstated on his services with back benefits”

Respectfully Sheweth,

1. That the appellant ,warder BPS-07 central jail, Peshawar was deputed for the security of MPA Faisal Zaman at Room No. 11 MPA hostel Peshawar which was made a Sub Jail for the reason because of murder allegations against him.
2. That an unfortunate incident occurred whereby the MPA Faisal Zaman escaped from the sub jail / room No.11 MPA Hostel Peshawar.
3. That the appellant is removed from his services due to the above mentioned incident which is against law and justice. (Copy of order is attached).

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[Signature]
EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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S.A 221/2023

Ali Akbar vs Govt



14th Feb. 2024 01. Mr. Kifayatullah, Advocate for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 07 pages in connected service appeal No. 220/2023 titled "Nawab Ali Versus Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar and others", the appeal in hand is allowed. Order dated 29.09.2022 is set aside and the appellant is reinstated into service with all back benefits. Cost shall follow the event.

Consign.

03. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of February,

2024.

(FAREENA PAUL)
Member (B)

(RASHIDA BANO)
Member (J)

Fazal Subhan PS

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 27-3-24
Number of Words Page 2
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Urgent 5/-
Total 15/-
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Date of Delivery of Copy 27-3-24

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**BEFORE THE HONORABLE SERVICE
TRIBUNAL KHYBER PAKHTUNKHWA,**

PESHAWAR A.No. 222/2023

Nisar Ali S/o Saeed Ur Rehman R/o Shabqadar Barozai Tehsil Shabqadar District
Charsadda (Assistant Superintendent) Jail BPS-16 Peshawar.

..... Appellant

Versus

1. IG Prison KP, Peshawar
2. Home secretary KP, Peshawar



..... Respondents

**Appeal against the impugned order dated 29/09/2022 whereby
the appellant was compulsory retired from his service.**

“It is most humbly prayed before your honor that upon acceptance of this appeal the impugned order dated 29/09/2022 may kindly be set aside and the appellant is removed from service me kindly be reinstated on his services with back benefits”

Respectfully Sheweth,

1. That the appellant, Assistant Superintendent Jail BPS-16 Central Jail Peshawar was deputed for the security of MPA Faisal Zaman at Room No. 11 MPA hostel Peshawar which was made a Sub Jail for the reason because of murder allegations against him.
2. That an unfortunate incident occurred whereby the MPA Faisal Zaman escaped from the sub jail / room No.11 MPA Hostel Peshawar.

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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S.A 222/2023 , Nisar AS



14th Feb. 2024 01. Mr. Kifayatullah, Advocate for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 07 pages in connected service appeal No. 220/2023 titled "Nawab Ali Versus Inspector General of Prisons Khyber Pakhtunkhwa, Peshawar and others", the appeal in hand is allowed. Order dated 29.09.2022 is set aside and the appellant is reinstated into service with all back benefits. Cost shall follow the event.

Consign.

03. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of February,

2024.

(FAREEM PAUL)
Member (I)

(RASHIDA BANO)
Member(J)

Fazal Subhan PS

Date of Presentation of Application 27-3-24
Number of Words Page 2
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Total 15/-
Name of Copy -
Date of Completion 27-3-24
Date of Delivery of Copy 27-3-24

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

بحریت فباب آٹھ میں جو ان کے فیض پر جو کچھ لکھا ہے

در فرائض لکھا ہے اور ان میں سے جو کچھ لکھا ہے



فباب عالی! سائل جب ذیل طرف سے ارسال ہے۔

① آٹھ سائل میں سے ایک سے زیادہ سب محکمہ تعلیمات میں ارسال کرو۔
ڈیوٹن سہرا انجام دیو جائے۔

② آٹھ سائل میں سے ایک سے زیادہ سب محکمہ تعلیمات میں ارسال کرو۔
ڈیوٹن سہرا انجام دیو جائے۔

③ آٹھ سائل میں سے ایک سے زیادہ سب محکمہ تعلیمات میں ارسال کرو۔
ڈیوٹن سہرا انجام دیو جائے۔

④ آٹھ سائل میں سے ایک سے زیادہ سب محکمہ تعلیمات میں ارسال کرو۔
ڈیوٹن سہرا انجام دیو جائے۔

⑤ آٹھ سائل میں سے ایک سے زیادہ سب محکمہ تعلیمات میں ارسال کرو۔
ڈیوٹن سہرا انجام دیو جائے۔

عین نوادر سے بہت

۱۸۰۰ (۱۸۰۰) ۶۰۳۰۵

آریکا مالو فرمان A.S. شار علی خان سید صاحب

فونڈ ۱۵۹۶۹۸۸۴ ۵۳۵۱

ATTESTED
AA

5399
6-3-24

بدرت بندہ آئی جی م. جب؟ بلکہ انہیں بات اور لبر ٹیمپورری ٹیمپورری اور

درخواست بلکہ اور ڈی ایچ ای اور ٹیمپورری اور ٹیمپورری اور ٹیمپورری اور

مناب عمال

مسائل حسب ذیل طرز فیما رسال ہے

۱۔ یہ کہ مسائل کوئی عملیہ ہے آپ کے ذہن میں کیا ہے؟ بلکہ انہیں بات میں
بظور صیغہ ہے اور ڈی ایچ ای اور ٹیمپورری اور ٹیمپورری اور ٹیمپورری اور

۲۔ یہ کہ مورخہ $\frac{4}{2022}$ در MPA جو کہ سب سے پہلے MPA سے مسائل
سے فرار ہوا تھا۔ جو کہ خود بخود ہی متاثر ہے میں معلوم تھا۔ اور اسے
جہ سے مسائل؟ بہتر دیکھ کر دیکھا تھا۔

۳۔ یہ کہ بلکہ انہیں بہتر دیکھ کر دیکھا تھا۔ جو کہ سب سے پہلے
کے آئی۔ جو کہ مسائل کے وقت میں انہیں دیکھا تھا اور یہاں
اور مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں
۴۔ یہ کہ مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں
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۶۔ یہ کہ مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں

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۸۔ یہ کہ مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں
۹۔ یہ کہ مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں
۱۰۔ یہ کہ مسائل کے بعد انہیں جو ڈی ایچ ای میں انہیں دیکھا تھا اور یہاں

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یہ لکھنا شروع کیا ہے۔ ان کے ذہنی ڈھنگ پر ایمان رکھنے
سوائے ان کے دادا اور اسی فرما کر جانے
سوائے سوائے سوائے سوائے سوائے سوائے سوائے
دعا کر رہا ہے

عسین نور زینت بیگم
عرض کنندہ

ایڈوانس ایف بی سی پروفیسر اور ڈیڑھ گھنٹہ کی کلاس
نمبر 12345

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کونزہ اسٹور میں گنہ سائن کر رہے ہیں اور گاہکوں کو سائن

کے داد میں سے کچھ سائن کر رہے ہیں اور گاہکوں کو سائن

بھر دیا گیا ہے۔
عمر زور شاہی

عمر زور شاہی

ادباً باقی رہا اور دراصل اس کے سائن کر رہے ہیں اور

عمر زور شاہی 97-9896 0315

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TESTED
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