

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD**

In S.A No.487/24

Zulfiqar Ahmed

**V**ersus

Govt of KPK through Secretary Elementary Secondary  
Education & Others.

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Dated:18.04.2024

*Zulfiqar Ahmed*  
Respondent No.4

*Kabir Ullah Khatta*  
Kabir Ullah Khatta K  
Advocates, High Court,  
Peshawar.

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD**

In S.A No.487/24

Zulfiqar Ahmed

**Versus**

Govt of KPK through Secretary Elementary Secondary  
Education & Others.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12294

Dated 19/4/24

**WRITTEN COMMENTS ON BEHALF OF RESPONDENT  
NO.4 NAMELY ARSHAD MASOOD**

**Respectfully Sheweth,**

That the Respondent No.4 humbly submitted as under:-

**Preliminary Objections:**

1. That the appellant has no cause of action and locus standie to filed the instant service appeal.
2. The Appellant has concealed material facts from this August Tribunal and had not come to this Hon'ble court with clean hands.
3. That the Appellant has stopped by his own conduct to file the instant appeal.

- (2)
4. That the instant service appeal is not maintainable and its present form.
  5. That the appeal of the appellant is no maintainable in its present forum on the ground of mis-joinder and non-joinder of necessary parties.
  6. That the appellant has not claim any right of posting in a particular post as such according to section 10 of the Khyber Pakhtunkhwa Civil Servant Act 1973, a Civil Servant can be transferred to anywhere of the province.
  7. That the transferred order dated 06.05.2023 has no legal value as such it has been passed by incompetent authority.
  8. That the impugned transferred order No. SO(MC)E&SED/4-16/2024/PT/MC/SDEO dated 21.03.2024 and rejection order dated 01.04.2024 has been passed according to law and rules.

**ON FACTS:-**

1. The Para No.1 is pertains to record.
2. That Para No. 2 pertains to record. However, the transferred order dated 6.05.2023 has

(3)

been passed by incompetent authority thus having no legal value.

3. That Para No.3 is pertains to record however every civil servant / employee is legally bound to performed his duty according to law and rules and for the entire satisfaction of his superiors, transfer/posting is part of service and according to section-10 of civil servant Act, 1973, every civil servant can be transferred to anywhere of the Province. Moreover at the year of 2021 a departmental inquiry was initiated against the appellant by the respondents departments. **(Copies of notification dated 08.09.2021 and inquiry report are attached as annexure "A & B")**.
4. That Para No.4 is incorrect, the impugned transferred order was passed on 21.03.2024 while the ban on posting / transfer was imposed on 22.03.2024. **(Copy of notification dated 22.03.2024 is attached as annexure "C")**.
5. Para No. 5 is incorrect.
6. That Para No.6 is pertains to record.

7. That Para No.7 is incorrect hence denied. However the impugned transferred order No. SO(MC)E&SED/4-16/2024/PT/MC/SDEO dated 21.03.2024 has been passed according to law and rules and in the best public interest, as such the appellant was transferred in the same union counsel through the impugned transferred order dated 21.03.2024. It is pertinent to mentioned here that the appellant has not claim any right of transfer posting in particular post as such choice transfer posting is not a vested right of any person while the answering respondent is Senior to the appellant. (Copy of impugned transfer order & charge report of respondent No.4 are attached as annexure "D & E").

8. Para No.8 is pertains to record.

9. Para No.9 is pertains to record.

### GROUNDS

A. Ground "A to C" are in correct. The impugned transfer order dated 21.03.2024 as well as the rejection order dated 01.04.2024 were passed according to law and rules as such according to section-10 of the civil servant act every civil servant can be transfer to anywhere of the Province in the best public interest.

B. Ground "D" is not related to the answering respondent.

C. Ground "E" is incorrect.

D. Ground "F" is also incorrect. However the impugned transfer order has been issued in public interest and according to law and rules.

E. Ground "G to J" are incorrect.

F. Grounds "K" is incorrect, already explain in the above para's, however the impugned transfer order has been passed in the best public interest, according to law and rules.

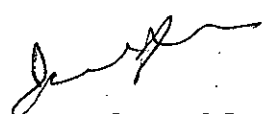
G. Ground "I" is incorrect.


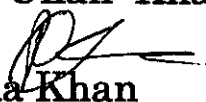
H. In response of Ground "M" the answering respondent seeks time of this Hon'ble Tribunal to raise additional grounds during the course of arguments with the prior permission of this Hon'ble Tribunal.

I. Ground "N" is incorrect.

*It is, therefore, most humbly prayed that on acceptance of the instant written reply/comments, of respondent No.4 the appeal of the appellant may kindly be dismissed with heavy cost.*

Dated:18.04.2024

  
Respondent No.4

  
Kabir Ullah Khattak  
&  
  
Roeeda Khan  
Advocate, High Court,  
Peshawar.

(6)

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**Versus**

Govt of KPK through Secretary Elementary Secondary  
Education & Others.

**AFFIDAVIT**

I, Arshad Masood SST General teacher (BPS-16), do hereby solemnly affirm and declare on oath that contents of written reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

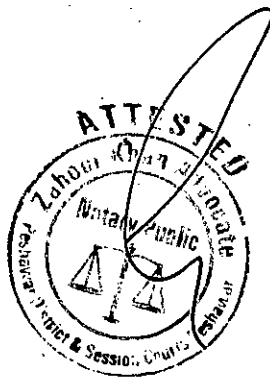
*It is, further stated that the answering respondent have neither been placed ex-parte nor their defence has been struck off/cost.*

*[Signature]*  
**Deponent**

Verified by: *[Signature]*

**Roeeda Khan**

Advocate, High Court,  
Peshawar.





**DIRECTORATE OF  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
KHYBER PAKHTUNKHWA, PESHAWAR**

Phone: 091-9225336, 9225342, E-mail: complaintcellese@gmail.com



**NOTIFICATION**

Dr. Muhammad Javed Principal (B-18), GHS Kakul Abbottabad, as a Chairman, and Muhammad Shamreez ADEO Sport DEO (M) Abbottabad, as a member are hereby appointed as Inquiry Officers to conduct inquiry against Master Shakeel Abbasi, Teacher, Govt Primary School, Narri Hotar Abbottabad (Copy of complaint attached)

The inquiry officers concerned are requested to submit his findings & clear cut recommendations to this office within two weeks, positively.

ABBOITABAD  
Edu: Off: (Sports)  
Asst: Director

**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Endst: No. 2455-59 File. 26-6//Complaint Cell/2019/Anti-Corruption  
Dated Pesh: the 18/09/2021

Coy of the above is forwarded for information and n/action to the:-

1. Dr. Muhammad Javed Principal (B-18), GHS Kakul Abbottabad
2. Muhammad Shamreez. ADEO Sport DEO (M) Abbottabad
3. District Education Officer (M) Concerned, with the remarks to provide relevant record to the above mentioned inquiry officer as and when required.
4. Assistant Director, Anti-Corruption Establishment Khyber Pakhtunkhwa, Peshawar
5. P.A to Director E&SE KPK.

*AS DEO ADEO (Sports)  
Circle BOE  
for Assistance  
MS 17/8*

*[Signature]*  
Assistant Director (Complaint)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

*[Signature]*  
District Education Officer

*[Signature]*



B (8) (14)

## INQUIRY REPORT

Reference Assistant Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar No. 2455-56/26-6/ Complaint dated 08-09-2021 regarding Inquiry Shakeel Abbasi PSHT Government Primary School Narri Hotar Abbottabad.

### INQUIRY TEAM

- i. Dr. Muhammad Javeed Principal GHS Kakul Abbottabad
- ii. Muhammad Shamrez ADEO Sports office of DEO Male Abbottabad


Consequent upon the impost inquiry the concerned team visited the venue GPS NariHoter UC Birote on 20-09-2021 and visited the following characters/personalities and inquired the matters one by one with attached statements in detail.

### MAIN CHARACTERS

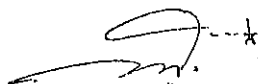
- i. Muhammad Shakeel SPST Ex Secretary PTC GPS NariHoter
- ii. Muhammad Arshad Ex Head Teacher GPS NariHoter
- iii. Aziz Ur Rehman Ex chairman PTC. GPS NariHoter
- iv. Muhammad Shafique Abbasi Member PTC GPS NariHoter
- v. Muhammad Haqiq present HT GPS NariHoter
- vi. Sajid Mehmood Abbasi Witness of payment receipt HT GPS TarmotianBerote
- vii. Kala Khan Govt. Contractor village Bagh

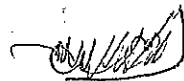
### FACTS:

The said inquiry committee found/realized the facts given below.

- a) Rs. 800000 was shifted in PTC account of GPS Nari Hoter Berote for construction of ACR in the year 2015-16 from GPS Majhot. See Annexure (A)
  - b) Mr. Arshad Abbasi Ex PSHT was not agreed for construction due to his promotion against SST post. See Anx: (B)
  - c) That Mr. Arshad Abbasi was relieved off after his promotion and Shakeel Abbasi SPST was transferred and took charge against PSHT in GPS Nari Hoter.
  - d) That the presence of conditional grant in PTC account for construction of ACR was in the knowledge of ASDEO circle Birote. Anx (B)
  - e) That the ASDEO circle reached in school along with a stranger who was introduced to the PTC council of GPS Nari Hoter as C&W registered contractor named Muhammad Yousuf. Anx (B&C)
  - f) That the ASDEO circle convinced the HT & PTC council for construction of ACR through the said stranger as contractor named Muhammad Yousuf. See Anx (B&C)
  - g) That the ASDEO circle not only convinced the PTC but also presented/arranged the full plan of construction and method of payment to contractor Muhammad Yousuf. See Anx (B, C & D)
- 

- 93
- 12
- (A)
- h) That all the things related to constructions were settled amongst the ASDEO circle, PTC council & contractor Muhammad Yousuf verbally on the trust and confidence of ASDEO circle. See Anx (D)
  - i) That the HT and chairman PTC made advance payment of Rs. 200000/- in cash to Muhammad Yousuf on verbal instructions, of ASDEO circle on 24-07-2017. See Anx(E)
  - j) That the contractor started work and deployed his labour on site. After 17 days the contractor demanded more release of amount (Rs.200000) but HT refused to pay said payment. The ASDEO pressurized the HT through telephonic call, ordered him to pay next release. See the statement of Muhammad Shafique Abbasi Member PTC Anx(F).
  - k) That the complainant labours were deployed on the site for starting construction of Additional classroom. These labourers were introduced to Mr. Zulfiqar (ASDEO) by kala Khan (contractor) in TMA office Abbottabad. Detail attached in Kala Khan Statement Anx(G)
  - l) That this labour firm was handed over to contractor Muhammad Yousaf (original name Muhammad Muneer) by concerned ASDEO circle and sent to the venue GPS NariHoter and after all construction planning finalized amongst PTC Chairman, Head Teacher and labours, work was started and reached at roofing stage after 40 days as per the statement of labours attached. Anx (H)
  - m) When the labourers demanded money for roofing expenditure, HT told them that their contractor Muhammad Yousuf had Already received Rs. 450000 from him Anx. (H)
  - n) The poor labours firm was surprised to listen this because they did not know any contractor but HT affirmed him that he knew their contractor, his name is Yousuf lives in Abbottabad and they should not need worry. The labourers returned their home after three days they came back to work but no payment was made to them and they once again returned back home. See Anx. (H)
  - o) That this inquiry committee found two receipts amounting of Rs. 200000 & 250000 copy from HT teacher ShakeelAbbasi of payment made to contractor Muhammad Yousuf signed by two witnessed. See Anx. (I&J)
  - p) That the inquiry committee submitted a questioner to ASDEO circle See Anx. (K)
  - q) That the ASDEO circle did not reply any question clearly and tried to hide the facts. For example, in reply to 1<sup>st</sup> question he mentioned only date not mentioned his post because he joined Education Department as a Junior Clerk. In reply of other question, he did not give any importance to the questionnaire. See his replies in Anx. (L)





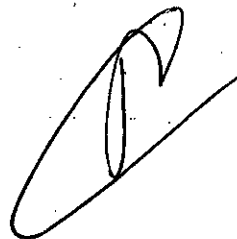
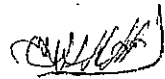


(15) 11 8

## FINDINGS

In the light of above facts, the findings of this inquiry team are given below.

- a) The inquiry team checked the Cell No. of Muhammad Yousuf through CDR and found that his original name is Muhammad Muneer son of Muhammad Siddique village binnani Nagri Tutial Tehsil Lora Distt: Abbottabad. CDR is attached in Anx. (M) This team inquired through its own sources about him in his native village and came to know that he is a great cheater and migrated to Karachi to disappear himself due to fraudulent character.
- b) This inquiry team concluded that ASDEO circle hired Muhammad Yousaf to receive the PTC amount fraudulently. For this purpose a drama was created and Mr. Muneer played the role of contractor with the name of Muhammad Yousaf and got the trust of Mr. Shakeel SPST GPS Narri Hoter and PTC of GPS Narri Hoter. The PTC council GPS Narri Hoter paid the cash on the pressure and confidence of ASDEO circle including wages of complainant labourers.
- c) The ASDEO circle succeeded to get amount fraudulently and pressurized/threatened the teacher to complete the construction work by using his administrative powers. The said teacher sold the Ornaments of his wife and completed the construction of ACR.
- d) All the evidences and statements of spots are against the ASDEO circle and show that he handed over the amount of PTC (Rs.450000) with technical mind through a fake contractor.
- e) This inquiry committee called him for personal hearing in the light of his answer of last question but he did not justify any question of inquiry committee and behaved roughly and proudly with committee.
- f) In personal hearing the Ex ASDEO Zulfiqar Ahmed SST (G) GHSS No. 1 Abbottabad claimed that he neither knows the complainant labourers nor labourers know him. This enquiry committee demonstrated and identity parade to justify all the blames and evidences secretly. The complainant labourers were called to DEO office where the ASDEO was already present and sitting in superintendent office. The labourers were said to search the ASDEO in all rooms of DEO office and point out his presence in any room the labourers entered in the building of DEO office and returned after two or three minutes with pointing out his presence in superintendent office. In personal hearing the ASDEO claimed that he doesn't know the complainant labour and the Complainant labour also don't know him.
- g) 2 or 3 inquiries have been conducted before this inquiry which conclusion came to ends without acknowledgment of originality of contractor Muhammad Yousuf original name Muhammad Muneer.
- h) This inquiry proceeded due to CDR report and disclosed the originality of fake contractor which was already beneficiary of accused ASDEO Zulfiqar Ahmed SST (G) GHS No. 1 Abbottabad.



(11)


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(4)

RECOMMENDATION

- \* In the light of above facts and finding this inquiry committee recommends:
- a) That the amount of waging of complainant labour should be recover from Ex. ASDEO circle Mr. Zulfiqar Ahmed SST GHS No. 1 Abbottabad and be paid to the poor labour.
  - b) The Assets of Ex ASDEO Mr. Zulfiqar Ahmed SST GHS No. 1 should be inquired through Anti-Corruption Department and National Accountability Bureau from his career as a Junior Clerk to-SST (G) and ASDEO Circle Birote and till date.
  - c) Due to misusing of authorities and departmental power the accused person (Ex. ASDEO Birote) should be treated according to E&D rules.
  - d) Mr. Zulfiqar Ahmed should be declared/notified by the directorate of Elementary and Secondary Education Department Peshawar to disqualify and unfit for such any administrative post in Education Department in future through any source.
  - e) Minor penalty stoppage of one increment should be imposed on Mr. Shakeel Abbasi SPST GPS Narri Hoter due to his negligence, Mr. Sajid Abbasi PSHT GPS Tarmothian Birote should be warned strictly for playing role of agent of officers like said ASDEO.
  - f) An FIR should be launched against fake Contractor Mr. Yousuf original name Muneer S/O Muhammad Sidique village Biannani UC Nagri Tutial to arrest him due to his fraud in Police Station Lora or Anti-Corruption Department.

Report is hereby submitted to all concerns for further necessary action with attached all record/documents please.

  
Assistant District  
Officer (M) Abbottabad  
Muhammad Shamrez  
Member Inquiry Committee  
ADEO Sports DEO Male Abbottabad  
Abbottabad District Education



Dr. Muhammad Javed  
Chairman Inquiry Committee  
Principal GHS Kakul

Dr. Muhammad Javed  
Principal  
G.H.S Kakul Abbottabad



"C" (12)

Annexure "A"



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223533 Email: sschoolmate@gmail.com



Peshawar Dated 22.03.2024

**NOTIFICATION**

NO.SO(S/M)E&SED/Mis/11-1/2024: The Competent Authority is pleased to impose complete ban on all kinds of posting/ transfers in Elementary & Secondary Education Department with immediate effect and till further orders, except the posting/adjustment orders to be made in connection with:

1. Appointment through Public Service Commission
2. Promotions through PSB or DPCs.
3. Court cases.

SECRETARY  
TO GOVT OF KHYBER PAKHTUNKHWA

Endst: of even No. & Date

Copy forwarded to the:

1. PS to Minister for E&SE Department.
2. Accountant-General, Khyber Pakhtunkhwa Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director, EMIS E&SE Department.
5. All District Education Officers (M/F).
6. District Accounts Officer concerned.
7. PS to Secretary E&SE Department.
8. Office order file.

*Amir*

(NAVEED ULLAH SHAH)  
DEPUTY SECRETARY (ESTABLISHMENT)

*[Handwritten signature]*



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9210626

Dated, the Peshawar 21<sup>st</sup> March 2024

**NOTIFICATION**

**NO.SO/MCIE&SED/4-16/2024/PT/MC/SDEO:** The following posting / transfers are hereby ordered with immediate effect, in the best public interest: -

Sr. No	Name of officer	From	To
1.	Mr. Zuffiqar Ahmad, (TC BS-16)	ASDEO Circle Dhamlor Abbottabad	GHS Pattan Khurd Abbottabad
2.	Mr. Jaffar Rehman, (TC BS-16)	ASDEO (Primary) DEO (Male) Office Abbottabad	ASDEO Circle Dhamlor Abbottabad vice serial No. 1
3.	Mr. Arshad Masood, (TC BS-16)	GMS Abbottabad	ASDEO (Primary) DEO (Male) Office Abbottabad vice serial no. 2

2. Consequent upon above, Mr. Imran Khan, MC BS-16 under transfer as ASDEO (Male) Circle Dhamlor Abbottabad posted vide Notification No. 2272-76/H-1/ADEOs (M)/Transfer Haripur, dated 21-03-2024 is hereby directed to report to Directorate of E&SE for further posting.

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

Endst. of even No. & date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officers (Male) concerned.
4. District Account Officer concerned.
5. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
6. PS to Minister E&SE Department, Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. SDEO (Male) concerned.

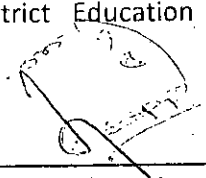
(ARSALAN AHMED) 21/3/24  
SECTION OFFICER (Management Cadre)

# CHARGE REPORT

'E' (19)

In compliance to Secretary to Govt: of Khyber Pakhtunkhwa, Elementary and Secondary Education Department Peshawar Notification issued vide No. SO(MC)E&SED/4-16/2024/PT/MC/SDEO dated 21-03-2024 I Mr. Arshad Masood have on this day 25-03-2024 taken over charge against the post of ADEO (Establishment:Primary) BP-16 at o/o District Education Officer(M), Abbottabad.

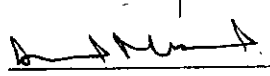
Signature of relieved:  
Govt: servant:

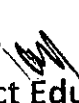
  
Mr. Jaffar Rehman ADEO  
Circle Dhamtour

STATION: DEO(M) ABBTTABAD

DATED: 25/3 /2024

Signature of relieving  
Govt: Servant:

  
Mr. Arshad Masood ADEO(E/P)

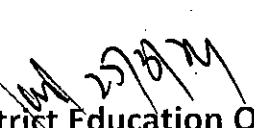
  
District Education Officer (M)  
Abbottabad

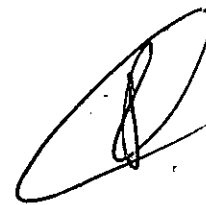
Endst: No. 1791-95

Dated 25-3-2024

Copy of the above is forwarded to:-

01. PS to Govt: of Khyber Pakhtunkhwa, Elementary and Secondary Education Department Peshawar
02. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
03. District Comptroller of Accounts, Abbottabad along with copy of above noted order.
04. District Monitoring Officer (EMA) Abbottabad.
05. Official concerned.
06. Office file

  
District Education Officer (M)  
Abbottabad



## وکالت نامہ

بعدالت جناب سروس ٹریڈنگ کمپنی

مقدمہ بعنوان

ذوالفقار احمد بنام ایجوکیشن

Respondent No 4  
منجانب  
دعویٰ

علت سروس ایجوکیشن 487/24

مورخہ

جرم

تھانہ

## باعث تحریر آنکہ

مقدمہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ اجملہ

آن مقام سروس ایجوکیشن کے لئے لکھنے والے دستخط اور مہر کے ساتھ

کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جواب دینے 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 ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

کے لئے منظور ہے

مقام سروس ایجوکیشن

دستخط ایڈوکیٹس

دستخط  
ایڈوکیٹ

دستخط  
ایڈوکیٹ

دستخط  
ایڈوکیٹ