


FORM OF ORDER SHEET

Court of _____

Appeal No. 740/2024

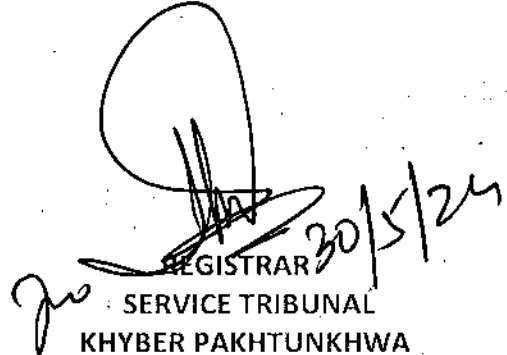
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/05/2024	<p>The appeal of Mr. Zeeshan Haider resubmitted today by Uzma Syed Advocate. It is fixed for preliminary hearing befor Single Bench at Peshawar 03.06.2024. Parcha Peshi given to the counsel for the appellant .</p> <p>By the order of Chairman  REGISTRAR</p>

The appeal of Mr. Zeeshan Haider received today i.e on 29.05.2024 is incomplete on the following score which is returned to the appellant for completion and resubmission within 15 days.

- 1- Annexure-E of the appeal is illegible be replaced by legible/better one.
- 2- Copies of charge sheet and show cause notice mentioned in the memo of appeal are not attached with the appeal be placed on it.

No. 93 /Inst./2024/KPST,

Dt. 30/05 /2024.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Uzma Syed Adv.
High Court Peshawar.

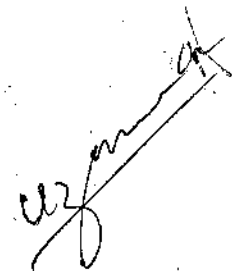
R/Sir

That the objection No 1 has been removed and better copy of the said pg was annexed.

As regard to the objection No 2 the charge sheet and show cause notice are not in possession with the appellant, but the copies of the same has been annexed, however the charge sheet and show cause notice not mention in the memo of appeal.

30/5/2024

Resubmitted



BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 740 /2024

ZEESHAN HAIDER

V/S

Police Deptt:

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Zehra
APPELLANT
ZEESHAN HAIDER

THROUGH:

Uzma
UZMA SYED

Syed Noman Ali Bukhari &
(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT.

APPEAL NO. 740 /2024

Zeeshan Haider Ex-Constable No. FC/1372
Police Line Kohat.

.....(Appellant)

VERSUS

1. The Regional Police Officer Kohat Region Kohat.
2. The District Police Officer Kohat.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KP SERVICES TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11-11-2022 WHEREBY THE FORFEITURE OF ONE YEAR APPROVED SERVICE WAS IMPOSED UPON THE APPELLANT AND AGAINST THE APPELLATE ORDER DATED 02/08/2023 WHEREBY THE PENALTY WAS ENHANCED TO DISMISSAL FROM SERVICE ILLEGALLY WITHOUT LAWFUL AUTHORITY AND WITHOUT JURISDICTION.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 11/11/2022 AND 02/08/2023 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED IN TO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOR OF APPELLANT.

FACTS:

1. That the appellant has joined the police department as constable in the year 2010. The work with full zeal and zest up to the entire satisfaction of his superiors
2. That During the entire service, the appellant has not given an iota of chance of complaint to his high-ups but unfortunately, the appellant was dragged into wrong case and complaint was filed against the appellant long with other accused. On the basis of that complain FIR was registered against the appellant and charge sheet was issued, on the basis of same. The appellant properly replied to charge sheet and rebutted the allegation with cogent proof. **Copy of complain, FIR and reply to charge sheet is attached as annexure- A, B & C.**
3. That during the inquiry proceeding, the appellant rebutted each and every charges on plausible grounds but inquiry officer based his findings only on collection of CDR and also ignored the statement of official who gave statements in favour of the appellant which means that the inquiry officer made his mind to remove the appellant.
4. That on the basis of that findings, final show cause notice was issued but without providing of inquiry report to the appellant, the appellant properly replied to the show cause notice and rebutted the allegations. **Copy of the show cuase reply is attached as annexure-D.**
5. That the competent authority (DPO Kohat) awarded the impugned punishment of forfeiture of one year approved service vide order dated 11-11-2022. **Copy of impugned order is attached as annexure-E.**
6. That the appellant feeling aggrieved filed departmental appeal against the impugned order. The appellate authority vide order dated 02/08/2023 enhanced the punishment to dismissal from service without showing any cogent reason vide order dated. The appellant feeling aggrieved filed appeal under 11-A bit the same was not responded within statutory period of 90 days. Hence the present appeal on the following grounds amongst other. **Copy of**

attached as annexure-F, G & H.

GROUND:

- A. That the appellant the impugned order dated 14/02/2023 and 12/04/2023 is against the law, norms of justices and without lawful authority. Hence liable to be set-aside.
- B. That the inquiry report was not provided to the appellant, which is clear violation of Superior Court judgment. That principal is also held in the appeal of the **Waleed Mehmood vs Police Deptt and Zeeshan vs police**, so the impugned order was passed in violation of law and rules and norms of justice. The same principle held in the Superior Court judgments cited as 1981 PLD SC 176 and 1987 SCMR 1562, without which all the proceedings is nullity in the eyes of law. Reliance was placed on **2018 PLC (CS) 997 and 2019 SCMR 640**.
- C. That no proper inquiry was conducted. Neither any documents or report was provided to appellant for examination nor any statement of witnesses recorded in the presence of appellant. Even a chance of cross examination was also not provided to the appellant which is violation of norms of justice.
- D. That as per judgment of Supreme Court of Pakistan if complaint filed by the complainant is not subject to cross examination the same has no value in the eye of law. Hence the penalty imposed upon the appellant is liable to be set-aside on this score alone.
- E. That as per statements at the time of occurrence mentioned in the complaint, the appellant was on magazine duty, but this aspect was ignored by the inquiry officer and authority, so the appellant was wrongly dragged in to this false case. **Copy of statement is attached as annexure-I.**
- F. That vide impugned order dated 02-08-2023, the penalty was enhanced to dismissal from service without issuing any show cause notice to appellant.
- G. That the attitude and conduct of the Department shows that they were bent upon to remove the appellant at any cost.

and according to Supreme Court judgment mere on the basis of allegation no one should be punished.

- I. That it is the maxim of the law (audi alteram partem) that no one should be unheard, and the impugned order is also passed in violation of article of 10-A OF the constitution of Pakistan which told us about the fair trial which was the fundamental right of the appellant but denied to the appellant. So the impugned order is not tenable in the eye of law.
- J. That the appellant was deprived of his inalienable right of personal hearing and opportunity to cross examine witnesses. The opportunity of offering proper defense was snatched from the appellant. The Hon'able Service Tribunal has been consistently following this yardstick almost in all cases, so departure from the set pattern and that too without any cogent reason in the present case would cause irreparable damage to the appellant at the cost of substantial justice. Such inquiry proceeding could not be termed as fair, just and reasonable. Such practice has already been disapproved by the apex court contained in its judgments PLD 1989 SC 335, 1996 SCMR 802, 2018 PLC (CS)997 and 2019 SCMR 640.
- K. That the impugned order is against the articles 2A , 4, and 25 , of the constitution of Pakistan 1973.
- L. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Zeshan Haider
APPELLANT
ZEESHAN HAIDER

THROUGH:

Uzma Syed
UZMA SYED

Noman Ali Bukhari &
(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT.

SERVICE APPEAL NO. _____/2024

Zeeshan Haider

V/S

Police Deptt:

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.

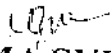

DEPONENT

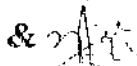
LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The Police rules 1975.
3. Any other case law as per need.


APPELLANT
ZEESHAN HAIDER

THROUGH:


UZMA SYED


(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT.

APPEAL NO. _____/2024

Zeeshan Haider

V/S

Police Deptt:

**APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.
2. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
3. That after filling department appeal the appellant was fell seriously ill, therefore cannot approached to tribunal in time. So there is in interest of justice the limitation may be condoned.

It is therefore most humbly prayed that the instant appeal may be decided on merit by condoning the delay to meet the ends of justice.

Zeeshan Haider
APPELLANT

ZEESHAN HAIDER

THROUGH:

Uzma Syed
UZMA SYED

Syed Noman Ali Bukhari &
(SYED NOMAN ALI BUKHARI)
ADVOCATES, HIGH COURT.

ATTACHED

0335-5100160
14101-174078-3

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DSP Head Quarter
D.S. Hangu
D.S. Pappal

Per
Saddan
m/a. as

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STERN

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Table with multiple rows and columns containing handwritten entries, possibly a ledger or record book.

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Bottom-most section of the page with scattered handwritten marks and numbers.

جناب عالی! جواب فائل شوکار نوٹس بحوالہ خط نمبر PA-9960 مورخہ 04-10-2022 ذیل ہے۔

۱۔ یہ کہ جیسا کہ سائل نے پہلے ذکر کیا ہے کہ تھانہ MRS میں تعینات تھا۔ اور سائل اپنے بچے کے ہمراہ حیات شہید کالونی پنڈی روڈ کو ہاٹ رہائش تھا۔

۲۔ یہ کہ سائل کو صرف اور صرف Data CDR کی وجہ سے کیس FIR نمبر 281 مورخہ 19-7-2022 جرم PPC 406/419/420/120-B/148/149 تھانہ صدر ہنگو میں ملزم نامزد کیا گیا ہے۔ حالانکہ سائل ذوالعالم ہے۔

۳۔ یہ کہ مورخہ 29-6-2022 کورٹ بوقت 22:00 تا 2:00 بجے تک میگزین ڈیوٹی پر تھا۔ اور ڈیوٹی پر چہ پہلے شوکار نوٹس پر لف کیا گیا ہے۔ اور سائل سے پہلے ڈیوٹی پر معمور پولیس اہلکار پرویز کنشیل کا بیان بھی قلمبند ہو چکا ہے۔ جس سے سائل کی موجودگی کا واضح ثبوت ملتا ہے۔

۴۔ یہ کہ جہاں تک CDR کا تعلق ہے۔ چونکہ ملزم ظفر محمود کے ساتھ اکثر فون پر بات چیت ہوتی رہتی تھی۔ کیونکہ سائل اور ظفر محمود کے کواٹر کا مین دروازہ مشترک ہے اور صرف موبائل میں CDR Data اور بات چیت کی بناء پر کسی کو ملزم نامزد نہیں کیا جاسکتا۔ کیونکہ نہ تو تفتیشی آفیسر اور نہ تو انکوائری آفیسر نے سائل کو اپنی صفائی کا موقع فراہم کیا ہے۔ اور بلا جواز سائل کو مقدمہ میں ملوث کیا گیا ہے۔ جو کہ قطعاً بے گناہ ہے۔

۵۔ یہ کہ انکوائری آفیسر Govt. Servant Efficiency & Discipline Rules 2011 اور پولیس ایکٹ کی متعلقہ دفعات سائل کو صفائی کا موقع فراہم نہ کیا گیا ہے اور نہ تو کوئی ٹھوس ثبوت پیش کیا ہے۔ سائل مقدمہ ہذا میں ہرگز ملوث تھانہ ہے۔

۶۔ یہ کہ جس طرح رقم FIR میں وہ ملزمان شاعر الرحمن وغیرہ کا محمد فاروق کی امانت رقم ہڑپ کرنے کیلئے جعلی ڈکیتی کارنگ دے کر پروپیگنڈہ کیا ہے۔ اس سلسلہ میں سائل حلف اٹھانے کو بھی تیار ہے۔ کیونکہ سائل مذکورہ کیس میں بے گناہ ہے جسے بدعتی کی بناء پر پھنسا یا گیا ہے۔ چونکہ سائل محکمہ پولیس میں 13/12 سال سے اپنی خدمات سرانجام دے رہا ہے اور اس قسم فعل کا تصور بھی نہیں کر سکتا۔ اور سال ہال بچے دار اور قلیل تنخواہ دار ہے۔ لہذا انکوائری پر نظر ثانی فرما کر کسی دوسرے مجاز آفیسر کے ذریعے AND رولز کے تحت انکوائری عمل میں لائی جا کر اس سلسلہ میں سائل کو اپنے دفاع کا موقع فراہم کیا جائے۔

۷۔ یہ کہ جرم بالا کا الزام 497 Cr. Cpc کی ممنوعہ کلاز میں بھی آتی ہے۔ جبکہ واقعات FIR سے برخلاف سائل جرم بالا نہیں بناتا ہے۔ جبکہ سائل کے خلاف انکوائری یکطرفہ طور پر عمل میں لائی گئی ہے جو کہ Natural Justice کے خلاف ہے۔

لہذا استدعا ہے کہ منظور ری درخواست ہذا مناسب احکامات صادر فرمائے جائیں

مورخہ 12-10-2022

عرضے

آپکا تابعدار ذیشان حیدر نمبر 1372
متعینہ پولیس لائن کو ہاٹ۔

APK/2022

E-12

OFFICE OF THE
DISTRICT POLICE OFFICER,
KOHAT
Tel: 0922-920116 Fax 920125

ORDER

This order is passed on the departmental enquiry against
Sardar Saad Khan (Jr) 4702 under the Khyber Pakhtunkhwa, Police Rules, 1975
(Amendment 1991).

Chief facts of the case are that he while posted at PS MRW Kohat
were involved in case with HIR No. 281 dated 19.07.2022 u/ss 406, 419, 420,
430-F, 438, 149 PPC PS Sardar district Hangu which shows his inefficiency and
negligence in the discharge of his duty on his part.

He was served with charge sheet and statement of allegations.
Sardar Saad Khan Kohat was appointed as enquiry officer to proceed against him
departmentally. The enquiry officer submitted his finding report and found him
guilty for the charges leveled against him.

He was served with Final Show Cause Notice, reply received and
order passed accordingly.

In view of the fact that Saad Khan is an District Police Officer, his
suspension from service was not a punishment. In view of the fact that he was
suspended from service and his salary was not paid during the period of
suspension, he is entitled to be reinstated in service from date of suspension and pay
to be made retroactive.

DISTRICT POLICE OFFICER,
KOHAT

11/11/2022

At Kohat the 17/11/2022

Signature of the District Police Officer

Name of the District Police Officer

ATTESTED

No
Wt
Re

OFFICE OF THE
DISTRICT POLICE OFFICER
KOHAT

Tel: 0922-920116 Fax 920125

ORDER

This order is passed on the departmental enquiry against Constable Zeshan No.1872 under the Khyber Pakhtunkhwa. Police Rules, 1975 (amendment 2014)

Brief facts of the case are that the while posted at PS MRS Kohat were involved in case vide FIR No.281 dated 19.07.2022 u/ss 406, 419, 420, 120-B, 148- 149 PPC PS Saddar District Hangu which shows his inefficiency and professional gross misconduct on his part.

He was served with charge sheet and statement of allegations. SDPO Saddar Kohat was appointed as enquiry officer to proceed against him departmentally. The enquiry officer submitted his finding report and found his guilty from the charges leveled against him.

He was served with Final Show Cause Notice, reply received and satisfactory.

In view of the above I, Shafi Ullah Khan District Police, Officer Kohat in exercise The power confirmed upon me, award him a minor punishment of forfeiture of one year approved service un-authorized leave is treated as leave without pay, he is re-instated in service from date of suspension and pay is hereby released.

DISTRICT POLICE OFFICER
KOHAT

OB No. _____

Dated 11/11/2022

No. _____ /PA dated Kohat the 27/12/2022.

Copy of the above to the:-

Treader/SRC/OHC/Pay officer for necessary action.

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ATTENTION

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ORDER

G-14

This order will dispose of the departmental appeal preferred by Constable Zeeshan Haider No. 1372 of district Kohat against the order of District Police Officer, Kohat whereby he was awarded minor punishment of forfeiture of one year approved service and the intervening period was treated as leave without pay vide OB No. 563, dated 11.11.2022. Brief facts of the case are that the appellant, while posted at PS MRS Kohat, was found involved in a criminal case vide FIR No. 281 dated 19.07.2022 U/Ss 406, 419, 420, 120-B, 148, 149, 392, 34 PPC PS Saddar, district Hangu which shows gross professional misconduct on his part.

Proper departmental enquiry proceedings were initiated against him and SDPO Saddar Kohat was nominated as Enquiry Officer. The Enquiry Officer after fulfillment of usual formalities submitted his findings on 03.10.2022 wherein the allegations leveled against the appellant were established. Keeping in view recommendations of the Enquiry Officer and the above cited circumstances, the appellant was awarded minor punishment of forfeiture of one year approved service and his absence period was treated as leave without pay by the District Police Officer, Kohat vide OB No. 563 dated 11.11.2022.

Feeling aggrieved from the order of District Police Officer, Kohat, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in the office of the undersigned on 02.08.2023. During the course of personal hearing and minute examination of the relevant record and case file vide FIR No. 281 dated 19.07.2022 U/S 406, 419, 420, 120-B, 148, 149, 392, 34 PPC PS Saddar district Hangu, it revealed that the appellant has remained actually involved in a heinous criminal offence. What is more disturbing is the fact that during the course of investigation, the Investigating Officer recovered from his possession the articles which he had purchased from his share of the robbed money. Despite the availability of such solid and unreluctant evidence against the appellant, the award of minor punishment by the DPO Kohat is beyond comprehension and, therefore, amounts to condoning the indisciplined conduct of the appellant.

Consequently, constrained by the gravity of the above allegations, the appellant was issued Show Cause Notice under Rule 11 Sub Rule 4 Clause (d) of Khyber Pakhtunkhwa Police Rules, 1975 (As amended 2014) for Enhancement of Punishment. His reply to the Show Cause Notice was received and perused but found unsatisfactory. He was again called for personal hearing in Orderly Room held in this office on 01.08.2023. During personal hearing, he failed to present any plausible justification.

From perusal of the enquiry file and other material placed on record, it is clear that the appellant, being member of a disciplined force, has committed a serious criminal offence and the allegations leveled against him have been established beyond any shadow of doubt. The retention of such officer in Police is bound to adversely affect the discipline of others members of the force as well as pose a potential risk of recurrence of commission of such criminal acts on the part of the appellant against the public at large. This practice will promote and perpetuate a culture of immunity and impunity which cannot be tolerated in any disciplined force.

Foregoing in view, I, Sher Akbar, FSP S.St. Regional Police Officer, Kohat, being the appellate authority, am of the opinion that the penalty awarded to the appellant does not commensurate with the gravity of offense. Therefore, the punishment of forfeiture of one year approved service awarded to the appellant is hereby enhanced into major punishment of dismissal from service under the Police Rules 1975 (As amended 2014) with immediate effect.

Order Announced
02.08.2023

Handwritten signature and initials

District Police Officer,

Regional Police Officer,
Kohat Region

No. _____ /EC. Dated Kohat the _____ 2023

Copy forwarded to District Police Officer, Kohat for information and necessary w/r to his office Memo: No. 2777/LB, dated 12.04.2023 and 2597 P.S. dated 25.05.2023. His Service Record is returned herewith.

18/8/23

ATTESTED

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ATTENTION

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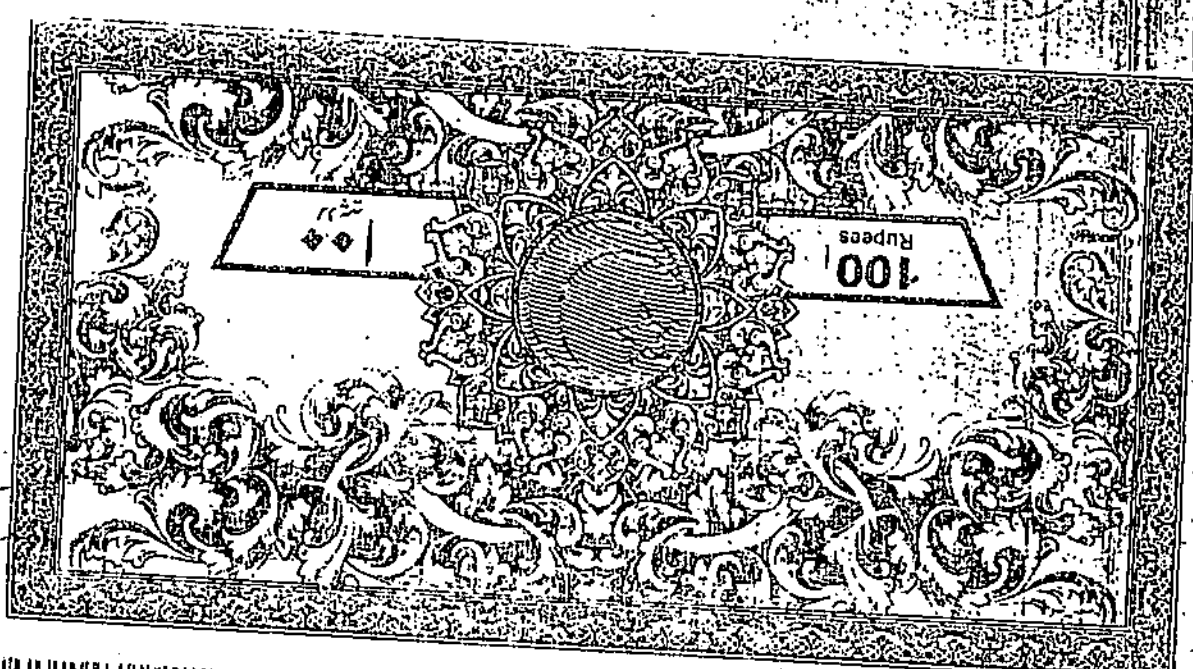
K.P.K. سہولتی کونسل
 11/15



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ATTENDED

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17

237687

موزجہ
 مقدمہ
 دعویٰ
 جرم

Zedlou Hade
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US
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باعث تحریر آنکہ

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

آن مقام میں کئی عطلی و سردیج ہندوستان کے بارے میں مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا و زان مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیش مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Handwritten notes in Urdu, including the name 'Zedlou Hade' and other illegible text.

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کے لئے منظور ہے۔

مقام