


# FORM OF ORDER SHEET

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

**Appeal No.** 971/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2.	3
1-	11/07/2024	<p>The appeal of Mr. Gohar Ali Shah presented today by Mr. Munfat Ali Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 15.07.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

Appeal No. 971 of 2024

Gohar Ali Shah

VERSUS

Police Department

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Dated 10.07.2024

Through

Appellant



Munfat Ali Yousafzai  
Advocate, High Court,  
Peshawar  
Cell No. 03449213367

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal No. 971 /2024

Gohar Ali Shah Sub Inspector Police Training Center Hangu.

..... Appellant

VERSUS

1. The District Police Officer District Swabi.
2. The Regional Police Officer Mardan Region Mardan .
3. The Inspector General of Police Khyber Pakhtunkhwa  
Central Police Office Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE PARTIALLY  
APPELLATE IMPUGNED ORDER DATED  
11.01.2024 OF THE RESPONDENT NO 2 BY WHICH  
ONE YEAR APPROVED SERVICE OF THE  
APPELLANT WAS FORTFEITED AND THE  
REVISIONAL ORDER DATED 17.05.2024  
COMMUNICATED TO THE APPELLANT ON  
14.06.2024 OF THE RESPONDENT NO 3 WHEREBY  
THE REVISION PETITION OF THE APPELLANT  
WAS FILED/REJECTED ON NO GOOD GROUNDS.

PRAYER:

On acceptance of the instant Service Appeal the partially impugned appellate order dated 11.01.2024 to the extent of forfeiture of one year approved service and ~~the Revision order dated 17.05.2024 may very kindly be~~ set aside and the forfeited one year approved service of the appellant may kindly be restored to the appellant.

Any other remedy which this august Tribunal deems appropriate/proper may also be awarded in favor of the appellant.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant was appointed as Constable in Police Department Khyber Pakhtunkhwa in the year 1991 and through progression evaluated to the post of Sub Inspector presently posted in Police Training Center Hangu.
- 2) That on 23.05.2023 District Police officer Swabi reverted the appellant from the post of Sub Inspector to the post of Assistant Sub Inspector. (Copy of the order is attached as Annexure .....A).
- 3) That aggrieved by reversion order dated 23.05.2023 the appellant preferred Departmental appeal to the respondent No 2 on 11.06.2023. (Copy of Departmental appeal as attached as Annexure .....B).
- 4) That the appellate authority converted reversion order of the respondent No 1 into minor penalty of forfeiture of one year approved service. (copy of the appellate order is attached as Annexure .....C)
- 5) That aggrieved by the appellate order the appellant preferred a Revision petition to respondent No 3 dated 15.02.2024. (Copy of the Revision is attached as Annexure ..... D).
- 6) That the Revision petition was filed/rejected dated 17.05.2024 which was communicated to the appellant on 14.06.2024. (Copy of the Revision order is attached as Annexure ..... E).

- 7) That partially aggrieved by the appellate order and Revision order the appellant have no other remedy but to file this service appeal on the following grounds amongst others.


GROUNDS

- A). That the partially impugned appellate order dated 11.01.2024 and the revision order dated 17.05.2024 are against the law, facts Rules therefore not tenable in the eye of law and is liable to be set aside.
- B). That the impugned orders mentioned above are unconstitutional, discriminative, excessive used of discretion and without lawful authority.
- C). That this action and inaction of the Respondent being illegal and ineffective upon the rights of the appellant therefore no legal footing to be stand.
- D). that the appellant was not properly associated with the proceedings nor the opportunity of cross examination was provided to the appellant.
- E). That the appellant is unheard throughout the proceedings against him therefore these are against the law of natural justice therefore be set aside.
- F). That there is no complaint whatsoever against the appellant throughout his career.


H). That the appellant seek permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed on acceptance of the instant Service Appeal the partially impugned appellate order dated 11.01.2024 to the extent of forfeiture of one year approved service and the Revision order dated 17.05.2024 may very kindly be set aside and the forfeited one year approved service of the appellant may kindly be restored to the appellant.

Dated 10.07.2024

  
Appellant

THROUGH

  
Munfat Ali Yousafzai  
Advocate, High Court,  
Peshawar.

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

Appeal No. \_\_\_\_\_ /2024

**Gohar Ali Shah Sub Inspector Police Training Center Hangu.**

..... Appellant

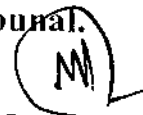
**VERSUS**

- 1. The District Police Officer District Swabi.**
- 2. The Regional Police Officer Mardan Region Mardan .**
- 3. The Inspector General of Police Khyber Pakhtunkhwa  
Central Police Office Peshawar.**

..... Respondents

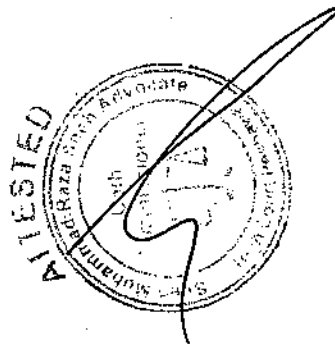
**AFFIDAVIT**

**I, Munfat Ali Yousafzai on the instructions and on behalf of my client do hereby solemnly affirm and declare on oath that the content of the Service Appeal, application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.**



**Munfat Ali**

**Advocate High Court Peshawar**



A-6



OFFICE OF THE  
DISTRICT POLICE OFFICER, SWABI  
PHONE# 0938-920050 FAX# 0938-920054  
EMAIL: dpo\_swabi@yahoo.com



No. 2119-22PA

Certified to be True Copy.

Dated 23/05/2023

**ORDER**

This order is aimed to dispose-off the departmental proceedings conducted against **SI Gohar Ali** of this district Police, under the Khyber Pakhtunkhwa, Police Rules, 1975 (amendment 2014) vide this office No.25/CC/PA dated 07.03.2023 on the following allegations.

While posted at PS Zaida, he alongwith other Police party held nakabandi/snap checking at Kunda mor. During nakabandi he stopped one motor car, wherein Fayaz and Nawaz Ali Shah Rs/o Zaida were boarding. During search huge quantity of Charas was recovered from possession of Fayaz, but instead of taking legal action, he received illegal gratification of Rs.90,000/- from him and set them free.

He was issued charge sheet on the said allegations and enquiry proceedings were entrusted to **SDPO Lahor** under Police Rules-1975 ammended-2014. The Enquiry Officer conducted departmental enquiry, collected evidence, recorded statements of all concerned and submitted his finding, wherein the enquiry officer found the defaulter officer guilty for the mis-conduct and recommended him for suitable punishment. The undersigned thoroughly perused the findings of the Enquiry Officer and served him with Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and he was heard in orderly room on 23.05.2023 but he could not advance any reason in self defence.

Keeping in view findings report of the Enquiry Officer and conduct of the defaulter officer, the undersigned came to the conclusion that the charges levelled against him have been proved beyond the shadow of doubt.

In view of situation painted above, in exercise of powers vested upon undersigned, I, **Najmul Hasnain Liaquat**, District Police Officer Swabi hereby, award SI Gohar Ali Major Punishment of "**Reduction in rank from substantive rank of SI to ASI**" with immediate effect and re-instate him from the date of his suspension.

**Order Announced**

OB No. 676

Dated: 23/05/2023

*Najmul*  
**NAJMUL HASNAIN LIAQUAT, (PSP)**  
DISTRICT POLICE OFFICER  
SWABI

**OFFICE OF THE DISTRICT POLICE OFFICER, SWABI.**

- Copies to the: -
1. Pay Officer.
  2. Establishment Clerk.
  3. I/C PAL
  4. Fauji Missal Clerk.

**ATTESTED**

*[Signature]*  
Officer, Swabi.

Date of Presentation of Application: 16/23

Copying Fee: 01

Total Fee: 01

Name: Rashid Ali

Date of Receipt: 1/6/23

Date of Delivery of Copy: 1/6/23







515  
M

- ① Subammalok no 1380 Constable
- ② Madam Ichar no 1384 Constable
- ③ Const: Liabogang no 578
- ④ SMO Nearamen P. Sarda
- ⑤ Foyya el Sarda

that during the course of enquiry proceedings the EO recorded the statements of the following police officers in the absence of the petitioner and deprived the petitioner from making cross examination of the witnesses mentioned.

③

(Copy of statements dated is enclosed.)

but he was not examined. Petitioner produced a defence and comprehensive reply in response to the charge sheet before the EO. EO on the transfer of Mr. Shafiqul Islam the enquiry officer was impleaded against the petitioner and Mr. Shafiqul Islam was nominated as a defence witness. On the transfer of Mr. Shafiqul Islam to the post of SMO, the petitioner produced a defence and comprehensive reply in response to the charge sheet before the EO.

④

(Copy of charge sheet is enclosed.)

On 7.3.23 the petitioner was issued a charge sheet + summary of allegations no 15. CC PH dated 7.3.23 with the following allegations:-

While posted at P.S. Sarda he indulged in the following activities:-

1. He held a license for a motor car which he used for his personal use. During the period of his posting at P.S. Sarda he indulged in the following activities:-

2. He held a license for a motor car which he used for his personal use. During the period of his posting at P.S. Sarda he indulged in the following activities:-

3. He held a license for a motor car which he used for his personal use. During the period of his posting at P.S. Sarda he indulged in the following activities:-

③ on 7.3.23 the petitioner was issued a charge sheet + summary of allegations no 15. CC PH dated 7.3.23 with the following allegations:-

(Copy enclosed.)

at 10.30 hours and made his arrival vide DM no 10. The petitioner along with other officers of rank to P.S. Sarda on 7.3.23. Simultaneously with the arrival of the petitioner at P.S. Sarda on 7.3.23. Simultaneously with the arrival of the petitioner at P.S. Sarda on 7.3.23. Simultaneously with the arrival of the petitioner at P.S. Sarda on 7.3.23.

⑥

(3)

Fayed - Nawaz Ali statements have also  
 recorded in the absence of the petitioner. They  
 are already arranged from the petitioner by taking  
 prompt action against accused persons who in their  
 deep friend. In the page (5) statement of

As per the statement of Mr. Nazim Khan  
 who is a resident of the village of Said  
 to the hotel enquiry. The petitioner and the said  
 and despite in the village and the said  
 and despite in the village and the said  
 to the village and the said

The said and hotel enquiry  
 and the "Toll" and (Hawala Hotel) but the  
 the Constable Subramaniam has allegedly disclosed  
 and registration in of motor car colour has been  
 the same statement according to his wish. The time  
 statement is based on of fact. In EO has recorded

As per the only single alleged statement  
 of Constable Subramaniam is correct. That was  
 again recorded in the absence of petitioner. This

From the above statements it is quite clear that Constable  
 Nazim Khan and his partner both have totally refused  
 the allegations against the petitioner. They have also  
 shown ignorance regarding the arrival of Fayed, Nawaz Ali  
 on the spot during evening at Kanda man. At 12  
 also with Constable that why their other statements  
 were not recorded or compared to the statement of  
 Constable Subramaniam. Both the statements are in the form of petition

10

(4)

Clear + correct  
 D. Subramaniam

D. Subramaniam

D. Subramaniam

D. Subramaniam

02  
 02

Names are not only the Petitioner, but Driver constable  
 Linsell Jang is also blamed for assassination the  
 alleged drama. The EO remained totally silent at  
 this stage and failed to enquire from Foyyaz at  
 this important point. more over Foyyaz has also  
 disclosed in his statement that he made phone calls  
 to his alleged friend for collection of money, who  
 allegedly succeeded to collect money from them.  
 In order to verify the truthness of the above statements  
 the EO failed to examine such persons during the  
 course of enquiry.

⑥ The EO submitted the enquiry finding report to the  
 DPO Swatan and Sd/- Recommended the Petitioner  
 for the award of suitable punishment. In the light  
 of enquiry finding the DPO Swatan awarded major punishment  
 to the Petitioner by reduction in rank from substantive  
 rank of Sd to ASI. Sd/- OPND 676 dtd 23.3.23  
 (Copy of OPND 676 is enclosed.)

⑦ The Petitioner has been badly aggrieved from the said  
 punishment order and hence this (PRESENT APPEAL)

Grounds of Appeal.

- ① The Petitioner is innocent.
- ② The allegations levelled against the Petitioner are  
 false and baseless.
- ③ During narration on 2.3.23 the Petitioner had  
 not met with Foyyaz + names of Sd/- r/o Darda  
 similarly neither such persons were obtained  
 nor his motor car was stopped for checking.  
 Petitioner along with constables Maramlekhan, Linsell  
 Jang and Saldumudat were present on investigation  
 post. Both Constables Maramlekhan + Linsell Jang  
 are in the favour of Petitioner while only single

MAILED

of Constable Salomon... the petition which was recorded in the absence of petition according to the wish of the EO -

⑤ During enquiry the following errors, omission, discrepancy and irregularities were observed -

A) All the statements against the petitioner were recorded by the EO in the absence of the petitioner and had deprived the petitioner from cross examination over the witnesses.

B) The statements "Tall owner" and owner of Haradale Hotel were not recorded during enquiry.

C) Similarly in the Constable report made by Pethaner, the statements of applicants Social Aji Shah and Shah Khalid is Dargar Pethaner were not recorded by the EO.

D) The statements of Faryaz Jivaji do whom, he allegedly made phone calls for collection of money have not been recorded by the EO.

E) The investigation of money which collected against the norms of justice. Constable irregularities were made by the EO during enquiry.

⑦ The Pethaner is entitled to Constable in Police department on 30.5.1991 of Pethaner was duly notified and officer.

⑧ The Pethaner is entitled to Constable in Police department on 30.5.1991 of Pethaner was duly notified and officer.

⑨ Pethaner is entitled to Constable in Police department on 30.5.1991 of Pethaner was duly notified and officer.

with to get further Pethaner in future. his been brought in List F. in Pethaner.

⑫

(8)

M

~~SECRET~~

Date: 11-6-83

Yours obediently,

A. S. Khan A.S. Khan

82 New Warram District Street

Keeping in view the above facts and circumstances  
it is hereby requested that in the acceptance of  
the contract of the subject order of DPO  
Swain is not to be re-instated in his  
substantive rate of B1 from the date of  
Production Phase.

Nothing has been brought against the Petitioner during  
ending of the only hearing thereon / suspension / secret source  
have relied upon.

10) The Petitioner has not been awarded Major Punishment  
throughout his entire period of service.

11) The EO has given weightage to the single statement of  
Comdt. Sadeemullah and he ignored the statements  
of Comdt. Muzam Khan + Lt. Col. J. The CDR  
reports are not to the point but found circumstantial  
evidences.

13

(2)

C — (14)

ORDER.

This order will dispose-off the departmental appeal preferred by ASI Gohar Ali No. 292/MR of Swabi District Police against the order of the then District Police Officer, Swabi, whereby he was awarded Major punishment of reduction in rank from substantive rank of Sub Inspector to ASI vide OB: No. 676 dated 23.05.2023. The appellant was proceeded against departmentally on the allegations that he while posted to Police Station Zalda held nakabandi/snap checking at Kunda Mor alongwith other Police officials. During nakabandi, he stopped a motorcar wherein Fayaz and Nawaz Ali Shah Ps/o Zalda were boarded. During search huge quantity of charas was recovered from possession of Fayaz, but instead of taking legal action, he received illegal gratification of Rs. 90,000/- and set them free.

Proper departmental enquiry proceedings were initiated against him. He was issued Charge Sheets alongwith Statement of Allegations and the then Sub Divisional Police Officer, (SDPO) Lahor, Swabi, was nominated as Enquiry Officer. The Enquiry Officers after fulfilling all codal formalities submitted their findings wherein he recommended the delinquent Officer for suitable punishment.

The then District Police Officer, Swabi thoroughly perused the findings of the Enquiry Officer and served him with Final Show Cause Notice. His reply to the Final Show Cause Notice was received, perused and he was heard in Orderly Room on 05.09.2023, but he could not advance any reason in his self defense.

Accepting in view findings report of the enquiry Officer and conduct of the delinquent Officer, the then District Police Officer, Swabi reached to the conclusion that the charges leveled against him have been proved beyond any shadow of doubt, hence, awarded him major punishment of reduction in rank from substantive rank of Sub Inspector to ASI vide OB: No. 676 dated 23.05.2023 by the then District Police Officer, Swabi.

Feeling aggrieved from the order of then District Police Officer, Swabi, the appellant preferred the instant appeal. He was summoned and heard in person in Orderly Room held in this office on 19.10.2023.

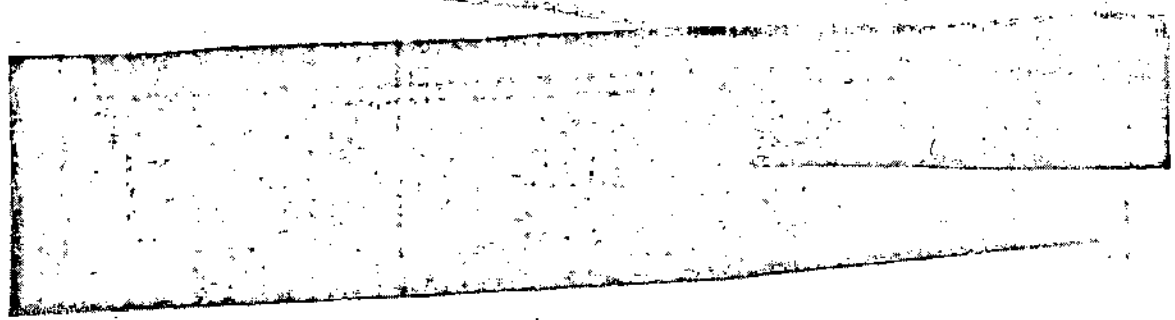
From the perusal of the enquiry file it transpired that the enquiry proceedings have not been conducted in a professional manner rather the same were held in a haphazard manner without delving deep to ascertain the facts of the matter. The enquiry Officer was supposed to have heard all the relevant materials so as to establish the guilt of the delinquent Officer but instead of doing so, he proceeded in a perfunctory and perfunctory manner. Hence, in order to prove the delinquent Officer as guilty or innocent the relevant materials were not collected. Therefore, the matter was remanding back by the undersigned vide this office order endorsement No. 7029-2023 dated 30.10.2023 the case in question to District Police Officer, Swabi for the purpose of de novo enquiry through Superintendent of Police Investigation, Swabi.

In light of above, the Superintendent of Police Investigation, Swabi after conducting de-novo enquiry submitted his report vide office letter No. 298/PA dated

ATTORNEY  




Handwritten signature or initials at the top of the page.



Handwritten notes including "Forwarded", "15.02.2024", "Dr. Praveen", "Himal", "15.2.2024", "Dr. Praveen", "Himal", "15.2.2024".

Handwritten number: 0330-1372028

Main body of handwritten text, appearing to be a list or detailed notes, written in a cursive script.

Handwritten text at the bottom of the main body.

Handwritten text at the bottom left, including a circled number "15" and a dash.



OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
PESHAWAR.

E - 16

ORDER

This order is hereby passed to dispose of Revision Petition under Rule 11-A of Khyber Pakhtunkhwa Police Rule-1975 (amended 2014) submitted by **SI Gohar Ali Shah No. 292/MR** (hereinafter referred to as petitioner).

*Certified to be True Copy.*

DPO/Swabi awarded the petitioner major punishment of reduction in rank from substantive rank of SI to ASI vide OB No. 676, dated 23.05.2023 on the allegations that he while posted to PS Zaida held nakabandi/snap checking at Kunda Mor alongwith other police officials. During nakabandi, he stopped a motorcar wherein Fayaz and Nawaz Ali Shah R/O Zaida were boarded. During search huge quantity of charas was recovered from possession of Fayaz, but instead of legal action, he received illegal gratification of Rs. 90,000/- PKR and set them free.

RPO/Mardan ordered De-novo enquiry. In light of De-novo enquiry & by taking a lenient view, the Appellate Authority i.e. RPO/Mardan converted the major punishment of rank reversion into minor punishment of forfeiture of one year approved service.

A meeting of Appellate Board was held on 10.05.2024 in CPO under the chairmanship of DIG Headquarters. SI Gohar Ali Shah No. 292/MR was present.

The petitioner was heard in person. The Board **rejected** his revision petition.

Sd/-  
**AWAL KHAN, PSP**  
Additional Inspector General of Police,  
HQrs: Khyber Pakhtunkhwa, Peshawar.

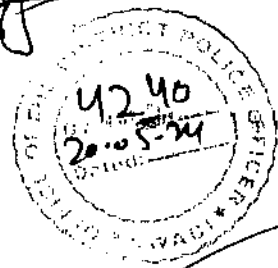
No. S/ 1151-56 /24, dated Peshawar, the 17-05- /2024.

Copy of the above is forwarded to the:

1. Regional Police Officer, Mardan. Service Roll alongwith Fauji Missal received vide letter No 918/ES, dated 15.04.2024 is returned for your office record.
2. District Police Officer, Swabi
3. AIG/Legal, Khyber Pakhtunkhwa, Peshawar.
4. PA to Addl: IGP/HQrs: Khyber Pakhtunkhwa, Peshawar.
5. PA to DIG/HQrs: Khyber Pakhtunkhwa, Peshawar.
6. Office Supdt: E-III, CPO Peshawar.

OB/Ec/PA/Legal

*Sonia Shamroze Khan*  
**(SONIA SHAMROZE KHAN)**  
PSP  
AIG/Establishment,  
Per Inspector General of Police,  
Khyber Pakhtunkhwa, Peshawar.



*Swabi*  
20/5/24

OB 531  
20.5.24  
ATTESTED  
District Police Officer, Swabi

Received at Swabi  
14/6/24  
14/6/24  
14/6/24

حیدرآباد گورنمنٹ لائبریری

مورثہ گورنمنٹ مشاہدہ 2ء منجانب  
مقدمہ ساج بنام

دعویٰ جرم  
لوئیس ڈیبارکٹ سیار  
باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام سیار کیلئے منصفیت علیٰ یوسف

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
ویکل صاحب کو راضی نامہ کرنے کے تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور ویکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے  
اور اس کا سا جملہ پروا جملہ منظور و قبول ہوگا و دوائی مقدمہ میں جو خرچہ ہر جہاں التوا سے مقدمہ ہوں گے  
سب سے وہوگا۔ کوئی تاریخ پیشی 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 سنڈر ہے۔

20

المرقوم  
N.A.S