


Form- A

FORM OF ORDER SHEET

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

Implementation Petition No. 663/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05.07.2024	<p>The implementation petition of Mr. Ghulam Zahir submitted today by Mia Muhammad Imran Advocate. It is fixed for implementation report before Single Bench at Peshawar on 10.07.2024. Original file be requisitioned. AAG has noted the next date. Parcha peshi given to counsel for the petitioner.</p> <p>By the order of Chairman  REGISTRAR</p>

①

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

Execution Petition No. 663 /2024

In

Service Appeal No. 1892/2022

**Ghulam Zahir (Principal) (BPS-18), Elementary & Secondary Education, Khyber Pakhtunkhwa**

.....Petitioner

**VS**

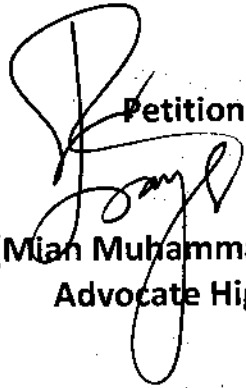
**Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar and others**

.....Respondents

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Through

  
Petitioner  
(Mian Muhammad Imran)  
Advocate High Court

**BEFORE THE WORTHY SERVICE TRIBUNAL PESHAWAR**

2

Execution petition No. 663 /2024

In

Service Appeal No. 1892 /2022

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 114026

Dated 05/07/2024

Ghulam Zahir, Principal (BPS-18), Elementary & Secondary Education  
Khyber Pakhtunkhwa

VS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar
2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
3. Director, Elementary & Secondary Education Khyber Pakhtunkhwa

**EXECUTION PETITION FOR IMPLEMENTATION OF JUDGMENT DATED:  
12/10/2013 IN SERVICE APPEAL NO. 1892/2022**

The petitioner is pleased to beseech before this Honorable Court as under;

1. That the Petitioner filed Service Appeal No. 1892/2022 before this Honorable Tribunal which was remitted back to the Respondents to decide the departmental appeal of the Petitioner. (Copy of Judgment is attached as F/A)
2. That the operative part of the judgment is reproduced ad verbatim;

“We deem it appropriate to remit the case back to the department to decide the departmental appeal of the appellant on the basis of record available with them”.

3. That after rendering the above mentioned judgment by this Honorable Tribunal, the Petitioner approached the department for implementation of the judgment but so far, remained heedless. (Copy of Application is attached as F/B)
4. That despite the lapse of more than 08 months, the respondents are recalcitrant to implement the judgment and to

decide the departmental appeal as directed by the worthy tribunal which is unwarranted in the eye of law.

2A

5. That the Respondents are required to implement the judgment in true letter and spirit, which has not yet been materialized, which is against the mandate of law and rules.
6. That any other ground can be raised at the time of arguments.

**PRAYER:**

In light of the foregoing submissions, it is therefore, most humbly prayed that on acceptance of the instant application/execution petition, the Respondents may be directed to implement the judgment Dated: 12/10/2023 in Service Appeal No. 1892/2022 in true letter and spirit for the best administration of justice and fair-play.

Petitioner

Through

(Mian Muhammad Imran)  
Advocate High Court

**Affidavit:**

I, Ghulam Zahir S/O Ghulam Farooq (Principal, Elementary and Secondary Education Department Peshawar) do hereby solemnly affirm and declare on oath that the contents of the execution petition are true and correct and nothing has been concealed.

Deponent



5/7/2024

3

~~SECRET~~

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL NO. 1892 /2022



Mr. Ghulam Zahir, Vice Principal BPS-18,  
GHSS Hayaseri, District Dir Upper.

..... APPELLANT

**VERSUS**

- 1- The Government Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.


..... RESPONDENTS

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED INJECTION OF THE RESPONDENTS FOR RETENTION OF LIEN ON THE POST OF SENIOR SUBJECT SPECIALIST BPS-18 OR RECKON SENIORITY FROM THE DATE OF INITIAL APPOINTMENT I.E. AS SUBJECT SPECIALIST W.E.F 20-08-2003 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

**That on acceptance of this appeal the impugned inaction of the respondent may kindly be declared as illegal and the respondents may kindly be directed to retained the LIEN of the appellant on the post of Senior Subject Specialist BPS-18 alongwith seniority Or the respondents may kindly be directed to intact the seniority of the appellant from his initial date of appointment as subject specialist i.e. with affect from 20-08-2003. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.**

**ATTESTED**

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**R/SHWETH:  
ON FACTS:**

1. That the appellant was initially appointed as subject specialist in the respondent department through order dated 20-08-2003 upon the proper recommendation of the NWFP public service commission and the services of the appellant was regularize through notification dated 21-03-2006,,performing his duties quite efficiently and to the entire satisfaction of his high ups. Copies of the appointment notification DATED 28-08-2003 and regularization notification dated 21-03-2006 are attached as annexure.....**A.**
2. That the respondent department prepared seniority list of the appellant in the year 2013 whereby the appellant placed at serial No.704 on the lbid seniority list. Copy of the seniority list is attached as Annexure .....**B & C.**
3. That the appellant was promoted from subject specialist BPS-17 to Senior Subject Specialist BPS-18 on regular basis through notification dated 16.04.2015 and submitted his charge report as senior subject specialist bps-18 and started performing his duty on concerned station. Copies of the Promotion Notification and Charge Report are attached as annexure.....**D & E.**
4. That through Khyber Pakhtunkhwa Public Service Commission various posts were advertised whereby the appellant applied to the post of Vice Principal BPS-18 through proper channel and was recommended through notification dated 25.08.2015 upon the proper recommendation of Khyber Pakhtunkhwa Public Service Commission against the post of Vice Principal BPS-18 and submitted his charge report against the said post. Copies of the advertisement, Notification dated 25.08.2015 and Charge Report are attached as Annexure.....**F, G&H.**
5. That in the year 2021 the respondent department issues seniority list of Principal and Senior Subject Specialist whereby the previous service of the appellant as Senior Subject Specialist was not counted and the appellant seniority was considered from the date of his appointment as Vice Principal BPS-18 instead of his initial appointment as Subject Specialist BPS-17 w.e.f 28.08.2003. Copy of the Seniority list is attached as annexure.....**I.**
6. That appellant feeling aggrieved from the inaction of the department preferred departmental appeal which was not decided till date. Copy of the departmental is attached as Annexure

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

7. That appellant feeling aggrieved and having no other remedy filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That impugned inaction of the respondents whereby the previous service of the appellant as subject specialist BPS-17 was not counted to his final seniority for the post of Vice principal BPS-18 are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That, the treatment meted out to the appellant is clearly based on discrimination and malafide and as such the respondents violated the principle of natural justice.
- D- That the respondents acted in arbitrary and malafide manner while not considering the previous service of the appellant as subject specialist BPS-17 in his final seniority for the post of Vice principal BPS-18.
- E- That respondents violated Article 38(e) of the Constitution of Islamic Republic of Pakistan 1973, according to which state is bound to eliminate disparity in the income and earning of individuals.
- F- That according to Section-8 of the Civil servant Act, 1973 read with Rule-17 of the appointment, promotion and transfer Rules the seniority of a civil servant shall be consider from the date of his initial regular appointment.
- G- That similar nature case/appeal has been accepted by this august Tribunal in appeal NO. \_\_\_\_\_ titled Muhib Ur rehman VS education Department, decided on \_\_\_\_\_ therefore under the principle of consistency reported in 2009 SCMR 1 the appellant is also similarly placed employee and is entitled for alike treatment. Copy of the Judgment is attached as annexure ..... K.
- H- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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

Dated: \_\_\_\_\_

**APPELLANT**



**GHULAM ZAHIR**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK  
ADVOCATE SUPREME COURT**

**WALEED ADNAN**

**UMAR FAROOQ MOMAND**

**MUHAMMAD AYUB**


**&**

**KHANZAD GUL  
ADVOCATES**

**AFFIDAVIT**

I, Ghulam Zaheer, Vice Principal BPS-18, GHHS Dir Upper Warai District Dir Upper, do hereby solemnly affirm and declare on Oath that the contents of this Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Certified to be true copy



**EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar**



**DEPONENT**

Dir Upper

known

12/1/2014

12/1/2014



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**APPEAL No. 1892 / 2022**


**GHULAM ZAHIR VS EDUCATION DEPTT:**

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**APPELLANT**

Through:

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE  
SUPREME COURT OF PAKISTAN**

**Service Appeal No. 1892/2022 titled "Ghulam Zahir Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Khyber Pakhtunkhwa Peshawar and others"**

**ORDER**

12.10.2023

**MUHAMMAD AKBAR KHAN, MEMBER (E):-** Mr. Noor

Muhammad Khattak, Advocate for the appellant present. Mr.

Muhammad Jan, District Attorney for the respondents present.

Arguments heard and record perused.



02. Perusal of record transpired that the appellant was initially appointed as Subject Specialist in the respondent department on 20.08.2003. He was promoted as Senior Subject Specialist BS-18 on 16.04.2015. Before his promotion he had applied for the post of Principal (BPS-18) advertised by the Khyber Pakhtunkhwa Public Service Commission. On the recommendation of Public Service Commission he was appointed as Principal (BS-18) vide Notification dated 24.10.2015. He joined the post of Principal and still serving as Principal. The prayer sought for in the appeal contain two distinct matters; i) retention of his lien on the post of Senior Subject Specialist BS-18; or ii) maintain intact his seniority from his initial date of appointment as Subject Specialist.

*[Handwritten scribble]*

03. After arguing the matter at certain length, learned counsel for the appellant stated at the bar that the appellant has made departmental appeal to the respondents giving detail position of his case which has not been responded by the department within the stipulated period. He would be satisfied if the case is remitted back to the department for consideration and decision of the departmental authority in the first

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

instance. We deem it appropriate to remit the case back to the department to decide the departmental appeal of the appellant on the basis of record available with them. Disposed of accordingly. Consign.

04. Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal on this 12<sup>th</sup> day of October, 2023.



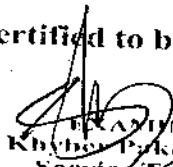
(Rashida Bano)  
Member (J)



(Muhammad Akbar Khan)  
Member (E)

\*Kamranullah\*

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 08-03-2024  
 Number of Words pages 6  
 Copying Fee 30/-  
 Urgent 5/1  
 Total 35/1  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 08-03-2024  
 Date of Delivery of Copy 08-03-2024

Mr. [Name] [Signature]

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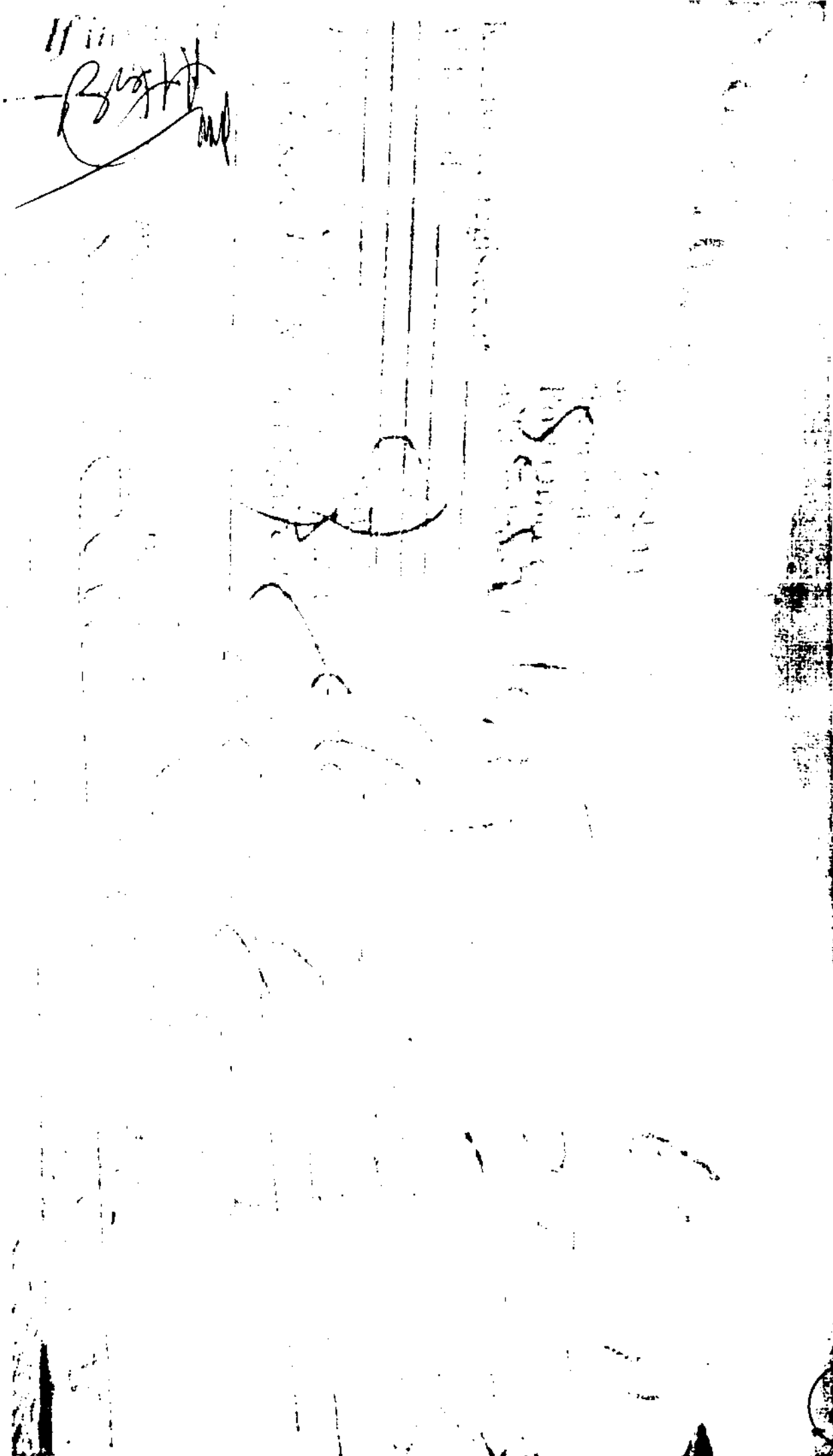
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①

50	47257	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	
ایڈووکیٹ <i>Mian Muhammad Imran</i>		PESHAWAR BAR ASSOCIATION	
بار کونسل ایسوسی ایشن نمبر: BC-13-4213			
رابطہ نمبر: 0333-9577710			

Service Tribunal KPK

بعدالت جناب:

Petitioner	مخائب:	Execution	دعویٰ:
Ghulam Zahid			علت نمبر:
بنام			موضوع:
Govt. of KPK.			جرم:
			تھانہ:

**بابت تحریر آئکہ**

تقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی محالقم  
 آن مقام کے لئے *میاں محمد عمران / سید اعجاز احمد* کو وکیل مقرر  
 کر کے اتر آیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کالچ اختیار ہوگا، نیز وکیل صاحب کو  
 راضی نامہ کرنے و تقرر نکالت 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 یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
 اپیل کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
 مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخلہ منظور و قبول ہوگا  
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا کوئی تازہ پیشی مقام دورہ یا حد سے  
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

PESHAWAR BAR ASSOCIATION  
KHYBER PAKHTOONKHA

المرقوم: 17/2024

العواہ شد العبد  
 مقام  
 17/2024