

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

SERVICE APPEL NO. 2037 of 2023.


Israr Ahmad son of sabir Islam Constable No. 1161 District Police Office Mansehra resident of Mohallah Argoshal village Shatay Dhodial District MansehraAppellant

VERSUS

1) Government of Khyber [Pakhtunkhwa through secretary Home and Tribal Affairs Peshawar and others.
..... Respondents

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Deponent

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VERSUS

1) Government of Khyber [Pakhtunkhwa through secretary Home and Tribal Affairs Peshawar.

Khyber Pakhtunkhwa Service Tribunal

2) Inspector General of police KPK Peshawar.

Diary No. 13440

3) Regional Police officer, Hazara Region Abbottabad.

Dated 11-06-2024

4) District Police Officer, Mansehra.

..... Respondents

Parawise Comments On Behalf Of Respondents

RESPECTFULLY SHEWETH:-

PRELIMINARY OBJECTION:-

- a) The appeal is not based on facts and appellant has got no cause of action or locus standi.
- b) That appeal is not maintainable in the present form.
- c) The appeal is bad for non-joinder of necessary and mis-joinder of unnecessary parties.
- d) The appellant is estopped by his own conduct to file the appeal.
- e) The appeal is barred by the law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

FACTS:-

1. That the appellant has been reinstated in service in compliance of order dated 19.09.2022 of honorable Service Tribunal Abbottabad Bench and now performing his official duties.
2. Incorrect. That appellant while posted at PS Battal had absented himself from duty without any leave or permission with effect from 27.02.2020 to 25.06.2020 i.e (03 months 28 days) . The appellant had never informed his Incharge



regarding marriage of his sister, he has concocted the story to save his skin.

3. Incorrect. That the appellant is habitual absentee and often absented himself from duty without any leave or permission. His absence record is as follows.

OB No.	From	To	Period
179/17.08.2016	06.07.2016	07.07.2016	02 Days
197/16.07.2017	16.07.2017	04.08.2017	26 Days
145/17.05.2018	14.02.2018	15.02.2018	01 Days
55/22.02.2018	12.01.2018	14.11.2018	02 Days
303/03.05.2018	13.08.2018	16.08.2018	03 Days
07/07.07.2019	03.11.2019	04.11.2019	01 Day
79/06.04.2020	13.02.2020	17.02.2020	04 Days

4. Incorrect. That the appellant has not adduce any proof of marriage of his sister nor he produced any proof of his journey to Karachi. His whole story is false and concocted.
5. Incorrect. The appellant absented from duty for about 03 months and 28 days and during that period he failed to submit any information regarding his cause of absence. Furthermore, during his service career, he remained absent several times and awarded different punishments.
6. That appellant was properly proceeded against and he submitted his reply to the charge sheet which was unsatisfactory and without any cogent reason.
7. That after proper departmental enquiry, enquiry officer recommended him for suitable punishment. He was also given the chance of personal hearing but failed to convince the competent authority, hence awarded major punishment of dismissal from service vide OB No. 149 dated 29.06.2020.
8. That the appellant preferred departmental appeal which was rejected vide RPO Hazara order dated 16.09.2020.

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9. That after exhausting departmental remedies he filed service appeal before the honorable Service Tribunal Abbottabad Bench.
10. That on 19.09.2022, honorable service Tribunal partially accepted the appeal by reinstating appellant in service and order to conduct denovo enquiry in order to provide him proper opportunity of defense.
11. That in compliance of order of honorable service Tribunal, proper denovo enquiry was initiated against appellant and appellant joined the proceeding and submitted his reply to the charge sheet. **(Copies of charge sheet and reply enclosed as annexure A).**
12. That enquiry officer given the appellant full opportunity of defense and given his finding and recommended him for major punishment of reversion of time scale constable. Copy of enquiry report is enclosed.
13. The competent authority awarded him punishment of reversion to appellant after given him opportunity of hearing and defence.
14. That the appellant filed departmental appeal, which was rejected as he failed to submit justification before the appellat authority.
15. Correct. The departmental appeal was rightly rejected.
16. The instant appeal is not maintainable on the following grounds.

GROUND:-

- A. Incorrect. The impunged orders are legal, lawful, tenable and liable to be maintained and upheld.
- B. Incorrect. The appellant was treated according to law and competent authority follow the law and rules while conducting departmental enquiry proceedings.
- C. Incorrect. All the proceedings were completed and he was given the opportunity of show and cause but he failed to satisfy the competent authority.
- D. Incorrect. The appellant was handedover copy of enquiry as well as other documents.
- E. Incorrect. The appellant was properly heard and he was given opportunity of person hearing.

- F. Incorrect. Both the orders are legal and maintainable in the eye of law.
- G. Incorrect. All the proceedings were conducted according to law and no illegality was committed.
- H. Incorrect.
- I. Incorrect. The appellant was treated under police rules 1975.
- J. Incorrect.
- K. Incorrect.
- L. Incorrect. The whole proceedings were conducted and completed in compliance of directions of service tribunal.
- M. Incorrect. The whole proceeding were completed with in stipulated time and no violation of order of service tribunal was made.
- N. Incorrect. The respondents comply the order of service tribunal in true letter and spirit.
- O. The appeal is not maintainable and badly time barred.

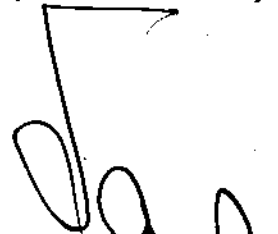
PRAYER:

In view of the above mentioned facts, the appeal in hand may kindly be dismissed being devoid of any legal force.



Regional Police Officer
Hazara Region Abbottabad
Tahir Ayub Khan (PSP)

(Respondent No. 3)



District Police Officer
Mansehra
Shafiullah Khan Gandapur (PSP)

(Respondent No. 4)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

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VERSUS

- 1) Government of Khyber [Pakhtunkhwa through secretary Home and Tribal Affairs Peshawar and others.
 - 2) Inspector General of police KPK Peshawar.
 - 3) Regional Police officer, Hazara Region Abbottabad.
 - 4) District Police Officer, Mansehra.
- Respondents

AUTHORITY LETTER

I, District Police Officer Mansehra, hereby authorize Mr. Gul Shazad Khan SI Legal, Mansehra to attended Service Tribunal Abbottabad Bench in '**Service appeal No. 2037 of 2023** Titled Israr Ahmad s/o Sabar Islam **VERSUS** Government of Khyber Pakhtunkhwa & Others, and to submit comments/reply on my behalf.


**District Police Officer
Mansehra**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR.

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- 2. Inspector General of police KPK Peshawar.
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- 4. District Police Officer, Mansehra.

..... Respondents

AFFIDAVIT

We respondents do solemnly affirm and declare that the contents of the reply/comments are true and correct to our knowledge and belief and that nothing has been concealed from this Honorable tribunal. *it is further stated that on oth that answering respondent have neither been place x party nor their defence struck off*

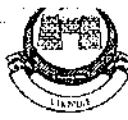
ATTESTED
 Muhammad Adil
 OATH SIGNER
 Advocate Mansehra
 14/24

Tahir Ayub Khan
 Regional Police Officer
 Hazara Region Abbottabad
 Tahir Ayub Khan (PSP)

(Respondent No. 3)

Shafiullah Khan Gandapur
 District Police Officer
 Mansehra
 Shafiullah Khan Gandapur (PSP)

(Respondent No. 4)



CPK

3

POLICE DEPARTMENT

MANSEHRA DISTRICT

ORDER

This office order will dispose off the departmental enquiry proceeding against Constable Israr Ahmad No. 534 who was proceeded against departmentally with the allegation that vide DD No. 09 dated 02.03.2020 PS Battal it has been reported that he was transferred from PS Baffa to PS Battal but he did not report his arrival at PS Battal and absented himself from duty 27.02.2020 to 25.06.2020 (03 months & 05 days) without any leave or permission. His previous record was checked and found that he has absented himself from duty on the following occasions without any leave or permission.

OB No.	From	To	Period
179/17.08.2016	06.07.2016	07.07.2016	02 days
197/16.07.2017	16.07.2017	04.08.2017	26 days
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07/07.04.2019	03.11.2019	04.11.2019	01 days
79/06.04.2020	13.02.2020	17.02.2020	04 days

In this regard proper departmental enquiry was initiated against him and on the recommendation of enquiry officer he was dismissed from service.

Mr. Muhammad Suleman, Superintendent of Police, Investigation, Haripur was appointed as Enquiry Officer for denovo enquiry, vide CPO Memo: No.386-88/CPO/IAB dated 31.03.2023. The Enquiry Officer after conducting denovo departmental Enquiry has submitted his report stating therein that the delinquent constable has gone to Karachi for his sister marriage ceremony and did not return back to district Mansehra. As per statement of delinquent Constable he could not come back to join his duty due to lock down imposed by the government due to COVID-19 which does not seem to be a genuine reason. Being a member of disciplined force he was supposed to obtain proper leave or permission from his seniors. The Enquiry Officer recommended him for major punishment most preferably be reverted to time scale of constable.

On 13.04.2023, the delinquent Constable Israr Ahmad No. 534 was heard in person in orderly room but he could not convince the undersigned in his defense.

I, the District Police Officer, Mansehra, therefore award him major punishment of "Reverted to time scale of Constable" to the delinquent Constable Israr Ahmad No. 534, under Khyber Pakhtunkhwa Police, Disciplinary Rules 1975 (amended in 2014). The period he remained out of service is treated as leave without pay.

Ordered announced.

Ali Aslam
MS
**DSP LEGAL
MANSEHRA**

[Signature]
District Police Officer
Mansehra



7

POLICE DEPARTMENT

MANSEHRA DISTRICT

PROFILE OF CONSTABLE ISRAR AHMAD NO. 534

Name No & Designation	FC Israr Ahmad. 534
Date of Birth	01.02.1993
Domicile/home district	Mansehra
Home Police Station	Shinkhari
Education	10 th
Date of Enlistment	13.08.2014
Present Posting	GD Police Lines, 08.12.2022

CHARGE SHEET

Vide DD No. 09 dated 02.03.2020 PS Battal it has been reported that he was transferred from PS Baffa to PS Battal but he did not report his arrival at PS Battal and absented himself from duty 27.02.2020 to 25.06.2020 (03 months & 05 days) without any leave or permission. His previous record was checked and found that he has absented himself from duty on the following occasions without any leave or permission.

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07/07.04.2019	03.11.2019	04.11.2019	01 days
79/06.04.2020	13.02.2020	17.02.2020	04 days

In this regard proper departmental enquiry was initiated against him and on the recommendation of enquiry officer he was dismissed from service. It amounts to gross misconduct.

Submitted, please.

Major punishment
levied to fine scale of

Accepted
me

DSP LEGAL
MANSEHRA



OFFICE OF THE
Superintendent of Police, Investigation,
Haripur.

Email: ssp_inv_haripur@yahoo.com
Ph. No. 0995-920033, Fax No. 0995-627069

No.

257/PA, dated

02/03/2023.

To: The Assistant Inspector General of Police,
Enquiries, Internal Accountability Branch, CPO,
Khyber Pakhtunkhwa, Peshawar.

Subject: SERVICE APPEAL NO.12096/2020 TITLED EX-FC ISRAR AHMAD NO.1161
VERSUS PROVINCIAL POLICE OFFICER KHYBER PAKHTUNKHWA

Memo:

Kindly refer to your office letter No 59-62/CPWIAB, dated 10.01.2023
on the above cited subject.

It is submitted that subject cited denovo enquiry was entrusted to the undersigned by your good office to conduct denovo enquiry of Ex-Constable Israr Ahmed No. 1161 District Mansehra. So an-enquiry was initiated to find out the actual facts. For this purpose the undersigned has requested the district Police Officer, Mansehra vide this office Memo No. 158/PA, dated 23-01-2023 to issue Charge sheet along with summary of allegation to Ex-constable Israr Ahmed No. 1161, District Mansehra to proceed further in the matter of denovo enquiry. (Copy of Memo No. 158/PA, dated 23-01-2023 is enclosed as Annexure "A").

For the purpose of enquiry the District Police Officer, Mansehra has issue Charge Sheet along with summary of allegation to Ex-Constable Israr Ahmed No. 1161, District Mansehra vide his office Memo No. 710-11/PA, dated 26-01-2023. As per summary of allegations levelled against Ex-Constable Israr Ahmed No. 1161, vide DD No. 09, dated 02-03-2022 PS Battal District Mansehra that while he was transferred from PS Baffa to PS Battal and absented himself from duty with effect from 27-02-2020 to 25-06-2020 (03 Months & 05 Days) without any leave or permission. It shows that he is irresponsible/inefficient police official and is not taking interest in the discharge of his official duty. It amounts to gross misconduct on his part. (Copy of charge sheet along with summary of allegation is enclosed as Annexure "B").

Attested

DSP LEGAL
MANSEHRA

(9)

During the enquiry proceedings the alleged Es-Constable Israr Ahmed Na. 1161 District Mansehra submitted his written comprehensive statement in response of allegations as per charge sheet in which he stated that he submitted leave application for attending his sister marriage ceremony at Karachi, but his application was not accepted. He submitted that on 02-03-2020 he went to Karachi for the purpose of his sister marriage ceremony, meanwhile due to COVID-19 lock-down was started and he was still there at Karachi. He added that after some relief in lock-down he returned back to District Mansehra and made his arrival in PS Battal vide DD No. 15, dated 07-06-2020 and further prayed for forgiveness. (Copy of statement of alleged is enclosed as Annexure "C").

Similarly, during the enquiry proceedings others relevant record was thoroughly perused by the undersigned and following officers/officials of District Mansehra was summoned/appeared before the undersigned vide this office Memo No. 163-166/PA, dated 10-02-2023. (Copy of summoned is enclosed as Annexure "D").

1. SI Qazi Majid Naseem, the then SHO PS Battal now Traffic Inspector Mansehra.
2. HC Barkat Ullah, the then MHC PS Battal now MHC PS Balakot, Mansehra.
3. HC Nadeem No. 46, the then IHC PS Battal now Inv Wing PS Ghari Habib Ullah, Mansehra.

During the enquiry proceedings the statements of SI Qazi Majid, the then SHO PS Battal now inspector Traffic Mansehra, HC Barkat Ullah, the then MHC PS Battal now MHC PS Balakot, Mansehra and HC Nadeem No. 46, the then IHC PS Battal now IHC PS Ghari Habib Ullah Mansehra, were recorded which is revealed that the alleged Ex-Constable Israr Ahmed No. 1161 District Mansehra is transferred and posted from PS Baffa District Mansehra to PS Battal District Mansehra the alleged official did not report his arrival at PS Battal and absented himself without any leave or permission. (Copy of statements are enclosed as Annexure "E, F and G").

Attested
A
**DSP LEGAL
MANSEHRA**

(10)


FINDING /RECOMMENDATION:

In view of the above and after perusal of statement of alleged official, statements of other police officers and previous service record of alleged official, it has revealed that delinquent constable has gone to Karachi for his sisters marriage ceremony and did not return back to District Mansehra. As per his statement he could not come back to join his duty due to Lock down imposed by the Govt: due to COVID-19 which does not seem to be a genuine reason. Being a member of disciplined force he was supposed to obtain proper leave or permission from his seniors. Therefore, I, Muhammad Suleman, Superintendent of Police, Investigation Haripur being an enquiry officer, recommended that he may kindly be awarded Major punishment most preferably be reverted to time scale of constable.

Submitted for your kind perusal, please.

Attested
A. J. J.

**DSP LEGAL
MANSEHRA**


**Muhammad Suleman,
Superintendent of Police,
Investigation, Haripur.**

(4) (7)

DISCIPLINARY ACTION

I, Irfan Tariq (PSP), District Police Officer Mansehra, as Competent Authority of the opinion that **Constable Israr Ahmad No. 1161 Police Lines** has rendered himself liable to be proceeded against as he committed the following act/omissions within the meaning of Khyber Pakhtunkhawa Police Disciplinary Rules 1975 (amended in 2014).

In compliance of judgment of Service Tribunal Abbottabad Bench Vide order dated 19-09-2022 in service Appeal No. 12096/2020 It was directed to conduct denovo enquiry against you in respect of following allegations.

Vide DD No. 09 dated 02-03-2020 PS Battal it has been reported that you were transferred from PS Baffa to PS Battal but you did not report your arrival at PS Battal and absented yourself from duty with effect from 27-02-2020 to 25-06-2020 (03 months & 05 days) without any leave or permission. Your previous record was checked and found that you have absented yourself from duty on the following occasions without any leave or permission.

OB No	From	To	Period
179 dated 17-08-2016	06-07-2016	07-07-2016	02 days
197 dated 16-07-2017	16-07-2017	04-08-2017	26 days
145 dated 17-05-2018	14-02-2018	15-02-2018	01 day
55 dated 22-02-2019	12-1-2018	14-11-2018	02 days
303 dated 03-2-2018	13-08-2018	16-08-2018	03 days
07 dated 07-04-2019	03-11-2019	04-01-2019	01 day
79 dated 06-04-2020	13-02-2020	17-02-2020	04 days

In this regard proper departmental enquiry was initiated against you and on the recommendation of enquiry officer you were dismissed from service. It amounts to gross misconduct. It shows that you are indisciplined and irresponsible police official. It amounts to gross misconduct.

For the purpose of scrutinizing the conduct of the said accused Officer with reference to the above allegations. Mr. **Muhammad Suleman, SP Investigation Haripur** is deputed to conduct formal departmental enquiry against **Constable Israr Ahmad No. 1161 Police Lines**

The Enquiry Officer shall in accordance with the provisions of the Khyber Pakhtunkhawa Efficiency & Discipline Rules 1973 (amended in 2014), provide reasonable opportunity of hearing the accused, record findings and make recommendations as to punishment or other appropriate action against the accused.

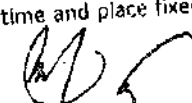
The accused and a well conversant representative of the department shall in the proceedings on the date, time and place fixed by the Enquiry Officer.


District Police Officer,
Mansehra

No 710-11 /PA dated Mansehra the 26 /01/2023

Copy of the above is forwarded for favour of information and necessary action to:-

1. The Enquiry Officer for initiating proceedings against the defaulter officer under the provisions of the Khyber Pakhtunkhawa Efficiency & Discipline Rules 1973 (amended in 2014).
2. Constable Israr Ahmad No. 1161 Police Lines with the direction to submit his written statement to the Enquiry Officer within 07 days of the receipt of this charge sheet/statement of allegations and also to appear before the Enquiry Officer on the date, time and place fixed for the purposes of departmental proceedings.


District Police Officer,
Mansehra

Attached
1
DEPT. OFFICER
MANSEHRA

12

CHARGE SHEET

I, Irfan Tariq (PSP), District Police Officer, Mansehra as Competent Authority, hereby charge you Constable Israr Ahmad No. 1161 Police Lines as follows.

Vide DD No. 09 dated 02-03-2020 PS Battal it has been reported that you were transferred from PS Baffa to PS Battal but you did not report your arrival at PS Battal and absented yourself from duty with effect from 27-02-2020 to 25-06-2020 (03 months & 05 days) without any leave or permission. Your previous record was checked and found that you have absented yourself from duty on the following occasions without any leave or permission.

OB No	From	To	Period
179 dated 17-08-2016	06-07-2016	07-07-2016	02 days
197 dated 16-07-2017	16-07-2017	04-08-2017	26 days
345 dated 17-05-2018	14-02-2018	15-02-2018	01 day
355 dated 22-02-2019	12-1-2018	14-11-2018	02 days
303 dated 03-2-2018	13-08-2018	16-08-2018	03 days
07 dated 07-04-2019	03-11-2019	04-01-2019	01 day
79 dated 06-04-2020	02-2020	17-02-2020	04 days

In this regard proper departmental enquiry was initiated against you and on the recommendation of enquiry officer you were dismissed from service. It amounts to gross misconduct.

Due to reasons stated above you appear to be guilty of misconduct under Khyber Pakhtunkhwa Police Disciplinary Rules-1975 (amended in 2014) and have rendered yourself liable to all or any of the penalties specified in the said Police Disciplinary Rules.

You are, therefore, required to submit your written defense within 07 days of the receipt of this charge sheet to the enquiry officer.

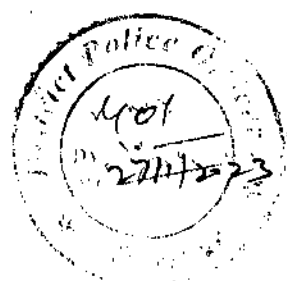
Your written defense, if any, should reach the enquiry officer within the specified period, failing which it shall be presumed that you have no defense to put in and in that case exparte action shall follow against you.

Intimate whether you desire to be heard in person or otherwise.

Statement of allegation is also enclosed.

[Signature]
District Police Officer,
Mansehra

*SP investigation
for prosecution
D/O HD
27-01-23*



Alleged
**DSP LEGAL
MANSEHRA**

[Signature]
for n/a
Solim: hr

جواب عالی

1

خواجہ ڈی سیلری انکین چارج منسٹر 72-73/sec تعین 20/6/2020 رفقہ ضلع
 طالبہ کی کنٹینٹ معروف خدیجہ بیگم میں نے ڈسٹینس کی خلاف ورزی کرتے ہوئے میں اپنی بیٹی
 کی شادی کی رسم ادارہ لکھنؤ کراچی کیا گیا۔ میں نے چیف ایڈووکیٹ جنرل کو اطلاع دی لیکن چیف
 نے بیٹی پر میں اپنی بیٹی کی شادی میں شرکت کرنے کو روکی جیلا لکھنؤ کو حکم جاری کیا
 خدیجہ کراچی میں رہائش پذیر ہے۔ اعدہ شادی کا پروگرام کراچی میں ہی ہونا تھا۔
 چیف نے ملے پیر میں خدیجہ 20/20 کو اپنی بیٹی کی شادی کرنے کے لیے کراچی چلا
 گیا تھا شادی کا پروگرام ختم ہونے پر ملک پاکستان میں حیاتی اور ایف کو فنانس
 شروع ہو گیا تھا جس پر ریاست کی جانب سے لگن ڈاؤن نافذ ہونے کی وجہ سے خدیجہ کو
 کیا تو ساتھ نڈیہ کا نظام ہی راج برہم ہو گیا تھا اعدہ شادی حکم پر لگن ڈاؤن
 ہونے پر خدیجہ کی وجہ سے نڈیہ کا نظام درج برہم ہو گیا اور خدیجہ کی آمد و رفت پر بھی پابندی
 نافذ ہوئی ہے گاڑی وغیرہ نہ ملے اعدہ گاڑی حاصلت شاپ ہونے کی وجہ سے

اسی طرح خدیجہ کی شادی کے بعد میں طاعون کی وجہ سے اعدہ خدیجہ کی شادی کے بعد
 نبوی حکم ایس وی او کے دوران جو شخص جو حکم پر جو جو ہے اس سے روکری حکم چل
 اور میرٹ نہ کرنے کا واضح حکم جو جو ہے جبکہ اگر کوئی شخص اس وی او کے خلاف سے کوئی نہ
 کہ مقرر کرنے باجوبت کرتے ہیں جو سٹر علاقہ شہر میں چاہے اعدہ بہ رہے فزید بھیگی
 اس وجہ سے میں نے احادیث نبوی کی روشنی میں کراچی میں یہ حکم راج کیا کرنا
 وی او خدیجہ کی وجہ سے تو میرٹ کی ہے اعدہ میں کوئی مقرر کرنے ہوتے اپنے اہالیان کا فون آہا ہونہ
 اب کرونا وی او نڈیہ کی وجہ سے وی او آہا اعدہ رہنے حاضر کی رپورٹ اپنے جانے لگتی
 ہے کہ ہے۔

عاجزہ میں ریہہ دائرہ غیر حاضر نہیں ہوا ہوں اعدہ نڈیہ خود ہی شادی میں شرکت
 کی ہے اعدہ لودہ کرونا وائرس میں پھیل جانے پر مطابق حدیث نبوی کراچی میں یہ حکم
 راج ہوں اس لئے مادہ 141 عائد کردہ انراجم سے عید و عاکر و سکور فرمائیں۔

Attested

DSP LEGAL MANSEHRA

کنسل اسرار احمد

07-02-2023

DISPILLEGAL
MANSEHIRAA

M. A. H.

11-MA
22-2-23

Handwritten text in Urdu script, appearing to be a list or account of items and their values. The text is written in a cursive style and includes several lines of entries, some with numerical values and fractions. The entries are somewhat difficult to decipher due to the handwriting and the quality of the scan.

DSP LEGAL
MANSEHRA

(Signature)
Attest

(Signature)
22-02-23
11/10/2023/11/10/2023

(Faint handwritten text, likely bleed-through from the reverse side of the page)

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