


# FORM OF ORDER SHEET

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

**Appeal No.** 1695/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01 /10/2024	<p>The appeal of Mr. Islam Shah resubmitted today by Mr. Muhammad Haroon Yousafzai Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 01.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Islam Shah received today i.e on 27-8-2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Certificate be given to the effect that appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.
- 2- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no 1 & 2 are un-necessary/improper parties, in light of rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 3- Address of appellant is incomplete be completed according to rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 4- the document mention in memo of appeal i.e FIR no 208 dated 12/8/2023 in para 3 and charge sheet mentioned in para 4 and its reply (if any) is not attached with appeal be place on it.

No. 659 /S.T,

Dt. 03/09 /2024

  
ASSISTANT  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Zeeshan Khan Dawar Adv. Pesh.

- 1) Certificate has been provided at the end of the appeal.
- 2) Respondent No-1 and 2 if un-necessary, may kindly be deleted.
- 3) Address of the appellant is mentioned as per CNIC of the appellant.
- 4) Documents has been Annexed on Page NO 11/A, 11/B. Re-submitted after removal of objections.



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

Service Appeal No. 1695 /2024

Islam shah .....Appellant

**V E R S U S**

Govt of KPK & others ..... Respondents

**I N D E X**

<b>S NO</b>	<b>DESCRIPTION OF DOCUMENTS</b>	<b>ANNEX</b>	<b>PAGES</b>
1.	Service Appeal		1-6
2.	Affidavit & addresses of Parties	-	7
3.	<b>Copy of CNIC</b>	A	8
4.	<b>Copy of ORDER dated 29/2/2024</b>	B,	9
5.	<b>Copy of order dated 16/8/2024</b>	C	10-11
6.	<b>Wakalat nama</b>		12

Appellant

Through:

  
**ZEESHAN KHAN DAWAR**

&

  
**MUHAMMAD HAROON YOUSAFZAI**

Advocates

Dated:- 27/8/2024

High Court Peshawar

Cell # 03339028806

(1)

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

Service Appeal No 1695 /2024

Islam shah, Ex-Constable Belt No. 3459 S/o Akbar shah R/o  
Ghondi kocki khel, katya khel, jamroad district khyber.

.....Appellant

**V E R S U S**

1. Govt of KPK Through Home Secretary Khyber Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Pakhtunkhwa, Peshawar.
3. Chief Capital city police officer, police line Peshawar.
4. District Police Officer, Khyber .

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**ACT 1974 AGAINST THE IMPUGNED OFFICE**  
**ORDER DATED 29/2/2024 WHEREBY THE**  
**APPELLANT WAS DISMISSED FROM SERVICE**  
**BY THE RESPONDANT NO 4 AGAINST WHICH**  
**THE DEPARTMENTAL APPEAL WAS FILED BY**  
**THE APPELLANT WHICH WAS DISMISSED ON**  
**16/8/2024 BY THE RESPONDANT NO 3.**

**Prayer in Appeal:**

(2)

On acceptance of this Appeal, the Impugned Dismissal Order dated 29/2/2024 Passed by the Respondent No 4 and order dated 16/8/2024 passed by respondent no 3 may kindly be Set aside, declared illegal, without lawful authority and in consequence whereof the Appellant may graciously be re-instated in his services from the date of infliction of punishment with all back benefit and consequential relief etc.

**Respectfully Sheweth:-**

The Appellant humbly submits as under:-

1. That the Appellant is the peaceful and law abiding citizen of Pakistan and is entitled for all the rights guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. **(copy of CNIC is attached as annexure A)**
2. That briefly stated the fact relevant for the purpose of this Appeal are that the Appellant was appointed as Constable and awarded Belt No. 3459 in the year 2016 in Respondents Department and since then the Appellant was performing his duties with great zeal & zest and with full devotion with no complaint whatsoever by any means.
3. That on 12/8/2023 appellant along with other officials were present on duty and recovered 4500 grams ice from a motor car in respect of which FIR no 208 dated 12/8/2023 was registered.

4. That later on respondent no 4 issued charged sheet against the appellant and major punishment of dismissal from service was issued on 29/2/2024 against which the appellant filed representation before the respondent no 3 which was also dismissed on 16/8/2024.. **(Copy of order dated 29/2/2024 and 16/8 /2024 are attached as annexure B,C)**
5. That the Appellant feeling aggrieved from the acts of Respondents, having no other adequate and efficacious remedy, approaches this Hon'ble Tribunal, on the following grounds inter alia:

**GROUNDS:-**

- A) That the Appellant is peaceful and law abiding citizens of Islamic Republic of Pakistan and are fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That it is settled law that during departmental proceeding inquiry officer shall issue charge sheet, statement of allegations, show cause notice etc to the Civil Servant but in this case, no such rules were followed which shows the malafide, discrimination of Respondents and the entire proceedings are against the law, rules and constitution, thus liable to be set aside and declared illegal.

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- C) That no such regular inquiry has been carried out by the Respondent Department against the Appellant in order to establish the charges leveled against the Appellant which was mandatory under the law, if so no such copy of inquiry has been supplied to the Appellant.
- D) That the acts of the Respondents of not following the relevant rules, regulations which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- E) That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant has been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- F) That the Appellant from his time of first appointment till now is performing his duties without any break and without any complaint.
- G) That vested rights have been accrued in favour of the Appellant because he was performing his duties efficiently and with devotion and also without any complaint from any quarter.
- H) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

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**PRAYER:-**

It is, therefore, most humbly prayed that, **On acceptance of this Appeal, the Impugned Dismissal Order dated 29/2/2024 Passed by the Respondent No 4 and order dated 16/8/2024 passed by the respondent no 4 to imposed major penalty of dismissal from Service of the Appellant may kindly be Set aside, declared illegal, without lawful authority and in consequence whereof the Appellant may graciously be re-instated in his services from the date of infliction of punishment with all back benefit and consequential relief etc.**

  
Appellant

Through:

  
**ZEESHAN KHAN DAWAR**

&

  
**MUHAMMAD HAROON YOUSAFZAI**

Advocate

High Court Peshawar

Dated:-27/8/2024



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

Service Appeal No \_\_\_\_\_/2024

ISLAM SHAH.....Appellant

**VERSUS**

Govt of KPK & others ..... Respondents

**AFFIDAVIT**

I, Islam shah, Ex-Constable Belt No. 3459 S/o Akbar shah R/o Ghondi kocki khel, katya khel, jamroad district khyber do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



**DEPONENT**

(7)

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

Service Appeal No \_\_\_\_\_/2024

Islam shah.....Appellant

**VERSUS**

Govt of KPK & others ..... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT**

Islam shah, Ex-Constable Belt No. 3459 S/o Akbar shah R/o  
Ghondi kocki khel, katya khel, jamroad district Khyber.

**RESPONDENTS**

1. Govt of KPK Through Home Secretary Khyber  
Pakhtunkhwa, Peshawar.
2. Inspector General of Police, Pakhtunkhwa, Peshawar.
3. Chief Capital city police officer, police line Peshawar.
4. District Police Officer, Khyber

  
Appellant

Through:

  
**ZEESHAN KHAN DAWAR**

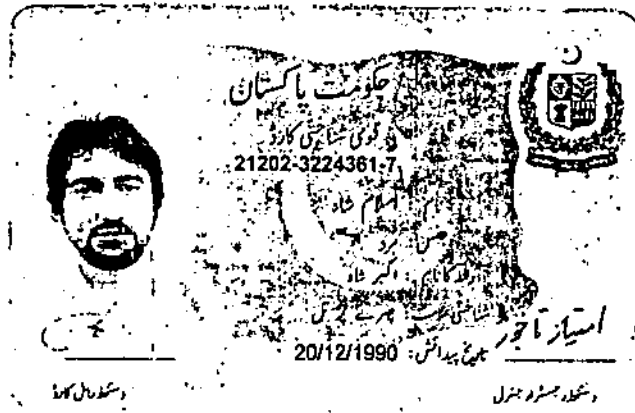
&

  
**MUHAMMAD HAROON YOUSAFZAI**

Advocates

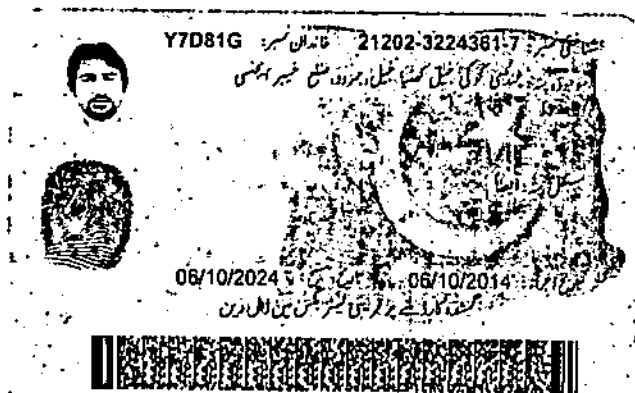
High Court Peshawar

Dated:-27/8/2024



Annex - A

(S)





OFFICE OF THE  
DISTRICT POLICE OFFICER  
KHYBER

Tel: 091-5862033 Fax: 091-5864478  
Email: dpokhyber1@gmail.com



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Ann-B

No. 937 /PA-DPO Khyber

Dated: 29/10/2024

DISMISSAL ORDER

FC Islam Shah No. 3459 of District Police Khyber, while he was posted at Wazir Dhand PS Jamrud, was issued with Charge Sheet No. 6204/PA-DPO Khyber dated 21/08/2023 due to his alleged involvement in concealment of drugs and allowed the real culprit to escape. That, he apprehended an accused with 24 Packets of ICE in a car. He showed only 05 packets in the case FIR No. 208, dated 12/08/2023 u/s 11C-CNSA of PS Jamrud, and concealed the other drugs. He was also censured vide Order No. 4081/PA-DPO Khyber dated 09/06/2023 in another such concealment of drugs in Case FIR No. 88, dated 10/04/2023 of PS Jamrud.

Thus, a departmental inquiry was initiated against him. During the inquiry proceedings he was given the chance to produce written documentary proof in his defense and appear before the Inquiry Officer. He availed both but failed to submit anything in his defense. It was further revealed that he himself allowed the real accused to escape the scene. He also conducted the same kind of misconduct even before and was censured for it. Similarly, he was again issued with show cause notice as he absented himself from the lawful duty while he was posted to PS Milward. The inquiry officer, thus, found him guilty of habitual offenses and criminal abetment, and recommended major punishment.

The undersigned, as per the recommendation of the inquiry officer, being the competent authority is satisfied about his involvement in criminal abetment and drug peddling and in order to maintain discipline in the force hereby awards the delinquent official with Major Punishment of Dismissal from Service as per Section 4-b(iv) of Police (E&D) Rules 1975 (With Amendments - 2014).

Capt. © SALEEM ABBAS KULACHI (PSP)  
DISTRICT POLICE OFFICER,  
KHYBER

OB No. 299 /dated 29/10/2024

No. 938-41 /PA-DPO Khyber

Copies to:

1. DSP HQs, Khyber
2. OHC, DPO Khyber for Record
3. Accountant, DPO Khyber for Stoppage of Pay
4. Service Record Branch/ HRMIS for Service Record, Good/Bad Entries



OFFICE OF THE  
CAPITAL CITY POLICE OFFICER,  
PESHAWAR

Phone No. 091-9210989 Fax: No. 091-9212597

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Annex-C

**ORDER**

This order will dispose of the departmental appeal preferred by Ex-Constable Islam Shah No. 3459, who was awarded the major punishment of "dismissal from service" under KP PR-1975 (amended 2014) by DPO Khyber vide order No. 937/PA, dated 29.02.2024.

2- Brief facts leading to the instant appeal are that the defaulter Constable while posted at Wazir Dhand PS Jamrud, District Khyber was proceeded against departmentally on the charges that he was found involved in concealment of drugs and allowed the real culprit to escape. He apprehended the accused with 24 packets of ICE in a car and showed only 05 packets in case FIR No. 208, dated 12.08.2023, u/s 11C-CNSA, PS Jamrud and concealed the other drugs.

3- He was issued Charge Sheet and Summary of Allegations by DPO Khyber. SP/Investigation, Khyber was appointed as Enquiry Officer to scrutinize the conduct of the accused official. The Enquiry Officer after conducting departmental enquiry submitted his findings in which he was recommended for major punishment. The competent authority in light of the findings of the Enquiry Officer awarded him the major punishment of dismissal from service.

4- He was heard in person in Orderly Room. During personal hearing, he was given an opportunity to prove his innocence. However, he failed to submit any plausible explanation in his defense. Therefore, his appeal for setting aside the punishment awarded to him by DPO Khyber vide order No. 937/PA, dated 29.02.2024 is hereby rejected/filed.

**"Order is announced"**

CAPITAL CITY POLICE OFFICER,  
PESHAWAR

No. 4970-74 /PA/CCP, dated Peshawar the 16 08/2024

Copies for information and necessary action to the:-

1. District Police Officer Khyber, along with complete inquiry file.
2. DSP/HQrs Khyber.
3. Accountant & OASI Khyber.
4. Official concerned.

**BEFORE THE WORTHY CHIEF CAPITAL POLICE OFFICER CAPITAL CITY, PESHAWAR**

Subject: **DEPARTMENTAL APPEAL/REPRESENTATION AGAINST ORDER DATED: 29.02.2024 OF DISTRICT POLICE OFFICER KHYBER, VIDE WHICH APPELLANT WAS DISMISSED FROM SERVICE.**

Prayer: **On acceptance of instant appeal, impugned order dated: 29.02.2024 of District Police Officer, Khyber may be set aside and appellant may be re-instated in service with all consequential benefits.**

Di: 13/07/24

Encl:

Respected Sir,

1. That appellant was enlisted as Sepay in Khyber Levies Force (Now merged in Khyber Pakhtunkhwa Police), on 21.12.2016 and since then till issuance of impugned order dated: 29.02.2024, performed duties with zeal/devotion and utmost satisfaction of the superiors, evident from absorption of his services in the Khyber Pakhtunkhwa Police Department, vide Notification dated: 13.02.2020 (Serial No.1094), needless to add that all those employees, having spotless career and outstanding performance, were merged in Khyber Pakhtunkhwa Police Department.
2. That appellant, while posted at Police Station Jamrud, was served with charge sheet No.6204/PA-DPO Khyber, dated: 21.08.2023 and levelled the following allegations:  
"With reference to case FIR No.208 dated: 12.08.2023 U/S 11-C CNSA of Police Station Jamrud, it has been reported that you alongwith FC Jehanzeb No.1134, while posted at Wazir Dhand Post, PS Jamrud, had alleged seized 24 packets of ICE in a car but instead showed only 05 packets of ICE and concealed 19 packets of ICE. Further you also allowed the accused to escape the scene without any legal or criminal procedure. It is pertinent to mention that you recently censured vide 4081/PA-DPO Khyber dated: 09.06.2023 for the concealment of facts in case FIR No.88 dated: 10.04.2023 of PS Jamrud. This act comes under the meaning of misconduct as per section 2(ii) and render you liable for punishment under section 3(b) of Khyber Pakhtunkhwa Police Rules, 1975."  
Appellant submitted comprehensive reply to the allegations ibid and claimed innocence.
3. That Appellant was served with final Show Cause Notice No.8659/PA-DPO Khyber dated: 30.11.2023 with the following accusation:  
"That inquiry officer in his findings vide No.780/PA, dated: 25.09.2023 find you guilty of the charges leveled against you as in charge sheet No.6167/PA-DPO Khyber dated: 12.08.2023. That the inquiry officer found you guilty of the charges and recommended major punishment as per rules."  
Appellant submitted reply to the Show Cause Notice ibid within the stipulated time and not only claimed innocence but also requested for personal hearing.
4. That the worthy DPO Khyber, without either giving opportunity of hearing or conducting regular inquiry into the matter or providing free and fair opportunity to defend himself, imposed major penalty of dismissal from service upon Appellant, vide Order No.937/PA-DPO Khyber, dated: 29.02.2024, hence the instant appeal.
5. That Appellant has neither been provided opportunity of hearing nor regular inquiry has been conducted into his alleged accusation, hence has been condemned unheard, which attracts the doctrine of audi alteram partem.
6. That no iota of evidence is available on file which could substantiate the alleged hearsay charges/accusation against Appellant. Moreover, Appellant has neither been treated in accordance with law nor he has been extended equal protection of law, enshrined in Articles 4 & 10-A of the Constitution of Islamic Republic of Pakistan, 1973.
7. That about 7 years spotless career of Appellant has been done away with single stroke of pen without care and caution of its legal consequences, moreover, impugned order dated: 29.02.2024 has been passed surmises and conjectures, hence carry no legal weight.
8. That any other ground, with the permission of your honor, will be taken at the time of personal hearing, if granted.

It is, therefore, most humbly prayed that on acceptance of instant appeal, impugned order dated: 29.02.2024 of the worthy District Police Officer, Khyber may be set aside and appellant may be re-instated in service with all consequential benefits.

Yours sincerely,

ISLAM SHAH S/O AKBAR SHAH  
Ex-FC, Tehsil Jamrud District Khyber  
Cell : 0334-5886260 -0334-5886260  
CNIC : 21202-3224361-7

DSP - Legal  
for comments  
Dated: 13.03.2024  
04.07.2024



11/13

OFFICE OF THE  
DISTRICT POLICE OFFICER  
KHYBER  
Tel: 091-5862033



No. 5204/PA-DPO Khyber

Dated: 21/08/2023

CHARGE SHEET UNDER SECTION 6(ii(a)) OF POLICE RULES 1975

1. I, Capt. @ Saleem Abbas Kulachi (PSP), District Police Officer, Khyber, as a competent authority, hereby charge FC Islam Shah No. 3459 of District Police Khyber as per the following allegations:

*"With reference to Case FIR No. 208, dated 12/08/2023 u/s 11C-CNSA of Police Station Jamrud, it has been reported that you, along with FC Jehan Zeb No. 1134, while posted at Wazir Dhand post, PS Jamrud, had allegedly seized 24 packets of ICE in a car but instead showed only 05 packets of ICE and concealed 19 packets of ICE. Further, you also allowed the accused to escape the scene without any legal or criminal procedure. It is pertinent to mention that you were recently Censured vide 4081/PA-DPO Khyber dated 09/06/2023 for the concealment of facts in Case FIR No. 88, dated 10/04/2023 of PS Jamrud. It is tantamount to criminal activities".*

2. By the above-mentioned reasons, you appear to be guilty of Misconduct as per Police Rules, 1975 and that you have rendered yourself liable to all or any of the penalties specified in Police Rules, 1975.

3. Therefore, you are directed to submit your written defense within 07 days of the receipt of this Charge Sheet to the Inquiry Officer, as the case may be.

4. Your written defense, if any, should reach the Inquiry Officer within the specified period, failing to which it shall be presumed that you have no defense to put in and, in that case, *ex-parte* action shall follow against you.

5. State, whether you desire to be heard in person or not.

Capt. @ SALEEM ABBAS KULACHI (PSP)  
DISTRICT POLICE OFFICER,  
KHYBER

Copies to:

- 1: SP Inv. Khyber for initiation of Inquiry
- 2: HRMIS and Service Record Branch for record/Profile (s) update
- 3: FC Islam Shah No. 3459 for information and response



(12)

# وکالت نامہ

بعدالت مزید سے اس کے لئے جس کے لئے  
اسلام شاہ

مورخہ

تھانہ

مخائب اسپیشل ڈیوٹی

مقدمہ مندرجہ بالا عنوان میں اپنی طرف سے واسطہ پیروی و جوابدہی وکل کارروائی متعلقہ آن مقام کے لئے  
محمد ہارون یوسفزئی ایڈووکیٹ کو بدین شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص  
روز بروز عدالت حاضر ہوتا رہوں گا اور بروقت پکارے جانے مقدمہ دیکل صاحب موصوف کو اطلاع  
دے کر حاضر عدالت کروں گا، اگر پیشی پر من مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر  
میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر  
مقام کچہری سے کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ  
دار نہ ہوں گے، اگر مقدمہ علاوہ صدر کچہری کے کسی اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے  
آگے پیچھے پیش ہونے پر من مظہر کو کوئی نقصان پہنچے تو اس کی ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا  
کرنے یا مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار ہوں گے، مجھ کو کل ساختہ پرداخت صاحب  
موصوف مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ و جواب دعویٰ اور درخواست  
اجراء ڈگری و نظر ثانی اپیل و گرانٹی ہر قسم کی درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا  
ڈگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے  
اور سپرد ثالثی و راضی نامہ کو فیصلہ پر خلاف کرنے، اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت اپیل برآمدگی  
مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم اتناعی یا ترقی یا گرفتاری قبل از اجراء ڈگری بھی موصوف کو بشرط  
ادائیگی علیحدہ مختار نامہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو بھی اختیار ہوگا، یا مقدمہ  
مذکورہ یا اس کے کسی جزو کی کارروائی کے واسطے یا بصورت اپیل، اقبال کے واسطے کسی دوسرے وکیل یا پیرسٹر کو  
بجائے اپنے یا پانے ہمراہ مقرر کریں اور ایسے مشیر قانون کو ہر امر میں وہی اور ویسے ہی اختیارات حاصل  
ہوں گے جیسے کہ صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا وہ صاحب  
موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ بھی صاحب موصوف  
کے برخلاف نہیں ہوگا، لہذا یہ مختار نامہ لکھ دیا تاکہ سند رہے۔

مورخہ

الرقوم

Accepted By

محمد ہارون یوسفزئی ایڈووکیٹ

Cell # 0332-9316599

CNIC # 17301-2826170-1

BC # 14-4839

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