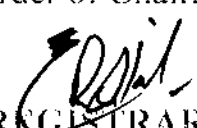


FORM OF ORDER SHEET

Court of _____

Appeal No. _____ **934/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/07/2024	<p>The appeal of Mr. Muhammad Ayub Khan presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 09.07.2024. Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

Appeal No 934/2024

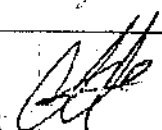
Muhammad Ayub Khan

V/S

Government of KP & others

INDEX

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5.	Copy of Impugned Letter dated June 06th, 2023	C.	12-16
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	17-20
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ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No. 934 /2024

Mohammad Ayub Khan Son of Muhammad Saleem Resident of Tehsil & District Mardan
Designation: Primary School Head Teacher at GMPS Chopaloon

.....Appellant

V E R S U S

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar
- 2) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar
- 3) Director Elementary and Secondary Education Department

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

PRAYER:

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION BEARING NO: SO (POLICY) E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.

ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.
Copy of Monthly Salary account is annexed as Annexure A

2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

"Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency Discipline) Rules, 2011, please".
5. That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. Copy of notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as **Annexure B**
6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and ,therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned Letter dated June 06th, 2023 is attached as **Annexure C**
7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as **Annexure D**
8. That the Respondent No.3 i-e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of Letter dated 23-08-2023 is attached as Annexure E

9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Copy of Impugned letter dated 07-09-2023 is attached as Annexure F
10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed. Copy of Representation against the said notification is annexed as Annexure G & H
11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

GROUND:-

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020/06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period of 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be setaside.

- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

It is further prayed that no penal action as proposed and envisaged in letter dated 06/06/2023 may be declared as unlawful, illegal and without having any legal effect.

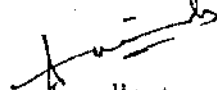
Any other relief, which this honorable Tribunal deems fit and proper in the circumstances of the case, may also be granted to the appellant.


AFFIDAVIT:


I Muhammad Ayub Khan Son of Muhammad Saleem Resident of Tehsil & District Mardan that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

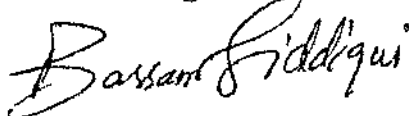

Deponent

Through


Appellant


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court


Bassam Ahmad Siddiqui
Advocate High Court
LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____ -P of 2024
In Ref to

Service Appeal No _____/2024

Mohammad Ayub Khan
VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY RESPONDENT NO.1, VIDE LETTER DATED 06/06/2023 TILL THE FINAL DISPOSAL OF CASE IN HAND.

Respectfully Submitted:-

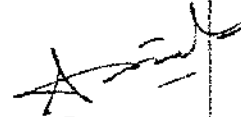
1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
3. That there is likelihood success of the appellant in the lis. And if the notification bearing No. So (Policy) E&D/1-3/2020 Dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 is not suspended the appellant would suffer irreparable loss.
4. That valuable rights of the appellant is involved in the case.

In view of the reasons, it is humbly requested that the notification bearing No. So (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 may kindly be suspended till the final disposal of the main appeal in hand.


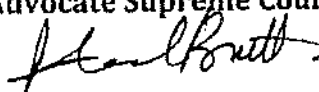

Appellant

AFFIDAVIT:

I (appellant) do hereby solemnly stated on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court


Deponent

Through


Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

Dist. Govt. KP-Provincial
District Accounts Office Mardan
Monthly Salary Statement (December-2023)



Personal Information of Mr MOHAMMAD AYUB KHAN d/w/s of MOHAMMAD SALEEM

Personnel Number: 00126478 CNIC: 1610112066683 NTN: 0
Date of Birth: 16.03.1970 Entry into Govt. Service: 18.03.1992 Length of Service: 31 Years 09 Months 015 Days

Employment Category: Vocational Permanent

Designation: PRIMARY SCHOOL HEAD TEACH 80663756-DISTRICT GOVERNMENT KHYBE
DDO Code: MR6435-District MARDAN
Payroll Section: 003 GPF Section: 001 Cash Center: 17
GPF A/C No: EDUMR008542 GPF Interest applied GPF Balance: 1,175,963.00 (provisional)
Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 24

Wage type		Amount	Wage type		Amount
0001	Basic Pay	71,440.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1505	Charge Allowance	40.00	1551	Spl Conveyance to Disable	6,000.00
2148	15% Adhoc Relief All-2013	950.00	2199	Adhoc Relief Allow @10%	637.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 15% 2022KP	6,807.00
2347	Adhoc Rel Al 15% 22(PS17)	6,807.00	2378	Adhoc Relief All 2023 35%	24,311.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-3,572.00	3990	Emp.Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	575,000.00	-95,000.00	0.00

Deductions - Income Tax

Payable: 55,906.38 Recovered till DEC-2023: 20,502.00 Exempted: 13975.98 Recoverable: 21,428.40

Gross Pay (Rs.): 128,096.00 Deductions: (Rs.): -104,797.00 Net Pay: (Rs.): 23,299.00

Payee Name: MOHAMMAD AYUB KHAN
Account Number: PLS000000028415
Bank Details: NATIONAL BANK OF PAKISTAN, 230884 KATLONG, MARDAN KATLONG, MARDAN, MARDAN

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL MAYA KATLANG TEH ANDDISTT MARDAN
City: MARDAN Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: City: Email: mayubmathakhail@gmail.com

APPOINTMENT

OFFICE ORDER.
DATED 17.03.1992.

90

Consequent upon the NEW REC. RECRUITMENT POLICY of the Govt; of Education Department No. SO(Pe)6-1, 91 dated Peshawar the 2/3/1992.

The appointments of the following trained PTC candidates session 1992 are hereby made with immediate effect in BPS No. 7 (Rs; 1095-601995) in the following allowances in the interest of public service.

Appointments made according to the Govt; Policy para No. 1 of the recruitment of PTC teachers under the New Recruitment Policy shall be made only on the basis of merit and only PTC trained persons will be eligible to apply for vacancies within a Provincial Constituency from among the candidates belonging to that constituency".

No.	Name/Father's Name Home address/qualification.	PTC marks	Name of school where posted.	Remarks.
<u>PF- 18/ MARDAN- 1.</u>				
1.	Mr. Sabibullah Khan s/o Saadullah Khan R/O Moh; Shangunj Mardan. F.Sc;	835	GPS Noorman Khel Mardan.	A.V. Post.
2.	Mr. Lal Badshah s/o Nasrullah R/O Moh; Bagh Kuroona Sikandari Mardan. FA.	788	GMPS Bagh Koti.	-do-
3.	Mr. Nisar Ahmed s/o Madash Khan R/O Darab House Mardan. FA	774	GMPS Firdus Abad.	-do-
<u>PF- 19/ MARDAN- 2.</u>				
4.	Mr. Waqar Ali s/o Shoukat Ali R/O Zaid Khel Mardan. MA(Toru).PSC;	813	GPS Toru.	-do-
5.	Mr. Muhammad Farcoq s/o Muhammad Aziz R/O Sowarayan Mardan. SSC	751	GPS Baggo Banda Toru	-do-
6.	Mr. Abdul Samad s/o Karim-ur-Rhman R/O Kandar Mardan. FA	739	GPS Kandar No.1.	-do-
7.	Mr. Muhammad Javed Khan s/o Abdul Jabbar Khan R/O Moh; Paqal Khel(G.I.Zai) Mardan. SSC.	731	GMPS Gulazare Khel G.I.Zai.	-do-
8.	Mr. Hussain Ahmad s/o Muheemad-Awar R/O Chamrang Mardan. B.A.	723	GMPS Daga Jumat G.I.Zai.	-do-
9.	Mr. Muhammad Tariq s/o Muhammad-Aziz R/O Chamrang Mardan. D/Com;	709	GPS Mohib Banda No.2	-do-
10.	Mr. Fumroz Ali s/o Taj Ali R/O Kandar Mardan. SSC	698	GPS Murad Abad.	-do-
11.	Mr. Wilayat Khan Padiq s/o Firdus-Khan R/O Ghalla Dher Mardan. FA	697	GPS Soukai Toru.	-do-
12.	Mr. Muhammad Abid-AL-hussaini s/o Muhammad Wahid R/O Mayar Mardan. FA	664	GMPS Nehar Abad Mayar.	-do-
13.	Mr. Jawad Khemad/ s/o Akber s/o Bako Khel Check Alladad Khel Mardan. SSC	627	GPS Mohib Banda No.2	-do-
14.	Mr. Muhammad Anis s/o Muhammad Idrees R/O Mayar. SSC	571	GMPS Sadar Sahib Mayar.	-do-
15.	Mr. Imtiazul Haq s/o Shafiullah R/O Ismail Zai Mardan. SSC	552	GMPS Safdar Ali Mothey(S.Garhi)	-do-
<u>PF- 20/ MARDAN- 3.</u>				
16.	Mr. Nihar Ali s/o Daya Khan R/O Bekhsnali Mardan. FA	321	GPS Sher Abad Gujarat.	-do-
17.	Mr. Parvata Khan s/o Raza Khan R/O Bekhsnali Mardan. FA.	806	GMPS Jalal Abad.	-do-

Cont; page No. 2

8-

72. Muhammad Shah S/O Mian Muhammad Shah R/O Lakri Banda SSC	665	GPS, Khanjar No. 2.	N.V.P.
73. Ghufuranullah S/O Rehmat Gul R/O Khazana Dhari SSC.	639	GPS, Khura Banda.	-do-
74. Waheed Ahmed S/O Syed Ahmed R/O Ward No. 1 T. Bhai. SSC	682	GMPS, Bangla G. Garhi.	-do-

PARA II (COMBINED MERIT OF DISTRICT).

If no trained teachers are available with in the consti-
for certain vacancies then trained FTC Candidates from the rest of the
District will be accomodated.

75. Muhammad Sattar S/O Akhtar Gul R/O Dagai Lund Khwar. SSC	810	GMPS, Sadar Sahib Mayar.	Against Post.
76. Muhammad Younas S/O Taj Muhammad R/O Dhano T. Bhai BA	798	GPS, Khao Toru.	-do-
77. Abdul Qadus S/O Guli Sadbarg R/O Sher Warh SSC.	791	GPS, Soukai Toru.	-do-
78. Zubair Shah S/O Fazli Rehman R/O Pakkar SSC	786	GPS, Tordher T. Bhai.	-do-
79. Shamsul Qamar S/O Taza Gul R/O Lund Khwar SSC	781	GPS, Ahmed Abad Toru.	-do-
80. Ihsan Ullah S/O Sedullah R/O Mohalla Sultan Abad Mardan BA.	770	GPS, Suhbat Abad Toru.	-do-
81. Noor Wali Khan S/O Imranud Din R/O Shahdand L. Khwar. BA	769	GPS, Khali Rokhan Toru	-do-
82. Shah Jehan S/O Anwar Khan R/O Mohamnah Redi Gul Maricham Mardan D. Com;	765	GPS, Jabba Toru.	-do-
83. Wisal Muhammad S/O Fida Muhammad R/O Amin Abad Mardan. D/Com;	763	GPS, Taleb Killi Toru	-do-
84. Murad Ali Khan S/O Muhammad Akber R/O Gess Kurona, Mardan SSC.	763	GMPS, Ghulam Haider Killi	-do-
85. Bakht Munir S/O Umaraz Khan R/O Dhano Hashian T. Bhai. SSC	758	GMPS, Bara Mayar.	-do-
86. S. Hafeqat Ali Shah S/O S. Fazal, Suah R/O Lund Khwar F. Sc.	757	GPS, Garoo Rustam.	-do-
87. Muhammad Shakeel S/O Muhammad Iqbal R/O Beghdada Mardan BA.	749	GPS, Aslam Banda.	-do-
88. Aseel Khan S/O Arifullah R/O Mian Khan SSC	749	GPS, Sufaid Abad	-do-
89. Ayub Khan S/O Nawab Khan R/O Husai T. Bhai. P. Sc	748	GPS, Shoh Tory.	-do-
90. Muhammad Ayub Khan S/O Muhammad Saleem R/O Katlang P. Sc	748	GMPS, Chopaloono Toru.	-do-
91. Sardaraz Khan S/O Sherif R/O Madraga Banda L. Khwar FA	747	GMPS, Khanmir Killi	-do-
92. Saifullah Shah S/O Yousaf Shah R/O Qasmi Mardan. SSC	747	GMPS, Totar Killi	-do-
93. Usmanud Din S/O Usmanud Din R/O Lund Khwar SSC	746	GPS, Mirzaki Rustam	-do-
94. Muhammad Iqbal S/O Mula Dad R/O Banda T. Bhai. P. Sc	745	GPS, Mirzaki Rustam	-do-
95. Amir Afzal Khan S/O Sher Afzal R/O Sham Gunj Mardan SSC.	743	GMPS, Bazdin Kothey Mayar.	-do-
96. Muhammad Fayaz S/O Gul Faraz Khan R/O Dagai L. Khwar SSC	742	GPS, Beroch Rustam	-do-
97. Bakhtawar Khan S/O Azeem Khan R/O Alo Mardan. FA	742	GPS, Beroch(R)	-do-



- 9 -

GOVERNMENT OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT
(REGULATION WING)

NO. FD/SO(SR-III)/8-57/2016
Dated Peshawar the: 14/07/2016

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa.
3. The Principal Secretary to Governor, Khyber Pakhtunkhwa
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary, Provincial Assembly, Khyber Pakhtunkhwa
6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
7. All Commissioners in Khyber Pakhtunkhwa.
8. All Deputy Commissioners in Khyber Pakhtunkhwa.
9. All Political Agents / District & Sessions Judges in Khyber Pakhtunkhwa
10. The Registrar, Peshawar High Court, Peshawar.
11. The Chairman, Public Service Commission, Khyber Pakhtunkhwa.
12. The Chairman, Services Tribunal, Khyber Pakhtunkhwa.
13. The Chairman, Provincial Ombudsman Secretariat, Khyber Pakhtunkhwa.

Subject: GRANT OF SPECIAL CONVEYANCE ALLOWANCE TO DISABLE EMPLOYEES

Dear Sir,

The Competent Authority has been pleased to grant Special Conveyance Allowance to disabled employees of Government of Khyber Pakhtunkhwa @ Rs. 1,000/- per month in addition to Special Conveyance Allowance with effect from 01/07/2016. Following terms and conditions will be applicable to the employees of that allowance:

- a) It will be allowed to those Provincial Government employees who have been appointed against disabled employees' quota, or they have been declared certified as disabled by an authorized Medical Board thereafter during service.
- b) It will not be admissible during leave of any kind, except medical leave upto one month or casual leave.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Date: FD (SO/SR III)/8-57/2016.

Dated Peshawar the 14th July, 2016

A Copy is forwarded for information to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Secretaries to Government of Punjab, Sindh and Balochistan,
Finance Department.
3. All Heads of Autonomous / Semi Autonomous Bodies in Khyber Pakhtunkhwa

2. RAZAULLAH
(RAZAULLAH)
Additional Secretary (Reg.)

P.T.O.

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/8/2020

S.O. No. E&AD/1-1/2020: In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendment shall be made, namely:

AMENDMENT

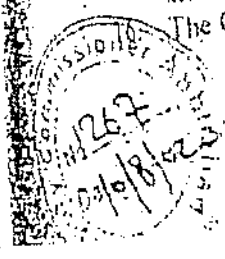
In rule 7, sub-rule (5) shall be deleted.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

LIST NO & EVEN DATE

Copy is forwarded to:-

1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. The Senior Member-Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar Peshawar High Court, Peshawar.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. The Deputy Director (IT), E&A Department.
14. All Section Officers in Establishment & Administration Department.
15. The Section Officer (Admn), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.



ATTESTED

(Signature)
(WAJIAH LATIF)
DEPUTY SECRETARY (POLICY)

(Signature)

- 11 -

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

NOTIFICATION

Dated Peshawar the, 06/08/2020

In exercise of the powers conferred by section 26 of the Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII) the chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules 1989, the following further amendment shall be made, namely:

AMENDMENT

In rule 7, sub-ruler (5) shall be deleted.

**CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA**

(ANDS): & EVEN DATE

Copy is forwarded to :-

1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa. Planning & Development Department)
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. The Deputy Director (IT), E&A Department.
14. All Section Officers in Establishment & Administration, Department.
15. The Section Officer (Admin), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.

**(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)**

21.8.23
2023

Section Officer (Policy)

Yours faithfully,
(Issa Rajpurohit Khan)
Section Officer (Policy)

- 1. PS to Special Secretary (Reg), Establishment Department.
- 2. PA to Additional Secretary (Reg-II), Establishment Department.
- 3. PS to Deputy Secretary (Policy), Establishment Department.

Copy forwarded to: Head, Of even No & date

7/6
HSE

2011, please

Further, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, please

3. Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, please

2. The basic rationale behind the deferral of the bid rule is aimed at preventing a civil servant from temptation for which may be seeking to a single lucrative post/position or to evade promotion in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

1. I am directed to refer to your letter No. SO(PH-ARY-MY&S-172-2/2023 dated 18.04.2023 in the subject noted above and to state that sub-rule (5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 04.08.2020; thus, no provision exists to decline or forgo promotion.

REPLY TO THE GOVERNMENT OF PUNJAB
REGARDING DELETION OF RULE 7(B) IN THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,
PROMOTION AND TRANSFER) RULES, 1989.

The Government of Khyber Pakhtunkhwa,
Ministry & Secondary Education Department.

Dear Sir,

Subject -

To

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(PH-ARY-MY&S-172-2/2023
Dated 18/04/2023



B/C

To,
The Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

SUBJECT: GUIDANCE REGARDING DELETION OF RULE 7(5)
IN THE KHYBER PAKHTUNKHWA CIVIL
SERVANTS (APPOINTMENT, PROMOTION AND
TRANSFER) RULES 1989.

Dear Sir,

I am directed to refer to your letter No. 30 (Primary-M) / EEP & ED / 2-2 / Appointment / 2023 dated 18.04.2023 on the subject noted above and to state that sub-Rule (5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointments, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06.08.2020; thus, no provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the said rule is aimed to preventing a civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

3. Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, please.

- 14 -

- B/c -

Yours faithfully,

(Issa Muhammad Khan)
Section Officer (Policy)

Enclst. of even No Ep date

Copy forwarded to the :-

1. PS to Special Secretary (Reg), Establishment
Department.

2. PA to Additional Secretary (Reg-II), Establishment
Department.

3. PS to Deputy Secretary (Policy), Establishment
Department.

Section Officer
(Policy)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9223507)

No.SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar lhc. June 26th, 2023

To

The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.

Aziz Ullah Khan
President
All Primary Teacher's Association, KP

[Handwritten Signature]
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

2. You are, therefore, requested to depute a representative of your respective Department to attend the meeting on a date, time & venue as mentioned above, please.

Encl: AA

[Handwritten Initials]

[Handwritten Signature]
(MUHAMMAD SHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

[Handwritten Initials]

[Handwritten Signature]
SECTION OFFICER (PRIMARY MALE)
26/6/23

- 16 -

B/c

No SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar the June 25th 2023

To
The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

Aziz Ullah Khan President
President
All Primary Teacher's Association, KP

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1989.

I am directed to refer to the subject noted above and to enclose here with a letter of
Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state
that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the
Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

2. You are, therefore, requested to depute a representative of your respective
Department to attend the meeting on a date, time & venue as mentioned above, please.

Encl: AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).


A meeting regarding the subject matter was held on 06-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

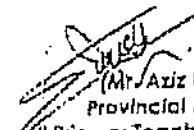
S#	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

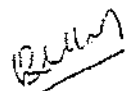
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.


3. After thorough discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

The meeting ended with a vote of thanks from the Chair.


(Mr. Fazal Wahid)
Deputy Director-i
E&SE Department


(Mr. Aziz Ullah)
Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


(Muhammad Ishaq)
Section Officer (Primary-Male)
E&SE Department

(Abdullah)
Additional Secretary (Establishment)
E&SE Department

- 18 -

- B/c -

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH
PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA
REGARDING DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION
& TRANSFER RULES 1989).

A meeting regarding the subject matter was held on 06-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting

S#	NAME	DESIGNATION
1.	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2.	Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3.	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4.	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

3. After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

The meeting ended with a vote of thanks from the Chair.

(Mr. Fazal Wahid)
Deputy Director-1
E&SE Department

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

(Muhammad Ishaq)
Section Officer (Primary-Male)
E&SE Department

(Abdulrah)

Additional Secretary (Establishment)



-19-

No. 8145 /F.No. 34/SST/UGeneral Cases Dated 21-7-2023
Phone: 091-9223144 Email: establishmentmale1@gmail.com

To

The Section Officer (Primary-Male),
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Peshawar..

Subject: - MINUTES OF THE MEETING
Dear Sir,

I am directed to refer to the letter No.SO(Primary-M)E&SED/S-1/
G.Misc/Minutes of the Meeting/PST/2023 dated 16-07-2023 on the subject cited above and in
present brief history about the background of the case as under:

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, promotion & Transfer Rules 1982) vide notification No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 6987 dated 06-02-2023.
 - (i) Now it is obligatory upon the civil servant to accept Promotion in every condition.
 - (ii) It is the prerogative of the civil servant to either accept or turn down the offer of promotion.
- That your good office forwarded the same to the quarter concerned vide letter No.SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No.SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same was received by this office from your good office vide letter No.SO (Primary-M) E&SED/2-2/Appointment/2023 dated 12-06-2023.
- That, in the light of the minutes of meeting dated 6-07-2023, held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge numbers of Female Teachers. Thus it is proposed that Teachers below DPS-16 may be exempted of implications of the amendment in the rules cited provided they submit their written refusal prior to conduction of the meeting of Departmental Promotion Committee.

The case is submitted for perusal and necessary actions please.

Assistant Director (Estab M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Encls: No. _____
Copy of the above is for:-

1. PA to Director Local Directorate.
2. Master Copy.

Assistant Director (Estab M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Arthur Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

- 1. PA to Director Local Directorate
- 2. Master Copy

Copy of the above to:

The case is submitted for perusal and necessary actions please.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have effected negatively a huge members of female teachers.

That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Education at his office. This office has been asked for submission of consolidated case.

That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) EQAD/1-3/2020 dated 6-06-2023 (amendment) stated that there exists no provision to decline /forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.

That your good office forwarded the same to quarters concerned vide letter No. SO (Policy) EQAD/2-2/Appointment/2023 for necessary guidance.

That this office sought guidance from your good office in the following words vide letter No. EQAD/1-3/2020 dated 06-08-2020. wide notification No. No. SDR-VI (EQAD) 1-3/2020 dated 06-08-2020.

I am directed to refer to letter No. (SO. Policy-M) EQAD/5-1/6.984/ Minutes of meeting/PST/2023 dated 30-7-2023 on subject cited above and to present brief history, along backward of case as under.

Subject: Minutes of Meeting

Section Officer (Policy-M) EQAD/5-1/6.984/ KPR, Peshawar
Elementary & Secondary Education Department

PSHAWAR
(21-7-2023)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPR

-B/c-

-20-



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9223587)

No: SO(Primary-M)E&SED/2-2/Appointment-Rule /2023
Peshawar Dated 23rd August, 2023

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment & Administration Department,
Peshawar

**SUBJECT: - GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL
SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES
1989).**

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ E&AD/ 1-3/2020 dated 07 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/ officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

2. In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvenience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father of mother-in-law who need care. In such cases, there are negative effects on service delivery.

3. In view of the above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.


(MUHAMMAD ISMAIL)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. Director E&SE Khyber Pakhtunkhwa,
2. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.


SECTION OFFICER (PRIMARY MALE)
23/8/23

Scanned with CamScanner

1. Director E & SE Khyber Pakhtunkhwa.
 2. PS to Secretary, E & SE Department (Khyber Pakhtunkhwa) (Muzimil Ishtay) (Muzimil Ishtay) (Muzimil Ishtay)

Copy forwarded to:
 In this connection it is submitted that in some cases lady teachers of primary level who avoid such promotion have to face serious inconvenience while they have to perform duties in the remotest stations with no residential/transport facilities. Most of them are married with kids and elder father of Mother-in-law who need care. In such cases there are negative effects on service delivery. In view of above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

Dear Sir,
 I am directed to refer to your letter No. S/Primary (Policy) /E&AD /1-3/2020 dated 8th June 2020 and to state that after deletion of Rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2011.

SUBJECT: Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989)

The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department, Peshawar.

To
 No. 50 (Primary-M) E&SE/PA-1/ Appointment-Rule/2023
 Peshawar Dated 29th August 2023.

- 22 -
 - B/c -
 - 22 -

WPA442-2023 Khyber Pakhtunkhwa



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)E&AD/1-3/2020
Dated Peshawar the September 07, 2023

To

The Secretary to Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

Subject: - GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-
2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that
necessary guidance has already been tendered to your good office vide this department letter of
even No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

1. PS to Special Secretary (Reg). Establishment Department.
2. PA to Additional Secretary (Reg-II). Establishment Department.
3. PS to Deputy Secretary (Policy), Establishment Department.

-23-

-24-

- B/C -

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)E&AD/1-3/2020
Dated Peshawar the September 07, 2023

To

The Secretary to Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department

Subject:-

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appointment-
Rule/2023 dated 23.08.2023 on the subject noted above and to state that necessary
guidance has already been tendered to your good office vide this department letter of even
No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

1. PS to Special Secretary (Reg), Establishment Department
2. PA to Additional Secretary (Reg-II), Establishment Department
3. PS to Deputy Secretary (Policy), Establishment Department

Section nicer (Policy)

To,

Dated: 28-02-2024

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar
- 2) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar
- 3) Director Elementary and Secondary Education Department

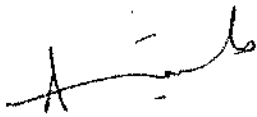
REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

Sir/ Madam:-

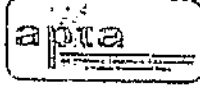
Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Elementary & Secondary Education vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. That, as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the Establishment Department vide its letter No. SO.(Policy) E&AD/1- 3/2020 dated Peshawar the June 06th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and, therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. That Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. In the meanwhile, the department vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to, vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan.

Best Regards


Muhammad Ayub Khan Son of
Muhammad Saleem Resident of Tehsil &
District Mardan

Aziz Ullah Khan
President
0333-0412648
azizullah1973@gmail.com
ct azizpkh



APTA House
Govt. Primary School No.4,
Gulbakh Peshawar City.

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) چیئرمین کی درخواست

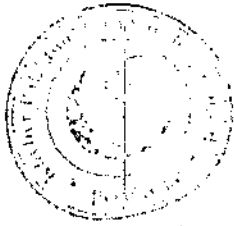
بہاب: میگزین ایسوسی ایشن کی درخواستوں پر
بہاب: آل پرائمری ٹیچرز ایسوسی ایشن چیئرمین کی
بہاب: طالب

گزارش ہے کہ پروسٹن ہر ادارے میں ہوتے ہیں اور کہ سرکاری ملازم کی خواہش ہوتی ہے پروسٹن کا ایک تالون اور اگر تالون کا جو ملازم ایک اگر کسی
بھوکے تحت ایک دن پروسٹن نہ لیں تو وہ ہر آسٹہ چار سال تک پروسٹن نہیں لے سکتے تھے مطلب چار سال تک ہر اس کی پروسٹن نہیں ہو سکتی تھی
پھر اس تالون میں تھوڑی روایت کی گئی چار سال والی بات ختم کر دی گئی کہ اگر ایک ملازم ایک سال پروسٹن نہ لیں تو وہ دوسرے سال لے سکتا ہے
لیکن اب ایک وقت پہلے ایک اور نوٹیفکیشن ہوا ہے
جس کے مطابق اب ہر ملازم پروسٹن ضرور لیں گے اگر نہیں لیں گے تو اس کے خلاف ای و ای ڈی کے مطابق کارروائی کرنے کا کہا گیا ہے
اور اصل یہ آئی نوٹیفکیشن بنیادی حقوق کی کئی خلاف ورزی ہے سب سے پہلے کی دور دراز اور پہلی ملازمت میں خاص کر نواتین اساتذہ کو انہی مشکلات کا
سامنا کرنا پڑے گا
کیکہ عام حالات میں بھی ڈیرو سٹی پروسٹن اور دور دراز بینا بھی بنیادی حقوق کی خلاف ورزی ہے لہذا کہ چیئرمین اپٹا میں بدستوری سے خاندانی دشمنیاں
بھی ہوتی ہے ایسے حالات میں یہ یا نوٹیفکیشن جو E&SE کی کاپی لیں لیٹر کی بنیاد میں لیا گیا ہے، ہر بدستوری اور بنیادی انسانی حقوق کی خلاف ورزی
ہم اس کے خلاف قانونی چارہ چینی کا حق بھی محفوظ رکھتے ہیں
لہذا ہم آپ سے درخواست کرتے ہیں کہ نوٹیفکیشن کو واپس لیا جائے یا اس میں ترمیم کر کے پرائمری اساتذہ کو (Allocation) دیا جائے اور ان کو
ڈیرو سٹی پروسٹن لینے کی بجائے ان کو مرضی سے لینے دیا جائے
اور پروسٹن نہ لینے کی صورت میں ہاتھ دھوا جائے لیکن یہ ڈیرو سٹی نہ کی جائے
اس سلسلے میں آپ ہلہ از جلد تمام (DEOS) ای ای او کو ایک خصوصی مراسلہ جاری کیا جائے تاکہ اطلاع میں آپ میل / لیٹیل پرائمری اساتذہ کو ذہنی
آرامت اور تازگی تک سے ہمایا جائے
کیونکہ نوٹیفکیشن جاری ہوتے ہی پرائمری اساتذہ کو ذہنی طور پر تازگی کرنے کا سلسلہ شروع ہو چکا ہے
لہذا ہم یہ ذہنی دیکھتے ہیں کہ آپ صاحبان کوئی ایکشن لیں سب سے پہلے پرائمری اساتذہ کو اس ذہنی آرامت سے نجات دلائیں گے

شکریہ

عزیز اللہ خان سہیل سدر
آل پرائمری ٹیچرز ایسوسی ایشن چیئرمین
85/77/83

07.05.2024.



1. Learned counsel for the appellant present.
2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply/comments. Appellant is directed to deposit TCS expenses within three days. To come up for reply/comments as well as preliminary hearing on 10.06.2024 before S.B. P.P given to learned counsel for the appellant.

03. Alongwith the service appeal there is an application for suspension of Notification dated 06.06.2023 and letter dated 23.08.2023 till the final disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

Certified to be true copy (Muhammad Akbar Khan)
Member (I)

Date of Presentation of Application 12-6-23
 Number of 1-P
 Copies 5/1
 Uprid 5/1
 Total 5/1
 Name of _____
 Date of 13-6-23
 Date of delivery of copy 17-6-23

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

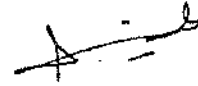
BASSAM AHMAD SIDDIQUI AHC

&

ASSOCIATES OF MUAZZAM LAW FIRM

to act and appear for me in the above Suit and on my behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any petition connected with the same or any decree or order passed therein and Applications for review to file and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

I agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.



APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQUI
Advocate High Court