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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A.No.	1639/2004
JUMA	NOOR

V/S

Government of KP & others

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No______/2024

Juma Noor Son of Khawas Khan, SPST GPS No.1 Dallan, Tehsil & District Hangu

VERSUS

.....Appellant

- 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, Civil Secretariat Near MPA Hostel, Peshawar

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974. AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020. 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/1-3/2020, 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:

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.

2.

- 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".

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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 Impugned 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 latend Letter dated June 06th, 2023 is attached as <u>Annexure C</u>

WF 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 & 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 <u>Annexure E</u>

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 <u>Annexyre F</u>

- 10. That the petitioner feeling aggrieved, filed Representation to the respondents in perion, and also approached to respondents through APTA President but the grie inces of the relant have not so far been redressed. Copy f Representation against the said notification is annexed as <u>Annexure G & H</u>
- 11. That feel, 'g aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the j/ber Pakhtunkhwa Civil Servants (Appointment, Promotion a + Transfer) Rul 1989; the petitioners filed this Hence, the instant service appea led on the lowing grounds:-

GROUNDS:-

nB

9.

a. That as pervices is is greatly it is established and settled principle that executive notification car of the given retrospective effect. A valid Notification which confers rights is way applicably with prospective effect, however, if an amendment notification divers offects the interests of the employees or causes disc vantage the employee is not tenal in the eyes of law. The notification/guid_nce_d_06/08/20106/06/2023 liable to be set-aside.

b. That re a · no terms d co 'itions service mentioned in the appointment order the ppellant will ein, promotion is mandatory. It is further 'ailing subm t th _ employees the ast, hav foregone their promotion along with their ting. It is submitted that then don the reasonal issues do not permit the er, ployees (hppellant to vail the ... tion order and in that case, the employees wild foregone their promotion we callowed not to avail the promotion for a period (r 04 years and on cond refu 1 the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself fc labear agon is of foregoing their promotions. As a result, junio: to the appellant according to $\tau =$ order of seniority cum fitness are granted pronotion to next rank.

- •. That as per Civil Servant laws, proriotion is a kin of appointment which is always optional to get promotion or not, hence the impughed notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- a. 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.

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/1-3/2020 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.

June Appellant AFFIDAVIT: I, (the appellant) solemnly declare Through that the contents of foregoing application are true and correct to the Muhamingd Muazzzam Butt best of my knowledge and belief and Advocade/Supreme Court nothing has been concealed therein from this Honourable Court. Jun Deponent Muhammad Adeel But AdvocateHigh Court Bassan Alinad Sid liqui Advocate High Court LL.M- Human Rights NR

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No______-P of 2024

In Ref to

Service Appeal No_____/2024

JUMA NOOR

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.
- 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.

AFFIDAVIT:

I (the 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 Through

pellant

Muhammad Muazzzam Butt Advocate Supreme Court



OFFICE OF THE DISTRICT EDUCATION OFFICER IM MANY

Departmental Promotion commutice & in pursuance of the Governmentation Pakhtunkhwa Elementary & Secondary Education Notification NO SOILA 18/E&SE/2012 Dated Peshawar the 11-07-2012 the following PST (M) (BPS-1) hereby promoted to the SPST Posts BPS-14 % (8000-610-26300) plus asial flow as admissible under the rules on regular basis, according to the existing policy Provincial Government in Teaching Cadre on the terms and condition given by with immediate effect and further posted in the schools noted against each.

$\frac{1}{2}$	Name of Teachers Muhammad Tariq S.Asghar Hussain Niaz Gul	i anter marine	Desi 8 SPST		Name of School	Place of an
2 3 4	S.Asghar Hussain			1.1	+	
3		S.Hamid Hussain	,		GPS Bagatoo Hu	GPS Bagat
4	Niaz Gul	• • • • • • • • • • • • • • • • • • •	SPST	, 14	GPS No,1 Hangu	GPS No.1
		Eid Akbar		114	GPS Khazina Bd	GPS Shahu
5	Saud Ali Khan	Taj Ali Khan	SPST	14	L	
	Asad Ullah Khan		· +	ļ	GPS Matu Khel	GPS Darshall v (* 1)
		Piada Khan	' SPST	14	GPS Ch: Waziran No,1 Hangu	GPS Ch. Waz ren N
6	Bakhat Nawaz	Shah Mast Khan	SPST	14	GPS No,2 Thall	GPS Khanan Sanda
7	Saif Ullah Khan 🧃	Gul Rehman	SPST	14	GPS Turki Banda	GPS Turki Banda Hut
3	Sadeem Shah	Yar Shah	SPST	14	GPS Pat Darband	GPS Pat Garbac o
•	Adil Muhamad	Nazir Muhammad	SPST	14	GPS No,1 Warasta Hangu	GPS NO 1 Martin
0	Reman Khan	Adam Khan	SPST	14	GPS Darband Hangu	GPS No.1 War Jorg H
1	Zahid Ullah	Momin Khan	SPST	14	GPS Navi Kalay	GPS Shahu Khei
2	Khalid Wazir	Fagir Muhammad	SPST	14	GPS Daman Ban	GPS Alwara Meria
3	Riaz Khan	Pir Bat Khan	SPST	14	GPS No,1 Kahi	GPS No, 1 Kahi Hang
1	Said Afzal	Misal Akbar	SPST	14	GPS Tora Watti	GPS Tora Watti
. 1	Ahmad Iqbal	Agal Noor Faroogi	SPST	14	GPS No,1 Muhd Khawaja	GPS No,1 Muhd Khawaja
+	lameed Anwar	Masti Khan	SPST	14	GPS No.2 Karbogha	GPS No.2 Karbogha
+	Auhd Khawas	Khial Hassan	SPST -	14	GP5 Shinali Kahi	GPS Wach Bazar
+ + +	lameed-Ur-	Samand Khan	SPST	14	GPS Wazir Abad	GPS Wazir Abad
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Ia	wad Hussain	Faqir Hussain	SPST	14	GPS Shehd Bazer	GPS Shahu Khel
TM	uhammad Faroog	Ajab Khian	SPST	14	GPS NO. 2 arell	CP No,1 Chapri Na

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Sohali AmjadNuhd FarooqSPS114GPS No.3 HanguGPS No.3 HanguLqlif KhanMuhd FarooqSPS114GPS Sheikhan BandaGPS Kach BandaLqlif KhanHassan KhanSPS114GPS No.1 LakhtiGPS No.1 LakhtiMussain AfzalGul AfzalSPS114GPS Shinki BandaGPS More Bak full JanguAjliah DinSaid RahimSPS114GPS Shinki BandaGPS Mero Bak full JanguMuhd AshrfaMultan KhanSPS114GPS Khisari BandaGPS Azimi BandaNadeem KhanAbdul KarlinSPS114GPS Khisari BandaGPS Azimi BandaNadeem KhanAbdul KarlinSPS114GPS No,4 DallanGPS No,4 DallanMuhd Jehan ZaibKhudai NoorSPS114GPS No,1 DallanGPS No,2 DarsamandJuma Noor-: Khawas KhanSPS114GPS No,1 DallanGPS No,2 DarsamandJuma Noor-: Khawas KhanSPS114GPS No,1 Saro ZaiGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPS114GPS No,1 Saro ZaiGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPS114GPS No,1 KarboghaGPS Shamat Din KalayWaleed NoorWial ManoorSPS114GPS No,1 KarboghaGPS Shamat Din KalayWaleed NoorWial ManoorSPS114GPS No,1 KarboghaGPS Shamat Din KalayWaleed NoorWial ManoorSPS114GPS No,3 MianjiGPS Shamat Din KalayLod	·					GPS No.2 Karbogha
Lq1if KhanHassan KhanSPST14GPS Shekkan BandaGPS No.1 LakhtiBandaHussain AfzalGul AfzalSPST14GPS No.1 LakhtiGPS Mo.1 LakhtiBandaAjliah DinSaid RahlmSPST14GPS Shinki BandaGPS Mero Bak fluctureMuhd AshrfaMultan KhanSPST14GPS Shinki BandaGPS Azimi BandaNadeem Khan'Abdul KarimSPST14GPS Khiszri BandaGPS Azimi BandaNadeem Khan'Abdul KarimSPST14GPS Khan KotGPS Maroofi BdMuhd Jehan ZaibKhudai NoorSPST14GPS No.1 DallanGPS No.2 Darsamand HanguJuma Noor-Khawas KhanSPST14GPS No.1 DallanGPS No.2 DarsamandJuma Noor-Khawas KhanSPST14GPS No.1 DallanGPS No.2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No.1 Saro ZaiGPS No.1 Saro ZaiWaleed NoorWial ManoorSPST14GPS No.1 Saro ZaiGPS No.1 Saro ZaiGul AzizAbdul AzizSPST14GPS No.1 KarboghaGPS No.3 Mianji KheiWaleed NoorWial ManoorSPST14GPS No.3 MianjiGPS No.3 Mianji KheiWaleed NoorWial ManoorSPST14GPS No.3 MianjiGPS No.3 Mianji KheiJadariJafar KhanSPST14GPS No.3 MianjiGPS No.3 Mianji KheiJir ZamanKhawajat GulSPST14GPS SanawariGPS No.3 Chapri Naryab <td< td=""><td><u> </u></td><td></td><td>SPST</td><td>14</td><td>GPS No.3 Hangu</td><td>GPS No.3 Hangu</td></td<>	<u> </u>		SPST	14	GPS No.3 Hangu	GPS No.3 Hangu
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Hussain AlzalGul AfzalSPST14GPS No,2 Tangi Mian GanGPS Mero Bak 1		Hassan Khan	SPST	14		GPS No,1 Lakhu Banda
Aliah DinSaid RahimSPST14GPS Shinki BandaGPS Äcgi Madi Khel Darsamand HanguMuhd AshrfaMultan KhanSPST14GPS Khisari BandaGPS Aczimi BandaNadeem Khan'Abdul KarlmSPST14GPS Maroofi BdGPS Maroofi BandaMuhd Jehan ZaibKhudai NoorSPST14GPS Kharoofi BdGPS Maroofi BandaMuhd Jehan ZaibKhudai NoorSPST14GPS No,4 DallanGPS No,4 DallanBismillah Jan'Subhanud DinSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No,1 Saro ZaiGPS No,1 Saro ZaiGul AzizAbdul AzizSPST14GPS No,1 KarboghaGPS No,4 HanguRehmat UllahKhuza BaghSPST14GPS No,1 KarboghaGPS No,4 HanguJafar KhanSPST14GPS No,3 MianjiGPS No,3 Mianji Kheinir ZamanKhawajat GulSPST14GPS No,3 MianjiGPS No,1 Saro ZaiJin MuhammadSPST14GPS No,1 DallanGPS No,2 Chapri NaryabJulan MuhammadNaik MuhammadSPST14GPS No,2 Chapri NaryabJin KhanJafar KhanSPST14GPS No,1 DallanGPS No,2 Chapri NaryabJin MuhammadSPST14GPS No,2 Lakhti Banda <t< td=""><td>Hussain Afzal</td><td>Gul Afzal</td><td>SPST</td><td>14</td><td>GPS No, 2 Tangi</td><td>GPS Mero Bak 2</td></t<>	Hussain Afzal	Gul Afzal	SPST	14	GPS No, 2 Tangi	GPS Mero Bak 2
Muhd AshrfaMultan KhanSPST14GPS Misori BandaDarsamad Hangu Darsamad HanguNadeem Khan'Abdul KarimSPST14GPS Maroofi BdGPS Maroofi BandaMuhd Jehan ZaibKhudai NoorSPST14GPS Maroofi BdGPS Maroofi BandaMuhd Jehan ZaibKhudai NoorSPST14GPS No,4 DallanGPS No,4 DallanBismillah Jan:Subhanud DinSPST14GPS No,4 DallanGPS No,4 DallanJuma NoorKhawas KhanSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd Israfil.Muhd IbrahimSPST14GPS No,1 Saro ZaiGPS No,1 Saro ZaiGul AzizAbdul AzizSPST14GPS No,1 Saro ZaiGPS No,1 HanguQehmat UllahKhuza BaghSPST14GPS No,1 KarboghaGPS Shamal Din KalayAbdur RehmanBismillah JanSPST14GPS No,1 KarboghaGPS No,3 Mianji Kheivir ZamanKhawajat GulSPST14GPS No,3 MianjiGPS No,3 Saro ZaiJofn KhanJafar KhanSPST14GPS ShanawariGPS No,2 Chapri NaryabJodul QayumAmin GulSPST14GPS No,1 DallanGPS No,2 Chapri NaryabJada AliSabz AliSPST14GPS No,2 Lakhti BandaJad AliSabz AliSPST14GPS No,2 Lakhti BandaJada AliSabz AliSPST14GPS No,2 Lakhti BandaJad AliJan BahadarSPST14GPS No,2 Lakhti Banda <td>Allah Din</td> <td>Said Rahim</td> <td>SPST</td> <td>14</td> <td></td> <td></td>	Allah Din	Said Rahim	SPST	14		
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Muhd Jehan ZaibKhudai NoorSPST14GPS Khankoti BdGPS Marodin BahdaBismillah Jan: Subhanud DinSPST14GPS No,4 DallanGPS No,4 DallanJuma Noor: Khawas KhanSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No,1 DallanGPS No,2 DarsamandMuhd IsrafilMuhd IbrahimSPST14GPS No,1 DallanGPS No,2 DarsamandWaleed NoorWial ManoorSPST14GPS No,1 Saro ZaiGPS No,1 Saro ZaiGul AzizAbdul AzizSPST14GPS No,1 KarboghaGPS No,4 HanguRehmat UllahKhuza BaghSPST14GPS No,1 KarboghaGPS No,3 MianjiAbdur RehmanBismillah JanSPST14GPS No,3 MianjiGPS No,3 Mianji KheiVir ZamanKhawajat GulSPST14GPS No,3 MianjiGPS No,3 Mianji KheiItan MuhammadNaik MuhammadSPST14GPS SanawariGPS No,2 Chapri NaryabItan MuhammadNaik MuhammadSPST14GPS No,1 DallanGPS No,2 Chapri NaryabItan MuhammadNaik MuhammadSPST14GPS No,2 LakhtiGPS No,2 Lakhti BandaJahat Ali ShahAftab Ali ShahSPST14GPS No,2 LakhtiGPS No,2 Lakhti BandaJahat Ali ShahAftab Ali ShahSPST14GPS No,2 LakhtiGPS No,2 Lakhti BandaJahat Ali ShahAftab Ali ShahSPST14GPS No,2 LakhtiGPS No,2 Spin Khawari <td></td> <td></td> <td></td> <td></td> <td>· · · · · · · · · · · · · · · · · · ·</td> <td></td>					· · · · · · · · · · · · · · · · · · ·	
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62	Nakeem Bad Shah	Janat Gu	SPST	1 14	GPS No. 1 Naryab	Gos waryah
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Terms & Conditions :

1. They will be governed by such rules and regulations as may be issued from time to time by the Government.

_/2015

2. Charge report should be submitted to all concerned.

3. No TA/DA is allowed for joining his duty.

4. Necessary entry should be made in their service books.

(IFTIKHAR AHMAD) DISTRICT EDUCATION OFFICER MAEL DISTRICT HANGU

Endst No. 9737-43

Copy for information to the:-

1. P.A to Secretary to Govtof (E&SE) Department Khyber Pakhtunkhwa Peshawar.

Dated ______30-03____

- 2 P.A to Director of Education (E&SE) Khyber Pakhtunkhwa Peshawar.
- 3. District Account Officer District Hangu.
- . Deputy District Education Officer (Male) Hangu.
- Assistant Sub Divisional Education Officer, (M) Primary Hangu.

Official concerned.

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Office Record.

SUB DIVISIONAL EDU: OFFICE

MAEL DISTRICT HANG

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-10-Hinnexue-GOVERNMENT OF CHYBER PARHTUNKEWA ESTABLISHMENT DEPARTMENT (REGULATION WING) NOTHICATION Daled Pestinivar the, 06 / 872020 In existence of the powers conferred by section 26 of the Willing Minister of Khyler Bathmanning and the powers conferred by section 26 of Be The Chief Minister of Khyber Pakhiunkhwa is pleased to direct that in the Khyber (i) the cliffer intervation of the state manager and Transfer Rules. 1989, the and the shall be made, namely: AMEDNDMENT in rule 7, sub-rule (5) shall be deleted. ι, R GOVERNMENT OF THE ILLEY DER PAKETUNKHWA CHIEF SECREDARY NISTINO & EVEN DATE Additional Chief Secretary, Oovi, of Khyber Pakhtunkhwa. Planning & Cup of forwarded 10:-The Senior Member Board of Revenue, Khyber Pakhrunkhwa. Development Department. All Administrative SecretBries to Govi. of Khyber Puldtunkhwa. The Principal Secremry to Governor, Khyber Pakhtunkhwa, The Principal Secretary to Clifer Minister, Khyber Pakhrunkhwa. 2. All Divisional Commissioners in Khyber Pakhrunkhiwa 5. All Heads of Attached Departments in Kityber Pakhtunkhyva. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa 4. S. All Deguty Comralssioners in Khyber, Pakhlunkhwa. ū. The Registrar, Khyber Pakhlunkhwa Service Tribunal, Peshawar. The Registrar: Peshawar High Court, Peshawar ine ise zisinar, K-hyber Bakhlunkhwa Service Eribunal, Feshawar. Nho Secretary, Khyber Pakhlunkhwa Bublic Service Contunission; Peshawar. 7. ŝ. 0 All Saction Officers in Establishment & Administration Department. ŧŰ. The Section Officer (Admn), Administration Department with the request to 11 12 The Carelaker, Administration Department. arrange 20 gazette copies. (WALLAH LATIF) DEPUTY SECRETARY POLICY ATTESTED A-11. Sted

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 in the test of test of the test of test of the test of t

AMENDMENT

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

CHIEF SECRETARY

GOVERNMENT OF THE KHYBER PAKHTUNKHWA

RIC-

(ANDS): & EVEN DATE

Copy is forwarded to :-"

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NE

- 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)

nerute



GOVERNMENT OF KILYHER PARITUNKIIWA ESTAMMSHABANT DEPARTMENT NR. SO(Policy)E&ADJ (*3/2020 Dated Pestawat the June 06, 2023

The Government of Khylier Pakhimkinwa, Elementary & Secondary Educotion Dapathpeat.

-12-

Subject:

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n/b

GUIDANCE BEGAUDING INCLETION OF HULK 7(5) IN THE ICITIDEN PARITUNICIWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSPERY BULES, 1989.

Dear Sir, I and directed to teler to your letter No. SO(Primary-M)/R&SUD/2-2/Appointment/2023 dated #8.04.2023 on the subject noted above and to stote that Sub-Rule (3) of Rule-7 of Khyber Pitkhiunkhive Civit Servinits (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06.08.2020; thus, no provision exists to decline or forge premotion.

1 2. The basic rationale behind the detailon of the lift rule is afreed at preventing a civil servent from temptation for fillent number by sticking to a single incretive post/position or to prevent those who tend to forgo promotion to evade posting/transfer or show tack of capacity to tackie higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servent 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 primoiton through different means shall be proceeded against under Kityber Pakitunktives Civil Servents (Efficiency & Diselptine) Rules, 2011, picase, Yours faithfully,

Rodsl. OF even No & dute .

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2. 3.

Copy forwarded to the:-I. P910 Special Scereinsy (Reg.); Establishment-Department. defilient Scereinsy (Reg.)); Establishment Depart

PA to Additional Secretary (Reg. 11), Establishment Department. 15 to Doputy Scoretary (Policy), Establishment Department.

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Yours follb Fully, 5 'n (Issa Mulymmad Khan) Meet (Polley) ಸವ

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

То

The Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department.

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

Dear Sir,

1 am directed to refer to your letter No SO(Primary.M/E&SED/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(Appointment, 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 ibid rule is aimid 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. Further those officers/officials who do not comply with promotion order of the competent authority or Gy to evade promotion through different means shall be proceeded, against under Khyber Paktiunkhwa Civil servants (Efficiency & Discipline) Rules, 2011, please

> Yours faithfully, (Issa Muhammad Khan) Section Officer(Policy)

(Endsty, of even No & date

Copy is forwarded to :-

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

- 2. PA to Additional Secretary (Reg-II), Establishment
- P5 to Deputy Secretary(Policy), Establishment Department.

Section Officer (POLICY)

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

Nn.SO (Primary-M)/E8SED/2-6/2023 Dated Peshawar the, June 26", 2023

36/6/23

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

- 14

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

Subject:

Τq

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.

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

Encl: AA

(MUHAMMAD ISHAD SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

nc.

al El RIMA SECTION OFFICER 7.6

WP4442-?023 AZIZULLAH VS GOVT OF PG43

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

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, 1969.

Blc

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)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

То

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL BRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER FAKHTUNKHWA REGARDING OF 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 AtA under the Chairmonship of Additional Secretary Establishment in his office. The following attended the meeting.

S#	NAME	DESIGNATION
. 1	Mr. Fozal Wahld	Deputy Director Establishment of Orectorate Elementary & Secondary Education Department
2	Mr. Aziz Ulioh	Provincial President All Primary Teachers Association Khyber Pakhlunkhwa
3.	Mr. Rologal Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar

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

3. After threadbare discussion if was decided that Directorate of Elementary 2 Secondary Education Department may examine the case property and submit a self-contained/consolidated case for anward submission to Establishment Department for further necessary action.

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

(Mr. Fazal Wahld) Deputy Director-I E2.SE Department

(Mr. Rologat Ullah)

General Secretary APTA Peshawar

Mr Ayiz Ullah) Provincial President Primary Teachers Association Khyber Pathlunkhwa

INNENLIKE

(Muhahimod Ishaq) Section Officer (Primery-Male) EASE Deportment

(Abauilah) Addillonal Secretary (Establishment) E&SE Department

WP4442-2023 AZIZULLAH VS GOVT CF PG43

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF 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 I	DESIGNATION
1. Mr. Fazal Wahld	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4. Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar

2. The meeting started with recitation from The Holy Quran. The chair weicomed 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 & 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 Wahld) Deputy Director-1 E&SE Department

Provincial President All Primary Teachers Association Khyber Pakhtunkhwa

(Mr. Rafaqat Ullah) General Secretary APTA Peshawar

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

> (Abdullah) 상업법일:23년 운동도(문(RGX///문동(공)부)(동)·Paget)

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Kliyber Pollinnkhwa Peshawor. בופשפע מים ע בכסטקטנא בקווכחווטי Department.

דוום בשמעסו נייובטר (דיוממושיאילטופ).

NIIANIE OF THE MEETING

Dear Sir, - :;==[qnS

- R1-

דרבה בנו ארופל ווונוסרא מסוחו וווה המכאלגטווום סל וווה כמצה שג וועונגן. כי ייזוצב/אושאינים סל וווה אומהושל של אלגערטוום סל וווה כמצה שג וועונגן. הרבה בנו אין ארופל ווונוסרא מסוחו וווה המכאלגטווום סל וווה (מווהר אסיצט לארושים איץ)באצב אים וח

Thai Government of Khyber Pakhunkhwa Estoblishment Department (Reputelion Wing)

'EZOZ-ZQ-90 Palop 2869'ON דאם גואוג מאוב שמוצאו אוולסחכם לרמא צטור בססם מאוכר או גאט למוומא וווציעמרלג אולג וויגר

עסעי נו ואסטונטוע אישטו ווא כועון גפרעסוו נו סנכנטו ורסשטנוסה וה בעפרץ כמהלונוסה. (נו) זו וג נוגם מניטע אישטו ווא כועון גפרעסוו נו סנוואר מכנסטו מר ווגרה למיעה נוום הנצר מל ארטשטונטוי

No.50 (ררומוסא-M) בעצבט/ב-2/Appointment/2023 for necossory שעולסורני. זווםן אסוע צולא לאוכה למגאמנקמן וווה צמשם ום ווום לחסגובר כטובתגוובק אוקה ובוובר

וויםן וויסוב כעולע על טנסאוצוטע ונו קבכווער מו זמנט טנמשמוומד וו וז מטוולטומנא חלמע האבוא INING) vide lei the No:SO (Polley) E&ALD/1-3/2020 doied 6-06-2023 coregorically stated That the Coverment of Klyber Pakhtunkhwo Establishmont Department (Regulation

כזאון בפרימחו וש מכבעהו הרמומומה שחפר בערץ במחלוומה. דווב במחוב אילי המכועמל אי וווב מאכו לימה אמור הסמל מאוב אמר אמים אות ובנובר אם.20 דווב במחוב אילי המכועמל אי וווב מאכו המש אמור המסל מאוב אמים אות ובנובר אם.20

הכה מיגבם לשל submission of consolidated ease. לומו, וה נווכ לומוי מל נווב הוחנובג סל הפרוחה למופל 6-07-2023 ופול שתלר נווב כלווכב ווב. לכב ווב לכב ווב כלוומי מלווב מלווב לוב ווב כלוובי ווב כלוובי ווב כלוובי ווב כלוובי ווב

ושנטמרוחבונסו וויסאפונסת נמשחוננג. הרסעולפון נוינטין ביואשון וויפור אראונגע רפלעצסן ערוער גם כמטקוופונסע סל ואב שונפוועצ סל Teachers below Dr8-16 may be exempted of Implications of the amendment in the miles loid אמיר מולבכום ארמטויינוי ב וואשר היוחואריג מל דרמטוב דבסבאביב. דאינג וו וג ארטאסגבל ואמי In view of the above, this office is of constituent opinion that the deletion of Rules

דוום בסבב לג גוואוווונכל לפר אפרעגפו מחל הפכבנצמרא מכוומהג הופמצב.

בופשפטופאי ע בפרטומנין במורטו על אוארי ג בפרטומנין במורטו ג בוכטן בולטין בוקאינים איז געטונטאע בון געטונטאע בון געטונטאע בון געטונטאע בון געטונטאע בון געטונטאע

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ենթարություն Տօշօրվորչ Education Բնթարություն Տօշօրվորչ Education Assistant Director (Estabil-I)

WP4442-2025 AZIZULLAH VS GOVT CF PG43

-Ble-DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

Section Officer (Primary Male)

Elementary & Secondary Education Department KPK, Peshawar.

-19-

Subject .- Minutes of Meeting

To:

Dear Sir; an airected to refer to letter No. (SO Rimony - M) E & SED /S-1/GMAR/ Ministes of meeting PST/2013 dated 10-7-2023 on subject cited above and to present brief history, about background of cause as under.

- . That Government of KP Establishment deportment (Regulation Wing) deleted rule 7(5) in civil Servicests (Appointment, promotion of Transfer Rules 1989) vide notification No. No. SDR-VI(ESAD)1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 6987 deted 06-05-2022
 - i) Now It is obligatory upon avil scalant to accept promotion.
 - (i) St is precogative of civil servent to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quarter concerned vide letter NU. So (Princippin) EGSED/2-2/Appointment (2023 for necessary
- . That the government of KP-ED (Regulation Why) vide letter No. SO (Policy) EGAD (1-3/2070 dated 6-06-2073 categorically stated that there exists no provision to decline forgo promotion. It is ablighting upon every civil servint to ciccept promotion under energy condition.
- . That in light of the minutes of the meeting dated 6-07-2023. held under the Chairmanship of Hon. Addittonal Secretary Establish. -ment at his effice. This office has been asked for submission of

In view of the above, this office is of considered opinions that the deletion of Rules 7(5) have affected negatively a huge members of Female teactions.

The case is "submitted for persol and necessary actions please.

WP4442-2023 AZIZULLAH V5 GOVT OF PG43

- Copy of the closue to;
- 1. PA to Director Local Directorate

Autohand Director Elementary & Secondary Education Khyber Richtonkhula.

PESHAWAR

(21-7-2023)

2. Master Copy

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

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

Whe Secretary to Govt, of Khybar Pakhlunkhwa, Establishment & Administration Department, Peshawar

. .

5 n.H.

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

Lear Sir, J am directed to refer to your letter No. SO(Policy)/ E&AD/ 1-3/2020 dated (557 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Applontment, Promotion & Transfer Rules 1989) It has been infimated that those officers/ officials who do not comply with promotion order of the competent authority or by to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Effidency & 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 inconvience 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 lacty teacher in primary schools.

Copy forwarded to the:

Director ELSE Knyber Pakhtunkhwa.
PS to Secretary, EBSE Department Knyber Pakhtunkhwa.

Scanned with CamScanner

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(MUHAMMAD ISHAD) SECTION OFFICER (PRIMARY MALE)

SECTION OFFICER

(P.R.1)

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Annexure

WP4442-2023 AZIZULLAH VS GOVT CF PG43

10.56 (Principal - M. Horizon - 12.01) 1005 (Principal - Rule / 2023. 1005 (Patromor Dated 2013.

- 19

The secretary to Government of Khybes Parkhombhues.

Pesherewar.

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SUBJECT: Guidance reginding deletion of Rule 7(5) in the 241 Servant (Apprintment, Romation & Tramater Rules) 1989)

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Decersiv, 9 and divected to refer to your letter No. Solution (Apprinting to the state of the s

These officers! officiency and bissipline) or the verices manuales when donot comply with promotion order of the completent authority or try to evade promotion through different means should be proceed under Klyben Richhankhung and Servant (Efficiency and Dissipline) Rule roll.

In this connection it is submitted that in some coust lady teacher of primary level who avails they have to perform duttes in the remotest stations with no residential transport factures to the remotest stations with no residential transport factures officits on searcher area area area to residential transport factures in the remotest stations with no residential transport factures officits on searcher and they have to restart on their officer in the researcher of an such and they be reconstructed to the version of lody teacher in primary schools.

PS fo Secretary, E & SE Reportion Khura, Marketon Marketon Offices (Rimary) Direction E & Secretary, E & SE Reportion Khura, PS fo Secretary, E & SE Reportion Khura, Marketon Marketon

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

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

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

am directed to refer to your letter No. SO(Primary-M)/E&SED/2-Dear Sir. 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).

(freer (Policy) Section

Yours faithfully,

Endst. Of even No & date

Copy forwarded to the:-

 $\overleftarrow{\alpha}$

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.

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

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,

Τo

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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)

WP4442-2023 AZIZULLAH VS GOVT OF PG4

Annexure - GI

- Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, 1) Civil Secretariat, Peshawar
- Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary 2Education Department, Civil Secretariat, Peshawar
- Director Elementary and Secondary Education Department 5)

Τo,

-24-

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING 06/08/2020, COMMUNICATED TO NO.SO(POLICY)E&AD/1-312020. DATED 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 <u>DELETED</u> 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 nothication No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of proviotion 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 06-68-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Paktitunkhwa 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 even 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/r pointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khuper Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as a nad 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 and against the fundamental principles of natural justice.

Dated 26 /0 1/2024

 ΛB

J. TIMA NOOR

- 9_5 Rhyber Pakhtunkhwa Aziz Ollah Khan Prosident Ø 0333.04 (4648 dataulah) 973@geneli.com El asteksi apra APTA House: Gove Primery School No.4 Guibebar Peshawar City, آل پرائمری تبچیرز ایسوی ایشن (ایٹا) خیبر پختان خوا Annerure -بمامي : ميكرلرى المنظرى على سيكندرى الجوميش تحيير يعتر الوا متماب : آل پراتمری نیم (الدی التن نيبر يخونو الزادش مد مد وموشر بر ادارم ش بوت على او كم مركادك مادم ك حواص ور مواش بول ب يروسوشركا أيك تألون اوا كراها ك يو كادم ايك الرمى بجور کے تحت ایک دلد پر دسوشنو ند این وده بم اسموه باد سال تک پروموفنونیس نے سکتے سے مطلب باد سال بحک بم اس کی برد موشنو منین او سک من المر اي تالون شد تودى رمايت دى مكل جاد سال دايل بات محم مر دى كل كر اكر ايك طادم ايك سال پرو و من خد لي لوده دو مرسد سال ف مكت ب ہوتر کی وقت ملک مودی دیاری کی چد شکل وال چک سے مودی کی کہ دو ہوتی ملکم اپنے مصل پرو کر کہ ملک کو دور کر ملک ملک ملک سے سے سے کیکن اب ایک ہوت خودی دیاری مرد کوئی سے اگر خون کی سے کو اس سے خلاف ای عد کو روز سے مطابق کاردائی کرنے کا کہ کم سے درامل ہے آکری کو لیکیش بلیادی السانی حقوق کی کملی طلاک درازی ہے سوے کی دور درالہ اور پہلاک طاقوں میں حاص کر خواتین اساتاہ کو انتہائی مطلات کا مامناکرنا یا ہے گا جاء مام مالات عل مى فدردى يردموش ادر درداد بعيما مى بادى السال متول ك خلاف دراى ب كداك فير بخولم عمل بدهس ب مالااتى د مدن الد بجہ کامات میں میں دور میں بروسر میں مدر مدر اور میں میں میں میں میں میں میں میں جہ مدر میں درم میں ہوتی میں دور مجمل مدل ہے ملالت میں یہ خالولیکیٹن جو B&SE کی کاخل کس لیٹر کی جواب ہی کیا کیا ہے جو بدیتی ادر جماری انسان منوق کی خلاف ہے اہذا ہم آپ سے مدولت ایک کرتے ایک کہ کو فیکیٹن کو داہمی لیا جائے یا ایک میں ترم کر کر پر اتجری اساتد ، کو (nelacation)، دیا جائے اور ان کو لدمد من مراس المل كى بملسط الناكر مرمى سے المين ويا جاسط ادر برومشن ند المن كى مورت مد، باتامد، بالالا باعد الكن في درس د كى جائ اس سلسله بن آن آن شعلد از جلد قام (DEOs) ای ای او کر ایک خسوسی مراسله جادی کما جاست تاک امنام عم ب میل / لیميل پراتمرل امايد، کر ذان المت ادر تارج تك من بمايا جاسط كوكد فوليميش مادى اول على إراقمرى اسالة، كو وابن طور ير ادج كرال ماسله مردم اوجكاب فبذا ہم یہ لون و یکتے اللہ ک آب ساحیان اور ایکٹن لیکر موب ممر کے برائم کا اساتذہ خسوسا تعییل پر ائمر کا اساتذہ کو اس والن اذید ب عمات دالا ک ک شکه غزيزانلد مغان مسوباتي مسدر آل پرائمری کیچرز الدوی ایش تبیر پخونوا WP4442-2023 AZIZULLAH VS GOVT OF PG43



1.

Learned counsel for the appellant present.

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2. Let's pre-admission notice be issued to the respondents through TCS for submission of reply/comments. Appellant is directed to deposit FCS 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 23.98.2023 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.

dertified to be true copy(Muhammad Akbar Khan) Member (E)

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Date of Presentation of Application 10-77-1-5 -1ANumber of -Convins - --- J.f Date of Constant Street 1.3 - (~24-Name of + Date of Delivery of Config _____ 12-fr ___ 2

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BEFORE THE SERVICE TRIBUNAL PESHAWAR

JUMA NOOR.

Versus

Appellant

W 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.

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

Aun

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT Advocate Supreme Court

MUHAMMAD ADKEL BUTT Advocate High Court

BASSAM AHMAD SIDDIQUI Advocate High Court