


FORM OF ORDER SHEET

Court of _____

Appeal No. 1639 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27 /09/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 03.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A. No. 1639/2024
JUMA NOOR

V/S

Government of KP & others

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ADVOCATE
M. Muazzam Butt

- 1 -

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No. 1639 /2024

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

.....Appellant

VERSUS

- 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:

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 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 forego 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 &

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 filed on the following grounds:-

GROUNDS:-

- a. That as per various judgments it is established and settled principle that executive notification cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification adversely affects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2023 & 06/06/2023 liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order the appellant was in, availing promotion is mandatory. It is further submitted that the employees the appellant, have foregone their promotion along with their resignation. It is submitted that when domestic and other personal issues do not permit the employees 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 facilities of promotion during their entire service. Hence the employees himself/herself bear the agony 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 set-aside.

- c. 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.
- e. 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.

AFFIDAVIT:
 I, (the appellant) solemnly declare 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.
Juna
 Deponent

Juna
 Appellant

Through

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

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.
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.

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 concealed therein from this Honourable

Through

Jame
Appellant

[Signature]
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt



Annexure A
OFFICE OF THE DISTRICT EDUCATION OFFICER, (M) HANGU
NOTIFICATION

Consequent upon the recommendation of the Departmental Promotion Committee & in pursuance of the Government of Punjab Elementary & Secondary Education Notification NO 5011/18/E&SE/2012 Dated Peshawar the 11 07 2012 the following PST (M) (BPS-14) hereby promoted to the SPST Posts BPS-14 (8000-610-26300) plus usual allowances as admissible under the rules on regular basis, according to the existing policy of the Provincial Government in Teaching Cadre on the terms and condition given below with immediate effect and further posted in the schools noted against each.

S #	Name of Teachers	Father Name	Desr	BPS	Name of School	Place of posting
1	Muhammad Tariq	Ghaloor Khan	SPST	14	GPS Bagatoo Hu	GPS Bagatoo Hu
2	S. Asghar Hussain	S. Hamid Hussain	SPST	14	GPS No,1 Hangu	GPS No,1 Hangu
3	Niaz Gul	Eid Akbar	SPST	14	GPS Khazina Bd	GPS Shahu Khel
4	Saud Ali Khan	Taj Ali Khan	SPST	14	GPS Matu Khel	GPS Darshan Hangu
5	Asad Ullah Khan	Piada Khan	SPST	14	GPS Ch: Waziran No,1 Hangu	GPS Ch: Waziran Hangu
6	Bakhat Nawaz	Shah Mast Khan	SPST	14	GPS No,2 Thall	GPS Khanan Banda
7	Saif Ullah Khan	Gul Rehman	SPST	14	GPS Turki Banda	GPS Turki Banda Hangu
8	Sadeem Shah	Yar Shah	SPST	14	GPS Pat Darband	GPS Pat Darband
9	Adil Muhamad	Nazir Muhammad	SPST	14	GPS No,1 Warasta Hangu	GPS NO 1 Warasta Hangu
10	Reman Khan	Adam Khan	SPST	14	GPS Darband Hangu	GPS No,1 Warasta Hangu
11	Zahid Ullah	Momin Khan	SPST	14	GPS Navi Kalay	GPS Shahu Khel
12	Khalid Wazir	Faqir Muhammad	SPST	14	GPS Daman Ban	GPS Alwara Mera
13	Riaz Khan	Pir Bat Khan	SPST	14	GPS No,1 Kahi	GPS No,1 Kahi Hangu
14	Said Afzal	Misal Akbar	SPST	14	GPS Tora Watt	GPS Tora Watt
15	Ahmad Iqbal	Aqal Noor Farooqi	SPST	14	GPS No,1 Muhd Khawaja	GPS No,1 Muhd Khawaja
16	Hameed Anwar	Masti Khan	SPST	14	GPS No,2 Karbogha	GPS No,2 Karbogha
17	Muhd Khawas	Khial Hassan	SPST	14	GPS Shinali Kahr	GPS Wach Bazar
18	Hameed-Ur-Rehman	Samand Khan	SPST	14	GPS Wazir Abad	GPS Wazir Abad
19	Sadar Nawaz	Itbar Khan	SPST	14	GPS Shanawari Naryab	GPS Shanawari Naryab
20	Irfan Khan	Naseer Khan	SPST	14	GPS Mulla Abad	GPS Mulla Abad
21	Shamsullah Khan	Saeed Ullah Khan	SPST	14	GPS Kotki Balla	GPS Kotki Balla
22	Jawad Hussain	Faqir Hussain	SPST	14	GPS Shahu Bazar	GPS Shahu Khel
23	Muhammad Farooq	Ajab Khan	SPST	14	GPS No,1 Zangli	GPS No,1 Chapri Na

Mir Hamza	Hakeem Khan	SPST	14	GPS Mamoon Banda	GPS No,2 Saro Khel
Harneed Gul	Khona Gul	SPST	14	GPS Sailo Talab	GPS Tora Wari
Muht Rases	Akbar Hussain	SPST	14	GPS Tora Wari	GPS Doaba
Nek Mar Din	Ismail	SPST	14	GPS Thall Cantt:	GPS Thall Cantt
Salabat Khan	Bad Shah Khan	SPST	14	GPS Shamal Din Karbogha	GPS Shamal Din Karbogha
M.Ishaq Khan	ShahJan	SPST	14	GPS No,1 Dallon	GPS No,1 Dallon
Adil Marjan	Sarwar Jan	SPST	14	GPS No,1 Karbogha	GPS No,2 Karbogha
Sajid Naeem	Yar Bad Shah	SPST	14	GPS No,3 Hangu	GPS No,3 Hangu
Sohail Amjad	Muht Farooq	SPST	14	GPS Sheikhhan Banda	GPS Kach Banda
Latif Khan	Hassan Khan	SPST	14	GPS No,1 Lakhti Banda	GPS No,1 Lakhti Banda
Hussain Afzal	Gul Afzal	SPST	14	GPS No,2 Tangi Mian Gan	GPS Mero Bak Saro Zai
Allah Din	Said Rahim	SPST	14	GPS Shinki Banda	GPS Regi Madi Khel Darsamand Hangu
Muht Ashrfa	Multan Khan	SPST	14	GPS Khisari Banda	GPS Azimi Banda
Nadeem Khan	Abdul Karim	SPST	14	GPS Maroofi Bd	GPS Maroofi Banda
Muht Jehan Zaib	Khudai Noor	SPST	14	GPS Khan Kot	GPS Thall Cantt:Hangu
Bismillah Jan	Subhanud Din	SPST	14	GPS No,4 Dallon	GPS No,4 Dallon
Juma Noor	Khawas Khan	SPST	14	GPS No,1 Dallon	GPS No,2 Darsamand
Muht Israfil	Muht Ibrahim	SPST	14	GPS Bahadar Ghari	GPS Bahadar Ghari
Waleed Noor	Wial Manoor	SPST	14	GPS No,1 Saro Zai	GPS No,1 Saro Zai
Gul Aziz	Abdul Aziz	SPST	14	GPS No,4 Hangu	GPS No,4 Hangu
Rehmat Ullah	Khuza Bagh	SPST	14	GPS No,1 Karbogha	GPS Shamal Din Kalay
Abdur Rehman	Bismillah Jan	SPST	14	GPS Jadeed Banda	GPS Doaba
Mir Zaman	Khawajat Gul	SPST	14	GPS No,3 Mianji Khel	GPS No,3 Mianji Khel
Mujib Khan	Jafar Khan	SPST	14	GPS Sur Chaper	GPS No,1 Saro Zai
Multan Muhammad	Naik Muhammad	SPST	14	GPS Shanawari Neryab	GPS No,2 Chapri Naryab
Abdul Qayum	Amin Gul	SPST	14	GPS Zanki Banda	GPS Mardu Khel Banda
Muht Nuran	Wali Jan	SPST	14	GPS No,1 Dallon	GPS Jewaro Ghundi
Muht Ajhat Ali Shah	Aftab Ali Shah	SPST	14	GPS No,2 Lakhti Banda	GPS No,2 Lakhti Banda
Muht Sajad Ali	Sabz Ali	SPST	14	GPS No,2 Thall	GPS Thall Cantt:
Muht Iqbal Kafil	Jan Bahadar	SPST	14	GPS Darband	GPS No,2 Spin Khawari
Muht Asghar	Ali Akbar	SPST	14	GPS Khisari Bd	GPS Babo Tang Hangu
Muht Ali Hassan Shah	Khial Hassan Shah	SPST	14	GPS No,1 Darari Banda	GPS No,1 Darari Banda

57	Imdad Ullah	Hayat Bad Shah	SPST	14	GPS Barra Abbas Khel	GPS No.1 Saro Zai
58	Gul Raheem Khan	Izaz Khan	SPST	14	GPS Jehangir Abad	GPS No.1 Togh Sarai
59	Muhd Sadeeq	Fazal Haleem	SPST	14	Lucky Muhd Khawaja	GPS No.1 Saro Zai
60	Kashif Mumtaz	Mumtaz Khan	SPST	14	GPS No,2 Thali	GPS No.1 Thali Hang
61	Muhd Aftab	Janat Gu	SPST	14	GPS No. 1 Naryab	GPS Naryab
62	Hakeem Bad Shah	Khial Bad Shah	SPST	14	GPS Bakaro Kahi	GPS No,1 Saro Zai
63	Jamshid Khan	Fazal Khaliq	SPST	14	GPS Sheikhan Banda	GPS Sheikhan Banda
CONSEQUENTIAL TRANSFER.						
64	Munir Ahmad	Sifat Khan	SPST	14	GPS Darshai	GPS No.1 Karbogha A.V.P.
65	Zain-Ul-Abideen	Noor Islam	SPST	14	GPS Tora Wari	GPS No,2 Saro Zai A.V.P.

Terms & Conditions:

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

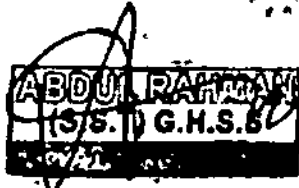
Endst No. 9737-43 Dated 30-03 /2015


Copy for information to the:-

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

Official concerned.

Office Record.




SUB-DIVISIONAL EDU. OFFICER,
MAEL DISTRICT HANGU

-9-

Dist. Govt. NWFP-Provincial
District Accounts Office Hangu
Monthly Salary Statement (January-2024)



Personal Information of Mr JUMA NOOR d/w/s of KHAWAS KHAN
Personnel Number: 00287639 CNIC: 1410107670687
Date of Birth: 13/03/1981 Entry into Govt. Service: 01/06/2006

NTN:
Length of Service: 17 Years 05 Months 01 Days

Employment Category: Active Temporary
Designation: SENIOR PRIMARY SCHOOL TEA 80639884-DISTRICT GOVERNMENT KHYBE
DDO Code: HG6161-District Hangu

Payroll Section: 001 - GPF Section: 001 Cash Center: 06
GPF A/C No: 287639 Interest Applied: Yes GPF Balance: 574,549.00
Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 14 Pay Stage: 12

Wage type		Amount	Wage type		Amount
0001	Basic Pay	43,410.00	1001	House Rent Allowance 45%	3,721.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,800.00
2148	15% Adhoc Relief All-2013	425.00	2199	Adhoc Relief Allow @10%	1,134.00
2316	Teaching Allowance 2021	3,036.00	2341	Dispr. Red All 15% 2022KP	4,032.00
2347	Adhoc Rel Al 15% 22(PS17)	4,032.00	2378	Adhoc Relief All 2023 35%	14,554.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription	-3,900.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-516.00	3990	Emp. Edu. Fund KPK	-1,350.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax
Payable: 8,036.68 Recovered till January-2024: - 3,451.00 Exempted: 2008.63 Recoverable: 2,577.00
Gross Pay (Rs.): 77,514.00 Deductions: (Rs.): -6,351.00 Net Pay: (Rs.): 71,163.00

Payee Name: JUMA NOOR
Account Number: 13430100-443-5
Bank Details: UNITED BANK LIMITED, 211343 DALLAN DALLAN, HANGU

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: City: HANGU Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Office
Temp. Address: City: Email:

(210536/07.02.2024/13:53:49) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

Annexure - B-

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the 06/8/2020

Subject: (Policy) E&AD/1-3/2020 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

INDEX 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.

1267
06/08/2020

ATTESTED

(WAJDAH LATIF)
DEPUTY SECRETARY (POLICY)

Attested
N

-11-

-B/C-

**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)**



Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Polcy)HR&D/1-3/2020
Dated Peshawar the 16th June 06, 2023

62

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. SO(Primary-MYP&SU/D/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 said rule is aimed at 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.

Yours faithfully,

(Issa Mulyammad Khan)
Section Officer (Polcy)

ASE
7/6

Encl. 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 (Polcy), Establishment Department.

Section Officer (Polcy)

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

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 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 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. 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

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

(Encl). of even No & date

Copy is forwarded to :-

1. PS to Special Secretary (Reg), Establishment Department.
2. PA to Additional Secretary (Reg-II), Establishment
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.091-9223587)

No. SO (Primary-M)/E&SED/2-5/2023
Dated Peshawar the 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 Signature]

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

Copy forwarded to the:

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

[Handwritten Signature]

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

[Handwritten Signature]

-15-
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).

Annexure
0


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.

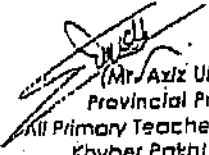
S#	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer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



-17-
-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

(Abdullah)

Additional Secretary (Establishment)





No. 8145

Khyber Pakhtunkhwa, Peshawar

Phone: 091-9225344 / F.No. 14/ST/NC/General Cases / Email: eshaikhilmineral@gmail.com

Date: 21-7-2023

The Section Officer (Primary-Male)

Elementary & Secondary Education Department,

Khyber Pakhtunkhwa Peshawar.

Dear Sir,

Subject: - MINUTES OF THE MEETING

I am directed to refer to the letter No.50(Priinary-M)E&SED/15-11/G.Misc/Minutes of the Meeting/157/2023 dated 10-07-2023 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) dated Rule 7(5) in the Civil Servants (Appointment, Promotion & Transfer Rules 1980) 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.0987 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.50 (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.

- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No.50 (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.50 (Primary-M) E&SED/2-2/Appointment/2023 dated 12-06-2023.

- That, in the light of the minutes of meeting held 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 UPS-16 may be exempted of implications of the amendment in the rules bid 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) Khyber Pakhtunkhwa
21/7/2023

Encls: No. Copy of the above is as:-

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

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

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

To:

Section Officer (Primary-Male)
Elementary & Secondary Education Department
KPK, Peshawar.

PESHAWAR,
(21-7-2023)

Subject: Minutes of Meeting

Dear Sir,

I am directed to refer to letter No. (SO Primary-M) E&SED/S-1/G/M/Min/Minutes of meeting/PST/2023 dated 10-7-2023 on subject cited above and to present brief history, about background of case as under:-

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion, Transfer Rules 1989) 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 06-07-2023.
 - (i) Now it is obligatory upon civil servant to accept promotion.
 - (ii) It is prerogative of civil servant to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quarters concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment-12023 for necessary guidance.
- That the government of KP-ED (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/forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the 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(S) have affected negatively a huge members of Female teachers.

The case is submitted for perusal and necessary actions please.

- Copy of the above to;
1. PA to Director Local Directorate
 2. Master Copy

Assistant Director
Elementary & Secondary Education
Khyber Pakhtunkhwa.



- 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

Annexure
E

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 06th 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.

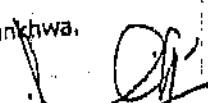
2. In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvenience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father 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 ISHAQ)
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)
28/8/23

Scanned with CamScanner

(Muhammad Ishtay)
Section Officer (Primary)
Males

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

Copy forwarded to;

In this connection it is submitted that in some cases lady teacher of primary level who avail 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.

Civil servant (Efficiency and Discipline) Rule 2011. 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.

Dear Sir,
I am directed to refer to your letter No. SO (Primary) (Pozay) /E&AD /1-3/2020 dated 4th June 2023 and to state that after deletion of Rule 7(S) 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

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

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

No. SO (Primary-M) E&SE D /1-3/
Appointment - Rule /2023
Peshawar Dated 23rd August 2023.

- B/c -

Annexure - F



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.

WP1442-2023 AZIZULLAH VS GOVT OF PG33

- B/c -

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Polcy)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

Section Officer (Policy)

To,

- 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

Subject: 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.

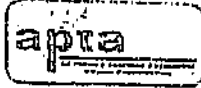
It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&AD/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution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

Dated 26/01/2024

Juma

JUMA NOOR

Aziz Ullah Khan
President
0333-0412618
azizullah1973@gmail.com
aptaakpi



APTA House:
Govt. Primary School No.4,
Gulbaha Peshawar City.

آل پرائمری ٹیچرز ایسوسی ایشن (ایٹا) خیبر پختونخوا

Answer - A

بہاب: سیکرٹری ایگزیکٹو ایسوسی ایشن خیبر پختونخوا
بہاب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا
بہاب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا

گزارش ہے کہ پرموشنز ہر ادارے میں ہوتے ہیں اور سرکاری ملازم کی خواہش ہوتی ہے پرموشن کا ایک قانون اور کرہا کہ جو ملازم ایک اگر کسی
بھروسے تحت ایک دوسرے پرموشن نہ لیں تو وہ ہر آٹھ ماہ سال تک پرموشن نہیں لے سکتے تھے مطلب چار سال تک ہر اس کی پرموشن نہیں ہو سکتی تھی
پھر اس قانون میں ترمیمی رعایت دی گئی چار سال والی بات ختم کر دی گئی کہ اگر ایک ملازم ایک سال پرموشن نہ لیں تو وہ دوسرے سال لے سکتا ہے
لیکن اب ایک ہفت پہلے ایک اور نوٹیفکیشن آیا ہے

اس کے مطابق اب ہر ملازم پرموشن ضرور نہیں لے سکتا ہے بلکہ اس کے خلاف ای سی ڈی روڈ کے مطابق کارروائی کرنے کا کہا گیا ہے
اور اصل یہ آئی نوٹیفکیشن بنیادی حقوق کی مکمل خلاف ورزی ہے سب سے کی دور دورا اور پہلی ملازمت میں خاص کر خواتین اساتذہ کو انتہائی مشکلات کا
سامنا کرنا پڑے گا

بلکہ عام حالات میں بھی زبردستی پرموشن اور دور دورا بھیجنا بنیادی حقوق کی خلاف ورزی ہے کیونکہ خیبر پختونخوا میں بد قسمتی سے خاندانی دشمنیاں
بھی ہوتی ہے ایسے حالات میں یہ نیا نوٹیفکیشن جو G&SE کی کاغذوں پر لیکر آیا گیا ہے جواب میں کیا گیا ہے جو بدینے اور بنیادی حقوق کی خلاف ورزی
ہے

ہم اس کے خلاف قانونی چارہ جوئی 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 (Relaxation) دیا جائے اور ان کی
زبردستی پرموشن لینے کی بجائے ان کو مرضی سے لینے دیا جائے

اور پرموشن لینے کی صورت میں ہاتھ باندھا لیا جائے لیکن یہ زبردستی نہ کی جائے
اس سلسلے میں آپ جلد از جلد تمام (DEOS) ای ای اور ایک شخص سے رابطہ جاری کیا جائے تاکہ اطلاع میں آپ سب کو سبیل / سیمیل پرائمری اساتذہ کو ذہنی
البت اور ہر جگہ سے بھیجا جائے

کیونکہ نوٹیفکیشن جاری ہوتے ہی پرائمری اساتذہ کو اپنی طور پر راجہ کرنے کا سلسلہ شروع ہو چکا ہے
لہذا ہم یہ توقع رکھتے ہیں کہ آپ صاحبان اور ایکشن لیکر سب کے پرائمری اساتذہ خصوصاً سیمیل پرائمری اساتذہ کو اپنی اپنی ذہنی تہمت دلائل کے

شکریہ

Handwritten signature and date 08/11/23

عزیر اللہ خان صوبائی صدر
آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا

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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)

[Handwritten signature]
13-6-24

Date of Presentation of Application 10-7-23
 Number of 1 P.
 Copying 57
 Urgent 57
 Total 57
 Name of ---
 Date of Completion 13-6-24
 Date of Delivery of copy 12-6-24

[Handwritten signature]

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

JUMA NOOR

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC, MUHAMMAD ADEEL BUTT AHC

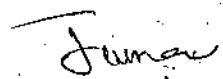
BASSAM AHMAD SIDDIQUI AHC

&

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.

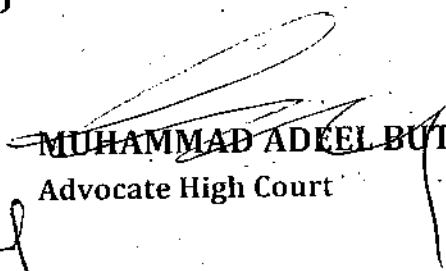
I agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.



APPELLANT

ACCEPTED


MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court


MUHAMMAD ADEEL BUTT
Advocate High Court


BASSAM AHMAD SIDDIQUI
Advocate High Court