# FORM OF ORDER SHEET

Court of			
Appeal No.	1653	/2024	

S.No.	Date of order or proceedings	Order or other proceedings with signature of judge
1	2	3
	· · · · · · · · · · · · · · · · · · ·	
1-	27 /09/2024	The appeal presented today by Mr. Muhamma
		Muazzam Butt Advocate. It is fixed for preliminary hearin
		before Single Bench at Peshawar on 03.10.2024. Parcha Pesh
		given to counsel for the appellant.
		By order of the Chairman
		RECESTRAR
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## BEFORE THE SERV

ETRIBUNAL KHYBER PAKHTUNKHUWA
-nlo 1653/24
Gul Khan

Government of KP & others

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ADDOCATE M-Muazam Butt

## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In	R	ef	to
111	л	EI.	w

Service Appeal No /653 /2024

Gul Khan Son of Awal Khan, PSHT GMPS Haji Khan killa, Tehsil & District Peshawar

.....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

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 the Respondents Department appointed the Appellant as Primary School Head Teacher.
 Copy of Appointment letter is annexed as <u>Annexure A</u>

- 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.
- 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.
- 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".

- 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 Impugned Letter dated June 06th, 2023 is attached as Annexure C
- 7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action.

  Copy of Minutes of Meeting dated 06:07-2023 is attached as Annexure D
- 8. That the Respondent No.3 i-e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

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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>

- 9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

  Copy of Impugned letter dated 07-09-2023 is attached as Annexure F
- 10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed.

  Copy of Representation against the said notification is annexed as Annexure G & H
- 11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:

## $_{\eta^{(i)}}$ GROUNDS:-

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

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

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 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 thereing from this Honourable Court.

Through

Deponent

Muhamudd Muazzzam Butt Advocate Supreme Court

Muhammad Adeel But Advocate High Court

Bassam Allmad 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
•	Gul Khan
	VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

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 Court

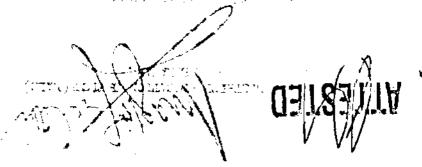
Deponent

Through

Muhammad Muazzzam Butt Advocate Supreme Court

Muhammed Adeel Butt Advocate High Court

Appellant



និយ្យាក នោះ ដែល ខាងលោក (។)។ មានសម្រាស់សាសាក្រ (។) នៃ ក្រុមប្រសួននៅ () with the latinosphological contraction of the property of the property of the contraction of the property of the contraction of de-description and the opening न्देशचेत्र स्त्रा ७०, । ≥ श्रीच्या अस्तु हैं । कर् " 25 46 466 DEC. ; sea al as Canetto other 18,840d Vede 1560 67 03/3/02 10 21-8028 olashors 7.0 ្តី ស្រាស់ **សិក្សាសិស្ស**ា \$40 TENNERS OF SECTION 5 1 👍 Faucytines of the second of पुरिस्तरम् अञ्चलकृतस्य स्था । स्थापः स्थापः स्थापः property of the first सराध्य भक्र (विश्वप्राध्यम् अ**स्** र (मण्ड where we will be a substitution of the form of the substitution o و الواز الذي الذي المراجعة الذي المراجعة المراجعة الماري المراجعة المارية المراجعة المارية الم នុងសេក្សាន់ក្នុង ស្រុក ស្រុកស្រាស់ មក្សាន់ សេក្សាន់ ស្រុក ស្រុក ស្រុក សេក្សាន់ សេក្សាន់ សេក្សាន់ សេក្សាន់ សេក្ សេក្សាន់ក្រុម សេក្សាន់ សេក្សាន \*режыття ор штоштам эксреце»

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City Khan

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#### Dist. Govt. KP-Provincial District Accounts Office Peshawar Dist. Monthly Salary Statement (January-2024)



#### Personal Information of Air GUL KHAN d/w/s of AWAL KHAN

Personnel Number: 00025439 Date of Birth: 08.01,1971 -

CNIC: 1730113897601

Entry into Govt, Service: 01.10.1990

NTN: 0

Length of Service: 33 Years 04 Months 001 Days

**Employment Category: Vocational Permanent** 

Designation: PRIMARY SCHOOL HEAD TEACH

80696670-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6574-Sub: Divisional Education Officer (Male) Town 1 Peshawar Payroll Section: 003

GPF Section: 001

Cash Center: 21

GPF A/C No:

**GPF** Interest applied

GPF Balance:

862,713.00 (provisional)

Pay Stage: 24

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

. Pay Scale Type: Civil BPS: 15

Wage type		Amount	1	Wage type	Amount		
	Basic Pay	71,440,00	1004	House Rent Allow 45% KP21	8,741,00		
1210	Convey Allowance 2005	2,856,00	1300	Medical Allowance	1,500,00		
1505	Charge Allowance	40.(X)	2148	15% Adhoc Relief All-2013	918,00		
<u> 2199</u>	Adhoc Relief Allow @10%	614,00	2316	Teaching Allowance 2021	3,224.00		
<u> </u>	Dispr. Red All 15% 2022KP	6,807,00	2347	Adhoc Rel Al 15% 22(PS17)	6.807.00		
2378	Adhoc Relief All 2023 35%	24,311,00			0,00		

#### Deductions - General

	Wage type	Amount		Wage type	Amount
3015	GPF Subscription	-4,290,00	3501	Benevolent Fund	-1,200,00
3609	Income Tax	-3,493,00	3990	Emp.Edu, Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600,00			0.00

#### Deductions - Loaps and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	436,000.00	-12,112,00	290,656,00

Deductions - Income Tax

Payable:

54,649,38

Recovered till JAN-2024:

23,525,00

Exempted: 13661.83

Recoverable:

17,462,55

Gross Pay (Rs.):

127,258.00

Deductions: (Rs.):

-21,830,00

Net Pay: (Rs.):

105,428,60

Payee Name: GUL KHAN

Account Number: 3096738809

Bank Details: NATIONAL BANK OF PAKISTAN, 231588 ASHRAF ROAD PESH ASHRAF ROAD PESH,

Leaves:

Opening Balance:

Availed:

Enried:

Balance:

Permanent Address: SDEO M PESHAWAR

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: gulkhan9928@gmail.com

System generated document in accordance with APPM 4.6.12.9(873334/25.01.2024/v3.0)
\* All amounts are in Pak Rupees
\* Errors & amissions excepted (SERVICES/02.02.2024/19.09:01)

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All Autonomous Sealing Englishmen Pakhunkhwa. All Heads of Anached Department in Karyber Pakhlunkliva. All Divisional Commissioners in Knyber pakhrunkhwa.

The Parincipal Secretory to Chief Minister, Khyber Pakhtunkliwa. The Principal Secretary to Governor Klyber Pakhiunidiwa. Ewhlinithal nativity of course of the Shirthan Ila

The Senior Member Board of Revanue, Khyber Pathunkhwa. Далериней Берилтев. lanouible.

Chief Secretory, Clove, of Khyber Pakhtunkhwa, planning & -int hobraveml highal

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# GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

BC

NOTIFICATION

Dated Peshawar the, 05/08/2020

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: (4)

#### **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)



FUNCKUKE



### **СОМЕННИКАТ ОВ КПАЛКИ БУКПАЛИКИМУ** establishment department Hn. SO(Policy) [&AD/ -2/2020 Dated Pestinwar the June 04, 2023

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The Covernment of the her Pakipunkhwa Hemening & Secondary Physical in Department.

Suhject: •

GUIDANCE RÉGALDING DELETION DE RUBE TO IN THE CHYPER PAGITUNIONA GIVIL SERVANTS (AUPOINTAIENT, PROMOTION AND TRANSPERS RULES, 1919,

i am allected in teles in your letter No. 20(Primory-M)mainupit-Dent Sie, Whypolalment/2023 dated 19.04.2023 on the subject noted chose and to stold that Sub-Itale (5) of Rule-7 of Chyper Pukhtonkhua Civil Servents (Appointment, Promotion and Transfer) Rules, 1989 Manda deleted vide this department notification dated 06.08.2010; thus, no provisian exists to decline or forgo promotion.

The basis rationals behind the delation of the ibility to is almost at prevention  ${f a}$ civil servent from templeilan for littelt gala by sticking to a single lucrative post/position or lo prevent those who tend to longo promotion to evode posting/transfer or show lock of expectly to makin higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in overy condition.

Funhermore, 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 Pakhunkinya Civil Servents (Efficiency & Discipline) Rules, 2011, please.

Rasist. Of even No & date

Copy forwarded to the:-BAla Shrufel Beetefeld (UeB), Kerppflepineut Bebriment

PA to Additional Secretary (Reg-11), Establishment Department. P5 to Deputy Secretary (Policy), Establishment Department.

Aonta lajiptalik anınd Khan) Meet (Polley)

Meer (Pollay)

WP4442-2023 AZIZULLAH VS GOVT OF PG43

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

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 Sic.

I am directed to refer to your letter No SO(Primary.M/E&SED/2 – 2/Appointment/2023) dated 18.04.2023 on the subjust 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 motification 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 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)

(Endst), of even No & date

Copy is forwarded to :-

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

Section Officer (POLICY)



#### -dvernment of Mhyber Pakhtunkhwa ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Frone No.091-9223587)

No.SO (Primary-M)/E&SED/2-6/2023 Daled Peshaviar Inc. June 26", 2023

Τo

The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan President

All Primary Teacher's Association, KP

Sublect:

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, linerefore, requested to depute a representative of your respective Department to attend the meeting on a date, time & venue es mentioned above, please.

Encl: AA

MUHANMAD ISHAO SECTION OFFICER-(PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER

ATTESTED

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)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

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

A maeling regarding the subject matter was held an 06-07-2023 of 11:00 AM under the Chaltmanship of Additional Secretary Establishment in his office, The tallowing attended the meeling.

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5#	NAME	DESIGNATION						
<u>'</u>	Mr. Fazal Wahld	Deputy Director Establishment of Directorate Elementary & Secondary Education Departm						
2	i Mr. Aziz Ulloh	Provinciai President All Primary Teachers Association Khyber Pokhlunkhwa						
3	Mr. italagal Vilah	General Secretary AFTA Peshawar						
4	Muhammad Ishaq	Section Office: (Pilmary) EASE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar						

- 2. The meeting started with recitation from the Holy Ouron. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate at Elementary & Secondary Education briefed the forum regarding agencia tiem 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 anward submission to Establishment Department for further necessary action.

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

(Mr. Fazol Wahla)
Deputy Director-I
E256 Department

(Mr. Relocat Ullah) General Speralary APTA Peshawat (Mr. Aziz Uilah)
Provincial President
Ali Primary Teachers Association
Enyber Pakhlunkhwa

(Muhahimad Ishaq)
Secilon Officer (Primary-Male)
E&SE Department

(Abcullah) Addillanai Secretary (Establishmeni) E&SE Department

WF4442-2023 AZIZULLAH VS GOVT OF PG43

ATTESTED

- B/C-

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

5# NAME	DESIGNATION
1 Mr. Fazal Wahld	Deputy Olrector Establishment of Directorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President Ali 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 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 & 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.

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(Mr. Fazal Wahld)			•		
Deputy Director-1				•	
E&SE Department	-				
Provincial President		-			
All Primary Teachers Association			•	. •	. :
Khyber Pakhtunkhwa			-		<b></b> :
(Mr. Rafagat Ullah)					
General Secretary APTA	, ,			. •	١,
Peshawar		¥			
(Muhammad Ishaq)	•				
Section Offices (Primary-Male)	•	•			
E&SE Department					
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#### ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT RESHAWAR (Phone No.091-9223587)

Ho. SO(Primary-M)EBSED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

Duverne

The Secretary to Govt, of Khyber Pakhlunkhwa. Establishment & Administration Department, Peshavar

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

Deze Sir,

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

- In this connection it is submitted that in some cases lady teacher of primary level wind 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 trism 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 the above, the said amendment may be reconsidered to the extern of last, reacher in primary schools.

SECTION OFFICER PRIMARY HALE)

Copy forwarded to the:

1. Director ERSE Knyber Pakhtunkhwa.

2. PS to Secretary, FRSE Department Khyber Pakhtunkhwa.

SECTION OFFICER LER

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

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Pe Secretary E & SE Pepathana & Klayka Milandinagga

(Wuhammad Ishay) Gerthan Officer (Aming) (Jann)

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both services of mineral level who avail such prome coses, back it is submitted that in some coses, back it is such prome of more than a service services incoverience while they have to perform subject of they remote them come manifely them one elden forther is the morning to their cost of their cost morning to their cost of their cost morning of their cost of their cost of service delivery of the cost of service delivery. The such cost of service delivery of the very of cost of their of about the soil of the cost of

Dear Sir,

1-3/2010 directed to refer to your letter No. Soliviumly of high of the state of state of the stat

Quidance regarding deletion of Rule 7(2) in the Caldance regarding deletion of Iransfer Rules.

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SUBJECT:

The Secretary to Government of Kryba Richmobhua. Establishment and Administration Department,

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Elonda ury & Scentary Educallos Department. Klybbir Pakininikiwa Pezitawar. The Section Officer (Primary-Mole),

MINUTE OF THE MEETING - Neolaus

במר בור,

I am directed to refer to the letter No.SO(Primory-A)&&SED19-1).
C.AliseMilapins of the feeting/PSTV2023 dated 10-07-2023 on the subject clied above and to preson being history above in the case as under:

That Government of Klyber Pakhlunkhwa Establishment Department (Repulation 191ng) the last Rules 1989) wilds hat floring as Transfer Aules 1989) wilds hat florifleathd the Civil Sofvent (ReAAD)/1-3/2020 doied 06-08-2020.

That this office south in soln-14 (EAAD)/1-3/2020 doted 06-08-2020.

That this office south guidence from your good office in the following words vide letter No.6087 dated 16-02-2023.

(1) Now (tabbigotory upon the civil servant to eccept Promotion in every condition.

promotion in the brevegative of the civil servant to alther accept or turn down the affect of promotion.

Tital youn god, office forgered the range to the querier concerned vide letter No.50 (frimony A) E&SEUZ-2/Appointment2021 for necessary guidance.
Then the Ouvernment of Klyber Februarikhyo Establishment Dopartment (Regulation ling) vide letter, No.50 (folloy) E&AD/1-1/2020 doted 6-D6-2023 ediagorically stated that there exists no provision in deciling or forgo promotion. It is obligatory upon every condition.

The same we promotion under every condition.

The same we promotion under every condition.

Then, in the light of the minutes of meeting doted 6-07-2023, held under the controlled that affice, has been been been as the controlled on the office, has been as the controlled on the contr Cross-No-si balob esselvimentelelinesid doted is-on-social

he view offered degotively a luge minibers of Femals Teachers. Thus, it is proposed that

provided they fundati their vettien refusol print to conduction of the meeting of Departmental prints to conduction of the meeting of Didi zalier of in instance and to morphism of implications of the amendment in the related bid and the bidi

The ence is submitted for persual and necessory actions please.

PA to Director Local Directorole. Capy of the abolt is to:-Eucht: No.

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ATTESTER

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

To:

PESHAWAR (21-7-1013)

Section Officer (Primary Male)
Elementory & Secondary Education Department
KPK, Peshawar

Subject . Minutes of Meeting

Dear Sir; 9 am directed to refer to letter No. (SO Rimany -TVI) E & SED [5-1/Gir/kir] Ministers of meeting [37/2013 dated 10-7-2023 on subject cited above and to present brief history, about background of cour as under.

That Government of PP Establishment dependment (Regulation Wing)

added rule 7(5) In Civil Servants (Appointment, promotion of Transfer Pulse 1989)

vide notification No. No. SDR-VI(ESAD) 1-3/2020 dated 06-08-2020.

· That this estiffice sought guidance from your good office in the following words vide letter No. 6987 defect ob-overen

(i) Now it is obligatory upon civil scavent to accept promotion.
(ii) It is presogrative of civil scavent to estroy accept transform the offer of promotion.

· That your good office forwarded the same to avantes concerned wide letter (No. So (Prinary M.) E& SED/2-2/Appointment 12073 for recessary guidonce.

- That the government of KP-ED (Regulation Wing) vide letter No. So (Policy) E4AD 1-3/2070 clated 6-06-2073 categorically stated that there exists no provision to decline forgo promotion. It is obligatory upon every civil several to accept pornotion under every condition.
- held under the Chairmanship of the meeting duted 6-07-2027 held under the Chairmanship of thon. Additional Secretary Establishment at his effice. This office has been asked for submission of consolidated case

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

The case is submitted for person and necessary actions

Copy of the above to:

1. PA to Director Local Directorate

2. Master Copy

Austral Director

Elementary & Seandary Education

Khylica Pathler Khiller

WP4442-2023 AZIZULLAH VS GOVT CF PG43

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## 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 JAPPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

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).

Your faithfully.

#### 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.



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

To

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

Subject: -

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

Dear Sir.

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

Yours faithfully

Section Officer (Policy)

#### Endst, Of even No & date ·

Copy forwarded to the:-

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

Section nicer (Policy

ATTESTER

WP4442-2023 AZIZULLAH VS GOVT OF PG43

Annexure - G

To,

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar
- 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 who 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.

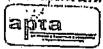
It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) £20/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

Dated 30 /03/2024

So Awal Khan

SHT

Khyber Pakhtunkhwa



APTA House: Govt Printery School No.4, Guibaliar Postawer Pily

آل پراتمری پیچرد ایسوی ایش (ابٹا) تیبر پختین خوا

Annexure -1

بماپ: میکرلری ایکمئری ۵ میکنادی ایومیش فیم پیتوبخ مخالب، کل پراتمری لیچرد ایسدی ایش فیم پیتونخ جناب علی

مزادش ہے کہ پر دموشنز ہر ادادے علی ہوئے ہیں ہو کہ مرکادی ماالم کی خواائی ہوئی ہے پر دموشنز کا ایک تافیل ہوا کر تا تناک ہر طالم ایک آگر کئی ہجود ہے۔ بجود ہے تھے ایک وقد پر دموشنز نہ لیں تو دہ ہم آسمند جاد سال تک پر دموشنز ٹیس نے تکے نے سطاب جاد سال تک بحر اس کی پر دموشنز ٹیس ادسکل کی بحر ای تافون عل تووّق دعایت دی محل جاد سال دائی بات فتم کر دل کی کو اگر ایک طالع ایک سال بریاسوشن نہ لین تو دہ در مرے سائل نے سکتا ہے۔ لیکن اب ایک مارے کا کوئی دعایت دی محل جات ہے ہو کہ ایک اور فریکیشن ہوا ہے۔

ہمں سے مطابق اب ہر مام پروم ٹی خودد کیل کے اگر قبل کی تے آئی کے قائد ان عدی والا کے مطابق کادوال کرنے کا کہا کیا ہے دواصل یہ آ توی ویٹکیش بیادی انسانی متول کی کمل طالب ہواری ہے صوبے کی دور وواز اور پہنائی طاق بھی خاص کمل فواتین امیانڈہ کو انتہائی مشکااے کا مامناکرنا رائے کا

جگہ عام حالات ٹیل کی فیردس ٹی اور دوروال بھینا کی بیادی السائی فقرل کی خلاف دولی ہے کیرگ فیرر پھٹو کو ایس بدھس سے خاندائی وشنیان مجمل عول نے دلیے حالات بھی یہ بیالو لیکیسٹن جو Bass کی کاملائس لیٹر کی جراب میں کیا کیا ہے جد بدیک اور بنیادگی انسانی موق کی خلاف ہے مرابق کے خان میں کا موق کے خلال میں کے خلال میں اس موق کا میں محتوی کے انسان موق کا میں موقع کا میں میں موقع ک

الد برامش د الله كل موديد ألوا إقاما إلا لها فاع الكن يد ابرو في و ك بايد

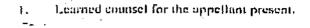
ای سلط علی آب میلد از میلد تام (DEO) ای او او کو ایک خوشی مراسله جادی کیا جائے باکد امثاری میں ب میل کی استوری اما تورک اراقتار کو دائل

کے کے لیکیشن بادگا ہوئے کا پراقری اسالاء کو وائل طریر الدی کریا کا سلیہ شرراع بریکا ہے۔ ابدا ہم یہ آت وکتے الل کر آپ ساحیان فردی ایکشن لیکر مور بمر کے براقری آسالاء ضرسا لیمیل پراقری اسالاء کو اس وائل الدیت سے انہات والاکیل کے

WP4442-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

07.05 2024



Let a pre-admission notice he issued to the respondents through TCS for submission reply/comments. Appellant is directed to deposit FCS expenses within three days. To come up for reply/enaments as well as preliminary hearing on 10.06.2024 before S.B. P.P given to learned enumed for the appellant.

03. Alongwith the service appeal there is an application for suspension of Notification dated  $\tau$ '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.

destitied to be tone cons(Muhammad Akbar Khan) Member (E)

Date of Prosemetion of Anniented La FE 1-6

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# IRKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

" Gul Khan

Versus

Appellant

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 detend) 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 tile and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

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

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADKEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI Advocate High Court