


FORM OF ORDER SHEET

Court of _____

Appeal No. 1806 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2024	<p>The appeal presented today by Mr. Muhammad Mauzzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 11.10.2024. 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

MASIH ULLAH

V/S

Government of KP & others

INDEX

S#	DESCRIPTION OF THE DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification		1-4
2.	Application for suspension		5
3.	Copy of Monthly Salary account	A.	6-7
4.	Copy of notification No. SD (Policy) EV. AD/1-3/2020 dated 06/08/2020	B.	8-9
5.	Copy of Impugned Letter dated June 06th, 2023	C.	10-12
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	13-16
7.	Copy of Letter dated 23-08-2023	E.	17-18
8.	Copy of Impugned letter dated 07-09-2023	F.	19-20
9.	Copy of Representation against the said notification and representation made by APTA President	G&H	21 22-23
10.	Wakalat Nama		24

ADVOCATE
M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 1806 /2024

Masih Ullah Son of Habib Ullah, SPST (BPS-14)

GPS Roshan Abad, Tehsil & District Mardan

.....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.SD(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: SD (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:

1. That the Respondents Department appointed the Appellant as Senior Primary School Teacher.
Copy of Appointment letter is annexed as Annexure A

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

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

5. That as per notification No. SD (Policy) /EDAD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. Copy of 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 & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

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

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

GROUND:-

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

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

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

[Signature]
 Appellant

Through

[Signature]
 Muhammad Muazzam Butt
 Advocate Supreme Court

[Signature]
 Muhammad Adeel Butt
 Advocate High Court

[Signature]
 Bassam Ahsan Siddiqui
 Advocate High Court
 LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

CM No. _____ P of 2024

In Ref to

Service Appeal No. _____ /2024

MASIH ULLAH
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.

Masih Ullah
Appellant

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

Masih Ullah
Deponent

Through

Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court
Muhammad Adeel Butt
Muhammad Adeel Butt
Advocate High Court

ATTESTED

System generated by the system with APJ 11 12 2022 10:12:12 AM
 All amounts are in Rupiah
 - KEMENTERIAN KEHUTANAN DAN PERBURUHAN

Personnel Address: Dpt. Govt. RI - Provinsi
 District: Jawa Barat
 City: BANDUNG
 Temp. Address: Bandung, Jawa Barat
 Email: masbudi20041@gmail.com

Payroll Summary:
 Payroll Name: MASHI ULLAH
 Account Number: 10000000000000000000
 Bank: PT BANK MANDIRI (PERSERO) Tbk
 Opening Balance: 15.401,00
 Available: 15.401,00
 Deductions: 0,00
 Balance: 15.401,00

Item	Description	Principal amount	Preparation	Balance
6000	GPF Loss (Principal part)	30000,00	-10000,00	110000,00

Item	Description	Amount	Balance
3014	GPF Subsidy	3000,00	-10000,00
3000	Income Tax	1000,00	-10000,00
4000	R. Fee (Bk & Inst) (GPF)	1000,00	0,00

Item	Description	Amount	Balance
1000	Basic Pay	45.150,00	3.331,00
1100	Basic Pay Allowance 5%	2.257,50	5.588,50
1200	Basic Pay Allowance 10%	4.515,00	10.103,50
1300	Basic Pay Allowance 15%	6.772,50	16.876,00
1400	Basic Pay Allowance 20%	9.030,00	25.906,00
1500	Basic Pay Allowance 25%	11.287,50	37.193,50
1600	Basic Pay Allowance 30%	13.545,00	50.738,50
1700	Basic Pay Allowance 35%	15.802,50	66.541,00
1800	Basic Pay Allowance 40%	18.060,00	84.601,00
1900	Basic Pay Allowance 45%	20.317,50	104.918,50
2000	Basic Pay Allowance 50%	22.575,00	127.493,50
2100	Basic Pay Allowance 55%	24.832,50	152.326,00
2200	Basic Pay Allowance 60%	27.090,00	179.416,00
2300	Basic Pay Allowance 65%	29.347,50	208.763,50
2400	Basic Pay Allowance 70%	31.605,00	240.368,50
2500	Basic Pay Allowance 75%	33.862,50	274.231,00
2600	Basic Pay Allowance 80%	36.120,00	310.351,00
2700	Basic Pay Allowance 85%	38.377,50	348.728,50
2800	Basic Pay Allowance 90%	40.635,00	389.363,50
2900	Basic Pay Allowance 95%	42.892,50	432.256,00
3000	Basic Pay Allowance 100%	45.150,00	477.406,00

Payroll Summary:
 Payroll Name: MASHI ULLAH
 Account Number: 10000000000000000000
 Bank: PT BANK MANDIRI (PERSERO) Tbk
 Opening Balance: 15.401,00
 Available: 15.401,00
 Deductions: 0,00
 Balance: 15.401,00

Personnel Information of Mr. MASHI ULLAH
 Date of Birth: 10.12.1984
 Employment Contract: Full-time
 Department: Secondary Education
 Position: Teacher
 Grade: II
 Salary Scale: BPS 14
 Pay Scale: BPS 14
 Pay Grade: 13



**OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) MANDAN
NOTIFICATION:**

Consequent upon the advertisement published in the daily "Mashriq" Peshawar dated: 08/06/2006 and resulted Interview held on 27/06/2006 by the District recruitment/selection committee, the undersigned being competent authority is pleased to appoint/approve the following PST (Male) candidates BPS-07 (Rs.2555-140-6755) plus usual allowances as admissible to them under the rules against the vacant PST post at the schools noted against each with effect from the date of their taking over charge in the interest of public service subject to the following existence terms and conditions:

UNION COUNCIL WISK MRRIT 75%

S.No	R.No	Name	Father's Name	Address	School Where Appointed	Remarks
U/C ALO						
1	455	Irfan Ullah	Wajid Ullah	Alo	GPS No. 2 Pepal	Against Vacant PST Post
2	350	Majeed Ullah Shah	Qulab Noor	Alo	GPS Baghi Khell	Against Vacant PST Post
U/C BABENI						
1	459	Zahir Rahman	Majid Rahman	Babeni	GPS Sajid Akbar Kili	Against Vacant PST Post
2	347	Iftikhar Khan	Mirzanan Khan	Babeni	GPS Haji Muhammad Kili	Against Vacant PST Post
3	248	Muhammad Tufail	Redad Khan	Babeni	GPS Sajid Akbar Kili	Against Vacant PST Post
4	554	Saeed Khan	Muzaffar Khan	Babeni	GPS Haji Muhammad Kili	Against Vacant PST Post
5	1822 -A	Fazli Qadir	Fazli Ali	Babeni	GPS Sajid Akbar Kili	Against Vacant PST Post
6	563	Izzat Muhammad	Noor Rehman	Babeni	GPS Kodimaka	Against Vacant PST Post
7	1641	Abdus Salam	Sultan Muhammad	Babeni	<i>GPS Babeni Dand</i>	Against Vacant PST Post
8	1298	Noorul Bazar	Usdul Daja	Babeni	GPS Ajab Gul Danda	Against Vacant PST Post
9	1296	Ubaidur Rahman	Badrud Daja	Babeni	GPS Babeni	Against Vacant PST Post
10	1217	Rahmanud Din	Noor Rehman	Babeni	GPS Babeni	Against Vacant PST Post
U/C BABOZAI						
1	406	Masih Ullah	Habib Ullah	Babozai	GPS-Rashan Abad	Against Vacant PST Post
U/C BAGHE HARAM						
1	1308	Zahid Hussain	Saifur	Baghe Haram	GPS Tambulak	Against Vacant PST Post
2	1508	Ayub Khan	Hakeem Khali	Baghe Haram	GPS Seri Koragh	Against Vacant PST Post
3	188	Fazli Wahid	Qulam Hali	Baghe Haram	GPS Seri Koragh	Against Vacant PST Post
U/C BAGHICHA DHERI						
1	44	Farzand Ali Docha	Sher Zaid Docha	Baghicha Dheri	GPS But Seri No. 1	Against Vacant PST Post
U/C BAKSHALI						
1	29	Syed Ali Shah	Syed Abdul Wahid Shah	Bakshali	GPS Zubair Dheri	Against Vacant PST Post
2	1035	Hassan Ali	Zari Dohabur	Bakshali	GPS Gul Dheri	Against Vacant PST Post
3	1034	Uzair Ali	Habib Ur Rahman	Bakshali	GPS Jafar Abad	Against Vacant PST Post
U/C BALA GARHI						
1	680	Mir Qasim	Sar Qaz	Bala Garhi	GPS Bala Garhi No. 2	Against Vacant PST Post

Annexure - B

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/8/2020

Policy/CRAD/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

LIST NO & EVEN DATE

Copies 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.
- The Deputy Director (IT), E&A Department.
All Section Officers in Establishment & Administration Department.
The Section Officer (Admn), Administration Department with the request to
arrange 20 gazette copies.
The Caretaker, Administration Department.

1267
06/08/2020

(Signature)
(WAJDAH LATIF)
DEPUTY SECRETARY (POLICY)

ATTESTED

Attested

ATTESTED

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.

(WAIRDAH LATIF
DEPUTY SECRETARY (POLICY)

ATTESTED

ATTENDED

WP 44473-2023 AZIZULHAI VS GOVT OF PAJAJ

Handwritten notes: 01.02.2023

Section Officer (Policy)

- 1. P3 to Deputy Secretary (Legal), Constitutional Department.
- 2. P4 to Additional Secretary (Legal), Constitutional Department.
- 3. P5 to Deputy Secretary (Legal), Constitutional Department.

Copy forwarded to the...


Handwritten: (See attached file)

Yours faithfully,

For the Government of Punjab, Punjab, Pakistan. 2011, please.

Performance, those officers/employees who do not comply with promotion order will be subjected to recall promotion to meet conditions.

The Government of Punjab, Punjab, Pakistan. 2011, please.



GOVERNMENT OF PUNJAB
ESTABLISHMENT DEPARTMENT
No. SO(P&A) (01) / 2020
Dated: February 06, 2023

Annexure - C

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

No.RO (Primary-MYE&SED/2-8/2023
Dated Peshawar (In. 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&ADM-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 (E&S)
E&SE Department in his office.

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

Encl: AA

[Handwritten Initials]

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

Copy forwarded to the:

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

[Handwritten Initials]

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

[Handwritten Signature]
ATTESTED

-12-

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(S) 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)

WP4443-2023 AZIZULLAH VS GOVT OF PK43

~~ATTESTED~~

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.


Annexure
①


Sl	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. Salaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar


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


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

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

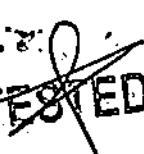

(Mr. Fazal Wahid)
Deputy Director-I
E&SE Department


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


(Mr. Salaqat Ullah)
General Secretary APTA
Peshawar


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

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


ATTESTED

- B/C -

MINUTES OF 7TH MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH
PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA
REGARDING DELETION OF RULE 7(S) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION
& TRANSFER RULES 1999).

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:

SU	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) EB&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
EB&SE Department

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

ATTESTED

~~ATTENDED~~

WPMAS-2023 AZZULAH VA GOVT CP P03

Azizulahi Director (Establish-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

Azizulahi Director (Establish-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

21/7/2023

The case is submitted for perusal and necessary actions please.

Department of Education Government of Khyber Pakhtunkhwa
provided they submit their written refusal letter to completion of the meeting of
Teachers below 100-16 may be exempted of applications of the candidates in the field
72) have affected illegally a large number of Female Teachers. That it is prepared that

In view of the above, this office is of considered opinion that the action of this
been asked for submission of consolidated case.
Chairman of the Board of Intermediate and Secondary Education, Khyber Pakhtunkhwa
That, in the light of the minutes of meeting dated 6-07-2023 held under the
(Primary) No. 555ED/2-1/1020 dated 13-04-2023

The same was received by this office from your good office with letter No.50
civil servant to accept promotion under every condition.
that there will be no provision to decline or forgo promotion. It is obligatory upon every
1) (Wing) with letter No.50 (Policy) 5&AD/1-1/2020 dated 6-04-2023 consequently stand
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Primary) 5&SE/2-1/1020 dated 13-04-2023 for necessary guidelines.

That you may office forwarded the same to the quarter concerned with letter
promotion.
(ii) It is directed that the civil servant to either accept or turn down the offer of
1) Now it is obligatory upon the civil servant to accept promotion in every condition
No.50 dated 13-04-2023.
That this office has to guide you from your good office in the following words with letter
wide notification No. 508-VI (5&AD/1-1/2020 dated 06-08-2020

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)
dated with letter No. 72) (Policy) 5&AD/1-1/2020 dated 06-08-2020
wide notification No. 508-VI (5&AD/1-1/2020 dated 06-08-2020

1 am directed to refer to the letter No.50 (Primary) 5&SE/2-1/1020 dated 13-04-2023 on the subject cited above and to
person brief history about the background of the case as under:
C. M. Khan of the Ministry of Education dated 10-07-2023 on the subject cited above and to

To
The Section Officer (Primary-Wide)
Ministry of Secondary Education Department
Khyber Pakhtunkhwa

SUBJECT - MURKERS OF THE AIRLIFTING

Dear Sir,

No. 8145
M. A. JUSSTINWALDANI
Khyber Pakhtunkhwa, Peshawar
Date: 21/7/2023
Email: cshahid@peshawar.gov.pk



~~ATTESTED~~

WPM442-2023 AZIZULAH VS GOVT OF POKS

Richard Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

2. Master Copy
1. PPT to Director, Local Directorate
Copy of the above to:

In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers. The case is submitted for perusal and necessary action please.

That in light of the minutes of the meeting dated 6-07-2023 held under the chairmanship of Hon. Additional Secretary Education at his office. This office has been asked for submission of consolidated case. In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers. The case is submitted for perusal and necessary action please.

Section Officer (Primary Male)
Elementary & Secondary Education Department
KPK, Peshawar
Suggested: Munir of Meeting
KPK, Peshawar

FEHAWAR
(21-7-2023)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-B/C-



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-0221587)

No. SO(Primary-M)E&SED/2-1/Appointment-Rules /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).

1. I am directed to refer to your letter No. SO(Polity)/ 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.


GULSHAMMAR ISMAIL
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CamScanner


ATTESTED

ATTESTED

1. Director EGSE Kyba Rakhunhuw
2. PS to Secretary, EGSE Department Kyba Rakhunhuw
City forwarded to:
(National Level)
Section Officer (Primary)
(Male)

In this connection it is submitted that in some cases lady teachers 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 state delivery. In view of above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

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

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

The Secretary to Government of Kyba Rakhunhuw
Establishment and Administration Department,
Peshawar.

To
No. S/Primary-M)EGSE/PA/21
(Appointment-Rule/2020)
Peshawar Dated: 23rd August 2022

- B/C -
- 2 -

Annexure - F



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

TESTED

-19-

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

Subject: - GUIDANCE REGARDING DELETION OF RULE 7(S) 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 rendered 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.

18-09-2023 14:52:14 VS GOVT OF PK

-20-

B/C-

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

To

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

Subject -

GUIDANCE REGARDING DELETION OF RULE 7(S) 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)

~~ARRESTED~~

Annexure - G

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

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

Dated 28/01/2024



MASIH ULLAH
S/O HABIB ULLAH
SPST

~~ATTACHED~~

WPA442-2012 AZULAH VA COURT CP 603

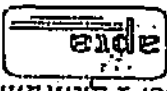
8/17/83
~~ATTACHED~~

Handwritten text in Arabic script, appearing to be a list or set of instructions. The text is mirrored across the page, suggesting bleed-through from the reverse side.

Handwritten signature or name in Arabic script.

Annexure - H

APTA HOUSE
DOLL PRINCEY SAIGODI ROAD
GURUBHER PETHAMER CITY



Kayber Palhantunliwa

1112 11th Street
President
0 0333 0014888
0333 0014888
0333 0014888

~~ATTENDED~~

CS CamScanner

Date of Presentation of Appeal: 12-12-23
 Number of Pages: 12
 Copy: 12
 Region: 12
 Name of Applicant: 12-12-23

Signature
 Name of Member (B)

Certified to the true copy (Muhammad Akbar Khan) Member (B)

1. Learned counsel for the appellant present.
 2. A presentation notice, he issued to the respondents through TTS for submission of reply-comments. Appellant is directed to deposit TTS expenses within three days. To come up for reply-comments as well as preliminary hearing on 10.06.2024 before SAJ. TTS 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.



07.05.2024

WAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MASIH ULLAH
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

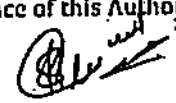
MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

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 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