FORM OF ORDER SHEET

Court of_____

Appeal No. 1783 **/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2024	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. By order of the Chairman REGISTRAR

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

KHAN MAST
V/S
Government of KP & others

S.A # 1783/2024

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ADVOCATE
M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 1783 /2024

Khan Mast Son of Ali Mast, PST

GPS Faqir Bum, 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

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:

1. That the Respondents Department appointed the Appellant as 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 <u>Annexure B</u>

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 <u>Annexure C</u>

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 <u>Annexure D</u>

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

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

9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.
Copy of Impugned letter dated 07-09-2023 is attached as **Annexure F**

10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed.
Copy of Representation against the said notification is annexed as **Annexure G & H**

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

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.

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.

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

Through

Muhammad Muazzzam 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

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

1. That the instant application may be treated as part and parcel of service appeal of the appellant.

2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.

3. That there is likelihood success of the appellant in the lis. And if the notification bearing No. So (Policy) E&D/1-3/2020 Dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 is not suspended the appellant would suffer irreparable loss.

4. That valuable rights of the appellant is involved in the case.

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

Appellant

AFFIDAVIT:

I (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

Muhammad Adeel Butt
Advocate High Court

-6-

Dist. Govt. KP-Provincial
District Accounts Office Peshawar Dist.
Monthly Salary Statement (December-2020)

whatsapp Amax
0308 5932386

(3)

Personal Information of Mr KHAN MAST d/w/s of ALI MAST

Personnel Number: 00377614 CNIC: 1730116637411 NTN:
Date of Birth: 06.06.1981 Entry into Govt. Service: 16.01.2007 Length of Service: 13 Years 11 Months 017 Days

Employment Category: Vocational Temporary
Designation: PRIMARY SCHOOL TEACHER 80642235-DISTRICT GOVERNMENT KHYBE
DDO Code: PW6568-District Peshawar
Payroll Section: 003 GPF Section: 001 Cash Center: 43
GPF A/C No: 377614 Interest Applied: Yes **GPF Balance:** 330,170.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 12 Pay Stage: 12

Wage type		Amount	Wage type		Amount
0001	Basic Pay	24,840.00	1000	House Rent Allowance	1,961.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	500.00	2199	Adhoc Relief Allow @10%	340.00
2211	Adhoc Relief All 2016 10%	1,754.00	2224	Adhoc Relief All 2017 10%	2,484.00
2247	Adhoc Relief All 2018 10%	2,484.00	2264	Adhoc Relief All 2019 10%	2,484.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax
Payable: 0.00 Recovered till DEC-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 41,203.00 **Deductions: (Rs.):** -3,545.00 **Net Pay: (Rs.):** 37,658.00

Payee Name: KHAN MAST
Account Number: 7000119003
Bank Details: HABIB BANK LIMITED, 220223 CITY BRANCH, PESHAWAR. CITY BRANCH, PESHAWAR., PESHAWAR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:
City: P Domicile: - Housing Status: No Official
Temp. Address:
City: Email: khanmast377614@gmail.com

System generated document in accordance with APPM 4.6.12.9(SERVICES/31.12.2020/06:37:49/v2.6)
** All amounts are in Pak Rupees*
** Errors & omissions excepted*

ATTESTED

S.NO	APPL. NO.	NAME,FATHER' NAME AND ADDR.ECC.	POSITION	DOB	TOTAL SCORE	POSTED AT	REMAKRS
6	430	Zakir Ullah S/O Fazal Subhan r/o Moh' Ayub Khel Vill: & PO Mashokhel Peshawar	1	[illegible]	64.13	GPS Mashoo Pekey No.4	Against New post
81	1126	Musafer Khan S/O Abdul Hamid r/o Village Mushtar Zai Moh: Sultan Khel Peshawar.	2	[illegible]	50.63	GPS Mashoo Pekey No.1	Against New post
82	1377	Jan Mohammad Khan S/O Noor Mohammad Khan r/o Moh: Fatha Khan Khel Masoo Khel Peshawar.	3	[illegible]	50.05	GPS Mashoo Pekey No.1	Against New post
78-SARBAND							
83	525 & 529	Mohammad Jamil S/O Mohammad Amin r/o Moh: Eesazi Vill: & PO Sarband Peshawar	1	9/12/1974	55.46	GPS Pishtakhara Bala	Against Vacant post
84	1406	Ibadat Shah S/O Sultan Shah r/o Village Sarband Peshawar	2	17/0/1970	45.31	GPS Pishtakhara Bala	Against Vacant post
85	153	Niaz Mohammad S/O Nek Mohammad r/o Village Sarband Peshawar	3	25/1/1974	44.81	GPS Pishtakhara Bala	Against Vacant post
61-ADEZAI							
86	147	Mohammad Qasim S/O Raza Khan r/o Village Adezai PO Matani Peshawar.	1	13/4/1977	41.85	GPS KHUR KHURI	Against New post
87	111 & 112	Qaisar Khan S/O Gul Faraz Khan r/o Moh: Mirza Khel Village & PO Adezai Peshawar.	2	15/2/1970	42.41	GPS KHUR KHURI	Against New post
62-AZA KHEL							
88	656	Arshad Khan S/O Mastan Khan r/o Samar Badaber Aza Khel Peshawar	1	28/[illegible]/1980	42.52	GPS Tala Band No.1	Against New post
89	925	Khan Mast S/O Ali Mast r/o Village & PO Aza Khel Peshawar.	2	6/6/1951	41.33	GPS Faqir Bum	Against New post
90	[illegible]	Fazala Rehman S/O Shah Jehan r/o Village & PO Mattani Moh: Aziz Khel Aza Khel Peshawar.	3	[illegible]	[illegible]	GPS Rogh Zai Mashkhel	Against Newly post

ATTESTED

O	APPL. NO.	NAME,FATHER' NAME AND ADDRESS.	[illegible]	[illegible]	[illegible]	POSTED AT	REMAKRS
[illegible]	45[illegible]	Saleem Noman S/O [illegible] Ahmad r/o H[illegible] [illegible] Peshawar	[illegible]	[illegible]	[illegible]	[illegible] WAZIR [illegible] H MESH NO 1	Against New[illegible] post[illegible]
6	650	Zafar Ali S/O Abdul [illegible] r/o Sardar Garh[illegible] Peshawar	[illegible]	[illegible]	[illegible]	[illegible] PAF [illegible] SHEEN [illegible] MP	Against New[illegible] post[illegible] 1

TERMS & CONDITIONS:-

1. They will be governed by such rules [illegible] prescribed by the Govt: from time to time [illegible] for category of the Govt: servants to which they belong.

2. Their services will be liable to termination at any time without any notice. In case of resignation one month pay / month pay prior notice should be given by the official / otherwise forfeited otherwise one month pay / allowances will be forfeited in lieu thereof in to the Government.

3. They should take over charge of their post within [illegible] days after issue of this Notification order otherwise the offer of appointment should stand cancelled automatically.

4. Their appointments are purely temporary and liable [illegible] / reverted at any stage without assigning any notice / reason.

5. Their service will be [illegible] Certificates / Degrees / testimonial [illegible] Department found false and they will [illegible] verified from the concerned Boards / [illegible]

6. Their original certificates / Degrees [illegible] over charge being a DDO [illegible] University etc: by the DDO (Male) concerned before [illegible] in BPS.05 (Rs.2415-[illegible]-58651) [illegible] candidates having qualification in SS [illegible] usual allowances are admissible under [illegible]

7. Their salary may not be drawn till [illegible] of certificates / Degrees etc [illegible]

8. Their declaration of Assets should [illegible] in safe custody by the DDO concerned [illegible]

9. They are required to produce [illegible] civil surgeon concerned before taking over charge.

10. Charge report should be submitted to [illegible]

11. No TA/DA etc is allowed being [illegible] appointment.

12. They should not apply for transfer [illegible] in the prescribed manner [illegible]

13. All the candidates appointed on regular basis [illegible] be civil servant except for the purpose of pension or gratuity , such a civil servant shall [illegible] pension and gratuity be entitled to [illegible] such amount contributed by them towards the contribution provident funds along with the contribution made by the Govt: to his account in the said fund in the prescribed manner.

14. They are entitled to get the benefits [illegible] except pension / gratuity.

15. The above Candidates will be [illegible] the Govt and Civil servant will pay [illegible] 10% as contributory fund.

ATTESTED

Appointment ... Page 25

15. The above selection has been made on the following criteria :-

Obtained marks multiplied by allocated marks to qualification / Degrees and Divided by total marks i.e. (550X30/850= 19.41)

Allocation marks:-

SSC: [illegible]
F.A/F.Sc: [illegible]
B.A/B.Sc: [illegible]
M.A/M.Sc: [illegible]
Professional [illegible]
Experience: [illegible] (one year – 2 marks, two years – 03 & three years & above – [illegible] (remarks)

MR. SAID REHMAN
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERARY PESHAWAR

Endst. No. 3951-4497/F.No. 11/Vol:V/Appts/PST Dated 13-01 /2007

Copy of the above is forwarded for information and necessary action to the :-

1. PS to Minister for Education N.W.F.P.
2. PS to Secretary to Govt: of NWFP Schools & Literacy Deptt: Peshawar.
3. PA to Director Schools & Literacy NWFP Peshawar.
4. District Accounts Officer Peshawar. [illegible] requested that the bills of the above name candidates may kindly be honour till the verification of their qualification Degrees etc: from the concerned authorities duly authenticated by the DDO concerned.
5. PSO to District Nazim City District Govt. Peshawar.
6. PS to District Co-Ordination Officer [illegible] Peshawar.
7. Cy. District Officer (Male) Peshawar [illegible] all original certificates / Degrees [illegible] personally from the concerned [illegible] and compare these with the merit list lying in the office to avoid any complication at the later [illegible] personally held responsible for any misshaped. They are further directed [illegible] that physical verification has been carried out and also mentioned in the certificate [illegible] (i) name of candidates with bogus certificates along with name of certificate / Degree and name of A.D. Exams: / Board / University etc: in [illegible]
8. 250. Head Master concerned.
9. 231-513. All candidates concerned.
10. 514-516. ADO (Estab:) / ADO (Accounts) / Supdt: [illegible] concerned.

EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERARY PESHAWAR

Distt: Officer
Schools & Literacy
Peshawar.

ATTESTED

Annexure -B-

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/8/2020

SO(Reg)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

NOTE: NO & EVEN DATE

Copy 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.

(WAJDAH LATIF)
DEPUTY SECRETARY (POLICY)

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.

(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)

ATTESTED

Annexure- C

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No.SO(Policy)E&AD/1-3/2020
Dated Peshawar the June 06, 2023

62

To

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

Subject:- GUIDANCE REGARDING RELAXATION 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/1-2/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 delegated 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 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,

(Isa Muhammad Khan)
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 Officer (Policy)

ATTESTED

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 Sir,

I am directed to refer to your letter No SO(Primary.M/E&SED/2 – 2/Appointment/2023) dated 18.01.2023 on the subject noted above and to state that sub-Rule(5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants(Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06-08-2020; thus, no provision exists to decline or forgo promotion.

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

3. Further those officers/officials who do not comply with promotion order of the competent authority or 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.
- PA to Additional Secretary (Reg-II), Establishment .
- PS to Deputy Secretary(Policy), Establishment Department.

Section Officer
(POLICY)

ATTESTED

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

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

To

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

Aziz Ullah Khan
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)

ATTESTED

-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)

ATTESTED

Annexure "O"

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OH 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.

SR	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. Rafaqat 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-I
E&SE Department

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

(Mr. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

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

WP4442-2023 AZIZULLAH VS GOVT CP PO43

ATTESTED

-17-

-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

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. Rafaqat 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. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)
Additional Secretary (Establishment)

ATTESTED

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 inconvience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father of mother-in-law who need care. In such cases, there are negative effects on service delivery.

3. In view of the above, the said amendment may be reconsidered to the extent of 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

ATTESTED

-19-

-B/C- -12-

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

To

The Secretary to Government of Khyber Pakhtunkhwa.
Establishment and 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(Primary)(Policy)/E&AD/1-3/2020 dated 8th June 2023 and to state that after deletion of Rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2011.

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 ammendment may be reconsidered to the extent of lady teacher in primary schools.

(Muhammad Ishaq)
Section Officer (Primary Male)

Copy forwarded to;

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

WP4442-2023 Abdullah vs Khyber Pakhtunkhwa etc

ATTESTED

Khyber Pakhtunkhwa, Peshawar
No. 8145 /PR No. 14/SST/Gulshan Cater Dated 21-7-2023
Phone: 091-9213144 Email: establishmentmale1@gmail.com

To

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

Subject:- MINUTES OF THE MEETING

Dear Sir,

I am directed to refer to the letter No.SO(Primary-M)E&SED/3-1/G.Misc/Minutes of the Meeting/PST/2023 dated 10-07-2023 on the subject cited above and to present brief history about the background of the case as under:

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(3) in the 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 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 kind office forwarded the same to the quarter concerned vide letter No.SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No.SO (Policy) E&AD/1-1/2020 dated 6-06-2023 categorically stated that there exists no provision to decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same was received by this office from your good office vide letter No.SO (Primary-M) E&SED/2-2/Appointment/2023 dated 12-06-2023.
- That, in the light of the minutes of meeting dated 6-07-2023, held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(3) have affected negatively a huge numbers of Female Teachers. Thus it is proposed that Teachers below BPS-16 may be exempted of implications of the amendment in the rules ibid 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.

21/7/2023

Assistant Director (Estab Al-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst: No. _____ Copy of the above is to:-

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

Assistant Director (Estab Al-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa

WP4443-2023 AZIZULLAH VS GOVT CP PG43

ATTESTED

-B/C-

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK
PESHAWAR
(21-7-2023)

To:

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

Subject:- Minutes of Meeting

Dear Sir,

I am directed to refer to letter No. (SO Primary-M) E&SED/5-1/6-MTR/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(5) 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 quarter concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 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(5) 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.

ATTESTED

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.

-22-

WP 4442-2023 AZIZULLAH VS GOVT OF PKD

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

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

Dated __/0_/2024

Shaukat

ATTESTED KHAN MAST S/O ALI MAST, PST

-B/C-

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

To

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

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

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

Section nicer (Policy)

ATTESTED

Khyber Pakhtunkhwa

Aziz Ullah Khan
President
0333-9414849
azizullah1973@gmail.com
apta.pk

apta

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

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) خیبر پختونخوا

Annexure - H

جناب: سیکرٹری ایلیمنٹری و سیکنڈری ایجوکیشن خیبر پختونخوا
جناب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا
جناب عالی

گزارش ہے کہ پروموشن کے بارے میں ہمارے ہاں کہ سرکاری ملازم کی عمر اصل ہوتی ہے پروموشن کا ایک قانون رہا کرتا تھا کہ ہر ملازم ایک گریڈ
جب تک ایک اور پروموشن نہیں ہوتی تھی پھر آٹھ چار سال تک پروموشن نہیں لے سکتے تھے مطلب چار سال تک پھر اس کی پروموشن نہیں ہو سکتی تھی
پھر اس قانون میں تھوڑی رعایت دی گئی چار سال والی بات ختم کر دی گئی کہ اگر ایک ملازم ایک سال پروموشن نہ لیں تو دوسرے سال لے سکتا ہے
لیکن اب ایک ہفتہ پہلے ایک اور نوٹیفکیشن آیا ہے
جس کے مطابق اب ہر ملازم پروموشن خود نہیں لے گا اگر نہیں لیں گے تو اس کے خلاف انکوائری اور انکوائری کے مطابق کارروائی کرنے کا کہا گیا ہے
حاصل یہ آخری نوٹیفکیشن باری انسانی حقوق کی کھلی خلاف ورزی ہے سب کی سب ملازمین پہلی ملازمین میں تاکہ ریٹائرمنٹ کے قریب ملازمین کو
سامنا کرنا پڑے گا
ایک عام ملازمت میں کسی زبردستی پروموشن اور سلسلہ بھیجنا بھی باری انسانی حقوق کی خلاف ورزی ہے کیونکہ خیبر پختونخوا میں بدقسمتی سے ملازمین رشوتیں
کی جاتی ہے ایسے حالات میں یہ نوٹیفکیشن جو BASE کی کانٹیکٹ لیبر کی جانب سے کیا گیا ہے یہ بنیادی انسانی حقوق کی خلاف ہے
ہم اس کے خلاف قانونی چارہ جوئی کا حق بھی محفوظ رکھتے ہیں
لہٰذا 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 کو
زبردستی پروموشن لینے کی جائے ان کو مرضی سے لینے دیا جائے
اور پروموشن نہ لینے کی صورت میں انکوائری نہ کی جائے
اس سلسلے میں آپ سیکرٹری ایجوکیشن (DEOs) کو ایک خصوصی مراسلہ جاری کیا جائے تاکہ اضلاع میں سب ایلیمنٹری پرائمری اساتذہ کو ذہنی
اذیت اور ہراسگی سے بچایا جائے
کیونکہ نوٹیفکیشن جاری ہونے سے پرائمری اساتذہ کو ذہنی طور پر ہراسگی کا سامنا کرنا پڑ رہا ہے
لہٰذا ہم یہ توقع رکھتے ہیں کہ آپ سابقہ نوٹیفکیشن کو سب ہر کے پرائمری اساتذہ خصوصاً ایلیمنٹری پرائمری اساتذہ کو ذہنی اذیت سے نجات دلائیں گے

شکریہ

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

08/7/23

WP4442-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

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 (E)

Date of Presentation of Application 10-5-24
Number of Words 14
Copying Fee 5/-
Urgent
Total 5/-
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Date of Completion 13-5-2024
Date of Delivery of Copy 13-5-24

ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

KHAN MAST — 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.

Khan Mast

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court

MUHAMMAD ADEEL BUTT
Advocate High Court

BASSAM AHMAD SIDDIQUI
Advocate High Court