


FORM OF ORDER SHEET

Court of _____

Appeal No. 1794 /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  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

ABDULLAH KHAN
V/S

Government of KP & others

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ADVOCATE
M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No. 1794 /2024

Abdullah Khan Son of Bakhtawar Khan, PSHT (BPS-15)

GPS Jawzo, Tehsil Batkhela & District Malakand

.....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 Head 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) /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 SDR-VI (E & AD)/1-2/2020 dated 06-08-2020. Copy of Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned letter dated June 06th, 2023 is attached as Annexure C
- 7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
- 8. That the Respondent No.3 i.e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

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Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of Letter dated 23-08-2023 is attached as 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 affects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 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 set-aside.

- 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

Abdullah
 Appellant

Through

Muhammad Muazzam Butt
 Advocate Supreme Court

Muhammad Adeel Butt
 Advocate High Court

Bassam
 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

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**ABDULLAH KHAN
VERSUS**

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

AFFIDAVIT

I (the appellant) do hereby solemnly stated on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein this Honorable Court.

Abdullah Khan
Deponent

Through

Abdullah Khan
Appellant

Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court

Adul Butt
Muhammad Adeel Butt
Advocate High Court

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOL) TIRULOWER AT TIRUPATI

In continuation of this office Order No. 6087-8372 dated 31/12/2004, the competent authority is pleased to appoint the following PST teachers at UPS, 07 @ Rs. (2220-120-5620), UPS 08 @ Rs. 21600 P.M Fixed, and UPS, 05 @ Rs. 21000 P.M fixed plus usual allowances as admissible to them under the rules partly on contract basis, after the verification of their domestic certificate from DOR Tiru Lower in the interest of public with effect from the date of taking over charge, as was required under the rules in the schools noted against each subject to the following particulars:

S	Name	Father's Name	Caste	Residence	Mark	Appointed	Name of School	Remarks
1	Gul Khan	Fayal Hakim	MA/PTC	Gul Dhuri	50.28	Drangal	Sikarabli	AVP
2	Abruhidin Khan	Nalhtawar	FA/PTC	Paloda	41.05	Drangal	Jawzo	AVP
3	Bakid Muzil	Fuzul Hakim	FA/PTC	Gul Dhuri	41.16	Drangal	Zurujori	AVP
4	Isharudiah	Bakhtawar	FA/PTC	Paloda	30.44	Drangal	Jawzo	AVP

TERMS AND CONDITIONS:-

- They will be governed by such rules and regulations as may be prescribed by the Government time to time for the category of Govt servants to which they belong.
- The total period of appointment shall be three years and which the work may be required by the State be renewed by the competent authority keeping in view the performance of the Officer concerned.
- Their appointments are purely temporary basis liable to termination at any time without any notice in case leaving by their own choice or otherwise they will be required to submit one month notice in case leaving by their own choice or otherwise they will be required to submit one month notice in case leaving by their own choice.
- They candidates having academic qualification SSC/A/FSC with PTC trained will be granted BPS 7 plus usual allowances as admissible under the rules, while those having SSJ those having SSJ/A/FSC will be granted BPS 8 and BPS 9 respectively plus usual allowances.
- The appointment of the candidates mentioned above are subject to the condition that they are having domicile of Tiru Lower.
- They are directed to produce their Health and Age Certificate from the Civil Surgeon Tiru Lower at Tirupati.
- No TADA will be paid to them on taking the post.
- Their age may not exceed 35 years or below 18 years.
- Charge sheet should be submitted to all concerned.
- Drawing and disbursing Officer concerned is directed to check/verify the original documents from the concerned Officer/Institutions before handing over the charge.
- Candidates appointed from other i.e. Adjacent U.C. Council due to non availability of candidates in the same U.C. Council their contract will not be extended, other candidates in the U.C. Council concerned become available.
- The Order is issued on errors and omissions excepted as a matter only.
- 75% appointment has been made purely on urban council basis subject to the production of domicile of the same urban council.
- The Officer directed to take over the charge within three days of the issue of this order, in case their appointment order will be considered as cancelled.

31-05-2004

Order No. 11692-52
Tirupati Tirupati on 31/05/2004.
Copy of this above is forwarded to :-

- The Dist. Coordination Officer Tiru Lower.
- The District Officer Tiru Lower at Tirupati.
- P.A to Secretary Schools & I & N W.F.P. Pashawar.
- P.A to Director Schools & I & N W.F.P. Pashawar.
- The Dist. Account Officer Tiru Lower at Tirupati.
- The Dist. Officer (M) (SAL) Local Office.
- The District Officer (M) (SAL) Sub-Tirupati and Samar Bagh.
- The Candidates concerned.

Agastad
[Signature]

[Signature]
Head Master
Jai Lal Kot (Eng) /
G.P.S. Ex. Malahalli
DIST. OFFICER (SAL)

[Signature]
Dist. Coordination Officer
Tirupati
EXECUTIVE DISTRICT OFFICER (SAL)
DIST. OFFICER (SAL) TIRUPATI

[Signature]
[Signature]



Salary slip (00...



Dist. Govt. KP-Provincial
District Accounts Officer Mialkandi
Monthly Salary Statement (August-2024)



Personal Information of Mr ADDULLAH KHAN d/w of BAKHTAWAR KHAN

Personnel Number: 00268893 CNIC: 1540214436825 NTN:
 Date of Birth: 21.04.1973 Entry into Govt. Service: 01.06.2004 Length of Service: 20 Years 03 Months 011 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH NWK2420-DISTRICT GOVERNMENT KHYBR

DDO Code: MIDWMD-DY: D.O (M PRY) BATHKHELA

Payroll Section: 002

GPF Section: 001

Cash Center: 06

GPF A/C No:

GPF Interest applied

GPF Balance:

368,308.00 (grossed)

Voucher Number:

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 15

Wage type	Amount	Wage type	Amount
0001 Basic Pay	53,820.00	1101 House Rent Allowance 45%	3,534.00
1210 Convey Allowance 20%	2,856.00	1301 Medical Allowance	1,500.00
1505 Charge Allowance	40.00	1911 Compen Allow 20% (1-15)	1,000.00
2148 15% Adhoc Relief AD-2013	575.00	2199 Adhoc Relief Allow @ 10%	389.00
2316 Teaching Allowance 20%	3,324.00	2341 Disp. Rel AD 15% 2022KP	4,734.00
2347 Adhoc Rel Ad 15% 2015(S17)	4,734.00	2374 Adhoc Relief Ad 2023 35%	15,074.00
2393 Adhoc Relief Ad 2024 35%	13,405.00		(0.00)

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,270.00	3501 Pension Fund	-1,200.00
1609 Income Tax	-2,719.00	3980 Govt. Fund KPK	-125.00
4004 R. Benefits & Death Comp	-600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 43,114.85 Recovered till AY-2024: 5,478.00 Exempted: 11953.05 Recoverable: 27,383.80

Gross Pay (Rs.): 107,675.00 Deductions (Rs.): -8,964.00 Net Pay (Rs.): 98,711.00

Payee Name: ABDULJAH KHAN

Account Number: C/A 2001-9

Bank Details: NATIONAL BANK OF PAKISTAN, 230419 MAIN BRANCH MALAKAND MAIN BRANCH MALAKAND

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: VUJ, RAI SIDA

City: DIB LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

Email: abduljahanm73@gmail.com

ATTESTED

System generated document in accordance with APPS 4.6 (2, 3) 2009/27.04.2004(A.I.D.)
 * All amounts are in Pak Rupees
 * Errors & omissions corrected (XEROX) 23/01/09 2024/01/11/211



ATTESTED

DEPUTY SECRETARY (POLICY)
(MAJIDAH LATIF)

4-11-2020

ATTESTED



- The Collector, Administration Department.
The Section Officer (Admn), Administration Department.
The Deputy Director (IT), EA Department.
The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
The Registrar, Khyber Pakhtunkhwa High Court, Peshawar.
All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
All Heads of Attached Departments in Khyber Pakhtunkhwa.
All Divisional Commissioners in Khyber Pakhtunkhwa.
The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
The Principal Secretary to Governor, Khyber Pakhtunkhwa.
All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
Development Department.
Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning &

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CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

DATE AND EVEN DATE

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

AMENDMENT

In exercise of the powers conferred by section 26 of the Government of Khyber Pakhtunkhwa Act No. XVIII of 1973 (Khyber Pakhtunkhwa) is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following amendment shall be made, namely:

NO OBJECTION

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
REGISTRATION WING

Annexure - B

**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

ATTACHED

WORLDWIDE 2023 AZIZULHAQ VS GOVT OF PAK

Secretary (Policy)

Secretary (Tech)

Yours faithfully,

- 1. PG to Special Security (Tech) Establishment Department
- 2. PG to Additional Secretary (Tech-IT), Establishment Department
- 3. PG to Deputy Secretary (Policy), Establishment Department

Copy forwarded to the
Andl. D. Govt. Pn & Hqs

2011, please

proceeded against under Khayr Paktunخوا Civil Service (Integrity & Discipline) Rules.

of the competent authority or if to evade promotion through different means shall be

Furthermore, those officers/officials who do not comply with promotion order

will be liable to accept promotion in every condition.

to such a higher responsibility in case of promotion. Therefore, it is obligatory upon every

prevent those who tend to forge promotion to evade posting/transfer or show lack of capacity

will ensure from completion for which can be by sticking to a single lateral promotion or to

2. The basis rationale behind the decision of the bid rule is aimed at preventing a

provided exists to decline or forgo promotion.

1989 issued dated vide this departmental notification dated 08.08.2020; thus, no

(2) of rule-7 of Khayr Paktunخوا Civil Service (Appointment, Promotion and Transfer)

1/Appeal No. 2023 dated 18.06.2023 on the subject cited above and to state that Sub-Rule

I am directed in this to your letter No. SO(Promotion-M)14549/2023.

From Sd/-

Secretary -
INTEGRITY AND DISCIPLINE SECTION
MINISTRY OF DEFENCE
ISLAMABAD

To
 The Government of Punjab, Islamabad,
 Secretary & Secondary Section Department.

GOVERNMENT OF PUNJAB, ISLAMABAD
 No. SO(Promotion-M)14549/2023
 Dated Islamabad the 06.06.2023



Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
 CIVIL SECRETARIAT, PESHAWAR
 (Phone No. 091-8223507)

No. SO (Primary-M)/E&SED/2-5/2023
 Dated Peshawar the June 25th, 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, 1988.

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

[Handwritten mark]

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

Copy forwarded to the:

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

[Handwritten mark]

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

~~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 (Chair 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)

WP4443-2023 AZIZULLAH VS GOVT CP PG43

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

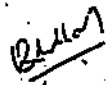
2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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

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


(Mr. Fazal Wahid)
Deputy Director-1
E&SE Department


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


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


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

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

ATTESTED


- B/c -

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 7(S) 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

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

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

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

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

(Mr. Fazal Wahid)
Deputy Director-1
E&SE Department _____

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa _____

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar _____

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

(Abdullah)
Additional Secretary (Establishment)

ATTESTED

~~ATTACHED~~

WP 1443-2023 AZZOLIAN VS GOVT CP 043

Assistant Director (Exhibit-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

Assistant Director (Exhibit M-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa
22/7/2023

The case is submitted for personal and necessary actions please.

Departmental Promotion Committee.
provided they might have written refusal letter in connection of the meeting of
Teachers below 175-16 may be recognized of implications of the amendments in the rules. This
775) have affected adversely a huge numbers of Female Teachers. Thus it is proposed that
In view of the above, this office is of considered opinion that the deletion of Rule
has been asked for amendment of considered case.
Chief Minister of Khyber Pakhtunkhwa Secretary Education at his office this office has
That, in the light of the minutes of meeting dated 6-07-2023 held under the
(Priority-4) E&SD/24/Pro/2023 dated 12-06-2023.
The same was received by this office from your good office vide letter No.50
civil servant to accept promotion under every condition.
that there shall be no provision to decline or forgo promotion. It is obligatory upon every
Wing) with letter No.50 (Policy) E&AD/1-1/2020 dated 6-06-2023 consequently stated
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Priority-4) E&SD/24/Pro/2023 for necessary guidance.
That your good office forwarded the same to the quarter concerned vide letter
promotion.
(ii) It is the prerogative of the civil servant to accept or turn down the offer of
(i) Now it is obligatory upon the civil servant to accept promotion in every condition.
No.6987 dated 06-07-2023.
That this office sought guidance from your good office in the following words vide letter
vide notification No. SCAR-VI (E&AD)/1-1/2020 dated 06-08-2020.
That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)
dated Rule 70) in the Civil Servants (Appointments, Promotion & Transfer Rules 1949)

The Senior Officer (Priority-Wing),
Ministry of Secondary Education Department,
Khyber Pakhtunkhwa Peshawar.

Dear Sir,

I am directed to refer to the letter No.50 (Priority-4) E&SD/1-1/2020 dated 10-07-2023 on the subject cited above and to
GA/AC/Ministry of the Ministry/ST/2023 dated 10-07-2023 on the subject cited above and to
present brief history giving the background of the case as under

MATTERS OF THE AIRS/11

Phone No. 8145
Khyber Pakhtunkhwa Peshawar
Email: education@pk.gov.pk
Date: 22/7/2023



~~ATTESTED~~

MP447-2023 AZIZULAH VS GOVT OF PK

Atulhad Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

1. Pl to Director Local Directorate
2. Master Copy

In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have affected negatively a huge members of female teachers. The case is submitted for period 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.

That the government of KP-ED (Regulation with) vide letter No. SO (Policy) EQ/ED/1-2/2020 dated 6-06-2023 accordingly stated that there exists no provision to declare / for promotion. It is obligatory upon every civil servant to accept promotion under any condition.

That your good office forwarded the same to quarters concerned vide letter No. SO (Policy) EQ/ED/2-2/2020 for necessary guidance.

That the office sought guidance from your good office in the following words vide letter No. EQ/ED dated 06-08-2023.

That the office sought guidance from your good office in the following words vide letter No. EQ/ED dated 06-08-2023.

That Government of KP Establishment department (Regulation with) deleted rule 7(S) in Civil Servants (Appointment/Promotion) Transfer (Rule 1987) present brief history, also background of case as under.

I am directed to refer to letter No. SO (Policy) EQ/ED/5-1/6/2020 dated 10-7-2023 on subject cited above and to

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

Directorate of Elementary & Secondary Education, KPK,
Peshawar (21-7-2023)

-B/C-

14



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT, PESHAWAR
(Phone No.091-8221587)

No. SO(P/primary-M)EBSED/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)/ EBAD/ 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 or 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 ISMAIL
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. Director EBSE Khyber Pakhtunkhwa.
2. PS to Secretary, EBSE Department Khyber Pakhtunkhwa.


SECTION OFFICER (PRIMARY MALE)
20/8/23

Scanned with CamScanner

ATTESTED

ATTACHED

2. PS to Secretary, E & SE Department, Khyber Pakhtunkhwa
4. Director E & SE Khyber Pakhtunkhwa
Copy forwarded to:
(Muzammad Ishaq)
Section Officer (Army)
(Muzammad Ishaq)

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 service delivery. In view of above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

9 am directed to refer to your letter No. S/Army (P&T)/E&AD/1-3/2020 dated 6th 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 2023.

SUBJECT: Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989).
The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department, Peshawar.
To:
No. S (Army-M) E&SE/18-4/ Appointment-Rule/2023
Peshawar Dated 23rd August, 2023.

- 2 -
- B/c -

Annexure - F



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

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

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

Dear Sir,
I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-
2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that
necessary guidance has already been rendered 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.

ATTESTED

WP447-2023 AZIZULLAH VS GOVT OF PK

19

- B/C -

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)EB&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)/EB&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 file:-

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

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/1-3/2020, 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&AD/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

Dated ___/0_/2024


 ABDULLAH KHAN
 LIO BAKHTAWAR ILHAN
 PSHT.

~~ATTESTED~~

WFO442-2023 AZIZULAH VA GOVT OF POKH

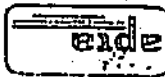
08/11/23
~~Handwritten signature~~
Handwritten text in Urdu

Handwritten text in Urdu, appearing to be a formal statement or affidavit.

Handwritten signature or name at the bottom of the main text block.

Angeure - H

APTA House
Govt. Primary School, District Head,
Gudhwar, Peshawar City.



Minister, Peshawar

APTA House
Govt. Primary School, District Head,
Gudhwar, Peshawar City.

22

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/comment. Appellant is directed to deposit TCS expenses within three days. To come up for reply/comment 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 (S)

[Handwritten signature]
13/5/24

Date of Presentation of Application 13-5-24
 Number of 57
 Copy to 57
 Original 57
 Total 57
 Name of 13-5-24
 Date of 13-5-24
 Date of delivery of copy 13-5-24

CS CamScanner

APPESTED

23

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

ABDULLAH KHAN

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.

Abdul Khan

APPELLANT

ACCEPTED

[Signature]
MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court

[Signature]
MUHAMMAD ADEEL BUTT
Advocate High Court

[Signature]
BASSAM AHMAD SIDDIQUI
Advocate High Court