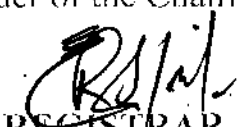


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No. 1818 /2024

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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

18/8/24  
MUHAMMAD JAVED  
V/S

Government of KP & others

INDEX

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

ADVOCATE  
M. Muazzam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 18/B /2024.

Muhammad Javed Son of Abdul Mateen, PSHT (BPS-15)

GPS Muslim Abad, Tehsil &amp; District Batagram

.....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, SHOULD 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 SIGNETH:**

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.  
Copy of Appointment 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. 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. Copy of impugned notification No. SO (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

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 of 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be setaside.

- 4
- 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

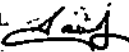
It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down 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.

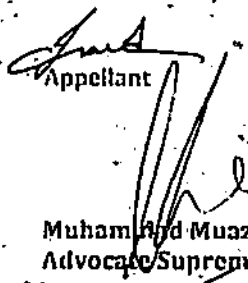
Any other relief, which this honorable Tribunal deems fit and proper in the circumstances of the case, may also be granted to the appellant.

**AFFIDAVIT:**

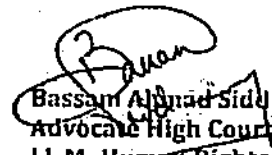
I, (the appellant) solemnly declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honorable Court.

  
Deponent.

Through

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

  
Bassam Ahmad Siddiqui  
Advocate High Court  
LL.M- Human Rights

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

C.M No \_\_\_\_\_ -P of 2024

In Ref to

Service Appeal No \_\_\_\_\_ 2024

**MUHAMMAD JAVED  
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:-

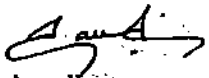
1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
3. That there is likelihood success of the appellant in the lis. And if the notification 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.

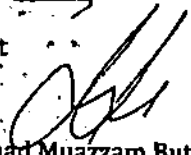
In view of the reasons, it is humbly requested that the notification bearing No. So (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 may kindly be suspended till the final disposal of the main appeal in hand.

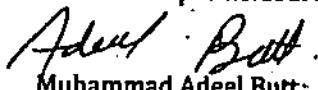
**AFFIDAVIT**

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.

  
Deponent

  
Appellant

Through   
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSHERA.

OFFICE ORDER NO. 70

Dated. 28.09/1986.

APPOINTMENT:

On return from PTC training, following candidates are hereby appointed against PTC posts at the school noted against their names @ Rs. 560/-PM(BFS-7) plus usual allowances as admissible under the rules in the interest of public service from the date of their taking over charge.

S.No.	Name with Father's name.	Residence.	School where appointed.	Remarks.
1.	Abdul Sadiq s/o Sakhi Gul.	Pokal.	GMS Mashang.	against v/ post.
2.	Aman Malik s/o Safaid Gul.	Shingli Paeen.	GPS Kuz Nehr.	..do..
3.	Abdul Wahid s/o Mohd Younis.	Battamori.	Mosq: Muslim abad.	..do..
4.	Mohd Javed s/o Abdul Mateen.	..do..	" Kargarhi	..do..
5.	Amanullah s/o Shamroz.	Tarand.	GPS Tarand.	..do..
6.	Fazal Rahim s/o Firdos.	Battagram.	" Shagai (Tandol)	..do..
7.	S. Ibrahim Shah s/o Hazrat Shah.	Nilishang.	" Bango Banda	..do..
8.	Hazrat Yousuf s/o Qasim Khan.	Battamohri.	" Jabri.	..do..
9.	Hazrat Younis s/o Bara Khan.	Jabba.	" Jhangri.	..do..
10.	Sohbat Khan s/o Sahib Khan.	Garhi Muzafar Khan.	" Mata Manshor.	..do..

TERMS AND CONDITIONS.

1. Charge report should be submitted to all concerned.
2. NO TA/DA & TG is allowed to any one.
3. They should produce their Age & Health certificate from Medical Supdt:DHQ Hospital Mershra.
4. Their appointment is purely temporary and liable to termination at any time without any reason and notice.
5. Their original qualification/professional certificates should be checked before handing over charge.
6. They should not be handed over charge if their age is below 18 years and above 28 years.
7. PTC failed candidates will get Rs. 560/-PM(Fixed).
8. Un-authorized appointments/adjustments made by the SDEO are hereby cancelled with immediate effect.

(GULBAR KHAN)  
DISTRICT EDUCATION OFFICER  
(MALE) MANSHERA.

Endst: No. 15124-44 / Dated Manshra the 28.09/1986.

Copy forwarded to the:

1. Sub-Divisional Education Officer(Male) Battagram.
- 2-11. H/Master/H. Teacher GMS/GPS/Mosq: school concerned.
- 12-21. Candidates concerned.
22. Office Order file.

1514

DISTRICT EDUCATION OFFICER  
(MALE) MANSHERA.

~~ATTACHED~~



**Ms. Govt. K.P. (Provisional)**  
**Monthly Salary Statement (August-2024)**



**Personal Information of Mr. JAVED KHAN & Ms. ABDEL MATEEN**

Personnel Number: 00325759 CNIC: 1320207749395  
 Date of Birth: 01.06.1968 Entry into Govt. Service: 28.09.1986  
 Length of Service: 37 Years 11 Months 005 Days

Employment Category: Vocational Permanent  
 Description: PRIMARY SCHOOL HEAD TEACHER  
 DDO Code: BM6039-DY DIST OFFICER EDU (M) PRIMARY SC

Payroll Section: 001 (GPF Section: 001)  
 GPF A/C No: EDU/AN 4317 (GPF Interest: applied)  
 GPF Balance: 1,058,705.00 (provisional)  
 Cash Center: 27

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: C/SB BPS: 15 Pay Stage: 27

Wage type	Amount	Wage type	Amount
(M11) Basic Pay	77,380.00	1001 House Rent Allowance 45%	3,524.00
1210 Convey Allowance 3005	2,856.00	1300 Medical Allowance	1,970.00
1505 Charge Allowance	40.00	1923 (VAA-OTHER 20N(1-15))	1,000.00
2148 15% Adhoc Retd All-2013	1,055.00	2199 Adhoc Retd Allow @ 10%	705.00
2316 Teaching Allowance 2021	3,224.00	2341 Depr. Red All 15% 2021R1	7,400.00
2347 Adhoc Ret All 15% 23P(S17)	7,406.00	2378 Adhoc Retd All 2013 35N	14,390.00
2393 Adhoc Retd All 2021 25%	19,345.00		0.00

**Deductions - General**

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	4,290.00	3501 Beneficial Fund	1,200.00
7409 Income Tax	-7,706.00	3914 Education (ROP)	1,116.00
3990 Emp Estab. Fund NFN	-1,350.00	4004 R. Benefits & Death Cont.	-600.00

**Deduction - Loans and Advances**

Loan	Description	Physical amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 123,295.65 Recovered on AUG-2024: 15,412.00 Exempt: 3083.85 Recoverable: 77,059.00

Income Tax (Rk): 151,831.00 Deduction (Rk): -18,347.00 Net Pay (Rk): 133,484.00

Payee Name: JAVED KHAN Account Number: 99143 Bank Details: MCD BANK LIMITED, 240622 BATAGRAD BATAGRAD, BATAGRAD

Leaves: (Pending Balance: ) (Earned: ) (Balance: )

Permanent Address: City: BATAGRAD Temp. Address: District: NW - Khyber Pakhtunkhwa Email: javed.psh@gmail.com

**ATTESTED**

System generated document in accordance with APPL 4.12.9 (M/2024/01/2024/01)  
 \* Errors & omissions excepted (S/2024/01/2024/01/2024/01)

Annexure - B

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NOTIFICATION

Dated: Peshawar, the 06/18/2020

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 Carinder, Administration Department.

1267  
06/18/2020

*Wahidullah*  
(WAHIDAH LATIF)  
DEPUTY SECRETARY (POLICY)

ATTESTED

11.8.20  
ATTESTED

9

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~~

MS-4447-2023 AZIZULLAH VS GOVT OF POK

Section Officer (Policy)

(1120 Khayyamabad) (Islamabad)

Your faithfully,

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

Copy forwarded to the:

And, Of course Mr & Mrs ASE

2011, please.

proceeded against under Khayyat Pakhshunus Civil Services (Recruitment & Discipline) Rules, of the competent authority or try to evade promotion through different means shall be

Further, those officers/officers who do not comply with promotion order (will) screens to accept promotion to every candidate.

to lacks higher responsibilities in case of promotion. Therefore, it is obligatory upon every person who lead to force promotion to evade posting/transfer or show lack of capacity will screen from promotion for (will) with by seeking to a single alternative promotion or to

2. The basic criteria behind the election of the bid rule is based on preventing a

provision exists to decline or forgo promotion.

1989 made dated vide this department notification dated 04.08.2020 that, no (3) of rule-7 of Khayyat Pakhshunus Civil Services (Appointment, Promotion and Transfer) Department dated 18.01.2023 as the subject noted above and to state that sub-rule

I am directed to refer to your letter No. SO/HR/Policy-M/145/2023.

For Sd/-

Subject: DISAPPOINTMENT OF MR. AZIZULLAH IN THE PROMOTION AND TRANSFER RULES, 1989

The Government of FATA, Islamabad, Ministry & Secretary (Section) Islamabad.

GOVERNMENT OF FATA, ISLAMABAD  
ESTABLISHMENT DEPARTMENT  
No. SO/HR/Policy-M/145/2023  
(dated Islamabad the date 06, 2023)



6.7

Amexure - C

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.091-0223587)

No. SO (Primary-M)/E&SED/2-6/2023  
Dated Peshawar (tho. June 26<sup>th</sup>, 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 (E&SE) 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

12  
B/c  
No SO (Primary-M)/E&SD/2-6/2023  
Dated Peshawar the June 25<sup>th</sup> 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, 1909.

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

(MUKHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALI)

Copy forwarded to:-

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

SECTION OFFICER (PRIMARY MALI)

ATTESTED

15

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.

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	Muhammed 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  
E&SE Department

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

  
(Mr. Razaqat Ullah)  
General Secretary APTA  
Peshawar

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

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

  
ATTACHED

-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:

S/N	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**



To: DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK  
 Section Officer (Primary Male)  
 Elementary & Secondary Education Department  
 KPK, Peshawar

Subject: Minutes of Meeting

Dear Sir, I am directed to refer to letter no: (S.O. Hony-M) E&SED/5-1/6/2021 dated 30-7-2021 on subject cited above and to present brief history about background of case as under:

- The establishment of KP Establishment department (Regulation VIII) dated rule 7(S) in Civil Service (Appointment, Promotion, Transfer & Discharge) vide notification No. No. SOR-VI (E&AD)-3/2020 dated 08-08-2020.
- That this office sought guidance from your good office in the following words vide letter no. 6983 dated 06-08-2021.
- (ii) Now it is obligatory upon this office to accept promotion.
- (iii) If it is obligatory of civil servant to accept/promotion then office of promotion.

• That your good office forwarded the same to a/writer concerned vide letter no. SO (Hony-M) E&SED/2-2/Appointment-2021 for necessary guidance.

• That the government of KP-ED (Regulation VIII) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2020 categorically stated that there exists no provision to decline/join promotion. It is obligatory upon every civil servant to accept promotion under every condition.

• That in light of the minutes of the meeting dated 6-07-2021 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 decision of Rules 7(S) have effected negatively a huge members of female teachers. The case is submitted for perusal and necessary action please.

Copy of the above is:  
 1. PA to Director Local Director  
 2. Master Copy

Richard Director  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa

**ATTACHED**

-B/C-

**ATTESTED**

W/P/142-2023 AZIZULAH VA GOVT CP P043

Assistant Director (Ex-101-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Assistant Director (Ex-101-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
21/7/2023

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

Copy of the above is in:-  
Encl. No.

The case is submitted for prompt and necessary actions please.

Departmental Promotion Committee provided they might their written refusal, after to conduction of the meeting of Teachers below 15-16 may be completed of implications of the commitment in the rules 17(5) have offered equally a huge numbers of Female Teachers. Thus it is proposed that in view of the above, this office is of considered opinion that the decision of rules been asked for, submission of considential case.

Chairman of the Government Examinations Office at his office this office has that in the light of the minutes of meeting dated 6-07-2023, held under the (Contract-4) E&SED/1-1/1999/2023 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 exists no provision in decline or forgo promotion. It is obligatory upon every (Wing) vide letter No.50 (Policy) E&AD/1-1/2020 dated 6-06-2023 categorically stated that the Government of Khyber Pakhtunkhwa Examinations Department (Regulation No.50 (Contract-4) E&SED/1-1/1999/2023 for necessary guidance.

That you good office forwarded the same to the quarter concerned vide letter promotion.

(i) If it is recognized of the civil servant to either accept or turn down the offer of promotion.

(ii) Now it is obligatory upon the civil servant to accept promotion in every condition. No.6987 dated 16-02-2023.

That this office should guide from your good office in the following words vide letter vide notification No. No. SOB-VI (E&AD/1-1/2020 dated 08-08-2020.

dated rule 21(5) in the Civil Servants (Appointment, Promotion & Transfer Rules 1989) that Government of Khyber Pakhtunkhwa Examinations Department (Regulation Wing) present brief history about the background of the case as under

I am directed to refer to the letter No.50 (Contract-4) E&SED/1-1/1999/2023 dated 10-07-2023 on the subject cited above and to

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

**MINUTES OF THE MEETING**

Subject -  
Dear Sir,

No. 8145  
Khyber Pakhtunkhwa, Peshawar  
Date: 21-7-2023  
Phone No: 9922144  
Email: [examinations@pwpk.com](mailto:examinations@pwpk.com)



**APPROVED**

WP4443-2023 AZIZULLAH VS GOVT OF POK

Scanned with CamScanner

SECTION OFFICER (PRIMARY MALE)

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

Copy forwarded to the:

SECTION OFFICER (PRIMARY MALE)

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

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.

1. I am directed to refer to your letter No. SO(Policy)/EAD/1/3/2020 dated 05 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.

**SUBJECT: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER) RULES 1989.**

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Establishment & Administration Department,  
Peshawar.

Annexure E

No. SO(Policy-M)EASD/2-2/Appointment-Rule /2023  
Peshawar Dated 23<sup>rd</sup> August, 2023

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.091-8223587)



ATTESTED

Copy forwarded to:  
1. Director E.G.S.E. Khyber Pakhtunkhwa  
PS to Secretary, E.G.S.E. Department of Education, Khyber Pakhtunkhwa

(Muzammad Ishaq)  
Section Officer (General)  
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. SO (Geny) / E.G.S.E. dated 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 2023.

Dear Sir,

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. SO (Geny - M) / E.G.S.E. / 18-21  
Appointment - Rule / 2023  
Peshawar Dated 21st August 2023

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(S) IN THE  
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,  
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

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

DELETED  
104442-3023 AZIZULAH VS GOVT CP

*[Handwritten signature]*

20

- B/c -

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

To

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

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

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

Section Officer (Policy)

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/1-312020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED.**

Sir/ Madam:-

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

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

Dated 2/10/2024

  
 MUHAMMAD JAVED

 SON OF  
 ABDUL MATEEN

PSHT



~~RESTRICTED~~

WFA44-2023 AZZULAH VS GOVT CP FC03

~~Handwritten signature and date 28/7/23~~

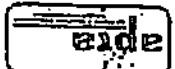
Handwritten text in Urdu script

28/7/23

Multiple paragraphs of text in Urdu script, likely a legal document or court order. The text is dense and contains several lines of descriptive and legalistic language.

Handwritten title: **انٹرنیٹ کی فراہمی (ایٹ) کے متعلق درخواست**

APTA House  
Dist. Primary School  
Quilbar Peshawar City



President  
Q 033, 04 1408  
022630428@qanun.com  
11, Malappur

**Quilbar Peshawar**

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/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.D. 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 (B)

*[Handwritten signature]*

Date of Presentation of Application 10-6-23  
 Number of 1  
 Copies 1  
 Region 1  
 Title 1  
 Name of 1  
 Date of 13-6-23  
 Date of 17-6-23



**ATTESTED**

# WAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD JAVED  
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC  
BASSAM AHMAD SIDDIQUI AHC  
&  
ASSOCIATES OF MUAZZAM LAW FIRM

to act and appear for me in the above Suit and on my behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any petition connected with the same or any decree or order passed therein and Applications for review to file and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

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

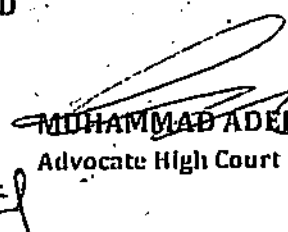


APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT  
Advocate Supreme Court



MUHAMMAD ADEEL BUTT  
Advocate High Court



BASSAM AHMAD SIDDIQUI  
Advocate High Court