


FORM OF ORDER SHEET

Court of _____

Appeal No. 1817 /2024

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

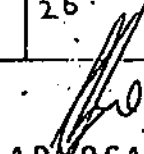
BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

18/7/24
ABDUL QAYUM
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. 1217/2024

Abdul Qayum son of Ambal Khan, PSHT (BPS-15)

Binwali, PO Nell shang sharki, Tehsil and 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, 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) /EDAD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. Copy of Impugned notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020 is attached as Annexure B
- 6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned Letter dated June 06th, 2023 is attached as Annexure C
- 7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
- ii. 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 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.

- c. 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.
- e. 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 appellants are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees.

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

It is further prayed that no penal action as proposed and envisaged in letter dated 06/06/2023 may be declared as unlawful, illegal and without having any legal effect.

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

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

[Signature]
 Appellant

Through

[Signature]
 Muhammad Muazzam Butt
 Advocate Supreme Court

[Signature]
 Muhammad Adeel Butt
 Advocate High Court

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

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Abdul Qayum

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.

Depoent

Appellant

Through

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

Dist. Govt. KP-Provincial
District Accounts Office Battagram
Monthly Salary Statement (July-2024)



Personal Information of Mr. ABDUL QAYUM (W/o) of AMBAL
Personel Number: 00324541 CNIC: 1320207385783
(Date of Birth: 10.10.1968) Entry into Govt. Service: 20.04.1988

NTN: _____
Length of Service: 36 Years 03 Months 01 Days

Employment Category: Vocational Permanent
Designation: PRIMARY SCHOOL HEAD TEACH
DDO Code: DM6039-DY DIST OFFICER EDU (M) PRIMARY SC
Payroll Section: 001 GPF Section: 001 Cash Center: 03
GPF A/C No: EDUMAN 04011 GPF Interest applied GPF Balance: 1,994,323.00 Approved
Vendor Number: _____
Pay and Allowances: Pay scale: BPS-Fix - 2622 Pay Scale Type: Civil BPS: 15 Pay Stage: 27

Wage type	Amount	Wage type	Amount
0001 Basic Pay	77,380.00	4001 House Rent Allowance 45%	3,524.00
1210 Convey Allowance 2005	2,856.00	4300 Medical Allowance	1,500.00
1305 Charge Allowance	40.00	4923 UAA-OTHER 20% (1-15)	1,000.00
2148 15% Adhoc Relief All-2013	1,055.00	2199 Adhoc Relief Allow @10%	705.00
2316 Teaching Allowance 2021	3,224.00	2341 Dispr. Red All 15% 2022KP	7,406.00
2347 Adhoc Rel All 15% 22(PS17)	7,406.00	2378 Adhoc Relief All 2021 15%	26,390.00
2393 Adhoc Relief All 2024 25%	19,345.00		0.00

Deductions - General

Wage type	Amount	Wage type	Amount
3815 GPF Subscription	1,396.00	1504 House hold Fund	1,200.00
3609 Income Tax	7,206.00	5090 Emp Edu Fund EPF	15.00
4004 R. Benefits & Death Comp	600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 123,295.65 Recovered till: JUL-2024 7,706.00 Exempted: 30823.87 Recoverable: 84,765.78

Gross Pay (Rs.): 151,831.00 Deductions (Rs.): -13,931.00 Net Pay (Rs.): 137,900.00

Payee Name: ABDUL QAYUM
Account Number: 5753-3
Bank Details: NATIONAL BANK OF PAKISTAN, 230926 MAIN BRANCH BATTAGRAM, KUTCHARY ROAD
BATTAGRAM, BATTAGRAM

Leaves: Opening Balance: Aailed: Pamed: Balance:

Permanent Address: City: BATTGRAM Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Other
Temp. Address: City: Email: abdulqayum.pd@gmail.com

System generated document in accordance with APPAL 4.6 12/9/150476492/10 07 2024v3.0
* All amounts are in Pak Rupees
* Errors & omissions excepted (SERVICES/01 ON 10/14/21-35 10)

ATTESTED

CS CamScanner

~~ATTENDED~~

②

ATTESTED

CamScanner

3/21/88
Boat
(M)

Handwritten notes, possibly a signature or date.

Handwritten notes, possibly a signature or date.

10

8

~~ATTESTED~~

3/1/88

[Handwritten signature]

[Handwritten text: F. J. O'Sullivan, Attest, I certify that the foregoing is a true and correct copy of the original as shown to me]

[Handwritten signature]

12/2/88

5/21

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[Faint, mostly illegible printed text]

[Faint, mostly illegible printed text]

[Faint, mostly illegible printed text]

ATTESTED

(WALIDAH LATIF)
DEPUTY SECRETARY (POLICY)

ATTESTED



- 1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department, Khyber Pakhtunkhwa.
- 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
- 3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 4. The Principal Secretary to Government, Khyber Pakhtunkhwa.
- 5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 6. The Principal Secretaries 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, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 11. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 12. The Deputy Director (IT), E&A Department, Khyber Pakhtunkhwa.
- 13. All Section Officers in Establishment & Administration Department with the request to the Section Officer (Admn), Administration Department.
- 14. The Section Officer (Admn), Administration Department.
- 15. The Caraker, Administration Department.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

COPY NO & EARN DATE

AMENDMENT

In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act No. XVIII of 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:

NOTIFICATION

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION-WING)

Annexure - 1 - 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

MS-447-2023 AZIZULAH VS GOVT OF PAK

Section Officer (Policy)

(Use this mode when)

Yours faithfully,

- 1. Copy forwarded to the
- 2. PA to Additional Secretary (Legal), Islamabad Department
- 3. PA to Deputy Secretary (Policy), Islamabad Department

Head, Islamabad

2011, please

provided against under Khuzdar Publications (Civil Rights & Liberties) Rules, 2011, please

of the competent authority or try to evade prohibition through different means shall be

Further, these officers/staffs who do not comply with prohibition order

civil servants to accept prohibition in every condition.

to take higher responsibilities in case of prohibition. Therefore, it is obligatory upon every

person whose duty is to evade prohibition to avoid posting/transfer or show lack of capacity

will remain from completion for duty who by adding to a single transfer prohibition or to

The basic criteria behind the deletion of the list rule is aimed at preventing a

provide order to delete or forgo prohibition.

Rule, 1989 stands deleted who this departmental notification dated 08.08.2020 that no

(3) of Rule 7 of Khuzdar Publications (Civil Rights & Liberties, Prohibition and Transfer)

Government dated 18.04.2023 on the subject noted above and to state that Sub-Rule

I am directed to refer to letter No. SO/Policy-M/1545/23

To
The Government of Punjab, Islamabad,
Ministry of Secretary, Islamabad Department.

Subject: QUADANGULAR PROHIBITION OF RULE 7(A) IN THE
PUNJAB PUBLICATIONS (CIVIL RIGHTS AND LIBERTIES)
REGULATIONS AND PUNJAB PUBLICATIONS (CIVIL RIGHTS AND LIBERTIES) RULES, 1989.

GOVERNMENT OF PUNJAB, ISLAMABAD
No. SO/Policy-M/1545/23
Dated Islamabad the 06, 2023



Annexure - C

12

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

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

To

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

Aziz Ullah Khan
President
All Primary Teacher's Association, KP

[Signature]
26/6/23

**Subject: GUIDANCE REGARDING DELETION OF RULE 7(B) 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 herewith a letter of Establishment Department letter No. 60 (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 initials]

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

Copy forwarded to the:

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

[Handwritten initials]

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

~~RECEIVED~~

14
B/c
No 50 (Primary-M)/E&SED/2-6/2023
Dated Peshawar the June 25th 2023

To: The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

Aziz Ullah Khan President
President
All Primary Teacher's Association, KP

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1969.

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. 50 (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

(MURHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

TESTED

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(3) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER) RULES 1989.

A meeting regarding the subject matter was held on 06-07-2023 at 11:30 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

Annexure
D

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. Rafiqul 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-
E&SE Department

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

(Mr. Rafiqul Ullah)
General Secretary APTA
Peshawar

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

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

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

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

3. After 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. Rafiqat Ullah)

General Secretary APTA

Peshawar

(Muhammad Ishaq)

Section Officer (Primary-Male)

E&SE Department

(Abdul)

Additional Secretary (Establishment)

~~ATTESTED~~

ATTENDED

WORLD-2023 AZIZULAH VS GOVT OF PAK

2. Master Copy
1. PH to Director Local Directorate
Copy of the above to:
Harold Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

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

That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Education held under the office. This office has been called for submission of consolidated case.

That the government of KP-ED (Regulation, Wng) vide letter No. SD (Reg) E&ED/1-3/2020 dated 6-06-2023 accordingly stated that there will be no provision to declare foreign promotion as a condition upon every civil servant to accept promotion under any condition.

That your good office forwarded the same to a quote concerned office of promotion. (U) B-13 preservative of civil servant to other accept/transfer the words vide letter No. 6983 dated 06-07-2023.

That this office sought guidance from your good office in the following vide notification No. SD SR-VI (E&ED)-1-3/2020 dated 06-08-2020. added rule 7(S) in Civil Servant (Promotion) Rules (1973) That Government of KP Establishment department (Regulation, Wng) present brief history, about background of case as under:
Minutes of meeting 13/7/2023 dated 10-7-2023 on subject cited above and to

Dear Sir, I am directed to refer to letter No. (SD) Reg. (M) E&ED/5-1/6484/ Suggested Minutes of Meeting

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

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

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

~~TESTED~~

WP 1443-2023 AZIZULAH VS GOVT CP POC

National Director (Exhib-1)
Ministry & Secondary Education
Khyber Pakhtunkhwa

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

Copy of the above is in:

National Director (Exhib-1)
Ministry & Secondary Education
Khyber Pakhtunkhwa

The form is submitted for perusal and necessary actions please.

Department of Education Committee.
provided they submit their written request for to conduct of the meeting of
Teachers Union. It may be excepted of implications of the committee in the rule held

725) have affected negatively a huge number of female Teachers. Thus it is proposed that
in view of the above, this office is of considered opinion that the deletion of Rules
being asked for the deletion of consolidated case.

Chairman/Secretary of the National Director's Establishment or his office, has
That in the light of the minutes of meeting dated 6-07-2023 held under the
(Primary-4) EAS/2023-2/4/Proposed/2023 dated 13-05-2023.

The same was received by the office from your good office with letter No.50
civil servant in receipt provision under every condition.
that there shall be no provision to decline or forgo provision. It is obligatory upon every

725) vide letter No.50 (Policy) EAS/D/1-1/2020 dated 6-06-2023 categorically stated
725) The Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Primary-4) EAS/2023-2/4/Proposed/2023 for necessary guidance.

The same was received by the office from your good office with letter
provision.
(ii) It is the obligation of the civil servant to either accept or turn down the offer of

(i) How it is obligating upon the civil servant to accept provision in every condition
No.6887 dated 04-02-2023.
That this office sought guidance from your good office in the following words with letter

vide notification No. 50A-VI (EAS/D/1-1/2020 dated 06-06-2020
dated with 725) English Civil Servants (Appointment, Promotion & Transfer Rules 1955)
That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)

present brief history about the background of the case as under:
A. Minutes of the meeting/PT/2023 dated 10-07-2023 on the subject cited above and in
I am directed to refer to the letter No.50/Primary-4/EAS/D/1-1/

Subject - MINUTES OF THE MEETING

The Senior Officer (Primary-4),
Ministry & Secondary Education Department,
Khyber Pakhtunkhwa

Dear Sir,



No. 8145

Handed on 07-11-2023

From Mr. JISTY/A/General/2023

Email: education@pk.gov.pk

Khyber Pakhtunkhwa, Peshawar



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

No. SO(Policy-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. 50(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 (B)
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~~

-B/c-

- 2 -

No. S (Policy - M) E&SE/18-S/
 Amendment - Rule/2023
 Peshawar Dated 23rd August, 2023.

To
 The Secretary to Government of Khyber Pakhtunkhwa,
 Establishment and Administration Department,
 Peshawar.

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

Dear Sir,

I am directed to refer to your letter No. S (Policy) E&AD
 14-3/2020 dated 6th June 2022 and to state that after
 deletion of Rule 7(S) Khyber Pakhtunkhwa Civil Servant (Appointment,
 Promotion and Transfer Rules 1989) it has been intimated that
 those officers/officials who do not comply with promotion order
 of the competent authority or try to evade promotion through
 different means shall be proceed under Khyber Pakhtunkhwa
 Civil Servant (Efficiency and Discipline) Rule 2011.

In this connection it is submitted that in some cases lady
 teacher of primary level who avail such promotion have to
 face serious inconvenience while they have to perform duties
 in the remotest stations with no residential/transport facilities.
 Most of them are married with kids and elder father of
 Mother-in-law who need care. In such cases there are negative
 effects on service delivery.
 In view of above, the said amendment may be reconsidered to
 the extent of lady teacher in primary schools.

Copy forwarded to;

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

(Muhammad Ishaq)
 Section Officer (Policy)
 Male

ATTESTED

Annexure - F



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

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

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

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

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

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

~~ATTESTED~~

100-1003 AZIZULLAH VS GOVT OF PK

22

- 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 03.08.2023 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)

Encl: Of even No & date

Copy forwarded to the:-

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

Section officer (Policy)

WP4447-2023 AZIZULLAH VS GOVT OF KP

ATTESTED

23

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 16/01/2024



Abdul Qayum
 ABDUL QAYUM
 SON OF
 AMBAL KHAN
 PSHT

~~ATTESTED~~

WP4443-2023 AZZULIAN VS GOVT OF PAKS

Handwritten text in Urdu, possibly a signature or name, partially obscured by a large scribble.

Handwritten signature and date "08/11/23" with a large scribble over it.

Main body of handwritten text in Urdu, appearing to be a legal document or affidavit, with several lines of text.

Handwritten text in Urdu, possibly a signature or name, located below the main body of text.

Annexure - H

Handwritten text in Urdu, possibly a signature or name, located below the main body of text.

APTA House 1
Govt. Primary School Road,
Gudbazar, Faisalabad City.



Khanber, Pakistan

APTA House 1
Govt. Primary School Road,
Gudbazar, Faisalabad City.

24

25

07.05.2024



1. Learned counsel for the appellants present.

2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply/objections. Appellant is directed to deposit TCS expenses within three days. To come up for reply/objections 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 (S)

[Handwritten signature]

Date of Presentation of Application 12-5-24
 Number of 12
 Copies 12
 Urgent SI
 Title SI
 Name of SI
 Date of 12-5-24
 Date of delivery of copy 12-5-24

CS CamScanner

~~ATTESTED~~

26

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

ABDUL QAYUM

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

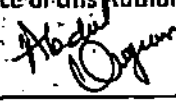
BASSAM AHMAD SIDDIQUI AHC

&

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.



APPELLANT

ACCEPTED


MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court


MUHAMMAD ADEEL BUTT
Advocate High Court


BASSAM AHMAD SIDDIQUI
Advocate High Court