


FORM OF ORDER SHEET

Court of _____

Appeal No. 1819 /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

A No 1819/2024
MUHAMMAD HANF
V/S

Government of KP & others

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ADVOCATE
M. Musam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No. 1819 /2024

Muhammad Hanif son of Ghulam Jallani, PSHT (BPS-15)
Pharhala, Tehsil and District Haripur

.....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
- 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 setaside.

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

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

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

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

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

~~M. Hafeez~~
 Appellant

Through

Muhammad Muazzam Butt
 Advocate Supreme Court

Muhammad Adeel Butt
 Advocate High Court

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

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Muhammad Hanif

VERSUS

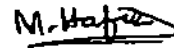
Secretary to Government of Khyber Pakhtunkhwa, & others

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:-

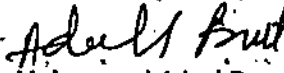
1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
3. That there is likelihood success of the appellant in the IIs. And if the notification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

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


Appellant

Through


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court

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

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3-026 32

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) BATHINDA

APPOINTMENTS

Consequent upon their selection by the Departmental Selection Committee, the District Education Officer (M) Bathinda has been pleased to appoint the following Trained PTC candidates at the schools listed against their names in BPS-7 (No. 1480-81-2695) plus usual allowances as admissible under the rules with immediate effect subject to the existing terms and conditions:-

S.No	Name/Father's Name & Address	D/O	Birth	No. of School	Remarks
1.	Niaz Ahmed s/o Faqir Gul Vill & PO: Manankarai H, Pur	20.5.71	89	GPS Tara Dhok	Vice Muntasir Ahmed Trd & not qualified in the interview.
2.	Ziafat Khan s/o Nisar Ahmed Khalo Haripur	1.6.75	76	Khalo	Vice Khalid Ali Trd & not qualified in the interview.
3.	Zahid Khalid s/o Khalil-ur Rehman Labanbandi H, Pur	12.3.77	73	Maqsood	Against the post already occupied by him.
4.	Rizwan Khan s/o Ghulam Habib KTS	22.5.73	73	No. 1 Sec: KTS	Vice Rifaqat Ali Trd & not qualified in the interview.
5.	Abbas Ahmed s/o Atta Muhammad Moh: Sidga Haripur	22.12.71	72	Karwala Bela	Vice Asad Iqbal Trd & not qualified in the interview.
6.	Naeem Shahzad s/o Muhammad Aycub H, Pur	1.4.74	72	Mosq: Chatoo	Vice Akhtar Khan Trd & not qualified in the interview.
7.	Ali Zarehaid s/o Yousaf Khan Nara Amzai	15.5.74	71	PS Shergah	Vice Muhammad Nazir Trd & not qualified in the interview.
8.	Muhammad Fazil s/o Mehboob ur Rehman KTS Sec: 3	15.4.70	71	M. Piazabad	Vice Wahid uz Zaman Trd & not qualified in the interview.
9.	Wajid s/o Haider Zaman Vill: Chachian H, Pur	9.4.74	71	PS Maira Foot	Vice Ishtiaq Ahmed Trd & not qualified in the interview.
10.	Muhammad Ismail s/o Muhammad Iqbal Pind Gujran	1.1.74	70.5	PS Khol Maira	Vice Saeed Akhtar Trd & not qualified in the interview.
11.	Abid Mehmud s/o Qazi Ahmed Kamalpur	3.3.73	70.5	PS Rehana	Vice Nawafish Rasheed Trd & not qualified in the interview.

8/25/97

CONTD ON P. 2

TESTED

- 22. Javid Iqbal s/o
Noor Khan
Sanda Ganda 15.15.68 41/54.5 PS Chhonian Tarchati Vice Muhammad
Daud Trmd:
& not selected.
- 23. Muhammad Shahid
S/O Zahir Shah
Basso Nairs 1.4.78 42/54 Mosq:Grang Vice Muhammad
Shafique Trmd &
not selected.
- 24. Rab Nawaz Khan
S/O Khan Akbar
Dobandi H, Pur 1.1.78 43/53.5 PS Chulhari Vice Nizakat Shah
Trmd: & not selected.
- 25. Mutahir Shah s/o
Civil Shah
Kherouch 15.3.76 44/53 Jabbar Vice Muhammad
Idrees Trmd & not
selected.
- 26. Liaqat Ali s/o
Sher Bhadar
Jhamra 25.6.75 45/53 C Wassa:Res Vice Iqbal Hussain
shah Trmd & not
selected.
- 27. Hussain Nawaz
s/o
Gulfaraz Khan
Sheryll 28.3.73 46/53 PS Swabi Vice Tinsor Hussain
Trmd: & not selected.
- 28. Khurshid Ahmed
s/o
Roshad Din
Cohar Sharif 01.6.68 47/53 Pit Bandi Services
Regularized.
- 29. Janas Khan s/o
Amir Sultan 08.11.76 48/51 PS Phalian Simbal Service regularized.
Sec:3 R/S
- 30. Inayat ur Rehman
s/o Muqadas Khan
Kupla Amazai 1.4.69 82/40.5 PS Thandari Vice Muhammad
Akram Trmd: and
not selected.
- 31. Anwar Shahid s/o
Shahzada Khan
Kupla Amazai 5.5.74 88/39 Rahim Gari Vice Tikka Khan
Trmd: & not selected.

DISABLED & CHINA

- 1. Muhammad Haniff s/o
Chulam Jilani
Vill: Pharala 25.11.76 39 PS Qazipur Vice Shoukat Zaman
Trmd: who not qualified
in interview.

TERMS & CONDITIONS:

They will be governed by such rules & regulations in force and as may be prescribed by the Govt from time to time for the

ATTENDED

TERMS & CONDITIONS (CONTD)

category of this Govt. Servant to which they belong.

1. Their services will be liable to termination on one month's notice from either side. In case of resignation without notice one month's pay will be forfeited in lieu thereof.
2. They should join the posts within one month of the issue of this Notification/Order.
3. Their inter-se-seniority will be determined in accordance with the merit of Departmental Selection Committee.
4. Charge reports should be submitted to all concerned.
5. They shall be on probation for a period of two years and will have to pass Departmental Examination. In case a candidate fails to qualify the Departmental Exam he will be given one more chance. If he fails again, then his services will be terminated. On arrival availability of trained teacher the services of un-trained teachers occupies the post will be terminated.
6. Their original Certificate/Degrees should be checked and verified from the concerned University/BISE/R.D.B and Islamic Madrassas concerned before handing over charge and the pay will not be drawn until their certificates are verified.
7. Service Books of the teachers must be prepared complete in all respect before handing over charge.
8. The Declaration of Assets should be obtained from them immediately and placed on record.
9. They are required to produce Health & Age Certificates from Medical Authorities concerned before taking over charge.
10. Charge should not be given to the over-age candidate. His case for age relaxation be sent to the concerned quarters.
11. Efforts for transfer before the completion of tenure will disqualify him from the service.
12. No P/A/D.A is allowed.
13. An undertaking shall be obtained from Master & Degree holder P.T.C. CI etc that they will service the Department for at least 5-years.
14. Trained P.T.C having FA 2nd Division will be placed in P.S-9 Ra. 1605-97-3660.
15. In case of person appointed as an untrained teacher, he will have to pass the requisite training examination within a period of 4-years failing which his services will be terminated.

NOTES:-

Complete information of each category (Separately) in consolidated lists on the prescribed proforma (attached) along with charge reports be submitted by the lower office to the Director of Education Primary P.T.Cs Primary within a week positively.

RAB NAWAZ KHAN
DISTRICT EDUCATION OFFICER
(M) PRY: HARIFUR.

Endst No. 2603-2745 /

Dated 25/6/97

1. Copy forwarded for information to the:-
2. Director of Education (Pry.) NWFP Peshawar.
3. District Account Office Haripur.
4. Head Teacher Condemned.
5. P/S to Secretary to Govt. of NWFP Edu: Dept: Peshawar.
6. Official concerned.
7. Office Copy.

RAB NAWAZ KHAN
DISTRICT EDUCATION OFFICER
(M) PRY: HARIFUR.

ATTESTED

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Dist. Govt. KP-Provincial
District Accounts Office Haripur
Monthly Salary Statement (August-2024)



Personal Information of Mr MUHAMMAD HANIF d/w/s of GHULAM JEELANI

Personnel Number: 00250850 CNIC: 1330204362201 NTN:
 Date of Birth: 25.11.1976 Entry into Govt. Service: 01.07.1997 Length of Service: 27 Years 02 Months 001 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH 80002138-DISTRICT GOVERNMENT KHYBE

DDO Code: HR6109-DEPUTY DIST:EDUCATION OFFICER(M/P) HARIPUR

Payroll Section: 002 GPF Section: 001 Cash Center: 14

GPF A/C No: EDUHR001603 GPF Interest applied GPF Balance: 938,689.00 (provisional)

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 18

Wage type		Amount	Wage type		Amount
0001	Basic Pay	59,560.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1505	Charge Allowance	40.00	1551	Spl Conveyance to Disable	6,000.00
2148	15% Adhoc Relief All-2013	705.00	2199	Adhoc Relief Allow @10%	476.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 15% 2022KP	5,610.00
2347	Adhoc Rel Al 15% 22(PS17)	5,610.00	2378	Adhoc Relief All 2023 35%	20,153.00
2393	Adhoc Relief All 2024 25%	14,890.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-4,592.00	3990	Emp. Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 73,466.25 Recovered till AUG-2024: 9,184.00 Exempted: 18366.15 Recoverable: 45,916.10

Gross Pay (Rs.): 124,148.00 Deductions: (Rs.): -10,817.00 Net Pay: (Rs.): 113,331.00

Payee Name: MUHAMMAD HANIF

Account Number: 01980041902401

Bank Details: HABIB BANK LIMITED, 220198 MAIN BAZAR, HARIPUR, MAIN BAZAR, HARIPUR, HARIPUR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: HARIPUR

City: HARIPUR

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: hanifmohammad00786@gmail.com

ATTESTED

System generated document in accordance with APPM 4.6.12.9(358678/23.08.2024/v3.0)

All amounts are in Pak Rupees

Errors & omissions excepted (SERVICES/01.09.2024/03.08.11)

ATTESTED

11.11.1989

(MAJID AH LAL) DEPUTY SECRETARY POLICE

ATTESTED



- Copies forwarded to:
1. Additional Grief 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 Divisional Commissioners in Khyber Pakhtunkhwa.
 8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
 9. All Autonomous Semi Autonomous Bodies in Khyber Pakhtunkhwa.
 10. All Deputy Commissioners in Khyber Pakhtunkhwa.
 11. The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
 12. The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
 13. The Deputy Director (IT), BSA Department, Administration Department with the request to the Section Officer (Admin), Administration Department.
 14. The Section Officer (Admin), Administration Department.
 15. The Section Officer (Admin), Administration Department.
 16. The Section Officer (Admin), Administration Department.
 17. The Section Officer (Admin), Administration Department.
 18. The Section Officer (Admin), Administration Department.
 19. The Section Officer (Admin), Administration Department.
 20. The Section Officer (Admin), Administration Department.

CHIEF SECRETARY GOVERNMENT OF THE KHAYBER PAKHTUNKHWA

In rule 7, sub-rule(4) shall be deleted

AMENDMENT

In exercise of the powers conferred by section 25 of the Khyber Pakhtunkhwa Civil Servants Act No. XXVIII of 1973 (Khyber Pakhtunkhwa Act No. XXVIII 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:

NO OBJECTION

GOVERNMENT OF KHAYBER PAKHTUNKHWA
 DEPARTMENT OF CIVIL SERVICE
 RECULATION-WINCI

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

Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. 80(Policy)HR&AD/1/2020
Dated Peshawar the 20th 06, 2023

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

Subject: GUIDANCE REGARDING OBLIGATION OF RULE 7(B) IN THE
KHYBER PAKHTUNKHWA CIVIL SERVAANTS (APPOINTMENT,
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,
I am directed to refer to your letter No. 80(Policy-M)MASHUD-
2/Appointment/2023 dated 18.04.2023 on the subject cited above and to state that Sub-Rule
(3) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer)
Rules, 1989 stands deleted vide this department notification dated 02.08.2020; thus, no
provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the said rule is aimed at preventing a
civil servant from temptation for (s)he/his by seeking to a single lucrative post/promotion or to
prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity
to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every
civil servant to accept promotion in every condition.

3. Furthermore, those officers/staffs 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, para 94.

Yours faithfully,

Section Officer (Policy)

ASSE
M
7/6

Encl. Of order No & date
Copy forwarded to:-

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.

Set

02/06/2023
20/06/23

ATTESTED

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

No.50 (Primary-MVE&SED)-6/2023
Lahor Peshawar (tho. June 26th 2023

To

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

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

[Handwritten Signature]
26/6/23

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

I am directed to refer to the subject noted above and to enclose herewith 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 05 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 Signature]

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

Copy forwarded to the:

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

[Handwritten Signature]

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

~~ATTACHED~~

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

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

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

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

(MURHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4443-2023 AZIZULLAH VS GOVT OF PK43

~~ATTESTED~~

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(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
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. 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


(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

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

WP442-2023 AZIZULLAH VS GOVT OF PK

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

A meeting regarding the subject matter was held on 06-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting

S/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

ATTESTED

WPA443-2023 AZIZULLAH VS GOVT OF PAK

Attended Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

2. Master Copy
1. Pkt to Director Local Directorate

Copy of the above to:

In view of the above, the office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers.

The case is submitted for perusal and necessary action please.

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

That in light of the minutes of the meeting dated 06-07-2023 held under the Chairmanship of Hon. Additional Secretary, Education at his office. This office has been asked for submission of consolidated case.

That in light of the minutes of the meeting dated 06-07-2023 held under the Chairmanship of Hon. Additional Secretary, Education at his office. This office has been asked for submission of consolidated case.

That in light of the minutes of the meeting dated 06-07-2023 held under the Chairmanship of Hon. Additional Secretary, Education at his office. This office has been asked for submission of consolidated case.

That in light of the minutes of the meeting dated 06-07-2023 held under the Chairmanship of Hon. Additional Secretary, Education at his office. This office has been asked for submission of consolidated case.

PSHAWAR
(21-7-2023)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-B/C-



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

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

Annexure
E

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ 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 ISHAQ
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)
28/8/23

Scanned with CamScanner

ATTESTED

ATTACHED

1. Director, E & SE, Khyber Pakhtunkhwa
2. PS to Secretary, E & SE, Khyber Pakhtunkhwa
Copy forwarded to:
(Muzimil Idari)
Section Officer (Army)
(Muzimil Idari)

In this connection it is submitted that in some cases body teachers of primary level who avail such promotion have to face serious inconvenience while they have to perform duties in the receipt 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 body teacher in primary schools.

Dear Sir,
I am directed to refer to your letter No. SO/Army (Policy)/E&AD/11-3/2020 dated 8th June 2023 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 these 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 2013.

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

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

No. 50 (Priority-M) E&SE/18-8/1
Appointment - Rule/2023
Peshawar Dated: 12th August, 2023.

-B/C-
20

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.

DELETED
www.azizulhaq.com

21

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(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)

Enclst. 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)

WP4447-2023 AZIZULLAH VS GOVT CF PG43

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&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 19/03/2024


 M. HANIF
 S/O GHULAMI JILANI
 PSHI

~~ARRESTED~~

WPA443-2023 AZTULAH VA GOV'T CR FORD

Handwritten signature and date: 08/17/83

Handwritten text in Arabic script, appearing to be a list or set of instructions.

Handwritten signature and date: 08/17/83

Annexure - H

APTA House, Dept. Primary School No. 4, Gubbalur Postoffice Cir.

Tanjavur Palaniyandavar



APTA House, Dept. Primary School No. 4, Gubbalur Postoffice Cir.

07.05.2024



1. Learned counsel for the appellant present.

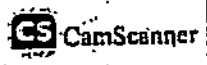
2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply comments. Appellant is directed to deposit TCS expenses within three days. To come up for reply comments as well as preliminary hearing on 10.06.2024 before S.B. JP given to learned counsel for the appellant.

3. Alongwith the service appeal there is an application for suspension of Notification dated 05.06.2023 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 12-6-24
Number of 1
Copy to 1
Fees 5/-
Name of 12-6-24
Date of 12-6-24
Date of delivery of copy 12-6-24



[Handwritten signature]
ATTESTED

WAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD HANIF
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 SIDDIQI 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.

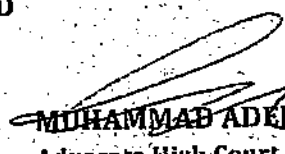


APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQI
Advocate High Court