


# FORM OF ORDER SHEET

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

Appeal No. 1852/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/10/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 14.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

S.A # 1852/2024

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

ZAKIR HUSSAIN

V/S

Government of KP & others

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ADVOCATE  
Mr. Muazzam Butt

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**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 1852/2024

Zakir Hussain Son of Hussain Ahmed, PSHT  
MPS Gatkai, Tehsil Samarbagh & District Timargar

.....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

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.

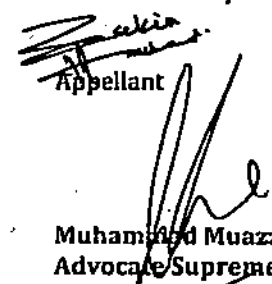
Any other relief, which this honorable Tribunal deems fit and proper in the circumstances of the case, may also be granted to the appellant.

**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.

  
Deponent

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

**V E R S U S**

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.

*[Signature]*  
Appellant

**AFFIDAVIT:**

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

*[Signature]*  
Deponent

Through

*[Signature]*  
Muhammad Muazzam Butt  
Advocate Supreme Court

*[Signature]*  
Muhammad Adeel Butt  
Advocate High Court

Annex 'A'

- 6 -

OFFICE ORDER.

Mr. Zakir Hussain S/O Hussain Ahmad Village Tangai (Peyan) Tehsil Samarbagh (Jandool) is hereby appointed as FTC Teacher in SPS No. 7 against leave vacancy at MFS Gatkai (Samarbagh) with effect from 24.10.95 to 20.2.96 subject to the following terms and conditions:-

1. Charge report should be submitted to all concerned.
2. He will have to produce Health & Age Certificate from Civil Surgeon Dir at Timargara.
3. He may not be handed over the charge if his age exceeds 30 years or below 18 years.
4. Before handing over the charge his original Certificates should be checked.
5. His Services will be terminated on the arrival of the teacher who proceeded on leave.

(FAZLI NAJEM KHAN)  
DISTRICT EDUCATION OFFICER,  
(M) PRIMARY DIR AT TIMARGARA.

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY DIR AT TIMARGARA.

Indst: No. 4024-78 Dated Timargara the 23/11/95

Copy forwarded to the:-

1. The SDO (M) Samarbagh for information.
2. The DAO Dir at Timargara for information.
5. The Candidate concerned for information

DISTRICT EDUCATION OFFICER,  
(M) PRIMARY DIR AT TIMARGARA.

*Attested*  
*Amirulhas*  
Gillwar Khan  
A. D. O.  
Samarbagh

*23/11/95*

**ATTESTED**



- 7

**Dist. Govt. KP-Provincial**  
District Accounts Office Dir at Timargar  
Monthly Salary Statement (January-2024)



Personal Information of Mr ZAKIR HUSSAIN d/w/s of HUSSAIN AHMAD

Personnel Number: 00259651 CNIC: 1530119348957 NTN:  
Date of Birth: 10.04.1975 Entry into Govt. Service: 24.10.1995 Length of Service: 28 Years 03 Months 009 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80001409-DISTRICT GOVERNMENT KHYBE

DDD Code: DA6140-GOVT. PRIMARY SCHOOLS (M) SAMARBAGH

Payroll Section: 001 GPF Section: 001 Cash Center: 10

GPF A/C No: VOL 67 P 170A GPF Interest applied GPF Balance: 148,368.00 (provisional)

Vendor Number: 30536727 - Mr Zakir Hussain

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 19

Wage type		Amount	Wage type		Amount
0001	Basic Pay	61,540.00	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	1923	UAA-OTHER 20%(1-15)	1,000.00
2148	15% Adhoc Relief All-2013	735.00	2199	Adhoc Relief Allow @10%	496.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 15% 2022KP	5,809.00
2347	Adhoc Rel Al 15% 22(PS17)	5,810.00	2378	Adhoc Relief All 2023 35%	20,846.00

**Deductions - General**

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-1,630.00	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
6501	HBA Loan Principal Instal	250,000.00	-2,084.00	208,320.00
6505	GPF Loan Principal Instal	225,000.00	-9,000.00	36,000.00

**Deductions - Income Tax**

Payable: 24,832.38 Recovered till JAN-2024: 10,480.00 Exempted: 6207.08 Recoverable: 8,145.30

Gross Pay (Rs.): 107,380.00 Deductions: (Rs.): -18,939.00 Net Pay: (Rs.): 88,441.00

Payee Name: ZAKIR HUSSAIN

Account Number: PLS 3411-6

Bank Details: HABIB BANK LIMITED, 221744 SAMAR BAGH SAMAR BAGH, SAMAR BAGH

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILL. TANGI PAYEEN S/BAGH

City: DIR LOWER

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: znkirhussain23122014@gmail.com

**ATTESTED**

System generated document in accordance with APPM 4.6.12.9(743103/25.01.2024/v1.0)

\* All amounts are in Pak Rupees

\* Errors & omissions excepted (SERVICES/02.02.2024/20:09:44)

-8-  
Annexure - B-

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION BRING)**

**NOTIFICATION**

Dated Peshawar, the 06/8/2020

Ministry E&AD/1-3/2020 In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendment shall be made, namely:-

**AMENDMENT**

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

**CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA**

**LIST: NO & EVEN DATE**

Copies 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 Casetaker, Administration Department.

1267  
06/08/2020

*(Signature)*  
**(WAJDAH LATIF)  
DEPUTY SECRETARY (POLICY)**

**ATTESTED**

*(Signature)*

**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~~

**ATTESTED**

WP443-2023 AZIZULAH VS GOVT OF PAK

Chief Officer (Policy)  
Miss Shabir Ahmad Khan  
Secretary (Policy)  
Your faithfully,

21.06.23  
1. Copy forwarded to the  
2. For to Additional Secretary (Legal), Establishment Department.  
3. For to Deputy Secretary (Policy), Establishment Department.  
83/1111  
7/6  
7/6

1. Furthermore, those officials/officers who do not comply with promotion order  
2. The basis rationale behind the abolition of this bill rule is aimed at preventing a  
3. I am directed in letter no your letter No. SO/Ministry-M/MS-2023-  
7/6

**Subject: QUARANTA BAKHTINQIWA CIVIL SERVICE (APPOINTMENT, PROMOTION AND TRANSFER) (S) OF Rule-7 of Khyber Pakhtunkhwa Civil Service (Appointment, Promotion and Transfer) Regulations, 1989**

To: The Government of Khyber Pakhtunkhwa, Islamabad (Government Secretariat)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO/Ministry/CA/AD/1-2023  
Dated Islamabad the 20th June 2023  
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Annexure - C

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**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)**

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

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

Dear Sir,

I am directed to refer to your letter No SO(Primary.M/E&SED/2 - 2/Appointment/2023) dated 18.04.2023 on the subject noted above and to state that sub-Rule(5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants(Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06-08-2020; thus, no provision exists to decline or forgo promotion.

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

3. Further those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded, against under Khyber Pakhtunkhwa Civil servants (Efficiency & Discipline) Rules, 2011, please.

Yours faithfully,  
(Issa Muhammad Khan)  
Section Officer(Policy)

(Encl.) of even No & date

Copy is forwarded to :-

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

Section Officer  
(POLICY)

**ATTESTED**

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

No. SO (Primary-MVE&SED/2-6/2023  
Dated Peshawar the 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

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

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

Encl: AA

*[Handwritten mark]*

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

Copy forwarded to the:

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

*[Handwritten mark]*

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

~~ATTESTED~~

B/c

- 13 -  
No SO (Primary-M)/E&SED/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(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

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

~~APPEALED~~

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).

Annexure  
①


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


Sl	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar


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

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

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

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

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

  
(Mr. Razaqat Ullah)  
General Secretary APTA  
Peshawar

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

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

~~ATTESTED~~



-15-  
-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 1985).

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 No	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

10. SOP (Primary-M) (E/SED/2-2/Appointment-Rule /2023  
Peshawar Dated 23<sup>rd</sup> August, 2023

Annexure E

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

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

Dear Sir,

I am directed to refer to your letter No. SOP (Policy) / EAD / 1-3/2020 dated  
06<sup>th</sup> June 2023 and to state that after deletion of rule 7(E) 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 of mother-in-law who need care. In such  
cases, there are negative effects on service delivery.

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

(Muzhammad Ishaq)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)  
28/8/23

Scanned with CamScanner

WP4443-2023 AZIZULLAH VS GOVT OF POK

TESTED

ATTACHED

(Muzammad Ishaq)  
Section officer (Primary)  
(Male)

2. PS to Secretary, E & SE Department, Khayba Paktunkhwa  
4. Director E & SE Khayba Paktunkhwa  
Copy forwarded to:

the extent of lady teacher in primary schools.  
In view of above, the said amendment may be reconsidered to  
effects on service delivery. Mother-in-law who need care in such cases there are negative  
Most of them are married with kids and elder father of  
in the remotest stations with no residential/transport facilities.  
force serious inconvenience while they have to perform duties  
teacher of primary level who avail such promotion have to  
In this connection it is submitted that in some cases lady  
different means shall be proceed under Khayba Paktunkhwa  
of the competent authority or try to evade promotion through  
those officers/officials who don't comply with promotion order  
Promotion and Transfer Rules (1989) it has been intimated that  
deletion of Rule 7(S) Khayba Paktunkhwa (CIV) Servant (Appointment,  
1-3/2020 dated 8th June 2023 and to state that after  
9 am directed to refer to your letter No. S(Primary)  
(Policy) (E&AD)

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

The Secretary to Government of Khayba Paktunkhwa,  
Establishment and Administration Department,  
Peshawar.

To  
No. S(Primary-M) E&SE D/18-21  
Appointment - Rule/2023  
Reference dated 2nd August, 2023.

- B/C -

**ATTESTED**

WJ-443-2023 AZZULLAH VS GOVT CP P043

Assistant Director (Establishment)  
Ministry of Secondary Education  
Khyber Pakhtunkhwa

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

Copy of the above is:-

Assistant Director (Establishment)  
Ministry of Secondary Education  
Khyber Pakhtunkhwa  
Date: 21/7/2023

The copy is submitted for perusal and necessary actions please.

Departmental Promotion Committee  
provided they submit their written request prior to conclusion of the meeting of  
Teachers below. It may be exempted of implications of the committee in the rules laid  
751) have effect to give a huge number of Female Teachers. Thus it is proposed that  
In view of the above, the office is of considered opinion that the deletion of Rules  
has been cited for submission of consolidated cases.

Chairman, Ministry of Education, Government of Khyber Pakhtunkhwa at his office this office has  
That in the light of the minutes of meeting dated 6-07-2023 held under the  
(Promotion) E&AD/1-2/2023 dated 12-06-2023.

The same was received by this office from your good office vide letter No.50  
civil service to accept promotion under every condition.

that there shall be no provision to decline or forego promotion. It is obligatory upon every  
Wing) vide letter E&AD/1-2/2023 dated 6-06-2023 categorically stated  
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation  
No.50 (Part-1) E&AD/1-2/2023 for necessary guidance.

That your office forwarded the same to the quarter concerned vide letter  
promoted.

(ii) If it is the responsibility of the civil service to either accept or turn down the offer of  
promotion.  
(i) Now it is obligatory upon the civil service to accept promotion in every condition.  
No.6987 dated 10-02-2023.

That this office should guideance from your good office in the following order vide letter  
wide notification No. 50X-VI (E&AD/1-2/2023 dated 06-08-2023  
dated Rule 71.1 of the Civil Service (Appointment, Promotion & Transfer Rules 1989)

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation (Wing)  
dated Rule 71.1 of the Civil Service (Appointment, Promotion & Transfer Rules 1989)  
I am directed to refer to the letter No.50X-VI (E&AD/1-2/2023 dated 06-08-2023 on the subject cited above and to  
present brief history giving the background of the case as under:

Subject - MINUTES OF THE MEETING

Khyber Pakhtunkhwa Federal Government  
Ministry of Secondary Education Department  
Khyber Pakhtunkhwa

Dear Sir,



No. 2145

Ministry of Secondary Education

Khyber Pakhtunkhwa

Date: 21-7-2023

Email: establishment@kpk.gov.pk

Phone: 091-111-1111

~~ATTESTED~~

MP443-2023 AZIZULAH VS GOVT OF PAK

Richard Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Copy of the above to:  
1. Pt to Director Local Directorate  
2. Master Copy

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

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

That the government of KP-ED (Regulation Wing) vide letter No. SD (Regy) E3AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to accept petition under any condition.

That you good office forwarded the same to quanta concerned vide letter No. SD (Regy) E3AD/1-2/11/2023 for necessary guidance. offer of promotion.

That the office sought guidance from your good office in the following vide notification No. No. SD-VR(E3AD)-1-3/2020 dated 06-08-2020. (1) Now it is obligatory upon civil servant to accept promotion.

That Government of KP Establishment department (Regulation Wing) dated rule 7(S) in Civil Servants (Appointment, Promotions, Transfer Rule 1997) 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

Doa Sir, I am directed to refer to letter No. (SD) Regy-M/E3AD/5-1/6/2023/ Suggested Minutes of Meeting  
Section Officer (Primary Male)  
Elementary & Secondary Education Department  
KPK, Peshawar

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

Annexure - F



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

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

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

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

Yours faithfully,  
  
Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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

~~RECEIVED~~

WP4442-2023 AZIZULLAH VS GOVT OF PK

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

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

Dated \_\_\_/0\_/2024

*[Handwritten Signature]*  
**TESTED** ZAKIR HUSSAIN  
 S/O HUSSAIN AHMED,  
 PSHF

-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 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)

End 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)

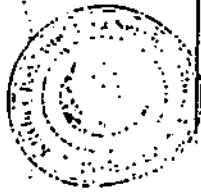
~~ATTESTED~~





24

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 (I)

*[Handwritten signature]*  
13/5/24

Date of Presentation of Application 10-5-24  
 Number of 1  
 Copying 1  
 Urgent 1  
 Total 1  
 Name of ---  
 Date of 13-5-24  
 Date of Receipt of copy 12-5-24

~~ATTESTED~~

# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

ZAKIR HUSSAIN.

Appellant

Versus

Government of KP & others

Respondents

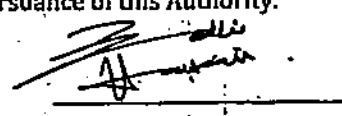
I (the Appellant)

do hereby appoint and retain

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

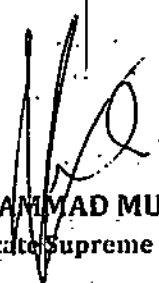
to act and appear for me in the above Suit and on my behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any petition connected with the same or any decree or order passed therein and Applications for review to file and obtain return of documents,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