FORM OF ORDER SHEET

Court of		
Appeal No.	12/12 /2024	

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/10/2024	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 Pesh
		given to counsel for the appellant.
	· ·	given to counsel for the appenant.
		By order of the Chairman
	e e e e e e e e e e e e e e e e e e e	REGISTRAR
		:
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		,

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A-No (843 / 34)

SIRAJ UD DIN

V/S

Government of KP & others

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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1	n	
ın	XPT	TO

Service Appeal No 1843 /2024

Siraj Ud Din Son of Hazrat Umar, PSHT GPS Timer Dheri, Tehsil & District Timargara

.....Appellant

VERSUS

- 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
- 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:

 That the Respondents Department appointed the Appellant as Primary School Head Teacher.
 Copy of Appointment letter is annexed as <u>Annexure A</u>

đ

- 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.
- 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".

١.

- 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 Pukhtunkhwa 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 guldance 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 listablishment 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 listablishment 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 <u>Annexure E</u>

- 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
- 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
- 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:-

Q.B

- That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/ guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a pergod or 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.

١.

- That as per Civil Servant laws, promotion is a kind of appointment which is always uptional 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.

- 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.
- 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 hummer 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 lest of my knowledge and belief and tothing has been concealed therein from this Honourable Court.

DeBonent

Through

Muhammad Muazzzam Butt Advocate Supreme Court

Muhammad Adeel But Advocate High Court

Appelline

Bassan Alfinad Sidliqui Advocate High Court

LL.M. Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024		
In Ref to	:	,	
Service Appeal N	0/2024		

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

AFFIDAVIT:

Court

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 Honourabb

Through

Muhammad Muaz Advocate Supreme Court ł.

Mühammad Adeel Butt

Advocate High Court

Elinato H"-6-

OFFICE ORDER: -

Mr. Sirajud Din, PTC, is hereby adjusted against the post of Mr. Saced Zada, PTC, GPS, Timer Dheri, who proceeding on retirement in the interest of public service.

Charge report, should be submitted to all concerned.

PRIMARI DIR AT TIMERGARA.

OFFICE OF THE DISTE: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst:NO. 900-3 /PED/Estt:/A-I Dated Timergara the /7/5/96 Copy forwarded to:-

1. The SDEO(M) Samarbagh for information.

2. The SDEO(M) Timergera for information.

3.Mr, Sirajud Din, PTC for information.

(BY:EDUCATION OFFICER)

FOR/DISTY: EDUCATION OFFICER (M)
PRIMARY DIR AT TIMERGARA.

M.Anwar/

17/3/86

ATTESTYT

OFFICE ORDER: -

Mr.Sirajud Din, Trained from Allama Iqual Open University Islamabad S/O Razrat Ummar, village Dheri Talash Distt: Dir is hereby appointed as PTC, teacher in BPS, NO.7 and his services are hereby placed at the ids disposal of the SDEO(M) Samarbagh for further adjustment with immediate effect subject to the following terms and conditions:-

- 1. Charge report should be submitted to all concerned.
- 2.He may not be handed over the charge if his age exceeds 30 years or below 18 years.
- 3. Before handing over charge to his his original documents should be checked.
- 4. His services will be terminated if he failed to take over charge with in 15 days from the date of issue of this order.

(FAZLI NAEEM KHAN)
DISTT:EDUCATION OFFICER (M)
PRY: DIR AT TIMERGARA.

OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA. Endst: NO. 600 19 /PED/A-I Dated Timergara the 19/19/95
Copy (prwarded to:-

- 1. The SDEO(N) Samarbagh for information.
- 2. The DAO, Dir at Timergara for information
- 3. The candidate concerned for information.

H.Anwar/

DISTT: EDUCATION CRICER (M) PRY: DIR AT TIME GARA

AT COLUMN

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





Personal Information of Mr SIRAJUD DIN d/w/s of HAZRAT UMAR

Personnel Number: 00263440 CNIC: 1530209103441

NTN:

- Date of Birth: 10.06.1973

Entry into Govt. Service: 19.12.1995

Length of Service: 28 Years 01 Months 014 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

80001412-DISTRICT GOVERNMENT KHYBE

DDO Code: DA6151-GOVT. PRIMARY SCHOOLS (M) TIMERGARA

Payroll Section: 001

GPF Section: 001

Cash Center; 01

648,530.00 (provisional)

GPF A/C No: EDUDA009597 GPF Interest applied Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

GPF Batance:

Pay Stage: 21

Wage type Amount			Wage type	Amount	
0001	Basic Pay	65,500.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00		Medical Allowance	1,500.00
1505	Charge Allowance	40.00		UAA-OTHER 20%(1-15)	1,000.00
2148	15% Adhoc Retief All-2013	796.00		Adhoc Relief Allow @10%	535.00
2316	Teaching Allowance 2021	3,224.00		Dispr. Red All 15% 2022KP	6,208.00
2347	Adhoc Rel Al 15% 22(PS17)	6,209.00		Adhoe Relief All 2023 35%	22.232.00

Deductions - General

	Wage type	Amount		Wage type	Amount
3015	GPF Subscription	-4,290,00	3501	Benevolent Fund	-1,200,00
3609	Income Tax	-2,215,00	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
6505	GPF Loan Principal Instal	600,000.00	-25,000.00	300,000,00

Deductions - Income Tax

Payable:

34,198.38

Recovered till JAN-2024:

14,577.00 Exempted: 8549.03 Recoverable:

11,072,35

Gross Pay (Rs.):

113,624.00

Deductions: (Rs.):

-33,440.00

Net Pay: (Ra.):

80,184.00

Payes Name: SIRAJUD DIN Account Number: PLS 1374-9

Bank Details: NATIONAL BANK OF PAKISTAN, 231869 NBP DIR AMLOOK DARA TALASH DIR, DIR

Leaves:

Opening Balance;

Availed:

Earned:

Balance:

Permanent Address: VILL D/TLALASH

City: DIR LOWER Temp. Address:

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

City:

Email: usiraj309@gmail.com

System generated document in accordance with APPM 4.6.12.9(743105/25.01.2024/v3.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted (SERVICES/02.02.2024/20:10:54)

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The Registrat, Edyber: Rekhunkhwa Bublic Service Commission, Peshawa.
The Registrat, Edyber: Rekhunkhwa Bublic Service Commission, Peshawa. ξŀ All Decity Commissioners in Khyber, pestiawar, The Registrate Pestiawar, The Registrate Pestiawar, The Registrate Pestiawar, The Manuel Pestiawar, The Man EWITHURING TAKEN A TENEDRA SUGMENDING THE STATE OF THE ST Heers, of Anached Deputations in Myber-pelainahane. All Divisional Commissioners in Khyber Pakhunkhwa.
The Principal Secretary to Cavernor Khyber Pakhunkhwa.
The Principal Secretary to Cavernor Khyber Pakhunkhwa.
All Divisional Commissioners in Khyber Pakhunkhwa.
All Husasa Al Arnoched Departments in Khyber Pakhunkhwa. Administrative Secremics to Gove, of Khyber Publishing. 1) evelopment Department. Aufditional Chief Secretary, Covi. of Khyber Pokhtunkhwa. .: of hohrwood Life TER HAND SOUTH COVERNMENT OF THE IUNTER PAR CHIEF SECRETARY . Sub-che (5) shill be deleted. VINENT : Klamen abem ad Hods Inambronin 19thing 30. (1889), ealúst (1982) don neginamina, emissión in licitarios don direction de 1989, estinarios (1989), estinarios (1980), estin Township to the Karling of the Karli The minister of Khyner Pakhininkhwi is oberson in direct by scellars, of the stationary of the stationary of the scellars, of the stationary of the stationa in extrelog of the powers conferred by section 26 of the ULOST-8 1 30 Saft Til windes ! hein G. NOTTADINGN (μες ή εντίον γίνει MTA A 1 a G THO WHELL HA FEST CHANGE HALETMAKEN CONTRAMENT OF Annexue

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, namply?**

<u>AMENDMENT</u>

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)

ARTESTED



GOVERNALEST OF KILYBER PAKISTONKI)WA ESPARESHABRET DEPARTARNT No. SO(Policy)H&ADH-972920 Dated Pedinwor the June 96, 2023

62

The Covernment of Rivier Inkhandium, Riementary & Secondary Hilacolon Department.

Subjects

GUIDANCE ARGANDING HELETIGN OF TULK RUYDER PACITUNKTIWA CIVIL SERVANTS IA PROMOTION AND TRANSPERVIULES, 1989,

I am disorted to teles so your letter No. SO(Primery-M)/II.6:SHI9/2-Dear Site 2/Appointment/2023 plated 18.04:2023 my the imblest noted shave end to stole that Sub-Ride (3) of Rule-7 of Rhyper Psikhimiklina Civil Terrinals (Appolitinant, Promotina and Transfer) Riller. 1989 monds deleted whis this depostroant northenium dated 06,08.2020; thus, no provision exists to decline or longo promotion.

- The basic retionals helial the delation of the ibid rule is simed at preventing a civil servent from temptotian for Mich pela by sycking to a single ineralive position or to prevent those who lend to force pramother to evole posting/ransfer or show took of expactly to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every sivil servant to accept promotion to every condition.
- Fundements, these officers officials who do not comply with promotion order of the competent authority or my to evada primation through different means shall be proceeded against under Khyber Pakhingkhwa Civil Servents (Efficiency & Discipline) Rules, 2011, piense.

Bridgi, Of even Na & date

Capy forwarded to the:-

PS-to Special Secretary (Reg.): Bushistanent Department. PA to Additional Secretary (Reg. II), Uztabilistanent Department. PS-to Doputy Secretary (Policy), Extebilistanent Department.

ត្រៅរកស៊ី**វវ**ែរ

Meet (Pollay)

4442-3023 AZIZIALIAH VS GOVT ÇE PG4:

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

To

The Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department.

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

Dear Sir.

t am directed to refer to your letter No SO(Primary.M/E&SED/2 – 2/Appointment/2023) dated 18.0-1.2023 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 aimid 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 lorgo 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)

(Endst), of even No & date

Copy is forwarded to :-

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

Section Officer (POLICY)

ATTESTED

-Dyernment of Knyber Pakktunkhwa ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-9223587)

N'n.SO (Primary-M)/E&SEO/2-6/2023 Coled Pashaviar Inc. June 25th, 2023

26/6/23

Τņ

The Oirector

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan

President

All Primary Teacher's Association, KP

Subject:

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION

AND TRANSFER) RULES, 1989.

| am directed to rêter 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) ESSE Department in his office.

You are, liverefore, requested to depute a representative of your respective Department to attend the meeting on a date; time & vanue as mentioned apove, please.

Encl: AA

(MUHAMMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, EASE Department Khyber Pakhlynkhwa.

SECTION OFFICER

1723 AZIZULIAH YS GOVT OF PG43

<u>=</u>0

Blc

No SO (Primary-M)/E&SED/2-6/2023 Datad Peshawar the June 25% 2023

To

The Olrector , Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar

Aziz Ullah Khan Prasident President All Primary Teacher's Association, RP

Subject

GUIDANCE REGARDING DELETION OF RULE 7(8) 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, 2029 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&SC Department in his office.

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

Encl; AA

(MUHAMMAD ISHAQ) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, R&SE Department Khyber Pakhtunidhwa.

SECTION OFFICER (PRIMARY MALE)

WP4442-2022 AZIZIJAJAH VS GOVT CF PG43

AFTESTED

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ UILAN PROVINCIAL FRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PARHTUNKHWA REGARDING OF DELETION OF RULE 7/5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

A meeting regarding the subject motter was held on 06-07-2023 at \$1.00 AM under the Chairmanship of Additional Secretary Establishment in his office. The tolkowing attended the meeting.

50		<u> </u>
-	NAME,	DESIGNATION
<u>'</u>	Mr. Fazal Wohld	Deputy Director Extablishment of Directorate Elementary & Secondary Education Department
2	MI. Aziz Ullah	Provincial President All Primary Teachars Association Khyber Pakhbrikhwa
_1	Mr. Ralagai Vilah	General Secretary APTA Pashawar
4	Muhammad Ishaq	Section Officer (Pikmary) ELSE Department Civil Secretarial Khyber Pakhtunkhwa Perhawar

- The meeting started with recitation from the Hoty Guran. The chair wetcomed
 the participants. The Deputy Director (Establishment) of Directorate of Elementary &
 Secondary Education bileted the forum regarding agenda tiem in detail.
- After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for anward submission to Establishment Department for further necessary action.

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

(Mr. Fozal Wohld)
Daputy Director-I

'(Mr. Rologot Ulloh)
General Socialory APTA
Fashmust

(Ar Ant Ullah)
(Ar Ant Ullah)
Provincial Provident
(A Primary Teachers Association
Chyper Pathlunkhwa

(Muhammod Linda)
Section Officer Primary-Male)
EBSE Deportment

١.

(Abdullah) Addillandi Secretary (bitabishmeni) E&SE Departmeni

WP4442-2023 AZIZURLAH VS GOVT CF PG43

ATASTED

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MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AXIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF DELETION OF RULE 7/51 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 Chairman hip of Additional Secretary Establishment in his office. The following attended the meeting

Sit	NAME	DESIGNATION
1.	Mr. Faxal Wahld	Oeputy Director Establishment of Directorate Elementary & Secondary Education Department
2.	Mr. Azīz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3.	Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4.	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar

- 2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.
- 3. After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit & 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 Wahld)		• •
Deputy Oirector-1		
E&SE Department		•
Provincial President		
All Primary Teachers Associa	itlon	
Khyber Pakhtunkhwa		
(Mr. Rafaqat Ullah)	•,	
General Secretary APTA		•
Peshawar		
Muhammad Ishaq)		
ection Officer (Primary-Mai	a)	•
RSE Department	•	<u> </u>
	1	
	_	(Abdullah)
,	Addition	(*PESSPÉRINGERANNESSE)
		

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AFTESTED



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ELEVENTURY LIID SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-9223587)

145. SO/Primary-M)EESED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

HUNGKUIG

4

The Secretary to Good of Khyber Pakhtunkhwa. Example note using the Admiristration Department Perhange

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

CARL SU,

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated 165° June 2023 and to state that efter deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servers (Applicatment, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials who do not comply with promotion order of the competent authority or by to evade promotion through different means shall be proceed under Khyber Pakhtunkhura Civil Servant (Efficiency & Discipline) Rufes, 2011.

In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvience while they have to seriorm duties in the remotest station with no residential or transport facility. Most of them are married with idds and elder father of mother-in-law who preed care. In such cases, there are negative effects on service delivery.

In view of the above, the said amendment may be reconsidered to the ल्याकर ज किए। teacher in primary schools.

SECTION OFFICER THILARY MALE

Copy (cryraided to the:

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

SECTION OFFIC

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49-2023 AZIZULLAH VS GOVT CF PG43

-B/c-

No.50 (Primary -M) EESED (2-21)
Approximent - Rule (2023
Pedraumy Dated 23rd August, 2023.

To

The Secretary to Government of Khybo Pakhhunbhwa. Establishment and Administration Department, Peshawar.

SUBJECT: Guidance regarding deletion of Rule 7(5) in the Cirl Servanit (Applitment, Promotion & Transfer Rules 1989)

Dear Sir,

g arm directed to refer to your letter No. Softminery

[1-3/2020 dated 6th June 2023 and to state that after

delettor of Rule 7(5) Khyber Paktounkhuso Civil Sensont (Appointment,
Promotion and Transfer Rules 1989) 9that been Intimated that
those officers officials who do not comply with promotion order

of the competent authority or try to evade promotion though

different means shall be proceed under khyber Pakhtunkhusa

Civil Servant (Efficiency and Discipline) Role 2011.

In this connection it is submitted that in some cases lady teacher of primary level who avail such promotion have to force serious incoverience while they have to perform duties in the remotest stations with no residential/trompost facilities. Must of them one manied with kids and elder father of Mather-in-law who reed once. In such cases there are negative effects on service delivery.

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

Capy forwarded to;

(Muhamad Istag)

1. Director Eq SE Khybo Itikhtarkhura

2. PS to Secretary, E & SE Department Black Attabantage

Wales

AKESTED

CHEM NO TWO BY HALLASTER CENS-COST

Actions Director (Eindal-1) - Actionsy & Secondary Education Rhyber Podhundhun

), PA to Director Local Directorole.

Copy of the above to to:-

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care it submitted for persual and necessory actions please.

Items. In the light of the minutes of meeting doted 12-06-2021.

That, is the light of the minutes of meeting doted 6-07-2021 little under the been asked of the minutes of consideration of consideration of consideration of considerations of the objects of the object o

em brief fibrary abim he bockground of the cars or under:

Thos Covernance of Alyber Foshinathwo Eriobithment Department (Regulation Phing)

delies at this 7(4) bries Chill Ecroaut (Appointment, promotion & Transfer Maier 1989)

wide, millionide (M. 6. 50.R-V) (EEAD)/1-1/2020 dated 06-08-1920.

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Deer Sir,

I am directed in refer to the letter No.504Primary-405.85EDJ-IV.

C. Minchelmites of the Heeling/PST92031 dated 10-07-2021 on the rubbest clied above and in present brief fulncy abin he background of the case or under: Dear Sir,

MINUTES OF THE MEETING

The Society (Primary-Hole), Elementing & Secondary Education Department, Klyder Pathinchino Perhawar,

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2. Master Copy 1. PA to Dirictor tocal Directorate Copy of the above to;

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offer of monotion.

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vide notification No. No. 508-VI(EEAD)1-3/2020 dealed ob-2020. delibed rille 9(5) in Civil Services (Apprintment premition of (2) Poller bolds · This Continued of 14 Establishmen depositions (Rogulation Wing)

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Elementony & Sciendony Eclocotton Ospantmend. Section Official (Annay Male)

स्टिम्सामार (२१-४-१-१२) DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

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GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT No. SO(Policy)E&AD/1-3/2020

Dated Peshawar the September 07, 2023

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 JAPPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appaintment-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.

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.

- B C-

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT No. SO(Policy)E&AD/1-3/2020 Dated Peshawar die 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 KHYPER PAICHTUNKHWA 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 dam/J 27.08.2023 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.

Section nicer (Policy

WP4447-2073 AZIZULLAH VS GOVT OF PGG

Annexure - Gy

To,

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar
- 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 3/2820, 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 premotion, 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 Escablishment Department vide its letter No. SO. (Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the Directorate of Elementary & Secondary will duration 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 Kin ber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as a 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 he proceeded under the Khyber Pakhturkhwa 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) ECD/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 00,06/2023, 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

AFTER STRAT UD DIN S/O HAZRAT UMAR, PSHT. Khyber Pakhtunkhwa

. Vefe tiffirfi Klaan Prosiden O 0111-0214648 - Cetulah 1977 Engmelisem



آل پرائمری میچرز ایسوی ایشن (ایٹا) نیبر پختونخوا

Annerme -

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عالمب: ميكرلال وللنزل 16 ميكنونا التركيش فيم يختراوا منعب، کل پرائری کچ د حدی اینی فیم پخونها

کورل ہے کہ بدو خزیر علی عدد عل اور ان اور مرکفان علم کی فیال حال ہے بدو خزہ ایک الله اذا کر اول کا علم ایک اکرکن ميري قد الك الد بدو منزد في وده م الحديد مل مل تك بدو هز في العظم في العظمة من الله على بد مال على بدو من في العل في

چیرے متی ہے۔ اور چیومو و علی و دوہم اموا بہ میں ہے جامو میں ہے سے سمب بہرمیں ہے، ہمران ن برومو میں اس کا ہوتے کہ اس افوق علی قرای دمایے ملک کیا بات فرآ کہ اور کیا گئی کہ اگر ایک اور فریقیشن ادا ہے میں کے سمائی اب پر عام پروم نی نے اگر نمی کمی ہے 3 اس کے تات مل بنا تات اور کے سمائی کدمائی کرنے کہ کہا ہے۔ معامل ہے آفری فیکیش بادان اصلا حزل کا کئی عبلہ معادل ہے مرہے کی مدمد اور بھال ہوتاں عمل میں کر فرائے اسکار کم افزال سکارے کا الالالالا

لدوکل بروسی کے در مال کا علیہ لگا ہا۔ اور بروسی نے کی میں شائل ہا کا جاتا ہے کی روزوں کا نے ک بات

المامد الدجويك س بميايا بلنتے کے تک ولیکیٹن بادگاہ نے تا پہائری اماتذہ کو اٹن فوز پر چرچ کرسا کا سلسلے شرحا ہویکا ہے۔ بلاہم یہ وتی دیکے ہیں کر کئے سامین فوفک ایکٹن لیکر سرے ہر سک بہائری اماتذہ تعرب فیمیل بہائری اماتذہ کو این اوال ظاہد سے نبات را ایکن سک

> غكرب مزن المدندان مواکی مدد آل پرافری کیمذ ایس ایش فیم پخزنزا

WP4447-2023 AZIZIBLIAH VE GOVT CF PG43

กวี กรี จักจัน

Learned coursel for the appellant present.

2. Let a pre-admission notice be Issued to the respondents dirough TCS for submission of teply/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. 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 meanwhite, no adverse action shall be taken against the appellant till next date of hearing.

derrified to be true copy(Muhammad Akbar Khan)
Member (E)

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Pate of Presentation of Application

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Grant on

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ATTESTED

JAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

SIRAJ-UD-DIN

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 delend) 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 tile and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

Lagree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority

APPELLANT

ACCEPTE

ու, Muhanimad Muazzam Butt

Advocate Supreme Court

-MUHAMMAD ADKELBUTT

Advocate High Court

BASSAM AHMAD SIDBIQUI

Advocate High Court