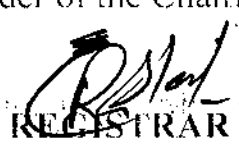


FORM OF ORDER SHEET

Court of _____

Appeal No. 1972/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/10/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 23.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A No = 1972/2024

SAHIBZADA HADI UD DIN
V/S

Government of KP & others

INDEX

S#	DESCRIPTION OF THE DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification		1-4
2.	Application for suspension		5
3.	Copy of Monthly Salary account	A.	6 - 8
4.	Copy of notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020	B.	9 - 10
5.	Copy of Impugned Letter dated June 06th, 2023	C.	11 - 13
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	14 - 17
7.	Copy of Letter dated 23-08-2023	E.	18 - 19
8.	Copy of Impugned letter dated 07-09-2023	F.	20 - 21
9.	Copy of Representation against the said notification and representation made by APTA President.	G & H.	22 23 - 24
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ADVOCATE
M. Musam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 1972 /2024

Sahibzada Hadi Ud Din son of Qazi Ghuffran Ud Din, PSHT (BPS-15)

Mohallah Muslimabad, PO Gudar, Tehsil and District Mardan

.....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. SO (Policy) /E&AD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. Copy of Impugned notification No. SO (Policy) EV AD/1-3/2020 dated 06/08/2020 is attached as Annexure B
6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June, 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned letter dated June 06th, 2023 is attached as Annexure C
7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
8. That the Respondent No.3 i.e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No. SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of letter dated 23-08-2023 is attached as Annexure E

9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Copy of impugned letter dated 07-09-2023 is attached as Annexure F

10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed. Copy of Representation against the said notification is annexed as Annexure G & H

11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

GROUNDS:-

a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020/06/06/2023 are liable to be set-aside.

b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period of 04 years and on second refusal, the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.

c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.

d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be set-aside.

- 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.

[Signature]
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.
[Signature]
Deponent

Through

[Signature]
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt
Advocate High Court

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

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Sahibzada Hadi Ud Din

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

AFFIDAVIT

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

Hadi
Deponent

Through

Hadi
Appellant

Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court

Adeel Butt
Muhammad Adeel Butt
Advocate High Court

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



Personal Information of Mr HADI UD DIN d/w/s of GHUFRAN UD DIN

Personnel Number: 00126776 CNIC: 1610129993931 NTN: 0
Date of Birth: 04.10.1969 Entry into Govt. Service: 03.10.1988 Length of Service: 35 Years 09 Months 030 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80003432-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6156-DY.DISTRICT EDUCATION OFFICER (M) M

Payroll Section: 003 GPF Section: 001 Cash Center: 21

GPF A/C No: EDUMR005392 GPF Interest applied GPF Balance: 1,032,053.00 (provisional)

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 24

Wage type		Amount	Wage type		Amount
0001	Basic Pay	71,440.00	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	2148	15% Adhoc Relief All-2013	950.00
2199	Adhoc Relief Allow @10%	637.00	2316	Teaching Allowance 2021	3,224.00
2341	Dispr. Red All 15% 2022KP	6,807.00	2347	Adhoc Rel Al 15% 22(PS17)	6,807.00
2378	Adhoc Relief All 2023 35%	24,311.00	2393	Adhoc Relief All 2024 25%	17,860.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-6,371.00	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: 101,920.65 Recovered till JUL-2024: 6,371.00 Exempted: 25479.21 Recoverable: 70,070.44

Gross Pay (Rs.): 139,956.00 Deductions: (Rs.): -12,596.00 Net Pay: (Rs.): 127,360.00

Payee Name: HADI UD DIN

Account Number: PLS000000151797

Bank Details: NATIONAL BANK OF PAKISTAN, 230365 MARDAN MAIN BRCH MARDAN MAIN BRCH, MARDAN

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: VILL QAZI ABAD PO GADDARMARDAN

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

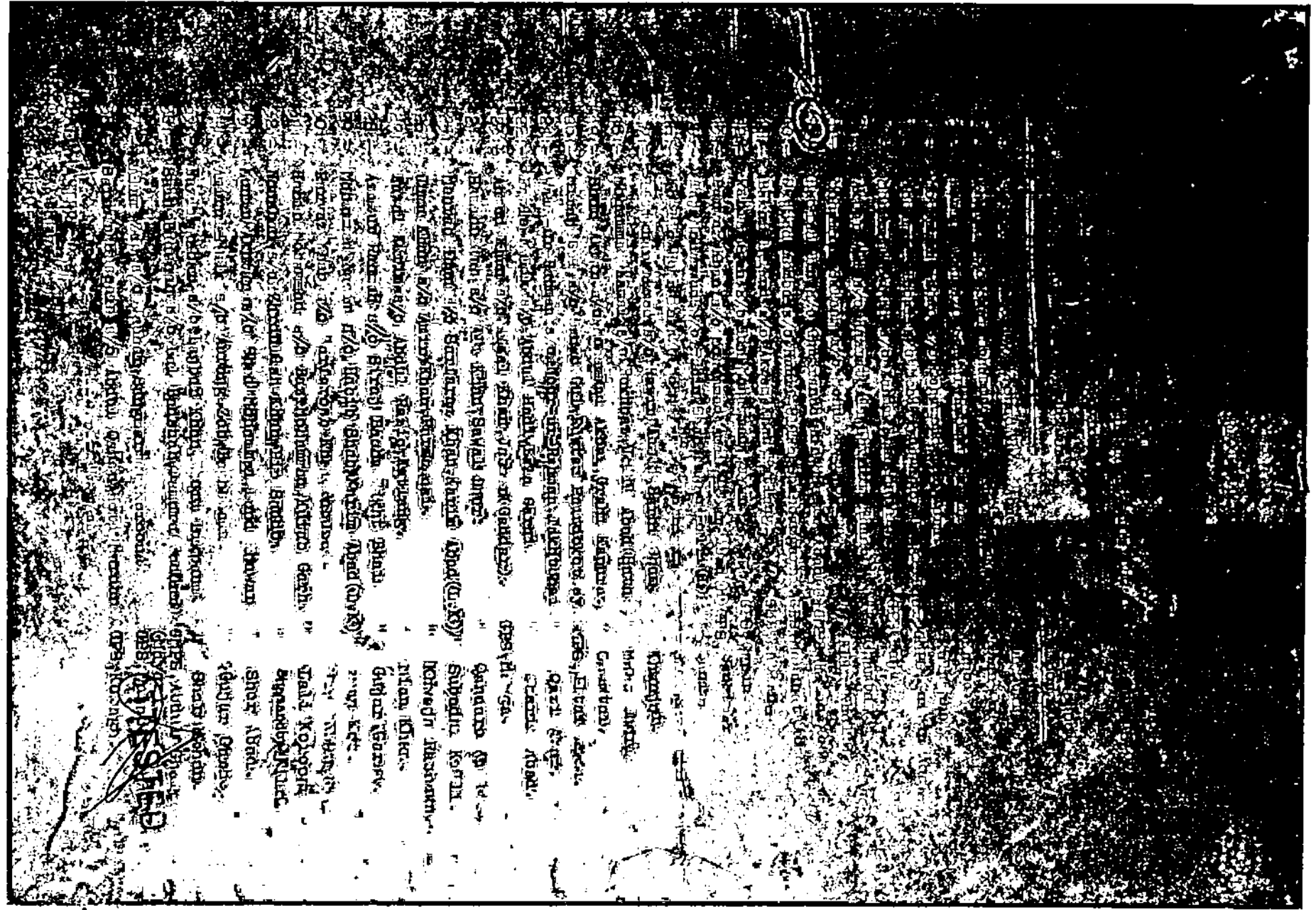
Housing Status: No Official

Temp. Address:

City:

Email: hadiuddinpsht@gmail.com

ACCEPTED



STEFAN

Beauftragter des Herrn...

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Handwritten text in a cursive script, likely a historical document or manuscript. The text is arranged in several paragraphs, with some lines appearing to be numbered or organized into sections. The script is dense and difficult to decipher due to the high contrast and graininess of the image. There are some larger, possibly decorative or significant words at the top of the page, such as "ΕΠΙΣΤΟΛΗ" (Epistle) and "ΑΠΟ ΤΟΥ" (From the). The text continues with several lines of smaller script, some of which appear to be organized into columns or sections. The overall appearance is that of an old, possibly leather-bound manuscript page.

ATTESTED

M.H. S. D.

DEPUTY SECRETARY POLICE
(WALIDAH LATIF)

ATTESTED



- 1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department, Khyber Pakhtunkhwa.
- 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
- 3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
- 4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 5. The Principal Secretaries to Government in Khyber Pakhtunkhwa.
- 6. All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 7. All Autonomous Bodies in Khyber Pakhtunkhwa.
- 8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- 9. All Deputy Commissioners in Khyber Pakhtunkhwa.
- 10. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
- 11. The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 13. The Deputy Director (IT), EA Department.
- 14. All Section Officers in Establishment & Administration Department with the request to the Section Officer (Admn), Administration Department.
- 15. The Section Officer (Admn), Administration Department.
- 16. Arrange 20 Buzelle copies.
- 17. The Director, Khyber Pakhtunkhwa Public Service Commission, Peshawar.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

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

AMENDMENT

in exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Act No. XVIII of 1973 (Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989, 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 amendment shall be made, namely:

NOTIFICATION

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGISTRATION-WING)

Annexure - B

10

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION
Dated Peshawar the, 05/08/2020

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 (Admn), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.

(WARDAH LATIF
DEPUTY SECRETARY (POLICY)

~~ATTESTED~~

ATTESTED

WORLD BANK ADMINISTRATION GOVT OF KENYA

Handwritten notes and signatures at the top of the page.

Section Officer (Policy)

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

Handwritten signature and text: (See Policy and (then) Section Officer (Policy))

Handwritten note: Under, Of even No. & Date

Handwritten initials: ASE, 2/6

2011, please.

Furthermore, these officials who do not comply with permission order of the competent authority or try to evade permission through different means shall be proceeded against under Kenya Public Order (Enforcement & Discipline) Rules.

will attempt to obtain permission in every condition.

to take higher responsibility in case of passport. Therefore, it is obligatory upon every

prevent those who tend to evade passporting rules or show lack of respect

will serve from legislation for their role by seeking to a single executive position or to

The basic rationale behind the decision of the bid rule is aimed at preventing a

provided no order to decline or large permission.

1. On directed to refer to your letter No. SO/Policy-MPT/2011/123456789

Application/2011 dated 14.04.2011 on the subject cited above and to state that Sub-Rule

of Rule 7 of Kenya Public Order (Enforcement, Discipline and Transfer)

1989 stands deleted who the captioned notification dated 04.08.2010 thus, no

To: The Government of Kenya, Parliament, Elementary & Secondary Education Department.

67. **GOVERNMENT OF KENYA, PARLIAMENT**
 No. SO/Policy/14/AD/1/2020
 Issued Pursuant to the 6th of 2012



Annexure - C

12

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

No.RO (Primary-M/E&SED/2-5/2023)
Lahore Peshawar Dtd, 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(B) 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. 60 (Policy)E&AD/1-3/2020 dated
06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at
11:00 AM in this department under the Chairmanship of Additional Secretary (E&SE)
E&SE Department in his office.

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

Encl: AA

[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

ATTESTED

~~ATTACHED~~

18-443-2023 ADDITIONAL VS GOVT OF POK

SECTION OFFICER (PRIMARY MAJL)

1. PS to Secretary, Basic Department Khyber Pakhtunkhwa.

Copy forwarded to the

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MAJL)

Such as

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

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. 50 (Policy) E&AD/1-3/2020 dated 05 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) Basic Department in his office.

Subject: GUIDANCE REGARDING DELETION OF RULE 7(S) IN THE KHYBER PAIKTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1909.

The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar
Aziz Ullah Khan President
President
All Primary Teacher's Association K/P

No 50 (Primary-K)/E&SED/2-6/2023
Dated Peshawar the June 25th 2023

18
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.


Annexure
01


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 three hours 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

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 715 IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1999).

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#	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

~~SECRET~~

WORLD-303 AZZILIAN VE GOVT CP 2013

- 2. Master Copy
- 1. PP to Director Local Directorate

Copy of the above to:
Richard Director
Elmendorf & Secondary Education
Khyber Pakhtunkhwa

The case is submitted for perusal and necessary action please.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have effected negatively a huge members of female teachers.

That in light of the minutes of the meeting dated 6-07-2022 held under the Chairmanship of Hon. Additional Secretary, Establishment of this office has been asked for submission of consolidated case.

That the government of KP-ED (Regulation wing) vide letter No. 50 (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to disallow foreign promotion or is obligatory upon every civil servant to accept promotion under any condition.

That your good office forwarded the same to a/units concerned vide letter No. 50 (Policy) E&AD/2-2/11/2023 for necessary guidance.

That the office sought guidance from your good office in the following vide notification No. No. 508-VI(E&AD)-1-3/2020 dated 08-08-2020. In that connection (Regulation wing) E&AD/1-3/2020 dated 08-08-2020. That Government of KP, Establishment department (Regulation wing) present brief history about background of case as under:

Dear Sir, I am directed to refer to letter No. (SD) Hony. M/ E&AD/1-3/6/2021/1 dated 10-7-2021 on subject cited above and to

Subject: Minutes of Meeting
KPR, Islamabad.
Elmendorf & Secondary Education Department
Section Officer (Primary-Male)
To:

DIRECTORATE OF ELMENTARY & SECONDARY EDUCATION, KPR
-B/C-
16

ATTACHED

W/1402-2023 AZIZULAH VS GOVT CP P043

Azizulah Director (Exhibit-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

Azizulah Director (Exhibit-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa
21/7/2023

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

The case is submitted for period and necessary actions please.

Departmental Promotion Committee
provided that their written refusal prior to conclusion of the meeting of
Teachers before 15-16 may be exempted of implications of the committee in the rules laid
7(1) have affected negatively a huge number of Female Teachers. That it is prepared that
in view of the above, this office is of considered opinion that the decision of Rules
being asked for regularization of consolidated case.
Chairman of the Additional Secretary Establishment at his office this office has
That in the light of the minutes of meeting dated 6-07-2023, said under the
(Temporary) No. 54580/2-1/Apko/2023 dated 13-06-2023
The same was received by this office from your good office vide letter No. 507
civil service to accept promotion under every condition.
that there shall be no provision in decline or forgo promotion. It is obligatory upon every
7(1) of the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No. 50 (Temporary) No. 54580/2-1/Apko/2023 for necessary guidance.
That your office forwarded the same to the quarter concerned vide letter
No. 507 dated 06-07-2023.
Now it is obligatory upon the civil service to accept promotion in every condition
(U) if the certificate of this civil service is either accept or turn down the offer of
promotion.
That this office bearing in mind the following words vide letter
No. 508-VI (G.A/O/1-1/2010 dated 06-08-2023.
vide notification No. 508-VI (G.A/O/1-1/2010 dated 06-08-2023.
dated Rule 7(1) in the Civil Service (Appointment, Promotion & Transfer Rules 1959)
That Government of Khyber Pakhtunkhwa Establishment Department (Regulation (Ving)
dated Rule 7(1) in the Civil Service (Appointment, Promotion & Transfer Rules 1959)
I am directed to refer to the letter No. 507 (Temporary) No. 54580/2-1/A
Q. Mr. Azizulah of the Ministry (T/2023) dated 19-07-2023 on the subject cited above and to
present brief history about the background of the case as under:

Subject - **MINUTES OF THE MEETING**
Khyber Pakhtunkhwa Fellows
The Senior Officer (Primary-Model)
Ministry of Secondary Education Department

Phone No. 91114
Email: establishment@kpb.gov.pk
Khyber Pakhtunkhwa, Peshawar
Date: 21/7/2023





ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9221587)

No. SO(Policy-M)E&SED/1-3/Appointment-Rules /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 05th 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.

(Signature)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(Signature)
SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CopiScanner

TESTED

ATTESTED

1. Director, E & SE Division, Government of Kyrgyzstan
2. PS to Secretary, E & SE Division, Government of Kyrgyzstan
Copy forwarded to:
(Municipal Level)
Sector Office (Municipal Level)

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

Dear Sir,
I am directed to refer to your letter No. SO/2022 dated 6th June 2022 and to state that after deletion of Rule 7(5) (Kyrgyz Republic Civil Servant (Appointment, Promotion and Transfer Rules 1989)) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Kyrgyz Republic Civil Servant (Efficiency and Discipline) Rules 2011.

SUBJECT: Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989)
The Secretary to Government of Kyrgyz Republic
Establishment and Administration Department
Pushkova

To
The Secretary to Government of Kyrgyz Republic
Establishment and Administration Department
Pushkova
No. SO (Promo-M) E&SE Div. 18.01/2022
Appointed - Rule 2022
Reference Dated: 23rd August, 2022

- 8/c -

19

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)

Encl. Of even No & date

Copy forwarded to the:-

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

ATTESTED

1041-2023 AZIZULLAH VS GOVT OF PK

21

B/C

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

To

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

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

Dear Sir:

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appointment-
Rule/2023 dated 03.08.2023 on the subject noted above and to state that necessary
guidance has already been tendered to your good office vide this department letter of even
No. dated 05.06.2023 (copy enclosed):

Yours faithfully,

Section Officer (Policy)

Encl. Of even No & date

Copy forwarded to the:-

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

Section Officer (Policy)

~~ATTACHED~~

22

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 28/01/2024

SAHIBZADA HADI UD DIN

SON OF
GAZI GHUFRAN UD DIN
PSHT



~~ARRESTED~~

WARRANTS-2022 AZIZULHAQ VA COVLT OF POND

Handwritten signature and date: 08/11/2022

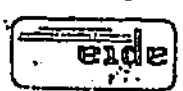
Arabic text block, likely a legal notice or court order.

Arabic text block, possibly a signature or official stamp.

Annexure - H

Arabic text block, likely a header or title.

APTA Huzari
Govt. Primary School No. 4
Dudhgaon, Peshawar City



Koyber, Pabherkhuzda

Producers
0 0111 041646
0210401970@ymail.com

Handwritten mark or signature at the bottom.

07.05.2024

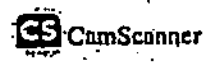


1. Learned counsel for the appellant present.
2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply/comment. Appellant is directed to deposit TCS expenses within three days. To come up for reply/comment as well as preliminary hearing on 10.06.2024 before S.D. P.D 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

Date of Presentation of Application 10-6-24
 Number of 57
 Copies 57
 Urgent 57
 Total 57
 Name of 13-6-24
 Date of 12-6-24
 Date of 12-6-24



[Handwritten signature]

ATTESTED

25

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

SAMIBZADA HADI UD DIN
Versus

Appellant

Government of KP & others:

Respondents

I (the Appellant)

do hereby appoint and retain

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

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

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

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court

MUHAMMAD ADEEL BUTT
Advocate High Court

BASSAM AHMAD SIDDIQUI
Advocate High Court