


FORM OF ORDER SHEET

Court of _____

Appeal No. 2007/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	16/10/2024	<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 2007/24

MUMTAZ KHAN

V/S

Government of KP & others

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ADVOCATE

M. Muzammar Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2007/2024

Mumtaz Khan Son of Faqir Muhammad, PSHT
GPS Tarnab Farm, Tehsil & District Peshawar

.....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 forego 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

- 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.

Munir Khan
Deponent

Munir Khan
Appellant

Through
Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

CM No. _____ -P of 2024

In Ref to

Service Appeal No. _____ /2024

MUMTAZ KHAN
VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) EAD/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY RESPONDENT NO.1, VIDE LETTER DATED 06/08/2023 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 lit. And if the notification bearing No. So (Policy) EAD/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) EAD/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 from this Honourable Court
Mumtaz Khan
Deponent

Through

Appellant

Mumtaz Khan

Muhammad Musazzam Butt
Advocate Supreme Court
Muhammad Azeel Butt
Muhammad Azeel Butt
Advocate High Court

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

S.No.	Roll No.	Name	Father's name.	Address.	PO Mark.	School where posted.	Remarks
1.	10	Shahid Ahmad.	Mir Rehman.	Govt. Elem. Collg. Pesh:	750	GPS Jherdo Gherib	badly post.
2.	82	Khalid Mohammad.	Gul Mohammad.	Vill: Dufaid Sang Pesh:	752	GPS	4/11/11
3.	83	S. Faridullah Shah.	Iraq Shah.	Vill: Topaga Peshawar.	751	GPS Badahi No3.	GPS Shahid Khan
4.	5	Mohammad Iqbal.	Jan Mohammad.	Vill: Bil Fala Peshawar.	743	GPS Lorena.	Vice. Abul Rehman transfer.
5.	132	Masood.	Mahfooz Gul.	Vill: Nuthia Peshawar.	743	GPS Nowan Killi.	Vice. Fazil Amir transferred.
6.	507	Mohammad Dahir Atique.	Abdul Latif.	Vill: Mubarak Peshawar.	741	GPS Babu Garhi.	Newly post.
7.	12	Ishfaq Masih.	Inayat Masih.	Vill: Dhan Abad Bahari.	733	GPS Sartand.	Vice. Iqbal Hussain transferred.
8.	29	Shakir Hussain.	Fazal Hussain.	Vill: Nuthia Sadqad.	722	GPS Babu Garhi.	Newly post.
9.	69	Mohammad Tahir Shah	Mohammad Latif.	Vill: Gulshan Colony Pesh:	703	GPS Badaber No2.	vice. Erick Masih transferred.
10.	164	Mohammad Haroon.	Mohammad Raqib.	Vill: Sheri Baghbanan.	701	GPS Tekkal.	vice. Mohd Ali promoted.
11.	119	Akhtar Gul.	Mohammad Sher.	Vill: Afghan Colony Pesh:	690	GPS Sangu Nol.	vice. Afzal Murtaz transferred.
12.	41	Abdul Aziz.	Imam Dab.	Vill: Badahi.	687	GPS Badahi No3.	Newly post.
13.	13	Mohammad Naem Jan.	Ghulam Murtaza.	Vill: Nuthia.	686	GPS Bridge Nasir Khan.	Newly created post. transferred.
14.	138	Noor Mohammad.	Dawa Khan.	Vill: Badaber Pesh:	684	GPS Nag Sand.	Vice. Eris Masih transfer.
15.	117	Dado Khan.	Feroz Khan.	Vill: Dufaid Sang Pesh:	679	GPS Bridge Nasir Khan.	Newly sanctioned post.
16.	29	Musam Khan.	Hoshan Khan.	Vill: ...	678	GPS Tekkal Pawan.	vice. Aurangzeb transferred.
17.	60	Hayat Khan.	Sher Behman.	Vill: ...	674	GPS Parkshan ...	

ATTESTED

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.
OFFICE ORDER/

Consequent upon the publication of advertisement in the Dailies dated 2-10-1990, and interview notice dated 15-10-1990 and the test as well as interview held by Departmental Selection Committee, District Peshawar on 18-10-1990, and regarding to the merit list the following candidates are hereby appointed as PTC Untrained/Trained teacher in the basic pay scale of Rs. 750/- fixed plus usual allowances as admissible under the Rules on the following terms and conditions w.e.f. the date he resumes charge against clear vacancies/Leave vacancies in the interest of public service on the following conditions:-

1. That they shall submit their attested photo stat copies of their certificates/Degree /Domicile Certificates/ Character Certificate/Medical Certificates OR Physical fitness issued by Civil Surgeon/verification of their antecedent from concerned D.S.F. to Distt. Education Officer (Male) Peshawar and concerned Sub-Divl. Education Officer (Male) Peshawar.
2. They will remain on probation for a period of two years from the date of resumption/duties which will be liable to be reverted to their original post OR terminated without assigning any reason and without serving notice as enunciated in the NPT, Civil Servants Act No. XVIII of 1973, Para 11 Class 182.
3. That their services are purely temporary and shall be subject to termination/dismissal at any time without assigning any reason thereof. In the case of resignation one month prior notice OR one month pay in lieu thereof, shall have to be forfeited/surrendered OR paid by the incumbent.
4. That they shall be posted anywhere in Peshawar District and they shall not be transferred from place of posting before the expiry of tenure of three years of their continuous and satisfactory service.
5. Their age should not exceed 25 years.
6. Charge report should be submitted to all concerned and No TA/DA is allowed.

NOTE:-

IF THE ABOVE MENTIONED CONDITIONS ARE NOTIFIABLE TO HIM/HER, HE/SHE SHOULD REPORT FOR DUTY TO THEIR CONCERNED SUB-DIVISIONAL EDUCATION OFFICERS WITHIN SEVEN DAYS OF ISSUE OF THIS ORDER. FAILURE WHICH IS/ THEIR APPOINTMENTS SHALL BE AUTOMATICALLY BE CANCELLED.

ATTESTED

HEAD FILE NO. 2

S.No.	Roll No.	Name.	Father's name.	Address.	PPS Marks.	School where posted.	Remarks.
16.	24.	Aurang Zair.	Abdur Rashid.	Ahmad Jan Colony Pesh:	674	GPS Banga, vice Nayef Sherazi transferred.	
19.	129.	Bakhtawar Shah.	Naib Khan.	Lala Zar Colony Pesh:	672	GPS Rankishan Muslim Abad, Newly post.	
20.	33	Shakil Ahmad.	Rahat Shah.	Sheikh Abad Peshawar	669	GPS Sarband. Newly created post.	
21	95	Mohammad Arshad	Rahim Baktash.	Sadique Akbar Colony Pesh:	668	GPS Sarband. -do-	
22	14	Mohammad Fayaz.	Essa Khan.	Vill:Wathra Pesh:	665	GPS : GPS Garhi Zaid, Newly post.	
23	140	Mohammad Ali Shah	Mir Azam Shah.	Vill:Nasir Pur Peshawar	662	GPS Lala, vice Mohd Niskia promoted to CP Post.	
24	142	Haqsood Masih.	Yaqoob Masih.	Vill:Tail Godan Peshawar	659	GPS Urmar Bala, vic Abdul Saboor transferred.	
25	84	S.Sanaullah Shet.	Attaullah Shah	Vill:Wadpaga Peshwar.	656	GPS Phardas Fa, an, vice Mohd Jamil transferred.	
26	101	Sadullah Shah.	Dilbar Shah.	Vill:Pir Bala Pesh:	651	GPS Maryam Zai, vice Mohammad Amjad transferred.	
27	168	Bakhsheeshullah.	Amanullah.	Vill:Chankani Peshawar.	650	GPS Musazai, against newly post.	
28	2	Ijaz Rashid.	Rashid Ahmad.	Karla Pur, Bazar Pesh:	675	GPS Surisai, vice Farooq Shah transferred.	
29	17	Rahmat Khan.	Misbahud Din.	Vill:Tarab Farm.	650	GPS Haji Kheal Lala Mashigagar, newly created post.	
30	31	S.Sardar Shah.	Amanullah.	Vill:Chankani Pesh:	650	GPS Haji Kheal Lala Mashigagar	
31	123	Mumtaz Khan.	Fathah Mohd.	Vill:Chankani Pur.	641	GPS Tarab Farm, Newly created post	
32	56	Filat Farooq.	Meqsood Farooq.	Fair Abad Peshawar.	638	GPS Khial Akbar Milli, Mashoga post, Newly created post.	
33	90	Fazli Amin.	Mohammad Bazi.	Ahmad Abad Peshawar.	638	-do-	
34	35	Ashrafud Din.	Muqamud Din.	Fair Abad Peshawar.	636	GPS Maryam Zai, vice Hidayatullah Rehman transferred.	

Endt: 1-40/E1
 (MAJID SALAK)
 DISTRICT EDUCATION OFFICER, PESHAWAR.
 Copy of the above is forwarded to the
 1. Accountant General, WFP, Peshawar.
 2. Director of Education (Schools) WFP, Peshawar.
 3. District Director of Education (Schools) Peshawar Division, Peshawar.
 DISTRICT EDUCATION OFFICER, PESHAWAR.
 ATTESTED
 29-11-1992

Dist. Govt: KP-Provincial
District Accounts Office Peshawar Dst.
Monthly Salary Statement (July-2022)



Personal Information of Mr MUMTAZ KHAN d/w/s of FAQIR MUHAMMAD

Personnel Number: 00025812 CNIC: 13789153753 NTN: 0
Date of Birth: 09.03.1971 Entry into Govt. Service: 01.12.1990 Length of Service: 31 Years 08 Months 001 Days

Employment Category: Vocational/Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80696670-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6574-District Peshawar

Payroll Section: 003

GPF Section: 001

Cash Center: 12

GPF A/C No: EDU 040133

GPF Interest applied

GPF Balance:

180,655.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 23

Wage type	Amount	Wage type	Amount
0001 Basic Pay	69,460.00	1004 House Rent Allow 45% KP21	8,741.00
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%	659.00	2316 Teaching Allowance 2021	3,224.00
2341 Dispr. Red All 15% 2022KP	7,006.00	2347 Adhoc Rel Al 15% 22(PS17)	7,006.00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-2,890.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-1,073.00	3990 Emp.Edu. Fund KPK	-125.00
4004 R. Benefits & Death Comp.	-600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 17,162.88 Recovered till JUL-2022: 1,073.00 Exempted: 4290.40 Recoverable: 11,799.48

Gross Pay (Rs.): 101,442.00

Deductions: (Rs.): -5,888.00

Net Pay: (Rs.): 95,554.00

Payee Name: MUMTAZ KHAN

Account Number: 9020010009485

Bank Details: NRSP BANK LIMITED, 720902 IBB PESHAWAR ISLAMIC GT RD AMIN MANSION IBB PESHAWAR

ISLAMIC GT RD, PESHAWAR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: SDEO M PESHAWAR

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official.

Temp. Address:

City:

Email: kmumtaz913@gmail.com

ATTESTED

System generated document in accordance with APPM 4.6.12.9(87333/27.07.2022/v3.0)

All amounts are in Pak Rupees

Errors & omissions excepted (SERVICES/31.07.2022/02-09-39)

(7)

Annexure - I - B -

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/8/2020

In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XXVIII of 1973) the Chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendment shall be made, namely:

AMENDMENT

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

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

EXISTING NO & EVEN DATE

Copy 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.

(Signature)
DEPUTY SECRETARY (POLICY)

ATTESTED



(Signature)

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 XVII) 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~~

RESTRICTED

MP4442-2023 AZIZULAH VS GOVT OF POK

21.6.23
2023

- 1. Copy forwarded to the:
 - 1. PS to Special Secretary (Legal) Establishment Department
 - 2. PS to Additional Secretary (Legal-III), Establishment Department
 - 3. PS to Deputy Secretary (Policy), Establishment Department

Legal, Of even No. & Date

45/E
2/16

Section Officer (Policy)

Section Officer (Policy)

Yours faithfully,

2014, please.

proceeded against) under Cyber Protection Civil Services (Efficiency & Discipline) Rules of the competent authority or by to evade promotion through different means shall be of the higher responsibility in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

Furthermore, those officials/officers who do not comply with promotion order shall be held liable for the same. The basic rationale behind the above rule is to prevent a promotion from being given to a person who is not eligible for it on the basis of his/her present position or to prevent those who are not eligible for promotion from being promoted. The rule is intended to prevent a promotion from being given to a person who is not eligible for it on the basis of his/her present position or to prevent those who are not eligible for promotion from being promoted. The rule is intended to prevent a promotion from being given to a person who is not eligible for it on the basis of his/her present position or to prevent those who are not eligible for promotion from being promoted.

I am directed to refer to your letter No. SO/P/HRM-2023/1272.

Subject: APPOINTMENT OF MR. AZIZULAH IN THE
SECTION OF ADDITIONAL SECRETARY (LEGAL-III) IN THE
ESTABLISHMENT DEPARTMENT, GOVT. OF POK.

The Government of Jammu & Kashmir, Department of Public Administration.

To



ESTABLISHMENT DEPARTMENT
GOVT. OF POK
Date: 20.06.2023

Annexure - C

12

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

No.SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar (Ino. June 26th 2023

To

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

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

Subject: GUIDANCE REGARDING DELETION OF RULE 7(B) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1988.

I am directed to refer to the subject noted above and to enclose 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 (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

ac

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)


Copy forwarded to the:

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

ac

SECTION OFFICER (PRIMARY MALE)
26/6/23

WP442-703 AZIZULLAH VS GOVT OF PK


TESTED

B/c 13
No SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar the June 25th 2023

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

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

Subject: GUIDANCE REGARDING DELETION OF RULE 7(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

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALI)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALI)

~~ATTESTED~~

17

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
0

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	Muhammed 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

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

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

WP4443-2023 AZIZULLAH VS GOVT OF PK43

~~ATTESTED~~

- B/C -

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

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

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. Rafaqat 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 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 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. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

~~ATTESTED~~

- B/c -

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR
(21-7-2023)

To:

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

Subject: Minutes of Meeting

Dear Sir, I am directed to refer to letter No. (SO Primary-M) E&SED/S-1/6/2023/ Minutes of meeting/E&ST/2023 dated 10-7-2023 on subject cited above and to present brief history, about background of case as under:

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(5) in Civil Servants (Appointment, promotion, Transfer Rule 1989) vide notification No. No. SOP-VI (E&AD) 1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 5987 dated 06-07-2023
 - (i) Now it is obligatory upon civil servant to accept promotion.
 - (ii) It is prerogative of civil servant to either accept/tumdown the offer of promotion.
- That your good office forwarded the same to quanta concerned vide letter No. So. (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the government of KP-ED (Regulation Wing) vide letter No. So (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline /forgo promotion. It is obligatory upon every civil servant to accept promotion under any condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

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

The case is submitted for perusal and necessary actions please.

Copy of the above to;

1. PA to Director Local Directorate
2. Master Copy

Assistant Director
Elementary & Secondary Education
Khyber Pakhtunkhwa.~~ATTACHED~~

~~ATTACHED~~

1444-03-2023 AZZULIAN VS GOVT OF PAJ

Assistant Director (Extra-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

Assistant Director (Extra-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

21/7/2023

This letter is submitted for perusal and necessary actions please.

Department of Education Khyber Pakhtunkhwa

Teachers belong to the command in the field. It may be expected of the members of the committee that they will provide their written report to the meeting of the meeting of the committee. In view of the above, the office is of the opinion that the deletion of rules has been asked for submission of consolidated case.

Chairman, Ministry of Secondary Education at his office this office has been asked for submission of consolidated case.

That, in the light of the minutes of meeting dated 6-07-2023 held under the (Primary-4) Resolution No. 508-D/1-2/1020 dated 12-06-2023.

The same was received by this office from your good office vide letter No. 507-D/1-2/1020 dated 06-07-2023.

That there exists no provision in the rules or forgo provision. It is obligatory upon every teacher to accept provision under every condition.

That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation No. 50 (Primary-4) Resolution No. 508-D/1-2/1020 dated 12-06-2023) for necessary guidance.

That your office forwarded the same to the quarter concerned vide letter No. 507-D/1-2/1020 dated 06-07-2023.

(ii) It is the responsibility of the civil servant to either accept or turn down the offer of promotion.

(iii) Now it is obligatory upon the civil servant to accept promotion in every condition.

That this office has been advised from your good office in the following words vide letter No. 508-D/1-2/1020 dated 06-07-2023.

vide notification No. 508-D/1-2/1020 dated 06-07-2023.

dated Rule 7(2) in the Civil Service (Appointment, Promotion & Transfer) Rules 1980.

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation No. 50 (Primary-4) Resolution No. 508-D/1-2/1020 dated 12-06-2023) on the subject cited above and to present bmt history which is the background of the case as under

I am directed to refer to the letter No. 507-D/1-2/1020 dated 10-07-2023 on the subject cited above and to present bmt history which is the background of the case as under

MINUTE OF THE MEETING

The Section Officer (Primary-4), Ministry of Secondary Education, Khyber Pakhtunkhwa

Dear Sir,



8145

Minister, Khyber Pakhtunkhwa, Peshawar



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

No. SO(Policy-M)EBSED/2-2/Appointment-Rule /2023
Peshawar Dated 23rd August, 2023

Annexure
E

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


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

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated 08th 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 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.


MUHAMMAD ISMAIL
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
20/8/23

Scanned with CamScanner



~~ALTERED~~

1. Director E & SE Khyber Pakhtunkhwa
2. PS to Secretary, E & SE Department Khyber Pakhtunkhwa
Copy forwarded to:
(Muzammil Idrees)
Section Officer (Admin)
(Note)

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

I am directed to refer to your letter No. SO/Primary (Psdry) 124AD dated 11-3-2022 and to state that after deletion of Rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2012.

Dear Sir,
SUBJECT: Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989).
The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department, Peshawar.

To:
No. SO (Primary-M) E&SED 18-8/1
Appointment - Rule 2012
Peshawar Dated 23rd August 2022.
19
-b/c-
-2-

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)

Encls. Of even No & date

Copy forwarded to the:-

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


ACCEPTED

WP4442-2023 AZIZULLAH VS GOVT OF PK

20

21

- 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)

Encls. Of even No & date

Copy forwarded to the:-

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

Section Officer (Policy)

WP-443-2023 AZIZULLAH VS GOVT OF PK 43
ATTESTED

Annexure - G

To,

- 1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department Civil Secretariat, Peshawar
- 2) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar
- 3) Director Elementary and Secondary Education Department

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, 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 19/03/2024

Mumtaz Khan

MUMTAZ KHAN
SIO FAQIR MUHAMMAD
PSHT.

ATTESTED 

~~ATTACHED~~

WP4413-2023 AZZULAH VA GOVT CP POC

08/11/23
~~Signature~~

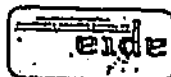
Handwritten notes in Arabic script

Main body of handwritten text in Arabic script, appearing to be a letter or report.

Handwritten notes in Arabic script at the bottom of the main text block.

Answer - H

APTA House
Govt. Primary School No.4
Dundubai, Dubai City



Kingdom of Saudi Arabia

APTA House
Govt. Primary School No.4
Dundubai, Dubai City

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUMTAZ KHAN
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.

Mumtaz Khan

APPELLANT

ACCEPTED

[Signature]
MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court

[Signature]
MUHAMMAD ADEEL BUTT
Advocate High Court

[Signature]
BASSAM AHMAD SIDDIQUI
Advocate High Court