


FORM OF ORDER SHEET

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

Appeal No. 2015 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
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  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A. No. 2015/2024

LATIF KHAN  
V/S

Government of KP & others

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ADVOCATE  
M. Musazam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2015 /2024

Latif Khan Son of Mursalin Khan, SPST  
GPS Wazir Bagh, 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 Senior Primary School 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 ~~form~~ and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

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 That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and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

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

9. That the respondent vide its letter dated 07th of September 2023, directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded, under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Copy of Impugned letter dated 07-09-2023 is attached as Annexure F
10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellants have not so far been redressed. Copy of Representation against the said notification is annexed as Annexure G & H
11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

#### GROUNDS:-

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely affects the interests of the employees or causes disadvantage to the employee, is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period of 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority, cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be set aside.

- c. 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.

*Satish Khan*  
Deponent

Appellant *Satish Khan*

Through

*Muhammad Muazzam Butt*  
Muhammad Muazzam Butt  
Advocate Supreme Court

*Muhammad Adeel Butt*  
Muhammad Adeel Butt  
Advocate High Court

*Bassam Ahmad Siddiqui*  
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

LATIF KHAN  
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 from this Honourable Court

*Latif Khan*  
Deponent

Through

*Latif Khan*  
Appellant

*Muhammad Muazzam Butt*  
Muhammad Muazzam Butt  
Advocate Supreme Court

*Adul Butt*  
Muhammad Adeel Butt  
Advocate High Court

**ARRESTED**

(Continued on Page 1)

Case No.	Date	Offense	Amount	Disposition
33	11/17/74	W/P.O. Farned from Restroom	50.04	Open
34	1/4/76	H.C. BRUCE KING Indicias S/O Manger Health H.M. J. Zahid Head Port Bagh Christan Colony Yakkoo	45.25	1996
35	2/1/75	Abdul Rahman S/O Gul Hassan Restroom	43.60	1996
36	7/2/72	Laila Khan S/O Mirzalla Khan GHS No. 1 Restroom City	43.13	1996
37	1/4/75	Mehrezood Saad S/O Farid Restroom	43.00	1996
38	1/1/71	Layad Ahmad S/O Habibur No. 1 Restroom	42.50	1996
39	15/1/71	Mehrezood Saad S/O Mehrezood Restroom City	42.22	1996
40	25/8/70	Gul Hafeez S/O Gul H.M. J. Zahid Head Port Bagh Christan Colony Yakkoo	41.13	1996
41	21/1/70	Aziz Hussain Saad S/O Abdul Qasim Restroom	41.21	1996
42	10/5/71	Palak Niaz S/O Abdul Hassan Spect No. 3 Tube Well Check Alqam Colony Restroom	40.57	1996
43	11/1/74	Mehrezood Saad S/O Gul Habibur Restroom	40.62	1996
44	1/8/71	Layad Khan S/O Palak Niaz H.M. J. Zahid Head Port Bagh Christan Colony Yakkoo	40.87	1996
45	22/1/74	Mehrezood Saad S/O Abdul Aziz Khalid Restroom	39.33	1996
46	16/1/72	Barat Khan S/O Saad Mehrezood H.M. J. Zahid Head Port Bagh Christan Colony Yakkoo	38.53	1996
47	16/1/72	Khalid Mirza S/O Hassan Khan Rana Restroom	38.51	1996
48	18/5/70	Colony Restroom S/O Towal Health H.M. J. Zahid Head Port Bagh Christan Colony Yakkoo	38.04	1996
49	9/1/76	Barat Hussain S/O Gul Habibur Restroom	36.87	1996







ATTESTED

DEPUTY SECRETARY POLICE  
QWADIAH LATIF

ATTESTED



- Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
1. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
  2. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
  3. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
  4. The Principal Secretary to Chief Minister, 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, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
  11. The Registrar, Khyber Pakhtunkhwa Public Service Commission, 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 with the request to arrange 20 gazette copies.
  15. The Section Officer (Admn), Administration Department.
- The Carriers, Administration Department.

CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

AMOUNT: NO & EVEN DATE

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

AMENDMENT

in exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XXVII 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 amendment shall be made, namely:

NOTIFICATION

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
(ESTABLISHMENT DEPARTMENT)  
(OCCUPATION WING)

Annexure - B

10

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/08/2020

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

AMENDMENT

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

CHIEF SECRETARY,  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

(WARDAH LATIF  
DEPUTY SECRETARY (POLICY)

~~ATTESTED~~

**APPROVED**

MP4447-2023 AZIZULHAQ VS GOVT OF PAK

Secretary (Policy)

Secretary (Khan)

Yours faithfully,

- 1. For Special Security (SS) Establishment Department
- 2. For Additional Security (AS) Establishment Department
- 3. For Deputy Security (DS) Establishment Department

Copy forwarded to the  
Head, Section No. 2

2011, please  
proceeded equal under Khyber Pakhtunkhwa Civil Service (Efficiency & Discipline) Rules,  
of the concerned authority or try to evade promotion through different means shall be  
Formerly, those officers/officials who do not comply with promotion order  
will accept to accept promotion in every condition.

1. To tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every  
person whose name is on the list to accept promotion to avoid posting/transfer or show lack of capability  
to accept from promotion for high jobs by seeking to a large level, position or to  
The basic rationale behind the deletion of the list is aimed at preventing a  
provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the list is aimed at preventing a  
provision exists to decline or forgo promotion.  
The Government of Khyber Pakhtunkhwa,  
Secretary & Secretary (Khan)

Subject: QUANTUM - REGARDING PROMOTION OF MR. J. IN THE  
ESTABLISHMENT DEPARTMENT  
PROMOTION AND TRANSFER RULES 1989

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SP/1/1/2020  
Dated: Peshawar the 20th of June, 2023



Annexure - C



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

N.No. SO (Primary-MYE&SED/2-6/2023  
Dated Peshawar (td. June 26<sup>th</sup>, 2023

To

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

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

*[Handwritten Signature]*  
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(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 (Estab)  
E&SE Department in his office.

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

Encl: AA

*[Handwritten mark]*

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

Copy forwarded to the:

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

*[Handwritten mark]*

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

~~RECEIVED~~

B/c

13

No 50 (Primary-M)/E&SED/2-6/2023  
Dated Peshawar the June 25<sup>th</sup> 2023

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

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) 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. 50 (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

~~RECEIVED~~

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

Annexure  
01

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. Razaqal Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department 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

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

  
(Mr. Razaqal Ullah)  
General Secretary APTA  
Peshawar

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

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

**ATTESTED**



95  
- 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 1999).

A meeting regarding the subject matter was held on 05-07-2023 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 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. Razaqat Ullah)  
General Secretary APTA  
Peshawar

\_\_\_\_\_

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

\_\_\_\_\_

(Abdullah)

Additional Secretary (Establishment)

~~ATTESTED~~

**ATTESTED**

WPA43-2023 AZIZALAH VS GOVT OF POK

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

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

Copy of the above is as:-

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

The card is submitted for perusal and necessary actions please.

Department of Probation Committee provided they submit their written request prior to conduction of the meeting of Teachers below 15-16 may be exempted of implications in the rules held.

(5) have affected adversely a huge number of Female Teachers. Thus it is proposed that:

In view of the above, this office is of considered opinion that the deletion of rules been asked for submission of consolidated case.

Chairmanship of Hon. Additional Secretary Exhibitions at his office has

That, in the light of the minutes of meeting dated 6-07-2022, held under the

(Primary-4) E&A/DI-2/Appointment/2022 dated 12-06-2022.

The same was received by this office from your good office vide letter No.50

civil servants to accept promotion under every condition.

that they are not to be promoted in decline or for a promotion. It is obligatory upon every

(Wing) vide letter No.50 (Policy) E&A/DI-2/2020 dated 6-06-2022 categorically stand

That the Government of Khyber Pakhtunkhwa Exhibition Department (Regulation

No.50 (Primary-4) E&A/DI-2/Appointment/2022 for necessary guidance.

That your good office forwarded the same to the quarter concerned vide letter

promoted.

(ii) It is the prerogative of the civil servants to either accept or turn down the offer of

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

No.6887 dated 04-02-2022.

That this office would be guided by your good office in the following words vide letter

vide notification No. 508-VI (E&A/DI-2/2020 dated 06-08-2020.

dated 18th Feb 70, in the Civil Servants (Appointment, promotion & Transfer Rules 1988)

That Government of Khyber Pakhtunkhwa Exhibition Department (Regulation (Wing)

present brief history about the background of the case as under:

Q.A.M/Minister of the Meeting/ST/2022 dated 10-07-2022 on the subject cited above and to

I am directed to refer to the letter No.50 (Primary-4) E&A/DI-2-11

Subject: MINUTES OF THE MEETING  
Khyber Pakhtunkhwa Exhibition Department  
The Section Officer (Primary-4/11)

Dear Sir,



No. 8145

Phone No. 972211

Email: [exhibitions@pk.gov.pk](mailto:exhibitions@pk.gov.pk)

Office: 21/1/2023

~~REGISTERED~~

MP 443-2023 AZIZULAH VS GOVT OF PKA3

Copy of the above to:  
1. PA to Director Local Directorate  
2. Master Copy  
Rahmad Director  
Elementary & 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(S) have effected negatively a huge members of female teachers.

In view of the above, this office has been asked for submission of consolidated case.  
That in light of the minutes of the meeting dated 6-07-2023 held under the chairmanship of Hon. Additional Secretary Education at his office. This office has been asked for submission of no provision to accept promotion under any condition.  
That the government of KP-ED (Regulation Wing) vide letter No. SD (Policy) E&AD/1-3/2020 dated: 6-06-2023 categorically stated that there exists no provision to accept promotion under any condition.  
That your good office forwarded the same to a/units concerned vide letter No. SD (Promotion) E&SED/2-2/11/2023 for necessary guidance.  
That your good office forwarded the same to a/units concerned vide letter No. SD (Promotion) E&SED/2-2/11/2023 for necessary guidance.  
That the office sought guidance from your good office in the following words vide letter No. 983 dated 06-07-2023.  
(i) Now it is obligatory upon civil servant to accept promotion.  
(ii) If civil servant is not willing to accept promotion then the office of promotion.  
That the government of KP Establishment department (Regulation Wing) dated rule 7(S) in Civil Servants (Appointment, Promotion, Transfer & Retention) vide notification No. No. SDP-VI (E&AD) 1-3/2020 dated 06-08-2020. That Government of KP Establishment department (Regulation Wing) present brief history, about background of case as under:  
Minister of meeting/PT/2023 dated 30-7-2023 on subject cited above and to I am directed to refer to letter No. SD (Promotion) E&SED/1-1/6/2023/ dated 15-7-2023 on subject cited above and to

To:  
Directorate of Elementary & Secondary Education, KPK  
Section Officer (Promotion) (KPK), Peshawar  
Elementary & Secondary Education Department  
KPK, Peshawar  
Subject: Minutes of Meeting  
Dear Sir, I am directed to refer to letter No. SD (Promotion) E&SED/1-1/6/2023/ dated 15-7-2023 on subject cited above and to

-B/C-  
17



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

No. SO(Policy-M)E&SE/2-2/Appointment-Rule /2023  
Peshawar Dated 23<sup>rd</sup> August, 2023

Annexure  
E

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Policy) E&AD/ 1-3/2020 dated  
05<sup>th</sup> 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.

(MUSHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(MUSHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)  
23/8/23

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ATTESTED

-B/c-

-12-

To

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

No. 55 (Primary-M) E.G.S.E.D 19.8.21  
Appointment - Rule 1/2023  
Peshawar Dated 20th August 2023.

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

Dear Sir,

I am directed to refer to your letter No. 50 (Policy) (E.G.A.D) 14-3/2020 dated 8th June 2022 and to state that after deletion of Rule 7(S) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) G-1 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 2013.

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 father of "Mother-in-law who need care. In such cases there are negative effects on service delivery. In view of above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

- Copy forwarded to;
1. Director, E.G.S.E Khyber Pakhtunkhwa.
  2. PS to Secretary, E.G.S.E Department of Education, Peshawar.
- (Probationary Teacher)  
Section Officer (Primary)  
Note)

**TESTED**

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(S) IN THE  
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,  
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,  
I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-  
2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that  
necessary guidance has already been rendered 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.

ATTESTED

WP4442-2023 AZIZULAN 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(S) IN THE  
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,  
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

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)

**TESTED**

## 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 DD6/06/2023, 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) /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&AD/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 \_\_/\_\_/2024

ATTESTED

*Latif Khan*  
LATIF KHAN  
SON OF  
MURSALIN KHAN  
SPST.



~~RECEIVED~~

WORLDWIDE MAILING SERVICE

08/11/83  
~~RECEIVED~~

Handwritten text in Arabic script, appearing to be a list or set of instructions. The text is somewhat faint and difficult to read due to the quality of the scan.

Annexure - H

Handwritten text in Arabic script, possibly a signature or title.

APTA House  
Govt. Primary School, No. 4  
Outdoor, Peshawar City



President  
Dr. Lutfi Khan  
0222-011668  
0222-011673  
0222-011674

2-3  
Khyber Pakhtunkhwa

07.05.2024



1. Learned counsel for the appellant present.
2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply/comments. Appellant is directed to deposit TCS expenses within three days. To come up for reply/comments as well as preliminary hearing on 10.06.2024 before S/O. P.P given to learned counsel for the appellant.
03. Alongwith the service appeal there is an application for suspension of Notification dated 06.06.2023 and letter dated 23.08.2023 till the final disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

Certified to be true copy (Muhammad Akbar Khan)  
Member (I)

*[Handwritten signature]*  
Muhammad Akbar Khan  
Member (I)

Date of Presentation of Application 10-6-24  
 Number of 51  
 Copies 51  
 Urgent 51  
 Total 51  
 Name of 13-8-23  
 Date of 12-6-24  
 Date of delivery of copy 12-6-24

CS CamScanner

**ATTACHED**

# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

LATIF KHAN  
Versus.

Appellant

Government of KP & others

Respondents

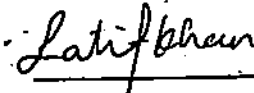
I (the Appellant)

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.



APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT  
Advocate Supreme Court



MUHAMMAD ADEEL BUTT  
Advocate High Court



BASSAM AHMAD SIDDIQUI  
Advocate High Court