


FORM OF ORDER SHEET

Court of _____

Appeal No. 1993/2024

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 style="text-align: right;">By order of the Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A-No-1993/24

SHAZIA BIBI
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
10.	Wakalat Nama		25

ADVOCATE
M. Musazam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

In Ref to

Service Appeal No 1993 /2024

Shazia Bibi Wife of Zawar Hussain, SPST
GGPS Dhari Hamida Mian, 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 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 KP without following the rules position mentioned in Para 6 above promulgated Notification No. SO- (Policy) E&AD/1- 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

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 That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and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

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

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

GROUNDS:-

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

Shazia Bibi
Deponent

Shazia Bibi
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 PAKHTUNKHUWA

CM No _____ P of 2024

In Ref to

Service Appeal No _____ /2024

**SHAZIA BIBI
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 IIs. 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.

Shazia Bibi
Appellant

AFFIDAVIT:

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

Shazia Bibi
Deponent

Through

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

30

APPOINTMENT ORDER.

The following P.T.O. Trained candidates are hereby appointed in the schools mentioned against their names in the revised EPS No. 7 (Reg-1480-81-2695) per Month plus usual allowance as admissible under the rules on merit, with effect from the date of their taking over charge.

S.No.	Name with Father's Name & Address.	Appointed.	Remarks.
1.	Shazia Bibi D/O Saïda Gul Mohi (Mall) Khel W/E.O. Turangzal, (Chaddi) Marks Obt: 905	Dhar: Hamida Khan (G.P.S.)	Against vacant post.
2.	Shagufta Begum D/O Nawab Khan Moh: Alla Dad Khel Battagram Battagram Marks Obt: 972	G.P.S. Kangra Sahya Korona.	do
3.	Shahana Basri D/O Saifay Khan Moh: Manji Khel Prang (Chaddi) Marks Obt: 893	G.P.S. Amrud Shab Korona.	do
4.	Saeed-Ul-Nisa D/O Jamil Ullah (Mall) & P.O. (Chaddi) Marks Obt: 887	G.P.S. Gulzar Abad	do
5.	Basraj D/O Rabia Rashid Moh: Baba Khel Prang (Chaddi) Distt: Marks Obt: 878	G.P.S. Dag Hal Nisatta	do
6.	Shazia Subhan D/O Fazli Subhan Vill: A.P.O. Nisatta Hassan Abad Chaddi: Marks Obt: 877	G.P.S. Abad Wakil Kor	Against newly created post.
7.	Hartanagema/Chaddi/Prang Vill: & P.O. Utmanzal (Chaddi) Marks obtained:- 856	G.P.S. Nara Utmanzal	Against vacant post.
8.	Raina Gul D/O Jan Nisar Vill: & P.O. Utmanzal (Chaddi) Marks obtained:- 856	G.P.S. Hafizjee Cala	do
9.	Salma Mlahi D/O Fazli Ilah Moh: Goshan Gar (Charradda) Marks obtained:- 853	G.P.S. Abdul Wakil Kor	Against newly created post.
10.	Amara Gul D/O Ashraf Ullah Moh: Miangan Tangi Nasretzal (Chaddi) Marks Obt:- 853	G.P.S. GHANDERI,	Against vacant post.
11.	Farkhanda-Poo D/O Mohammad Munaf Moh: Killi Sariron Utmanzal (Chaddi) Marks Obt:- 849	G.P.S. GMS Haroasa	do
12.	Safina Gul S/O Nasir Ahmad Shab Moh: Cagi Khel Qadeem (Chaddi) Marks Obtain:- 848	G.P.S. Nulyan Nisatta	do
13.	Soema Nae D/O Abdul Fayum Moh: Daulat Pura Vill: & P.O. Daulat-Zai (Chaddi) Marks Obt: 848	G.P.S. Jumar	do
14.	Huma Gul D/O Mishab-Ud-Din Moh: Mora Khel V. & PO Chaddi Marks obtained:- 837	G.P.S. Shabra	do
15.	Shabina Begum D/O Murtaza Khan Moh: & Vill: Amba Dhor, (Chaddi) Marks obtained:- 826	G.P.S. Kander	do

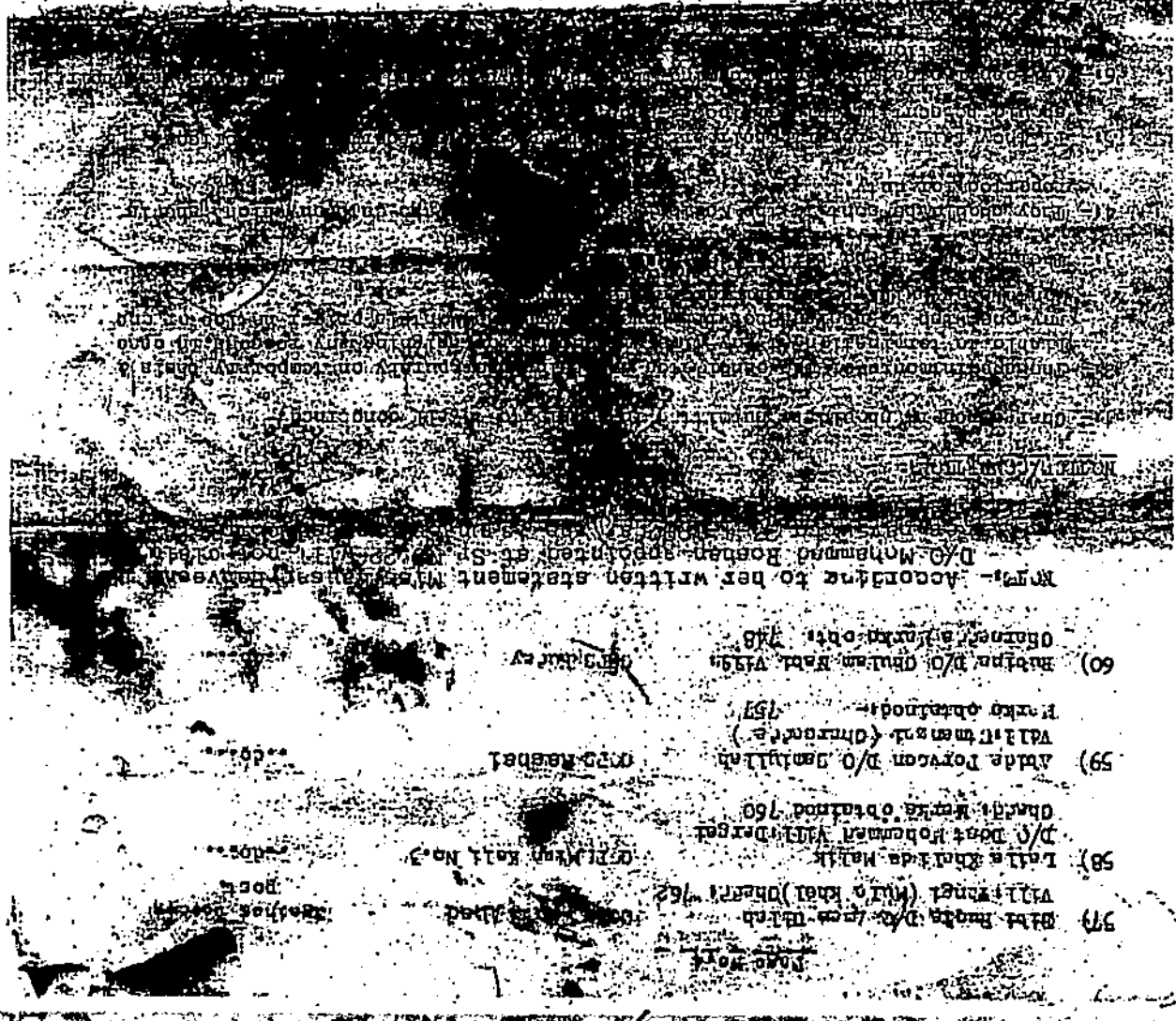
40
ATTESTED

APPROVED

DIRECTOR DISTRICT OFFICE
(MAY 27 1997)

Copy of the above is forwarded for information & necessary action to the following:
1-2) Sub-Divisional Station Officer (Female) to be interviewed with the candidate to check the criminal record of the candidate, before handing over immediately to the candidate and submitted a copy of charges reported to this office.
3) District Accounts Officer to check.
4) D/O Director Primary Education, P.W.D., for information please.
5-6) District Officer to check.

DIRECTOR DISTRICT OFFICE
(MAY 27 1997)



- 60) Mr. D/O, P.W.D., P.O. 1997
- 59) Mr. D/O, P.W.D., P.O. 1997
- 58) Mr. D/O, P.W.D., P.O. 1997
- 57) Mr. D/O, P.W.D., P.O. 1997

DIST. Govt. KP - Provincial
District Accounts Office Peshawar Dist.
Monthly Salary Statement (May-2024)



Personal Information of Miss SHAZIA BIBI d/w/s of SAIDA GUL KHAN

Personnel Number: 00050985 CNIC: 1730126710592 NTN: 0
 Date of Birth: 17.04.1976 Entry into Govt. Service: 01.02.1997 Length of Service: 27 Years 04 Months 001 Days

Employment Category: Vocational Temporary

Designation: SENIOR PRIMARY SCHOOL TEA 80678603-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6572-District Peshawar

Payroll Section: 002

GPF Section: 001

Cash Center: 83

GPF A/C No: EDCHD004803

GPF Interest applied

GPF Balance:

338,476.00 (provisional)

Vendor Number: 30563829 - SHAZIA BIBI 4096875973 NBP

Pay, and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 14

Pay Stage: 22

Wage type	Amount	Wage type	Amount
0001 Basic Pay	60,810.00	1004 House Rent Allow 45% KP21	8,640.00
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
2148 15% Adhoc Relief All-2013	796.00	2199 Adhoc Relief Allow @10%	535.00
2316 Teaching Allowance 2021	3,036.00	2341 Dispr. Red All 15% 2022KP	5,787.00
2347 Adhoc Rel Al 15% 22(PS17)	5,787.00	2378 Adhoc Relief All 2023 35%	20,674.00

Deductions - General

Wage type	Amount	Wage type	Amount
3014 GPF Subscription	-3,900.00	3501 Benevolent Fund	-1,200.00
3543 Professional Tax	-1,200.00	3609 Income Tax	-1,914.00
3990 Emp. Edu. Fund KPK	-135.00	4004 R. Benefits & Death Camp	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6501	HBA Loan Principal Instal	250,000.00	2,084.00	224,992.00

Deductions - Income Tax

Payable: 29,543.88 Recovered till MAY-2024: 20,244.00 Exempted: 7385.94 Recoverable: 1,913.94

Gross Pay (Rs.): 110,421.00 Deductions: (Rs.): -11,033.00 Net Pay: (Rs.): 99,388.00

Payee Name: SHAZIA BIBI

Account Number: 4096875973

Bank Details: NATIONAL BANK OF PAKISTAN, 230443 NAMAK MANDI NAMAK MANDI, NAMAK MANDI

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: PESH

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: hshazia91@gmail.com

ATTESTED

System generated document in accordance with APPM 4.6.12.9(87333/24.05.2024/v3.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted (SERVICES/03.06.2024/22-05:26)

Annexure - B -

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/18/2020

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

AMENDMENT

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

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

LIST NO & EVEN DATE

Copies forwarded to:-

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

(Signature)
DEPUTY SECRETARY (POLICY)

ATTESTED

ATTESTED



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

WFO4447-2023 AZIZULHAM VS GOVT OF PAK

Secretary (Policy)
Secretary (Khan)
Secretary (Policy)

Copy forwarded to the:-
1. P3 to Special Security (Head, Establishment Department)
2. P4 to Additional Security (Head, Establishment Department)
3. P5 to Deputy Security (Policy), Establishment Department

Radio: 10/05/2023

7/6

2011, please.
proceeded against under (Khyber Pakhtunkhwa Civil Services (Integrity & Discipline) Rules, of the competent authority or try to evade punishment through different means shall be further, these officers/staffs who do not comply with promotion order will serve to accept promotion in every condition.
1. The basic rationale behind the decision of the bill rate is aimed at preventing a person from being promoted to a single level or above lack of capacity or to prevent those who lead to force promotion to evade position/level or above lack of capacity to take higher responsibilities in case of promotion. Therefore, it is obligatory upon every provision order to decline or force promotion.
2. P/Advertisement dated 18.04.2023 on the subject noted above and to state that Sub-Rule (5) of Rule 7 of Khyber Pakhtunkhwa Civil Services (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with its explanatory notification dated 08.08.2020; that, no provision order to decline or force promotion.
I am directed to refer to your letter No. ROP/Secretary-M/MS-3022-130 dated 15.04.2023 on the subject noted above and to state that Sub-Rule (5) of Rule 7 of Khyber Pakhtunkhwa Civil Services (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with its explanatory notification dated 08.08.2020; that, no provision order to decline or force promotion.

To
The Government of Khyber Pakhtunkhwa,
Secretary & Security Division, Peshawar.
Subject:-
QUANQUA, IRFANULHAQ, DIRECTOR OF WORKS IN THE
KHYBER PAKHTUNKHWA CIVIL SERVICES (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO/Policy/KAD/2023
Dated Peshawar the 06, 2023



Amexuke - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Form No.091-0223507)

No.50 (Primary-MVE&SED/2-8/2023
Dated Peshawar the June 28th 2023

To

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

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

[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 (E&AD)
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]

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

Copy forwarded to the:

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

[Handwritten mark]

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

~~RESTRICTED~~

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(S) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1909.

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

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

Encl AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4443-2023 AZIZULLAH VS GOVT CP PG43

~~ATTESTED~~

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
①

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. Razaqal 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

(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

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

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(S) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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SN	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

WPA442-2023 AZIZULAH VS GOVT CP 6043

Assistant Director (Ex-11)
Elementary & Secondary Education
Khyber Pakhtunkhwa

1. PA to Director (Local) Directorate
2. Master Copy

Copy of the above is to:-

Assistant Director (Ex-11)
Elementary & Secondary Education
Khyber Pakhtunkhwa
17/06/2023

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.
provided they wish their names to be considered for promotion in the meeting of
Teachers below 15-16 may be requested of teachers. This is proposed that
7(2) have effect negatively a huge number of female teachers. This is proposed that
in view of the above, this office is of considered opinion that the deletion of rules
has been asked for examination of considered case.
Chairman/Secretary of Khyber Pakhtunkhwa Secretariat at his office this office has
That, in the light of the minutes of meeting dated 6-07-2023 held under the
(Priority-1) 655ED7-2/4 appointment/2023 dated 12-06-2023.
The same was received by this office from your good office with letter No.50
civil servant to accept promotion under every condition.
that there will be no provision in decline or forgo promotion. It is obligatory upon every
Wing) vide letter No.50 (Policy) 654/D/1-2/2020 dated 6-06-2023 categorically stated
That the Government of Khyber Pakhtunkhwa Secretariat Department (Regulation
No.50 (Priority-1) 655ED7-2/4 appointment/2023 for necessary guidance.
That your good office forwarded the same to the quarter concerned with letter
provision.
(ii) It is the policy of the civil servant to either accept or turn down the offer of
(i) Now it is obligatory upon the civil servant to accept promotion in every condition.
No.6987 dated 04-07-2023.
That this office has been guided from your good office in the following words vide letter
vide mail/circular No. No.50-R-VI (654/D/1-2/2020 dated 06-08-2020.
That Government of Khyber Pakhtunkhwa Secretariat Department (Regulation Wing)
dated rule 7(2) in the Civil Servants (Appointment, Promotion & Transfer Rules 1990)
vide mail/circular No. No.50-R-VI (654/D/1-2/2020 dated 06-08-2020.

Subject - **MINUTES OF THE MEETING**
Khyber Pakhtunkhwa Secretariat
Elementary & Secondary Education Department
The Section Officer (Priority-11)

104
Khyber Pakhtunkhwa Secretariat
No. 2145
Phone: 091-1111111
Email: info@kpk.gov.pk



ATTESTED

MP 4417-2023 AZZULIAH VS GOVT OF POKS

2. Master Copy
1. PA to Director Local Directorate
Copy of the above to:
Harold Director
Director of Secondary Education
Khyber Pakhtunkhwa

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.
The case is submitted for perusal and necessary action please.

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

That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) EQAD/1-3/2020 dated 6-06-2023 retroactively stated that there exists no provision to debar/jump promotion. It is obligatory upon every civil servant to accept promotion under every condition.

That you good office forwarded the same to quarters concerned vide letter No. SO (Promotion) EQAD/2-2/11/2023 for necessary guidance.

That this office sought guidance from your good office in the following vide notification No. NA SOP-VI (EQAD) 1-3/2020 dated 06-08-2020. It is obligatory upon civil servant to accept promotion.

That Government of KP Establishment department (Regulation Wing) added rule 7(S) in Civil Servants (Appointment, Promotion, Transfer, etc) Rules 1979.

I am directed to refer to letter No. SO (Promotion) EQAD/5-1/6/2023 dated 20-7-2023 on subject cited above and to present brief meeting about backward of case as under.

Subject: Minutes of Meeting.

Section Officer (Primary Male)
Directorate of Elementary & Secondary Education, KPK
KPK, Peshawar

To:
Directorate of Elementary & Secondary Education, KPK
Peshawar (21-7-2023)

-B/C-



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-0223587)

No. SO(Priary-M)E&SED/1-2/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
06th 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.

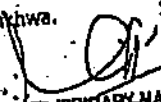
2. In this connection it is submitted that in some cases lady teacher of primary
level who avail such promotions have to face serious inconvenience while they have to
perform duties in the remotest station with no residential or transport facility. Most of
them are married with kids and elder father 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.


(MUHAMMAD ISMAIL)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
23/8/23

Scanned with CamScanner

ATTESTED

~~ATTACHED~~

1. Director E & SE Khyber Pakhtunkhwa.
2. PS to Secretary, E & SE Department of Khyber Pakhtunkhwa.
Copy forwarded to:
(Muzammad Ishaq)
Section Officer (Primary)
(Muzammad Ishaq)

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.

Dear Sir,
I am directed to refer to your letter No. SO (Primary) (Pozay) / EA / AD / 13/2020 dated 04/June/2023 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 don't 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 2011.

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 & SE / 18-21 / Appointment - Rule / 2023
Peshawar Dated 23rd August 2023

Annexure - F



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

~~REQUESTED~~

20

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
event(No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

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

W0442723 AZIZULLAH VS GOVT OF PK 13

- B/c -

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)E&AD/L-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(B) 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)

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.

Section Officer (Policy)

ATTESTED
[Signature]

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&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 9/03/2024

ATTESTED

Shazia Bibi
 SHAZIA BIBI
 WIFE OF
 ZAWAR HUSSAIN
 SPST

~~ARRESTED~~

WP443-2023 AZZULAH VS GOVT OF PAJK

Handwritten signature and date: 08/11/23

Handwritten text in Arabic script, appearing to be a list of items or a detailed report.

Handwritten signature and date: 08/11/23

Annexure - H

Handwritten text in Arabic script

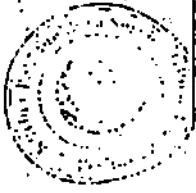
APTA House 1
Govt. Primary School No. 4
Gulbarga, Karnataka, India



Kyber Pakhtunkhwa

President
0 0222 041648
www.apta.org.pk

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.J. 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 (S)

[Handwritten signature]
13/5/24

Date of Presentation of Application 10-6-24
 Number of 1
 Copies 1
 Urgent SI
 Total SI
 Name of SI
 Date of 13-6-24
 Date of delivery of copy 17-6-24

~~APPROVED~~

WAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

SHAZIA BIBI
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

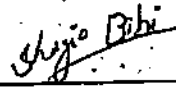
MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

MUMTAZ KHAN
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
10.	Wakalat Nama		25

ADVOCATE
M. Muzam Butt