


FORM OF ORDER SHEET

Court of _____

Appeal No. 2002 /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</p> <p> REGISTRAR</p>

S.A # 2002/2024

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

AMEER AFZAL
V/S

Government of KP & others

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ADVOCATE
M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2002 /2024

Ameer Afzal Son of Zewar Shah, PSHT (BPS-15)
GPS Dawan Shah Banda, Tehsil Sakhakot & District Malakand

.....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 SHÉWETH:

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) /E&AD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department, (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020.
Copy of Impugned notification No. 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.

4)

- 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

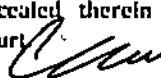
It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO:1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down 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.

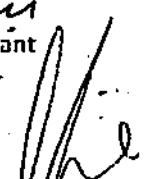
AFFIDAVIT:

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.


Deponent


Appellant

Through


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court


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

5)

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

CM No _____ -P of 2024

In Ref to

Service Appeal No _____ 2024

AMEER AFZAL

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

AFFIDAVIT

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

[Signature]
Deponent

[Signature]
Appellant

Through *[Signature]*
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt
Advocate High Court

b)

Personal Information

Name: Amir Afzal
Designation: PSHT (BPS-15)
Work Place: GPS Gul Muqam
Dargai
Department: EASE KPK
Contact No.1: 03459349760 ✓
Contact No.2: 03167710461 ✓
CNIC No. 15401-3054446-3
Address: Mayar Sakhakot
District
Malakand KPK.

ATTESTED

7)

**Dist. Govt. NWFP-Provincial
District Accounts Office Malakand
Monthly Salary Statement (July-2024)**



Personal Information of Mr AMIR AFZAL d/w/s of ZEWAR SHAH
 Personnel Number: 00240931 CNIC: 1540130544463
 Date of Birth: 30.03.1974 Entry into Govt. Service: 21.09.1996

NTN:
 Length of Service: 27 Years 10 Months 012 Days

Employment Category: Active Temporary
 Designation: PRIMARY SCHOOL HEAD TEACH 80002421-DISTRICT GOVERNMENT KHYBE
 DDO Code: MD6081-DY: D.O (M PRY) DARG
 Payroll Section: 002 GPF Section: 001 Cash Center: 05
 GPF A/C No: EDUMD004751 Interest Applied: Yes GPF Balance: 351,006.00
 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	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1505	Charge Allowance	40.00	1911	Compen Allow 20% (1-15)	1,000.00
2148	15% Adhoc Relief All-2013	857.00	2199	Adhoc Relief Allow @10%	575.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 15% 2022KP	6,608.00
2347	Adhoc Rel Ai 15% 22(PS17)	6,608.00	2378	Adhoc Relief All 2023 35%	23,618.00
2393	Adhoc Relief All 2024 25%	17,365.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-6,064.00	3990	Emp.Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp.	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax
 Payable: 97,022.85 Recovered till July-2024: 6,064.00 Exempted: 24255.62 Recoverable: 66,701.23

Gross Pay (Rs.): 137,235.00 Deductions: (Rs.): -12,289.00 Net Pay: (Rs.): 124,946.00

Payee Name: AMIR AFZAL
 Account Number: 4607-1
 Bank Details: HABIB BANK LIMITED, 221225 SAKHA KOT SAKHA KOT, SAKHA KOT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: SAKHAKOT
 City: MALAKAND
 Temp. Address:
 City:

Domicile: NW - Khyber Pakhtunkhwa
 Email:

Housing Status: No Official


(Signature)
 District Accounts Officer
 District Accounts Office Malakand

ATTESTED

8)

SERVICE CERTIFICATE.

Certified that Mr. Amir Afzal S/o Zewar Shah has been serving in Education Department since 19.09.1996. At present He is serving as P5HT at GPS Gul Muqam Tehsil Dargai District Malakand.


SUB DIVISIONAL EDU. OFFICER (M)
SUB DIVISION DARGAI MALAKAND.

SDEO
Dargai Malakand

ATTESTED

OFFICE OF THE SUE, DIVISIONAL EDU. OFFICER (H) SALA HANZAI AT DARGAI
ADJUSTMENT

Consequent upon the appointment order of the following trained P.T.C. teachers issued by the District Edu. Officer (H) Primary Md, at Bathkela under endst. No. 858-69/P. No. 1/A-1/12ab, dated, 07/04/1996. And placed their service at the disposal of this office for further adjustment against any clear vacant posts the following candidates are hereby adjusted in the schools noted against their names from the date of taking over charge.

S. No.	Name of Candidate	Where Adjusted	Remarks
1)	Mr. Nigar Ahmad S/O Bakhat Ahmad Vill. Badroga	GPE, Dewan Shah Banda	Against V Post
2)	Mr. Amir Afzal S/O Zaiwar Shah Vill. Khadoo	GPE, Malikholo Banda	-----

Note:-

All terms and condition will be the same as recorded in the DDO (H) Primary, Malakand at Bathkela order no. quoted above.

(Mr. Ahmad Jan)
Sub. Divil. Edu. Officer (H)
Sala Hanzai at Dargai Md.

Endst. No. 9248-Sm dated 19/9/1996

Copy of the above is submitted for information to:

- 1:- The Distt. Edu. Officer (H) Primary Md, at Bathkela.
- 2:- The Agency Account Officer Malakand.
- 3:- Local Accountant.
- 4:- Teachers Concerned.

(Signature)
S.D.O. Male
Dargai Malakand

SUB. DIVIL. EDU. OFFICER (H)
SALA HANZAI AT DARGAI
MALAKAND AGENCY

ATTESTED

Annexure - B

GOVERNMENT OF
KHAYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGISTRATION-WING)

NOTIFICATION

Dated Peshawar the 06/8/2020

In exercise of the powers conferred by section 26 of the
Peshawar Civil Servants Act, 1973 (Khayber Pakhtunkhwa Act No. XVIII of
1973) the Chief Minister of Khayber Pakhtunkhwa is pleased to direct that in the Khayber
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 KHAYBER PAKHTUNKHWA

DATE AND EVEN DATE

Copy forwarded to:-

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



ATTESTED

(WAZIRAH LATIF)
DEPUTY SECRETARY POLICE

ATTESTED
[Signature]

11)

**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

ARRESTED

VR-0442-2023 AZIZULLAH VS GOVT OF PAK

Section Officer (Policy)

Joint Military (Policy)

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

Copy forwarded to the:

Handwritten initials and numbers: 7/16, 1/16, 1/16

2011, please.

proceeded against under Khayat Fakhruddin Civil Service (Efficiency & Discipline) Rules, of the competent authority or by to evade promotion through different means shall be

3. Furthermore, those officers/staffs who do not comply with promotion order civil service) to accept promotion in every condition.

to justify higher responsibility in case of promotion. Therefore, it is obligatory upon every prevent those who tend to forge promotion to evade posting/promote or show lack of especially all relevant facts/condition for which will be selected to a single lucrative position or to

2. The basic rationale behind the relation of this rule is aimed at preventing a provision exists to decline or forge promotion.

rules, 1989 made deleted vide this departmental notification dated 06.08.2020. Thus, no (2) of Rule-7 of Khayat Fakhruddin Civil Service (Appointment, Promotion and Transfer) Department dated 18.04.2022 on the subject noted above and to state that Sub-Rule 1 was deleted in letter to your letter No. SO(Adminy-4)/2022-11111111.

Dear Sir,

Subject: **CHARGE SHEETING UNDER SECTION 7(1) OF THE CIVIL SERVICE (DISCIPLINE) RULES, 1989**

The Government of Punjab, Government of Punjab

GOVERNMENT OF PUNJAB
 Mr. SO(Adminy) 4/2022-11111111
 dated 18/04/2022
 (dated 18/04/2022)



Annexure - C

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

No. RO (Primary-MYE&SEOR-6/2023
Dated Peshawar (tho. June 26th, 2023)

To

To: a 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(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. SD (Policy)EBAD/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))

ATTESTED

~~ATTACHED~~

WP442-2023 AZIZULLAH VS GOVT OF POK

SECTION OFFICER (PRIMARY MAIL)

1. PS to Secretary, ES58 Department (Hyber Pakhtunkhwa,

Copy forwarded to the

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MAIL)

Each AA

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

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. 50 (Policy)ESAD/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 the department under the Chairmanship of Additional Secretary (Estab) ES58 Department in his office.

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

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

To

No 50 (Primary-N)/ES58D/2-6/2023
Dated Peshawar the June 25th 2023

B/C

14

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
D

Sl	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

3. After the above 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

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

(Abdulrah)
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(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

S/N	NAME	DESIGNATION
1.	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2.	Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3.	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4.	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

3. After thorough discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

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

(Mr. Fazal Wahid)
Deputy Director-1
E&SE Department

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

ATTESTED

ATTACHED

WP 447-2023 AZIZULAH VS GOVT OF PKD

Hasnand Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

Copy of the above to:
1. PA to Director Local Directorate
2. Master Copy

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 Education at his office. This office has been called for submission of consolidated case.

That the government of KP-ED (Regulation wing) vide letter No. SO (Policy) E&ED/1-3/2020 dated 6-06-2023 accordingly stated that there shall no provision to decline / stop promotion, it is obligatory upon every civil servant to accept promotion under any condition.

That you good office forwarded the same to quarters concerned vide letter No. SO (Policy) E&ED/2-2/1/1/2023 for necessary guidance.

That the office sought guidance from your good office in the following words vide letter No. 6983 dated 06-07-2023 (15) No. 11 is obligatory upon civil servant to accept promotion (15) B-12 prescriptive of civil servant to either accept / surrender the offer of promotion.

That Government of KP Establishment department (Regulation wing) added rule 7(S) in Civil Servant (Appointment, promotion, Transfer Rule 199) vide notification No. No. SOP-VI (E&ED)-1-3/2020 dated 06-08-2020.

Minister of meeting 13/1/2023 dated 30-7-2023 on subject cited above and to present brief history about background of case as under.

I am directed to refer to letter No. SO (Policy) E&ED/1-1/6/2023 dated 13/1/2023 on subject cited above and to present brief history about background of case as under.

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

Directorate of Elementary & Secondary Education, KPK

- B/C -

171

APPROVED

W-1642-2023 AZIZULLAH VS GOVT OF PUNJ

Assistant Director (Ex-Sub-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Assistant Director (Ex-Sub-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

12/17/2023

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.
 provided they submit their written request for consideration of the meeting of
 Teachers before the 16 may be exempted of implications of the amendments in the rules held
 7(5) have affected 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.
 Chairman of the Provincial Government Establishment or his office this office has
 That in the light of the minutes of meeting dated 6-07-2023 held under the
 (Primary) 40 & SED/2-2/4/19/2023 dated 13-06-2023
 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 shall be no provision to decline or forgo promotion. It is obligatory upon every
 (Wing) who also fall in No.50 (Policy) & A.D/1-1/2020 dated 6-06-2023 correspondingly stand
 That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
 No.50 (Primary-40) & SED/2-2/4/19/2023 for necessary guidance.
 That your good office forwarded the same to the quarter concerned vide letter
 promotion.
 (ii) If it is the negative of the civil servant to other accept or turn down the offer of
 (i) Now it is suggested upon the civil servant to accept promotion in every condition.
 No.6987 dated 05-02-2023.
 That this office has the guidance from your good office in the following words vide letter
 vide notification No. SOR-VI (E&AD)/1-1/2020 dated 06-08-2020.
 That Government of Khyber Pakhtunkhwa Establishment Department (Regulation (Wing)
 dated Rule 7(5) in the Civil Servants (Appointment, Promotion & Transfer Rules 1989)

I am directed to refer to the letter No.SOP/Primary-40&SED/1-11
of the meeting/7/2023 dated 10-07-2023 on the subject cited above and to
present brief history about the background of the case as under:

ASPIRANTS OF THE FIGHTING

The Section Officer (Primary-Wing),
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Province.

Subject:-

Dear Sir,

To

Phone No. 9723144
Fax No. 9723144
Email: estab@kpk.gov.pk



Mr. 8145
R.No. 10557/UR/Secd of Cases
Dated: 21-12-2023
Khyber Pakhtunkhwa, Peshawar

19)



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

No. SO(Policy-M)EASED/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 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.

(MUSHAMMAD EBAD)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(MUSHAMMAD EBAD)
SECTION OFFICER (PRIMARY MALE)
28/8/23

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WP4442-2023 AZIZULLAH VS GOVT CP PG43

~~ATTESTED~~

20)

- B/c -

- 2 -

No. 5 (Primary - M) E & SE D / 3-2 /
Appointment - Rule / 2023

Peshawar Dated 23rd August, 2023.

To

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

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 & AD
/ 1-3 / 2020 dated 8th June 2020 and to state that after
deletion of Rule 7(S) 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 2011.

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

(Muhammad Ishaq)
Section Officer (Primary)
Male

ATTESTED

Annexure - F



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

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

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

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

Yours faithfully,

Section Officer (Policy)

Enclst. 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.

RECEIVED

WPM/47-2023 AZIZULLAH VS GOVT OF PK

211

22)

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)

Ends. Of even No & date

Copy forwarded to the:-

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

Section Officer (Policy)

ATTESTED


23)

Annexure - G

To.

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

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

Sir/ Madam:-

Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1-3/2020, dated 06/08/2020, communicated to Elementary & Secondary Education vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. That, as per notification No. SO (Policy) E&AD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the Establishment Department vide its letter No. SO.(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. That Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment/Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. In the meanwhile, the department vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

Dated 06/03/2024

Ameer Afzal
SID ZEWAR SHAH
PSHT

ARRESTED

WP442-2011 AZIZULHAN VS GOVT OF PCOJ

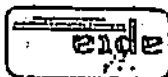
Handwritten signature and date 28/7/83

Main body of handwritten text, likely a legal document or affidavit.

Handwritten signature at the bottom of the main text.

Annexure - H

APTA House
Govt. Primary School, No. 4,
Durbondur, Fishermans City,



Kingber Pahlitznikhizua

President
0 0111-011888
0200000010777@comodo.com
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07.08.2024



21. Learned counsel for the appellant present.

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.D. 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]
13/8/24

Date of Presentation of Application	10-8-24
Number of	
Copies	5/1
Pages	5/1
Total	
Name of	
Date of	13-8-24
Date of Submission of	13-8-24

~~ATTESTED~~

261

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

AMEER AFZAL

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

BASSAM AHMAD SIDDIQUI AHC

&

ASSOCIATES OF MUAZZAM LAW FIRM

to act and appear for me in the above Suit and on my behalf to conduct and prosecute (or 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