


FORM OF ORDER SHEET

Court of _____

Appeal No. 2052/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/10/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 30.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No 2057 2024


Muhammad Iqbal

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2052 /2024

Muhammad Iqbal Son of Muhammad Irfan, SPST (BPS-15)

Village Dhandhiri, Sher ghar, PO Sher Ghar, Tehsil Augl, District Mansehra

.....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 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 appellant have not so far been redressed. Copy of Representation against the said notification is annexed as Annexure G & H
11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

GROUNDS:-

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

- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees

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


Respondent

Through


Appellant


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

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Muhammad Iqbal

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

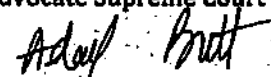
I (the appellant) do hereby solemnly stated on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein this Honorable Court.


Deponent

Through


Appellant


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court

Dist. Govt. KP-Provincial
District Accounts Office Mansehra
Monthly Salary Statement (January-2024)



Personal Information of Mr MUHAMMAD IQBAL d/w of MUHAMMAD IRFAN

Personnel Number: 00222949 CNIC: 1350485097617 NTN:
Date of Birth: 09.03.1971 Entry into Govt. Service: 22.01.1996 Length of Service: 28 Years 00 Months 011 Days

Employment Category: Active Permanent

Designation: SENIOR PRIMARY SCHOOL TTA 8066782-DISTRICT GOVERNMENT KHYRE
DDO Code: MA6339-Oghi District Mansehra
Payroll Section: 001 GPF Section: 001 Cash Center: 06
GPF A/C No: EDUMA011093 GPF Interest applied GPF Balance: 1,054,280.00 (provisional)
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 23

Wage type	Amount	Wage type	Amount
0001 Basic Pay	69,460.00	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	1968 Incentive Allowance 20%	1,000.00
2148 15% Adhoc Relief All-2013	857.00	2199 Adhoc Relief Allow 610%	575.00
2316 Teaching Allowance 2021	3,224.00	2341 Dispr. Red All 15% 2022KP	6,607.00
2347 Adhoc Rel At 15% 22(PS17)	6,608.00	2378 Adhoc Relief All 2023 35%	23,618.00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-2,800.00	3990 Emp. Edu. Fund KPK	-135.00
4004 R. Benefits & Death Comp:	-600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 43,566.19 Recovered till JAN-2024: 18,675.00 Exempted: 10891.44 Recoverable: 13,999.75

Gross Pay (Rs.): 119,869.00 Deductions: (Rs.): -9,025.00 Net Pay: (Rs.): 110,844.00

Payee Name: MUHAMMAD IQBAL
Account Number: PLS 2049-2
Bank Details: NATIONAL BANK OF PAKISTAN, 231349 SIHERGARH SIHERGARH, MANSEHRA

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: MANSEHRA
City: MANSEHRA Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address: Email: iqbal.psh567@gmail.com
City:

System generated document in accordance with APPM 4.6.17.9(50199005/25.01.2024/v3.0)
All amounts are in Pak Rupees
Errors & omissions excepted (SERVICES/02.02.2024/19:42:44)

TESTED



OFFICE ORDER NO. 22
 DATED 17/1 /1996.

APPOINTMENT

The following PTC Trained candidates in Pt-46 are hereby appointed against PTC post in GPE No.7 of Ga.148(B)-2695, plus usual Allowances admissible under the rules with effect from their taking over charge in the interest of public service with immediate effect:-

S.No.	Name of Candidate/Father's Name.	Residence	Place of posting.	Remarks.
1.	Muhammad Azam S/O Fahir Muhammad	Shergarh.	GPS Kamar Hari.	Against newly created post.
2.	Khalid Mahmood S/O Saif Mahmood.	Shahdol Mandi.	GPS Chatto.	-do-
3.	Shafiq-ur-Rehman S/O Fahir Muhammad.	Kala Maira.	GPS Pattan.	V/Past.
4.	Muhammad Iqbal S/O Muhammad Urfan.	Dam Hari.	Mosque School Khajamhar.	-do-
5.	Johanzeb S/O Rana.	Darkeela.	GPS Hui Bala.	-do-
6.	Muhammad Ilyas S/O Muhammad Ayub.	Karkhla.	GPS Datharor Chatto.	-do-
7.	Muhammad Javed S/O Abdullahi.	Khalan.	Jor Daffa GPS.	-do-
8.	Raza Muhammad S/O Abdul Aziz.	Hai Bohal.	Jor Daffa GPS.	-do-
9.	Atiq-ur-Rehman S/O Muhammad Aynaz.	Battal Maira.	GPS Sari Malval.	N.C.P.
10.	Sakhir Ahmad S/O Sher Zaman.	Khamian.	GPS Sari Malval.	-do-
11.	Muhammad Rafiq S/O Shah Zaman.	Falsala.	GPS Malkana.	-do-
12.	Alam Zeb S/O Ghulam Jullil.	Halian.	GPS Malkana.	-do-
13.	Abdul Salam, S/O Abdul Khannu.	Hai Bohal.	GPS Ghazi Kot.	V/Past.
14.	Muhammad Javed S/O Muhammad Ishaq.	Hai Bohal.	Mosque School Riar Pawan.	-do-
15.	Muhammad Riaz S/O Taj Muhammad.	Hai Bohal.	Mosque School Salehat.	-do-
16.	Zulfikar S/O Mohram.	Shakaki.	Mosque School Chamrai.	-do-

~~ATTESTED~~

~~ATTESTED~~

(MADR) PRIMEY HANSHIYA
(DISTRICT EDUCATION OFFICER)

- 1. Secretary to Government of NPP, Education Deptt, Poshwara.
- 2. The Director, Primary Education, NPP (Hayatabad) Poshwara.
- 3. District Accounts Officer, Hanashra.
- 4. Sub Divisional Education Officer (Male) Hanashra.
- 5-80. All the candidates concerned.
- 81. Superintendent Local Office.

Copy forwarded to these:-

Ending No. 701-99 Dated Hanashra the 17/11 1966.

(MADR) PRIMEY HANSHIYA
(DISTRICT EDUCATION OFFICER)

- 1. They should submit their charges report to all concerned.
- 2. Their appointment is purely on temporary basis and liable for termination at any stage without assigning any reason.
- 3. Their appointment is subject to the verification of their original academic and professional certificates/degrees. Their original academic and professional certificates should be checked thoroughly before handing over the charge and should not be handed over the charge if their original certificates are not be found correct.
- 4. No one should be handed over charge if he is below 18 years and above 50 years.
- 5. Their pay will not be drawn until they produce an and Health Certificate from Medical Superintendent PHN Hospital Hanashra.
- 6. They will be governed under prescribed service rules framed by the Government of NPP.

TERMS AND CONDITIONS

ATTESTED

MAJID AHMED
DEPUTY SECRETARY POLICE

ATTESTED



1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department, Khyber Pakhtunkhwa.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. The Principal Secretary to Government, 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 Deputy Director (IT), E&A Department.
13. The Deputy Director in Establishment & Administration Department with the request to all Section Officers (Admin), Administration Department.
14. The Section Officer (Admin), Administration Department.
15. The Section Officer (Admin), Administration Department.
16. The Section Officer (Admin), Administration Department.
17. The Section Officer (Admin), Administration Department.
18. The Section Officer (Admin), Administration Department.
19. The Section Officer (Admin), Administration Department.
20. The Section Officer (Admin), Administration Department.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

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

NOTIFICATION
Dated Peshawar, the 06/08/2020.
In exercise of the powers conferred by section 26 of the Khyber Pakhtunkhwa Civil Servants Act No. XXIII of 1973 (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:

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION-WING)

Annexure-I-B-

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~~

Annexure - C



GOVERNMENT OF KARNATAKA
ESTABLISHMENT DEPARTMENT

No. SO/Pol/1/KA/1/37022
Dated: Bellary the June 06, 2013

62

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

Subject:-
SINDANGAN USTAZHUNIL JURAGATIUN OF ILLIK JIS IN THE
KUYOKU PAIKETUNILAYA CIVIL SERVICIANER APPOINTMENT
PROMOTION AND TRANSFER RULES 1989.

Dear Sir,
I am directed to refer to your letter No. SO/Pol/1/KA/1/37022-2/A appointment/2013 dated 18.04.2013 on the subject noted above and to state that Sub-Rule (1) of Rule-7 of Khyber Pakhtunkhwa Civil Services (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with this amendment modification dated 06.08.2010. Thus, no provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the said rule is aimed at preventing a civil servant from temptation for ill-legal gains by seeking to a single alternative post/promotion or to prevent those who tend to forgo promotion to evade performance or show lack of capacity to handle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

3. Furthermore, these officers/staffs 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 Services (Efficiency & Discipline) Rules, 2011, please.

ASE
AW
7/6

Encls. 01 scan N/A & this

Copy forwarded to this:-

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

8/6/13
21.6.13

Yours faithfully,

(1) Secretary (Tech) (Chair)
Establishment (Policy)

Director (Policy)

~~ATTACHED~~

WFO447-2013 AJZULJAH VS GOVS CF PG-0



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

No.60 (Primary-M)/E&SED/2-6/2023
Dated Peshawar the June 26th, 2023

To

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

[Handwritten Signature]
26/6/23

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, 1988.**

I am directed to refer to the subject noted above and to enclose here with
a letter of Establishment Department letter No. 60 (Policy)E&SAD/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 SHAQ)
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

ATTACHED

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

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

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

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1999.

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)

WP442-2023 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

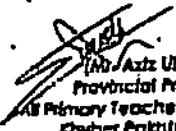
Sl	NAME	DESIGNATION
1	Mr. Fozal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Balooq Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer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

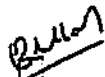
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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. Fozal Wahid)
Deputy Director
E&SE Department


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


(Mr. Balooq 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#	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)

APPROVED



No. 814

Phone: 0312 773344
Email: info@ministry.gov.kg

The Senior Officer (Primary-10),
Ministry of Education and Higher Education,
Kyrgyz Republic, Bishkek.

Dear Sir,

SUBJECT: - MINUTES OF THE MEETING

I am pleased to refer to the letter No. SO/Primary-10/852023-11 dated 10-07-2023 on the subject cited above and in present brief history about the background of the case as follows:

- That Government of Kyrgyz Republic Ministry of Education and Higher Education (Ministry) dated 10-07-2023 (No. SO-VI (E&AD)/1-2020 dated 05-08-2023) vide notification No. SO-VI (E&AD)/1-2020 dated 05-08-2023.
- That this office sought guidance from your good office in the following words vide letter No. 0087 dated 10-07-2023.
- (i) Now it is obligatory upon the civil servant to accept promotion in every condition. (ii) If in the perspective of the civil servant to either accept or turn down the offer of promotion.
- That your good office furnished the same to the quarter concerned vide letter No. 57 (Primary-10) E&AD/1-2023 for necessary guidance.
- That the Government of Kyrgyz Republic Ministry of Education and Higher Education (Ministry) vide letter No. SO (Policy) E&AD/1-2020 dated 06-06-2023 categorically stated that there shall be no provision to decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same was received by this office from your good office vide letter No. 30 (Primary-10) E&AD/1-2023 dated 12-06-2023.
- That in the light of the minutes of meeting dated 07-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office has been asked for submission of consolidated case.
- In view of the above, this office is of considered opinion that the decision of Rules 7(3) have effect retroactively a huge number of Female Teachers. Thus it is proposed that Teachers below the 16 may be exempted of implications of the amendment in the rules bid provided they submit their written request prior to conclusion of the meeting of Departmental Promotion Committee.

The case is submitted for perusal and necessary actions please.

Assistant Director (Ex-10)
Ministry of Education and Higher Education
Kyrgyz Republic
Date: 17/07/2023

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

Assistant Director (Ex-10)
Ministry of Education and Higher Education
Kyrgyz Republic

ATTESTED

MP 1442-2023 AZIZULLAH VS GOVT OF PG43

To: DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK
Section Officer (Primary Male)
KPK, Peshawar

Subject: Minutes of Meeting
I am directed to refer to letter No. (SD. Peshawar) E&SED/5-1/6000/ dated 10-7-2023 on subject cited above and to present brief history about background of case as under:

That Government of KP Establishment department (Registration Wing) dated 9/5/2023 in Civil Servants (Appointment, Promotion, Transfer etc) vide notification No. No. SOR-VI (E&ED)-1-3/2020 dated 08-08-2020. That the office sought guidance from your good office in the following words vide letter No. 6983 dated 06-07-2023. (ii) Now it is obligatory upon our servant to accept promotion. (iii) If a servant to whom offer of promotion is forwarded, the same to quare concerned vide letter No. SD (Peshawar) E&SED/2-2/110000-2023 for necessary guidance.

That the government of KP-ED (Registration Wing) vide letter No. SD (Peshawar) E&ED/1-3/2020 dated 06-07-2023 correspondingly stated that there shall no provision to decline / for promotion. It is obligatory upon every civil servant to accept promotion under every condition. 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.

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.

Copy of the case to:
1. PH to Director Local Directorate
2. Master Copy
Richard Director
Elementary & Secondary Education
Peshawar

WP443-2023 AZIZULHAQ VS GOVT OF PK

ATTACHED

- B/C -

ATTACHED

W4443-2023 AZIZULLAH VS GOVT OF POKH

Scanned with CamScanner

SECTION OFFICER (PRIMARY MALES)
28/8/23

1. Director ESSE Khyber Pakhtunkhwa, ESSE Department, Khyber Pakhtunkhwa.

Copy forwarded to the:

SECTION OFFICER (PRIMARY MALES)
28/8/23

2. In view of the above, the said amendment may be reconsidered to the extent of (b) teacher in primary schools.

3. 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 remote 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.

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 remote 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.

SUBJECT: - SUPPLANCE REGARDING DELATION OF RULE 7(5) IN THE CIVIL SERVAANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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

Annexure E

NO. SO/Primary-(M)ESSED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

ELDERINARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.081-9223587)



ATTESTED

1. Division E 9 SE Kyba Pashankhu.
2. PS & Secretary, E 9 SE Department of Kyba Pashankhu.
(Muhammad Ishaq)
Section Officer (Primary)
(Male)

Copy forwarded to:
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.

Dear Sir,
I am directed to refer to your letter No. S (Primary) (Pashankhu) (E 9 SE) dated 04/06/2023 and to state that after deletion of Rule 7(S) Kyba Pashankhu 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 Kyba Pashankhu Civil servant (Efficiency and Discipline) Rule 2013.

SUBJECT: Guidance regarding deletion of Rule 7(S) in the Civil servant (Appointment, Promotion & Transfer Rules 1989).
The Secretary to Government of Kyba Pashankhu.
Establishment and Administration Department,
Peshawar.

To
No. S (Primary-M) E 9 SE D 18-81 / Appointment - Rule / 2023
Peshawar Dated 23/ August, 2023.

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-MVE&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)

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.

ATTESTED

WP-6447-2023 AZIZULLAH VB GOVT OF PK

20

- B/C -

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

To

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

Subject -

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

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.

Section Officer (Policy)

**TESTED
 ATTESTED**

Annexure - G

To.

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

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

Sir/ Madam:-

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

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

Dated 19/02/2024



MUHAMMAD IQBAL
SON OF
MUHAMMAD IRFAN
SPST

APR 11 2013

WPM443-2013 AZIZILAH VA GOVT OF PAAS

Handwritten signature and date: 08/11/13

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

H

Annexure

Handwritten header text in Arabic script.

APTA Mansoor
Govt. Primary School, Mansoor
Qadobhar, Peshawar City



Dr. Iqbal Paktun Khawaja

President
Q 022, D-11548
www.apta.gov.pk
031-3500000

17.05.2024



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.B. P.D given to learned counsel for the appellant.

03. Alongwith the service appeal there is an application for suspension of Notification dated 06.06.2023 and letter dated 23.08.2023 till the final disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

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

[Handwritten signature]
13/5/24

Date of Presentation of Application 13-5-24
 Number of 1
 Copies 1
 Urgent 1
 Total 1
 Name of 13-5-24
 Date of 13-5-24
 Date of 13-5-24

ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD IQBAL
Versus

Appellant

Government of KP & others

Respondents

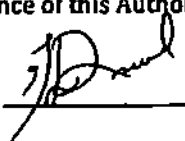
I (the Appellant)

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.

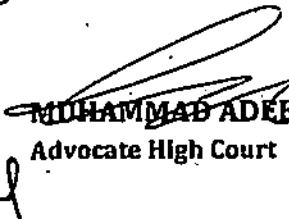


APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQUI
Advocate High Court