FORM OF ORDER SHEET

Court of _____

Appeal No. 2062 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/10/2024	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. By order of the Chairman REGISTRAR

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A No = 2062/24

Muhammad Abbas

V/S

Government of KP & others

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ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2062 /2024

Muhammad Abbas Son of Muhammad Tamas Ud Din Resident of Tehsil & District Manshera

Designation: Primary School Head Teacher at GPS Sandu

.....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

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, 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/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.

ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.
   Copy of Monthly Salary account 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 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 or 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 setaside.

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 1-2020 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.

Appellant

AFFIDAVIT:

I Muhammad Abbas Son of Muhammad Tamas Ud Din Resident of Tehsil & District Manshera 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

Through

Muhammad Muazzzam 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 ABBAS

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.

Appellant

Through

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

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

Deponent

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

Personal Information of Mr MUHAMMAD ABBAS d/w/s of MUHAMMAD TAMAZ KHAN

Personnel Number: 00221088 CNIC: 13501 13407273 NTN:
Date of Birth: 01.04.1968 Entry into Govt. Service: 01.06.1988 Length of Service: 35 Years 08 Months 001 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80627427-DISTRICT GOVERNMENT KHYBE
DDO Code: MA6337-District Mansehra
Payroll Section: 001 GPF Section: 001 Cash Center: 09
GPF A/C No: IV EDU MAN GPF Interest applied **GPF Balance:** 816,985.00 (provisional)
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 25

Wage type		Amount	Wage type		Amount
0001	Basic Pay	73,420.00	1210	Convey Allowance 2005	2,856.00
1300	Medical Allowance	1,500.00	1505	Charge Allowance	40.00
2148	15% Adhoc Relief All-2013	985.00	2199	Adhoc Relief Allow @10%	659.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 15% 2022KP	7,006.00
2347	Adhoc Rel Al 15% 22(PS17)	7,007.00	2378	Adhoc Relief All 2023 35%	25,004.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-2,972.00	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: 46,314.19 Recovered till JAN-2024: 19,879.00 Exempted: 11577.94 Recoverable: 14,857.25

Gross Pay (Rs.): 121,701.00 **Deductions: (Rs.):** -9,197.00 **Net Pay: (Rs.):** 112,504.00

Payee Name: MUHAMMAD ABBAS
Account Number: PLS 8799-9
Bank Details: NATIONAL BANK OF PAKISTAN, 230574 MAIN BRANCH BALAKOT MAIN BRANCH BALAKOT, BALAKOT

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: MANSEHRA
City: MANSEHRA Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Housing
Temp. Address:
City: Email: ma0022638@gmail.com

ATTESTED

System generated document in accordance with APPM 4.6.12.9(50399005/25.01.2024/v3.0)
** All amounts are in Pak Rupees*
** Errors & omissions excepted (SERVICES/02.02.2024/19:42:05)*

B.S (15).

31-05-013

Office of the
District Education Officer
(Male) Mansehra

1263

NOTIFICATION

In pursuance of Government of Khyber Pakhtun Khawa Peshawar Notification No SO(B&A) /1-13/SASR /2012 d 11/07/2012 and subsequently Notification issued by the District Education Officer (Male) Mansehra Endst. No 1711-850 dated /2013, latter was kept in abeyance by Office Order No 3066-3071 dated 30.03.2013, is revised under even No, date and condition

The following Primary School Head Teacher B-15 are adjusted against newly upgraded Primary School Head Teacher with immediate effect

S.L.#	The Teachers of B-15 who already occupied the post in the same school				
23	AMMAL KHAN	GPS BHOGERMANG	BHOGARMANG	DHODIAL	GPS BHOGERMANG
26	ABDUR RAHMAN	GPS DADAR	BHOGARMANG	DHODIAL	GPS DADAR
333	MUHAMMAD, HAROON	GPS BASOL	BHOGARMANG	DHODIAL	GPS BASOL
335	MUHAMMAD ASIF	GPS GRANTHALI	BHOGARMANG	DHODIAL	GPS GRANTHALI
624	AURANGZEB	GPS BHOGERMANG	BHOGARMANG	DHODIAL	GPS BHOGERMANG
933	NOOR HUSSAIN	GPS SULBANDI	BHOGARMANG	DHODIAL	GPS SULBANDI
76	AZIZ UR RAHMAN	GPS CHUNGARI	DEVLI JABAR	DHODIAL	GPS CHUNGARI
101	GHULAM SADIQ	GPS PANJOOL BALA	DEVLI JABAR	DHODIAL	GPS PANJOOL BALA
104	SHOUKAT ALI SHAH	GPS NALLA JABBAR	DEVLI JABAR	DHODIAL	GPS NALLA JABBAR
182	JEHANZEB	GPS CHILYANI	DEVLI JABAR	DHODIAL	GPS CHILYANI
184	MUHAMMAD RAFIQ	GPS TRADA	DEVLI JABAR	DHODIAL	GPS TRADA
286	SAEED AHMAD	GPS BELLA JABBAR	DEVLI JABAR	DHODIAL	GPS BELLA JABBAR
537	ZAHEER SHAH	GPS KERI SYEDAN	DEVLI JABAR	DHODIAL	GPS KERI SYEDAN
845	ANWAR ZEB	GPS CHOTA PAYEEN	DEVLI JABAR	DHODIAL	GPS CHOTA PAYEEN
1021	MUKHTIAR HUSSAIN SHAH	GPS JABBAR	DEVLI JABAR	DHODIAL	GPS JABBAR
1028	NABBIR HUSSIAN	GPS JABBAR GALI	DEVLI JABAR	DHODIAL	GPS JABBAR GALI
1031	MUHAMMAD IJAZ	GPS SUKIAN	DEVLI JABAR	DHODIAL	GPS SUKIAN
34	ASHIQ HUSSIAN SHAH	GPS TARNAIN	DHODIAL	DHODIAL	GPS TARNAIN
38	MUHAMMAD SADIQ	GPS DULLA MAIRA	DHODIAL	DHODIAL	GPS DULLA MAIRA
121	AURANGZEB	GPS SHATAY NO2	DHODIAL	DHODIAL	GPS SHATARY NO 2

Hushkar Ahmad Lachmani
AEO Balakot

ATTESTED

90	ABDUR RAUF	GPS JOSACHA	GHANOOL	KAGHAN	GPS JOSACHA
1101	MUKHTIYAR AHMAD	GPS SANGAR	GHANOOL	KAGHAN	GPS SANGAR
1246	HAMID HUSSAIN	GPS UPPER KHOLA	GHANOOL	KAGHAN	GPS UPPER KHOLA
1256	MIRZA AHMAD JAEED	GPS PAPRANG	GHANOOL	KAGHAN	GPS PAPRANG
1283	MUHAMMAD ABBAS	GPS SANDHOO	GHANOOL	KAGHAN	GPS SANDHOO
1330	MUHAMMAD ANWAR	GPS MANNA	GHANOOL	KAGHAN	GPS MANNA
16	MUHAMMAD KHALID	GPS SAVER	HANGRAI	KAGHAN	GPS SAVER
1551	ABDUR REHMAN	GPS NADI HARI WALA	HANGRAI	KAGHAN	GPS NADI HARI WALA
742	MUHAMMAD YAQUB	GPS BANJO	HANGRAI	KAGHAN	GPS BANJO
1127	ABDUL REHMAN	GPS KUND MUMCHATI	HANGRAI	KAGHAN	GPS KUND MUMCHATI
1262	AMRAR HUSSAIN	GPS HANGARI	HANGRAI	KAGHAN	GPS HANGARI
10	SYED FIR ZAMAN SHAH	GPS AGLA GRAN	KAGHAN	KAGHAN	GPS AGLA GRAN
25	SYED MUZAMMAL SHAH	GPS RAJWAL	KAGHAN	KAGHAN	GPS RAJWAL
27	NOOR ZAMAN	GPS SAOCH	KAGHAN	KAGHAN	GPS SOACH
28	MUHAMMAD ASHRAF	GPS BAGNO	KAGHAN	KAGHAN	GPS BAGNO
287	ABDUL SABOKH KHAN	GPS KAMAL BAN	KAGHAN	KAGHAN	GPS KAMAL BAN
290	MUHAMMAD ANWAR KHAN	GPS DARMINA KAMAL BAN	KAGHAN	KAGHAN	GPS DARMINA KAMAL BAN
371	MUHAMMAD ANWAR KHAN	GPS PATTEN DES NO.1	KAGHAN	KAGHAN	GPS PATTEN DES NO. 1
443	KHALID JAMIL	GPS K. J MARI	KAGHAN	KAGHAN	GPS K. J MARI
687	SAJJAD HUSSAIN SHAH	GPS KAGHAN	KAGHAN	KAGHAN	GPS KAGHAN
876	SHAHBAZ KHAN	GPS RAJWAL	KAGHAN	KAGHAN	GPS SINGAL DHERI JAREED
920	NOOR UR REHMAN	GPS DARSARY	KAGHAN	KAGHAN	GPS DARSARY
923	JUMMA KHAN	GPS JAMAL MARI	KAGHAN	KAGHAN	GPS JAMAL MARI
961	MUHAMMAD PARVEZ	GPS JUL GRAN	KAGHAN	KAGHAN	GPS JUL GRAN
985	QAZI MOSAN	GPS KORRI KAGHAN	KAGHAN	KAGHAN	GPS KORRI KAGHAN
1154	SYED SHAFQAT HUSSAIN	GPS RAJWAL BALA	KAGHAN	KAGHAN	GPS RAJWAL BALA
1286	ALI MUHAMMAD	GPS ANDRASI PHAGAL	KAGHAN	KAGHAN	GPS ANDRASI PHAGAL
1362	MUHAMMAD RIAZ	GPS LARI	KAGHAN	KAGHAN	GPS LARI

ATTESTED

4. Charge report should be submitted to all concerned with in a week of issuance of this order.

5. Their inter-seniority on lower post will remain intact.

6. They will give an under taking to be recorded in their service book to the effect that [illegible] made to them in light of this order will be recovered and if he is wrongly promoted he will be reverted.

7. Checking & verification of all the documents shall be ensure by the DDO concerned.

8. Necessary entries to this effect should be recorded in their Service/Book.

9. No TA/DA is allowed for joining their duty.

Sd/-
(SYED SALAHUD-DIN SHAH)
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

[illegible]/Estt: (G) Promotion: Primary School Head Teacher (M)/Dated [illegible]

Copy forwarded for information and necessary action to the:-

1. PS to Secretary to Government of Khyber Pakhtunkhwa E&SE Department Peshawar.
2. [illegible] Department Khyber Pakhtunkhwa Peshawar.
3. AEO/DEO (M) Circle, 1 Balakot, 2 Kaghan, 3 Pindigh, 4 Oghi, 5 Shinkiari, 6 Mansehra, 7 Plain, [illegible] Darband.
4. District Accounts Officer Mansehra.
5. District Officer Finance & Planning Mansehra.
6. [illegible] official office.
7. Officials concerned.

SUB-DIVISIONAL EDUCATION OFFICER
(MALE) MANSEHRA

ATTESTED

O.FICE OF THE DISTRICT EDUCATION OFFICER (MALE) MALAKAND.

O.N.No. 111
Dated. 31/5/1986.

APPOINTMENT:-

The following candidate are hereby appointed as Primary Teacher in in BPS-7(Rs.750/-PM fixed)plus usual allowances as admissible to them under the rules in the interest of public service with effect from the date of their taking over charge.

S.No.	Name,Fathers name & address.	School where apptt.	Remarks.
1.	Abbas Ahmad S/O Mehmood Khan R/O Dulakote.	GPS Dangar.	Against V/Pos
2.	Mohd Abbas S/O Mohd Zaman R/O Dangar Dulakote.	GPS Dangar.	---do---
3.	Gufran Ahmad S/O Ali Gohar R/O Malikpur.	GPS Ogri.	---do---
4.	Mohd Shafiqat S/O Burhaman R/O Dulakote	GPS Bella Banjri.	---do---

Note:-1.Charge report should be submitted to all concerned.

2.No.TA/DA etc is allowed to any one.

3.They should produce their age & health certificate from the Medical Superintendent Hospital Mansehra.

4.Their original certificate may be checked before handing over charge

5.They should not be handed over charge if their age is below 18 years and above 25 years.

6.The appointment are purely temporary & liable to be termination at any time without any notice.

(KHURSHID AHMAD KHAN)
DISTRICT EDUCATION OFFICER
(MALE)MANSEHRA.

Endstt.No. 5861-69/

Copy forwarded for information & n/a to the:-

1. Sub Divisional Education Officer (Male) Mansehra.
2. Headteacher Govt.Primary School concerned.
3. Candidate concerned.
4. O.O.File.

31/5/86

DISTRICT EDUCATION OFFICER
(MALE)MANSEHRA.

ATTESTED

-11-

Annexure-I -B-

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/8/2020

SO(Policy)E&AD/1-3/2020: In exercise of the powers conferred by section 25 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

EndST. NO & 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 (Admn), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.

(WAJIHAH LATIF)
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

-13-

Annexure - C

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No.SO(Policy)E&AD/1-3/2020
Dated Peshawar the June 06, 2023

To

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

Subject: **CHANGE 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)/Misc-SUDA-2/Appointment/2023 dated 18.04.2023 on the subject noted above and to state that Sub-Rule (5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06.08.2020; thus, no provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the ibid rule is aimed at preventing a civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

3. 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.

Yours faithfully,

(Isaa Muhammad Khan)
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)

ATTESTED

WP4443-2023 AZIZULLAH VS GOVT OF PG43

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

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

To

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

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

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

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

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

Encl: AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-P/23 AZIZULLAH VS GOVT OF PG43

ATTESTED

B/C -15-

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

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

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

Encl: AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4443-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

Annexure D

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF 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. Rafaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

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

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

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

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

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

(Mr. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)
Additional Secretary (Establishment)
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 OF DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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

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

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

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

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

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

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)
Additional Secretary (Establishment)

ATTESTED

Khyber Pakhtunkhwa, Peshawar
No. 8145 /F.No. 1/SSTT/Gabral Caiss... Dated 2[illegible]/7/2023
Phone: 091-9223144 Email: establishmentkhyber1@gmail.com

To

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

Subject: - MINUTES OF THE MEETING

Dear Sir,

I am directed to refer to the letter No.SO(Primary-M)E&SED/3-1/G.Misc/Minutes of the Meeting/PSTT/2023 dated 10-07-2023 on the subject cited above and to present brief history about the background of the case as under:

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, promotion & Transfer Rules 1989) vide notification No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No.6987 dated 16-02-2023:
  - (i) Now it is obligatory upon the civil servant to accept Promotion in every condition.
  - (ii) It is the prerogative of the civil servant to either accept or turn down the offer of promotion.
- That your good office forwarded the same to the quarter concerned vide letter No.SO (Primary-M) E&SED/3-2/Appointment/2023 for necessary guidance.
- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No.SO (Policy) E&AD/1-3/2020 dated 6-08-2023 categorically stated that there exists 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.SO (Primary-M) E&SED/3-2/Appointment/2023 dated 13-06-2023.
- That, in the light of the minutes of meeting dated 6-07-2023, held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office, has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge number of Female Teachers. That it is proposed that Teachers below BPS-16 may be exempted of implications of the amendment in the rules ibid provided they submit their written refusal prior to conduction of the meeting of Departmental Promotion Committee.

The case is submitted for perusal and necessary actions please.

21/7/2023

Assistant Director (Estab-I-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst: No. _____
Copy of the above is to:-

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

Assistant Director (Estab-I-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa

WP4443-2023 AFZALLAH VS GOVT CF PG43

ATTESTED

-B/C-

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK
PESHAWAR
(21-7-2023)

To:

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

Subject:- Minutes of Meeting

Dear Sir,

I am directed to refer to letter No. (SO Primary-M) E&SED/5-1/GMBL/Minutes of meeting/PST/2023 dated 10-7-2023 on subject cited above and to present brief history, about background of case as under:

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(5) in Civil Servants (Appointment, promotion & Transfer Rules 1989) vide notification No. No. SOR-VI(E&AD)1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 6987 dated 06-07-2023
  - (i) Now it is obligatory upon civil servant to accept promotion.
  - (ii) That prerogative of civil servant to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quarter concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline/forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

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

The case is submitted for perusal and necessary action please.

Copy of the above to;

1. PA to Director Local Directorate
2. Master Copy

Additional Director
Elementary & Secondary Education
Khyber Pakhtunkhwa.

WP4442-2023 AZIZULLAH VS GOVT OF PB43

ATTESTED

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

No. SO(Primary-M)E&SED/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)/ E&AD/ 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 inconvience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father of mother-in-law who need care. In such cases, there are negative effects on service delivery.

3. In view of the above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

(MUHAMMAD ISHAQ)
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)
28/8/23

ATTESTED

-B/C-

No.So (Primary-M) E&SED/8-2/
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(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989)

Dear Sir,

I am directed to refer to your letter No. So(Policy)/E&AD/1-3/2000 dated 8th 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 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 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 ammendment may be reconsidered to the extent of lady teacher in primary schools.

(Muhammad Ishaq)
Section Officer (Primary Male)

Copy forwarded to;

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

ATTESTED

Annexure-J

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.

ATTESTED

WP 444-P-2023 AZIZULLAH VS GOVT OF PGD

-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)

ATTESTED

-24- Annexure — G

To,

Dated: 22-01-2024

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

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

Sir/ Madam:-

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

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

Best Regards

Muhammad Abbas Son of Muhammad Tamas Ud Din
Resident of Tehsil & District Manshera

Khyber Pakhtunkhwa

Aziz Ullah Khan
President
0333-9412646
azizullah1973@gmail.com
apteKPK

APTA House
Govt. Primary School No.4
Gulbahar Peshawar City.

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) خیبر پختونخوا

Annexure - H

جناب: سیکرٹری ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخوا
جناب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا
جناب عالی

گزارش ہے کہ پروموشن ہر سال کے حساب سے ہوتی ہے اور سرکاری ملازم کی خواہش ہوتی ہے پروموشن کا ایک تاثر بنا کر رکھا تاکہ ہر ملازم ایک امید کے
مطابق کم از کم ایک دفعہ پروموشن لے لیتا اور اکثر پانچ سال تک پروموشن لے لیتے تھے مطلب پانچ سال تک پھر اس کی پروموشن ہو سکتی تھی
پھر اس قانون میں ترمیم کی گئی پانچ سال والی بات ختم کر دی گئی کہ اگر ایک ملازم ایک سال پروموشن نہ لے تو دوسرے سال لے سکتا ہے
لیکن اب ایک بات پہلے ایک اور ڈیفیکشن ہوا ہے
جس کے مطابق اب ہر ملازم پروموشن خود نہیں لے گا اگر کوئی لے گا تو اس کے خلاف انکوائری ہوگی اور سلیکشن کمیٹی کارروائی کرے گی
حاصل یہ آخری ڈیفیکشن ایڈیشنل چارج والی والی شق کی گئی خلاف ورزی ہے جس کی وجہ سے پرائمری اساتذہ کو انتہائی مشکلات کا
سامنا کرنا پڑے گا
ایک عام صورت میں بھی ترقی پروموشن اور سلیکشن کمیٹی کی ایڈیشنل چارج کی شق درست ہے کیونکہ خیبر پختونخوا میں بدقسمتی سے صوبائی وزراء
کی اسامی ہے ایسے صورت میں یہ ڈیفیکشن جو BASS کی ایجوکیشن لیٹر کی جواب میں کیا گیا ہے جو بنیادی اور ایڈیشنل چارج کی شق ہے
ہم اس کے خلاف عدالتی چارہ جوئی کا حق بھی محفوظ رکھتے ہیں
لہٰذا ہم آپ سے درخواست کرتے ہیں کہ کہ ڈیفیکشن کو واپس لیا جائے یا اس میں ترمیم کر کے پرائمری اساتذہ کو (Relaxation) دیا جائے اور ان کو
ترقی پروموشن لینے کی اجازت ان کو مرضی سے لینے دیا جائے
اور پروموشن دینے کی صورت میں اضافہ بند کیا جائے لیکن یہ ترقی نہ کی جائے
اس سلسلے میں آپ جناب تمام (DEOs) کو ایک خصوصی مراسلہ جاری کیا جائے تاکہ اضلاع میں سب انسپیکٹر پرائمری اساتذہ کو اضافی
الاؤنس اور چارج سے ہٹایا جائے
کیونکہ ڈیفیکشن جاری ہونے سے پرائمری اساتذہ کو اضافی خرچہ کرنے کا سلسلہ شروع ہو گیا ہے
لہٰذا ہم یہ توقع رکھتے ہیں کہ آپ صاحبان اپنی اعلیٰ ظرفی سے پرائمری اساتذہ، خصوصاً سب انسپیکٹر پرائمری اساتذہ کو اس اضافی الاؤنس سے نجات دلائیں گے

شکریہ

عزیز اللہ خان صوبائی صدر
آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا

8/7/23

WP4442-2023 AZIZULLAH VS GOVT CR PGD

ATTESTED

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.B. 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(E)

Date of Presentation of Application 10-5-24
Number of Words
Copying Fee 5/-
Urgent
Total 5/-
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Date of Completion 10-5-24
Date of Delivery of Copy 10-5-24

ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD ABBAS — 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