


FORM OF ORDER SHEET

Court of _____

Appeal No. 2082/2024

| 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 2082 2024

Shahid Hussain Shah

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 2082 /2024

Shahid Hussain Shah Son of Syed Maqbool Shah, PSHT (BPS-15)

Dambozai, PO Chatar pelan, 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

P R A Y E R:

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.

R E S P E C T F U L L Y S H E W E T H:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.
Copy of Appointment letter is annexed as **Annexure A**

2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.

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

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

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

It is further prayed that no penal action as proposed and envisaged in letter dated 06/06/2023 may be declared as unlawful, illegal and without having any legal effect.

Any other relief, which this honorable Tribunal deems fit and proper in the circumstances of the case, may also be granted to the appellant.

AFFIDAVIT:

I, (the appellant) solemnly declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Appellant

Through

[Signature]
Appellant

[Signature]
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt
Advocate High Court

[Signature]
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

Shahid Hussain Shah

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

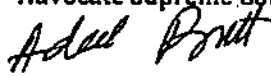
Through



Appellant



Muhammad Muazzam Butt
Advocate Supreme Court



Muhammad Adeel Butt
Advocate High Court

6

Dist. Govt. KP-Provincial
District Accounts Office Manshra
Monthly Salary Statement (September-2024)



Personal Information of Mr **SHAHID HUSSAIN SHAH** d/w/s of **MAQBOOL SHAH**

Personnel Number: 00221165 CNIC: 1350305856429 NTN:
 Date of Birth: 06.06.1968 Entry into Govt. Service: 26.06.1997 Length of Service: 27 Years 03 Months 006 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH 80990949-DISTRICT GOVERNMENT KHYBE

DDO Code: MA6373-Mansehra

Payroll Section: 001

GPF Section: 001

Cash Center: 6

GPF A/C No: EDUMA012196

GPF Interest applied

GPF Balance:

1,197,834.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 21

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|----------------------------|-----------|
| 0001 | Basic Pay | 65,500.00 | 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 | 2148 | 15% Adhoc Relief All-2013 | 796.00 |
| 2199 | Adhoc Relief Allow @10% | 535.00 | 2316 | Teaching Allowance 2021 | 3,224.00 |
| 2341 | Dispr. Red All 15% 2022KP | 6,208.00 | 2347 | Adhoc Rel All 15% 22(PS17) | 6,209.00 |
| 2378 | Adhoc Relief All 2023 35% | 22,232.00 | 2393 | Adhoc Relief All 2024 25% | 16,375.00 |

Deductions - General

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|--------------------|-----------|
| 3015 | GPF Subscription | -4,290.00 | 3501 | Benevolent Fund | -1,200.00 |
| 3609 | Income Tax | -5,138.00 | 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: 82,198.73 Recovered till SEP-2024: 15,414.00 Exempted: 20549.03 Recoverable: 46,235.70

Gross Pay (Rs.): 128,999.00 Deductions: (Rs.): -11,363.00 Net Pay: (Rs.): 117,636.00

Payee Name: SHAHID HUSSAIN SHAH

Account Number: 1384003097204160

Bank Details: NATIONAL BANK OF PAKISTAN, 231384 CHATTAR PLAIN CHATTAR PLAIN, MANSEHRA

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: MANSEHRA

City: MANSEHRA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: shahidhussainshah233@gmail.com

System generated document in accordance with APPM 4.6.12.9(333371/26.09.2024/v3.0)

* All amounts are in Pak Rupees

* Errors & omissions accepted (SERVICES/01.10.2024/20-44-58)

APPROVED

O.O. No. NIL
dated 28-8-99

INTERNAL TRANSFER ORDER

As approved by the Sub-Divisional Education Officer (S.D.O.) Rajouri the following internal transfer of P.T.C. teachers are hereby ordered in the interest of public service with immediate effect.

| No. | Name of teachers | From | To | Remarks |
|-----|----------------------------|----------------|----------------|-----------|
| 1. | Shahid Hussain Khan P.T.C. | CPS Single Kot | CPS Dhamhori | vice No 2 |
| 2. | Syed Anwar Shah P.T.C. | CPS Dhamhori | CPS Single Kot | vice No 1 |

Note: No P.T.A D.A is allowed to any one.
Charge report should be submitted to all concerned.

Asstt. Sub-Divisional Edu. Officer
(S.D.O.) Rajouri Circle Rajouri.

Order No. 2624-30 Dated 28-8-99

- Copy of the above is forwarded to the:-
1. District Education Officer (M) Primary Rajouri.
 2. Sub-Divisional Education Officer (M) Rajouri.
 3. Head teacher concerned.
 4. O.O. File.

[Signature]
Asstt. Sub-Divisional Edu. Officer
(S.D.O.) Rajouri Circle Rajouri.

شاید حسین خان و سید انور شاہ

31

ATTESTED

S.No 31

NOTIFICATION

Consequent upon their selection by the Departmental Selection Committee the District Education Officer (Male) Tricapri Mansoora has been pleased to appoint the following trained T.C. candidates at the schools noted against their names in JFS-7 (No. 1480-S1-2695) plus usual allowances as admissible under the rules with immediate effect subject to the existing terms & conditions.

| S.NO | NAME, FATHER'S NAME AND ADDRESS. | D/O | BIRTH NO. | OF MERIT LISTED. | SCHOOL | REMARKS. |
|------------------------|---|-----|-----------|------------------|--------------------|---|
| DISTRICT MERIT. | | | | | | |
| 1. | Muhammad Saleem Saifullah R/O Dhangian. | S/O | 15.3.73 | 03 | G.S. Mahwal | Vice Muhammad Hameed not selected on merit, hence terminated. |
| 2. | Hidayat Ullah Amanullah R/O Battal. | S/O | 18.12.76 | 11 | G.S. Chapra Dala | Vice Ashiq Hussain -do- |
| 3. | Muhammad Hanif Khan Jaz R/O Tarvai. | S/O | 1.1.75 | 13 | G.S. Chatter Plain | Vice Ejaz Hussain Shah -do- |
| 4. | Saqib Farvez Muhammad Farvez R/O Mansoora. | S/O | 21.11.76 | 10 | G.S. Chatter Plain | Vice Dasht Khan -do- |
| 5. | Muhammad Niaz S/O Shah Nawaz R/O Kanshian. | S/O | 3.6.77 | 14 | G.S. Bhumari | Vice Zulfiqar Ali Shah -do- |
| 6. | Muhammad Farvez Mir Zaman R/O Jesscha. | S/O | 4.10.72 | 16 | G.S. Kandla | Vice Muhammad Fiaz -do- |
| 7. | Abdul Malik R/O Janda Gesscha. | S/O | 1.1.77 | 17 | G.S. Jola Mirat | Vice Javed Hussain Shah -do- |
| 8. | Muhammad Munir Muhammad Wali R/O Kanshian. | S/O | 10.9.74 | 18 | G.S. Jola Sai Tain | Vice Abdul Ghafoor Shah -do- |
| 9. | Tufail Muhammad Fazalur Rehman R/O Battal. | S/O | 7.3.75 | 19 | G.S. Khhan | Vice Sajjad Hussain Shah -do- |
| 10. | Iashir Ahmad Gul Zaman R/O Kanshian. | S/O | 2.5.77 | 22 | G.S. Janda Thalyan | Vice Abdul Qayyum -do- |
| 11. | Sajjad Ahmad Akbari Khan R/O Shohdare. | S/O | 5.9.74 | 23 | G.S. Chota Dala | Vice Ghulam Habbi -do- |
| 12. | Malik Mohd Sajjad S/O Saffullah R/O Kanshian | S/O | 30.8.75 | 24 | G.S. Halla Jabbar | Vice Ghulam Habbi -do- |
| 13. | Akhtar Zeb Aurangzeb R/O Dajan. | S/O | 15.3.74 | 26 | G.S. Ludra | Vice Muhammad Naveed -do- |
| 14. | Haseer Ali Shah S/O S. Chen Mohd Shah R/O Mohayan Khari | S/O | 19.6.75 | 25 | ZS G.S. Gorian | Against Vacant post. |
| 15. | Fazal Haq Abdus Sattar R/O Laffa. | S/O | 2.5.72 | 36 | J.S. Barocher | -do- |
| 16. | S. Maza Ali Shah Mukhtar Shah R/O Gairan. | S/O | 29.6.76 | 37 | G.S. Choro Kalam | -do- |

Continued Page No. 2.

RECEIVED

CONSTITUENCY MERIT

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| | | | | | |
|-----|--|---------|----|----------------------|---|
| 17. | Tahir Hussain Shah S/O S. Amir Shah R/O Jai Mala. | 20.4.76 | 10 | G/S Taroda | Vice Guldad not selected on merit hence terminated. |
| 18. | Tufail Muhammad S/O Taj Muhammad R/O Jatta. | 1.1.76 | 12 | G/S Mohri | Vice Javed Iqbal --do-- |
| 19. | Bostan S/O Gohar Aman R/O Jagori. | 1.5.75 | 14 | G/S Bela Jabbar | Vice Ghulam Hassan --do-- |
| 20. | Rafaqat Ali S/O Abdul Qayyum R/O Janda Gesach. | 7.4.76 | 16 | G/H/S Kalean | Vice Qaiser Rauf --do-- |
| 21. | Muhammad Yusuf S/O Abdul Manan R/O Khabbal. | 10.1.72 | 17 | G/H/S Deval | Vice Muhammad Hamid --do-- |
| 22. | Fahom Anwar S/O Anwar Rashid R/O Jabbori | 1.4.78 | 18 | G/S Saldhar. No.2 | Vice Muhammad Zahoor --do-- |
| 23. | Muhammad Ghayyur S/O Manzoorus Samad R/O Jaida. | 1.1.77 | 20 | G/S Dana Sarbland | Vice Muhammad Liaqat --do-- |
| 24. | Muhammad Kaleem S/O Umar Khitah R/O Kanoj. Jabbori | 13.4.76 | 22 | G/S Hilkote | Vice Talib Hussain --do-- |
| 25. | Siraj Muhammad S/O Muhammad Israr R/O Malokra. | 1.12.72 | 24 | G/S Malokra | Vice Muhammad Aslam --do-- |
| 26. | Fazalur Rehman S/O Khan Jee R/O Kayan. | 18.5.75 | 25 | G/S Chata Jala | Vice Gul Hiaz --do-- |
| 27. | Abdul Qayyum S/O Miskean R/O Gior Sacho | 2.4.72 | 26 | G/H/S Jala Sadat | Vice Maheed Ahmad --do-- |
| 28. | Muhammad Imroz S/O Ali Burdan R/O Shamohra | 3.11.76 | 28 | G/S Taroda | Vice Akbar Nawaz --do-- |
| 29. | Muhammad Javed S/O Sharab Khan R/O Cholo Mala | 1.3.74 | 30 | G/H/S Kotha Mala | Vice Muhammad Aslam --do-- |
| 30. | Muhammad Taufiq S/O Mushtaq Ahmad R/O Jaida | 28.4.74 | 31 | G/S Surbanj | Against Vacant Post. |
| 31. | Shahid Hussain Shah S/O S. Maqbool Shah R/O Dambori. | 6.6.68 | 32 | G/S Said Abad | --do-- |
| 32. | Muhammad Hussain Shah Shah Jahan S/O R/O Khabal Jala | 26.6.72 | 35 | G/S Kayan | --do-- |
| 33. | Rabeeh Khan S/O Noor Zaman S/O Khabal Jain | 15.3.73 | 36 | G/H/S Reen Mala Noka | --do-- |

CONSTITUENCY MERIT

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| | | | | | |
|-----|---|---------|----|---------------|---|
| 34. | M. Rashid Mahmood S/O Muhammad Younis R/O Mansohra. | 20.3.71 | 05 | G/S Mahawlian | Vice Anwar Zeb not selected on merit, hence terminated. |
|-----|---|---------|----|---------------|---|

CONSTITUENCY MERIT

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| | | | | | |
|-----|---|---------|----|----------|--|
| 35. | Abdul Latif S/O Muhammad Hussain R/O Ghanool. | 23.4.75 | 10 | G/S Kund | Vice Muhammad Akmal not selected on merit, hence terminated. |
|-----|---|---------|----|----------|--|

Continued page no. 3.

*for attested
for G.S.O. 31*

*M. A. M. Khan
28/5/77*

Dir. Education DEPT (G.S.)
Primary Education Manshera

ATTESTED

TERMS & CONDITIONS.

1. They will be governed by such rules and regulations as may be prescribed by the Govt. from time to time for the category of the Govt. servant to which they belong.
2. Their services will be liable to termination on one month notice from either side. In case of resignation without notice, one month pay will be forfeited in lieu thereof.
3. They should join the posts within one month of the issue of this notification.
4. Their inter-seniority will be determined in accordance with the merit of the departmental selection committee.
5. Charge reports should be submitted to all concerned.
6. They will be on probation for a period of two years and will have to pass the departmental examination. In case a candidate fails to qualify the departmental examination, he will be given one more chance. If he fails again, then his services will be terminated. On arrival/availability of trained teachers, the services of untrained teachers occupies the posts shall be terminated.
7. Their original certificates/degrees should be checked and verified from the concerned university/BISE/IOE and Islamic Madrassas before handing over the charge.
8. Service books of the teachers must be prepared complete in all respect before handing over the charge.
9. The declaration of assets should be obtained from them immediately and placed on record.
10. They are required to produce health & age certificate from medical authorities concerned before handing over the charge.
11. Charge reports should be submitted to all concerned & charge should not be given to average candidates until their cases for age relaxation be sent to the concerned quarters.
12. Efforts ~~should be made~~ for transfer before the completion the tenure will dis-qualify him from service.
13. No. T/D. is allowed.
14. An undertaking shall be obtain from Master & degree holders ITC that they will serve the department for at least five years while they are selected by the public service commission for any post.
15. In case of person appointed as an untrained teacher, he will have to pass the requisite training examination within a period of four years failing which his services will be terminated.

NOTE:- Complete information of appointees in consolidated lists on the prescribed proformas (Attached) along with charge reports be submitted by the lower offices to the Director, Primary Education/D.D.C. (M) Primary Manshehra within a week positively.

[Signature]
 (MUB. H.M.D. S. ZWAR NURE) 26/6
 DISTRICT EDUCATION OFFICER,
 (M.L.L.) PRIMARY MANSEHRA.

Order No. 1678-1713 /G.S/3-I/1997. Dated Manshehra the 26.6. /1997

Copy forwarded for information to the:-

1. Director, Primary Education, N.F. Peshawar.
2. Sub Divisional Education Officer (Male) Manshehra.
3. District Account Officer Manshehra.
4. All the candidates concerned.
5. Office Order File.

[Signature]
 26/6
 DISTRICT EDUCATION OFFICER,
 (M.L.L.) PRIMARY MANSEHRA.

[Handwritten mark]

Annexure - 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 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

EXIST. 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 Deputy Director (IT), E&A Department.
13. All Section Officers in Establishment & Administration Department.
14. The Section Officer (Admn), Administration Department with the request to arrange 20 gazette copies.
15. The Caretaker, Administration Department.

(Signature)
(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)

ATTESTED

(Signature)
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


Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)HR&AD/13/2020
Dated Peshawar the June 06, 2023

62

To: The 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(Policy-MY)HR&AD/1-2/Appointment/2023 dated 18.04.2023 on the subject noted above and to state that Sub-Rule (3) 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 said rule is aimed at preventing a civil servant from temptation for illicit gain by seeking 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,

(Ijaz Muhammad Khan)
Section Officer (Policy)

ASE
7/6

Encl. Of even No & date:

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

Section Officer (Policy)

06/06/23
2.1.6.23

~~ATTESTED~~



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT -
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-8223507)

No. SO (Primary-M/E&SEC)/2-8/2023
Dated Peshawar lha. June 26th 2023

To

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

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

[Handwritten signature]
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(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 herewith a letter of Establishment Department letter No. 50 (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

[Handwritten initials]

[Handwritten signature]
(MUHAMMAD (SHAO)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

[Handwritten initials]

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

ATTESTED

15

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(S) 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.

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 MAIL)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MAIL)

~~ATTACHED~~

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

Annexure
Q


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.

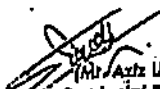
| Sl | NAME | DESIGNATION |
|----|-------------------|--|
| 1 | Mr. Fazal Wahid | Deputy Director Establishment of Directorate Elementary & Secondary Education Department |
| 2 | Mr. Aziz Ullah | Provincial President All Primary Teachers Association Khyber Pakhtunkhwa |
| 3 | Mr. Rafiqat Ullah | General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


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

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

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


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


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


(Mr. Rafiqat Ullah)
General Secretary APTA
Peshawar


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

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

~~ATTACHED~~

- B/C -

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

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

(Abdulrah)

Additional Secretary (Establishment)

ATTESTED

ALISTED

W3443-2023 AZZULAH VS GOVT OF POKH

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

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

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee
provided they submit their written request prior to conclusion of the meeting of
Teachers below. It may be exempted of implications of the amendment in the rules bid
75) have affected adversely a large number of Female Teachers. Thus it is proposed that
in view of the above, this office is of considered opinion that the deletion of Rules
hasn't been made for consideration of concerned cases.

Chairman, Additional Secretary Establishment of his office this office has
That, in the light of the minutes of meeting dated 6-07-2023 held under the
(Primary) No. 5556/2-1/Apointment/2023 dated 12-06-2023.
The same was received by this office from your good office vide letter No.50
civil return to accept promotion under every condition.

That there shall be no provision to decline or for a promotion. It is obligatory upon every
thing vide letter No.50 (Policy) 5541/1-1/2020 dated 6-06-2023 categorically stand.
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Primary) 5556/2-1/Apointment/2023 for necessary guidance.
The same copy forwarded the same to the quarter concerned vide letter

promotion
(ii) If the civil return to either accept or turn down the offer of
(iii) Now it is obligatory upon the civil return to accept promotion in every condition.

No.5987 dated 05-02-2023.
That this office sought guidance from your good office in the following words vide letter
vide notification No. 508-VI (B&AD)/1-3/2020 dated 08-08-2020.

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation (Ving)
dated Rule 75) in the Civil Service (Appointment, promotion & Transfer Rules 1987)

present brief history of the case as under
I am directed to refer to the letter No.50/Primary-10556/2-1/A
pointment/2023 dated 10-07-2023 on the subject cited above and to

MINUTES OF THE MEETING

The Section Officer (Primary-10556/2-1/Apointment/2023)
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.

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

Copy of the above is to:

Dear Sir,

To

Phone: 09-9232341
Email: establishment@pki.gov.pk



- 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/S-1/60724/ Minutes of meeting/PST/2023 dated 30-7-2023 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(S) in Civil Servants (Appointment, promotion & Transfer Rule 1981) vide notification No. No. SDR-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) It is prerogative of civil servant to either accept/humdown the offer of promotion.
- That your good office forwarded the same to quonies 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 Rule 7(S) have affected negatively a huge members of Female teachers.

The case is submitted for perusal and necessary actions please.

Copy of the above to:

1. PA to Director Local Directorate
2. Master Copy

Assistant Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

ATTESTED



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

No. SO(Policy-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 05th June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

2. In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvenience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father or mother-in-law who need care. In such cases, there are negative effects on service delivery.

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

(MUHAMMAD BRAD)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(MUHAMMAD BRAD)
SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CamScanner

ALLEGED

~~RECEIVED~~

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

In this connection it is submitted that in some cases body 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.

5 am directed to refer to your letter No. SO/primary (Policy)/E&AD/1-3/2020 dated 6th 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/officers 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.

Dear Sir,
SUBJECT: Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989)

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

To:
No. SO (Primary-M) E&SE/1-3/2023
Appointment - Rule/2023
Peshawar Dated 23rd August, 2023

- B/C -

Annexure - F



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

To

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

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

Dear Sir,

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

~~REGISTERED~~

WP442-2023 AZIZULLAH VS GOVT OF PK

23

- 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)

Ends 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~~

Annexure - G

To,

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

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

Sir/ Madam:-

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

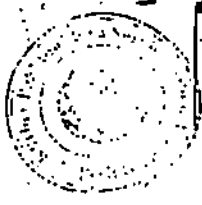
It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&AD/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution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

Dated 1/04/2024



SHAHID HUSSAIN SHAH
SON OF
SYED MAQBUL SHAH
PSHT.

07.05.2024

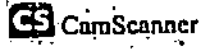


1. Learned counsel for the appellant present.
2. Let a pre-admission notice be issued to the respondents through TCS for submission of reply/arguments. Appellant is directed to deposit TCS expenses within three days. To come up for reply/arguments as well as preliminary hearing on 10.06.2024 before S.D. P.O 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 (Muhaimmad Akbar Khan)
Member (II)

[Handwritten signature]
13-6-24

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



ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

SHAHID HUSSAIN SHAH
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

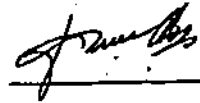
BASSAM AHMAD SIDDIQUI AHC

&

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