


FORM OF ORDER SHEET

Court of _____

Appeal No. 2086 / 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

A No. 2086/24

Falak Niazi

v/s

Government of KP & others

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ADVOCATE

-1-

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2086 /2024

Falak Niaz Son of Faqir Gul Resident of Tehsil & District Peshawar

Designation: Senior Primary School Teacher at GPS Teri Payan

.....Appellant

V E R S U S

- 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 Senior Primary School 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 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.

-4-


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

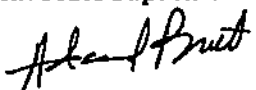
AFFIDAVIT:
I Falak Niaz Son of Faqir Gul Resident of Tehsil & District Peshawar that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

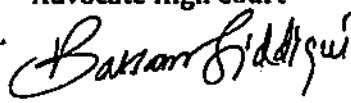

Deponent


Appellant

Through


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court


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

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Falak Niaz

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.

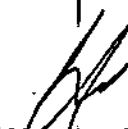
AFFIDAVIT


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-
0315
5373663

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



Personal Information of Mr FALAK NIAZ d/w/s of FAQIR

Personnel Number: 00375244 CNIC: 1730113828069 NTN:
Date of Birth: 15.04.1982 Entry into Govt. Service: 15.01.2007 Length of Service: 17 Years 00 Months 018 Days

Employment Category: Active Temporary

Designation: SENIOR PRIMARY SCHOOL TEA 80675740-DISTRICT GOVERNMENT KHYBE
DDO Code: PW6571-District Peshawar
Payroll Section: 003 GPF Section: 001 Cash Center: 24
GPF A/C No: 375244 GPF Interest applied GPF Balance: 559,602.00 (provisional)
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 14 Pay Stage: 13

Wage type	Amount	Wage type	Amount
0001 Basic Pay	45,150.00	1004 House Rent Allow 45% KP21	8,640.00
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
2148 15% Adhoc Relief All-2013	500.00	2199 Adhoc Relief Allow @10%	340.00
2316 Teaching Allowance 2021	3,036.00	2341 Dispr. Red All 15% 2022KP	4,207.00
2347 Adhoc Rel Al 15% 22(PS17)	4,207.00	2378 Adhoc Relief All 2023 35%	15,193.00

Deductions - General

Wage type	Amount	Wage type	Amount
3014 GPF Subscription	-3,900.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-668.00	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: 10,471.18 Recovered till JAN-2024: 4,516.00 Exempted: 2617.33 Recoverable: 3,337.85

Gross Pay (Rs.): 85,629.00 Deductions: (Rs.): -6,503.00 Net Pay: (Rs.): 79,126.00

Payee Name: FALAK NIAZ
Account Number: 0010022952450011
Bank Details: ALLIED BANK LIMITED, 250310 Warsak Road Peshawar Warsak Road Peshawar, PESHAWAR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: City: PESHAWAR Domicile: - Housing Status: No Official
Temp. Address: City: Email: falaknaiz102@gmail.com

TESTED

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY PESHAWAR

APPOINTMENT

Consequent upon the selection by the Departmental selection committee the following PST (PTC) trained Male candidates are hereby appointed on regular basis in BPS 07 (Rs.2555-140-6755) plus usual allowances as admissible under the rules from the date of their taking over charge in the school noted against each their name on the following terms and conditions:-

OPEN MALE 26%							
S.NO	APPL. NO.	NAME, FATHER'S NAME AND ADDRESS.	POSITION IN UC	DOB BIRTH	TOTAL SCORE	POSTED AT	REMARKS.
1	458	Huseeb Nawaz S/O Nisar Moham nad r/o Moh: Katta Kehel Vill & PO Suleman Kehel PO Badarar Peshawar	1	23/3/1988	62.11	GPS SHAHAB KHEL	Against Newly post
2	501	Ejaz Ahmad Khan Kha'li S/O Muhtaz Ahmad Khan Kha'li r/o Palosi Alozai PO University of Peshawar	2	3/11/1975	61.67	GPS PAF SHAHEEN CAMP	Against Newly post
3	1032	Hafizur Rehman S/O Kha'li ur Rehman r/o Moh: Babra Ghan Umar Miana Peshawar	3	1/9/1983	61.11	GPS Ghan Khawa Gul	Against Newly post
4	736	Rehmat Gul S/O Akhtar Gul r/o O/S Yakatoot Moh: Sheikh Amir Abed Col: Peshawar	4	16/2/1979	60.69	GPS WAZIR BAGH PESH. NO.1	Against Newly post
5	55	Masood Ahmad S/O Sultan Moham nad r/o Moh: New Ghan St: # 2 Bakshi Pull Chd Rd Pesh:	5	15/9/1974	60.13	GPS LARAMA	Against Newly post
6	314	Imran Khan S/O Mohammad Nawaz r/o H # T-1850 School St: # 4 PO Asrafiya Col: Pesh:	6	18/2/1984	60.07	GPS AFGHAN COLONY NO.1	Against Newly post
7	798	Ibrar Ahmad S/O Mohammad Chaman r/o Vill: Pulwar Payan PO Mathra Peshawar	7	5/4/1974	59.98	GPS NEEZAWARI	Against Newly post
8	965	Ghulam Hussain S/O Ghulam Mohammad r/o Village Ghan Hamza Nahaqi Peshawar.		10/11/1977	59.99	GPS GANHI HAMZA	Against Newly post

Edu Officer (M) Peshawar
(E&SE) Peshawar

O. NO.	APPL. NO.	NAME FATHER NAME AND ADDRESS	POSITION IN UC	D/O BIRTH	TOTAL SCORE	POSTED AT	REMARKS
	741	Abdullah Khan S/O Fazal Subhan /o Larama Peshawar	1	10/1/1977	41.80	GPS LARAMA	Against Vacant post
	23	Karim Khan S/O Abdul Jabbar /o Chamanuch Road Vill. Larama Peshawar	3	7/2/1981	41.02	GPS LARAMA	Against Vacant post

DAG

✓	770	Faiz Ijaz S/O Faiz Gul /o Vill. Tirahi (Gala) PO Tirahi Pajam Peshawar	1	19/4/1982	50.05	GPS TERI PAMAN	Against Newly post
✓	62	Baltnar Ahmad S/O Shabaz Khan /o Dag Peshawar	2	5/3/1977	44	GPS Shagi Hindikan	Against Newly post
	1050	Andar Bazar S/O Maqbal Khan /o Terai Paman Pesh	3	20/3/1978	45.58	GPS Shagi Hindikan	Against Newly post
	747	Shoukat Khan S/O Zafar Gul /o Village of PC Shahgan Hindikan Pesh	4	12/1/1979	39.81	GPS Shagi Hindikan	Against Newly post
✓	28	Mohammad Saleem S/O Moini Mohammed Karam /o Dag Peshawar	1	1/1/1980	35.71	GPS Shagi Hindikan	Against Newly post

ANIZA

✓	114	Iqbal Hussain S/O Shreen Khan /o Qand Abd Feringi var	1	10/1/1988	42.03	GPS ALI ZAI	Against Newly post
	145	Syed Ghayoor Shah S/O Sarwar S/O /o Shalimar Peshawar	1	3/1/1980	41.13	GPS Shahinda	Against Newly post
	367	Rehmatullah S/O Abdul Raut /o village Sheikh Killi Mithi Peshawar	4	1/1/1980	40	GPS Shahinda	Against Newly post
	30	Iqbal Ahmad S/O Mohammad Hassan Khan /o FC Malirra Village Sher Abdul Peshawar	3	15/1/1977	40.5	GPS Shahinda	Against Newly post

CHNI BALA

	675 & 676	Mohrab Shah S/O Molabar Khan /o Sango Landi Dala Peshawar	1	1/1/1977	31.53	GPS BALA	Against Newly post
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ASSISTANT DIVISIONAL
Edu Officer
PESHAWAR

Annexure - B -

GVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the 06/8/2020

Subject: E&A/D/1-3/2020 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

ENCL: 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.

10/8/2020

(WAJIDAH LATHI)
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)

~~ACCEPTED~~

APPROVED

WFO447-2023 AZIZULHAQ VS GOVT OF POK

2023.08.07

Section Officer (Policy)

Section Officer (Tech)

Yours faithfully,

Copy forwarded to:-
1. P3 to Special Security (Intelligence) Department
2. P4 to Special Security (Intelligence) Department
3. P5 to Special Security (Intelligence) Department

Recd. Of Secy Pn & Hqs

ASSE
2/6

2011, please
proceeded against under Khuzdar Peshawar Civil Service (Recruitment & Discipline) Rules,
of the competent authority or by to evade promotion through different means shall be
3. Furthermore, those officers/employees who do not comply with promotion order
civil service to accept promotion in every condition.
to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every
person those who tend to forge promotion to evade pension/retiree, or show lack of capacity
will receive from (Khyber Pakhtunkhwa) by asking for a single letter of resignation or to
2. The basic criteria behind the decision of the Board is to be aimed at preventing a
provision exists to decline or forgo promotion.
1999 stands despite this the Government's decision dated 04.08.2021 that, as
(a) of Rule-7 of Khyber Peshawar Civil Service (Appointment, Promotion and Transfer)
2013 dated 18.01.2023 on the subject noted above and to state that Sub-Rule
I am directed to refer to your letter No. SO/HRM-2023-1127.
Dear Sir,

MEMORANDUM FOR THE SECRETARY, GOVERNMENT OF PUNJAB
MEMORANDUM FOR THE SECRETARY, GOVERNMENT OF PUNJAB
MEMORANDUM FOR THE SECRETARY, GOVERNMENT OF PUNJAB

The Government of Punjab Peshawar
Secretary & Secretary (Intelligence)

GOVERNMENT OF PUNJAB PESHAWAR
No. SO/HRM/INT/2023
Dated Peshawar the 07th Aug, 2023



Annexure - C

12



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No. 001-9223507)

M.L.R.O (Primary) MVE&SE072-6/2023
Dated Peshawar (Th. June 26th, 2023)

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

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

[Signature]
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(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 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 08 July, 2023 at
11:00 AM in this department under the Chairmanship of Additional Secretary (Estab)
E&SE Department in his office.

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

Encl: AA

[Handwritten mark]

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

Copy forwarded to the:

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

[Handwritten mark]

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

ATTESTED

-14-
B/c

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

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

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

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

~~ATTESTED~~

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

Annexure
D


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

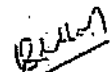
2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.


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

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


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


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


(Mr. Razaqat Ullah)
General Secretary, APTA
Peshawar


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

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

ATTESTED

-16-

-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

(Abdullah)

Additional Secretary (Establishment)

ATTENDED

ATTESTED

WP 1403-2023 AZEELAH VS GOVT OF POK

Assistant Director (Exhibit-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

Assistant Director (Exhibit 61-1)
Ministry of Secondary Education
Khyber Pakhtunkhwa

17/05/2023

1. 17 to Director
Local Director

2. Master Copy

Copy of the above is for
Encl. No.

The case is submitted for perusal and necessary actions please.

Departmental Committee.

provided they shall their written refusal prior to conclusion of the meeting of
75) have affected a large number of female teachers. This is prepared for
in view of the above, this office is of contrary opinion that the action of Rules
been asked for submission of consolidated case
Chairman of the Board of Secondary Education as his office this office has
That in the minutes of meeting dated 6-07-2023 held under the
(Primary-4) E&SED/7-2/1/2023 dated 13-05-2023.
The same was received by this office from your good office vide letter No.50
civil service in receipt provision under every condition.
that there shall be no provision in decline or forgo provision. It is obligatory upon every
MNSO (Primary-4) E&SED/7-2/1/2023 for necessary guidance.
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
What) vide letter No.50 (Primary-4) E&SED/7-2/1/2023 dated 6-06-2023 collectively issued
That you are requested to forward the same to the quarter concerned vide letter
provision.
(ii) It is the obligation of the civil service in either accept or turn down the offer of
provision.
No.6987 dated 09-02-2023.
That the office hereby guides from your good office in the following words vide letter
dated 05-08-2023.
No.508-VI (E&ADYI-1/2023) dated 05-08-2023.
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation (What)
dated Rule 71) in the Civil Service (Appointment, Promotion & Transfer Rules 1989)
vide notification No. 508-VI (E&ADYI-1/2023) dated 05-08-2023.

I am directed to refer to the letter No.50 (Primary-4) E&SED/7-1/2023 dated 10-07-2023 on the subject cited above and to present brief history about the background of the case as under:

Subject: MINUTES OF THE MEETING

The Assistant Director (Primary-4),
Ministry of Secondary Education Department,
Khyber Pakhtunkhwa

Dear Sir,



No. 8145

Phone No. 971144

Facsimile No. 971144

Official Seal

Ministry of Secondary Education, Peshawar

ATTACHED

WPK417-2023 AZZULAH VE GOVT CP P04

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

Please
The case is submitted for perusal and necessary action
In view of the above, this office is of considered opinion
that the deletion of Rules 7(S) have affected negatively a huge
members of female teachers.

consolidated case.
The office has been asked for submission of
report at his office. This office has been asked for submission of
report under the chairmanship of Hon. Additional Secretary Education
held under the minutes of the meeting dated 6-07-2023

That in light of the minutes of the meeting dated 6-07-2023
sent to accept promotion under every condition.
no provision to clarify / for promotion, it is observed upon every civil
service to accept promotion under every condition.
That the government of KP-ED (Regulation wing) vide letter No. SO (R/ED)
E&SD/1-3/2020 dated 6-06-2023 accordingly stated that there exists

That your good office forwarded the same to / under concerned
vide letter No. SO (R/ED/1) E&SD/2-2/11/2023 for necessary
guidance.

offer of promotion.
(B/17) preservative of civil servant to other except / minimum the
(1) Now it is obligatory upon civil servant to accept promotion.
words vide letter No. 6983 dated 06-08-2023

That this office sought guidance from your good office in the following
vide notification No. No. SOR-VI (E&SD) 1-3/2020 dated 06-08-2020.
added rule 7(S) in Civil servant (Appointment, promotion, Transfer Rule 1997)
That Government of KP. Establishment department (Regulation wing)

present brief history, about background of case as under.
Minutes of meeting 18/1/2023 dated 10-7-2023 on subject cited above and to
be decided to refer to letter No. SO (R/ED/1) E&SD/1-1/6/2023

Subject: Minutes of Meeting
KPK, Peshawar
Elementary & Secondary Education Department
Section Officer (Range Male)

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

-B/C-

-18-



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

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)/EBAD/1-3/2020 dated 06th June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

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

(MUHAMMAD IFRAS)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(Signature)
SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CamScanner

WP4472-7023 AZIZULLAH VS GOVT OF PK43

ATTESTED

ATTESTED

2. PS to Secretary, E & SE Department, Kyber Paktunkhwa
1. Director E & SE Kyber Paktunkhwa
Copy forwarded to:
(Muhammad Ishaq)
Section Officer (Army)
(Male)

In this connection it is submitted that in some cases lady teachers of primary level who avail such promotion have to face serious inconvenience while they have to perform duties in the remotest stations with no residential/transport facilities. Most of them are married with kids and elder fathers 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.

9. An directed to refer to your letter No. SO (Army) (E&AD) (Policy) dated 14/3/2020 and to state that after deletion of Rule 7(S) Kyber Paktunkhwa 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 Kyber Paktunkhwa Civil Servant (Efficiency and Discipline) Rule 2011.

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

To
The Secretary to Government of Kyber Paktunkhwa
Establishment and Administration Department,
Peshawar.
No. SO (Army-M) (E&SE) 18-81
Appointment - Rule/2023
Reference Dated 13rd August, 2023

-8/c-

Annexure - F



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

10

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

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

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

RECEIVED
ATTN: SECRETARY
ESTABLISHMENT DEPARTMENT

WP442-2023 AZIZULLAH VS GOVT OF PK

12-

- 22 -

- B/C -

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Policy)E&AD/1-3/2023
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)

WP4442-2023 AZIZULLAH VS GOVT. OF PK

ATTACHED

To,

Dated: /02/2024

- 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



Falak Niaz Son of Faqir Gul
Resident of Tehsil & District
Peshawar

~~ATTESTED~~

W04443-2023 AZZULDAH VA COURT CR P0413

Handwritten signature and date: 20/11/23

Main body of handwritten text, likely a legal document or affidavit, written in Arabic script.

Handwritten text at the bottom of the main body.

Annexure - H

APTA Housat
Govt. Primary School No.4
Quidnaby Parish, New York



Kidder Park, Housat

112 Little School
P.O. Box 112
Quidnaby, NY 11757
Tel: 845.338.1122
Fax: 845.338.1123
www.aptanewyork.com

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 (I)

[Handwritten signature]

OFFICE OF THE
MEMBER (I)
NATIONAL COMMISSION FOR HUMAN RIGHTS
ISLAMABAD

Date of Presentation of Application 12-6-24
 Number of 57
 Copies 57
 Uppan 57
 Total 57
 Name of 13-6-24
 Date of 12-6-24
 Date of delivery of copy 12-6-24

[Handwritten signature]
ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

FALAK NIAZ

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:

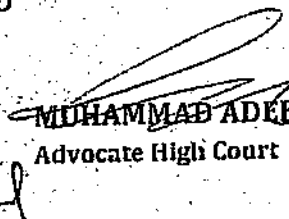
I agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.



APPELLANT

ACCEPTED


MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court


MUHAMMAD ADEEL BUTT
Advocate High Court


BASSAM AHMAD SIDDIQUI
Advocate High Court