


FORM OF ORDER SHEET

Court of _____

Appeal No. 2075/2024

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> <p>By order of the Chairman</p> <p>REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A - No. 2075/2024
Ayesha Khan

v/s

Government of KP & others

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ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2075/2024

Ayesha Khan wife of Kamran Javed Resident of Tehsil & District Peshawar

Designation: Senior Primary School Teacher at GGPS Koza Dheri No 2

.....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(S) 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.

- 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.


Appellant

AFFIDAVIT:

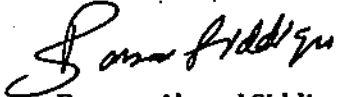
I Ayesha Khan wife of Kamran Javed Resident of Tehsil & District Peshawar that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court


Deponent

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

Ayesha Khan

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

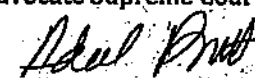
1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
3. That there is likelihood success of the appellant in the lis. And if the notification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

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


Appellant

Through


Muhammad Muazzam Butt
Advocate Supreme Court


Muhammad Adeel Butt
Advocate High Court

AFFIDAVIT

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


Deponent

Dist. Govt: KP-Provincial
District Accounts Office-Peshawar Dist.
Monthly Salary Statement (December-2023)

- 6 -



Personal Information of Miss AISHA KHAN d/w/s of KHAN MUHAMMAD

Personnel Number: 00045743

CNIC: 1730113602394

NTN:

Date of Birth: 10.07.1976

Entry into Govt. Service: 17.02.1998

Length of Service: 25 Years 10 Months 016 Days

Employment Category: Vocational Temporary

Designation: SENIOR PRIMARY SCHOOL TEA

80678693-DISTRICT GOVERNMENT KHYBE

DDO Code: PW6573-District Peshawar

Payroll Section: 002

GPF Section: 001

Cash Center: 76

GPF A/C No: EDU 045148

GPF Interest applied

GPF Balance:

873,445.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 14

Pay Stage: 22

Wage type		Amount	Wage type		Amount
0001	Basic Pay	60,810.00	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	796.00	2199	Adhoc Relief Allow @10%	535.00
2316	Teaching Allowance 2021	3,036.00	2341	Dispr. Red All 15% 2022KP	5,787.00
2347	Adhoc Rel Al 15% 22(PS17)	5,787.00	2378	Adhoc Relief All 2023 35%	20,674.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription	-3,900.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-1,914.00	3990	Emp.Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 29,543.88 Recovered till DEC-2023: 10,674.00 Exempted: 7386.00 Recoverable: 11,483.88

Gross Pay (Rs.): 110,421.00 Deductions: (Rs.): -7,749.00 Net Pay: (Rs.): 102,672.00

Payee Name: AISHA KHAN

Account Number: 0022427901560599

Bank Details: HABIB BANK LIMITED, 222242 Gulbahar Colony2, PESHAWAR. Gulbahar Colony2, PESHAWAR., PESHAWAR

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: PESHAWAR

City: Peshawar

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: aishakhanps1@gmail.com

ATTESTED

OFFICE OF DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR.

REPORT.

Consequent upon selection by the Departmental Selection Committee the appointment of the following PTC Trainee Candidates are hereby ordered in the MPS No. (?) of (Rs:1480484-2695)Pn:1980/ITM plus usual allowances as Admissible under the Rules in the School noted against each their name w.e.from the date of taking their over charge subject to the following existing terms and conditions:-

PF-1

S.No.	Name & Father's Name with address	D.O.Birth	No.in Int/ Merit list	Score	Posted at	Remarks
1.	Shazia Shabeen D/O Feroz Ahmad B/O B.A/ PTC 95-96 H.No.1816-6, Khorraman Bafloji Ilaga Peshawar.	3-3-73	47/1	67	GGPS-Adazai	Against Vac:Post.
2.	Mohd. Noshar D/O Mst. Noshar B.A/PTC P.O Kohat Rd:near Technical College Abad Peshawar.	14-3-74	169/2	57	GGPS-Suliman Khel	-do-
3.	Sadia Bibi D/O Begum Ahsanullah B.A/PTC P.O Kohat, Agha Pir, Peshawar.	20-4-78	11/3	57	GGPS-Yousaf Khel	-do-
4.	Mrs. Gul D/O Mst. Gulistan B.A/PTC P.O Kohat, Agha Pir, Peshawar.	6-4-75	38/4	57	GGPS-Koza District No.1	-do-
5.	Mrs. Inayat D/O Mst. Inayat B.A/PTC P.O Kohat, Pura Moh: Peshawar.	6-4-75	199/5	55	GGPS-Barbar Khel Pesh;	-do-
6.	Mrs. Sadaf D/O Mst. Sadaf B.A/PTC P.O Kohat, Pura Moh: Peshawar.	26-2-75	100/1	67	GGPS-Pasfandi	-do-
7.	Mrs. Durrani D/O Mst. Durrani B.A/PTC P.O Kohat, Pura Moh: Peshawar.	1-3-75	159/2	67	GGPS-Palam Khel	-do-
8.	Asha Khan D/O Khan Muhammad PTC 95-96 Peshawar.	10-7-75	193/3	57	GGPS-Koza District No.2	-do-

Cont:at Page 2

ATTESTED

SECRET
 DISTRICT EDUCATION OFFICER
 (MRS. M. SHARMA KUMAR)

ATTACHED

Dist. No. 237-337/A. No. I/Deptt./100/1-10. Dated 10/2/98.
 Copy of the above is forwarded to the:-
 1. Director, Primary Education, Haryana, Bikaner.
 2. S.O. to District Education Officer, Bikaner.
 3. S.O. to District Education Officer, Jhansi.
 4. Accountant General, Haryana, Bikaner. (5) Sub-Div. Officer (P) Bikaner.
 5. District Education Officer, Bikaner.
 6. District Education Officer, Jhansi.
 7. District Education Officer, Bikaner.
 8. District Education Officer, Jhansi.
 9. District Education Officer, Bikaner.
 10. District Education Officer, Jhansi.
 11. District Education Officer, Bikaner.
 12. District Education Officer, Jhansi.
 13. District Education Officer, Bikaner.
 14. District Education Officer, Jhansi.
 15. District Education Officer, Bikaner.
 16. District Education Officer, Jhansi.
 17. District Education Officer, Bikaner.
 18. District Education Officer, Jhansi.
 19. District Education Officer, Bikaner.
 20. District Education Officer, Jhansi.

15. It is once again stressed that the original certificates/Degrees over charge by the DDO concerned. It is requested that the original certificates/Degrees should be checked/verified before handing over charge by the DDO concerned.

Matric.	50	35	20
B.A./B.Sc.	10	7	5
B.L./B.Sc.	13	10	7
B.A./M.Sc.	17	14	10
	I	II	III

1. They will be governed by such rules and regulations as may be prescribed by the Government from time to time for the category of the Govt. servants to which they belong.
2. Their appointments are purely temporary and liable to termination at any time without assigning reason or notice.
3. In case of resignation they/she will have to submit one month prior notice to the department or forfeit one month pay in lieu thereof to the Govt.
4. Their report should be submitted to all concerned.
5. They/she should not be allowed to take over charge if she/he/she is less than 18 years or over or above 40 years.
6. Their/her appointments are subject to further condition that they/she or Donnell of H. P. J. Bikaner.
7. Their original certificates/Degrees should be checked and verified from the concerned University/BISE/RDE and other Institute before handing over charge by the D.D.O. concerned.
8. Service Books of the teachers must be prepared complete in all respect after taking over charge.
9. They/she are required to produce health & age certificate from the authority concerned.
10. No D.D. is allowed being first appointment.
11. They/she should not claim transfer with in (Three) 3-years the completion of tenure.
12. If they/she should not join the post with in 15 days from the receipt of their order/nominations the offer of appointment shall stand cancelled automatically.
13. If their certificates/Degrees were found bogus they/she will be handed over to the police.
14. The above Collection has been made on the following Certificate:-

TERMS AND CONDITIONS.

35. Nazama Begum D/O 10-1-75 217/70 40 GGS-M.M. Bahal A.V. Post.
 Mohd. Hussain I./PTC
 92-96 Moh. Sir Sitar Bah
 H.No. 3683 Kikran Dabgar Bikaner

Form-7

Annexure - B -

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 20/8/2020

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

GEN. NO & EVEN DATE

Copy 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.



(Signature)
WAJDAH LATIF
DEPUTY SECRETARY (POLICY)

ATTESTED

(Signature)

ATTESTED

-10-

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

ATTESTED

WPM-17-2023 AZIRULAH VS GOVT OF PAJ

Secretary (Policy)

Secretary (Policy)

Your faithfully,

- 1. Copy forwarded to the...
- 2. Copy forwarded to the...
- 3. Copy forwarded to the...

Head, Office of the...

The Government of Sindh has received...

Further, these officers/employees 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 (Promotion & Discharge) Rules, 2011, para...

Further, those officers/employees who do not comply with promotion order shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Promotion & Discharge) Rules, 2011, para...

The rules provide that the date of the order of promotion shall be the date of the order of promotion and not the date of the order of promotion.

It is directed to refer to your letter No. SO/Personnel-1/15/2023 dated 18.04.2023 on the subject cited above and to state that the subject is not eligible for promotion as per the provisions of the rules.

Yours faithfully,

Secretary (Policy)

The Government of Sindh Secretariat, Islamabad.

Secretary (Policy)

Reference:...

GOVERNMENT OF KHYBER PAKHTUNKHWA
SECRETARIAT
Islamabad



Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9221587)

No.50 (Primary-MYE&SED)-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

[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 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 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]

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

Copy forwarded to the:

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

[Handwritten mark]

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

[Handwritten Signature]
ATTESTED

-13-
B/c

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

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

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

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

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH VS GOVT CP PG43

~~ATTESTED~~

-14-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULHAQ
PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA
REGARDING DELETION OF RULE 7(S) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION &
TRANSFER RULES 1997).

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

Annexure
01

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

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

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

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

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

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

(Mr. Razaqul Ulhaq)
General Secretary APTA
Peshawar

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

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

ATTESTED

LS-
-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 715 IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION
& TRANSFER RULES 1989).

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

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

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

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

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

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

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

ATTESTED

ATTESTED

MS-1443-2023 AZDILAN V8 GOVT CP P040

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

Assistant Director (Exhibits A1-9)
Elementary & Secondary Education
Khyber Pakhtunkhwa

17/07/2023

1. PA to Director Local Directorate
2. Master Copy

Copy of the above to:

The case is submitted for perusal and necessary actions please.

Departmental Resolution Committee
provided they, in the written report to the meeting of
Teachers Union No. 16 may be conveyed to the concerned in the meeting held

7(2) 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 decision of Hqs has

been asked for submission of consolidated case.

Chairman of the Provincial Government at his office this office has

That in the light of the minutes of meeting held 6-07-2023, held under the

(Priority-4) MS/ED/2-2/1/2023 dated 13-06-2023.

The same was received by this office from your good office vide letter No.50

and is being processed under every condition.

that there exists no provision to decline or forgo promotion. It is obligatory upon every

Wing) vide Mr. No.50 (Policy) EA/VI-1/2020 dated 6-06-2023 categorically stated

That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation

No.50 (Priority-4) MS/ED/2-2/1/2023 for necessary guidance.

That your good office forwarded the same to the quarter concerned vide letter

production.

(ii) It is the recognized of the civil servant to accept promotion in every condition.

(i) Now it is obligatory upon the civil servant to accept promotion in every condition.

No.50/87 dated 16-02-2023.

That this office has been guided from your good office in the following words vide letter

vide Mr. No.50 (Policy) EA/VI-1/2020 dated 06-06-2023.

dated Rules 7(2) under Civil Service (Appointment, Promotion & Transfer) Rules 1980)

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)

present by its history about the background of the case as under:

I am directed to refer to the letter No.50/Priority-4/MS/ED/2-2/1/2023 dated 13-06-2023 on the subject cited above and to

Q.A. Mr. No.50/Priority-4/MS/ED/2-2/1/2023 dated 13-06-2023 on the subject cited above and to

Subject: **APPOINTMENT BY THE DIRECTING**
Khyber Pakhtunkhwa Province
Elementary & Secondary Education Department
The Director (Priority-4)

To



Ms. 8145

Ms. 8145
Khyber Pakhtunkhwa Province
Elementary & Secondary Education Department
The Director (Priority-4)

-B/c-

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR
(21-7-2023)

To:

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

Subject: Minutes of Meeting

Dear Sir,
I am directed to refer to letter No. (SO Primary-M) E&SED/5-1/GA/121/ Minutes of meeting 1/31/2023 dated 20-7-2023 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 1977) vide notification No. No. SOP-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 06-08-2023:
 - (i) Now it is obligatory upon civil servant to accept promotion.
 - (ii) It is prerogative of civil servant to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quinter 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 6-06-2020 categorically stated that there exists no provision to decline /forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(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

ATTESTED

WPA443-3023 AZZULAH VS GOVT OF PAK

Scanned with CamScanner

SECTION OFFICER (PRIMARY MALE)
28/08/23

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

Copy forwarded to the:

SECTION OFFICER (PRIMARY MALE)
BAUHARAJ (SMA)

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

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

1. I am directed to refer to your letter No. SD(Policy)/EBAD/1-3/2020 dated 06/ June 2023 and to state that after detection 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.

SUBJECT: - GUIDANCE REGARDING DETECTION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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

Annexure E

No. SD(Policy-M)/ESSE/D/2-2/A-Appointment-Rule /2023
Peshawar dated 23rd August, 2023

SECRETARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-8223577)



ATTESTED

1. Director E & SE Hyderabad
2. PS to Secretary, E & SE Department Hyderabad
Copy forwarded to:
(Muzammas Ishaq)
Section Officer (Army)
Muzammas Ishaq

In this connection it is submitted that in some cases lady teachers of primary level who avail such promotion have to face serious inconvenience while they have to perform duties in the remotest stations with no residential/transport facilities. Most of them are married with kids and elder father of Mother-in-law who need care. In such cases there are negative effects on service delivery. In view of above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.

9. am directed to refer to your letter No. SO (Army) (P) 1474/D dated 14/3/2022 and to state that after deletion of Rule 7(5) Higher Education (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 Higher Education (Civil Servant) (Efficiency and Discipline) Rules 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 Hyderabad
Establishment and Administration Department,
Peshawar

No. SO (Army-M) E&SE D 18-21
Appointment - Rule 1/2023
Reference Dated 23rd August 2023

- B/c -

- 19 -

Annexure - F



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

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

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


Dear Sir,
I am directed to refer to your letter No. SO(Primary-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-I), Establishment Department.
 3. PS to Deputy Secretary (Policy), Establishment Department.
- 

~~ATTACHED~~

WP442-2023 AZIZULHAQ VS GOVT OF PK

- 21 -

- 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 rendered to your good office vide this department letter of even
No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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

Section Officer (Policy)

WP442-2023 AZIZULLAH VS GOVT OF PK

~~ATTESTED~~

-22-

Annexure "6"

To,

Dated: 12/02/2024

- 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/1-3/2020, 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. 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



Ayesha Khan wife of Kamran Javed
Resident of Tehsil & District Peshawar

~~ATTESTED~~

WP1443-2023 AZIZULHAQ VS GOVT OF PGD3

Handwritten signature and date: 28/11/23

Main body of handwritten text in Malayalam script, appearing to be a legal affidavit or statement.

Handwritten signature and date: 28/11/23

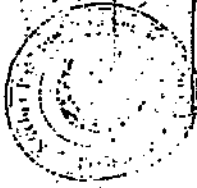
Annexure - H

APTA House
Govt. Primary School Near
Gubbior Postwar City

Kannur Panchayath
APTA

1st Floor Room
Panchayath
0233 01244
0233 01244
panchayath@gmail.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.D. [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)

[Signature]
13/5/24

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

~~ATTESTED~~

25

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

AYESHA KHAN

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

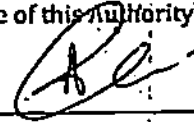
BASSAM AHMAD SIDDIQUI AHC

&

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.



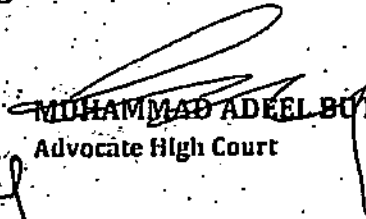
APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQUI
Advocate High Court

