


FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No. 2070 /2024

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

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

C.M No \_\_\_\_\_ -P of 2024

In Ref to

Service Appeal No 2070 2024


Naveed Zafar

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2070 /2024

Naveed Zafar son of Abdul Qadir, PSHT (BPS-15)

Dheri gulai, PO gulai, Sari kot, Tehsil Ghazi and District Haripur

.....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, Civil Secretariat Near MPA Hostel, Peshawar

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED**

**P R A Y E R:**

**ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION BEARING NO: SO (POLICY) E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.**

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

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

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

2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.

3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.

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 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 set aside.

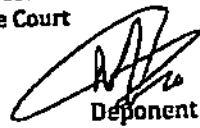
- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the Impugned promotion Notification dated 06/08/2020 communicated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

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3 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 Murad Ali Son of Sharif Gul Resident of Tehsil & District Mardan that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court  
  
Deponent

Through

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

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

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

C.M No \_\_\_\_\_-P of 2024

In Ref to

Service Appeal No \_\_\_\_\_2024

Naveed Zafar

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa, &amp; 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 IIs. 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


  
Appellant

Through


  
Muhammad Muazzam Butt  
Advocate Supreme Court


  
Muhammad Adeel Butt  
Advocate High Court

6

**Dist. Govt. NWFP-Provincial  
District Accounts Office Haripur  
Monthly Salary Statement (August-2024)**



Personal Information of Mr NAVEED ZAFAR d/w/s of ABDUL QADAR

Personnel Number: 00253082

CNIC: 1330113310821

NTN:

Date of Birth: 07.03.1971

Entry into Govt. Service: 10.03.1990

Length of Service: 34 Years 05 Months 023 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

80645199-DISTRICT GOVERNMENT KHYBE

DDO Code: HR6448-District Haripur

Payroll Section: 002

GPF Section: 001

Cash Center: 31

GPF A/C No: EDUAD014405

Interest Applied: Yes

GPF Balance:

420,900.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 23

Wage type	Amount	Wage type	Amount
0001 Basic Pay	69,460.00	1001 House Rent Allowance 45%	3,524.00
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
1505 Charge Allowance	40.00	2148 15% Adhoc Relief All-2013	915.00
2199 Adhoc Relief Allow @10%	614.00	2316 Teaching Allowance 2021	3,224.00
2341 Disp. Red All 15% 2022KP	6,608.00	2347 Adhoc Rel Al 15% 22(PS17)	6,608.00
2378 Adhoc Relief All 2023 35%	23,618.00	2393 Adhoc Relief All 2024 25%	17,363.00

**Deductions - General**

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-5,963.00	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
6505	GPF Loan Principal Instal	210,000.00	-7,000.00	112,000.00

**Deductions - Income Tax**

Payable: 95,397.45 Recovered till August-2024: 11,926.00 Exempted: 23848.65 Recoverable: 59,622.80

Gross Pay (Rs.): 136,332.00 Deductions (Rs.): -19,188.80 Net Pay (Rs.): 117,144.80

Payee Name: NAVEED ZAFAR

Account Number: PLS00000001485-7

Bank Details: ALLIED BANK LIMITED, 250918 GHAZI PATTI GHAZI PATTI, HARIPUR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: HAR

City: HARIPUR

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

**ATTESTED**

(358678/27.08.2024/16:37:29) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted



- 61. Muhammad Qadir 7/3 Sahira Mir Khan  
R/O Bache Khan Abottabad
- 62. Muhammad Farhad 8/3 Ghulam Farwar  
R/O Fawaznahr Abottabad
- 63. Muhammad Amir 9/3 Juma Khan  
R/O Nawa Tal Haripur
- 64. Subhan Khan 7/3 Mir Zaman R/O  
Nawa Tal Abottabad
- 65. Javedur Rahman 8/3 Maghoolur Dahanu  
R/O Nawa Tal Abottabad
- 66. Karam Khan 7/3 Abdul Qadir W/O  
R/O Nawa Tal Haripur
- 67. Mir Feroze 7/3 Farwar Khan W/O  
Bandi Nawa Haripur
- 68. Muhammad Nawa 7/3 Haji Kulu Khan  
W/O Dalola Abottabad
- 69. Muhammad Aliqo 7/3  
R/O Nawa Tal Abottabad
- 70. Muhammad Asad 9/3 Abdul Wafiq R/O  
Bavelian Abottabad
- 71. Iftikhar Ahmad 7/3 Gulzar Khan W/O  
Badi Abottabad
- 72. Tariq Mahmud 7/3 Muhammad Ashraf R/O  
Badi Abottabad
- 73. Inji Ahmad 7/3 Muhammad Khan W/O  
Chashatti Abottabad
- 74. Sajid Ahmad 9/3 Muhammad Yaqub W/O  
Bandi Nawa Haripur
- 75. Majid Ali 7/3 Muhammad Daud R/O  
Pandoori Haripur
- 76. Iftikhar Ahmad 8/3 Muhammad Akhtar  
W/O Nawa Tal Haripur
- 77. Muhammad Iqbal 7/3 Bahan Din R/O  
Nawa Tal Abottabad
- 78. Nawaz Akhtar 7/3 Muhammad Yusuf  
Dahanu Tal Haripur
- 79. Muhammad Iqbal 7/3 Muhammad Yunis  
Sikandarpur Haripur
- 80. Aif Fahid 7/3 Fahid Ahmad Khan  
R/O Haripur
- 81. Gulfaraz Khan 9/3 Taj Muhammad Khan  
W/O Nawa Tal Abottabad
- 82. Muhammad Ayub 7/3 Fiqar Muhammad  
Dahanu Tal Haripur
- 83. Muhammad Ayub 7/3 Waseem Khan 9/3 Zain  
Khan W/O Lurnara Abottabad
- 84. Saad Khan 7/3 Alist Khan R/O  
Banda Mir Khan
- 85. Muhammad Ibrar 9/3 Karim Din  
R/O Baspur Khan
- 86. Abdur Wahid 7/3 Khalid W/O  
Bandi Dhanu
- 87. Muhammad Mahood 8/3 Sultan Khan  
Village Datar Abottabad
- 88. Sabibur Rahman 8/3 Gohar Rahman W/O  
Tind Nigra Haripur
- 89. Mustafa Khan 8/3 Rohmatullah  
Nawa Tal Abottabad
- 90. Ghulam Nur Khan 9/3 Ruzaf Khan  
Kakul Abottabad
- 91. Muhammad Arif 9/3 Mir Asad W/O  
Pal Nawa Abottabad
- 92. Tayyabur Rahman 7/3 Abdul Wahab R/O  
Bnar Abottabad
- 93. Sher Asad 7/3 Mir Asad W/O  
Nawa Tal Abottabad

- G/S Bahkey Ati against v/post
- Mr: Saigah Beema W/C Post
- G/S Jhama RPE vacant post
- " Dhara Ati -do-
- Mr: Dahim Dalola W/C post
- " Nawa Bader Ati -do-
- Mr Chari Nawa vacant post.
- " Darra Haripur -do-
- Mr Sri Dalola -do-
- " Nawa Kalam -do-
- UNS Malla Waziran -do-
- Mr: Waide Sanjala W/C post
- " W/Pari Ati -do-
- " Jabri UC Kakotri -do-
- " Athi UC Bostgali -do-
- " Ghuri Haripur -do-
- " Badi Kota -do-
- G/S Khushi Bote vacant
- Mr: Dal Ati W/C post
- " Hakkar Najhot Ati W/C post
- Mr: Atan Kuli Lora vacant post
- G/S Zarnat Nawa vacant post
- Mr: Hli Karatti Ati W/O post
- " Dakhan Majuhan -do-
- " Ratvali Dalola -do-
- " Banda Fahid Khan -do-
- " Farori UC Nagrai -do-
- " Danna Tattan -do-
- UPS Bako to -do-
- G/S Shafiq & Band vacant post
- Mr: Nawa cohi Ati -do-
- UPS Peral Badi Majuhan -do-
- Jabri UC Kakotri W/C post
- UNS Surjal Ati vacant post

condition page/4....

ATK/UEU



9

**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**

ADMITTED

REPUBLIC OF KENYA

NO. 216/83

Copy forwarded to the  
Director General of Immigration  
Kenya (Mombasa) (Mombasa)  
Kenya (Mombasa) (Mombasa)

Director General (Policy)

Director General (Policy)

1. I am directed to refer to your letter No. SOR/Imm/14/1983 dated 14.04.1983 on the subject stated above and to advise that the Government of Kenya has decided to grant the subject a visa for entry into Kenya for a period of 90 days from the date of issue of the visa.

2. The holder of the visa is to be allowed to enter Kenya at any port of entry and to remain in Kenya for a period of 90 days from the date of issue of the visa. The holder of the visa is to be allowed to extend his stay in Kenya for a further period of 90 days if he applies for an extension of his stay before the expiration of his original period of stay.

3. The holder of the visa is to be allowed to enter Kenya at any port of entry and to remain in Kenya for a period of 90 days from the date of issue of the visa. The holder of the visa is to be allowed to extend his stay in Kenya for a further period of 90 days if he applies for an extension of his stay before the expiration of his original period of stay.

4. The holder of the visa is to be allowed to enter Kenya at any port of entry and to remain in Kenya for a period of 90 days from the date of issue of the visa. The holder of the visa is to be allowed to extend his stay in Kenya for a further period of 90 days if he applies for an extension of his stay before the expiration of his original period of stay.

GOVERNMENT OF KENYA  
MINISTRY OF IMMIGRATION AND TRAVEL  
Nairobi



Amekue - C

**ATTACHED**

MINISTRY OF EDUCATION GOVT OF PAK

SECTION OFFICER (PRIMARY MALES)

*[Handwritten signature]*

1. PS to Secretary, EASE Department (Khyber Pakhtunkhwa)

SECTION OFFICER (PRIMARY MALES)

*[Handwritten signature]*

Copy forwarded to the:

Encl: A

above, please.

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

EASE Department in his office.

I am directed to refer to the subject noted above and to enclose herewith a letter of Establishment Department letter No. 50 (Policy) EA/D/1-3/2020 dated 08 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)

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)

**GUIDANCE REGARDING DELETION OF RULE 7(B) IN THE (KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1988)**

Subject:

All Primary Teacher's Association, KP

Aziz Ullah Khan

President

Elementary & Secondary Education Department  
(Khyber Pakhtunkhwa, Peshawar)

26/6/23

The Director

To

PSO (Primary) EASE/D/2-6/2023  
(Ltd) Peshawar No. June 26, 2023

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

No 50 (Primary-M)/BARD/2-6/2023  
Dated Peshawar the June 25<sup>th</sup> 2023

B/C

12

The Director  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa, Peshawar

Ash Ullah Khan President

President

All Primary Teacher's Association, KP

Subject: DISTURBANCE REGARDING DELETION OF RULE 7(S) IN THE KHAYRA  
PAKHTUNKHWA CIVIL SERVAANTS (APPOINTMENT, PROMOTION  
AND TRANSPER) RULES, 1999.

I am directed to refer to the subject noted above and to enclose here with a letter of  
Establishment Department letter No. 50 (Policy) BARD/1-3/2023 dated 06 June, 2023 and to state  
that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in the department under the  
Chairmanship of Additional Secretary (Basic) BARD in the department in his office.

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

Each AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, BARD Department Khyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)

UNRECORDED ORIGINAL IN COURT OF RECORD

~~SECRET~~

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH REGARDING RE-ENTRY OF HIS WIFE IN THE CIVIL SERVICE/EMPLOYMENT PROMOTION & TRANSFER RULE 1997.

A meeting regarding the subject matter was held on 04-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

SR	NAME	DESIGNATION
1	Mr. Fozal Wajid	Deputy Director (Establishment of Directorate Elementary & Secondary Education Department)
2	Mr. Aziz Ullah	Principal (Elementary All Primary Teachers Association Khyber Pakhtunkhwa)
3	Mr. Rafiqul Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) EASE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

- The meeting started with reception from the Holy Quran. The chief welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.
- After the address discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-completed/consolidated case for onward submission to Establishment Department for further necessary action.

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

*(Signature)*  
 Provincial President  
 All Primary Teachers Association  
 Khyber Pakhtunkhwa

*(Signature)*  
 (Mr. Fozal Wajid)  
 Deputy Director  
 EASE Department

*(Signature)*  
 (Mr. Rafiqul Ullah)  
 General Secretary APTA  
 Peshawar

*(Signature)*  
 (Mr. Aziz Ullah)  
 Section Officer (Primary-Head)  
 EASE Department

(Abdullah)  
 Additional Secretary (Establishment)  
 EASE Department

WP/43-2023 AZIZULLAH VS GOVT OF POK

~~ATTENDED~~

*Anwar*

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULAH  
 PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA  
 REGARDING OF SECTION OF RULE 7(5) 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

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

EASE Department

Provincial President

All Primary Teachers Association

Khyber Pakhtunkhwa

(Mr. Rafiqat Ullah)

General Secretary APTA

Peshawar

(Muhammad Ishaq)

Section Officer (Primary-Male)

EASE Department

(Abdullah)

Additional Secretary (Establishment)

~~ATTACHED~~

-B/C-





- B/c -

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

To:

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

PESHAWAR  
(21-7-2023)

Subject: Minutes of Meeting

Dear Sir,  
I am directed to refer to letter No. (SO Policy-PM) E&SED/5-1/64764/  
Minutes of meeting/ST/2023 dated 10-7-2023 on subject cited above and to  
present brief history, about background of case as under.

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion, Transfer etc 1997) 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. 5987 dated 06-07-2023
  - (i) Now it is obligatory upon civil servant to accept promotion.
  - (ii) It is prerogative of civil servant to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quanta concerned, vide letter No. So (Primary-M) E&SED/2-2/Appointment-2023 for necessary guidance.
- That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline /forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

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

The case is submitted for perusal and necessary action please.

Copy of the above to;

1. PA to Director Local Directorate
2. Master Copy

Attested Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa.

ATTESTED

No. SO(Pri/Secy-M)ES/2-1/Appointment-Rule /2023  
Peshawar Dated 23<sup>rd</sup> August, 2023

Annexure E

SUBJECT: SUITANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL  
SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES  
1982)

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

Dear Sir,

I am directed to refer to your letter No. SO(Policy) EAD/1-3/2020 dated  
06<sup>th</sup> June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil  
Servant (Appointment, Promotion & Transfer Rules 1982) it has been intimated that those  
Officers/Offices 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 or primary  
level who avail such promotions have to face serious inconvenience while they have to  
perform duties in the remotest section 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.

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)  
20/8/23

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WPK-42-2023-2321144-V8 GOVT OF PK

ATK/SL/166

~~SECRET~~

(Muzammad Ishaq)  
Section Officer (General)  
Islamabad

1. Director, E & SE Division, Islamabad  
2. PS to Secretary, E & SE Division, Islamabad

Copy forwarded to:  
In this connection it is submitted that in some cases lady teachers of primary level who avail such promotion have to face serious inconvenience, while they have to perform duties in the respective 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. The said amendment may be reconsidered to the extent of lady teacher in primary schools.

Dear Sir,  
I am directed to refer to your letter No. SO/General (Punjab) (E&AD) dated 13/3/2020 and to state that after deletion of Rule 7(5) Khyber Pakhtunkhwa (Khyber Pakhtunkhwa) (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa (Efficiency and Discipline) Rules 2013.

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

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

No. SO (Punjab-M) E&SE/1989/2020  
Approved - Rule/2020  
Reference Dated 23rd August 2020

- 2 -  
- B/C -

Annexure - F



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

ATTESTED

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 rendered 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.

GOVERNMENT OF KHYBER PAKHTUNKHWA

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)

Encl. Of even No & date

Copy forwarded to the:-

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

Section officer (Policy)

ATTESTED

## Annexure - G

To.

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

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

Sir/ Madam:-

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

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

Dated 16/03/2024



NAVEED ZAFAR  
 ATTESTED BY ABDUL QADIR  
 PS#1

~~ATTESTED~~

AMERICAN ASSOCIATION OF COLLEGE PROFESSORS

~~Handwritten signature and text~~

Handwritten text in Hebrew, appearing to be a list or set of instructions.

Handwritten text in Hebrew.

Annexure - H

Handwritten text in Hebrew.

APTA National Council, Primary School No. 4, Goshet, Primary Pathway, Chit.



Teacher Pathway

APTA National Council, Primary School No. 4, Goshet, Primary Pathway, Chit.





# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

NAVEED ZAFAR  
Versus

Appellant

Government of KP & others

Respondents

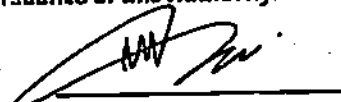
I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC  
BASSAM AHMAD SIDDIQUI AHC  
&  
ASSOCIATES OF MUAZZAM LAW FIRM

to act and appear for me in the above Suit and on my behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any petition connected with the same or any decree or order passed therein and Applications for review to file and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

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



APPELLANT

ACCEPTED

  
MUHAMMAD MUAZZAM BUTT  
Advocate Supreme Court

  
MUHAMMAD ADEEL BUTT  
Advocate High Court

  
BASSAM AHMAD SIDDIQUI  
Advocate High Court