FORM OF ORDER SHEET

	Court o)f
	<u>A</u> p ₁	peal No. 2148 /2024
5.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	3
1-	24/10/2024	The appeal presented today by Mr. Muhammad
		Muazzam Butt Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 01.11.2024. Parcha Peshi
2) -		given to counsel for the appellant,
	- -	By order of the Chairman
	-	#01:1
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024	
In Ref to Service Appeal No 2	1482024	٠.

Muhammad Riaz Abbasi

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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DVOCATE

M. Muazzam Butt

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In.	Do	F	٠.
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Service Appeal No 2148 /2024

Muhammad Riaz AbbasiSon of Shahnawaz Abbasi, PSHT (BPS-15)

Mohallah Afzalabad, PO College doraha, labarkot, Tehsil and District, Mansehra

VERSUS

.....Appellant

- 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
- 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

PRAYER:

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.

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.

Copy of Appointment letter is annexed as <u>Annexure A</u>

- That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/08/23 wherein it has been made mandatory to the employees to avail the point, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

"Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency Discipline) Rules, 2011, please".

- 5. That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020.

 Copy of Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No. 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition.

 Copy of Impugned Letter dated June 06th, 2023 is attached as Annexure C
- 7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case, for onward submission to the Establishment Department for further necessary action.

 Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
- 8. That the Respondent No.3 i-e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer), Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of Letter dated 23-08-2023 is attached as <u>Annexure E</u>

- 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 <u>Annexure G & H</u>
- 11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

GROUNDS:-

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were 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.

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

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

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

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

AND A VIEW F

11/4

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

Through

Muhamind Muazzzam Butt Advocate Supreme Court

Deponent

Muhammad Adeel But Advocate High Court

Appellant

Bassam Alfinad Sidliqui Advocate High Court

LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	<u>'</u>	P of 2024
In Ref to		
Service App	eal No	2024

Muhammad Riaz Abbasi

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.

Through

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

Muhammad Muazzam Butt Advocate Supreme Court,

Muhammad Adeel Butt Advocate High Court

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



Personal Information of Mr MUHAMMAD RIAZ ABBASI d/w/s of SHAH NAWAZ

Personnel Number: 00219608

CNIC: 1350113116505

NTN:

Date of Birth: 03.06.1977

Entry into Govt. Service: 30.06.1997

Length of Service: 27 Years 02 Months 003 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003206-DISTRICT GOVERNMENT KHYBE.

DDO Code: MA6145-Mansehra

Payroll Section: 001

GPF Section: 0017 GPF A/C No: EDUMA012112 GPF Interest upplied

Cash Center: 2

GPF Balance:

962,459.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 21

	Wage type	Amount	Wage type	Amount
0001	Basie Pay	65,500.00	1001 House Rent Allowance 45%	3,524,00
1210	Convey Allowance 2005	2,856,00	1300 Medical Allowance	1,500,00
1505	Charge Allowance	40.00	2148 15% Adhoc Relief All-2013	796,00
2199	Adbay Relief Allow @10%	√535.00	2316 Teaching Allowance 2021	3,224,00
2341	Dispr. Red All 15% 2022KP	6,208,00	2347 Adhoc Rel Al 15% 22(PS17)	6,209.00
2378	Adhae Relief All 2023 35%	22,232.00	2393 Adhoc Relief All 2024 25%	16,375.00

Deductions - General

		···	_		
	Wage type	Amount		Wage type	Amount
3015	GPF Subscription	-4.290.00	3501	Benevolent Fund	-1,200,00
3609	Income Tax	-5,138.00	3990	Emp.Edu. Fund KPK	-135.00
40:04	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan Description Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

82,198.80

Recovered till AUG-2024:

10.276.00

Exempted: 20549.00

Recoverable:

51.373.80

Gross Pay (Rs.):

128,999.00

Deductions: (Rs.):

-11,363.00

Net Pay: (Rs.):

117,636.00

Payee Name: MUHAMMAD RIAZ ABBASI

Account Number: 3009531696

Bank Details: NATIONAL BANK OF PAKISTAN, 230574 MAIN BRANCH BALAKOT MAIN BRANCH BALAKOT.

BALAKOT

Leaves:

Opening Balance:

Availed:

. Enmed:

Balance:

Permanent Address: MANSEHRA

City: MANSEHRA

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

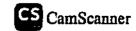
City:

Email: riazabbasi06@gmail.com

System generated document in accurdance with APPM 4.6.12.9(50399005/27.08.2024A:3.0)

* All amounts are in Pak Rupees

* Errors & and sions excepted (SERVICES/01.09.2024/02:38;54)



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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY MAN EHRA.

NOTHIC TICK.

Consequent upon their selection by the Departmental Scheetien Committee the District Education officer (Male) frimary Manushro has been pleased to appoint the following trained TC candidates at the school on todagainst their names in DSS-7 (Ms. 1460-81-2695) plus usual all wances as advisable under the rules with immediate effect subject to the existing turns & conditions.

SING NAME POTTES WHAL DIC DIRTH N. OF SCHOOL HELD REWARDS.

NE LIT I CETED.

DISTRICT HEATT.

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	Hansehra.		

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6.	Huhammid Parvez 8/0 4.10.72	16.	GiS Kancla	. Vice Muhammad Fiaz	d2
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8.	Humanned Hunsif S/010.9.74	• •	Sis Dolo Bai Pain Vice Abdal Ghofor Shah —dò-
	Muhammad Vali R/O Kenshian.		and the second second

9.	Tufail Huhsamad S/G Fasalur Rebusa R/C	7.3.75	19	GUS Khhan	Vice Snjjad Bussain Shah	_d.
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	S. Chan Hohd Shah		:	•

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Continued .age D .2.



the governed by such rules and regulation as may be prescribed by the m time to time for the catef ry of the Govt: wervant to which they bolong. Asarvices will be liable to termination on one worth notice from either side. se of resignation without nation, and noth pay will be forefleted in i theirsf.

by should join the posts within one month of the issue of this motification. heir inter-senicrity will to determined in accordance with the merit of the departmental selection committee.

Charge reports should be submitted to all concerned.

They will be an probation for a paried of two years and will have to pass the departmental examination. I In case a condidate facts to qualify the departmental examination, he will be given one more chance. If he fails again then his services will be terminated. On arrivol/availability of trained teachers, the services of untrained teachors occupies the prate shall 'e terminated.

Their original cortificates/degroes should be checked and verified from the concerned university/IBE/AdE and Islamic Madrasens before bonding over the charge.

Service books of the teachers must be areasted complete in all respect before handing over the charge.

The declarati a of assets should be true from them immediately and placed on record.

10. They are required to produce health \ are certificate from medical authorities concerned before handing ever the charge.

Charge reports should be submitted to all concerned & charge should not be given to everage condidates untill their cases for age relexation be sent to the concerned quarters.

12. Efforts shruldways for transfer before the completion the tenure will dis-qualify him from corvice.

No. Th/Dr. in allowed.

an under taking shall be obtain from Haster & degree holders TTO that they will serve the department for at least five years while they are selected, by the

public service commission for any mat.
In case of person appointed as an untrained teacher, he will have to pass the requisite training examination within a period of four years failing which him sorvices will be terminated.

Note: -

Complete information of appointers in consolidated lists on the prescribed proforman (Attached) alongwith charge reports be submitted by the lower offices to the Director Primary Education/D.E.C. (H) Frimary Mansehra within a week positively.

> (MORTHAD SARIAR NIA!) 2 district inc. tig: effici:, (HALE) THERAY MANSEELS.

Endet: No. 1678-1713 10.3/G-1/1997.

Dated mansehra the 26.6.

Capy forwarded for information to the:-

Director Frigary Education N. F. Peshawar.

Sub Divisional Education Officer (Male) Mansahra.

District ..cccunt officer Manschra.

4-38 All the condidates concerned.

39. Office order Pile.

DISTRICT SOUC. TIN OFFICE (H.L.), (ADHAY H.HESINA,

Binings An

Hrnexure.

COMBRANCH CHARRIL BYREALTHURETAN ESTABLISHMENT DEFARTME CHECHEATION WIRE

NOTHIFICATION

Dufed Perhawar the 06 / 8-72020

Pakhlighthan Civi Servants Acit 1977 (Khyber Pakhliankhwa Aci Bo.X.VIII of pakhlighthan Minister of Khyber Dabhidanian In energlac of the powers conferred by seculdingly of the The parameter of Khylier Pakhinishing and Tourish that in the Khyses the Civil Servagis (Appointment). Promotion and Tourish the Civil Servagis (Appointment). Civil Survatir (Appointment), Reamotion and Transfeel Rules, 1989, the The mide namely:

AMENDMENT.

la rule 7, sub-rule (5) shall ba deleud.

CHIEF SECRET ARY GOVERNMENT OF THE KHYDER PAKHYUN

Additional Chief Secretary, Clovic of Khyber Pakhtunkhwa, Planning & Capy is forwarded to:-

The Senior Member Board of Revenue, Khyber Pakhrunkhwa. Development Department.

All Administrative Secretaries to Govt. of Khyber: Pathtunkhwa. The Principal Secremy, to Governor, Khyber Pakhiunkhwa.

The Principal Secretary to Cliff Minister, Kbyber Pakhiunkhwa.

All Divisional Commissioners in Khyber Pakhtunkhwa

All Heers of Anached Departments in Khyber Pakhtunkhiva. All Autonomous Semi Autonomous Bodies in Khyber Pakhuunkhwa All Deplay Commissioners in Khyber, Pakhlunkhwa

8.

The Registrar, Khyber Parhiunkhyra Service Fribunal Peshawar. The Registrar Pesliewar High Court Pesliawar

The Secretary, Thyber: Pakhtunkhwa Public Service Continus in Pishir The Deputy Director (ID), E&A Department.
All Section Officers in Establishment & Administration Department. Section Offices (Admin), Administration Department with the request to

arrance 20, gazene copies.

Carciaker, Acministration Department.

TESTED

DERUTY, SECRETAILY POLIC

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

<u>NOTIFICATION</u> 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.

<u>AMENDMENT</u>

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)

MURDINGE

THE STANDARY DESIGNATION OF STANDARY ST ODVERNIENT OF ICHTER PARCITION - AWILDING

The Covermitent of Klyher Pakhimkliwa, Hementory & Secondary Phinesana Dapailment.

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Dear Slr,

hules, 1969 stands deleigd olds the esperiment notification dated 06,08,2020; thus, no (2) of Anjers of Ehylan Chantine Civil Research (Appolitiment, Promoting and Transfer) alust-due tade of bas ovode bases tasidat ail an CCOS. 10.81 valel CCORVazantaloganas -richteani(M-kiamhillog and letter in) out letter in Sollichampinalen i

civil servant to accept promotion in every condition. to tackic higher teaponalbilites in case of promotion. Traceloto, it is obligatory upon Every prevent those who tend to total parameter is evade postinginesses or show lock of expecitly of to notifienq Uson ovitorall ofants a of galdates yd aleg thill tal notifiques such traves fivis The perioralonale behind the deletion of the [big rule is officed at preventing a "notiomong ages to auticalite of eign premation."

proceeded agulast under Klyber Pakhinak*kra*i Clvil Servsats (fifficlency & Discipline) fulles, of that encoun increased through alternative to the second of the second increased and to Tunhamore, these officarbolfiable who do not comply with promotion order

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(Yallof) Janmayahin acci)

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2011, please-

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1. Pa to Depay Secretay (Res), Euchlishnen Department. PA to Additional Secretay (Rep-18), Hubblishnen Department. P. Pa to Depay Secretay (Rolly), Euchlishnen Orpaningal.

WPANA 3-2023 AZIZULLAH VS GOVT CF PG43

Raitel, Of even Mn & itele

-Overnmert Of Mayber ракитинкама ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR . . . (Phone No.001-9223507).

1'n,50 (Primary-M)/E&SEO/2-6/2023 Caled Pashaviar the, June 26*,2023

. The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan President

All Primary Teacher's Association, KP

Subject:

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

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E8AD/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 Chalmanship of Additional Secretary (Estab) E&SE Department in his office.

You are, therefore, requested to depute a representative of we respezive Department to allend the meeting on a date, time & venue as mentioned ábove, please.

Encl: AA

(MUHANMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to tha:

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

SECTION OFFICER (PRI

42-7723 AZIZULLAH VS GOVT CF PO43

BIC

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

Τo

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, 1909.

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 deted 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&SG Department in his office.

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

Encl: AA

(MUHAMNAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALU)

WP4442-2023 AZIZULLAH VS GOVT OF PG43

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

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

		· · · · · · · · · · · · · · · · · · ·
<u>S#</u>	NAMÉ.	DESIGNATION
1	Mr. Fazal Wahld	Deputy Director Establishment of Officetorate Elementary & Secondary Education Department
2	(Mr. Aziz Ullah)	Provincial President All Primary Teachars Association Khyber Pokhlunkhwa
3	Mr. Rolagal Ullah	Genejal Secretary APTA Peshawar
	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretorial Khyber Fakhlunkhwa Peshawar

2. Fe marting started with recitation from the Holy Ouron. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefled the forum regarding agenda (tem in detail).

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

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

(Mr. Fozel Wohld)
Deputy Director-I
EASE Department

(Mr. Rafaqat Ullah) General Sacretary APIA Peshawar (Mr Aziz Ullah)
Provincial Presidenj
Ali Primary Teachérs Association
Khyber Pokhlunkhyla

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

(Abauliah) Addilianal Secretary (Establishment) EASE Department

WP4442-2023 AZIZULLAH VS GOVT CF PG43

+B/C-

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

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

, SII. NAME I	DESIGNATION
1 Mr. Fazal Wohld	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4. Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial 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 & self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

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

(Mr. Fazal Wahld) Deputy Director-1		
E&SE Department		
, Provincial President	•	
All Primary Teachers Association		
Khyber Pakhtoskhy _{kir}		
(Mr. Rafaqat Ullah)		
General Secretary APTA	· · · · · · · · · · · · · · · · · · ·	
Peshawar ;		_
(Muhammad Ishaq)	•	v,
Section Officer (Primary-Male)	•	•
E&SE Department		
	• .	
1		

(Abdullah)

Additional Secretary (Separtsbergot)



Kliyber Pakhtiinkliwa, No. 3 1/SST/hUGalieral Cases

Emall: exichlathmentmole (@m

The Sacron Officer (Primary-Male), Elementer & Secondary Education Department Klyber Poklitankhwa Perhawar...

MINUTES OF THE MEETING Subject: -Dear Sir.

) am firetist to refer to the latter No.50(Primary-AGE&SED/S-1/-O.Mize/Minipas of the Healting/PST/2023 deted 10-07-2023 on the subject cited above and to present brief listery about the background of the case as under:

- That Governme V. a. Klyber Pokhtunkhwo Establishment Department (Regulation Wing) nate and Rule 7(1) in the Civil Servants (Appaintment, promotion & Transfer Rules 1989)
 vide notification No. No. SOR-VI (E&AD)/I-3/2020 dated 06-08-2020.

 That this affect notifit guildance from your good affect in the following words vide letter
 No. 6987 dated 16-02-2023.

 (i) Now it the highest your point the civil servant to accept Fromation in every condition.

 (ii) It is the propagative of the civil servant to atthe accept ar turn down the offer of
- (ii) It is the prepagative of the civil servant to alther accept as turn down the offer of promotion.

 That your post office forwarded the same to the quarter concerned vide letter No.50 (Primary-1) E45ED/2-2/Appointment/2021 for necessary guidance.
- That the Government of Klyber Pachtumbiwa Establishment Department (Regulation (Ving) vide letter No.SO (Policy) EEAD/I-3/2020 dated 6-86-2023 categorisally stated that there exists no provision to decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same with excelved by this office from your good office wide letter No.50
- (Primary-M) E25ED/2-2/Appointment/2023 dated 12-06-2023.
 That, in the light of the minutes of meeting dated 6-07-2023, held under the Chairmonsing of ion. Additional Secretary Establishment at his office this office has heen asked for inholtston of consolidated case. In way of the above, this office is of considered opinion that the deletion of Rules

7(5) have affected regulively a huge numbers of Female Teachers. Thus it is proposed that: Teachers below 176-16 may be exempted of implications of the amendment in the rules ibid, provided they subject their verticen refusal arter to conduction of the meeting of Departmental Frontalian Committee.

The enter is submitted for perusal and necessary actions please.

Australi Direttor (Eritto M-I) Elementary & Secondary Education

Low Khyber Pakhanthwa

Endst: No

Hba e is 10:-Copy of the

- al Directorale. PA to Director
- Mäster Capy

Assistant Director (Establi-1) Blementary & Secondary Education Khyber Pakhtunkhum

42-2023 AZIZULLAH VS GOVT CF PG43

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lind groves mayor tradelists at its abolitation at minimary an Etalo Lant tont betate your consumers stated that there outs . That the government of KP-ED (Regulation Why) vide leter No. 30 (Articy)

What It is so (Among M) E SED/2-2 / Appointment (2023 for 12 second

That this office sought guidense from your good uffice in the following

vide notification No. No. No. SDR-VI(EEAD)1-3/2020 dated ob-08-2020. delated referred from Civil Services (Appringrate, permetions, Trunger Pele 1999)

(Brilly restrained of the Establishment desperiment (Regulation Willy)

Dear Six 9 am atracted to refer to 100 (50. Aimon -17) E & SED /5-1/6-Wild

DIRECTURATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-2/8-

Of how evel belo debited no Esal-F-of batho Esal/TE priteson to solution

Elementary & Strandary Education Department.

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. That your good office forwarded the come to quarter concerned

sentitions by the curefaint possible conditions.

present bird history, about background of cous as undesi-

Section Office! (Rimary Malle)

Bulied 1- Minute of Meeting

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19K, Perhauser

hald under the Chairmanship of then. Additional Secretary Establish.

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members of Remale feerchiers.

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ELEVENIUMY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PEBHAWAR (Phone No.091-9223587)

No. SO(Primary-M)EBSED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

Dunexu

The Secretary to Govt, of Killyber Pakhtunkhwa, Establishment & Administration Department, Pesnaviai

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PREMOTION & TRANSFER RULES 1989).

رعادة العجور

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated 057 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servanc (Appliantment, Promotion & Transfer Rules 1989) it has been inlimated that those officers/ officials who do not comply with promotion order of the competent authority or by to eyade promotion through different means shall be proceed under Khyber Pakiriunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

In view of the above, the said amendment may be reconsidered to the

extent of lady leadner in primary schools.

(MUHAMBAU ISA SECTION OFFICER (PRIMARY HALE)

Copy (cryrarded to the:

1. Director E&SE Khyber Pakhbinkhwa.

2. PS to Secretary, EBSE Department Knyber Pakhtunkhwa.

SECTION OFFI

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WP4#42-2073 AZIZULLAH VS GOVT CF PG43

- 6/c-

No.50 (Primary -M) FESED (3-6)
Preshower Dated 23rd August 2023

Peshewer Secretary Covenment of Khyba Pakhhunbhuna Aclministration personneus,

SUBJECT: Citil Servant (Appointment, Asimolian & Transfer Pulles dinpuréak astupping 1989) deletion of Duse 7 (S) in the

Dear Sir

CIMI Servanot officers officials means Frapaduro and Tronger 1-3/2020 dated Rude 7(S) (Efficiency and Shall authouty or whe do not comply with िरमुक्र विधिष्णारीपाठ Ruses 1989) 91 has been ष्ठ Discipline) Pulle 2011 proceed స్ట్రోబ్యా మార్కె for the Hour Seather No. So. なって and to under Khyber Pakhtunkhwa <u>(</u> evade fundres branching. State that after instimated that promission though (Appointment o ति

Merry 6 દ Connection It is - Immany level above, the sold പ്പ സ്ഥ incovenience locally flooder g G Stations dellivery mannied 789 299 who evall such promotion , अस्प with no while they have to submitted that in some cases learns Areasind as **S#5** 3 र्ष्य such case their are negative sessidentical, 020 020 be reconsistence to elder · Perform duties trorupant facilities. Post 哲识 牙

Director E& SE Ktyboo Revitorethankhura.
PS to Secretary, E. & SE Papartmont Withdex Afterbritaness

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GOVERNMENT OF FYBER PAKHTUNKHWA

ESTABLISH NT DEPARTMENT

No. SO(Policy)E&AD/1-3/2020 Dated Peshawan the September 07, 2023

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/Appointmegt-Rule/2023 dated 23:08:2023 on the subject noted above and to state that necessary guidance has already been tendered to your good office vide this department letter of even No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to-the:-

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



- 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 PAICHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir.

(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 faithfuil*ý*,

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 nicer (Policy)

WP4442-2023 AZIZULLAH VS GOVT CF PG435

Annexure - G

To,

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

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 Pakhfunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment kulc/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 inconwhile, 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.

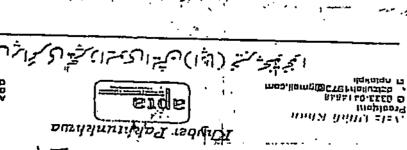
It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution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

Dated <u>19</u>/0<u>2</u>/2024

MUHAMMAD RIAZ ABBAS

SON OF

SHAHNAWAZ ABBASI



المكترجة فاتاداما الجولا لمتيريال بها الكنظري ميلوها لأملاه عاللكا ماليا يجابه

APTA House: Gove Printery Seltoni Ma.A. Gulbahar Poshawar Cily.

لا تالين كاديدنا لا بديد الم المديد بين عدد من الماديد بعد المديدة الماديد الم ישולותון וו אישור בוווישות בווצירוג בילוו לווי לוח נאור בחוו ביו וביות ביחוו ביווי בילוו בילו בילוו

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WE4442-2023 AZIZULLAH VB GOVT CF PG43

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07.05 2024



Let a pre-admission untice be Issued to the submission respondents through TCS for reply/comments, Appellant is directed to deposit ACS expenses within three days. To come up for reply/comments as well as preliminary hearing on 10.06.2024 before \$.B. P.P given to learned counsel for the appellant,

03. Alongwith the service appeal there is fanapplication for suspension of Notification dated 4 06.06.2023 and letter dated 23:08.2023 will the linal disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

ertified to be true copy(Muhammad Akbar Khan) Member (E).

Date of Pres-mation of Application 10 75 LS

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JAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD RIAZ ABBASI 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.

lagree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

-WUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocate High Court