


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

2174/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/10/2024	<p>The appeal of Mr. Amir Iqbal presented today by Mr. Muhammad Adeel Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 31.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

In-Ref to

Service Appeal No. 2174 /2024

Amir Iqbal

versus

Secretary to Government of Khyber Pakhtunkhwa, & others

Index

S. No	Description of documents	Annex	Pages
1.	Appeal and Verification		1-4
2.	Application for suspension		5
3.	Copy of monthly salary slip	A	6
4.	Copy of notification No. SD (Policy) EV-AD/1-3/2020 dated 06-08-2020	B	7-8
5.	Copy of impugned letter dated June 06 th , 2023	C	9-11
6.	Copy of minutes of meeting dated 06-07-2023	D	12-15
7.	Copy of letter dated 23.08.2023	E	16-17
8.	Copy of impugned letter dated 07.09.2023	F	18-19
9.	Copy of representation against the said notification and representation made by APTA President	G & H	20-21
10.	Wakalatnama		22


ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2174 /2024

Khyber Pakhtunkhwa
Service Tribunal

Amir Iqbal son of Muhammad Iqbal (CT BPS-16)
Phurhala, tehsil and District Haripur

Diary No. 17308

Dated 29/10/24

.....Appellant

VERSUS

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

.....Respondents

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

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.

Filed to-day
Registrar
29/10/24

RESPECTFULLY SHEWETH:

- 1. That the Respondents Department appointed the Appellant as Certificated 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 Impugned notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020 is attached as Annexure B
6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1- 3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and, therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned Letter dated June 06th, 2023 is attached as Annexure C
7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
8. That the Respondent No.3 i.e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

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

9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Copy of Impugned letter dated 07-09-2023 is attached as Annexure F
10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed. Copy of Representation against the said notification is annexed as Annexure G&H
11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

GROUND:-

- 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 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 employees 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/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

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

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

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

[Signature]
Deponent

Though

Appellant

[Signature]
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt
Advocate High Court



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No _____/2024

Amir Iqbal

versus

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

Affidavit
I, (the appellant) 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 Hon'ble Court.
Deponent

Though



[Signature]
Appellant

[Signature]
Muhammad Muazzam Butt
Advocate Supreme Court

[Signature]
Muhammad Adeel Butt
Advocate High Court

Dst. Govt. KP-Provided
District Accounts Office Haripur
Monthly Salary Statement (September-2021)

Personal Information of Mr AMIR IQBAL, dw/o MUMTAZAH IQBAL

Personnel Number: 00253630 CNIC: 130231255251
Date of Birth: 30/03/1972 Entry into Govt. Service: 21/01/1998
Length of Service: 26 Years 08 Months 011 Days
NTN: 78660252

Employment Category: Active Permanent

Department: Certified Teacher

8002143-DISTRICT GOVERNMENT KHYBE
DDO Code: 118030-DISTRICT EDUCATION OFFICER (M) MIDDLE SCHOOLS HARIPUR

Payroll Section: 001 CPF Section: 001 Cash Center:
CPF A/C No: (CPF Incent) applied (CPF Balance: 6922216.00 (penal))

Vendor Number: Pay Scale: BPS For - 2022 Pay Scale Type: CIV BPS: 10 Pay Suger: 18

Wage Type	Amount	Wage Type	Amount
Basic Pay	68,750.00	House Rent Allowance 45%	4,091.00
Convey Allowance 3KTS	5,000.00	Medical Allow 15% (16.22)	1,530.00
15% Adm. Retir All 2013	810.00	Adm. Retir Allow 10%	582.00
Teaching Allowance 2021	3,782.00	Diary Ret All 15% 2022KP	6,485.00
Adm. Ret All 15% 2022KP	6,485.00	Adm. Retir All 2023 35%	23,271.00
Adm. Ret All 2023 25%	17,187.00		0.00

Deductions - General

Wage Type	Amount	Wage Type	Amount
CPF Subscription	4,960.00	3501	Revolvent Fund
Income Tax	6,147.00	3940	Emp. Ret. Fund KPX
R. Retic. & Health Comp.	6,500.00		

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
0605	CPF Loan Principal Inval	000.00	-25,000.00	475,000.00

Deductions - Income Tax

Payable: 98,351.93 Recovered (M SEP-2021): 18,442.00 Expensed: 24587.92 Recoverable: 55,322.01
Gross Pay (Rs.): 1,37,973.00 % Deductions (Rs.): 38,427.00 Net Pay (Rs.): 99,546.00

Payee Name: AMIR IQBAL, Account Number: 082700303045911

Bank Details: NATIONAL BANK OF PAKISTAN, 230827 SIAHIRA-E-HAZARA SIAHIRA-E-HAZARA, ABBOTABAD

Leaves: Opening Balance: Awaiting: Cancel: Balance

Permanent Address: HAR

City: HARIPUR

Town Address:

City:

Email: amir2241@gmail.com

District: NW - Khyber Pakhtunkhwa

Working Status: No Official

ATTESTED

[Signature]



Amir Iqbal A

Annexure - B

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/8/2020

Sub-Policy E&A/DI-3/2020: In exercise of the powers conferred by section 25 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

LIST: NO & EVEN DATE

Copy is forwarded to:-

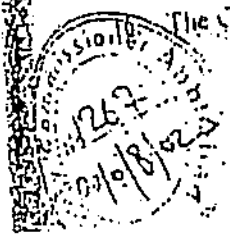
1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department.
2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
9. All Deputy Commissioners in Khyber Pakhtunkhwa.
10. The Registrar, Peshawar High Court, Peshawar.
11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
13. The Deputy Director (IT), E&A Department.
14. All Section Officers in Establishment & Administration Department.
15. The Section Officer (Admn), Administration Department with the request to arrange 20 gazette copies.
16. The Caretaker, Administration Department.

(Signature)
QWALIAH LATIF
DEPUTY SECRETARY (POLICY)

ATTESTED

ATTESTED

ATTESTED



B/C -8-

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)

ATTES.

ATTESTED

ATTESTED

WP4442-2023 AZIZI/LAH VS GOVT OF PAK

ATTESTED

[Handwritten signature]

Section Officer (Policy)

[Handwritten signature]
Section Officer (Policy)

Yours faithfully,

[Handwritten notes]
Date: 21.6.23

- 1. PS to Special Secretary (Reg): Rehabilitation Department.
- 2. PA to Additional Secretary (Rec-III), Rehabilitation Department.
- 3. PS to Deputy Secretary (Policy), Rehabilitation Department.

Copy forwarded to the:
Rajst. Of even th & date

[Handwritten initials]
3/6

2011, please.

proceeded against under Khyber-Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, of the competent authority or try to evade permission through different means shall be

3. Furthermore, those officers/officials who do not comply with promotion order civil servant to accept promotion in every condition.

to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every percent those who tend to forge promotion or show lack of capacity or to

3. The basic rationale behind the deletion of the said rule is aimed at preventing a shall exempt from temptation for which may be seeking to a single lucrative post/position or to

provision exists to decline or forge promotion.

Rule, 1989 stands deleted vide this department notification dated 06.08.2020; thus, no (3) of rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) 2/Appointment/2023 dated 18.04.2023 in the subject noted above and to state that Sub-Rule

I am directed to refer to your letter No. SO(Policy-MY/MS/1127-

Subject: **GUIDANCE REGARDING DELETION OF RULE 7(a) IN THE CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.**

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



GOVERNMENT OF KHYBER PAKHTUNKHWA
 DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION
 No. SO(Policy)/K&A/11/2020
 Dated: Islamabad the June 06, 2023

62

Annexure - C

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

No. SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar the June 26th, 2023

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

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

[Signature]
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(B) 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

[Signature]

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

Copy forwarded to the:

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

[Signature]

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

[Signature]
ATTESTED

[Signature]
ATTESTED

B/c -11-

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, 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 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

ATTESTED

WP4442-2023 AZIZULLAH VS GOVT CP PG43

ATTESTED

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

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


Annexure
①

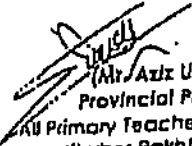
Sl#	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer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

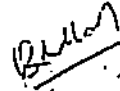
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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-I
E&SE Department


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


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


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

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


ATTESTED


ATTESTED

-13-
-B/C-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 7(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

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

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

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

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

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

ATTESTED

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

~~MEETING~~

WP442-2023 AZIZULAH VS GOVT OF PG43

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

ATTEST

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

21/7/2023

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.
provided they submit their written refusal prior to conclusion of the meeting of
Teachers below. It may be exempted of implications of the amendment in the rules bid
(75) have offered negatively a huge number of female Teachers. Thus it is proposed that
in view of the above, this office is of considered opinion that the decision of Rules
has been asked for submission of consolidated case.
Chairmanship of their Additional Secretary Establishment at his office this office has
That in the light of the minutes of meeting dated 6-07-2023 held under the
(Primary-4) E&SED/2-1/Appointment/2023 dated 12-06-2023.
The same was received by this office from your good office vide letter No.50
Civil servant to accept promotion under every condition.
that there exists no provision in decline or forgo promotion. It is obligatory upon every
Wing) vide letter No.50 (Policy) E&AD/1-1/2020 dated 6-06-2023 categorically stated
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Primary-4) E&SED/2-1/Appointment/2023 for necessary guidance.
That you not office forwarded the same to the quarter concerned vide letter
promotion.
(ii) It is the prerogative of the civil servant to either accept or turn down the offer of
(i) Now it is obligatory upon the civil servant to accept promotion in every condition.
No.0987 dated 06-02-2023.
That this office shall guide you from your good office in the following words vide letter
dated 06-08-2020. No. SOR-VI (E&AD)/1-1/2020 dated 06-08-2020.
vide notification No. SOR-VI (E&AD)/1-1/2020 dated 06-08-2020.
That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)
dated Rule 7(1) in the Civil Servants (Appointment, promotion & Transfer Rules 1980)

I am directed to refer to the letter No.50 (Primary-4) E&SED/2-1-Appointm/2023 dated 10-07-2023 on the subject cited above and in
G.M. Minutes of the Meeting/PST/2023 dated 10-07-2023 on the subject cited above and in
present brief history about the background of the case as under:

MINUTES OF THE MEETING

The Section Officer (Primary-Wing),
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Feltower.

Subject: Dear Sir,



No. 8145

Phone: 091-9223311

Email: esab@khyberpakhtunkhwa.gov.pk

Khyber Pakhtunkhwa, Peshawar

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 Primary-M) E&SED/S-1/G.M.B./
Minutes of meeting/PST/2023 dated 30-7-2023 on subject cited above and to
present brief history, about background of case as under:-

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion, Transfer Rule 1999) vide notification No. No. SOR-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 06-08-2023
 - (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 quarters 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

Assistant Director
Elementary & Secondary Education,
Khyber Pakhtunkhwa.


ATTESTED




-16-

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

No. SO(Policy-M)E&SED/2-2/Appointment-Rule /2023
Peshawar Dated 23rd August, 2023

Annexure
E

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated 06th June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/ officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

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


(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
23/8/23

Scanned with CamScanner


ATTESTED

WP4442-2023 A2IZULLAH VS GOVT CF PG43


ATTESTED

-B/c-

-17-

No. So (Primary-M) E&SE/2-2/
Appointment - Rule/2023

Peshawar Dated 23rd August, 2023.

To

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

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

Dear Sir,

I am directed to refer to your letter No. So ^{(Policy)/E&AD} ^(Primary)
/1-3/2020 dated 3rd June 2023 and to state that after
deletion of Rule 7(S) Khyber Pakhtunkhwa 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 Khyber Pakhtunkhwa
Civil Servant (Efficiency and Discipline) Rule 2011.

In this connection it is submitted that in some cases lady
teacher 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.

Copy forwarded to;

1. Director E & SE Khyber Pakhtunkhwa.

2. PS to Secretary, E & SE Department Khyber Pakhtunkhwa
WP4442-2023 AD/2023/08/23

(Muhammad Ishaq)
Section Officer (Primary
Male)

ATTESTED ATTESTER

Annexure - F



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

ATTESTED

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)

Enclst. 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.

WP442-2023 AZIZULLAH VS GOVT OF PK

-18-

-19-

- B/C -

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

To

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

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Ends Of even No & date

Copy forwarded to the:-

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

ATTESTED

Section Officer (Policy)

To,

Dated: 26-02-2024

- 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/1-3/2020 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





ATTEST:

Amir Jybal /

Certificated Teacher

CT BPS-16


ATTESTED

55823	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ: <u>محمد عبد علی سیٹھی</u>	  
بار کونسل ایسوسی ایشن نمبر: <u>BC 109662</u>	
رابطہ نمبر: <u>0334 9166514</u>	

بعدالت جناب:

منجانب:	دعویٰ:
<p>صاحب اقبال</p> <p>بنام</p> <p>گورنمنٹ</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام شعبہ ریٹیل محمد عبد علی سیٹھی کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوفہ کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، فیز وکیل صاحب کو راضی نامہ کرنے و تقریر نمائندگی و فیصلہ برحلیف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برائے لاکھ اور منسوخی، نیز دائر کرنے اپیل گزرنے والی نظر جانی و پیروی کر کے اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار یا کوئی اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور ان کے ساتھ ساتھ پورا اختیار منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوالی مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب یا جرنلہ ہوں گے کہ پیروی کی مذکورہ گزریں ہلکا و کالت نامہ لکھ دیا تاکہ سندر ہے

المرقوم: 29/10/2024

شام اقبال دیکر محمد اقبال
29/10/2024

العہد كـ واهـ العہد
مقام کے لئے منظور ہے۔

Accepted by