FORM OF ORDER SHEET

Court of	·
Appeal No.	2194 /2024

	Court o	f
: ,	<u>Apr</u>	peal No. 9194 /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/10/2024	The appeal presented today by Mr. Muhammad
	i	Muazzam But Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 06.11.2024, Parcha Peshi
		given to counsel for the appellant.
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,		By order of the Chairman
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	01
Service Appeal No	<u>179</u> 2024

Irum Naz

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVÕCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

		* *				•
In Ref to			•	\circ	OI	
				\mathbf{X}	41/2	
	·	Serv	vice Appeal i	No SI	0	/2024

Irum Naz wife of Shakeel Ahmad PSHT

Resident of Gulbahar no. 2, Anwer Asad Colony, Peshawar

.....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

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 Annexure A

- 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".

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

GROUNDS:-

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period 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 employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be setaside.

- ♣ e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
 - f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /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 60/06/2023 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 Irum Naz Wife of Shakeel Ahmad Resident of Peshawar do hereby solemnly affirm and 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

Deponent Deponent

Appellant

Through

Muhammad Muazzzam Butt Advocate Supreme Court

Muhammad Adeel Butt Advocate High Court

Chold 9,4

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

C.M No/202	4	•	. 9 * *
Service Appeal No	/2024		
	lrum	Naz	•
	· v/	s ,	
	Government o	f KP & others	ŕ
APPLICATION	FOR SUSP	ENSION O	F IMPUGNED

Respectfully Sheweth:-

1. That the instant application may be treated as part and parcel of service appeal of the appellant.

TILL FINAL DISPOSAL OF MAIN SERVICE APPEAL.

- 2. That the appellant has brought a good prima facie case and balance of convenience also lies in favour
- 3. There is likelihood of success of the appellant in the lis. The impugned notification dated 06/06/2023 is against Section 25 of KP Civil Servant Act, 1973 and promotion order dated 29/08/2023 of the appellant/applicant is also to be set-aside.
- 4. That valuable right of the appellant is involved.

In view of the above it is humbly prayed that notification No. SO(POLICY)E & Ad/1-3/2020, dated 06/06/2023 and promotion order dated 29/08/2023 to the extent of appellant/applicant may graciously be ordered to be suspended till final disposal of the main service appeal.

AFFIDAVIT:

through

I Irum Naz Wife of Shakeel Ahmad Resident of Peshawar do hereby solemnly affirm and 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

Deponent Deponent

Muhammad Muazzam Butt .
Advocate Supreme Court

Appellant

Muhammad Adeel Butt Advocate High Court Dist. Govt. KP-Provincial

District Accounts Office Peshawar Dist. Monthly Salary Statement (May-2024)





Personal Information of Miss IRRAM NAZ d/w/s of MAQBOOL AHMAD

Personnel Number: 00046827

CNIC: 1730197022712

Date of Birth: 03.04.1973

Entry into Govt. Service: 05.11.1996

80678693-DISTRICT GOVERNMENT KHYBE

Net Pay: (Rs.):

Length of Service: 27 Years 06 Months 028 Days

Employment Category: Vocational Temporary Designation: SENIOR PRIMARY SCHOOL TEA

DDO Code: PW6573-District Peshawar Payroll Section: 002

GPF Section: 001

Cash Center: 76 -

322,901.00 (provisional)

GPF A/C No: EDUPR000037 Vendor Number: -

GPF Interest applied

GPF Balance:

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 14

Pay Stage; 22

			and and
Wage type	Amount	Wage type	
0001 Basic Pay	60,810.00	1004 House Rent Allow 45% KP21	Amount
1210 Convey Allowance 2005	2,856,00	1300 Medical Allowance	8,640.00
2148 15% Adhoc Relief Att-2013			1,500.00
2316 Teaching Allowance 2021	3,036,00	2199 Adhoc Relief Allow @10%	535.00
2347 Adhoc Rel Al 15% 22(PS17)		2341 Dispr. Red All 15% 2022KP	5,787.00
2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	<u>5,787.00</u>	2378 Adhoc Relief All 2023 35%	20.674.00

Deductions - General

Wage type	Amount	- Wage type	
3014 GPF Subscription	-3.900.00	3501 Benevolent Fund	Amount
3543 Professional Tax	-1.200.00	3609 Income Tax	-1,200.00
3990 Emp.Edu, Fund KPK		4004 R. Benefits & Death Comp:	-1,881.00
		14004 Ltt. Delictits & Death Comp.	1 -600 áo 1

Deductions - Loans and Advances

Loan	······································	Descrip	tion .	Principa	tamount	Deduc	tion I	Batance
Deductions - 1 Payable: 2			till MAY-2024;	19,876.00	Exempted:	7251.70	Recoverable:	1,880.68
Gross Pay (Rs.	.): 110,4	21.00	Deductions: (Rs.):	-8,916.00	ı	Net Pav: (Rs.)	: 101 505 00	

Payee Name: IRRAM NAZ Account Number: 4106589673

Leaves:

Bank Details: NATIONAL BANK OF PAKISTAN, 231516 GUNJ GATE GUNJ GATE,

Leaves:	Opening Balance:	Availed:	Enmed:	Balance:	
		1			
Permanent	Address: PESH				
City: Pesha		Domicile; NW - K	hyber Pakhtunkhwa	Housing Status: No Official	

Temp. Address: City:

Email: irrumnazedu1973@gmail.com

Advocate Supreme Court

Housing Status: No Official

101,505.00

System generated document in occordance with APPM 4-6.12.9(87333/24.05.2024/v3.0)
* All amounts are in Pak Rupees
* Errors & amissions excepted (SERVICES/03.06.2024/22:03:40)

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Of nsequent upon the Selection Committee Apptt:

What the following F.T.C. (TRAINED) candidates are hereby ordered in the R.P.S.

10.07(RS. 145 - 161-2) R. 146 / Fer Month plus usual allowances as Admissible under the Ruis in the Behool notes against each bank with effect from their taking over the current the terms and conditions given below:

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GGrS Mera Masho -do-Gaggar Peshuwar. -do-

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<u> Siremaily</u> (2 GOLD GULLER WILLIAM - no-

GCPS Gul bahar NO.3 -do-

CGPS GullBahar NO.3 ...-do-

CGPS Fagir Atad NO.2

Contine on next Page. ATTESTED

M. MUAZZAMINTT Advocate Supreme Court

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M. MUAZZAM BOTT Advocate Supreme Court

Their Appointment is purely Temporary and liable to termination any time without assigning reasons or notice.

214 If came of resignation They/She will have to submit one month prior not at the Lagartment or forfeit one month, a cay in lieu there

3: 1 y/she are re. mired to produce Health & Age certificate from the hed oil Authoriti s c neerned (Civil Surgeon)before taking Gyer charge luvid they are not in Govt: Service.

y/She should not be all wed to take over charge if her/their

5. Calker/Their appointment is/are subject to further condition that he, Gal/they are DONICILE of (PESMAWAR)

e. Il Educational Character on domicile certificate should be verified checked before handing over charge if necessary it should be verified from the Institution concerned,

they/she fails to take over charge of the post within a 115" of the In Culpe of these orders the offer of appointment shall stand. cancelle .

1: her certificates found begus she will be handed over to the

Sie should not claim transfer with three years i.e. completion of tenure.

MC.TA/MA etc is allowed being first appointment.

Oh age reports should be submitted to all concerped. 11.

(MRS RASHDA AKHTAR) FILTRIET BRYMARIONESARIGER 2248-290 Endot:NO. 2245-237 Lto. 1/Apptt:/PIC/DEO(F)II-AE Dated

Cory of the above is forwarded to the:-Director Of Eminary Education h.W.F.F.Foshawar. F.S to minister for Primary Education N.W.F.P. F.S. to Scoretary Education Govt:Of N.W.F.P. Fluc:Department.

According benefit toward. F.F. Peshewer.

Su' livisional Education Officer (Female) Pescawar

p.F.A.s Concerned. Conditate Concurred.

r/Fil :s.

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MISTRICT EDUCATION OFFICER (FEMALE) PRIMARY PESHAWAR.

TESTE Advotate Supreme Court

COVURNMENT changu byichtanich? estatlishment departme (REGULATION WING)

NOTHEATION

Dofed Perhappor the 08/8/2020

The property of Khyler Dalkishan Charles of Khyler Dalkishan Children Dalkishan Chyles of Khyler Dalkishan Chyler in exercise of the powers conferred by seculon 25 of the The Chief Minister of Khylier Pikhiulikliwa is pleased to direct that in the Khylier Pikhiulikliwa is pleased to direct that in the Khylier Minister of Khylier Pikhiulikliwa is pleased to direct that in the Khylier Tight the Chief Servants (Appointment, Promother and Towns in the Chief Servants (Appointment, The signal common of reny ner regentuliklises to pleased to direct that in the Khyber that the lives 1989; the signal transfet Rules 1989; the signal transfer throughout the signal transfer through the signal transfer Daving fürther unandinentishall heimade, namely:

ANTENDMENT

in rule 7, sulf-rule (5) filmil be deleited.

GOVERNMENT OF THE REYPER PAKHFUNKHWA

NUSE NO & EVEN DATE

Caprid forewarded to:-

Additional Chief Secretary, Govi, of Khyber Pakhtunkhwa. Planning

The Schlor Member Board of Ravenue, Khyber Pakhrunkhwa.

All Administrative Secretaries to Govi of Khyber Palphinkhwa. The Principal Secremey to Governor, Khyber Pakhlunkhwa

The Principal Secretary to Chilef Minister, Knyber Pakhrunkhwa.

All Divisional Commissioners in Khyber Pakhtunkhwa All Heads of Attached Departments in Khyber Pakhlunkhwa. All Autonomous Semi Autonomous Bodies in Khyber Pakhtunkhwa 6.

All Deputy Commissioners in Khyber Pakhunkhwa. The Registrar Peshawar High Court Peshawar. 9.

The Registrar, Khyber Bakhiunkhiwa Service Fridunal, Peshawar

The Secretary, Khyber Pakhunkhwa Bublic Service Commission Peshilwar. The Deputy Director (IT), E&A Department. All Section Officers in Establishment & Administration Department. The Section Officer (Admin), Administration Department with the request to

arrange 20 gazette copies.

Carcinker, Administration Department.

TESTEL

DEPUTY SECRETARY POLICY

Advocate Supreme Court

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 of B) 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

'n,

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.
- All Divisional Commissioners in Khyber Pakhtunkhwa.
- 7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- 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)

M. MUAZZAM BUTT Advocate Supreme Court



, GOVERNMENT OF GLARES PARTITURISHWA estaniashabent departabent No. 80(Polley)||&ADI| -3/2020 Dated Pestinwar the June 06, 1013

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The Covernment of Khylier Publishidawa Hemenlary & Secondary Policoston Depailment.

Subject: •

Unidance recommit derition of THEMPANIES (APPOINTMENT RILYTER PARITUNIONA GIVIT HERVAL PROMOTION AND TRANSPERS RULES: 1982.

I um directed to selet in Jour letter No. HO(l'ilmary-M)/IIERUD/2-Dear Sit. VAppolitiment/2023 dated 18.04.2023 un the subject noted above and to state that Sub-Rule (5) of Rule-7 of Khyber Pakhlunkhan Civil Resounts (Appointment, Promotion and Transfer). Aufler. 1989 manda deleted vide ilde deportment modificollum dated 06.08.7010; thus, an provision exists to decilie or forgo promotion.

- The basic joilensis behind the delation of the libit rule is almost at preventing a civil servent from temptation for itilett gain by sticking to a single ineralive post/position or to prevent those who tend to forgo promotion to evado posting/transfer or show lock of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.
- 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 Klyber Pakhninkhwa Civil Servents (Riffelency & Disciplina) Rules, aurs Dithfully, 2011, please.

Knust. Of oven Nn & date

Copy forwarded to the:-

Py to Speak Scentley (Reg); Liublishment Department.

PA to Additional Secretary (Regell), Establishment Department. S to Daparty Secretary (Policy), Establishment Department.

Khun) (Polloy)

Meer (Polley)

M. MUA Advocate Supreme Court

FOVERNMENT OF MAYBER PARMTUNICHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-9223507)

No.SO (Primary-M)/E&SED/2-6/2023 Daled Peshaviar line, June 25th, 2023

To

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 JAPPOINTMENT, 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.

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

かし

(MUHAMMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

nc.

SECTION OFFICER IPRIMARY MALE

WP4442-2023 AZIZULLÁH VS GOVT CF PG43

M. MUAZZAM BUTT Advocate Supreme Court

Blc

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 Al) Primary Teacher's Association, KP

Subject:

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

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

2. You are, therefore, requested to depute a representative of your respective of populariment 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 Klyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)

M. MUAZZAM BUTT Advocate Supreme Court

WP4442-2023 AZIZULLAH VS GOVT OF PG4

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

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

50	NAME	DESIGNATION .
·	Mr. Fozol Wahld	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	i Mr. Aziz Ulloh	Provincial President All Primary Teachers - Association - Khyber Pakhlunkhwa
3	Mr. Ratagal Ullah	General Secretary APTA Feshawar
4	Muhammad Ishaq	Section Oilicer (Primary) E&SE Department Civil Secretariol Khyber Pakhtunkhwa Peshawar

- 2. The meeting started with recitation from the Hoty Ouran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the farum regarding agenda item in detail.
- 3. After threadbare discussion it was decided that Directorate of Elementary? Secondary Education Department may examine the case property 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. Fazial Wahld)
Deputy Pireclar-I
E&SE Department

(Alt Asis Uliah)
Provincial President
All Frimary Teachers Association
Khyber Pakhtunkhwa

(Mr. Ralagal Ullah) General Sacretory APTA Peshawar (Muhalamed Ishaq)
Section Officer (Primary-Male)
E&SE Department

(Abdullah) Addillanai Secretory (Establishmeni) E&SE Departmeni

> M. MUAZZAM BUTT Advocate Supreme Court

WP4442-2023 AZIZULLAH VS GOVT OF PG43

-BIC-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA 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	DESIGNATION
1 Mr. Fazal Wahld	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 (Primery) 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 vote of thanks from the Chair,

(Mr. Fazal Wahld) Deputy Director-1 E&SE Department	<u> </u>
Provincial President All Primary Teachers Association Khyber Pakhtunkhwa	
(Mr. Rafaqat Ullah) General Secretary APTA Peshawar	
(Muhammad Ishaq) · Section Officer (Primary-Male) E&SE Department	. ;
1	
. Adı	(Abdullah) Apamelelepak (Estables lenetil

M. MUAZZAM BUT

Advocate Supreme Court

Frault: extablatilmannalel@prail.com . . Hones: 091-9222344 T-Z P2100 F. No. 34/SST/AUGGIEFEI Cates Khyber Pakhtunkhwa, Pesharvar

Mostel Ceph.

'est Haning

PA 10, Director Lacal Directarale. Copy of the above is lat-

Klijber Pokhinakhwa Peshawor... Elemeniary & Secondary Education Depurimani, The Socilon Officer (Primary-Mule),

I am directed to refer to the lotter No.SO(Primary-A)E&SED/J-IV. Dear Sir, <u> ΜΙΝΌΤΕΣ ΟΓ ΤΙΙΈ ΛΙΕΕΤΙΝΌ</u> - Hoofqng

deleted Rulo 7(5), in the Civil Servorus (Appointment, promotion & Trapajer Rules 1989) Mai Government of Wyber Pokhtunkhwa Extoblishment Department (Regulation Wing) Presoni brief litriory about the background of the case as under: G. Misch Minges of the Meeting (PST/2023 doted 10-07-2033 on the subject elical above and in

That this office sought guidense from your good office in the following words vide letter vide natificalion No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.

(II) It is the precognitive of the civil servent in althor accept or turn down the fifter of (D) Now it is obligatory upon the civil servatit to accept Promotion in every condition. "EZOZ-ZO-90 P2IPP LBG9"2N

bramonon

No.SO (Primary-bA) E&SED/2-2Mppainimeni/2022 for necessory guidance. That youn Roof office forwarded the some to the quarter concienced vide letter

notiolings. A) insmiraged insmithidalise evidentitian Pedatitization (Regulation

that there exists no provision to decline or forgo promotion. It is odilipotory upon every hanas yllosisogstos ESOS-80-8 dateb OSOSIE-IVO A.\$3 (yallo9) OZ.av. Jellal abiv (gniYl

Oz.ok some was recelved by this office from your good office wide letter No.SO civil servant to accept promotion under every condition.

That, in the light of the minutes of meeting dated 6-07-2023, held under the (Primary-IA) E&SEO/2-2/Appointment/2023 dated 12-06-2023.

Chairmanthip of Hon, Additional Secretory Extabilishment of lets office this affice has

Depurtmental Promotion Committee. provided they ending their wellen refued prior to conduction of the meeting of Teachers below a p.5-16 may be exempted of Implications of the amendment in the rules lbid 7(5) have offeciet degalively a linge numbers of Female Teachers. Thus ii is proposed that In viany of the above, this affice is of constitered opinion that this deletion of Rules heen asked for submission of consolidated easa.

The case is submitted for perusal and necessary actions please.

לופים | רוקה | - ארים | בנים אורים | בנים |

Elomonian & Secondon, Education

թենայությ, ն Հոշուսից, Եվաշութու Մարդ Դուրա Մարդություն Assistant Director (Establish

Advocate Supreme Vourt TTUR MASSAUM M

WP4442-2023 AZIZULLAH VS GOVT CF PG43

-B/c-

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK PESHAWAR

To:

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

Subject: Minutes of Meeting

Dear Sir; 9 am directed to refer to letter No. (So Aimany - M) E & SED/S-1/GANIEL/ Minutes of meeting PST/2023 deled 10-7-2023 on subject cited above and to present bilet history, about background of coll as under:

. That Government of HP Establishment dependment (Regulation Wing) deled rule 7(5) in Civil Servents (Appointment, promotions, Transfer Rules 1999) vide notification No. No. 50R-VI(ESAD)1-3/2020 dated 06:08-2020.

· That this office sought guidance from your good office in the following words vide letter No. 6987 defed ab-orrows

(i) Now it is obligatory upon and scavent to accept promotion. (ii) Stis prerogative of civil servent to either accept/handown the

offer of promotion.

· That you good office forwarded the came to quarter concerned vide letter No. So (Prinary 14) E&SED/2-2/Appointment (2023 for necessary

- · That the government of KP-ED (Regulation Wing) vide letter No. 50 (Policy) EGAD 1-3 2000 dated 6-06-2013 categorically started that there exists no provision to decline forgo promotion. It is obligatory upon every civil senant to accept panation under enry condition.
- · That in light of the mainutes of the meeting dated 6-07-2025 held under the Chairmanship of Hon. Additional Secretary Establish. -ment at his office. This office her been asked for submission of

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge members of Female teachers.

The case is submitted for person and necessary please.

Copy of the cipove to; 1. PA to Director Local Directorate 2. Master Copy

Accident Director Elementary & Secondary Education Khylas Rechtunkhula.

WP4447-2023 AZIZULLAH VS GOVT CF PG43

ATTES#ED M. MUAZEAM BUTT Advocate Supreme Court

(51-7-1013)



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

No. SO(Primary-M)E&SED/2-2/Appointment-Rule, 1/2023 Peshawar Dated 23rd August, 2023

The Secretary to Govt, of Khyber Pakhlunkhwa, Establishment & Administration Department. Peshaviai

SURDECT: - GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL (APPOINTMENT, PRPMOTTON & TRANSFER RULES 1989)

Ser,

I am directed to refer to your latter No. 50(Pollcy)/ EBAD/ 1-3/2020 dated (%) June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servara (Approximent, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials vitra do not comply with promotion order of the competent authority or by to evade promotion through different means shall be proceed under Khyber Pakrounkinva Civil Servant (Efficiency & Discipline) Rules, 2011.

- In this connection it is submitted that in some cases lady teacher of primary level wino 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 kids and elder father of mother-In-law who lifeed care. In such cases, there are negative effects on service delivery.
- in view of the above, the said amendment may be reconsidered/to the enters of lady teacher in primary schools.

(MUHAMMAU ISEA SECTION OFFICER PRIMARY MALE

Copy Contrarded to the:

Director ERSE Khyber Pakhbinkhwa.
 Ps to Secretary, ERSE Department Knyber Pakhbinkhwa.

SECTION OFFICER

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

M. MUA M BUTT Advocate Supreme Court

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الدع المونو يوريه. Establishminist and Administration Department. The Secretary to Government of Khybo Buthburshurg.

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those afficers officials who do not comply with promotion orders tooth bostomitri and red 19891 relians to be nothings deletion of Rule 7(5) Whyber Bilthunkhua Civil Servant (Appaintment) with tark state of lara economicate potob aros (8-1) granished on with ruly of refer of besieve No. Software Rowing) /ELAD Dean Sir,

Civil Servant (Efficiency and Discipline) Rule 2011. different means shall be proceed under Khyber Pakhhunkhun algorith nathering of but to ethoritup bristogmas wit fo

Mather-in-law who need agre. In such cases there are negative Most of them are married with kills and elder father of , will be teaperfort / Sortrabition our offine 2 controls tratomer with ril fore serious incovenience while though hove to peoplem duties of short rotterment, Asie suovis also bevol becoming be realsont In this connection it is submitted that in some couss lacky

City formaded to -21 cats of local teacher in primary 5 to 12-21 by Meen of above; the sould ammendment may be reconsidered to

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Director E & SE Khyba Rekhune.

(patzi pamortuM)

Section officer (Ribert)

Q**ə**rəəita

Advocate Supreme Court MYASZAUM .M



GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT

No. SO(Policy)E&AD/1-3/2020 Dated Peshawar 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 PAKHTUNKFIWA 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).

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.
- PS to Deputy Secretary (Policy), Establishment Department.

Yours faithfully, Section Officer (Policy)

- 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.

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: Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

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

Section nicer (Policy)

M. MUAZZAM BUT Advocate Supreme Court

VP4442-2023 AZIZULLAH VS GOVT CF PG43

Annexure ____

'nο,

Dated: 26-01-2024

1) Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar

2) Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar

3) Director Elementary and Secondary Education Department

REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA. ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

Sir/ Madam:-

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

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

Best Regards

Jeun Nag Irum Naz

Wife of Shakeel Ahmad

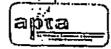
Resident of Peshawar

M. MUAZZAM BUTT

Khyber Pakhtunkhwa

Annexure.

Note (//linf) Kilmin Propident O 033-01/4648 C ostavient970@gmell.com D ostavel



APTA House: Govi Primury School No.4, Guibahar Poshawar City.

آل براتمری ٹیجرزایسوی ایشن (ابٹا) خیبر پختو نخوا

بہائٹ : میکرٹری الحنٹزی ہے سیکنٹری ایم میٹن کیپر پیٹر ٹوا منبعب ، کل پرائمری کیپرز دیدی ایٹن کیپر پیٹو کم بتاب مال

گزادئی ہے کہ پرد موشز ہر ادارے علی ہوتے ہیں او کہ مریکڑی بالام کی خواش اولی ہے پرد مرشز کا ایک قاؤن اوا کر تا تھا کہ جو بالام ایک اگر بھی بجورسیکہ تحت ایک دار پرد موشز ندگی تو وہ محرکت ہو جال بھٹ پروموفنز نہیں نے تصلے سطلب چاد مال تک بھر اس کی پرد م بھر اس تافون بھی قمولک دمایت دک کل چاد مال دائی ہات عم کر دک کن کہ اگر ایک بالام ایک مال پرد مرش ندگیں تو اور لیکن اب ایک اور تربیش میں اور اس اس میں اب ایک بات چہلے ایک اور تر لیکھیش اور اپ

جمل کے مطابق اپ پر مام پروموئن شرود کیل کے اگر فیل کی گے 7 اس کے نقاف الل بے لال دولائے مطابق کادوائی کرنے کا کہ کیا ہے۔ معاصل ہے آفری لیلیکیٹن بلیادی المسائل حقال کی محل نقاف دولائے مسیعے کی دور دوال اور پہنٹل طاقی بی، خاص کڑ فوائین اساندہ کو انہائی مشکلات کا سامنا کرنا ہے کہ

ہم ہیں ہے ظاف تاؤل ہار، ہماگا ہی تم محل ہے ہیں۔ الماہ ہم آپ ے حداث اٹٹل کرستے این کر کر فرلیجیٹن کر الحق لیا ہاستا یا ہی ٹیل تریم کرے پراٹری اساتذہ کر (Relaxation) ریا باستا اور این کا میاستا

ادر برومش ند بین کی مورست شل با تامده بان ایا باست میکن به زبروش ند ک باست

ال مليك على آب جلد ال اجلد تمام (DEOs) الله الداكر ايك تعرض مراسلد بادى كيا جاسة تأكر امتارا على ب عمل /ليهل براترى اما ذركر وتال

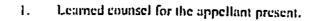
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M. MUAZZAMBUTT
Advocate Supreme Court

WP4442-2023 AZIZULLAH VS GOVT CF FG43

07.05.2024





2: Let a pre-admission notice be issued to the respondents' through TCS for submission of reply/comments. Appellant is directed to deposit fCS expenses within three days. To come up for reply/comments as well as preliminary hearing on 10.06.2024 before S.B. P.P given to learned counsel for the appellant.

on. Alongwith the service appeal there is an application for suspension of Notification dated 06.06.2023 and letter dated 23.08.2023 till the final disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

gerified to be true copy(Muhammad Akbar Khan)

Member (E)

Date of Procentation of Application 10-12 15

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M. MUAZZAM BUTT
Advocate Supreme Court

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VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

IRUM NAZ

Appellant

Government of KP & others

Respondents

I (the Hopellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC BASSAM AHMAD SIDDIOUI 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.

grun 1193

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

, odlan

BASSAM AHMAD SIDDIQUI

Advocate High Court