FORM OF ORDER SHEET

Court of	• • • • • • • • • • • • • • • • • • • •	
Appeal No.	9181	/2024

S.No.	Date of order	Order or other proceedings with signature of judge
	proceedings	
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1-	29/10/2024	The appeal presented today by Mr. Muhammad
		Muazzam But Advocate. It is fixed for preliminary hearing
 		before Single Bench at Peshawar on 06.11.2024. Parcha Peshi
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

&M No	<u> </u>	P of 2024
In Ref to	Q	101
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. Malik Muhammad Sajid

VERSUS .

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazžam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2 / /2024

Malik Muhammad Sajid Son of Safi Ullah, PSHT (BPS-15)

Mohallah Chishtiabad, PO college doraha, labar kot, Tehsil and District, Mansehra

.....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 STORY 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.

Conv of Appointment letter is appeared as Appeared A.

Copy of Appointment letter is annexed as Annexure A

- 2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in Seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as the 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 06/06/23 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 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

B. 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

- 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:-

11/15

- 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 particular 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 alling 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:

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

Deponent

Through,

Muham Add Muazzzam Butt Advocate Supreme Court

luhammad Adeel But Advocate High Court

Appellant

a Algmad Sidliaui Advocate High Court LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	•
Service Appeal No	2024

Malik Muhammad Sajid

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) 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.

Déponent

Through

Muhammad Muazzam But Advocate Supreme Court

Appellant

Muhammad Adeel Butt Advocate High Court PERSONAL STATE OF THE PROPERTY OF THE PROPERTY

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NOTIFICATION.

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TERMS & CONDITIONS

They will be governed by such rulog and regulation as may be prescribed by the

Government to the for the cately of the Covernment to which they belong. Their services will be liable to termination on one month notice from either side. In case of resignation without notice, one much pay will be forefleted in lieu theirof.

They should join the posts within one munth of the issue of this notification. Their inter-semiority will be determined in accordance with the serit of the

departmental selection committee.
Charge reports should be submitted to all concerned.

They will be on probation for a period of two years and will have to pass the departmental examination. 3 In case a candidate fails to qualify the departmental examination, he will be given one were chance. If he fails again then his services will be torminated. On arrival/availability of trained teachers, the services of

untrained teachers occupies the posts shall be terminated.

Their original certificates/degrees should be shocked and verified from the concerned university/BIEE/RDE and Islamic Madrassas before banding over the charge.

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

The declaration of assets should be obtained from them immediately and placed

10. They are required to produce health & age certificate from medical authorities concerned before handing over the charge.

17. Charge reports should be submitted to all concerned & charge should not be given to overage candidates untill their cases for age relaxation be sent to the concerned quarters.

12. Efforts removed the transfer before the completion the tenure will . dis-qualify him from service. 13. No. TA/DE is allowed:

An under taking shall be obtain from Master & degree holders FTC that they will serve the department for at least five years while they are selected by the public service commission for any post.

15. In case of person appointed as an untrained teacher, he will have to pass the require to training examination within period of four years failing which his services will be terminated.

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

> (ILLIA RAMBAE DAMAHDAL) DISTRICT EDUCATION OFFICER. (M.LL) FRIMARY WHEEKA.

1678-1713 CO. B/G-I/1997.

Dated hansehra the

Copy forwarded for information to the :-

Director Frimary Education N. Fi' Peshawar. Sub Divisional Education Officer (Hale) Mansehra.

District account Officer Mansehra,

4-38 All the candidates concerned.

Office Order Pile.

DISTRICT EDUC TI 'R OFFICE.

(H.L.) FRINKRY HANSEIEW

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The Pelneiphi Secreenty to Egyernor Khyber Pukhlunlawa. Ewalinite Secretaines to Gove, of Kanyber Radatunlahva. The Senior Member Board of Revenue, Khyber Pakhunnkliva. Department Department.

Eniel Secretory, Ony, of Khyber Pokhundshwe. Minnag.

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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 in

<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 :-

NIC

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- 1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa. Planning & Development Department)
- .2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
- 3. Alf 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.
- All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 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. Ali 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 (



ODAEHWPIKAL DE KUMDRIÍ LYKULINIKUMY ESTABLISHMENT DEPARTMENT Hn. Stifffelley)!!&ADF .2020 Dated Pestinwar the June 06, 2023

62

nmod Khen) Meer (Polley)

Meer (hallay)

The Covernment of Khyber Pakhumkhwa Blementary & Secondary Phincounn Dapailment.

Subject: •

GUIDANCE REGARDING BELETION OF TUBE 769 IN THE GUIDANCE PARTITIONAL SERVANCE (APPOINTMENT). BELOMOTION AND THANSPER RULES, 1989.

I am altrected to teles to your letter No. HO(Primory-Mystacsium) Denr Sli. WAPPointmenV2023 thated 18,04,2023 up the subject noted above and to state that Sub-Hule (5) of Rule-7 of Khyber Pakhimikhun Civil Salvanis (Appointment, Promotion and Transfer) Rules. 1987 mands deleted vide this department modification dated 06.08.2020; thus, no provision exists to decline or forgo promotion.

- 2. The basic collonals behind the detailen of the ibility to be a climed at preventing a civil servant fram templation for illicit gain by sticking to a single inerative post/position or to prevent those who tend to forgo promotion to evade posting/transfer or show lock of capacity to tackle filgher responsibilites in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in overy condition.
- Funkermore, those officers/offishis who do not comply with promotion order of the competent authority or try to evade primoiton through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servints (EMeleney & Olicipline) Rules, Yours folibrially, 2011, please.

Radst. Of even No & date

Copy forwarded to that-

1. PD to Special Secretary (Reg.); Untabilitunent Department.
2. PA to Additional Secretary (Reg. 11), Untabilitument Department.
3. PS to Dapuny Secretary (Policy), Emblidament Department.

WP4442-2023 AZIZIJLLAH VS GOVT CF PG43

-Overnment Of Kayber Ранитипкима ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Finone No.091-9223587)

N'n.SO (Pilmory-M)/E&SED/2-6/2023 Colled Peshaviar the, June 26th, 2023

To

The Director

Elementary & Secondary Education Department

Khyber Palihlunkhwa, Peshawar.

Aziz Ullah Khan President

All Primary Teacher's Association, KP

Subject:

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE ISHYB PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1988.

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department teller 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 Chalimanship of Additional Secretary (Estab) E&SE Department in his office.

You are, therefore, requested to depute a representative of your respective Départment lo attend the meeting on a date, time & venue es manifoned above, pleasė.

Encl: AA

(MUHANMAD ISHAO SECTION OFFICER (PRIMARY MALE)

Copy forwarded to that

1. PS to Secretary, E&SE Department Knyber Pakhlunkhwa.

SECTION OFFICE

AH VS GOVT OF PG43

Blc

No SO (Primary-M)/E&SED/2-6/2023 Dated Peshawar the June 254 2023

 T_{c}

The Director Elementary & Secondary Éducation Department Khyber Pakhtunkhwa, Peshawar

Aziz Ullah Khan President President Ali Primery Teacher's Association, KP

Subjects

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. 50 (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)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL ERESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYDER PAKHTUNKHWA REGARDING OF DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTICAL PROM

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.

	·	• • •
. 50	ŅАМĘ	DESIGNATION
, ———	Mr. Pozal Wahld	Cepuly Director Exteblishment of Objectorals Elementary & Secondary Education Department
2	Mr. Aziz Ulloh	Provincial President All Primary Teachers Association Khyber Pakhlunkhwa
3	Mr. Ralagal Ullah	General Secretary AFTA Poshawar
4	Muhammad Ishaq	Section Oilicer (Pilmgry) ESSE Department Civil Secretariot Khyber Fakhtunkhwa Peshawar

2. The meeting started with recitation from the Holy Quran, The chair welcomed the participants. The Deputy Director (Establishment) of Directorale of Elementory 2 Secondary Education briefed the forum regarding agenda (tem in detail.

3. After threadbare discussion it was decided that Directorate at Bementary & 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. Fazal Wahid)
Dapuly Olracia:-i
ESSE Department

(Mr Axiz Ullah)
Provincial Prosident
Ali Pilmary Teochers Association
Khyber Pakhlunkhyia

(Mr. Ralagat Ullah)
General Secretary APTA
Peshawar

(Muhammad Lhaq)
Socilar Officer Primary-Male)
Essa Department

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

WP4442-2023 AZIZIRLAH VS GOVT CF PG43

ATTESTED

-BIC-

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 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 (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 Daputy 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	• .	-	, r	
Provincial President		•		
All Primary Teachers Associ	atjon		•	
Khyber Pakhtunkhwa				'.
(Mr. Rafaqat Ullah)			•	•
General Secretary APTA			. •	٠
Peshawar		•		 :
(Muhammad Ishaq)	٠.		<u>,</u>	•
Section Officer (Primary-Ma	le)	<u> </u>		
E&SE Department		•	1	
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	•	· v	Abdullah)	
_	Addi	lonal Sec	retack (Es	tablishmen



Kliyber Pakilinnkliwa, No. 1 1/SST/AUGeherel Cotor ...

The Section Officer (Primary-Male), Elemanory & Secondary Ethication Department, Kliyber Paklitunbliya Perlimter...

MINUTES OF THE MEETING Dear Sir,

interial to refer to the latter No.SO(Primary-M)Ed:SED/3-1/ G.Mise/Minister of the Meding/PST/2023 dated 19-07-2023 on the subject cited above and to present brief history about the background of the case as under:

Thai Governme (to) Klyber Pakhiunkinya Establishment Department (Regulation Wing) dalajad Rula 7(1) imiha Civil Servante (Appointment promotion & Transfer Rules 1989) vide natification No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.

That this office cought guidance from your good affice in the following words vide letter No. 6987 dated 16-02-2023.

(i) Now it hab Igaiory upon the civil servout to occept Promotion in every condition.

(ii) It is the prerogative of the civil servout to other accept or turn down the affer of promotion.

That your golf affice for fordered the sums to the quarter concerned vide letter No.50 (Primary I) E&SED/2-2/Appointment/2021 for necessary guidance.
That the Government of Klyber Politicalthwa Establishment Department (Regulation

(Ving) vide let (r. No.SO (Policy) E&A D/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline or force promotion. It is chilicatory upon every civil servant to accept promotion under every condition.

The same was sectived by this office from your good office vide letter No.50 (Primory-M) 585E0/2-2/Appainment/2073 dated 12-06-2023.

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

Chairmonship of Han. Additional Secretary Establishment at his office this office; has been asked for submission of consolidated case.

in viole of the above, this office is of constituent opinion that the deletion of Rules 7(5) have offected regulively a huge numbers of Female Teachers. Thus it is proposed that: Teachers below IPS-16 may be exempted of Implications of the amendment in the rules bid provided they submit their written refusal prior to conduction of the meeting of Departmental Aramotion Committee.

niels submitted for perusal and necessary actions please.

Mar (Erida Mi-1) montary & Secondary Education Khyber PaklumnEhwa

Endst: No.

Copy of the Hoore is to:-

- PA to Director Local Directorate.
- Moster Copy.

Amistons Director (Establit-1) Elementary & Socondary Education Khyber Pakhtunkhwa

42-2023 AZIZULLAH VS GOVT CF PG43



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

19K Perhawar. Elementicary & Swandary Education Department Section Office (himage 172le) (5701-F-151) ARWAN 234

Sulfect : Minutes of Meeting

2. Master Copy.

1. A to Divición Cocal Directorate

present bout hickory, about background of cous as unchass. at his svide botto toldies in Esal-F-ol bath Esal/TE British of which at Door Sir) g am divided to refer to hiller No. (50. Rimang-177) E & (512) (5-1/6:172)

. (Brill continued of H Establishmen department (Regulation Mirel).

Trast of the sought guidance from your good in the following.

Leaster to be 6983 deleas to be part of the following. vide notification No. No. 50R-VI(EEAD)1-3/2020 diated ob-08-2020. delided rile 7(2) in Civil Serventi, (Apprintment, promotions, 11 (2) Fills 1999)

ent construct figs so tails of transcess find to svitogerary Eite (3) interment to abligation upon end seasont to accept promotion

offer of months. In come to quarter contest your good office forwarded the come to quarter concerned. Alde letter in So thinay 1) E & SED/2-2/Appointment (2023 for mecescary or an endaged in So thinay 1) E & SED/2-2/Appointment (2023 for mecescary)

وجراء المعاد لمطاها فدمد عمرة وطاومينوها علمه المعاد المعاد وشعة · That the government of KP-ED (Regulation Why) vide letter No. 30 (Philies)

senting to ciccept panisher, under epold condition. this brows may brokened at its abligatory of noranery and

consolidated case. To roizzingue of bills cost und siff siff siff siff to tramhald under the Chairmanship of then. Additional Secretary Establish. Cros-Fo-3 botab gribon oft to esturism of to INDIA it tents o

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المد تعدد أد " فللمسائله على العلامل عبما المددود ومنها ، مدائمه

Bernarday & Secondary Educates Copy of the chouse to: Authora Director

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व्याप्त्रप्रापण्यम् व्यक्तित्र



ELEMENTERY AND SECONDARY EDUCATION DEPARTMENT CIVIL BECRETARIAT PESHAWAR (Phone No.091-9223587)

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

nnexu

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

SUBJECT: - GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL

سالا تعص

i am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated රිණි June 2023 සහප් හා state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servant (Appliantment, Promotion & Transfer Rules 1989) It has been intimated that those officers/ offices vitro do not comply with promotion order of the competent authority or by to serade promotion through different means shall be proceed under Khyber Padriounkitura 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 19ds and elder father of mother-in-law who heed care. In such cases, there are negative effects on service delivery.

In view of the above, the said amendment may be reconsidered to the where of last; leacher to primary schools.

SECTION OFFICER (PRIMARY HALE)

Copy forwarded to the:

1. Director ERSE Khyber Pakhbinkhwa.

2. PS to Secretary, EBSE Department Khyber Pakhtunkhwa.

SECTION OFFICER LE

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VP4442-2023 AZIZULDAH VS GOVT CF PG43

No.5 (Riminy -M) ESSED |3-4|
Applications - 12ule | 2023

Pedramor Dated 23rd August, 2013

Ţ,

The Secretary to Government of Khybo Pathhunbhura. Establishment and Administration Depositment; Pesticipion.

SUBJECT: Guidance regarding deletion of Rule 7(5), in the C'il Sewant (Apprintment, Amotion & Transfer Rules" 1989)

Dear Sir, 9 am directed to refer to your letter No. 50 (Trimeny /1-3/2020 dated 6th June 2023 and to state that after deletion of Rule 7(5) Khyber Pakhotunkhwo 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 though different means shall be proceed under khyber flikhton khun 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 incoverience 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 once. In such cases there are negative effects on service delivery In view of above, the said ammendment may be reconstituted to the extent of lady teacher in primary schools.

Copy forwarded to;

(Muhammad Islam) Section officer (Primage)

1. Director EE SE Klybo lakerhorkhuig.

PS to Secretary, E & SE Reportment Which Attacomite 250





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

Yours faithfully,

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.

- 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.

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

Yours faithfully

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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

Saction nicer (Policy)

WP4442-2023 AZIZULLAH VS GOVT CF. PG43 ATTESPED

To,

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

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020. 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 (APTOINTMENT, 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 employeds to avail the promotion, otherwise, disciplinary action shall be taken against the employees. That, as per notoication 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 Hidhlation 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 Khyner Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as a 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 destine 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 he proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules,

It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) EZD/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 1 /04/2024

MALIK MUHAMMAD SATID

SAFI JULL

PSHT

Khyber Pakhtunkhwa

Nois William Khara President O 0333-04 (264g - datavileh 1973@gmall.com D epinkah



APTA House; Govt. Frittury School No.4 Gulbohar Pasthowas City

آل پراتمری شیرزایسوی ایش (ایٹا) نیبر پختونخوا

Annexure - }

بهاب : میگر لوی ایکنٹوی ۵ میکنڈوئی ایم کیٹن فیمر پھٹوٹؤا منہاب ، کل پردشرک فیرو دعوی ایش فیمر پھٹو کھا جنب مالی

کواوش ہے کہ پروموشز پر العامت علی ہوسے ہیں ہو کر مراکدی علام کی فوائش اول ہے پروموشز کا ایک تافون اوا کر ہاتھ ک جر طازم ایک اگر بھی بجروکے تحت ایک دفد پروموشز در لی فرود کی اسمادہ بار مال تک پروموشز نمیں نے تکے تے مطلب باز مال تک بار اس کی پرومشز نمیں اوسکل کی جمر ہیں تافون عمد فرول دوارت دوارت مال بال بات فتم کر دل کل کر اگر ایک خالع آیک معل پروموش ند فین فردہ دومرے مثل نے مکا ہے۔ میکن اب ایک جار میں تاریخ

جم کے مطابق اب پر عام ہرم ٹی خرم کی گے اگر فحق کی گے 7 س کے نقائب آلیا ت کی دائز کے مطابق کاردائی کرنے کا کہا کا ب دراصل بے 7 قرق ایلیکیٹ پیدی المدانی حقل کی کمل ظائب ملاک ہے صدیدی دار ہدیں طاقوں عزد خاص کو فواتین اساؤہ کو اینائی مشاہد ہو سامنا کرتا ہے کا

بچے۔ مام مالات بل کی ذیر دی جروم ٹن اور مصدالا بیجنا کی بیادی السان متزل کی نناف دول ہے کیک فیر پہنوٹو آ میں پر نستی سے ناعدان و شمیل کل بسل نے لیے مالات میں یہ بیا لیکھیٹن ہو 1888 کی ایوالی لیو کی جماب میں کیا کیا ہے ہو سکتی اور بیادی انسان متزل کی نناف ہو کے اللہ سے اللہ اللہ میں معمولات میں استعمال یادر بھٹ کا تی مجی محمولات میں ا

لرد کل بردس فی لید ک بہلے ان کر مرض سے لینے رہ بالے ان کر مرض سے لینے رہ بالے ان کے مرض سے لینے در وی نے کی بات

میرے ہا۔ میں ہوتا ہے۔ کوکٹ المیکٹ جا کا انساز کو المیکٹن جادگا ہوتا ہے۔ بلائم نے فرق مکتے ہاں کہ آپ سامیان فوق ایکٹن لگر مرب بر کے برائمری اسات، ضوصا کمیبل پرائمری اسات، کم این ایک ایک سے نہات دائا کل ک

> عریداند خان سوبال مدر آل پرائمری نیچرز ایسوسی ایش فیمر پختونودا در میمرد ایسوسی ایش فیمر پختونودا

WP4442-2023 AZIZULLAH VS GÖVT GF PG43

AFFESTED

07.05.2024

Learned counsel for the appellant present.

2. Let a pre-admission notice be Isaued to the respondents through TCS for submission, of reply/comments. Appellant is directed to depoint TCS 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.

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

derified to be true emps(Muhammad Akbar Khan)
Member (E)

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UDKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MALIK MUHAMMAD SAJID 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 jet and appear for me in the above Suit and on my behalf to conduct and prosecute (or delend) 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

-MUHAMMAD ADKEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocato-High Court