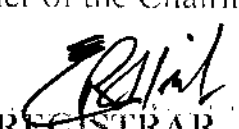


FORM OF ORDER SHEET

Court of _____

Appeal No. 2220 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/10/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 06.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Case Title: Malheen ^{CHECK LIST} vs Govt of KP

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>M. Muazzam Butt</u>	—	
2	Whether Counsel/Appellant/Respondent/Deponent has signed the requisite documents?	—	
3	Whether appeal is within time?	—	
4	Whether the enactment under which the appeal is filed mentioned?	—	
5	Whether the enactment under which the appeal is filed is correct?	—	
6	Whether affidavit is appended?	—	
7	Whether affidavit is duly attested by competent Oath Commissioner?	—	
8	Whether appeal/annexures are properly paged?	—	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	—	
10	Whether annexures are legible?	—	
11	Whether annexures are attested?	—	
12	Whether copies of annexures are readable/clear?	—	
13	Whether copy of appeal is delivered to AG/DAG?	—	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	—	
15	Whether numbers of referred cases given are correct?	—	
16	Whether appeal contains cutting/overwriting?	—	
17	Whether list of books has been provided at the end of the appeal?	—	
18	Whether case relate to this court?	—	
19	Whether requisite number of spare copies attached?	—	
20	Whether complete spare copy is filed in separate file cover?	—	
21	Whether addresses of parties given are complete?	—	
22	Whether index filed?	—	
23	Whether index is correct?	—	
24	Whether Security and Process Fee deposited? On	—	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On	—	
26	Whether copies of comments/reply/rejoinder submitted? On	—	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On	—	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: M. Muazzam Butt
 Signature: [Signature]
 Dated: 20/09/21

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

S.A No. 2220/24 NOSHEEN
V/S

Government of KP & others

INDEX

S#	DESCRIPTION OF THE DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification	*	1-4
2.	Application for suspension	*	5
3.	Copy of Monthly Salary account	A.	6-7
4.	Copy of notification No. SD-(Policy) EV AD/1-3/2020 dated 06/08/2020	B.	8-9
5.	Copy of Impugned Letter dated June 06th, 2023	C.	10-12
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	13-16
7.	Copy of Letter dated 23-08-2023	E.	17-18
8.	Copy of Impugned letter dated 07-09-2023	F.	19-20
9.	Copy of Representation against the said notification and representation made by APTA President	G & H	21, 22 23
10.	Wakalat Nama		24

ADVOCATE
M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2220 /2024

Nosheen wife of Shah Nawaz, SPST (BPS-14)

Village Amerabad, Amerabad, PO Dhaki, Tehsil Tangi, District Charsadda

.....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.

RESPECTFULLY SHEWETH:

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

- 2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.

- 4. That Government of KP 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 affects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.

b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period of 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.

c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.

d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be set-aside.

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

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 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 Honourable Court.

Noshan
Deponent

Noshan
Appellant

Through

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

Bassam Ahmad Siddiqui
Advocate High Court
L.L.M. Human Rights

5

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024

In Ref to

Service Appeal No _____ 2024

Nosheen

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.

Nosheen
Deponent

Through

Nosheen
Appellant

Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court

Adeel Butt
Muhammad Adeel Butt
Advocate High Court

6

Dist. Govt. KP- Provincial
District Accounts Office Charsadda
Monthly Salary Statement (July-2024)



Personal Information of Mr. NOSHREEN BEGUM d/o of HAJI HAIBDAR

Personnel Number: 3699180 CNIC: 1710372221602 NIS: Length of Service: 15 Years 01 Month 07 Days
 Date of Birth: 05/01/1986 Entry into Govt. Service: 10/01/2009

Employment Category: Vocational Temporary

AC: 0463-SENIO PRIMARY SCHOOL TEA 80861045-DISTRICT GOVERNMENT KEDDI
 MP Code: 0402-05-PLA DISTRICT OFFICER (FEMALE) PRIMARY EDUCATION TANGI CHARASADA-PE-0219
 Control Section: 001 GPF Section: 001 Cash Center: 03
 GPF AC No: GPF Interest applied: GPF Balance: 616,581.00 professional
 Vendor Number: Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil-4- BPS-14 Pay Stage: 11

Wage type	Amount	Wage type	Amount
0000 Basic Pay	41,670.00	1001 House Rent Allowance 45%	1,321.00
210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
2148 15% Adhoc Relief All 2013	450.00	2199 Adhoc Relief Allow @10%	308.00
2310 Teaching Allowance 2021	3,036.00	2341 Dispr. Red/All 15% 2022 KP	3,857.00
2347 Adhoc Rel All 15% 22(FS17)	63,857.00	2378 Adhoc Relief All 2023 35%	13,975.00
2393 Adhoc Relief All 2024 25%	10,417.00		0.00

Deductions - General

Wage type	Amount	Wage type	Amount
3014 GPF Subscription	3,900.00	3501 Benevolent Fund	1,200.00
3609 Income Tax	1,322.00	3990 Emp Edu. Fund KPK	135.00
4004 R. Benefits & Death Comp.	600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	335,000.00	-9,305.00	130,290.00

Deductions - Income Tax

Payable: 21,148.70 Recovered till JUL-2024: 1,322.00 Exempted: 5287.01 Recoverable: 14,539.69

Gross Pay (Rs.): 85,247.00 Deductions: (Rs.): -16,462.00 Net Pay: (Rs.): 68,785.00

Payee Name: NOSHREEN BEGUM
 Account Number: 2183 00
 Bank Details: HAJIB BANK LIMITED, 221857 UMERZAI CHARASADA UMERZAI BRANCH, CHARASADA

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address: City: Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp Address: City: Email: snawaz616506@gmail.com

ATTESTED

*System generated document in accordance with APPM 4 6 12 9/83/19/1-26 07 2024/v.1 01
 * All amounts are in Pak Rupees
 * Errors & omissions excluded (NERFCS/01/68/002/21/16/10)*

ATTESTED

1. District Education Officer, Charsadda
2. District Officer, Muzir Charsadda & Tangi
3. District Officer, Muzir
4. District Officer, Muzir

(BHC AZAM KHAN)
EXHIBITIVE DIRECTOR OFFICER
D & SF CHARSADDA
Dated 7-3-00

TERMS AND CONDITIONS
1. Their services will be governed by the existing rules & regulation of Govt. NWFP and notification issued on 10-8-2003 and by such rules and orders as may be issued by the Govt. from time to time for the category of the Govt. servant to which they belong.
2. They will produce their training age certificate from time to time as required.
3. Then appointment have purely been made on temporary basis and liable to termination / revision without any notice or assigning any reason.
4. Then services will be liable to termination / revision at any stage if such certificate / Degree / M.C./Domicile etc. essential found false, then services will be liable to be terminated automatically and the holder liable to pay the cost of the post on above terms and condition they shall accept the day of their assignment with in 15 days of the issue of this order, other wise the order will be automatically consider as cancelled.
5. In case of resignation prior notice of one month will be given by the officer concerned other wise one month pay will be forfeited there of.
6. Change report should be submitted to all concerned.
7. No V.C.A. allowed.
8. Note: The P.D.Os concerned are directed to check their original documents before handing over a change to them and to not draw their salaries till the verification of the concerned documents from the concerned quarters, otherwise D.D.Os will be held primarily responsible for any consequences.

Sr.	Name	Address	Remarks
1	Muzir Taluk, Muzir, Charsadda	Charsadda	GPSS, Muzir, Charsadda
2	Muzir Taluk, Muzir, Charsadda	Charsadda	GPSS, Muzir, Charsadda
3	Muzir Taluk, Muzir, Charsadda	Charsadda	GPSS, Muzir, Charsadda
4	Muzir Taluk, Muzir, Charsadda	Charsadda	GPSS, Muzir, Charsadda
5	Muzir Taluk, Muzir, Charsadda	Charsadda	GPSS, Muzir, Charsadda

Handwritten notes and signatures, including "GPSS Muzir" and "Muzir Taluk".

Annexure - B

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/08/2020

Policy E&A/1-1/2020: In exercise of the powers conferred by section 26 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.



(WALDAH LATHI)
DEPUTY SECRETARY (POLICY)

ATTESTED

ATTESTED

9

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION
Dated Peshawar the, 06/08/2020

In exercise of the powers conferred by section 26 of the Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII) the chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules 1989, the following further amendment shall be made, namely:

AMENDMENT

In rule 7, sub-ruler (5) shall be deleted.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

(WARDAH LATIF
DEPUTY SECRETARY (POLICY)

~~ATTESTED~~

11

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-0223587)

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(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 herewith 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 (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]
(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

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

ATTESTED

12
B/c
No SO (Primary-M)/E&SD/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, 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

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

ATTESTED

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 715) 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. Razaqal Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

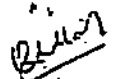
2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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. Razaqal Ullah)
General Secretary APTA
Peshawar


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

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

ATTESTED


14

-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

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 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

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

ATTACHED

WP443-2023 AZIZULHAQ VS GOVT OF PK

2. Master Copy
1. PH to Director Local Directorate
Copy of the above to:
Harold Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

Please
The case is submitted for perusal and necessary action
members of female teachers
In view of the above, this office is of considered opinion
that the deletion of Rules 7(S) have effected negatively a huge
consolidated case

That in light of the minutes of the meeting dated 6-07-2023
held under the Chairmanship of Hon. Additional Secretary Education
of his office. This office has been asked for submission of

no provision to clarify/judge promotion, it is obligatory upon every civil
servant to accept promotion under any condition.
That the government of KP-ED (Regulation wing) vide letter No. SD (Policy)
EGAD/1-2/2020 dated 6-06-2023 accordingly stated that there exists

That your good office forwarded the same to quarters concerned
vide letter No. SD (Promotion) EGSD/2-2/Appointment/2023 for necessary
guidance.
offer of promotion
(iii) If a private of civil servant to accept/promotion the
offer of promotion
(ii) Now it is obligatory upon civil servant to accept promotion.

That the office sought guidance from your good office in the following
vide notification No. No. SDP-VI (EGAD) 1-3/2020 dated: 06-08-2020.
dated rule 7(S) in Civil Service (Appointment, promotion, transfer Rule 1999)
That Government of KP Establishment department (Regulation wing)
present brief history, about background of case as under:

Minutes of meeting 13/1/2023 dated 30-7-2023 on subject cited above and to
Dear Sir, I am directed to refer to letter No. (SD) Promotion-M/EGSD/5-1/6784/
Subject: Minutes of Meeting
KPK, Peshawar
Elementary & Secondary Education Department

To: Section Officer (Promotion-M) (KPK, Peshawar)
Directorate of Elementary & Secondary Education, KPK
Peshawar (21-7-2023)

-B/C-

16



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

No. 50(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. 50(Policy)/ E&AD/ 1-3/2020 dated
05th 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 or mother-in-law who need care. In such
cases, there are negative effects on service delivery.

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

(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.

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)
20/8/23

Scanned with CamScanner

ATTESTED

~~ATTENDED~~

(Muzammad Latif)
Section Officer (Army)
(Male)

2. PS to Secretary, E & SE Department, Peshawar
1. Division E & SE Kyber Pakhtunkhwa
Copy forwarded to:

In this connection it is submitted that in some cases lady teachers of primary level who avail such promotion have to face serious inconvenience while they have to perform duties in the 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.

1-3/2020 dated 31 June 2023 and to state that after deletion of Rule 7(S) Kyber Pakhtunkhwa Civil Servants (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 Kyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rules 2013.

Dear Sir,
I am directed to refer to your letter No. SO (Army) (Peshawar) /E&AD (1989)
Civil Servant (Appointment, Promotion & Transfer Rules 1989)

SUBJECT: Guidance regarding deletion of Rule 7(S) in the

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

To
No. S (Army-M) E&SE/18-9/
Appointment - Rule/2023
Peshawar Dated 23rd August 2023

-8/c-

Annexure - F



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

Yours faithfully,

Section Officer (Policy)

Encls. Of even No & date

Copy forwarded to the:-

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

~~ATTESTED~~
ATTESTED

SEP 14 2023 12:31:11 PM VS GOVT CP PG 03

19

20

- 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,
Primary & 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 rendered 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.

Section Officer (Policy)

WP-4442-2023 AZIZULLAH VS GOVT OF PK43

ATTESTED

21

Annexure - G

To.

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

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

Sir/Madam:-

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

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

Dated 28/01/2024

Nosheen
NOSHEEN W/O
ATTESTED SHAH NAWAZ
SPST

ATTESTED

WV9442-2017 AZIZULHAQ VS GOVT OF PCOJ

28/11/2017
[Signature]
WV9442-2017 AZIZULHAQ VS GOVT OF PCOJ

كوتوالہ میں مقیم اور/یا رہائشی افراد کے لیے ایک ایسی کمیٹی تشکیل دی جائے گی جو ان کے مسائل کو حل کرنے کے لیے کام کرے گی۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔
اس کمیٹی کے رکنوں میں سے ایک شخص کو ان کے علاقے کے صدر کے طور پر نامزد کیا جائے گا۔

Annexure - H

انٹرنیٹ سروس (ایس) کے ذریعے

AFTA House
Govt. Primary School Road,
Gulbarga, Ferozpur City.

ajda
Khyber Pakhtunkhwa

1:12 Pitha Khwa
Ferozpur
0222-014648
www.ajda.com

22

07.05.2024



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

Certified to be true copy (Muhammad Akbar Khan)
Member (II)

[Handwritten signature]
13/5

Date of Presentation of Application 10-6-24
 Number of 1
 Copies 1
 Urgent 1
 Total 1
 Name of 13-6-24
 Date of 12-6-24
 Date of delivery of copy 12-6-24

ATTESTED

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

NOSHEEN
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

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

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

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

Nosheen

APPELLANT

ACCEPTED

[Signature]
MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court

[Signature]
MUHAMMAD ADEEL BUTT
Advocate High Court

[Signature]
BASSAM AHMAD SIDDIQUI
Advocate High Court