


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No. 2273/2024

| 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 style="text-align: right;">By order of the Chairman<br/><br/>REGISTRAR</p> |

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

C.M No \_\_\_\_\_ -P of 2024

In Ref to

Service Appeal No 2273 2024

Taj Muhammad Khan

**VERSUS**

Secretary to Government of Khyber Pakhtunkhwa, & others

**INDEX**

| S#  | DESCRIPTION OF DOCUMENTS   | ANNEX | PAGES              |
|-----|--|-------|--------------------|
| 1.  | Appeal and Verification  | *     | 1- 6               |
| 2.  | Application for suspension   | *     | 7                  |
| 3.  | Copy of Monthly Salary Account   | A     | 8 - 9              |
| 4.  | Copy of notification-No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020                           | B     | 10 - 11            |
| 5.  | Copy of impugned Letter dated June 6 <sup>th</sup> , 2023                                      | C     | 12 - 14            |
| 6.  | Copy of Minutes of meeting dated 06-07-2023  | D     | 15 - 18            |
| 7.  | Copy of Letter dated 23-08-2023  | E     | 19 - 20            |
| 8.  | Copy of Impugned letter dated 07.09-2023   | F     | 21 - 22            |
| 9.  | Copy of Representation against the said notification and representation made by APTA President | G & H | 23<br>24 - 25 - 26 |
| 10. | Wakalat Nama   |       | 27                 |

  
ADVOCATE

M. Muazzam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2273 /2024

Taj Muhammad Khan Son of Hazrat Mir Resident of Meetha Khel Tehsil & District  
Karak

.....Appellant

**V E R S U S**

- 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

.....Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KPK**  
**SERVICE TRIBUNAL ACT 1974, AGAINST THE**  
**IMPUGNED NOTIFICATION BEARING**  
**NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020,**  
**COMMUNICATED TO RESPONDENT NO. 2 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**

**PRAYER:**

**ON ACCEPTANCE OF INSTANT SERVICE APPEAL,**  
**THE IMPUGNED NOTIFICATION BEARING NO: SO**  
**(POLICY) E&AD/1-312020, DATED 06/08/2020,**  
**COMMUNICATED TO RESPONDENT NO. 2 VIDE**  
**LETTER D06/06/2023, 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 PSHT  
Copy of Monthly Salary account is annexed as **Annexure A**
2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.  
Copy of the relevant rules is annexed as **Annexure B**
3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020; dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion.

otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

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

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 G

10. That the Appellant with other employees filed Writ Petition No. 973-A/2013 and 1101-A/2023, through President APTA before the Honorable High Court Peshawar and obtained restraining order dated 14/09/2023 to cover the mandatory statutory period of time.

Copies of restraining order dated 14/09/2023 and Writ Petition No. 4442-P 2023 are annexed as Annexure "H & I"

11. 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 "J & K"

12. 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 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 appellants 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

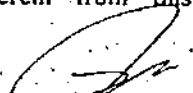
**It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck 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:**

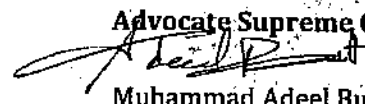
I Taj Muhammad Khan Son of Hazrat Mir Resident of Meetha Khel Tehsil & District Karak do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

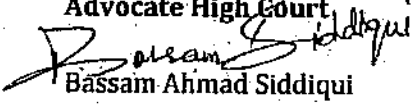
  
Deponent

  
Appellant

Through

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

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



BEFORE THE SERVICE TRIBUNAL, KHAYBAR PAKHTUNKHWA

CM No. \_\_\_\_\_ -F of 2024

In Ref to

Service Appeal No. \_\_\_\_\_ /2024

1st MUHAMMAD KHAN  
VERSUS

Secretary to Government of Khayber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) EAD/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY RESPONDENT NO.1, VIDE LETTER DATED 06/08/2023 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 ILS. And if the notification bearing No. SO (Policy) EAD/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) EAD/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.

Appellant

Through

*[Signature]*  
Muhammad Akbar Butt  
Advocate Supreme Court  
*[Signature]*  
Muhammad Akbar Butt  
Advocate High Court

APPELLANT  
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 therefrom from this Honorable Court  
*[Signature]*  
Deponent



Government of N.W.F.P.,  
Education Department,  
Special Priority Sector Devt Program,  
79/1 Gulshar Colony,  
Lahore City.

Notification.

No. SL-6/83. Consequent upon the recommendation of appointment committee, the following teachers are hereby appointed against P.T.C. posts in the newly opened Mouque Schools in HPS - 6 ( No.315-12-399/14-525-16-605 ) @ Rs. 135.00 p.m. fixed plus usual allowances as admissible under the rules in the schools mentioned against each :-

| Sr. No. | Name & address of Candidate.   | Appointed at Mouque Primary School. | Union Council. |
|---------|--|-------------------------------------|----------------|
| 1.      | Raj Muhammad s/o Hazrat Mir, Village Mitha Khal, Tehsil & Distt: Karak.  | Isak Chantra.                       | Isak Chantra.  |
| 2.      | Albar Jan s/o Farmanud Village & P.O. Tehsil & Distt: Karak.             | Gurgori..                           | Gurgori.       |
| 3.      | Sadi Rahman s/o Rashid Khan, Village Mitha Khal, Tehsil & Distt: Karak.  | Hari Panoos.                        | Bahador Khal.  |
| 4.      | Abdul Basir s/o Awal Gul, Village Tarik Khal, P.O. S/Abad, Distt: Karak. | Latenbar.                           | Latenbar.      |

The appointment is subject to the following terms & conditions :-

1. Their services are liable to termination/reversion at any time without any reason being assigned.
2. They are required to produce Health & Age Certificate from the Medical Authorities concerned, before taking over the charge.
3. NO TA/DA is allowed.
4. Charge Reports should be submitted to all concerned.
5. They should not be allowed to takeover charge if their age is less than 18 & more than 25 years.
6. They should report their arrival to S.D.E.O. (Male) concerned with immediate effect but not later than 25-6-1993 for taking over charge and orientation failing which the appointment will stand cancelled.
7. Their original certificate should be checked before taking over charge.

( Prof: Syed Mubarak Hussain Shah ),  
..... Project Director.

**ATTESTED**

-etc-

Order No. ND-6 (V.I.)/336/2001 dated 6-6-1983.

Copy forwarded for information & necessary action to the :-

1. Director, Technical Education, N.W.F.P., Patna.
2. District In-charge, Schools, Patna - Bihar, Patna.
3. In-charge, District, Patna, Bihar, Patna.
4. Sub-Divisional Education Officer (Male), Khatwa.
5. Conditions as S.No. 1 to 4 above.
6. District In-charge, Patna, Bihar, Patna.
7. Accountant Local Project.

*(Handwritten Signature)*

( Syed Fazal Qadir ),  
Deputy Director,  
Special Priority Sector Devt Programme  
N.W.F.P., Patna.

**ATTESTED**

Annexure B

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/8/2020

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

Copies 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.

*(Signature)*  
WALDAH LATIF  
DEPUTY SECRETARY (POLICY)

ATTESTED

*(Signature)*

ATTESTED

1267  
20/10/18

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

**ATTESTED**

WP4442-2023 AZIZULLAH VS GOVT OF POKS

21.6.23

Section Officer (Policy)

(Ijazah Muhammad Khan)  
Section Officer (Policy)

Yours faithfully,

Copy forwarded to the  
1. PG to Special Secretary (Legal), Establishment Department.  
2. PA to Additional Secretary (Legal-III), Establishment Department.  
3. PS to Deputy Secretary (Policy), Establishment Department.

Indis. Deven Nk & Hs

3/16  
HSE

2011, please.

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

1. Furthermore, those officers/officials who do not comply with promotion order civil servant to accept promotion in every condition. to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every prevent those who tend to forge promotion to evade posting/transfer or show lack of capacity civil servant from temptation for illicit acts by seeking for a single lucrative position or to

2. The basic rationale behind the deletion of the bid rule is aimed at preventing a provision exists to decline or forgo promotion. 7/A appointment dated 18.04.2023 on the subject noted above and to state that sub-rule (2) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with effect from the date of this notification dated 08.02.2023. Thus, no

I am directed to refer to your letter No. SO(General-III)/M/AS/2727-2023 dated 18.04.2023 on the subject noted above and to state that sub-rule (2) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with effect from the date of this notification dated 08.02.2023. Thus, no provision exists to decline or forgo promotion.

Dear Sir,  
Subject: CHUNABGR URGAJUNTI JURISTION OF JUDR 7/6 IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS APPOINTMENT, PROMOTION AND TRANSFER RULES, 1989.

To  
The Government of Khyber Pakhtunkhwa,  
Secretary & Secretary (General) Department.



62

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO(Policy/HR/AD/II/012020  
dated Islamabad the June 06, 2023

Annexure "C"



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.001-0223507)

No. SO (Primary-M)/E&SED/2-5/2023  
Dated Peshawar, IHC, June 26<sup>th</sup>, 2023

To

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

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

*[Handwritten 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 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

*[Handwritten mark]*

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

Copy forwarded to the:

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

*[Handwritten mark]*

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

ATTESTED

- 14 -

B/c

No SO (Primary-M)/E&SED/2-6/2023  
Dated Peshawar the June 25<sup>th</sup> 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(S) IN THE KHYBER  
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION  
AND TRANSFER) RULES, 1909.

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

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

ATTESTED



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


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


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

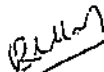
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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

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

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

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

  
(Mr. Razaqat Ullah)  
General Secretary APTA  
Peshawar

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

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

**ATTESTED**

- 16 -

- B/C -

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

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

| S/1 | 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**

**ATTESTED**

WP442-2023 AZZULAH VS GOVT CP P043

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

- 1. PA to Director Local Directorate.
- 2. Master Copy.

Guides: No. Copy of the above is to:-

Assistant Director (Establish-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
21/7/2023

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.  
provided they submit their written request prior to conclusion of the meeting of  
Teachers below D/S-16 may be exempted of implications of the amendment in the rules bid  
7(2) have affected negatively a huge number of Female Teachers. Thus it is proposed that

In view of the above, this office is of considered opinion that the decision of Rules  
has been asked for submission of consolidated case.  
Chairmanship of Hon. Additional Secretary Establishment at his office has  
That, in the light of the minutes of meeting dated 07-07-2023 held under the  
(Primary-40) E&SED/2-2/1/2023 dated 12-06-2023.  
The same was received by this office from your good office vide letter No.50  
civil servant to accept promotion under every condition.  
that there exists no provision to decline or forego promotion. It is obligatory upon every  
Wing) vide letter No.50 (Policy) E&AD/1-1/2020 dated 06-06-2023 categorically stated  
That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation  
No.50 (Primary-40) E&SED/2-2/1/2023 for necessary guidance.  
That your good office forwarded the same to the quarter concerned vide letter  
promotion.  
(ii) If it is the prerogative of the civil servant to either accept or turn down the offer of  
(i) Now it is obligatory upon the civil servant to accept promotion in every condition.  
No.6987 dated 06-02-2023.  
That this office sought guidance from your good office in the following words vide letter  
vide notification No. No. SOR-VI (E&AD)/1-1/2020 dated 06-08-2020.  
dated Rules 7(2) in the Civil Servants (Appointment, promotion & Transfer Rules 1989)  
That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)

I am directed to refer to the letter No.50 (Primary-40) E&SED/2-2/1/2023 dated 10-07-2023 on the subject cited above and to  
present brief history about the background of the case as under:

**MINUTES OF THE MEETING**

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

Dear Sir,



No. 8145 / P. No. 11557/M/General Cases  
Khyber Pakhtunkhwa, Peshawar  
Date 21-7-2023  
Phone: 091-9225344  
Email: establish@kpnat.gov.pk

**ATTESTED**

WP4443-2023 AZIZULLAH VS GOVT OF PAK

Assistant Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Copy of the above to:  
1. PA to Director Local Directorate  
2. Master Copy

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

consolidated case.  
-ment of his office. This office has been asked for submission of  
That in light of the minutes of the meeting dated 6-07-2023  
held under the Chairmanship of Hon. Additional Secretary Establish-  
ment to decline / forgo promotion, it is obligatory upon every civil  
servant to accept promotion under every condition.  
• That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy)  
EQAD/1-3/2020 dated 6-06-2023 categorically stated that there exists  
no provision to decline / forgo promotion, it is obligatory upon every civil  
servant to accept promotion under every condition.  
• That in light of the minutes of the meeting dated 6-07-2023  
held under the Chairmanship of Hon. Additional Secretary Establish-  
ment of his office. This office has been asked for submission of  
consolidated case.  
In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers.  
The case is submitted for perusal and necessary action please.

Dear Sir,  
I am directed to refer to letter No. (SO: Pkmyg-m) E&SED/5-1/Genral/  
Minutes of meeting PST/2023 dated 30-7-2023 on subject cited above and to  
present brief history, also background of case as under:  
• That government of KP Establishment department (Regulation Wing)  
dated rule 7(S) in Civil Servants (Appointment, Promotions, Transfer & etc) 1997  
vide notification No. No. SDR-VI (E&AD)-1-3/2020 dated 06-08-2020.  
That this office sought guidance from your good office in the following  
words vide letter No. 6983 dated 06-08-2023  
(i) Now it is obligatory upon civil servant to accept promotion.  
(ii) If a prerogative of civil servant to either accept / forego the  
offer of promotion.  
• That your good office forwarded the same to quarters concerned  
vide letter No. SO (Pkmyg-m) E&SED/2-2/Appointment-2023 for necessary  
guidance.  
• That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy)  
EQAD/1-3/2020 dated 6-06-2023 categorically stated that there exists  
no provision to decline / forgo promotion, it is obligatory upon every civil  
servant to accept promotion under every condition.  
That in light of the minutes of the meeting dated 6-07-2023  
held under the Chairmanship of Hon. Additional Secretary Establish-  
ment of his office. This office has been asked for submission of  
consolidated case.  
In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers.  
The case is submitted for perusal and necessary action please.

FESHUWA  
(21-1-2023)

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

To:

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-B/C-

- 18 -

Annexure "E"



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

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

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

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

Dear Sir,

I am directed to refer to your letter No, SO(Policy)/ EB&AD/ 1-3/2020 dated 05<sup>th</sup> 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.

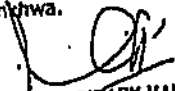
2. In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvenience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father 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 EB&SE Khyber Pakhtunkhwa.
2. PS to Secretary, EB&SE Department Khyber-Pakhtunkhwa.

  
SECTION OFFICER (PRIMARY MALE)  
28/8/23

Scanned with CamScanner

**ATTESTED**  


-B/C-

No. 50 (Primary - M) E&SE / 8-2 /  
Appointment - Rule / 2023  
Peshawar Dated 23rd August, 2023.

To

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

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

Dear Sir,

I am directed to refer to your letter No. 50 (Primary) / E&AD / 1-3 / 2023 dated 31st June 2023 and to state that after deletion of Rule 7(S) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2011.

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

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

Copy forwarded to;

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

(Muhammad Ishaq)  
Section Officer (Primary  
Male)

ATTESTED



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

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

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

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

Yours faithfully,

  
Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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

WP/442-2023 AZIZULLAH VS GOVT OF PG43

ATTESTED

Annexure 4<sup>th</sup> F

21

7

- 22 -

- B/C -

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

To

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

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

Dear Sir,

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

Yours faithfully,

Section Officer (Policy)

Endst. Of even No. & date

Copy forwarded to the:-

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

Section Officer (Policy)

ATTESTED



To,

Annexure 6

- 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:-

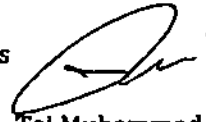
Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Elementary & Secondary Education vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against 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

**ATTESTED**

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.

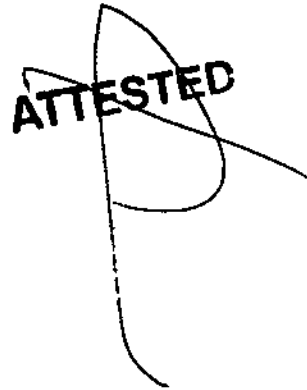
**It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution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

Best Regards



Taj Muhammad Khan  
Son of Hazrat Mir  
Resident of Meetha Khel Tehsil &  
District Karak

**ATTESTED**



ATTESTED

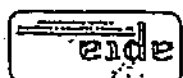
WP443-2023 AZIZULHAQ VS GOVT OF PC43

Handwritten signature and date 08/11/23

Main body of handwritten text in Urdu script, appearing to be a legal statement or affidavit.

Handwritten text at the bottom of the main body, possibly a name or title.

APTA Housat  
Govt. Primary School No.4,  
Gulshar, Ferozpur, City.



Khyber Pakhtunkhwa

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www.apta.gov.pk

Annexure "H"

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. 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.

Certified to be true copy (Muhammad Akbar Khan)  
Member (I) -

*[Handwritten signature]*  
13/5/24

Date of Presentation of Application 10-5-24  
 Number of 1  
 Contents 1  
 Charges 1  
 Total 1  
 Name of 13-1-24  
 Date of 12-5-24  
 Date of Delivery of copy 12-5-24

**ATTESTED**  
*[Handwritten signature]*

# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

TAJ MUHAMMAD KHAN  
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.



APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT  
Advocate Supreme Court

MUHAMMAD ADEEL BUTT  
Advocate High Court

BASSAM AHMAD SIDDIQUI  
Advocate High Court