


# FORM OF ORDER SHEET

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

Appeal No. 2311 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05/11/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 12.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

Muhammad Saleem

V/S

S.A No: 2314/24

Government of KP & others

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**ADVOCATE**

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2316 /2024

Muhammad Saleem Son of Khawas khan Resident of Tehsil & District Mardan

Designation: Primary School Head Teacher at GPS Meerzaki

.....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 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/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.**

**ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE APPELLANT.**

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.  
Copy of Monthly Salary account is annexed as Annexure A

2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted:
3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

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

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

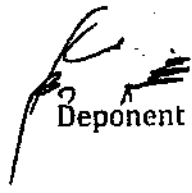
**It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck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

**It is further prayed that no penal action as proposed and envisaged in letter dated 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.**


  
-Appellant


**AFFIDAVIT:**  
I Muhammad Saleem Son of Khawas Khan Resident of Tehsil & District Mardan that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

  
Deponent

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 KHYBER PAKHTUNKHUWA**

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

In Ref to

Service Appeal No \_\_\_\_\_ 2024

Muhammad Saleem

**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.

  
Deponent

Through

  
Appellant

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

S. No.	Name/Parangage/Address.	Qualification	School	Remark
1.	Abdul Jabbar s/o Aminul Haq R/O Kalo (Takht Bhag)	Dip/com. PTC/847	GPS; Nazar Kili	Posted against PTO V/Post.
2.	Irtekhair Ali s/o Anwar Khan R/O Gul mera (L.K)	FA/PTC/846	GPS; Jwar	do
3.	Mohammad Faheem s/o Mezhrobanshah R/O Ghano Dheri	FSE/PTO/845	GPS; Pateh Abad	do
4.	Hakem shah s/o Fahir shah R/O Maingano Kili	BA/PTC/832	GPS; Methar Ghundai	do
5.	Muhammad Siraj s/o Badshah Gul R/O Shah Dhand (L.K)	BSC/PTC/832	GPS; Serai Banda	do
5.	Shah Jehah s/o Munair Khan R/O Pershadah	BA/PTO/828	GMPS; Alam Zeb Banda	do
6.	Amjad Ali s/o Abdul Khalig R/O Fazli Abad	FSC/PTO/811	GPS; Serai Banda	do
7.	Farman Ali s/o Sher Muhammad R/O Hathian	BA/PTC/ 808	GPS; Essa Khan Kili	do
8.	Ajmal Khan s/o Kabal Khan R/O Lund-Khawar	FSC/PTC/803	GPS; Essa Khan Kili	do
<b>GENERAL MERIT ON DISH level</b>				
9.	Mohammad Tariq s/o Noor Bahadar R/O Kunj	FSC/PTO/828	GPS; Shinkhal (PD)	do
10.	Dilawar Khan s/o Jalalud Din R/O Jabar (Gaddar)	BSC/PTC/814	GPS; Kas Kili (Toru)	do
11.	Naimat shah s/o Walim shah R/O Qasami	FSC/PTO/811	GPS; Qasim Toru	do
12.	Shafi-ullah s/o Rahmatullah R/O Katlang	FSC/PTC/804	GPS; Ali (Rustam)	do
13.	Mohammad Salim s/o Khawas Khan R/O Tachteh Bai	BSC/PTC/802	GPS; Mersah (R)	do
14.	Gulzar s/o Ali Khan R/O Mian Khan	BA/PTC/801	GMPS; Akhun Baba	do
15.	Gul Nawaz s/o Roshan Khan R/O Sher Khan	BA/PTC/798	GPS; Kas Malandari	do
16.	Mahesh s/o Sanfaraz R/O Dara Lund-Khawar	BSC/PTC/797	GPS; Kas Malandari	do
17.	Khanzade Gul s/o Ghani Gul R/O Kalu shah	BA/PTC/797	GPS; Gardar Abad	do
18.	Yusuf Khan s/o Salim Khan R/O Azat Abad (Bathian)	FSC/PTC/796	GPS; Shana (Banda)	do
19.	Marboob Ali s/o Muneer Khan R/O Mankar	BA/PTC/796	GPS; Gadary (H)	do
20.	Sher Ali s/o Yarawar Khan R/O Inargai	BA/PTC/792	GMPS; Bahadar Khah Banda (Rustam)	do
21.	Gul Nawaz s/o Faziullah Jan R/O Katlang	SSC/PTC/791	GPS; Natkhtar Banda (Rustam)	do
22.	Muzammil shah s/o Karim shah R/O Alo	BES/PTC/787	GMPS; Faqir shah Bandedo	do
23.	Jamshaid s/o Raza Khan R/O Mohib Gul Kuroona	BA/PTC/785	GMPS; Salim Khan Bandedo (Rustam)	do
24.	Sardar Khan s/o Sarfaraz Khan R/O Karim Abad	BSC/PTC/779	GMPS; Muhabat shah Banda (R)	do
25.	Amjad Ali s/o Zagnoah Khan R/O Habib Gul Kuroona	BA/PTC/777	GPS; Nodeh (Turo)	do
26.	Abdul Raziq s/o Badshah Ghulam R/O Kati Gardi	SSC PTC 776	GPS; Kas-Kali (Toru)	do
27.	Bajid Ali s/o Amir Nawaz R/O Amir Khan Kili	BA/PTC/775	GMPS; Amir Abad (R)	do
28.	Arshad Rabal s/o Dilawar Khan R/O Mian Isa	FSC/PTO/773	GMPS; Ghafoor Khan Banda (R)	do
29.	Farooq shah s/o Wahid shah R/O Takkar	FA/PTC/771	GMPS; Jewar (R)	do
30.	Alam Zeb s/o Abdul Hassan R/O Kalu shah	FA/PTC/770	GMPS; Shaheedan (R)	do
31.	Noon Bali Gul s/o Ambali Gul R/O Alo	FSC/PTO/769	GMPS; Zardin Banda (R)	do
32.	Nasrullah s/o Siraj-ud Din R/O Takkar	FSC/PTO/768	GMPS; Bata (R)	do

Continue P/No. 4

ATTESIED



ATTESTED

*[Handwritten signature]*

MAKRAY SECRETARY POLICE



ATTESTED



- 1. Additional Chief Secretary, Govt. of Kyrgyz Republic, Planning & Development Department.
- 2. The Senior Member Board of Revenue, Kyrgyz Republic.
- 3. All administrative Secretaries to Govt. of Kyrgyz Republic.
- 4. The Principal Secretary to Governor, Kyrgyz Republic.
- 5. The Principal Secretary to Chief Minister, Kyrgyz Republic.
- 6. All Divisional Commissioners in Kyrgyz Republic.
- 7. All Heads of Attached Departments in Kyrgyz Republic.
- 8. All Autonomous Semi Autonomous Bodies in Kyrgyz Republic.
- 9. All Deputy Commissioners in Kyrgyz Republic.
- 10. The Registrar, Kyrgyz Republic, Public Service Commission of Kyrgyz Republic.
- 11. The Registrar, Kyrgyz Republic, Industrial Registrar.
- 12. The Deputy Director (P. & A. Department).
- 13. All Section Officers in Establishment & Administration Department.
- 14. The Section Officer (Admin), Administration Department.
- 15. The Chief Clerk, Administration Department.

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Copy forwarded to:

GOVERNMENT OF THE REPUBLIC OF KYRGYZIA  
CHIEF SECRETARY

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

AMENDMENT

in exercise of the powers conferred by section 26 of the Constitution of Kyrgyz Republic, I hereby amend the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, by making further amendment shall be made, namely:

(1) The Chief Minister of Kyrgyz Republic is directed to direct the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, by making further amendment shall be made, namely:

Dated: Bishkek, the 06/08/2020

NOTIFICATION

GOVERNMENT OF KYRGYZ REPUBLIC  
ESTABLISHMENT DEPARTMENT  
(REGISTRATION WING)

7



8-

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)**

**NOTIFICATION**

Dated Peshawar the, 06/08/2020

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

**AMENDMENT**

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

**CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA**

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

**(WARDAH LATIF)  
DEPUTY SECRETARY (POLICY)**

  
**ATTESTED**

RECEIVED

WP4442-2023 AZIZULLAH VS GOVT OF PG43

21.8.23  
2023

Section Officer (Policy)

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

Copy forwarded to:-

Under Officer No & Date

ASSE  
21/8/23

Section Officer (Policy)

Yours faithfully,

proceeded against under Kyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011, please.

3. Furthermore, those officers/staffs who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be civil servant to accept promotion in every condition.

2. The basic rationale behind the deletion of the bid rule is aimed at preventing a civil servant from temptation for illicit gain by seeking to a single lucrative position or to prevent those who tend to forge promotion to evade posting/transfer or show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

2. The basic rationale behind the deletion of the bid rule is aimed at preventing a civil servant from temptation for illicit gain by seeking to a single lucrative position or to prevent those who tend to forge promotion to evade posting/transfer or show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

provision exists to decline or forgo promotion.

2/ Appointment/2023 dated 18.04.2023 in the subject noted above and to state that sub-rule (5) of Rule-7 of Kyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06.08.2020. Thus, no

I am directed in refer to your letter No. HO/Primary-M/17&18/22.

Subject: - **GUIDANCE REGARDING DELETION OF BIDDING RULE IN THE KYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.**

To  
The Government of Kyber Pakhtunkhwa  
Secretary & Secondary Education Department.

GOVERNMENT OF KYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO/Policy/KAT/1-2/2023  
Dated Peshawar the June 06, 2023



9-  
there use

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

SUBJECT: EQUIVALENT 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. 80 (Primary-M) / E&S/ED/2 - 2/A-Appointment / 2023 dated 18.04.2023 on the subject noted above and to state that sub-Rule (5) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 06.08.2020; thus, no provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the said rule is aimed to preventing a civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to prevent those who tend to forgo promotion to evade posting/transfer on show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

3. 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, 2012, please.

WP442-2023 AZIZULLAH VS GOVT OF PK

ATTESTED  


- B/c -

Yours faithfully,

(Issa Muhammad Khan)  
Section Officer (Policy)

Endst. of even no Ep date

Copy forwarded to the :-

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

Section Officer  
(Policy)



ATTESTED

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

- 12 -

No.SO (Primary-M/E&SED/2-6/2023  
Dated Peshawar lhc, 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, 1988.

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 Signature]*

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

Copy forwarded to the:

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

*[Handwritten Signature]*

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

*[Handwritten Signature]*  
ATTESTED



-13-

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(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



Amended  
- 14 -

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


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


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

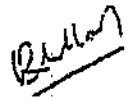
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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.

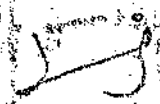
  
(Mr. Fazal Wahid)  
Deputy Director-I  
E&SE Department

  
(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

- B/c -

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

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

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

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

3. After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit 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



-16-

**Khyber Pakhtunkhwa, Peshawar**

No. 8145 /F.No. 34/SST/M/General Cases Dated 21-7-2023  
 Phone: 091-9223344 Email: [establishmentmale1@gmail.com](mailto:establishmentmale1@gmail.com)

To

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

Subject: - MINUTES OF THE MEETING


Dear Sir,

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

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, promotion & Transfer Rules 1989) vide notification No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 0987 dated 06-07-2023.
  - (i) Now it is obligatory upon the civil servant to accept Promotion in every condition.
  - (ii) It is the prerogative of the civil servant to either accept or turn down the offer of promotion.
- That your good office forwarded the same to the quarter concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision in decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same was received by this office from your good office vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 dated 12-06-2023.
- That, in the light of the minutes of meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office, this office has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge numbers of Female Teachers. Thus it is proposed that Teachers below D.P.S-16 may be exempted of implications of the amendment in the rules/ibid provided they submit their written refusal prior to conclusion of the meeting of Departmental Promotion Committee.

The case is submitted for perusal and necessary actions please.

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

Encls: No. \_\_\_\_\_

Copy of the above is to:-

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

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

  
**ATTESTED**

- B/C -

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR  
(21-7-2023)

To:

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

Subject: Minutes of Meeting

Dear Sir;

I am directed to refer to letter No. (SO Primary-M) E&SED/S-1/6/184/  
Minutes of meeting/PST/2023 dated 30-7-2023 on subject cited above and to  
present brief history about background of case as under:

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion & Transfer Rules 1989) 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. 6987 dated 06-07-2023
  - (i) Now it is obligatory upon civil servant to accept promotion.
  - (ii) It is prerogative of civil servant to either accept/turn down the offer of promotion.
- That your good office forwarded the same to quarters concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline/forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

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

The case is submitted for perusal and necessary actions please.

Copy of the above to;

1. PA to Director Local Directorate
2. Master Copy

Asstt. Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa.

ATTESTED



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

No. SO/Primary-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. 50(Policy)/EBAD/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 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

ATTACHED

*[Signature]*

(Muzammad Ishaq)  
Section Officer (Primary)  
(Muzammad Ishaq)

WP4442-2023 Khyber Pakhtunkhwa

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

Copy forwarded to:

I am directed to refer to your letter No. SO (Primary) (E&AD) / 1-3/2020 dated 8th June 2023 and to state that after deletion of Rule 7(S) Khyber 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 Khyber Pakhtunkhwa Civil Servants (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.

Dear Sir,

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

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

No. 50 (Primary-M) E&SE/18-9/  
Appointment - Rule/2023  
Peshawar Dated: 22nd August 2023.

- B/c -  
- 119 -

Annexure "F"  
-20-



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

ATTESTED

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-  
2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that  
necessary guidance has already been 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.

- B/C -

-21-

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



Annexure "G"  
-22-

To,

Dated: /02/2024

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

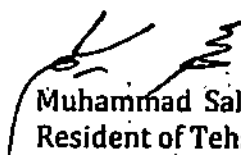
**REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020. DATED 06/08/2020. COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA. ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023. WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA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

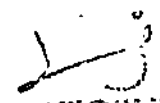
Sir/ Madam:-

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

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

Best Regards

  
Muhammad Saleem Son of Khawas khan  
Resident of Tehsil & District Mardan


  
ATTESTED

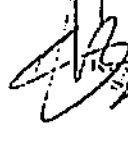


07.05.2024



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 (E)

  
 13/5/24

Date of Presentation of Application 10-5-24  
 Number of \_\_\_\_\_  
 Copies \_\_\_\_\_  
 Urgent \_\_\_\_\_  
 Total \_\_\_\_\_  
 Name of \_\_\_\_\_  
 Date of Completion of \_\_\_\_\_ 13-5-24  
 Date of Delivery of Copy \_\_\_\_\_ 13-5-24

  
**ATTESTED**

25

# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

MOHAMMAD SALEEM  
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