FORM OF ORDER SHEET

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Court of		T-T
Anneal No	7317-	/2024

	<u>Ap</u>	peal No. 23/2 /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/11/2024	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.
	+	By order of the Chairman
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	
Service Appeal	No 2 312 2024

Muhammad Yousaf

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2312 /2024

Muhammad Yousaf Son of Habib Khan, PSHT

GPS No 2, Abakhel, Tehsil & District Lakki Marwat

.....Appellant

VERSUS

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

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

PRAYER:

ON ACCEPTANCE OF INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION BEARING NO: SO (POLICY) E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.

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

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.

Copy of appointment letter is annexed as Annexure A

- 2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- 4. That Government of 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 Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules; 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition.

 Copy of Impugned Letter dated June 06th, 2023 is attached as Annexure C.
- 7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06:07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action.

 Copy of Minutes of Meeting dated 06-07-2023 is attached as Annexure D
- B. That the Respondent No.3 i-e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of Letter dated 23-08-2023 is attached as <u>Annexure E</u>

- 9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Givil Servant (Efficiency & Discipline) Rules, 2011.

 Copy of impugned letter dated 07-09-2023 is attached as Annexure F.
- 10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed.

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

GROUNDS:-

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- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees wife foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is filegal 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 premotion could be promoted.
- f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent No.1, vide letter deted 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.

AFFEDAVIT:

WE

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

Deponent

Through

Muham Myd Muazzzam Butt Advocate/Supreme Court

Muhammad Adeel Bud AdvocateHigh Court

Bassam Altmad Sidliqui Advocate High Court

LL.M- Human Rights

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M NoP of 2024	
In Ref to	
Service Appeal No2024	

Muhammad Yousaf VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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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.

Through

Muhammad Muazzam Butt Advocate Supreme Court Advocate Supreme Court

Muhammad Adeel Butt Advocate High Court

Deponent

TIPE WE KILL TES PSHR I colodos

Dist. Govt. KP-Provincial District Accounts Office Lakki Monthly Salary Statement (October-2023)





Personal Information of Mr MUHAMMAD YOUSAF d/w/s of HABIB KHAN

Personnel Number: 00312692

CNIC: 1120103335019

Date of Birth: 10.03.1969

Entry into Govt. Service: 07.02.1990

Length of Service: 33 Years 08 Months 026 Days

Employment Category: Vocational Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003025-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6004-

Payroll Section: 001

GPF Section: 001 **GPF** Interest applied Cash Center: 05

231,775.00 (provisional)

Vendor Number: -

GPF A/C No:

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

GPF Balance:

Pay Stage: 23

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	69,460.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00		Medical Allowance	1,500.00
1505	Charge Allowance	40.00	_	15% Adhoc Relief All-2013	1,273.00
2199	Adhog Rollef Allow @1996	AH.Y.KA		Tysching Allowance 2621	9,994,66
2341	Dispr. Red All 15% 2022KP	6,807.00		Adhoc Rel Al 15% 22(PS17)	6,807.00
2378 .	Adhoc Relief All 2023 35%	24,311.00	\Box		0.00

Deductions - General

	Wage type	Amount	nt Wage type		Amount
3015	GPF Subscription	_4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-2,854.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

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Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	250,000.00	-11,000.00	118,000.00

Deductions - Income Tax

Payable:

45,658.38

Recovered till OCT-2023:

11,416.00 Exempted: 11414.14 Recoverable:

22,828,24

Gross Pay (Rs.):

120,439.00

Deductions: (Rs.):

-19,944.00

Net Pay: (Rs.):

100,495.00

Payee Name: MUHAMMAD YOUSAF

Account Number: 933-9

Bank Details: ALLIED BANK LIMITED, 250617 ABL LAKKI MARWAT, LAKKI MARWAT

Lenves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: LAKKI

City: LAKKI

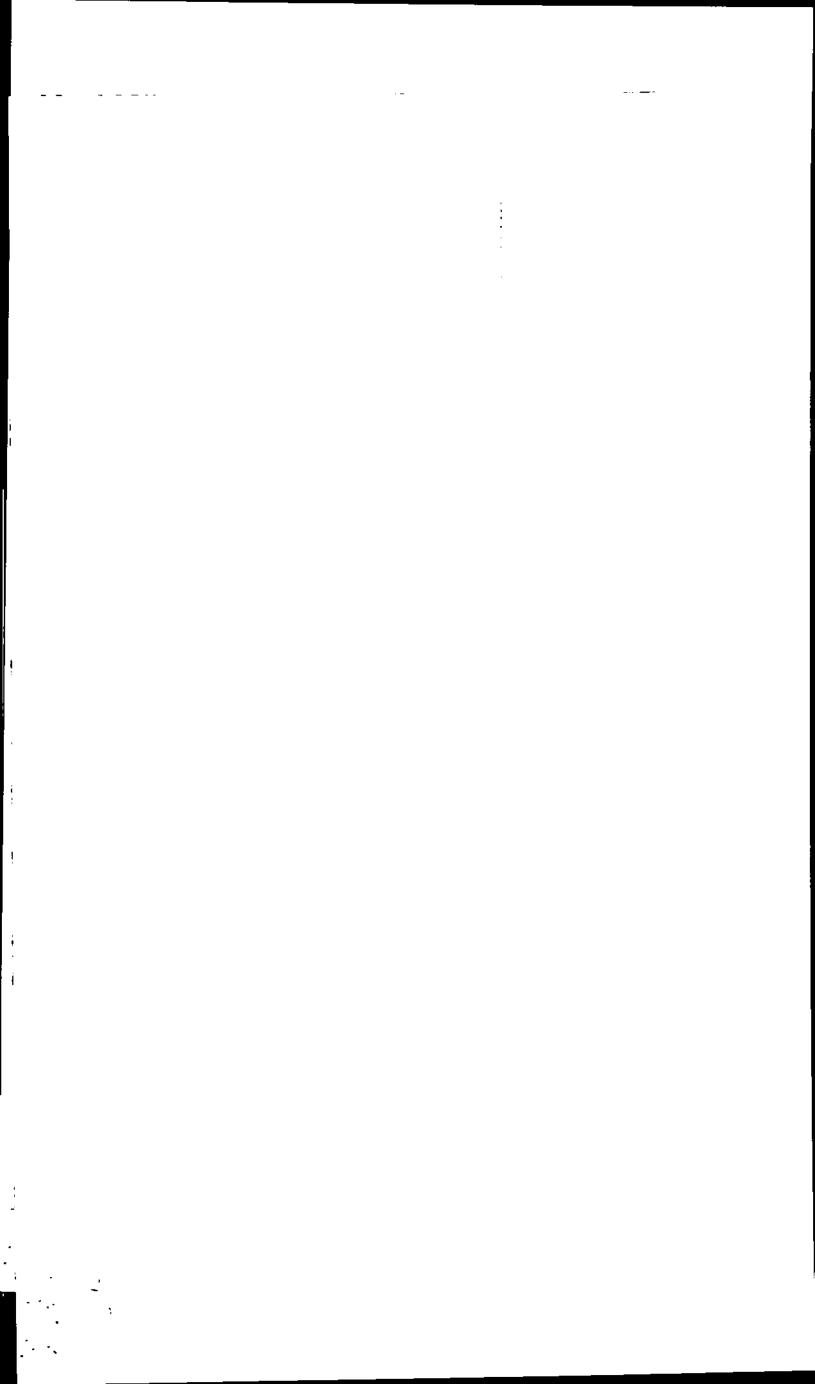
Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: myousafmwt@gmail.com

System generated document in accordance with APPM 4.6.12.9(360663/26.10.2023/v3.0)
* All amounts are in Pak Rupees
* Errors & omissions excepted (SERVICES/01.11.2023/19:37:12)



Dist. Govt. KP-Provincial District Accounts Office Lakki Monthly Salary Statement (October-2023)





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Personal Information of Mr MUHAMMAD YOUSAF d/w/s of HABIB KHAN

Personnel Number: 00312692 Date of Birth: 10.03.1969

CNIC: 1120103335019

Entry into Govt. Service: 07.02.1990

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Length of Service: 33 Years 08 Months 026 Days

Employment Category: Vocational Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003025-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6004-

Payroll Section: 001

GPF Section: 001

Cash Center: 05

GPF A/C No:

GPF Interest applied

GPF Balonce:

231,775.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 23

Wage type	Amount	Wage type	4-44
0001 Basic Pay	69,460.00	1001 House Rent Allowance 45%	Amount
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	3,524.00
1505 Charge Allowance	40.00	2148 15% Adhoc Relief All-2013	1,500.00
1199 Adhon Relinf Allow (7) 1994	ARV.OA	2316 Traching Alleyang 2021	1,273.00 5,994.60
2341 Dispr. Red All 15% 2022KP	6,807.00	2347 Adhoc Rel Al 15% 22(PS17)	6,807.00
2378 Adhoc Relief All 2023 35%	24,311.00		0.00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-2,854.00	4004 R. Benefits & Death Com	

Deductions - Loans and Advances

1 .				
Long	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable:

45,658.38

Recovered till OCT-2023:

11,416.00

Exempted: 11414.14

Recoverable:

22,828,24

Gross Pay (Rs.):

120,439.00

Deductions: (Rs.):

-19,944.00

Net Pay: (Rs.):

100,495.00

Payee Name: MUHAMMAD YOUSAF

Account Number: 933-9

Bank Details: ALLIED BANK LIMITED, 250617 ABL LAKKI MARWAT, LAKKI MARWAT

Leaves:

Opening Balance:

Availed:

Enmed:

Balance:

Permanent Address: LAKKI

City: LAKKI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: myousafmvt@gmail.com

System generated document in accordance with APPM 4.6.12.9(360663/26.10.2023/v3.0)
* All amounts are in Pak Rupees
* Errors & omissions excepted (SERVICES/01.11.2023/19:37:12)

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GOVERNMENT DE CHYBER PARTEUNKENA UST ATLISTIMENT DEPARTME (BECHEVELON-MINC)

NOTHICATION

Daled Perhinnitche, 06 / 8-72020

In energies of the powers conferred by seculdary, of the powers conferred by seculdary conferred by seculdary conferred by seculdary conferred by In enterclase of the powers conferred by seelidh 26 of the Civil Survania (Appointment, Promotion and Transport in the Khyber The Chief amounts of consult afficiently is theused to direct that in the Khyber of Civil Surveying (Appointment, Preinotion and Transfer) Rules. 1989, the chief that in the Khyber and Civil Surveying (Appointment, Preinotion and Transfer) Rules. 1989, the chief that in the Khyber and Civil Surveying the made annual control of the Chief that in the Khyber and Civil Surveying the made annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Khyber annual control of the Chief that in the Chie Thurse further uncordinest shall be minic, namely:

AMENDMENT

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

GOVERNMENT OF THE ICHYTER PAKETUNKHWA

Additional Chief Secretary, Clays, of Khyber Pakhtunkhwa. Planning & on is forwarded to:-

The Senior Member Board of Revunue, Khyber Pakhrunkhwa. All Administrative Segretaries to Govi. of Khyber Raibhunkhwa.

the Principal Accreumy to Governor Khyber Pakhunkhwa. The Principal Secretary to Chief Minister, Khyber Pakhankhwa.

All Divisional Commissioners in Khyber Pakhunkhwa All Hearts of Anached Departments in Khyber Pakhiunkhwa.

All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa

All Devaly Commissioners in Khyber, Pakhunkhwa The Russistrus Peshawar High Court, Pesliavar.

The Registrar, Khyber Pakhiunkhwa Service Fribunal, Peshawara The Registrar, Khyber Pakhiunkhwa Service Fribunal, Peshawara The Registrar, Khyber Pakhiunkhwa Service Fribunal, Peshawara The Registrary Registra

The Sacretary, Ethyber pakhunkhwa Public Service Compission, Pestuviu. If the Deputy Director (IT), E&A Depurment.
All Section Officers in Establishment & Administration Department. The Section Officer (Admn), Administration Department with the request to

The Carcinker, Administration Departmentarrange 20 Bozelle copies.

ATTESTED

(WA) HEAT LATT! DEPUTY SECRETARY (POLICY

1-11, 21,00

TIESTED

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:

<u>AMENDMENT</u>

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

CHIER SÉCRETARY 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

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PA 19 Additional Secretary (Reg-11), Establishment Department. i. Pg to Speelal Secritor (1848); Establibanathe parantals.

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Mamal (Chun) (Yollon) jaalily)

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proceeded against under Khyber Pokhjunkling Clvil Servanti (Affleteney & Discipline) Aules, of the competent authority as the coads promation through different means that be Fundermore, those officerstoligible who do not comply with premailor order

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ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Phone Mo.091-9223587)

1'11,50 (Primary-M)/E&SED/2-6/2023 Liploid Pashaviar lho. June 26*,2023

56/6/23

J:

To

The Director

Elementary & Secondary Education Department Khyber Pakhlunkhwa, Peshowar.

Aziz Ullah Khan President.

All Primary Teacher's Association, KP

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS JAPPOINTMENT, PROMOTION **Bublect:**

AND TRANSFER) RULES, 1989.

I am directed to refer to the subject noted above and to enclose here with a tetler of Establishment Department letter No. SO (Policy)E8AO/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 05 July, 2023 at 11:00 AM in this department under the Chalmanship of Additional Secretary (Estab) ERSE Department in his office.

You are, literatore, requested to dapute a representative of your respective Department to attend the meeting on a date, time & venue se mentioned above, please.

Encl: AA

(MUHAMMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER

WP444Z-PITE AZIZULLAH VS GOVT CF PG45

BIC

No SO (Primary-M)/E&SED/2-6/2023 Dated Peshawar the June 25th 2023

То

The Director
Elementary & Secondary Education Department
Khybor Polititunitiwe, Poshawar

Aziz Ullah Khan President President Ali Primary Teacher's Associadon, KP

Subject:

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAICHTUNKHWA 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)

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WP4442-2023 AZZZULLAH VS GOVT CF PG43

ATTESTED

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

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

		<u> </u>
5#	NAME .	DESIGNATION
1	Mr. Pazal Wahld	Deputy Director Establishment at Directorate Elementary & Secondary Education Department
2	i Mr. Aziz Ulloh .	Provincial President All Primary Teachers Association Khyhar Pakhlunkhyia
3	Mr. Rologal Ullah	General Secretary APTA Poshawar
4	Muhammad Ishaq	Section Cilico: (Primary) ELSE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar

- The meeting started with recitation from the Holy Ouran, the chair welcomed the participants. The Deputy Director (Establishment) of Directorale of Elementary & Secondary Education bileted the lawn regarding agenda item in detail.
- 3. After threedbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for anward submission to Establishment Department for further necessary action.

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

(Mr. Fazal Wahld) Deputy Obsciol-l E&SE Deportment

(Mr. Relagel Vilah) Géneral Sacrelány APTA Peshawai

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(Ai Astr Uliah)
Provincial Provident
All Primary Trachers Association
Khyber Pakhlunkhyra

(Muhahimaa Litha)
Socilan Oliicar (Primary-Maio)
E&SE Departmen!

(Abdullah) Addillanai Sacrolory (Erlablishment) E&SE Department

WP4442-2023 AZIZLILLAH VS GOVT CF PG43

TESTED

1:

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT TALL EBIMARY TRACHERS ASSESSMENT HAVEER PAINTUNKHWA REGARDING OF DELETION OF RULE 7(8) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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

SII NAME I	DESIGNATION
1 Mr. Fazel Wehld	Deputy Oirector Establishment of Directorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Rafaqat Ullah	General Secretory APTA Peshawar
4 Muhammad Ishaq	Section Officer (Primary) EBSE Department Civil Secretarial Knyber Palistuckhwa Pashawar

- 2. The meeting started with recitation from The Holy Quren. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.
- 3. After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly, and submit & self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

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

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

ATTESTED

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भग्राजमाहि वृद्धार अध्याप्र The Socion Officer (Priment-whole). Clomen his de Secondary Chreaton Department. Klyber Politinkhwo Perlamor.

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Phone: 04-911944 Emph Cane. Control of the Standing Control of Sta

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CHOS-2017 AZZZZLLAH VS GOVT CF PG43

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

(1201-F-15) PESHBURR

KPK, Perhaisar. Elementaged of Scondary Education Department Section Office (Primay- Male)

Subject to which of Heeting

present bout highly about background of cours as under-Ninster of meeting 121/129 defed to Esal-F-ol betables esal 129 British of Dear Sir) of an divided, to refer to letter No. (50 Ringy-M) & & ED/5-1/6-Willy

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vide neitheading M. Mr. 50R-VI(E&AD)1-3/2020 dated ob 08-2020. delibed rule 7(5) In Civil Servert (Appendional, promotional Translation Files

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PALES-2023 AZIZULLAN VB GOYT CF PEAS

(TB2CSSB-160.0N onod9) CIVIL SECRETARIAT PESHAWAR THEMTRAGED MOITADUCE YRACHODES OLD FRATHENEER

110. 5019 hinary-M)E&SED/2-2/Appointment-Rule (2023 Palent) Sestawar Dated 23rd August, 2023

آنو كجداهيم ادكريا بالكرك و كجداهية العابضانية المفتعلية المقتل المفتعلية المقتلة الم

18861 SERVANT (APPOINTMENT, PREMOTION & TRANSFER RULES SUBSECT: - GUIDANCE REGARDING DELETION OF BULE 7(5) IN THE CIVIL

i am directed to refer to your letter Ho. SO(Policy)/ EBAD/ 1-3/2020 dated

TY to evade promotion through different means shall be proceed under Khyber officers) officials vita do not comply with promotion order of the competent authority or Szorta terti bestembri nesad essi si (e88) ह्याप्ति कोटमका है notiomora, मन्त्रमन्त्रीपुरुष) हा उत्तर हिन्दु EVO swhinuhise radynix (2) of min to noteleton rate that exist on bus 5505 smu(Toxi

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WP4442-2073 AZIZULLAH VE GOVY CF PG43

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 PS to Secretary, Easte Department Knyber pakhtunkhwa.

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DIRECTOR ESISE Khyber Pakhburkhwa.

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(अभिनेत्र एकसत्त्रीताम) (अभिनेत्र एकसत्त्रीताम)

No.50 (Primary -M) EESED /2-21/ Application of Perhamon Dated 23rd August 2023.

To

The Secretary to Government of Khybo Pukhtunbhura. Establishment and Administration Department, Peakennew.

SUBJECT: - Galidance reamaing deletion of Rule 7(5) in the
Civil Servant (Appointment, Annation & Transfer Rules:
1989)

Dear Sir,

9 app directed to refer to your letter No. Softmany

11-3/2020 dated 6th June 2022 and to state that after

deletion of Rule 7(S) Khyber Pakhtunkhwa Ciril Senant (Appaintment,

Promotion and Trainsfer Rules 1989) 9th has been Intimated that

those officials who alwast comply with promotion order

of the competent authority or try to evade promotion though

different means shall be proceed under khyber Aukhtunkhwa

Ciril Servant (Efficiency and Discipline) Rule 2011.

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

Cety forwarded to;

(Muhammad Istory)
Section Officer (Primary)

1 Director E& SE Ktyles Bekharkhurg

2. PS to Secretary, E & SE Depostment White Attour Health

ATTL

GOVERNMENT OF KHYBER PARHTUNKHWA ESTABLISHMENT DEPARTMENT

No. SO(Policy)E&AD/1-3/2020 Dated Peshawar the September 07, 2023

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

Subject: -

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

Dear Sir,

I am directed to refer to your letter No. SD(Primary-M)/E&SED/2-2/Appointment-Rule/2023 doted 23:08:2023 on the subject noted above and to state that necessary guidance has already been tendered to your good office vife this department letter of even No. dated 06.06.2023 (copy enclosed).

Yours ត្រូវជាមៀy,

Meer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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



- 8|دـ

GOVERNMENT OF KHYSER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT No. SO(Policy)E&AD/1-3/2026 Dated Peshawar the September 07; 2023

Тο

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

Subject: -

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE ICHYBER PAIGITUNKHWA 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- Z/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that necessary guidance lies 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 nicer (Policy)

WF4147-2023 AZIZULLAH VS GOVT CF PG43

Honexure - G

To,

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

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

Director Elementary and Secondary Education Department

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING COMMUNICATED 06/08/2020. DATED NO.SO(POLICY)E&AD/1-312020. 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 procoeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules.

It is, therefore, humbly prayed that on the acceptance of the instant fepresentation; the Notification bearing No. SO (POLICY) $_{\eta/r}$ 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.

Dated <u>28 /0 //</u>2024

YOUR -YOUSAF TO HABTB KHAN

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ألما يمتريط سائلا لابعا بالجو للرنماد لمآ ريد وأيد فالا شائزة

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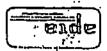
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Kinyber Pakhrunkhwa

VIAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD YOUSAF

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

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

ASSOCIATES OF MUAZZAM LAW FIRM

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

A 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 SIDBIQUI

Advocate High Court .