


# FORM OF ORDER SHEET

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

Appeal No. 2313 /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 style="text-align: right;">By order of the Chairman<br/><br/>REGISTRAR</p> |

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

S. ANo: Q313/24 HAZRAT ALI  
V/S

Government of KP & others

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ADVOCATE

M. Muazzam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2313 /2024

Hazrat Ali Son of Ghulam Younas Khan Resident of Tehsil & District Mardan

Designation: Primary School Head Teacher at GPS Husai Garyala

.....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**

**P R A Y E R:**

**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 effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- b. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees who foregone their promotion were allowed not to avail the promotion for a period 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 appellants. 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 /2020 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 appellants.**


  
Appellant

**AFFIDAVIT:**

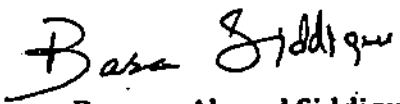
I Hazrat Ali Son of Ghulam Younas Khan Resident of Tehsil & District Mardan that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

  
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, KHARBI PAKHURJANA

CA No. \_\_\_\_\_ -P-01/2024

In Ref to

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

HARBI PAKHURJANA

VERSUS

Secretary to Government of Kharbi Pakhuria, & others

APPLICATION FOR SUSPENSION OF ISSUED NOTIFICATION BEARING NO. 50 (POLICY) EAD/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 BY 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 appeal in the instant case and the production bearing No. 50 (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 appellants involved in the case.

In view of the reasons, it is hereby requested that the notification bearing No. 50 (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

**AFFIDAVIT**  
I (the appellant) do hereby solemnly state 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.  
Deponent

ATTESTED

Secretary to Government of Kharbi Pakhuria, & others  
Appellant  
[Signature]

-6-  
OFFICE OF THE DISTRICT EDUCATION OFFICER (H) HAZRAN.

APPOINTMENTS

OFFICE OF THE

The following appointments of untrained teachers against Post (Ex-service Man) are hereby ordered at Rs. 315/- P.M. fixed plus usual allowances admissible under the rules in the interest of public service in the schools. Vacancies created against each with immediate effect:-

| S.No. | Name Father's name and Address.                             | Proc.      | To.  | Remarks |
|-------|---|------------|--|---------|
| 1.    | M. Mohamud Ishaq s/o Khista Gul of Noti Mandori.            | Candidate. | G.P.S. Furana Kotla (add)                    |         |
|       | M. Ikrasullah s/o Bahirullah of Yar Hussain.                | -do-       | G.P.S. Nigar No. 1.                          |         |
|       | M. Sherin Dil s/o Shah Zaidul of Swabi.                     | -do-       | G.P.S. Marghuz No. 2                         |         |
|       | M. Mohamud Zaider s/o Zaider Khan of Durin (Swabi).         | -do-       | G.P.S. Denter Saproua (Swabi)                |         |
|       | M. Gulzoda s/o Amir Zada of Yanjir.                         | -do-       | G.P.S. Tano.                                 |         |
|       | M. Ashir Zada s/o Shahzoda of Haroo Banda.                  | -do-       | To open the new the school at Lalalai Torra. |         |
|       | M. Hazrat Ali s/o Ghulam Younas, teacher s/o Vill, Goryala. | -do-       | To open the new school at Hussai Goryala.    |         |

B.L.  
B.L.  
B.L.  
B.L.  
B.L.

- Notes:-
1. No. 1. is allowed.
  2. Charge reports should be submitted to all concerned.
  3. Their appointments are temporary and liable to termination, in case of resignation one month's notice is essential otherwise one month will be forfeited.
  4. Original certificates should be checked before handing over charge and date is 10 to 25.
  5. The new candidates should obtain age and health certificates from the Medical Supdt. H. H. Hospital Haradan.

(SYED ABDUSAMED)  
DISTRICT EDUCATION OFFICER,  
(H-1B) HAZRAN.

Sl. No. 236-251 / Dated Haradan the, 27-11-1905.

Copy forwarded to the-

- 236-277 - S.D.O. (H-1B) Haradan/Swabi.
- 236-244 - School concerned.
- 236-251 - Candidate concerned.

BY:           



*Hazrat Ali*  
DEPUTY DISTRICT EDUCATION  
OFFICER (H-1B) HAZRAN.

*[Signature]*  
**ATTESTED**



ATTESTED

*[Handwritten signature]*

11-1-89

DEPUTY SECRETARY (POLICY)  
(GVA) PAKISTAN

*[Handwritten signature]*

ATTESTED



- 1. Additional Chief Secretary, Govt. of Punjab, Planning
- 2. The Senior Member Board of Revenue, Punjab
- 3. The Administrative Secretaries to Govt. of Punjab
- 4. The Principal Secretary to Chief Minister, Punjab
- 5. The Principal Secretary to Governor, Punjab
- 6. The Principal Commissioners in Punjab
- 7. All Heads of Attached Departments in Punjab
- 8. All Autonomous/Semi Autonomous Bodies in Punjab
- 9. All Deputy Commissioners in Punjab
- 10. The Registrar, Punjab
- 11. The Registrar, Punjab
- 12. The Secretary, Punjab
- 13. The Director (IT), Punjab
- 14. The Deputy Director in Establishment & Administration Department
- 15. The Section Officer (Adm), Administration Department
- 16. The Section Officer (Adm), Administration Department
- 17. The Section Officer (Adm), Administration Department
- 18. The Section Officer (Adm), Administration Department
- 19. The Section Officer (Adm), Administration Department
- 20. The Section Officer (Adm), Administration Department

LIST NO & REVEN DATE

CHIEF SECRETARY  
GOVERNMENT OF THE PUNJAB PAKISTAN

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

AMENDMENT

Further amendment shall be made, namely:

(a) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(b) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(c) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(d) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(e) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(f) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(g) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(h) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(i) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(j) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(k) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(l) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(m) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(n) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(o) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(p) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(q) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(r) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(s) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(t) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(u) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(v) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(w) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(x) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(y) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

(z) the Chief Minister of Punjab (Appointment, Promotion and Transfer) Rules, 1989; the

Dated at Lahore, the 01/11/89

NOTIFICATION

GOVERNMENT OF  
PUNJAB PAKISTAN  
ESTABLISHMENT DEPARTMENT  
(CIRCULATION-WING)

Annexure - 1 - 8 -

B/C - 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

Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. RO(Polcy)/A/131/372020  
Dated Peshawar (on) June 06, 2023

62

To: The 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. RO(Primary-M)/124/1127/  
2/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 06.06.2023, thus, no  
provision exists to decline or forgo promotion.

The basic rationale behind the deletion of this rule is aimed at preventing a  
civil servant from temptation for illicit gain by sticking to a single liberative post/position or to  
prevent those who tend to forgo 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.

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.

Yours faithfully,  
(Signature)  
Section Officer (Policy)

ASE  
7/6

(Signature)

Recd. Of even No & date  
Copy forwarded to:-

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.

(Signature)

21.6.23

(Signature)  
Section Officer (Policy)

ATTESTED

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.091-8223507)

No.RO (Primary)MVE&SED/2-5/2023  
Dated Peshawar the 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(B) 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 deputise 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

*[Handwritten Signature]*

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

No. SO (Primary) E&SE/D2-6/2023  
Dated Peshawar (td. June 26, 2023)

To

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

Aziz Ullah Khan  
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 herewith a letter of Establishment Department letter No. SO (Policy) E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (E&SE) Department in his office.

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY/MALE)

Copy forwarded to the:

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

(SECTION OFFICER (PRIMARY/MALE))

ATTESTED

B/c -11-

No 50 (Primary-M)/E&SE/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, 1989.

I am directed to refer to the subject noted above and to enclose here with a letter of  
Establishment Department letter No. 50 (Policy) E&AD/1-3/2023 dated 06 June, 2023 and to state  
that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the  
Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH VS GOVT CP PG43

  
ATTESTED

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 7151 IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

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


Annexure  
D


| 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  |

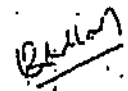
2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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

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

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

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

  
(Mr. Razaqat Ullah)  
General Secretary APTA  
Peshawar

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

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

  
ATTESTED

-13-  
-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(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/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

VP 442-2023 AZIZULAH VS GOVT CP P043

Attorney Director (Legal) Ministry of Secondary Education Kyber Paktunkhwa

1. PA to Director Local Directorate  
2. Master Copy

Copy of the above is in:

Attorney Director (Legal) Ministry of Secondary Education Kyber Paktunkhwa

This case is submitted for perusal and necessary actions please.

Departmental Promotion Committee. Teachers having PS-16 may be exempted of implications in the matter. In view of the above, this office is of considered opinion that the decision of Higher

been asked for submission of consolidated case. Chairmanship of Hon. Additional Secretary Establishment of his office. In the light of the minutes of meeting dated 6-07-2023 held under the

(Primary-4) EASED/2-1/1700 dated 12-06-2023. The same was received by this office from your good office with letter No.507

will serve to accept promotion under every condition. That there shall be no provision in decision or for no provision. It is suggested upon every

(Wing) vide letter No.507 dated 6-06-2023 accordingly stated. That the Government of Kyber Paktunkhwa Establishment Department (Establishment

No.507 (Primary-4) EASED/2-1/1700 for necessary guidance. That your good office forwarded the same to the quarter concerned vide letter

promotions. (ii) It is suggested that the civil servant to accept promotion in every condition. (iii) Now it is obligatory upon the civil servant to accept promotion in every condition.

No.6987 dated 06-02-2023. That this office would guide you from your good office in the following words vide letter

vide letter No. 502-VI (E&AD)/1700 dated 06-08-2023. dated vide 7(2) in the Civil Servants (Appointment, promotion & Transfer Rules 1980)

That Government of Kyber Paktunkhwa Establishment Department (Establishment Wing) present brief history about the background of the case as under:

G.M/Minister of the Planning/PS7023 dated 10-07-2023 on the subject cited above and is directed to refer to the letter No.507 (Primary-4) EASED/2-1/1700

Subject: MINUTES OF THE MEETING

The Station Officer (Primary-4), Ministry of Secondary Education Kyber Paktunkhwa



No. 8145

Phone No. 09-9232141 Email: establishment@kpk.gov.pk

Kyber Paktunkhwa Peshawar

~~TESTED~~

WP4447-2023 AZ22ULAH VS GOVT CF PG43

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

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 action please.

That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary, Education at his office. This office has been asked for submission of consolidated case.  
That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) EQAD/1-2/2020 dated 6-06-2023 correspondingly stated that there exists no provision to clarify / forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.  
That your good office forwarded the same to a/units concerned vide letter No. SO (Promotion) EQSED/2-2/Appointment/2023 for necessary guidance.  
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) BTR's prerogative of civil servant to either accept / surrender the offer of promotion.  
That Government of KP Establishment department (Regulation Wing) dated rule 9(S) in Civil Servants (Appointment, promotion, Transfer, etc.) vide notification No. No. SOP-VI (EQAD) 1-3/2020 dated 06-08-2020. Present brief history, also background of case as under:  
Minutes of meeting P/ST/2023 dated 30-7-2023 on subject cited above and to  
I am directed to refer to letter No. (SO) P/ST/2023 dated 30-7-2023 on subject cited above and to

Subject: Minutes of meeting  
KPK, Peshawar  
Elementary & Secondary Education Department  
Section Officer (Female Male)  
To:  
DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK  
PESHAWAR  
(21-7-2023)

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

No. SO(Policy-M)E&SED/1-2/Appointment-Rules/2023  
Peshawar Dated 23<sup>rd</sup> August, 2023

Annexure  
E

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

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

Sir,

I am directed to refer to your letter No. SO(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 ISMAIL)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. Director EBSE Khyber Pakhtunkhwa.
2. PS to Secretary, EBSE Department Khyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)  
20/8/23

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WP4442-2023 AZIZULLAH VS GOVT CP PG43

ATTESTED

ATTESTED

(Muzammad Ishaq)  
Section Officer (Army)  
(Note)

2. PS to Secretary, E & SE Department, Peshawar

1. Director E & SE Khyber Pakhtunkhwa

Copy forwarded to:

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.

of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2012.

those officers/officials who do not comply with promotion order Promotion and Transfer Rules 1989) it has been intimated that deletion of Rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, 1-3/2020 dated 6th June 2023 and to state that after 9 am directed to refer to your letter No. S (Army) (Policy) /E&AD

Dear Sir,

SUBJECT: - Guidance regarding deletion of Rule 7(5) in the Civil Servant (Appointment, Promotion & Transfer Rules 1989)

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

To

No. 50 (Army-M) /E&AD /P&A/  
Appointment - Rule /2023  
Peshawar Dated 23rd August 2023.

- b/c - 17

Annexure - F



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

TESTED

-18-

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 rendered 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.

WP447-2023 AZIZULLAH VS GOVT OF PK43

-19-

- 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~~

-20-

Annexure "G"

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

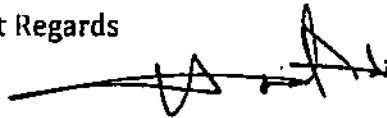
**REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020, COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA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



Hazrat Ali Son of Ghulam Younas Khan  
Resident of Tehsil & District Mardan

  
ATTESTED





# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

*HARAT ALI*

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

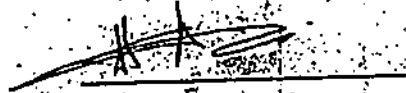
BASSAM AHMAD SIDDIQUI AHC

&

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