


# FORM OF ORDER SHEET

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

**Appeal No.** 2300 / 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

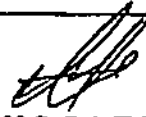
Khan Bahadur

V/S

Appeal No:- 2300/24  
Government of KP & others

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ADVOCATE

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2300 /2024

Khan Bahadur Son of Yaqoob Khan Resident of Tehsil & District Mardan

Designation: Primary School Head Teacher at GOS Kamal

.....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 Khan Bahadur Son of Yaqoob Khan Resident of Tehsil & District Mardan 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

  
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

Khan Bahadar

**V E R S U S**

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

Dist. Govt. KP-Provincial  
District Accounts Office Mardan  
Monthly Salary Statement (January-2024)

6



Annexure

A

Personal Information of Mr KHAN BAHADAR d/w/s of YAQOOB KHAN

Personnel Number: 00126935

CNIC: 1610257707761

NTN: 0

Date of Birth: 15.10.1970

Entry into Govt. Service: 24.10.1988

Length of Service: 35 Years 03 Months 009 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

80003433-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6157-DY.DISTRICT EDUCATION OFFICER (M) TAKHT BHAI MARDAN

Payroll Section: 003

GPF Section: 001

Cash Center: 3

GPF A/C No: EDUMR006334

GPF Interest applied

GPF Balance:

652,371.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 24

Wage type		Amount	Wage type		Amount
0001	Basic Pay	71,440.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
1505	Charge Allowance	40.00	2148	15% Adhoc Relief All-2013	950.00
2199	Adhoc Relief Allow @10%	637.00	2316	Teaching Allowance 2021	3,224.00
2331	Dispr. Red All 15% 2022KP	6,807.00	2347	Adhoc Rel At 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	-3,009.00	3990	Emp.Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
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Deductions - Income Tax

Payable: 46,906.38 Recovered till JAN-2024: 20,138.00 Exempted: 11726.03 Recoverable: 15,042.35

Gross Pay (Rs.): 122,096.00 Deductions: (Rs.): -9,234.00 Net Pay: (Rs.): 112,862.00

Payee Name: KHAN BAHADAR

Account Number: PLS 2061-5

Bank Details: NATIONAL BANK OF PAKISTAN, 230548 TAKHT BHAI TAKHT BHAI,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: VILLAGE P O UMAR ABADTEH TAKHT BHAI DIST

City: MARDAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: khabhadarpslt@gmail.com

**ATTESTED**

System generated document in accordance with APPM 4.6.12.9(288598/24.01.2024/v3.0)

\* All amounts are in Pak Rupees

\* Errors & omissions excepted (SERVICES/02.02.2024/19:12:58)



Handwritten signature and stamp at the top of the page.

1-1-1998  
11282-C  
GUY ZAVAN MIAN  
DISTRICT EVALUATION OFFICER  
2-11/98/100  
Copy forwarded for information and action to the  
District Evaluation Officer, District Office, Dhaka.  
Head Teacher concerned.  
Candidate concerned.

1-1-1998  
11282-C  
GUY ZAVAN MIAN  
DISTRICT EVALUATION OFFICER  
2-11/98/100  
Copy forwarded for information and action to the  
District Evaluation Officer, District Office, Dhaka.  
Head Teacher concerned.  
Candidate concerned.

CANDIDATES OF APPOINTMENT

- 1-1-1998  
11282-C  
GUY ZAVAN MIAN  
DISTRICT EVALUATION OFFICER  
2-11/98/100  
Copy forwarded for information and action to the  
District Evaluation Officer, District Office, Dhaka.  
Head Teacher concerned.  
Candidate concerned.

The following candidates are hereby appointed on part-time basis in PS No. 7 (R.S. No. 21-1370) from the date of taking over charge in the interest of public service.

APPOINTMENTS  
OFFICE OF THE DISTRICT EVALUATION OFFICER (MATS) DHAKA

Form No. 2006

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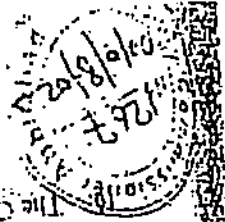
ATTESTED

*[Handwritten signature]*

DEPUTY SECRETARY (POLICY)  
(VAJDAH LATIF)

*[Handwritten signature]*

ATTESTED



- 1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department, Khyber Pakhtunkhwa.
- 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. The Principal Secretary to Government, Khyber Pakhtunkhwa.
- 7. All Divisional Commissioners in Khyber Pakhtunkhwa.
- 8. All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 9. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- 10. All Deputy Commissioners in Khyber Pakhtunkhwa.
- 11. The Registrar, Peshawar High Court, Peshawar.
- 12. The Registrar, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 13. The Deputy Director (IT), E&A Department.
- 14. All Section Officers in Establishment & Administration Department with the request to the Section Officer (Admn), Administration Department.
- 15. The Section Officer (Admn), Administration Department.
- 16. arrange 20 gazette copies.
- 17. The Carucker, Administration Department.

CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

DATE NO & REVISED DATE

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

AMENDMENT

In exercise of the powers conferred by section 25 of the Government of Khyber Pakhtunkhwa Act No. XVIII of 1973 (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:

NOTIFICATION

Date: Peshawar, the 06/08/2021

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(CIRCULATION WING)

Annex - B -

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

**ATTENDED**

WORLDWIDE-2023 AZIZULHAQ VS GOVT OF PAK

21.06.23  
2023  
21.06.23

Section Officer (Policy)

Section Officer (Policy)

Yours faithfully,

1. PS to Special Secretary (Legal, Subdivisional Department)
2. PS to Additional Secretary (Legal, Establishment Department)
3. PS to Deputy Secretary (Policy, Establishment Department)

Copy forwarded to the  
Ruler, Government of Sindh

7/6  
7/6

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 Khayber Pakhtunkhwa Civil Service (Efficiency & Discipline) Rules, 2011, please.

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 Khayber Pakhtunkhwa Civil Service (Efficiency & Discipline) Rules, 2011, please.

The basic rationale behind the deletion of the said rule is aimed at preventing a provision exists to decide or forgo promotion.

1. In official letter to your letter No. SO/P/Primary-M/1245/2022 dated 18.04.2022 on the subject noted above and to state that Sub-Rule (15) of Rule-7 of Khayber Pakhtunkhwa Civil Service (Appointment, Promotion and Transfer) Rules, 1989 stands deleted with this department notification dated 08.08.2020; thus, no

Subject: **QUANTUM JUDICIAL, DISCRETION OR RULE 7(S) IN THE CIVIL SERVICE (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989**

To: The Government of Sindh, Khayber Pakhtunkhwa, Islamabad & Secondary Education Department.



GOVERNMENT OF KHAYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO/Policy/1245/2020  
Dated: Islamabad, the 18th June 2022

Annexure - C

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

No. SO (Primary-M)/E&SED/2-6/2023  
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

26/6/23

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. 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 SHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)  
26/6/23

ATTESTED

B/c -11-

No 50 (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, 1909.

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

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

  
ATTESTED

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

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


Annexure  
□

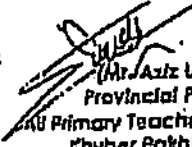
Sl#	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqal Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer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


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

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

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

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

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

  
(Mr. Razaqal Ullah)  
General Secretary APTA  
Peshawar

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

(Abdullah)  
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(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION  
& TRANSFER RULES 1989).

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

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

WP4442-2023 AZIZULLAH VS GOVT CP FCAS

Assistant Director (Ex-101-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

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

Copy of the above is to:

Assistant Director (Ex-101-1)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
Date: 23/07/2023

The case is submitted for perusal and necessary actions please.

Departmental Decision Committee.  
provided they submit their written refusal prior to conclusion of the meeting of  
Teachers below. The-16 may be exempted of implications of the amendment in the rules if  
(7) have affected negatively a huge number of Female Teachers. Thus it is proposed that  
in view of the above, this office is of considered opinion that the decision of Rules  
has been given for submission of consolidated case.  
Chairman of the Provincial Secretariat Establishment at his office this office has  
• That in the light of the minutes of meeting held 6-07-2023 held under the  
(Primary-4) E&SED/2-2/Appln/2023 dated 13-06-2023.  
• The same was received by this office from your good office with letter No.50  
civil servants to accept promotion under every condition.  
that there exist no provision to decline or forgo promotion. It is obligatory upon every  
Wings) vide letter No.50 (Policy) E&AD/1-1/2020 dated 6-06-2023 categorically stated  
• That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation  
No.50 (Primary-4) E&SED/2-2/Appln/2023 for necessary guidance.  
• That you office forwarded the same to the quarter concerned vide letter  
promotion.  
(ii) It is the prerogative of the civil servants to either accept or turn down the offer of  
(i) Now it is obligatory upon the civil servants to accept promotion in every condition  
No.6087 dated 06-07-2023.  
• That this office sought guidance from your good office in the following words vide letter  
vide notification No. 50R-VI (E&AD)/1-1/2020 dated 06-08-2023.  
• That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)  
dated 21/07/2023 in the Civil Servants (Appointment, promotion & Transfer Rules 1989)

I am directed to refer to the letter No.50(Primary-4)E&SED/2-1/  
G.M/Minister of the Planning/PT/2023 dated 10-07-2023 on the subject cited above and in  
present brief history about the background of the case as under:

MINUTES OF THE MEETING

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

Subject: Dear Sir,



Phone: 09-9223144 Email: esab@kpk.gov.pk

Khyber Pakhtunkhwa, Peshawar  
Date: 23/07/2023

**ATTESTED**

WP4447-2023 AZIZULHAH VS GOVT OF POK

Richard Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

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

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

That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Education of his office. This office has been asked for submission of consolidated case.  
That the government of KP-ED (Regulation Wing) vide letter No. 50 (Policy) EQAD/1-2/2020 dated 6-06-2023 accordingly stated that there exists no provision to decline /forge promotion. It is obligatory upon every civil servant to accept promotion under every condition.  
That your good office forwarded the same to quarters concerned vide letter No. 50 (Amendment) EQSED/1-2/Appointment/2023 for necessary guidance.  
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) Now it is obligatory of civil servant to accept /forge the offer of promotion.  
That Government of KP Establishment department (Regulation Wing) dated rule 7(S) in Civil Servants (Appointment, promotion, Transfer etc 1997) vide notification No. No. 508-VI (EQAD) 1-3/2020 dated 06-08-2020.  
That Government of KP Establishment department (Regulation Wing) present brief history, about background of case as under:  
Minutes of meeting 15/7/2023 dated 10-7-2023 on subject cited above and to  
I am directed to refer to letter No. (50 Amending) EQSED/1-2/6987/

Suggested: Minutes of Meeting

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

PERAWAN  
(21-7-2023)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-B/C-



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

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

Annexure  
E

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ E&AD/ 1-3/2020 dated 05<sup>th</sup> June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/ officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

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

(MUHAMMAD ISHAK)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(MUHAMMAD ISHAK)  
SECTION OFFICER (PRIMARY MALE)  
28/8/23

Scanned with CamScanner

ATTESTED

**ATTESTED**

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

Dear Sir,  
I am directed to refer to your letter No. S.O. (Primary) / E&AD / 1-3/2020 dated 24th June 2023 and to state that after deletion of Rule 7(S) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rule 2012.  
In this connection it is submitted that in some cases body 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 body teacher in primary schools.

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

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

No. S.O. (Primary-M) E&AD / 1-3/2023  
Appointment - Rule / 2023  
Peshawar Dated 29th 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

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)

Encls. Of even No & date

Copy forwarded to the:-

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

**ATTESTED**

WP/42-2023 AZIZULLAH VS GOVT OF PK

-18-

-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(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.

Section Officer (Policy)

**ATTESTED**

Annexure 6

To,

Dated: 22-01-2024

- 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

Khan Bahadur Son of Yaqoob Khan  
Resident of Tehsil & District Mardan

Khyber Pakhtunkhwa

Aziz Ullah Khan  
President  
0333-6412648  
azizullah1973@gmail.com  
01 aninkpk



APTA House  
Govt. Primary School No.4,  
Quibahar Peshawar City

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) خیبر پختونخوا

Annexure - H

مہاب: سیکرٹری و سیکلوری ایجوکیشن خیبر پختونخوا  
مہاب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا  
جناب مال

گزارش ہے کہ پرموشن اور اعلیٰ سے اعلیٰ ہونے اور اس کے سرکاری ملازم کی ضمانت ہوتی ہے پرموشن کا ایک قانون بنا کر تھا کہ جو ملازم ایک اگر کسی  
پہلے کے تحت ایک دن پرموشن میں تو وہ پھر آٹھ ماہ سال تک پرموشن نہیں لے سکتے تھے مطلب پانچ سال تک پھر اس کی پرموشن میں اور اس کے  
پھر اس قانون میں جو اس کی رعایت دی گئی پانچ سال کی مدت تک اس کے لئے ایک سال پرموشن نہ لیں تو دوسرے سال لے سکتا ہے  
لیکن اب ایک ہفتہ پہلے ایک اور نوٹیفکیشن آیا ہے

اس کے مطابق اب جو ملازم پرموشن شروع نہیں کرے اگر نہیں لیں گے تو اس کے خلاف ایک ایک اور نوٹ کے مطابق کارروائی کرنے کا کہا گیا ہے  
اور اسلئے یہ آخری نوٹیفکیشن بنیادی اسکول کی مکمل خلاف ہوئی ہے سب سے کہ وہ اس اور پہلی ملازمت میں اس کے خواتین امائدہ کو اہلیت مٹاتے ہیں  
ماتر کا کہنا ہے کہ

تک تمام حالات میں بھی زبردستی پرموشن اور دورانہ بیجا بنی بنیادی اسکول کی خلاف ورزی ہے کیونکہ خیبر پختونخوا میں پرنسپل سے ملازمتی دشمنیاں  
میں ہوتی ہے ایسے حالات میں یہ نوٹیفکیشن جو GSSSI کی کاپی نہیں لیں گے جواب میں کیا گیا ہے جو بیسٹ اور بنیادی اسکول کی خلاف ہے  
اس کے خلاف قانون بنا کر اس میں کوئی ترمیم نہیں ہو سکتی ہے

لہذا ہم آپ سے درخواست کرتے ہیں کہ نوٹیفکیشن کو واپس لیا جائے یا اس میں ترمیم کر کے پرائمری امائدہ کو (Relaxation) دیا جائے اور ان کے  
زبردستی پرموشن لینے کی ہدایت ان کو کرنا سے لینے دیا جائے

اور پرنسپل نہ لینے کی صورت میں ہدایت دیا گیا جائے لیکن یہ زبردستی نہ کی جائے  
اس مسئلے میں آپ پہلے لاہور تمام (DPO) ای ای اور کہ ایک قسم سے مراحل جاری کیا جائے تاکہ انہوں میں پرنسپل / لیٹل پرائمری امائدہ کو واپس  
البتہ اور جو تک سے لیا جائے

کیونکہ نوٹیفکیشن بنیادی اسکول میں پرائمری امائدہ کو واپس لینے پر توجہ دینے کے سلسلے شروع ہو چکا ہے  
لہذا ہم یہ درخواست کرتے ہیں کہ آپ صاحبان کوئی ایجنٹ مقرر کر کے پرائمری امائدہ کو واپس لینے پر توجہ دینے کے سلسلے شروع دلائل سے بہت دائرے کے

شکر ہے

عزیز اللہ خان سوہانی صدر  
آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا

ATTESTED



# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

KHAN BAHADUR

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

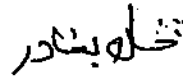
BASSAM AHMAD SIDDIQUI AHC

&

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