## FORM OF ORDER SHEET

Court of		<u> </u>
A	7.8 El	/2024
Appeal No.	الناكة سرا	77074

	Арг	peal No. 230 /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1.	2	1 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
	21.20	DISTO AD
	: -	REGISTRAR
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## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No \_\_\_\_\_-P of 2024
In Ref to
Service Appeal No \_\_\_\_20\_ 2024

#### Ikram Ullah Khan

#### 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 2301 /2024

Ikram Ullah Khan Son of Mohammad Aslam Khan, Qari

GPS Saray Norang 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, Blomentary 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:

That the Respondents Department appointed the Appellant as Qari.
 Copy of appointment letter is annexed as <u>Annexure A</u>

4

- 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.
- That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of assummedation and no inquest 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.
- 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 06/08/2220, 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:-

· 10.14

"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
- 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 Hatablishment 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 Rhyber Pakhtonkhwa 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 Civil Servant (Efficiency & Discipline) Rules, 2011.

  Copy of Impagned letter dated 07-09-2023 is attached as Annexure F. 2
- 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.
- h. 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 lliegal 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.
- That the impligned prometion Nethboothen dated 06/88/8888 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 dated 06/06/2023, may please be declared and ordered to be struck una keisid ta naitutianas ant ar amiv attul ibai af Pakisian anu 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.

#### AFFIDAVIT:

5 W 16

N/17

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

Muhaminid Muazzzam Butt Advocate/Supreme Court

Muhammad Adeel But Advocate4figh Court

Bassam Alfinad Sidliqui 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	,	

lkram Ullah Khan

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) & 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.

Second Deponent Through

Muhammad Muazzam Butt Advocate Supreme Court

Appellant

Muhammad Adeel Butt Advocate High Court

j,

### Dist. Govi. KP-Provincial District Accounts Office Land Monthly Safary Statement (Herember 2011)

Annexure



Personal Information of Mr IKRAM ULLAH KHAN d/w/s of MOHAMMAD ASLAM KHAN

Date of Birth: 20.04.1973

Entry Into Govi. Service: 28 th, (44)

Lengin grästvivel no vesta de Montia COS Days

Employment Category: Active Permanent

Designation: QARI

DDO Code: LK6029-PRINCIPAL GHSS S/NAURANG

80003053-DISTRICT GOVERNMENT KHYBE

Payroll Section: 001

GPF Section: 001

Cosh Center: GPF Balences

301,140 00

GPF AT No. Vender Number: -Pay and Allowances: fillerest Applied: Yes 🕖

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 15

Pay Stage: 21

Wage type	Amount	10.	Amount
0001 Basic Pay	44,050.00	Wage type	3,524,00
1210 Convey Allowance 2005	2,856.00	1001 House Rent Allawance 45%	1,500.00
2148 15% Adhoc Relief All-2013		1300 Medical Aflowance 2199 Adhoc Relief Allow @10%	614,00
211 Adhoc Relief All 2016 1091		2199 Adding Retief All 2017/1004	4.401.00
247 Adhoc Relief All 2018 10%		2764 Aithor Relief All 2019 10%	4,405.00
2309 Adhoc Relief All 2021 10%	4,405.00	2) 6 Teaching Allowance 2021	3,224.60

#### Deductions - General

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<b>}</b>	Wage type	Amount	1	Wage type		Amount
3015	GPF Subscription	-2,890.00		Benevolent Fund		1,200,00
	Income Tax	- LINES 00		Emp.Edu. Fund KPK		-125.00
41104	H. Benefits & Death Comp	-6UU.UU	W. W. 20	EDITOR SHALL	the problem of the said	17.00
		200.00		<u> </u>		11761

#### Deductions - Loans and Advances

Loan	Description	Pencipal amount	Deduction	Balance

Deductions - Income Tax

Payable: 16,222.00

Recovered till DBC-2021:

5.910.00 Exempted: 4055.32 Recoverable:

6.256,68

Gross Pay (Rs.):

77,446.00

Deductions: (Rs.):

-53558.00

Net Pay: (Rs.):

71,588.00

Payee Name: IKRAM ULLAH KHAN

Account Number: 2283-3

Bank Details: NATIONAL BANK OF PAKISTAN, 230964 NBP SERAI NAURANG NBP SERAI NAURANG, LAKKI

**MARWAT** 

Leaves:

Opening Balance:

Availed:

Permanent Address:

City: LAKKI

Temp. Address:

Ĉity:

Domicile: NW - Khyber Pakhtunkhwa Seral Natheway Status: No Official

ināli qari.ikum73@gmall.com

nd in accordance with APPM 4.6.12.9(760661/25.12.2021/s3.0) States generated document in accordance with AFFM 4.6.12.9(36) All document are in Pak Rupeer.

6.7 (3) maintained excepted (SERVICES/31.12.2021/13:13:3)

The following candidates are hereby appointed against Vacant/newly created Carles posts on merit basis by the selection Committee in BPS-7 plus usual allowances as admissible under the rules in the intrest of public service with immediate effect from the date of taking over charge.

S. No. / Merit Name of candidate with Position. Father's Name Address.

Marks. Name of School Otal ned where posted.

Remark.

Hafiz Noor Islam S/O. Noor Ali 56 GHS. Kot, Bashmir ·(Volumedia.Abadi. (是首項社)。  $W_{\mathbf{f}}^{\mathrm{opt}}$ 

Ageinst " V/Post, N. C. Post

Hafiz Abdur Raguf S/O. Kehmat Gul; R/O.Hinjel Aut r Khan (BXU)

56 GHS Mama Khel. Banochi (Bamu)

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GHS Land Annad Khiel -do-

Fazal Khan-R/O.Begu Khei.
Hafiz Feroz Shah S/O.Mir Ali 52 GHS Bachken Ahmad -doShah R/O.Ismail Khel Bannu. Zai Laiki.
Hafiz Muhammad Mustafa S/O. 50 GHS Damdi Wazir V/Post

Hafiz Muhammad Mustafa S/O. (DXU)

Charge report should be renout thed to all concerned:

等你 對人物 医动物性血病

SI AT

No.TA. Da fa allowed to any one.

The appointment is made on pully temporary basis and liable to be tarminated at any time without any reason or notice.

The candidates should produce their health wage oertificates from the Medical Superintendent D.H.Q. Haspital Dannu.

The Head of the Institutions are required to check their original certificates before handing over charge.

The age of the candidate should not exceed 33 years or less than 10 years in a sale of the candidate should not exceed 33 years or less

If the cardidates feil to take over charge with in 15 days from 7- If the cardinates rein to have over many authoritically The second of th

SD/=

(AMAN ULLAH-KHAN RANAZAI)
DISTRICT EDUCATION OFFICER
(NALE) SECOND RY HANDU.

18. No. 13844-80 /AE-II; Paried Dated Bantu the 25-4-/92.

Ends Vi No.

1-2-

Copy to bheres " e-Practical to Education in T.F.P. Peshawar. Director of Secondary Education in W.F.P. Peshawar. Division of Education (S). D. E. Khan-Divn; D.I. Khan.

Head .. waters concerned how for

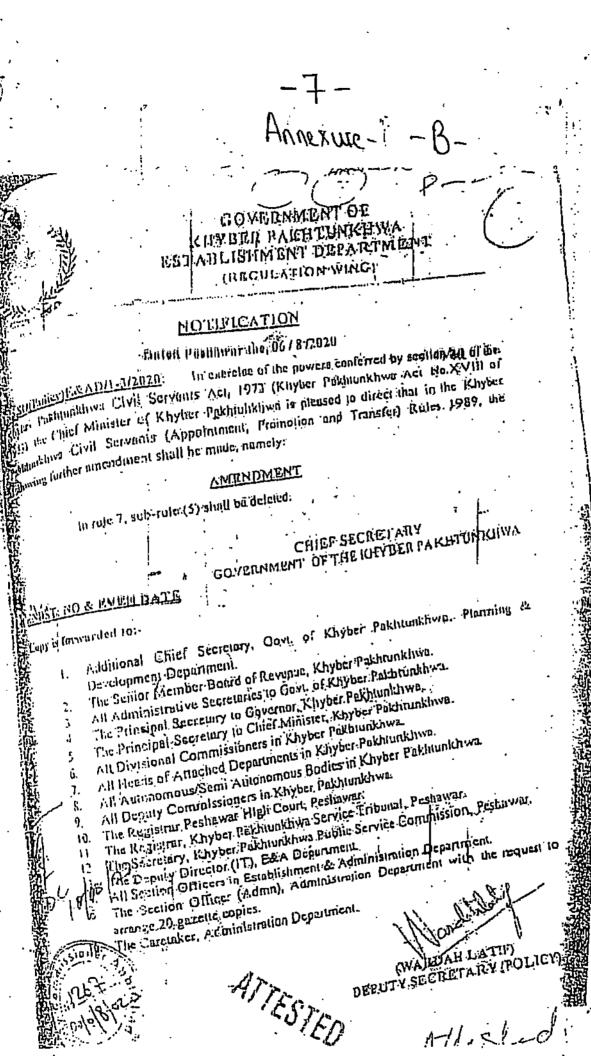
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15-15. Candid Tes concerned C. Hinge. 16- Dy. D.L. O. (Male, L. cal office.

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Manager makes

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Lapr is forwarded 10:-

# 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.

CHIER 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)

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civil servent to accept promotion in every condition.

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i invillallight tailidh ta Inamatavad) aill dagaillagast incleamhi yudinasa a yialasmalif

Ha. Silliolley)lik Alul anno do, 2023 RELVIPERIVIRAL DERVITARIES COVERNMENT OF RUYBER PARITTRAICHWA

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## Overnment of Kayber Pakhtunkhwa ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT BIVIL HIRRITARIAT PERHAWAR

(Fhune No.091-9223587)

1'n.RO (Primary-M)/E85ED/2-6/2023 Lialed Peshaviar the. June 26",2023

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To

The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan

President-

All Primary Teacher's Association, KP

ig to

GUIDANCE REGARDING DELETION OF RULB TIEVE THE MAYBER 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 teller of Establishment Department letter No. 60 (Poticy)E8AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 et 11:00 AM in this department under the Chalimanship of Additional Secretary (Estab) E&SE Department in his office.

You are, liverelore, requested to depute a representative of your respective Department to attend the meeting on a date, time & venue as mentioned Tébove, plaasé.

Encl: AA

(MUHANMAD ISHAO) SECTION OFFICER-(PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICE

WF4442-PICI AZIZULLAH VS GOVT CF PG41

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

To

The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar

Azis Ullah Khan Přešiděřt President All Primary Teacher's Association, KP

Subject

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSPER) 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 & vanue as mentioned above, please.

инен Ал

(MUHAMMAD ISHAQ) . SECTION OFFICER (PRIMARY MALI)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH VS GOVT GF PG43

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MINUTES OF THE MEETING | REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT IALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF DELETION OF RULE 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 Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

		·
S#	NAME .	DESIGNATION
1	Mr. Pazal Wahld	Deputy Director Establishment of Directorate
2	i Mr. Aziz Ulloh	Provincial Prosident All Primary Teachers - Association Khyber Pokhlunkhwa
1	Mr. Rologal Ullah	General Secretary APIA Pethawar
4	Muhammad Ishaq	Sacilon Olison (Primply) \$549 Napadimeni Bivii Secretarial Khyber Pakhtunkhwa Pashawar

- 2. The meeting started with recitation from the Koly Guran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Rementary & Secondary Education bisled the forum regarding agenda tem in detail.
- 3. After threadbare discussion it was decided that Obeclarate at Bementary & Secondary Education Department may examine the case property 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 Director-I
ELSE Deportment

(Mr. Ralagat Ullah) General Socialary APTA Peshawai

S 16 16

(An Astz Ullah)
Provincial President
Nu Primary Teachers Association
Khyber Pakhlunkhwa

(Muhahimad Litiga) Section Officer (Primary-Malo) ESSE Department

(Abuulloh) Addillonol Secretory (Establishment) E&SE Department

WP4442-2023 AZIZULLAH V5 GOVT CF PG43

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MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF DELETION OF BULE ZIELIN THE CIVIL BERVANT INDIBINTMENT, PREMETION BY TRANSFER RULES 1989).

A meeting regarding the subject matter was held on 05-07-2023 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. Fazal Wahid	Deputy Oliractor Establishment of Directorate Elementary & Secondary Education Department
2.	Mr. Aziz Ullah	Provincial President Ali Primary Teachers Association: Khyber Pakhtunkhwa
3	Mr. Rafaqat 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 Olrector (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.

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

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EADS TO TOO BY HAULUSISA ESUS-SAALS Aligher Pokhanakhan ներարևը է հեշոււևութ Education (I-14dals) Salsvila matels. Master Capy. PA 10 Director Loted Directorole. Copy of the ον ατρυθ Blomentery & Secondary Education The question of the permed and necessary acitions please. provided they puffind that written refund prins to conduction of the meeting of the presided to conduction the meeting of bidi salur adi al inambnamo adi la zunitasilgmi la baquasta sa qum di di di maina tristant 7(1) have offected regalively a huga animhers of Femala Teachers. Thus it is proposed that Acen exteed felt admirators of consolidated tense.

Acen exteed felt admiration of sensilite to of constitered opinion that the deletion of Rules in the felt of the feet of t rings no corestioning a cayour canadaning exacement exportment (Regulation 1970) yie left to 20 (Policy) E&ADII-17020 doted 6-06-2023 cotegorically stated living vide left to 20 (Policy) bear of the promotion and every condition. It is called vide letter the cayour cane were condition. The same were certy condition. The same were feeling to the office vide letter the Chalendard of the Section of the admittant of meeting doted 6-08-2021, held under the That, in the light of the amount of meeting doted 6-08-2021, held under the That, in the light of the consolidated feeling to the office that the consolidated feeling the consolidated feeling that office has the caterial (A) submittain of consolidated case. Then the Covertain of Klyber Februaries Extentitainen Deportment (Regulation promotion, pour goy affice functored the come to the quarter concernad vide letter that your goy affice functional the concernate guidance. (i) New is the bigainer upon the civil servent to escept Promotion in every condition.
(ii) It is the breingaine of the civil servent to either accept or turn down the affer of That Government of Klyber Pothiumbiya Exichlishman Depuriment (Rogniacion lying) deleted Rule 7 translet of Klyber Pothiumbiya Exichlishman promonian & Translet Bules 1989)
vide haiffenilahide Na. SOR-VI (EEAD)/1-172020 dated 06-08-2020.
That ithis office tought guidants from your good affice in the following worth wide letter No.6087 thated 16-02-2021. ) am directed to reserve to the feet of the subject clied above and to proceed to the feet of the subject clied above and to present brief thirtory above and of the cose as unitered. Al&YouG भगायकार्यसम्बद्धाः स्टब्स्यारम् -८ अञ्चिति i in Soulod Officer (Primary-Adale). Clonian ary & Secondary Education Department. Allyber Politiuskiva Pestuaren...

Klipber Pakitunkhwa, Peshapar,

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BYTHE TRUTTE OF ELEMENTARY & SECONDARY EDUCATION, KPK

To:

PESHBUMB (21-7-2013)

Section Officer (Primary Male)
Elementary & Secondary Education Department
1494, Peshawar.

Subject - Minutes of Meeting

Dean Sir; an attracted to refer to letter No. (SO Rimany-M) E & SED /5-1/G. Miller/ Minutes of meeting /PST/2023 decled 20-7-2023 on subject cited above and to present basef history, about background of case as under:

a That Government of KP Establishment dependment (Regulation Wing)

added rule 7(5) in Givil Servants (Appointment promotions, Transfer Pule 1909)

Vide notification No. No. SDR-VI(ESAD) 1-3 (2020 closed ob-08-2020.

· That this office sought guideouse from your good office in the following words vide latter No. 6987 detect ab-on-2013

(i) This prerogative of civil servant to estroy accept promotion.

(ii) It is prerogative of civil servant to estroy accept/tomdown the

offer of promotion.

That your good office forwarded the come to quester concerned wide letter No. So (Primory 14) Eq. SED/2-2/Appointment 2023 for recessary guidonce.

- That the government of KP-ED (Regulation Wing) vide letter No. So (Palicy) ESAD 1-3/2070 dated 6-06-2073 categorically stated that there exists no provision to decline forgo providion. It is obligatory upon every civil severant to except pomotion under entire condition.
- held under the Chairmonship of the meeting dated 6-27-2023 held under the Chairmonship of thon. Additional Secretary Establishment at his effice. This office has been asked for submission of consolidated case.

In view of the above, this office is of considered apinion that the deletion of Rules 7(5) have affected negatively a huge members of Female teactions.

please. The case is submitted for person and necessary actions

Copy of the above to;

1. PA to Director Local Directorate

2. Master Copy

Assistand Director
Elementary & Secondary Education
Khysten Rachburghous.

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#### ELEVENTARY MID SECOKDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-9223587)

Ho. SO(Primary-M)E&SED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

HUUGXUIG

The Georgian to Gove of Khyber Pathlunkhwa, Kulahisiangai a Adminisian Basalmani, Peshovar

SURDECT: - GUIDANCE REGARDING DELETION OF RULE 7/5) IN THE CIVIL SERVANT (APPOINTMENT, PRPMOTION & TRANSFER RULES 1989L

CERT SU.

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated 1557 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servers (Applications, Promotion & Transfer Rules 1989) it has been intimated that those officers/ officials vitro do not comply with promotion order of the competent authority or by to evade promotion through different means shall be proceed under Khyber Patricialitate Gvill Servant (Efficiency & Disciplina) Rules, 2011.

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

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

THUHAMBAU ISBN SECTION OFFICER (PRIMARY HALE)

Copy forviarded to the:

1. Director EESE Khyber Pakhtunkhwa. 2. PS to Secretary, EASE Department Knyber Pakhtunkhwa

SECTION OFFICER JERIE

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WP4447-2023 AZIZULLAH VS GOVT CF PG43

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in view of above, the sould ammendment may be reconsidered to

effects on service delivery Mather-in-law who need agaz. In such cases there are negative Mast of them are married with bidis and elder fether of . williage teaperart / sixtrabites on other Enations testomen ant oil face serious incovenience while they have to people duties deacher of minery level who avail sich promother to establish In this connection it is submitted that in some couss lady

Civil Servant (Efficiency and Discipline) Rule rolls. different means shall be proceed under Khyber Arkhunkhun algorith northernord shows at both to ethoritup trestagness with fo those officeals who do not comply with promotion order toth batanital nood earl 40 (1881 2011) when mitigran for deletton of Pule 7(5) Khyler Rithunkhwa Civil Seriant (Appaintment with tank state or large scension (14 petale aros/8-1/

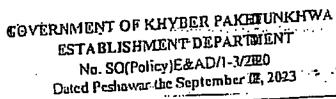
O and directed to refer to your letter No. Solding Deca Sh

(686T Civil Servanis (Appellment, Annalian & Transfer Rules. Att rice of mitable metables and the control of the

Pesheumon. Establishment and Administration Department. The secretary to Government of Khyba Bakhundhur.

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

Subject: 4.

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

Dear Sir.

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

Yours faithfully,

## Endst. Of even No & date

Copy forwarded to the:-

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

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#### GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT No. SO(Policy)E&AD/1-3/2020

Dated Peshawar the September 07, 2023

Ψa

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

Sublect -

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

WP1447-2023 AZIZULLAH VS GOVT CF PG43

## Annexure - G

Ίo,

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

3) Director Elementary and Secondary Education Department

Subject: 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 SEBVANTS. (ABBOINTMENT: 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 modication No. SD (Policy) /EDAD/1-3/2020 dated 06/08/2020, the right of foregoing of pregiotion 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 Offth, 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 forgu 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,

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

Dated <u>26 /03/</u>2024

IKRAM ULLAH KHAN SO MOHAMMAN ASLAM KHAN QARI ELDY AD TVOO BY HALLUSISA CSOS-SALHW

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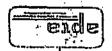
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# JAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

THRAM ULAH KHAN

Appellans

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Government of KP & others

N.

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

Advocato High Court