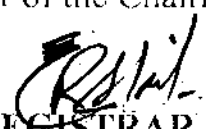


FORM OF ORDER SHEET

Court of _____

Appeal No. 2290 /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

Farid Khan

V/S

S.A No: 2290/24

Government of KP & others

INDEX

S#	DESCRIPTION OF THE DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification	*	1-4
2.	Application for suspension	*	5
3.	Copy of Monthly Salary account	A.	6-6B
4.	Copy of notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020	B.	7-8
5.	Copy of Impugned Letter dated June 06th, 2023	C.	9-11
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	12-15
7.	Copy of Letter dated 23-08-2023	E.	16-17
8.	Copy of Impugned letter dated 07-09-2023	F.	18-19
9.	Copy of Representation against the said notification and representation made by APTA President	G & H	20-21
10.	Wakalat Nama		22


ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2290 /2024

Farid Khan Son of Lal Gul Resident of Tehsil & District Karak

Designation: Primary School Head Teacher at GPS

.....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/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

PRAYER:

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

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

RESPECTFULLY SHEWETH:

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


AFFIDAVIT:

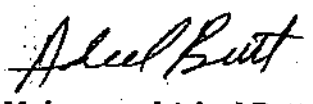
I Fareed Khan Son of Lal Gul Resident of Tehsil & District Karak that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

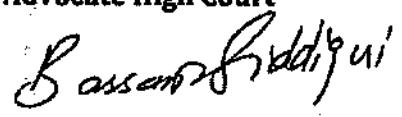

Deponent


Appellant

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

Farid Khan

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY RESPONDENT NO.1, VIDE LETTER DATED 06/06/2023 TILL THE FINAL DISPOSAL OF CASE IN HAND.

Respectfully Submitted:-

1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
3. That there is likelihood success of the appellant in the lis. And if the notification bearing No. So (Policy) E&D/1-3/2020 Dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 is not suspended the appellant would suffer irreparable loss.
4. That valuable rights of the appellant is involved in the case.

In view of the reasons, it is humbly requested that the notification bearing No. So (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 may kindly be suspended till the final disposal of the main appeal in hand.

AFFIDAVIT:

I (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 from this Honourable Court

Farid Khan
Deponent

Farid Khan
Appellant

Through

Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Muhammad Adeel Butt
Advocate High Court

-6-

Dist. Govt. KP-Provincial
District Accounts Office Karak
Monthly Salary Statement (September-2024)

Annexure A



Personal Information of Mr FARID KHAN d/o/s of LAL GUL
 Personnel Number: 00299632 CNIC: 1420206440291
 Date of Birth: 15.02.1967 Entry Into Govt. Service: 13.09.1989

NTN:
 Length of Service: 35 Years 00 Months 019 Days

Employment Category: Active Permanent
 Designation: PRIMARY SCHOOL HEAD TEACH 80002665-DISTRICT GOVERNMENT KHYBE
 DDO Code: KK6007-Deputy District Officer(M) Primary KARAK
 Payroll Section: 001 GPF Section: 001 Cash Center: 15
 GPF A/C No: KK2762 GPF Interest applied GPF Balance: 266,521.00 (provisional)
 Vendor Number:
 Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 15 Pay Stage: 25

Wage type	Amount	Wage type	Amount
0001 Basic Pay	73,420.00	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	985.00
2199 Adhoc Relief Allow 2010	659.00	2316 Teaching Allowance 2021	3,224.00
2341 Dispr Relief All 15% 2022 KP	7,007.00	2347 Adhoc Rel All 15% 22(PS17)	7,007.00
2378 Adhoc Relief All 2023 35%	18,355.00	2393 Adhoc Relief All 2024 25%	18,355.00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	6,778.00	3990 Emp. Edu. Fund KPK	-135.00
4004 RS Benefits & Death Comp	600.00		0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax
 Payable: 108,445.65 Recovered till SEP-2024: 20,934.00 Exempted: 27111.18 Recoverable: 61,000.47
Gross Pay (Rs.): 143,581.00 Deductions: (Rs.): 13,003.00 Net Pay: (Rs.): 130,578.00

Payee Name: FARID KHAN
 Account Number: 0014350020503001
 Bank Details: HABIB BANK LIMITED, 221435, KARAK-KARAK, KARAK

Leaves: Opening Balance: Aailed: 100 by Earned: Balance:

Permanent Address: City: KARAK Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
 Temp. Address: City: Email: faridhps@gmail.com

ATTESTED

OFFICE OF THE DISTRICT EDUCATION OFFICER (M.A.E.) KARAK

Office Order No. 55
Dated Karak the 4.9.1989

TRANSFER/APPOINTMENT

On the eve of the direction of the officers of Alinga, with the recommendation of the Minister for Law and Parliamentary Affairs and M.A. Haja and directed to the result of the interview/test dated 16.8.1989, the following appointments/transfers are hereby ordered in the interest of public service i.e. from the date of their taking over of their charge and on their own pay and grade in case of transfer and in the time pay scale and equal allowances.

S.No.	Name with designation	From	To	Remarks
1.	Abdul Khalid, P.T.O	Q.M.S. Ahmad Kbel G.P.S. Muzaffar	N.O.P.	
2.	Kar Jakhulim Khan, P.T.O G.P.S. Qashani	P.T.O G.P.S. Ahmad Vioe S.No. 1	G.P.S. Ahmad Vioe S.No. 1 (B.D.Shab)	
3.	Gul Sher Jan	P.T.O G.P.S. Shawa Hindu G.P.S. W.M.Khel(Karak) N.O.P.	Kash	
4.	Abdul Shakoor	P.T.O G.P.S. Gul Sha Khel	W.M.Khel(Karak) Vioe Hamduljal	
5.	Khushida Akbar	P.T.O. G.P.S. Qashar Killi	Paloocki(Karak) V/Pent.	
6.	Ashraf Jan	P.T.O " G.Sada Gul (B.D.Shab)	Hajackh Bha V/by trans. Karak)	
8.	Mohd Khan, Muzio B/O News Candidate	B/O News Candidate	Qashani (B.D.Shab)	
9.	Mohd Habb B/O Hujel News Candidate	Candidate	Qashani (B.D.Shab)	
10.	Shafiq Nawaz B/O Muz. Bahle	do	Shafiq(B.D.Shab)	
11.	Khushida Khan B/O Muz. Bahle	do	Shafiq Text	
12.	Mohd Yasin S/O Muz. Bahle	do	Umar(B.D.Shab)	
13.	Zaher Iqbal B/O Rahmet Shah	do	Jandari	
14.	Mohd Aziz B/O Said Bad Shah	do	Kanali Zare Kbel	
15.	Shah Ali Khan B/O November	do	Hajackh (B.D.Shab)	
16.	Ashraf Jan S/O Ash Khan	do	Barbari ()	
17.	Muzio Gul S/O B.Har Jan	do	Umar Bha Kbel N.O.P.	
18.	Hadi Gul S/O Huz. Gul	do	Barbari V/by trans. Karak)	
19.	Mohd Siddique Bahan S/O Muz. Bahle	do	Arif Tor Adam	
20.	Mohd Nawaz Khan of Chokara	do	B.Kandul Kbel	
21.	Tarig Uman B/O Muz. Bahle	do	B.Abad(Kar)	
22.	Muzio Ahmad S/O Iqbal	do	Shawa Hindu Kash	
23.	Muzio Ahmad S/O Iqbal	do	Kohi Muz. Bahle	
24.	Muzio Ahmad S/O Iqbal	do	Tarki Kbel N.O.P.	
25.	Muzio Ahmad S/O Iqbal	do	Tarki Kbel	
26.	Muzio Ahmad S/O Iqbal	do	Paloocki Bahle	
27.	Muzio Ahmad S/O Iqbal	do	Kharli Bha V/by trans. Karak)	
28.	Muzio Ahmad S/O Iqbal	do	Z.Chani Kbel	
29.	Muzio Ahmad S/O Iqbal	do	Tarki Kbel	
30.	Muzio Ahmad S/O Iqbal	do	Z.Chani Kbel	

ATTESTED

6-A

ATTESTED

DISTRICT EDUCATION OFFICER (MALE) KARAK

1. The Divisional Education Officer (Male) Karak for M.A.
2. The Divisional Education Officer (Male) B.D. Shah.
3. The District Officer.
4. Minister for Education MWP, Peshawar.
5. Minister for Law and Parliamentary Affairs/M.A. Balq.
6. Deputy Commissioner, Karak for information please.
7. Member National Assembly NA-10 Karak.
8. Director of Public Instruction (B) Kohat Division Kohat for information please.
9. Of the file of the District Office.

Product: 281-320/11-A dated Karak the 4.9.1989

DISTRICT EDUCATION OFFICER (MALE) KARAK
(HABIB-BH-SABMAN)

1. The appointments are directed to produce their health and age certificates from the H/S concerned.
2. They should not be made over charge whenever their age exceed from 5 or less than 16 years.
3. Their appointments are purely on temporary basis and are liable to be terminated without any notice with ascertaining reasons.

LIST OF CANDIDATES

S.No.	Name with designation	Remarks
31.	Farid Khan S/O Farid Khan	GPS Amnadi Bds V/by transfer N.C.P.
32.	Iqbal Khan S/O Iqbal Khan	GPS Amnadi Bds V/by transfer N.C.P.
33.	Mohd Saad Khan B/O Farid Khan	GPS Amnadi Bds V/by transfer N.C.P.
34.	Shahid-ur-Rahman	Candidate GPS W/Kills
35.	Umar Saad B/O Farid Khan	GPS G. Shamsahat
36.	Mohd Noor S/O Farid Khan	GPS Urshahat
37.	Said Rahman S/O Farid Khan	GPS B/Kills Vice S.No. 38
38.	Umar Farooq S/O Farid Khan	GPS Salkot Vice S.No. 37
39.	Shahidullah S/O Farid Khan	GPS Farid Khan V/by transfer
40.	Mohd Arif S/O Farid Khan	GPS Jatta Ismail N.C.P.

ATTESTED

ATTESTED

DEPUTY SECRETARY POLICE (MAJID AH LALJI)

[Signature]



- 1. Additional Chief Secretary, Govt. of Khyber Pakhtunkhwa, Planning & Development Department, Khyber Pakhtunkhwa.
- 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
- 3. The 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 Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 14. The Deputy Director (IT, EA Department, Administration Department with the request to the Section Officer (Admn), Administration Department.
- 15. The Section Officer (Admn), Administration Department.
- 16. The Director, Gazette, copies.
- 17. The Director, Administration Department.
- 18. The Director, Administration Department.
- 19. The Director, Administration Department.
- 20. The Director, Administration Department.

CHIEF SECRETARY GOVERNMENT OF THE KHYBER PAKHTUNKHWA

DATE AND TIME

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 Services Act, 1973 (Appointment, Promotion and Transfer) Rules, 1969, the following further amendments shall be made, namely:

NOTIFICATION

Dated Peshawar, the 06/8/2020

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (CIRCULATION WING)

Annexure - 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.

(WARDAM LATIF
DEPUTY SECRETARY (POLICY)

ATTESTED

Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Polcy)H&AD/1/2020
Dated Peshawar the June 06, 2023

62

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

Subject: **GUIDANCE REGARDING DELETION OF RULE 7(3) IN THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,
PROMOTION AND TRANSFER) RULES, 1989.**

Dear Sir,
I am directed to refer to your letter No. SO(Polcy-MY)M&SU(2)/
2/Appointment/2023 dated 18.04.2023 on the subject noted above and to state that Sub-Rule
(3) of Rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer)
Rules, 1989 stands deleted vide this Departmental notification dated 06.08.2020, thus, no
provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the (b) rule is aimed at preventing a
civil servant from temptation for illicit gain by seeking to a single lucrative 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.

3. Furthermore, those officers/officers 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,

(Isha Bakhsh) (Chen)
Section Officer (Polcy)

ASE
7/6

7/6

Encl. 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 (Polcy), Establishment Department.

8/6/2023

2.1.6.23

Section Officer (Polcy)

ATTESTED

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

Fl.50 (Primary-M)/E&SED/2-6/2023
Dated Peshawar lho. June 25th, 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 here with a letter of Establishment Department letter No. 50 (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, EBSE Department Khyber Pakhtunkhwa.

(SECTION OFFICER (PRIMARY MALE))

APPROVED

B/c -11-

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

WP4443-2023 AZIZULLAH VS GOVT CP PGAS

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).

Annexure
0


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.


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. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

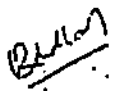
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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
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 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

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

ATTACHED

WFO442-2023 AZIZULLAH VS GOVT OF PAK

Hasnand Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

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

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

The case is submitted for perusal and necessary action please.

In view of the above, this office has been asked for submission of consolidated case. This office has been asked for submission of consolidated case. This office has been asked for submission of consolidated case.

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. 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 categorically stated that there shall be no provision to disallow foreign promotion. It is obligatory upon every civil servant to accept promotion under any condition.

That your good office forwarded the same to quarters concerned vide letter No. SO (Promotion) EQSEP/2-2/Appointment/2023 for necessary guidance. That your good office forwarded the same to quarters concerned vide letter No. SO (Promotion) EQSEP/2-2/Appointment/2023 for necessary guidance.

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

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR
(21-7-2023)

-15-
-B/C-

ATTESTED

WP4443-2023 AZIZULAH VS GOVT OF POK

Scanned with CamScanner

SECTION OFFICER (PRIMARY MALE)
28/8/23

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

Copy forwarded to the:

SECTION OFFICER (PRIMARY MALE)

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

In such cases, there are negative effects on service delivery. perform duties in the remotest station with no residential or transport facility. Most of level who avail such promotions have to face serious inconvenience while they have to

2. In this connection it is submitted that in some cases lady teacher of primary level who are married with kids and elder father or mother-in-law who need care. In such cases, there are negative effects on service delivery.

1. In this connection it is submitted that in some cases lady teacher of primary level who are married with kids and elder father or mother-in-law who need care. In such cases, there are negative effects on service delivery.

1 am directed to refer to your letter No. SO(policy)/ESAD/1-3/2020 dated 07 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 by to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

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

Annexure E

No. SO(PN/MA/1)ESSED/2-2/Appointment-Rule /2023
Peshawar Dated 23rd August, 2023

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

ATTESTED

(Muhammad Ishaq)
Section Officer (General)
(Male)

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

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

Dear Sir,
I am directed to refer to your letter No. SO (Primary) /E&AD /1-3/2020 dated 01/June/2023 and to state that after deletion of Rule 7(S) Khyber Pakhtunkhwa (CIV) Servants (Appointment, Promotion and Transfer Rules 1989) it has been intimated that those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa (CIV) Servant (Efficiency and Discipline) Rule 2011.

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

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

No. SO (Primary-M) E&SE/D/1-2/2023
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

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-MVE&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)

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

WP447-2023 AZIZULLAH VS GOVT OF PKD

-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(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.

Section Officer (Policy)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

To,

Dated: 26-02-2024

- 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/1-3/2020. 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/1-3/2020 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

Faleed Khan
 Faleed Khan Son of Lal Gul
 Resident of Tehsil & District Karak
ATTESTED

ATTESTED

WP4412-2023 AZIZULLAH VS GOVT OF POK

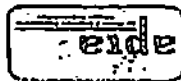
Handwritten signature and date 08/11/23

Main body of handwritten text in Urdu script, appearing to be a legal document or affidavit.

Handwritten signature and date at the bottom of the main text block.

Annexure - H

APTA House
Govt. Primary School Road,
Dudhber, Peshawar City



Khyber Pakhtunkhwa

APTA House
0333, D.I. Khan
Peshawar
0333-9738300
pta.gov.pk

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

FARID KHAN
Versus

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC

BASSAM AHMAD SIDDIQUI AHC

&

ASSOCIATES OF MUAZZAM LAW FIRM

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

I agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.



APPELLANT

ACCEPTED



MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQUI
Advocate High Court