FORM OF ORDER SHEET

Court oi		
	نر	-
Anneal No	2006	/2024

		<u> </u>
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/11/2024	The appeal presented today by Mr. Muhammad
,		Muazzam Butt Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 12.11.2024. Parcha Peshi
	•	given to counsel for the appellant.
		By order of the Chairman
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	
Service Appeal No	2296-2024

lhsan Ul Haq

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 226 /2024

Ihsan Ul Haq Son of Abdul Wahid PSHT (BPS-15)
PO Choga, Baiena, Tehsil Puran, District Shangala

-----Appellant

.....Respondents

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

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 Primary School Head Teacher.
 Copy of Appointment letter is annexed as <u>Annexure A</u>

- 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 flazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- 4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

. (

"Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency Discipline) Rules, 2011, please".

- 5. That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020.

 Copy of Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked, for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules; 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No. 3 (Directorate of Riementary & Secondary (Aucation) 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. Gopy 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 Impugned letter dated 07-09-2023 is attached as Annexure F
- 10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed.

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

GROUNDS:-

11/16

- 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/guldance 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 who 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 illegal and liable to be setaside.

- 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.
- Final 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 disputable firmily members and in these electrometricaes 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:

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. 1

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

Muhamidid Muazzzam Butt Advocate/Supreme Court

Appellant

Muhammad Adeel Buth Advocate High Court

Bassam Alamad Siddiqui Advocate High Court

LL.M- Human Rights

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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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

ihsan Ul Haq

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 (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

Muhammad Muazzam Butt Advocate Supreme Court

Appellant

Muhammad Adeel Butt Advocate High Court

Hay

Dist. Govt. KP-Provincial District Accounts Office Shapela Monthly Salary Statement (July-2024)

Annexure

Personal Information of Mr IIISAN ULTIAQ disch of ABBER WALLID

Personnel Number: 00205457

Date of Blith: 02,03,1567

CNIC: 1550502156537

Entry man Govt. Service: 22.03.1992

NTN:

Length of Service: 32 Years 14 Months 011 Days

Employment Category: Active Temporary

Designation: PRIMARY SCHOOL HEAD TEACH

GPP A/C No. EDUSW012124 GPF Interest applied

8/KS4297-DISTRICT GOVERNMENT KITYBE

DDO Code: \$116147-District Strangts

Payroll Section: (0)

GPF Section: 101

Cash Gesten 60

GPF Halance:

1.294.823.00 (previuenal)

Vendur Numbert -

Pay and Allowances;

Pay scale: BPS For - 2022

Pay Scale Type: Civil 11PS: 15

Pay Stage: 25

	Wage tipe	Amount		Wage type	Amount
COL	Havie Pay	73 420 00	1001	Home Rent Allowance 45%	3,524 (10
1210	Convey Allowance 2005	2,856.00	008.1	Medical Allowence	1,500 00
1911	Compen Allow 20% (1-15)	1,05010	2140	15% Adhoc Relief AII-2013	485 00
2199	Adhoc Relief Allow 9 108	69.00	216	Teaching Allowance 2021	3,224 (n
2341	Dupa Red All 15% 2022EP	7,005 (0)	2347	Adhoc Rel Al 15% 22(P\$17)	7,006,00
2378	Adjune Relief All 2023 35%	25,004.00	2393	Adhoc Relief All 2024 25%	(E,355 O)

Deductions - General

	Wage type	Amount	Wage type	Amount
بقلللة	Inter Kulmangung		ikiil ligustadani lainal	et allet ist
36071	Income Tax	-6 886 (9)	3990 Emp.Edu, Fund KPK	-135 (K)
41114	R. Benefits & Death Comp	4703000		0.00

Deductions - Loans and Advances

Luca	Decrin		deal amount	Delection	Relance
	4-4/4/10	774		104224	

Deduction - Income Tax

Payable:

110,170,05 Recovered till JUL-2024.

6.886.00

Exempted: 27542.12

Recoverable

Gross Pay (Red:

144,539,00

Dedoctions: (Rs.):

-13,111,00

Net Pay: (Ro.):

131,428.00

Payer Name: BISAN UL HAQ

Account Number: 2517-3

Bank Details: MCB BANK LIMITED, 240965 MCB ALLOCH SHANGLA MCB ALLOCH SHANGLA, SHANGLA

Leaves:

Opening Halance:

Assilat

Papole

Halance.

Permanent Address: SWAT

City: SHANGLA

Domicile: NW - Eliyber Pakhtimkhwa

Housing Status: No Official

Temp. Address: City:

Email: theanthangla6@gmail.com

Asstringenreuted discovers in occuratione was APFM 4 in 12,96500559/29,07,202455.03
*All amounts are in Pal-Repo ex
*Errors & constitution excepted (MRN ICES 01 05,202470;34:21)





OFFICE OF THE DISTRICT EDUCATION OFFICER



-6-A-

DUTY CERTIFICATE

It is certified that Mr. /Miss. 1/15 and having slowed slowed washardaying
CNIC# 15505-0215653-7 appointed vide Directorate E&SE Endtt: No. 1541-1642/E-
date: 22/03/1992 is working as DSHI at GPS Baison
Department: E&SE Khyber Pakhtunkhawa since 08/03/20/3 till date. Calways found him/her
sincere and devoted to his/her assigned task.

DISTRICT EDUCATION OFFICER PRINCIPAL/HEADMASTER/MISTRESS/HEADTEACHER
MALE/FEMALE
No Date: 9 (-10 - 9004
M. oul-Hagy
Copy forwarded to:
25/10/2024

OFISTLY DEFUTY SECRETARY POLICY The Careaker, Accommending Department Jumie 70. Baxelle coples. Oi teanaist Director (III), E&A Deparation Licharitation Deparation of the request to the paration Deparation of the paration of the paration of paratic o Wedzig Aoissinging Service Commission Perhapsing (Any Charles Colling Service Colling Charles C The Registrar, Khyber rekhunkhung sammer and The Registrar Peshawar High Court, Reshavar. All Deguty Commissioners in Khyber, palajundawa. 6 Awthunithas Bodiesing Khyber Pakinunithwa. 3 All Hisers of Anached Departments in Klyber Polhiunkliva. All Divisional Commissioners in Khyber pakbrunchwa. The Principal Secretary to Chief Minister, Khyber Padrinaklava. AWINIUMAN SECURITY OF CHARLES IN THE SECURITY OF STATES OF SECURITY OF STATES OF SECURITY OF STATES OF SECURITY OF Davalulmeth Department of Revinact Khyber Pakhunkhwa. The Scinor Kreiner Pakhunkhwa. Additional Chief Secretary, Onyl, of Khyber Pokhtunkhwa, Planning & -tot habiturent h top-THE WORLD AND THE STATE OF STA GOVERNMENT OF THE IUPTIER PAKHTUNALIVA :bulota 7, sub-rule: (2) shull ba deleited: "Kloman, alutin od litile inambronin iadini jamines LNIMINIMY His were mer the Survention of Section of Section of Section in the Klyber his pleased to discension in the Klyber the paper and the finite of in the collections of Khylut Pakhinishin is pleased to discitive the collection of Shandar of Khylut Pakhinishin is pleased to discitive the Khylut of Living the Khylut Trainment of Living Civil Shandar of Khylut Pakhinishin in please of the Civil Shandar of Khylut Pakhinishin in please of the Civil Shandar of the Civil Sh The lightenial Minister of Khylter Pokhibikiwa is almosod to their inchiance of the in entireles of the powers conferred by section 24 of the ucost-8 (30 jodi tawadea y bolacte NOTENTION รู้อันเพิษพดโลเลิมเก MANAGEMENT DESCRIPTION ANTENDET HAINT HAUSTIN COMERNE NA OF 1-9WASAM

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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CHOOL STORY AZIZITELENI VS'GOVT CF PGA

17 to Additional Secretary (Inc. 41), Batchillehamid Organisation of the Contract of the Contr 1. Pa to Special Sterriny (Reg); Elubibilianor Depurmanal.

Copy forwarded to that-

<u>पितवृत्ताः घर बन्द्रय प्रिष्ट स्व निवाद</u>

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FOVERNMENT OF MHYBER PAKHTUNKHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Phono No.091-9223507)

No.SO (Primary-MYEBSEDIZ-6/2023 Coled Peshaviai Inc. June 26*.2023

To

The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Pashawar.

Aziz Uilah 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 reter to the subject noted above and to enclose hard with a teller of Establishment Department teller No. SO (Policy)E&AD/1-3/2020 deted 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 Chalmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Engl: AA

(MUHANMAD ISHAO SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICE

, -11-3|c

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

To

The Olrector Elementary & Secondary Education Department Khyber Paichtunkhwa, Peshawar

Aziz Uliah Khan President President Ali Primary Teacher's Association, KP

Subject:

Guidange regardine deletion of Rube 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. 50 (Policy)&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 (Estate) &&& 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.

Ench AA

(MUHAMMAD ISHAQ) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

A

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

A meeting regulding the typical matter was hald on 08:07:2023 of 11:00 AM under the Cholimonship of Additional Secretory Establishment in his office. The following attended the meeting.

5#	NAME ,	DESIGNATION
1	Mr. Fazel Wahld	Deputy Director Establishment of Directorale Elementary & Secondary Education Department
2	i Mr. Azīz Ullah	Provincial President All Primary Teachers - Association Khyber Pokhlunkhwa
1	Mr. Rolagal Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Socilar Oilica (Primary) E&SE Department Civil Secretarial Khyber Pakhlunkhwa Peshawar

3. The meeting statists with regitation from the Holy Outan, the chair welcomed the participants. The Deputy Director (Establishment) of Directorale of Elementory & Secondary Education briefed the larum regarding agenda item in detail.

3. After threodocre discussion it was decided that Directorate of Elementary 2 Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for anward submission to Establishment Department for further necessary action.

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

(Mr. Foral Wohld)
Deputy Olrector-I
EASE Deportment

(Mr. Rolagat Ullah) Géneral Secretáni APIA Peshawai

 $\leq W E i$

(Mr. Aziz Ullah)
Provincial President
All Primary Teachers Association
thyber Polithunkhwa

(Muhammad Linga)
Section Officer (Primary-Male)
EESE Deportment

(Abdullah) Addillonai Sacrolary (Estabilshmeni) E&SE Department

WP4442-2023 AZIZULLAH VS GOVT CF PG43

1

1:

-13--8/c-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULIAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF 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

5#	NAME I	DESIGNATION
1.	Mr. Fozal Wahld	Occurry Olrector Establishment of Olrectorate Elementary & Secondary Education Department
2.	Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3.	Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4,	Muhammad Ishaq	Section Officer (Primpry) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Poshawar

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

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

(Mr. Fazal Wahld) Deputy Director-1 E&SE Department	
Provincial President All Primary Teachers Association Khyber Pakhtunkhwa	:
(Mr. Rafaqat Ullah) General Secretary APTA Peshawar	
	The second second
(Muhammad Ishaq) Section Officer (Primary-Male) E&SE Department	·
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,	(Abdullah) (Apggadellithasa)사다리되고로 (대안

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Klipber Pakikunkliwa, Peshawar VA No. 3 USETI NO didinal Cates.

Pitane: 037-9225344

Email: edallillinienimale (@guntil.com

Τo

The Section Officer (Primary-Male). Elementers & Secondary Education Department. Klipber Pakhtunkhwa Peshawar.

<u>ΜΙΝΌΤΙΒ ΒΕΤΠΕ ΜΕΙΣΤΙΝΟ</u> Subject: 3. Dear Sir.

J am directal to refer to the latter Na.SO(Primary-MGE&SED/3-1/ G.Mise/Minister of the Healing/PST/2023 dated 10-07-2023 on the subject cited above and to present brief history about he background of the case of under:

That Government of Klipber Pathlunkhyo Establishment Department (Regulation Wing) dulated Rula 7(3) imitia Civil Servants (Appaintment Department (Regulation Wing) vide halfesting No. No. SOR-VI (EGAD)/1-1/2020 dated 06-08-2020.

That this office longly guidance from your good office in the fallowing words wide latter No. 6987 dated 16-02-2023.

(i) Now it the blantary upon the civil servent to essept Promotion in every candition.

(ii) It is the prerogative of the civil servent to either accept or turn down the affer of promotion.

promotion.

The your cold office for jurided the same to the quarter concerned vide letter No.50 (Primary-b) EASED/2-2/Appelatment/2021 for necessary juddance.

That the Government of Khyher Pakhunkhwa Establishment Department (Regulation 19/ing) vide letter No.50 (Palley) E&ADI/-1/2020 doted 6-06-2023 cotagorically stated the provides to decline as force assembles. It is obligatory upon every that there exists up provision in decline or forgo promotion. It is obligatory upon every civil servant le accopt pranation under every condition.

The same was secretal by this office from your good office wide letter No.50 (Primary-M) 528ED/2-2/Appointment/2021 dated 12-06-2021.

That, in the light of the minutes of meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office, has heen caked for albeitation of consolidated case.

in view of the above, this office is of considered opinion that the deletion of Ailles 7(5) have offeed degasterly a large mathers of Female Teachers. Thus it is proposed that Teachers below 176-16 may be exempted of Implications of the amendment in the rules laid provided they suffind their written resund grim to conduction of the meeting of Depurimental Aradiallan Committee.

The case is submitted for perusal and necessary ocilans please.

Autuani Diregar (Estab M-1) Elementary & Secondary Education Khyber Pakinnukinya

Endst: No.

Capy of the liber is to:-

I. PA to Director Local Directorote.

2. Moster Copy.

Apklaw Director (Eslabbi-1) Blementary & Secondary Education Kloper Pakhamkhwa

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442-2023 AZIZULLAH VS GOVT CF PG43

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words vide heller via 6983 dated to be account of the word is granalist with ris safter boog roug mak ourabing talgets with with ind notification (1). No. 50R-VI(E.E.A.D) 1-3/2020 dated ob 08-2020. delated reflect for Civil Services (Appringment, promotion of (2) Feller 1999)

Prill Covering of It Establishment department (Regulation Why)

Minister of meeting 121/201 dated 20-F-02 Date and alice alone and Dear Sir g am directed to refer to letter No. (50. Albert 17) E & SED /5-1/6-124

DIRECTORATE OF ELBMENTARY & SECONDARY EDUCATION, KPK

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Elementery & Beenchery Education Department

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Section office! (Primary-Male)

Subject : Minute of Meeting

The case is Elbrilled for period and necessary action swings. beneatizenes to is estite with eved and be usiverificated with the spent a plantinger to she spent (2) F 23 lust it contains and together

(121-7-102)

Dy. Master Cappy 1. PA to Director Local Directorate Copy of the chave to:

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EPRIN NO TVOO BY HALLUSISA (SQS-CAMP



ELEMENTARY MID SECOKDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PEBHAWAR (Phone No.091-9223587)

No. SO(Primary-M)EBSED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

HUUGKUIG

The Georgiary to GoviL of Khyber Pakhtunkhwa, Establishment & Administration Department, Peshover

1989).

See Su.

I am directed to refer to your letter No. SD(Policy)/ ERAD/ 1-3/2020 dated (%) June 2023 and to state that after deletion of rule 7(5) Khyber Pakhbunkhwa Ovil Servant (Appronument, 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 Patripunkinna Civil Servant (Efficiency & Discipline) Rules, 2011.

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

in view of the above, the said amendment may be reconsidered to the

ratera of leat; teacher in primary schools.

BECTION OFFICER PRIVARY MALE

Copy lorviaided to the:

1. Director EBSE Khyber Pakhbunkhwa. PS to Secretary, EBSE Department Knyber Pakhtunkhwa.

SECTION OFFICER

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4442-2023 AZIZULLAH VS GOVT CF PG43

Peshaune Dated 23rd August, 2023.

To

The Secretary to Government of Khyba Pakhbundhura. Establishment and Administration Deportment, Peshawar.

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

Dear Sir,

9 app directed to refer to your letter No. Softmining

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

delettor of Rule 7(S) Khyber Pathtunkhuro Civil Servant (Appointment,

Promotion and Transfer Rules 1989) 9that been intimated that

those officials who do not comply with promotion order

of the competent authority or try to evade promotion though

different means shall be proceed under Khyber Pakhtunkhura

Civil Servant (Efficiency and Discipline) Rule 2012.

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

Copy forwarded to;

(Muhammad Ishaey) Section officer (Principal

1 Director E& SE Klydos Pakintorkhura.

2. PS to Secretary, E & SE Department Whether At the orbitality

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GOVERIMMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT

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

The Secretary to Government of Khyber Pakhtunkhwa,

Elementary & Secondary Education Department.

Subject: 4

GUIDANCE REGARDING DELETION OF RULE 7(5) IN KHYBER PAKHTUNEHWA 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-MAppointmegt-Rule/2023 dated 23.082023 on the subject noted above and to state that necessary guidance has already been tentered to your good office vide this department letter of even No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

ser (Policy)

Endst. Of even No & date

Copy forwarded to there

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

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 PAICHTUNKHWA CIVIL SERVANTS (APPOINTMENT, Promotion and Transfer) rules, 1989.

Dear Str.

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 nicer (Policy

PAPARAZ-ZOZS AZIZULLAH VS GOVT CF PG4

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To.

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

Secretary to Government of Khyher Pakhtunkhwa, Elementary and Secondary 2) 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 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 <u>DELETED</u>

Sir/ Madam:-

Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1 3/2020, 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 Khyper 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 Khyher Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

It is, therefore, humbly prayed that on the acceptance of the Instant fapresentation; the Notification bearing No. SO (POLICY) B&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 26_/01/2024

THEAN UL HAP STO ABDUL WAHLD

WP4442-2023 AZIZULLAH VS GOVT CP PG43

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Inthes Pakhtunkhwa

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JAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

THSAN UL HAQ Versus Appellant

1

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.

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

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDBIQUI

Advocato High Court