FORM OF ORDER SHEET

Court of	***************************************
Appeal No.	2380 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1 -	2	3
-		· · · · · · · · · · · · · · · · · · ·
1-	06/11/2024	The appeal presented today by Mr. Muhammad
		Muazzam Butt Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 14/11,2024, Parcha Peshi
		given to counsel for the appellant.
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<u>.</u>		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	23802024

Sana 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. 2380 /2024

Sana Ullah Khan Son of Jehan Khan, PSHT

GPS No 2 Nawar Khel 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, Elementary and Secondary Education Dayartment Givil Secretariat, Poshawar
- 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:

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

Copy of appointment letter 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 Bervant Act, 1999, 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 06/08/2020, 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:-

N.F.

"Furthermore, those officers/officials who do not gammly with aromation order of the component 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 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 prevision 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 Rhyber 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 <u>Annexure E</u>

- 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 APPA 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:-

 $\mathbf{g}(G)$

- 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 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 illegal and liable to be setaside.

- c. 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 impugned promotion Notification dated 06/08/2020 communicated on 06/08/2020 is norverse, discriminatory, against the law, available and is a blust 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 HOWN BUILD VIEW VIEW TO 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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i, (the appellant) solomnly 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 Advocace/Supreme Court

Appellant

Muhammad Adeel Butl Advocate High Court

Bassan Alfinad Siddiqui

LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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

Sana Ullah 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 (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

Muhammad Adeel Butt Advocate High Court

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

Annexure



Personal Information of Mr SANA ULLAH KHAN d/w/s of JEHAN KHAN

Personnel Number: 00308271

CNIC: 1120103984363

NTN:

Date of Birth: 20:11:1967

Entry into Govt. Service: 01.11.1987

Length of Service: 36 Years 03 Months 001 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

80003025-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6004-

Payroll Section: 001

GPF Section: 001 **GPF** Interest Free

Cash Center: 02

389,315.00 (provisional)

Vendor Number; -

Pay and Allowances:

GPF A/C No:

Pay scale: BPS For - 2022

GPF Balance:

Pay Scale Type: Civil BPS: 15

Pay Stage: 24

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	71,440.00	1001	House Rent Allowance 45%	3,524.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2 <u>148</u>	15% Adhoc Relief All-2013	985.00	2199	Adhoc Relief Allow @10%	659,00
2316	Teaching Allowance 2021	3,224,00	2341	Dispr. Red All 15% 2022KP	7,006.00
2347.	Adhoc Rel Al.15% 22(PS17)	7:006:00	2378	Adhoc Relief All 2023 35%	24:311:00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-3,048.00	4004 R. Benefits & Death Comp:	-600,00

Deductions - Loans and Advances

	· · · · · · · · · · · · · · · · · · ·
Toon Description Brigalish among	
Loan Description Principal angle	int Deduction Balance

Deductions - Income Tax

Payable:

47,528.88

Recovered till JAN-2024:

20,410.00

Exempted: 11881.63

Recoverable:

15,237.25

Gross Pay (Rs.):

122,511.00

Deductions: (Rs.):

-9,138.00

Net Pay: (Rs.):

113,373.00

Payee Name: SANA ULLAH KHAN

Account Number: 6898-2

, Bank Details: NATIONAL BANK OF PAKISTAN, 230426 LAKKI MARWAT LAKKI MARWAT, LAKKI MARWAT

Fenves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address:

City: LAKKI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: sanaullahkhanpshtlm@gmail.com

System generated document in accordance with APPM 4.6.12.9(818037/26.01.2024/v3.0)
* All amounts are in Pak Rupees
* Errors & omissions excepted (SERVICES/02.02.2024/20:38:01)

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AMENDMENT

In rule 7, sub-rule (3) shall be deleted:

ERNO & EVEN DATE

Copy is forwarded to:-

The Schlor Member Board of Revenue, Khyber Pakhrunkhwa.

All Divisional Commissioners in Khyber Pakhtunkhwa

All Heeds of Attached Departments in Klyber Pakhtunkhwa.

The Registru. Peshawar High Court, Peshayar

arrange 20 gazette copies.

The Caretaker, Administration Department.

BC -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 section 2007.

AMENDMENT

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

CHIER SECRETARY
GOVERNMENT OF THE RHYDER PARKETUNKHWA

(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 Bödies in Khyber Pakhtunkhwa.
- All Deputy Commissioners in Khyber Pakhtunkhwa.
- 10. The Registrar, Peshawar High Court, Peshawar.
- 11. The Registrar, Khyber Pakhtunkhwa Service Tribunai, Peshawar
- 12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 13. The Deputy Director (IT), E&A Department.
- 14. Ali 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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-Overnment of Khyber Ракнтинкнил ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.851-9228689)

Nn.RO (Primary-M)/EBSED/2-6/2023 Cialgd Peshaviai Inc. June 25*,2023

To

The Director

Elementary & Secondary Education Department

Khyber Palihtunkhwo, Peshowar.

Aziz Ullah Khan President (

All Primary Teacher's Association, KP

Subject:

WB

GUIDANCE REGARDING DELETION OF RULE 7/51 18 THE KHYBER PAKHTUNKHWA BIVIL BERVANTS LAPPOINTMENT, PROMOTION

AND TRANSFER) RULES, 1989.

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

_ You are, liverefore, requested to depute a representative of your respective Department to attend the meeting on a date, time & vanue as manifored dbove, please.

Engl: AA

(MUHAMMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICE

WF464Z-71C3 AZIZULLAH VS GOVT CF PG43

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

To

The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar

Aziz Uliah Khan President President Ali 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 atom that the subject meeting is To lie held on 06 july, 2023 at 11:00 AM in this department under the Chairmanship of Additional Secretary (Estat) E&SE Department in his office.

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

Encl: AA

(MUHAMMAD ISHAQ)
. SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZEZULLAH VS GOVT CF PG43

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MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED AV MS. ATTA-ULLAH HENDVINGIAL KRUSTRENY IALL TRIMARY TRACHERS ASSOCIATION RHYBER FARHTUNKHWA REGARDING OF DELETIONS OF RULE 7/53 IN THE-CIVIL SERVANT (APPOINTMENT, PROMOTION A TRANSFER RULES 1989).

A meeting regolding the subject motter was held on 04-07-2023 at 11:20 AM under the Chairmonship of Additional Societary Establishment in his office. The tallowing attended the meeting.

	•	,
S∦	NAME	DESIGNATION
ĭ	Mr. Pazal Wahld	Deputy Objector Extablishment of Objectorate Elementary & Secondary Education Department
2	i Mr. Aziz Ulioh	Provincial President All Primary Teachars - Association - Khyber Pakhtunkhwa
3	Mr. Rologal Vilah	General Secrolary AFTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) EASE Department Civil Secretarial Khyber Pathlunkhwa Pashawar

- 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 agendo item in detail.
- 3. After threadbare discussion it was decided that Directorate of Elementary & 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 Obsclat-I EASE Department

(Mr. Raiagai Ullah) Géneral Socratály APTA Peshawai Air Axiz tillah)
Provincial Provident
Ali Primary Teachers Association
Khyber Pakhlunkhyra

(Muhammad Lhoq) Section Officer Primary-Male) E&SE Deportment

(Abdullah) Addillonal Secretary (Establishmens) EASE Deportment :

WP4442-2023 AZIZULLAH VS GOVT GF PG43

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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

50	NAME I	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial Prosident All Primary Teachers Association: Khyber Pakhtunkhwa
Э.	Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4.	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Poshawar

हा निर्मात सिंधिशिक्ष सिंधिश्व With स्थितिक्षिति निर्मात निर्मा सिंधि विधानन, निर्मात क्षेत्रीर स्माहबाजस्य सिंध participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary -Education briefed the forum regarding agains 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.

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Kliyber Pakliturikliwa, Peshdiyar VP. No. JUSSTINUGaliaral Cases.

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The Section Officer (Primary-Male), Elementary & Secondary Education Department, Khyber Politunkhwa Peliuwar.

MINUTES OF THE MEETING Subject: 3. Dear Sir.

om directal to refer to the latter No.SO(Primery-M)B&SEIX1-1/
G.Mise/Ministrat of the Meeting/PST/2023 dated 10-07-2023 on the subject clied above and to present brief listory about he background of the case as under:

- Timi Gavernme li al Klipber Pakhtunkhwa Establishmani Department (Regulation Wing) daloted Rule 7(4) in the Civil Servante (Appaintment, promotion & Transfer Rules 1989) vide hai(Sentine No. SOR-VI (E&AD)/I-1/2020 dated 06-08-2020.
- That this office south guidence from your good office in the following words vide letter No.6987 Hoted 06-02-2021.
 - (i) Now it habitgainry upon the civil servent to accept Promotion in every condition.
 (ii) It the prerogetive of the civil servent to either accept ar turn down the affer of Urumai gar
- That your good affice forwarded the some to the quarter concerned vide letter No.50 (Primate-b) E&SEDA-VAppolatment/2021 for necessary guidance.
- No.3() (Primary-of) Existive-Mappolatment/2021 for necessory guidance.

 That the Government of Klyber Pokhamkhwa Establishmens Department (Regulation Wilng) vide letter No.50 (Policy) E&AO/!-1/2020 dated 6-08-2023 categorically stated that there exist no provision to decline or forgo premation. It is obligatory upon every civil servant to accept promotion under every condition.

 The same was excelled by this office from your good office wide letter No.50 (Primary-M) E&SEO/2-1/Appointment/2021 dated 12-06-1021.
- That, in the light of the minutes of meeting dated 6-07-2023, held under the Elibirmunital of Hou. Additional Secretary Establishment at his office this office, has been asked for submission of consolidated ense.

In view of the above, this office is of considered opinion that the deletion of Ailles 7(5) have offected regulately a huge numbers of Female Teachers. Thus it is proposed that Teachers boling pro-16 may be exempted of implications of the amondment in the rules little provided they submit their vertices refusal prior to conduction of the meeting of Departmental Arministan Committee.

are is submitted for perusal and necessary actions please.

Authorit Direller (Esma M-D Elementary & Secondary Education Khyber Paklaninkhwa

Eadit: Na

Capy of the libove to to:-

- PA to Director Local Directorate.
- Moster Copy.

Assistant Director (Estabbl-1) Elementary & Socondary Education Klyber Pakhtunkhun

WP4442-2023 AZIZULLAH VS GOVT CF PG43

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2. Master Copy 1. PA to Dirictor Local Directorate Copy of the chave to:

The case is Elbrilled for period and necessary action plean . members of Ferrole teachers. orinigo. benedicinos fo si estilo ethi especial de considerad segun e grantingen testeste short (2) F 2842) if considerad entreste

Consolidated case To resistingue of bulls road with sift with softe in to trantheld under the Chairmanship of them. Additional Secretary Establish.

Cros-Fo-2 betod grilbon oth to esturish oth to Will at the Tro

searing to accept paralism under energy conditions. This press may brokened sittle envisioning graft suitable of minimary or Etablitation datat betate your configuration exact and those there exists . That the government of KP-ED (Refulation Why) wide letter No. 20 (Review)

That your good office forwarded the come to questes concerned that letter no. 50 (American) EGEDIS-2-(Appaintment less of the commenced

offer of promotion.

out construct/ toposo roution of traduces links to evitogenery Eithill . rottement topos at travers him may bythe side it well in

vide natification No. No. 50R-VI(EEAD) 1-3/2020 doted ob 08-2020.
That this office english guideone from you god office in the following voids that office in the following delated relie 7(5) in Civil Servert (Apprintment, promotioner, Timber 1889)

(Brilly certificat of 19 Establishment depositioned (Regulation Willy) present to mist highly about background of come as under-Minister of meeting 127/2012 dated 20-F-20 Dr orgest ofted above and to

Dear Bir) of an divided to refer to teller No. (50. Abrogul-M)E & SED (5-1/6, While! Subject - Minute of Meeting

> KPK Perhauser. Elementicay & Secondary Education Department. Section Office (Primary-Male)

DIRECTIONATE OF ELBNERTIARY & SECONDARY EDUCATION, KPK

(1201-L-127



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

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

DUNGXUIG

The Georgiary to Govi, of Khyber Pakhlunkhwa, Esteblishment & Administration Department, Perhaliti

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

(PEU SV,

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated 155" June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil rans (Appronoment, Promotion & Transfer Rules 1989) it has been intimated that those المحتجة officers/ officials vitro do not comply with promotion order of the competent authority or דין עם evade promotion through different means shall be proceed under Knyber Palambunkimira Civili Servant (Efficiency & Discipline) Rules, 2011.

in 研修 GBRResulth in in submitted that in some cases lady teacher of primary िराह्य प्रतिक र त्याँ such promotions have to face serious inconvience while they have th perform 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 reed care. In such নেহন্ত, there are negative effects on service delivery.

in view of the above, the said amendment may be reconsidered to the ारकर व दिने leacher in julmary schools.

> INDHAMMAD S SECTION OFFICER (PRIMARY MALE)

Copy for rarded to the:

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

SECTION OFFI

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

No.5 (Primay -M) FESED |3-21 Applitment -Rule 2023 Pestraum Dated 22rd August 2023.

To

The Secretary to Government of Khyba Pakhlumbhua. Establishment and Administration Depostment, Peshawar.

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

Dear Sir,

I app directed to refer to your letter No. Softmany

11-3/2020 dated Bt June 2023 and to state that after

deletion of Rule 7(S) Khyber Paltotunkhwa Chil Servant (Appointment,

Promotion and Transfer Rules 1989) It has been intimated that

those officers officials who do not comply with promotion order

of the competeral authority or try to exade promotion though

different means shall be proceed under khyber Askhtunkhwa

Civil Servant (Efficiency and Discipline) Rule 2011.

In this connection it is submitted that in some cases lady teacher of primary level who avail such promotion have to face serious incoverience 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 Moster-in-law who need case In such cases there are negative effects on service delivery. In view of above, the said ammendment may be reconsidered to the extent of lody teacher in primary schools.

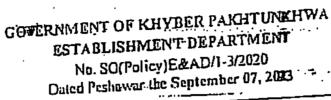
Copy forwarded to;

(Muhammad Istory)
Section Offices (Primary)

1 Director E& SE Ktyber Rechardence

2. PS to Secretary, E & SE Depostment Kindle At Continuent

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

Subject: -.

GUIDANCE REFARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHFUNKTIWA CIVIL SERVANTS (AFPOINTMENT, 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 25.08.2023 on the subject noted above and to state that necessary guidance has already been lendered to your good office vide this department letter of even No. dated 06.06.2023 (copyenclased).

Yours faithfully,

Endst. Of even No & date

Copy forwarded to the:-

- 1. PS to Special Secretary (Reg), Emblishment Department.
- 2. PA to Additional Secretary (RegII), Establishment Department.
- 3. PS to Deputy Secretary (Pulicy) Establishment Department.

- B/c-

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

To

The Secretary to Government of Khyber Pakhtunidhwa, 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 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 enclased).

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

MP4442-2023 AZIZULLAH VS GOVT CF PG43

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To.

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

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 DELETED

HIP MAHAHIE

Your Honorable authority promulgated Notification No. SO (Policy) 18&AB/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 (Appdintment, 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) Itules, 1880 has been deleted vide netification deted 96-99-2929 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 fepresentation; the Notification bearing No. SO (POLICY) $_{\eta/I}$ 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 26_/03/2024

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Bonellah SANA ULLAH KHAN S/O JEHAN KHAN

Khyber Pakhrunkhwa

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BEFORE THE SERVICE TRIBUNAL PESHAWAR

SANA ULLAH KHAN

Appellant

Government of KP & others

 $W^{I_{\lambda}}$

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.

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

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

-NUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocato High Court .