## FORM OF ORDER SHEET

Court of	
Appeal No	2382 /2024

S.No.	Date of order	Order or other proceedings with signature of judge
3.140.	proceedings	i
1	2	3
	05/44/0004	· 
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
1		given to counsel for the appellant.
		By order of the Chairman
		7011:1
		REGISTRAR
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## BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M NoP of	2024
In Ref to	
Service Appeal No 2382	2024

### Rehmat 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 23 82 /2024

Rehmat Ullah Khan Son of Ghulam Habib, PSHT

GPS Koila Wazir, Bahar 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 Department, Civil Secretariat, Peshawar
- 3) Director Elementary and Secondary Education Department, Civil Secretariat Near MPA Hostel, Peshawar

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

### PRAYER:

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

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

### RESPECTFULLY SHEWETH:

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

Copy of appointment letter is annexed as Annexure A

- 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 ICP 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 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 <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:-**

 $\eta B$ 

. ;

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/guidance dated 06/08/2020 06/06/2023 are liable to be set-aside.
- h. That there are no terms and conditions of service mentioned in the appointment order of the appellant wherein, availing of promotion is mandatory. It is further submitted that employees in the past, have foregone their promotion along with their posting. It is submitted that when domestic and other personal issues do not permit the employees/appellant to avail the promotion order and in that case, the employees will 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 06/06/2023 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: 3

 $\eta B$ 

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.

Through

Muham And Muozzzam Butt Advocate Supreme Court

Muhammad Adeel Buti Advocate High Court

Bassam Aldmad Siddiqui Advocate High Court

LL.M- Human Rights

ц1,

### BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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

### Rehmat 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.

Déponent

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** 

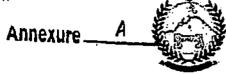
I (the appellant) do hereby solemnly stated on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein this Honorable Court.

Through

Muhammad Muazzam Butt Advocate Supreme Court

Muhammad Adeel Butt Advocate High Court

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



### Personal Information of Mr REHMATULLAH KHAN d/w/s of GHULAM HABEEB

Personnel Number: 00296882

CNIC: 1120176735091

Date of Birth: 10,03,1971

Entry Into Govi. Service: 01.05.1992

Length of Service: 31 Years 09 Months 001 Days

**Employment Category: Active Permanent** 

Designation: PRIMARY SCHOOL HEAD TEACH

80003025-DISTRICT COVERNMENT KHYBE

DDO Code: LK6004-

Payroll Section; 001 CPF A/C No:

**GPF Section: 001 CPF** Interest Free Cash Center: 17

**GPF Balance**:

346,405.00 (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	9,850.00	
2199	Adhoc Relief Allow @10%	659.00	2316	Teaching Allowance 2021	3,224.00	
2341	Dispr. Red All 15% 2022KP	7.007.00	2347	Adhoc Rel Al 15% 22(PS17)	7,007.00	
2378	Adhoc Relief All 2023 35%	25,004,00	I		0.00	

#### Deductions - General

	Wage type	Amount	Amount Wage type		Amount
3015	CPF Subscription	-4,290.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-4,134.00	4004	R. Benefits & Death Comp:	-600.00

### Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable:

Recovered ttll JAN-2024: 64,898.88

28,008.00

Exempted: 16224.08

Recoverable:

20,666,80

Gross Pay (Rs.):

134,091.00

Deductions: (Rs.):

-10,224.00

Net Pay: (Rs.):

123,867.00

Payee Name: REHMATULLAH KHAN

Account Number: 3399-4

Bank Details: ALLIED BANK LIMITED, 250617 ABL LAKKI MARWAT, LAKKI MARWAT

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address: LAKKI

City: LAKKI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: relimatullahlakki@gmail.com

System generated document in accurdance with APPM 4.6.12.9(818037/26.01.2024/v3.0)
\*All amounts are in Pak Rupees
\* Errors & omissions excepted (SERVICES/02.02.2024/20:09:26)

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## AMENDMENT

In rule 7, sub-ruler (3) shall be deleud.

GOVERNMENT OF THE IUTY BER PAKETUNKLIWA CHIEF SECRETARY

## <u> 13 E NO & EVEN DATE</u>

Alditional Chief Secretary, Govi. of Khyber Pakhtunkhwa. Planning & Copy is forwarded to:-

The Senior Member Board of Revunue, Khyber Pakhrunkhiya. All Administrative Secretaries to Gove of Khyber: Politicalities.

The Principal Secretary to Governor Khyber Pekhtunkhwa, The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.

All Divisional Commissioners in Khyber Pakhtunkhwa All Hearls of Anached Departments in Klyber-Pakhlunkhwa. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa

All Deputy Commissioners in Khyber, pathlunkhwa

The Registrar Peshawar High Court, Peshawar

The Register, Khyber Rechlunkling Service Tribunal, Peshawar, processor Rechlunkling Service Rechlunkling Service Rechlunkling Service Rechlunkling Service Rechlung Service Rechlunkling Service Rechlunkling Service Rechlunkling Service Rechlunkling Service Rechlung Service Rechlunkling Service Rechlung Service Min Store Bry, Khyber Pakhunkhwa Public Service Conunission, Peshiwu,

All Section Officers in Establishment & Administration Department. The Section Offices (Admin), Administration Department with the request to

The Carcinker, Administration Department. arrange 20, gozette copies.

ATTESTED

MAH LATIF DEPUTY SECRETARY (POLICY

1-11. cl-

# 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 inches

### 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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### -Overnment of Unyber Ракитипкнула ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Finance No.001-0223507)

No. SO (Primary-M)/EBSED/2-8/2023 Calcul Peshaviar Inc. June 25".2023

ŦG

The Director

Elementary, & Secondary Education Department Khyber Pakhtunkhwo, Peshawar.

Aziz Ullah Khan President-

All Primary Teachor's Association, KP

Bublect:

GUIDANCE REGARDING DELETION OF RULE 7(5) 114 THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

I am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 05 July, 2023 at 11:00 AM in this department under the Chalmanship of Additional Secretary (Estab) E&SE Department in his office.

You are, literelore, requested to dapute a representative of your respective Department to attend the meeting on a date, time & venue es mentioned above, please.

Encl: AA

MUHANMAD ISHAO SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER

WP4442-71C3 AZIZULLAH VS GOVT GF PG43

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 Khon President President Ali Primary Teacher's Association, kP

Subject:

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAICHTUNICHWA 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 (Folicy)E&AD/1-3/2020 dated 05 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 Dopartment to attend the meeting on a date, time & vance 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)

WP4412-2023 AZIZULLAR VS GOVT OF PG43

A

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. ATIZ 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 regarding the subject matter was held on 06-07-2022 at 11:00 AM under the Chalmonship of Additional Secretary Establishment in his office. The following attended the meeting.

S#	i NAME	DESIGNATION
1	Mr. Pazai Wahld	Depuiy Director Etlabilihment of Otrectorale Etementary & Secondary Education Department
2	ı Mr. Aziz Ulloh	Provincial President All Primary Teachars Association Khyber Pokhlunkhwa
3	Mr. Relagai Ullah	General Secretary AFTA Poshawar
4	Muhammad Ishaq	Section Officer (Primary) ESSE Department Civil Secretariot Khyber Pakhtunkhwa Peshawar

- The meeting started with recitation from the Holy Ouran. The chair welcomed
  the participants. The Deputy Director (Establishment) of Directorale of Elementary &
  Secondary Education bilated the forum regarding agenda flem in detail.
- 3. After threadbare discussion it was decided that Directorate at Elementary 2 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 Obscial-i
E&SE Department

(Mr. Bologal Viich) Géneral Sacrollity APTA Peshawar

WB

(M) Aziz lillah)
Provincial President
(N) Primary Teochers Association
Khyber Pathlunkhva

(Muhammad Lihoq) Secilon Cilicar Primary-Male) EASE Department

(Abdullah) Addillandi Secretary (Estabilshmeni) E&SE Department

WP4442-2023 AZIZULLAH VE 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

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

- 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 Chair.

(Mr. Fazal Wahld)			•	
Deputy Director-1				
E&SE Department		•	•	
Provincial President				
All Primary Teachers Association	in :	·		
Khyber Pakhtunkhwa			. <del>-</del>	
(Mr. Aafaqat Ullah)	1			
General Secretary APTA			<u>, ,                                  </u>	
Peshawar			٠,٠	
(Muhammad Ishaq)	-			
Section Officer (Primary-Male)		·		
E&SE Department			_	
	ł	•	•	
·		(Ab	dullah)	
·	Applied	•		क्षेत्रका

CHOR OF TYDO BY HALLUSISA EEGS-SHARAW , national के द्वारकार्यक के स्वामानकारी क्षेत्रकार निष्यामाने Arricion Director (Exlabril) Master Copy. PA 10 Director Lobal Directorate. ուն չո ջութ -:0) 21 m/04! בשקונו אם Azetendra Director (Estado 66-1) Elementory & Secondary Education (A Khybar Pakhanikhyn The dust is submitted for perusol and mecessory actions picass. bid) with a find of the conduction of the conduction of the metallic of the conduction of the metallic of the conduction of the metallic of the conduction from the co in 1/10 to dile obove, this office is of considered opinion that the deletion of Rilles (1) have offected degalively a singe numbers of Femalo Teachers. Thus it is proposed that Teachers, being high the may be exempted of implications of the amendment in the rules feld teachers being pro-16 may be exempted of implications of the amendment in the rules feld. That, in the light of the minuter of werling chaled 6-07-3023, held under the Chaleman at the office, has been arted at the office, has been arted of the office of (Primary-40) E2022-2018-21/Appointment/2021 doted 13-06-2021. civil rervant to accopt prantation under every candillan.
The some with feather that office from your good affice wide lener No.SA that there exists no providen to decline or large premotion. It is chilgaiory upon every Union y the last the SO (collect) E&AO/1-1/2020 double 6-06-2023 cologorically stated Tiqi ilis Qoverhindin of Klyber Politicalinas Extendinami Department (Regulation The youn gold aller succession the succession of the quariest concerned vide letter the young goldence. No.50 (Primod-4) &&\$\$ED2-2\Appointment\tag{2007} for accessory goldence. (i) Now it high gelory upon the civil servont to occept Promotion in every condition.
(ii) It is the pretogative of the civil servont to allbor accept or turn down the affer of That Government of Klyber Resintanthyse Edebitsharan Department (Regulation Wings) deleted Rule 7(4) Implies Chair Servants (Appointment, premailien & Transfer Rules 1989) vide holffentlanthy No. SOR-VI (EAAD)/1-1/2020 doted 06-08-2020. That this office tought guidance from your good effect in the following words vide letter No. 6987 doted 16-02-2020. I am direction to refer to the letter Wassoffred and the subject effect above and in present brief libiory about above and in Dear Sir, Subject: 3. ज्याजवार्थाय वर्षे द्वीरत्याण Tin Sotton Officer (Primary-Aute). Eloman in & Secondary Education Department. Klyber Politiunkhwa Pesilawor. σŢ Hone: 091-0111141 Email: clobic figuration of the Control of the C Khyber Paklitunkliwa, Peshawar

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DIRECTURATE OF ELEMENTARY & SECONDARY EDUCATION KPK -5|8-

(1201-F-15)

Section office (Primay-Male).

Elementaged Recordeny Education Department

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Subsed: Wingle of Mething

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1. PA to Director Local Directorate

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That this office earlish guidance from you good office in the fallowing

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"Leinbert Alonest & resolvers." entition beneficion fo is softly with swap at the work of considered spurit spurits after the spurit of the deliber of contrates of the spurits of the spuri corso lidated case:

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WP4443-TOD SV HALJUSISA ESUS-SAAAGN



### ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PEBHAWAR (Phono No.091-9223587)

149. SO(Primary-M)ERSED/2-2/Appointment-Rule /2023 Peshawar Dated 23rd August, 2023

HUUGXUIG

The Becretary to Gov. of Khyber Pakhlunkhwa, Establishment & Administration Department. Peshavisi

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

Coppe Sur,

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated 1557 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servana (Appliantment, 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 Pakingunkirwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

in view of the above, the said amendment may be reconsidered to the ार्थाल of रिकां teacher in primary schools.

MUHAMMAU BU SECTION OFFICER (PRIMARY MALE)

Copy (cryrarded to the:

1. Director EBSE Khyber Pakhbinkhwa.

2. PS to Secretary, EASE Department Knyber Pakhtunkhwa.

SECTION OFFICER

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WP4442-2073 AZIZULLAH VS GOVT CF PG43

A) ESSEN land

No.50 (Primary -M) FESED (2,-2)
Apprintment - Rule 2023
Perhaum Dated 23rd August, 2023.

To

The Secretary to Government of Khybo Pakhhanbhima. Establishmont and Administration Depostment, Peshawara.

SUBJECT: - Gildance regarding deletion of Rule 7(5) in the Ciril Servant (Apprintment, Romation & Transfer Rules.

1989)

Dear Sir,

I app directed to refer to your letter No. Softmany

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

deletion of Rule 7(S) Khyber Pattounkhwa Civil Servant (Appaintment,

Promotion and Transfer Rules 1989) It has 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 kryber Pakhtunkhwa

Civil Servant (Efficiency and Discipline) Role 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/trompost facilities. Most of them one manied with kids and elder father of Moster-in-law who need once 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 lody teacher in primary schools.

Copy forwarded to;

(Muhammad Istory) Section offices (Paimany)

1 Dructon E& SE Ktzber Bekhturkhura.

2. PS to Secretary, E & SE Depositional Mindex Attorning

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## GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT

Na. SO(Policy)E&AD/1-3/2020 Dated Peshawar the September 07, 2023

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 JAPPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir.

I um directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appaintment-Rule/2023 doted 23.08:2023 on the subject noted above and to state that necessory guidance has already been rendered to your good office vide this department letter of even No. dated 06.06.2021 (copy enclosed).

Yours (թյլեր[այի,

## 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.



- B/c-

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

Datéd 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 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 05.06.2023 (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)

WP4442-2023 AZIZULLAH VS GOVT CF PG43,

Annexure - G

To,

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

 Secretary to Government of Khyher Pakhtunkhwa, Elementary and Secondary Education Department, Civil Secretariat, Peshawar

3) Director Elementary and Secondary Education Department

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020. DATED 06/08/2020. COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA. ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023. WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL 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 Pakhtankhwa 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 Khyher Pakhtunkhwa Civil Servant (lifficiency & Discipline) Rules, 2011.

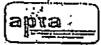
It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) ERD/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Vold, Ultra vires to the Constitution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

Dated 28 /01 /2024

Lehot

REHMAT ULLAH ICHAN \$10 GHULAN HABIB PSHT Klyber Pakhtunkhwa

Nole Isthili Khair Prodigm 0 0333-0314648 • Oztovalnosograpikom O natakal



AFTA House; Govt Princey, Ector'No.4. Gulboher Foshawar City

آل براتمری مجرز ایسوی ایشن (اپٹا) خیبر پختوشخدا

Annexure - L

یمائپ : میکرفری ایکنٹوی یک میکنٹوں ایک کمیٹن خیر پیکٹوئوگا مجانب اکل پیرافری کچرو دامدی ایش خیر پیکٹوئوگا بیعب طال

کوادئی ہے کہ بروطنز پر اللہ ہ عمل ہوتے ہیں ہ کہ مرکائیک بازم کا توائن الآئے بردم شزکا ایک تاؤن اڈا کرتا تھا کہ بر مازم ایک اکر کمی مجدلیے تحت ایک دامہ بردم فنز نہ کمی تو دد بھر اسمال تک پردم فنز ٹیمل نے تکتے ہے سطن بانہ سال بحد ہر اس کا پردم شز ٹیمل اد عل خی بحر امی تافون عمل قمالی دمایت دل کی باد سال دال بات میں کم دل کر اگر ایک مال برداوش نہ لیس تر در در مرسد مال لے سکا ہے جی اب آیک اند تا تھا تھا تھا کہ دارہ در سال دال بات کی اند بہلے ایک اند ترکیفیل دوا ہے

جم کے معالی اب پر عام ہدم تن خرد کی کے اگر کی گی کے 7 اس کے نقالہ الله عند الله عند کا مناق کا کا کا کی کی ہے۔ ان ممل نے آفرل فریکیٹن بیادل افسال منزل کی کمل متالہ سلک ہے مرے کی دور مثلا اور پہنٹل منافرل کی مراق مناقدہ کر انہال مناقات کا مراح دیا ہے۔ کا مراح کی دیا ہے گا

بکر مام مالات کی کی ایمد کی بعد فی او دسداد بجیا کی باری المال افزل کی نقال روزا ہے کوک فیر بخوار کی بدشتن سے داء آل رخمین کا اللّ ہے لیے مالات عمل یہ یافرلیکیٹن ہے عالاتھ کا کا بالے المما لیز کی جماب میں کیا گیا ہے تد بدیک اور المبان مزرق کی نقال ہے ممان کا تن می منزو دکھ ہ

الديد من د ي كل سودة على إقاد، إذ ليا فاع لين يه ليدر كان ك باع

کے کا فیال میں ہوگا ہے۔ کا بدائر کا اسات کا برائر کا اسات کو اٹن طور ہوئا کرنے کا سلا ٹرونا ہوبگا ہے۔ بلا ہم یہ فرق مکتے ہیں کا کہ صامیان فول ایکٹن لیکر موب بر سے ہاتم کا اساتا، ضرصا فیمیل پرائمرک اسات، کو اس ائل البت سے نبات واڈکیل سے

> مرینط خان سربال مدد آل پراقری نیجر الدی ایش نیجر بخونوا

WP4442-2023 AZIZULLAH VS GOVT CF PG43

X

# JAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

REHMAT ULLAH 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 SIDDIOUI 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.

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocata Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocate-High Court