# FORM OF ORDER SHEET

Appeal No. 2371 /2024 S.No. Date of order Order or other proceedings with signature of	
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proceedings	t judge
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1- 06/11/2024 The appeal presented t Muazzam Butt Advocate. It is fixe	today by Mr. Muhammad ed for preliminary hearing
before Single Bench at Peshawar or	n 14/11.2024. Parcha Peshi
given to counsel for the appellant.	
By or	der of the Chairman
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# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

Muhammad Aslam

S. A Nos-Q 371/24 Government of KP & others

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ADVOCATE

## **BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

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In Ref to

Service Appeal No\_<u>23</u> 7 /2024

Muhammad Aslam Son of Nawab Jan Resident of Tehsil & District Karak

Designation: Primary School Head Teacher at GPS PTC Government Primary School Pal (B.D Shah)

.....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

.....Respondents

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

PRAYER:

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

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

#### **RESPECTFULLY SHEWETH:**

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher. Copy of Monthly Salary account is annexed as <u>Annexure A</u>

- 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
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- 4. That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

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

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seniority list is to be promoted.

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 <u>Annexure F</u>
- 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 <u>Annexure G & H</u>
- 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:-**

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

Se ...

e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.

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f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and butter of the poor employees

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

It is further prayed that no penal action as proposed and envisaged in letter dated 06/06/2023 may be declared as unlawful, illegal and without having any legal effect.

Any other relief, which this honorable Tribunal deems fit and proper in the circumstances of the case, may also be granted to the appellant.

Appellant AFFIDAVIT: I Muhammad Aslam Son of Nawab Through Jan Resident of Tehsil & District Karak that the contents of foregoing Muhammad Muazzzam Butt application are true and correct to the Advocate/Şúpreme Court best of my knowledge and belief and nothing has been concealed therein from this Honourable Court Muhammad Adeel Butt Advocate High Court Deponent Bassam Ahmad Siddiqui **Advocate High Court** LL.M- Human Rights

## **BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

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

Service Appeal No\_\_\_\_\_/2024

Muhammad Aslam

## 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.

Deponent

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.

Appellant

#### AFFIDAVIT:

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

Through

Muhammad Muazzzam Butt Advocate Supreme Court

Muhammad Adeel Butt Advocate High Court

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FINE OF THE DESTRICT POUL FILL DEFICER (RALE) SAME.

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# TENHS & CONSTITUTS:

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le His appointment in purely on hemosphry bank and his morvices lieble to termination at any time withes, any rougen or prior notice-

- 2. In case of remignation he wast gave one month prior motice to the Department or forefiet one month's pay in lies thereof.
- 3. He is required to preduce Hewith and Age Cortificate free the concurses .
- h. He should not be hand ever charge if his age is loos than 18 years or above

Endat: No. 7646-47 /11-Ad/Apptt: Dated Kurak, tho 1/158/12/19907

Copy of the above is forwarded for information and necessary

5. Charge report abould be aubuitted to all concornes.

1. Sub Divisional Education Officer(Male) B.D.Shah.

6. NO TAYDA is allowed.

2. Candidate concorned.

to tho: -

THEET EDUCATION OFFICER, (MALE) NAMANA

ACTION

The CHALL CULL MONDER KUNN) MANNER

DISTINCT LUCATION UFFICER



QAISALIV UTISTICK NOLION Y SECRETARY (POLICY (ILL VT HYDR (VAU) ເຊັ່ນ ເຊິ່ງ ເຊິ່ ינישיפר 20 פעצבוול הסטובי ine realisiter, Kriyber Pakhiunkinya Service triounal, resnarrah. [[]ne realisity Director in Establishmenter. []ne Section Officer in Establishmenter. []ne Section Officer in Establishmenter. зļ 24 11 .01 און הרקשו אור הסותים וכנוסמכול וח. אלא אבר, התולועות שאה 16 Automotion Contraction of the second se 'S און והביוז פן אומכוובק Department in Kliyber. Pathiunkliva ٢Ľ All Divisional Commissioners in Khyber Polybrundiwa 9. Principal, Secretury to Chilet Minister, Khyber Polditunking. ç יור אינטיויאר אינטיויאר אינטיויאר אינטייארא אינטייארארי אינטייארארי אינטייארארי אינטייארא אינטייארא אינטייארא א ŀ าเลนบบชื่อดี. ไออิมันบองร์() Aldinonal Chief Secretary, Oavi, of Khyber Pakhrunkhwa. Planninu -: 01 habituren je mai JIYO MIAI & ON THE 72 AWILY NUTHAN AT AST THE ILT TO THE MANAGED וו נחום 1, פתף-נתומ (2) פוומון פ<u>ת מ</u>כוכורם: ះសុខយាយ "ជាមួយ ១៥ ព្រៃវេទ ខេតាសុណា រកសារ <sup>ការដ</sup>ោយ សារសារ សារសារ សារសារ សារសារ និងសារ TNAMONATWA μιτιμιτιμική τολή ζοιλημικτη το ματιστική το της μανετε conterred by section 24, of the two houses of the provere conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred by section 24, of the two houses of the provered conterred conterred by section 24, of the two houses of the provered conterred conter ווי פאוינפוסה טר ואכ חטאיבום בסחופורכון אין גבבווסה אלי סו שכי nzozy 8 / 30 jaili'tu minural balacie NOLLVOLLINON ไอพเพ.พอเมิงากอ่างไ THEINTSTATE THE WILLING THE WILLING VALENNELLENVA TREATIN COMPRESSION OF HAREXUE - 1

#### GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

-8-

#### 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<sup>244</sup>

#### 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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13 LADD.SA HV37/IZIZV CLUZ-CP#+-JA \* 5.1 לשכנה (למווטץ) ס. הב ום משמיל בנבונות (ונפו); בוונקוושתמו וברשוושנות. ג' העיום אמקוושון בכבונית (ונפו); בוונקווקשתמו ורקשתמנה. ג' העיום משמיל בכבונית (ורפורי), בוונקווקשונת ורקשתמנה. Copy forwarded to that. Rauts. Of even Vn & Hale (collect (Polley) 2011, please ឋរស្រូបរាច רוסבכבלכל מבמותו עתלבר אלואשבו המזקעתונעניה כואון בברייתנג (הוהבובתבא לב סוגבוקונורד) תעובב, of the competent authority or tip to events prumption through different means that be רטתהכתתטוב, והמים מוזכנוגלמוזמלע זילים לם המן בטתקוץ זילוון עובתומולמה מילכד כן און צבושמון ום סבכבתו קדמתסווסה וח סיבהי במגולוגומה. to lackle filgher responsibilities in case of promotion. Thurstoto, it is obligatory upon every איבערה) לוסדה אותה ובהם ום לסובם הומתטלניה ום בעמור אמזולהבלומבוובנו. מו אלמעי (מכל בבאמבווץ כן זם הסווונטקטנסה מעוומיםו מהחוג ה כו מחולשניג על גורה וושונו זהו המוטוחשה וונהה או אישר ווסה סר נס a gainevent in tentant in deterion af the fold and a pimet of preventing a הישאון את מצוצות ום תכבוווים מרוסונסה. Rults, 1989 scands delated white the separation and allead an as 2020; thus, an Sinit-dug fadi atata to fan everta total atata all an CCOS, 10.01 dota CCOSVazminiona ALC i an uliceled to teles in faut feiter Mn. SOffitumer-Myntesutive-, הוא גווג י בייוינריין אונטאוטבווא עאוז בוויעאאנגעריוואראיז ואוויאפי ואאזי גנווגדואו דערוובוואונוואע כוגדר אוואיעאנא ועודעטוארבי גנווגדואנער וואנעערי אווויאבוואע טא וווויא זועי דווג רום נוסאנומתיכתו מדצהן לבר Pukhunklitwe. דווכשנוותרא & Secondary Hitucoton Repainpent. ٥,L TNATATIANA TNATATISTA 7.9 AVITYNUTTIDA? JMUYIDI 40 TMIIAMUAVQD HINGER D-

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-OVERNWERT OF NHYBER PARKTUNKHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.001-9223587) 10.80 (Primary-M)/EBSED/2-6/2023 Laled Peshavar the, June 26\*,2023 То The Director Elementary & Secondary Education Department Khyber Pakhlunkhwa, Peshawar. <u>51:16</u>12 Aziz Ullah Khan President-All Primary Teacher's Association, KP GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAICHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION Subject: AND TRANSFER) RULES, 1989. I am directed to reter to the subject noted above and to enclose here with a teller of Establishment Department letter No. SO (Policy)E8AD/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 Chalmanship of Addillonal Secretary (Estab) E&SE Department in his office. You are, linerefore, requested to depute a representative of your respective Department to allend the meeting on a date, time & venue as meniloned above, please. Encl: AA (MUHAN MAD ISHAO) SECTION OFFICER (PRIMARY MALE) Copy forwarded to the: 1. PS to Secretary, E&SE Department Khyber Pekhtunkhwa. SECTION OFFICE VS GOVT CF PG43 HZ-77TH AZIZULLAH STED

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No S0 (Primary-M)/E&SED/2-6/2023 Dated Peshewar the June 25th 2029

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The Director Elementary & Secondary Education Department Khyber Palthtunkhwa, Peshawar

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

Subject:

#### GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 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 Chairmanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

#### (MUHAMMAD ISHAQ) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the

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

#### SECTION OFFICER (PRIMARY MALE)

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WP4442-2023 AZRULLAH VS GOVT CP PG43

MINUTES OF THE MEETING I REGARDING APPLICATION SUBMITTED BY MR. AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF DELETION OF RULE 715) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989),

A meeting regolding the subject matter was held on 05-07-2022 at 11:00 AM under the Chatmanship of Additional Secretary Establishment in his office. The following attended the meeting.

58	NAME	DESIGNATION
1	Mr. Pozol Wahld	Deputy Director Establishment at Directorate Elementary & Secondary Education Department
2	ı Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhiunkhwa
3	Mr. Rologal Ullah	General Secretary AFTA Foshawar
4	Muhemmad Ishaq	Secilen Olicer (Pilmary) ELSE Departmani Civil Secietariai Khyber Pakhlunkhwa Peshawar
	•.•	1

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

3. Alter threadbdre discussion it was decided that Directorate at Elementary & Secondary Education Department may examine the case property and submit a self-contained/consolidated case for anward submission to Establishment Department for lutther necessary action.

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

Ø (Mr. Fazal Wohld) Deputy Director-1 E2.SE Department

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(Mr. Bolaqal Ullah) Géneral Sociality APTA . Peshow0/

(And Utoh) Provincial President B Primary Teachers Association Khyber Pathtunkhyra

nne NJKe

(Muhahmad Lina) Sacilan Officer (Primary-Male) E&SE Department

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(Aboullah) Addillonol Secretory (Eilobilshmeni) E&SE Deportment

WP4442-2023 AZIZULLAH VS GOVT CF PG43

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT TALL 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 05-07-2023 at 11:00 AM under the Chairmanship of Additional Secretory Establishment in his office. The following attended the meeting

5// NAME I	DESIGNATION
1 Mr. Fazal Wahld	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Refeqat Ullah	General Secretary APTA Peshawar
4. Muhammad Ishaq	Section Officer (Primory) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Poshawar

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

3. After threadbare discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit & selfcontained/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

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Provincial President All Primary Teachers Association Khyber Pakhtunkhwa

(Mr. Rafaqat Ullah) General Serretary APTA Peshawar

(Muhammad Ishaq) Section Officer (Primary-Male) E&SE Department



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÷ 241 5109 30 TVOD EV HAJJUSISA (202-2016) . : ճետերնութ է Տոշոյսնութ Շվաշտիս հիրներ Ունիկտերտո אזנעטוא בוואכוטו (בגועשאו-ו) Master Copy. רא ום Director בסיו חורכותיסוני 7 Copy of the Hoole tr to:on arrig א געאיני המווווגואים בומשמושא א ציבטעמטא בקוובטווטע דוום לטובן ג גוואמווונים לסר אברועסו מחם המכביצמוץ מכוומתו הוכמור. וזכטיולבנו וועד שישעונט נווגני שיעונכי כלוחסן טרוע ום כסמקשונט מן ועי שבגוועד סן. שנסיינלבנו וועד שיעשו וווגני שירונכי כלוחסן טרוע ום כסמקשונטי כל ועי שבגוועד סן. וו אומף טן והב מהטיב, ווני מוווב על ממצו וברכ אי מן כמתגווברכל מסומסת נוזמן אם מטובוומה טל אווובי 7(5) אמרה מון בכפול הצמוליכולי מ אווצה הממומריג מן רכמכום דכמכלוברב. דומני אם מטובולומה טל אווובי דכמכלוברג לשומון אויס-16 השים אם ברכמנטובה מלווומי דכמכלוברג לשומון דוומג ווו גווב ווקווי תן ווור הוהשני סל הכרובות למובל 6-07-2021, וובול שחלור והד Choirmarthif afituit Additional Secretary Extabilitment of the office this affice tas heen atted fet submission af consolidated ease. Tiqi ilie Gave imini of Kigher Pollumbine Establishen Depertment (Kegulation אסיצט (וועושמו-קם) בקצבםטי-זעאאסטועושנייזעסד לפו מפרטדופוג החוקטובטי גוויסן אסמע בסא לעובם לפוא פוקסין ווים צפעים וס ווים לחסוופי בסעבת אידק אוקפ ונווני גועשניין אסמע בסא לעובם אייסי אייט געש געשיין אייסי אייס אייסי אייסי אייסי אייסי אייסי אייסי אייסי אייסי אייסי עון) אמיני וו אמאון אביט אומט וווט בואן צביציטא ום סגווטר מכבאו גרמשונט וע באפצי בטעקונטר. עון אמיני וו אינטאון איניטאון אינט וווט בואן צביציטא ום סגווטר מכבאו ער נחגע קטאע ווט עולבי טל . ערבנסמו מועיר או מעוד אים ביוומן אים מסוגערטווות סן ווע בסגם שי ווווקנג. כן אורבקאוויילוס סן זוים אורבנווולעריגנגנגנים לסופק ומ-20-2021 סע ווים בחקובבו כוובת בססיים סעק וע סבמו מועיר או Dear Sir, -c :।⊐¤कि।ह אוואהבאָצ אַנ בווצ יועניבואנ גווענגר למולווענטאמע הבנונמאט. בונמונגר למולווענטאמע הבנונמאט. בנומונגר למולוווענטאמע הבנונמאט. דוים במקומין מעובבר (גרומיםי)-אומור)י UP 5418 สมสุดที่ระจาน เฉพาสินแห่งมา ของหูไว้ łg

TO: DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

-2/8-

Section Officer (Rimary Education Department. Bernertion officer Secondary Education Department. 1494, Perhawar

Bulied 1. Minutes of Meeting

Dear Eir) and directed to refer to refer No. (So thingy -M)E (ED/S-1/6. War) Minister of meeting (27/2023 dered 10-7-2023 on entrest died above and to Minister Dies Miching, about bockground of case as under:

· Thus continuent of the Establishmend dependence (Rogulation Wings) debied nulle 7(5) In Civil Servart (Apprintment, promotiona True 200 - 1979) vide nulle 7(5) In Civil Servart (Apprintment, promotiona True 200 vide nulle 7(5) In Civil Servart (Apprintment, promotiona True 200)

That this office south guidence from your and uffice in the following

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· That you god office forwarded the come to quastes concerned vide letter w. So (Prinaryty) E6, SED/2-2,/Appaintment 2023 for marcesory

And the government of KP-ED (Regulation Whyg) vide letter No. So (Abbie) in provision to derline (Jongo provision. It is deligating upon every civil in provision to derline (Jongo provision. It is deligating upon every civil in provision to derline (Jongo provision. It is deligating upon every civil in provision to derline (Jongo provision. It is deligating upon every civil in provision to derline (Jongo provision. It is deligating upon every civil in provision to derline (Jongo provision. It is deligating upon every civil)

• That in light of the mainules of the meding dated, 6-27-2023 held under the of the mainules of them. Additional Secretary Establish. -ment at his effice. This office, here been alled for submission office.

The delation of the above this office is of considered approximate the domain of the approximate office is of considered and approximate the descriptions.

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Autiland Director Elementary Scandory Elians, Khylon Rehlankhun,

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	ÇI	VIL SECH	ETARIAT	PESHAWAR	
	• •	(Phone	o No.091-	8223587]	
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-16-

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

The Secretary to GovL of Khyber Pakhtunkhwa, Establishment & Administration Department, Pesnavar

#### SUBJECT: - GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PRPMOTTON & TRANSPER BULES <u>1989)</u>

Green Su,

I am directed to refer to your letter No. SO(Policy)/ EBAD/ 1-3/2020 dated Dor June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servare (Applointment, 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 . : <sup>k</sup> Fatabunkawa 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 cerform 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 preed care. In such cases, there are negative effects on service delivery.

In view of the above, the said amendment may be reconsidered to the З. extent of loci; leacher in julinary schools.

MUHAMBAU SECTION OFFICER (PRIMARY MALE)

SECTION OFFIC

Copy forwarded to the:

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

Scanned with ComScanner

Annexine

WP4442-2023 AZIZULLAH VS GOVT CF PG43

ATTESTED

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A to Secretary, E & SE Reputation to State the state of the secret (Muhamad Istray) ארדדי ב ב זב גריאי ודגאיוייגאיייי Copy formanded to;

stears of lody teacher in primary scheets with ה מורה של מצמה אור זכתות משונטות אומא אם אברשטיצוקהארט א בן רכן מי בדעולה קדותה אנטוריביריות למנו אילים העבע משב לי בעבל כקונו איביגר סוג העבשיות Mast of them are manual with Lich and elder father of , isterious froquence / bistorializer on item snottate tratomer ant ni satub majory at avoil trait shink some resiners in every of every restanced the group and braning by random In this connection it is submitted that in some cases backy

and servent (Efficiency and Discipline) Rule 2012. different means shall be proceed under khyber fukhhun Aparthe notionary shows at but to provide protogram with to these officient who do not complete with promotion order tart betweet need not 40 (1882 certainor) by not notioned deletter of Rule 7(5) Khyber Rithind Curl Servers (Apprintments when took stoke of long scarsing that potab aros /2-2/ A app directed to refer to your letter No. Solphing (Per Ab Horning) OS. ON refler to your letter No. Solphing of a phone

(6867 Live Serving (Agentinet, handling ( Jourse Live) SUBJECT: - Gittance reginating deletion of Rule 7(5) in the

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Pesheuran. Establishment and Administration by months and a second a s The secretary to communit of khyba Biskhundhura.

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Pedraman Dated 23rd August 2003. 18-84 (13233 (M- Harring) 2.01

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

KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,

The Secretary to Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Deputment. GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE

PROMOTION AND TRANSFER) RULES, 1989.

Subject: -

Dear Sir.

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

even No. dated 06.06.2023 (copy enclosed).\_\_\_

Yours faithfully,

Sector

ker (Policy)

Endst. Of even No & date

Copy forwarded to these

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.

#### COVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT No. 50(Policy)E&AD/1-3/2020 Dated Peshawar the September 07; 2023

The Secretary to Government of Knyber 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.

То

l am directed to refer to your letter No. SO(Primary-M)/E&SED/2- Z/Appointment-Rule/2023 dated 23.00.2023 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)

4447-2023 AZIZULLAH VS GOVT OF PG

To,

# Annexure \_\_\_\_\_

#### Dated: <u>28-02-2024</u>

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

REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020. 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 Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the Establishment Department vide its letter No. SO.(Policy) E&AD/1- 3/2020 dated Peshawar the June 06th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. That Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. In the meanwhile, the department vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

Best Regards

Muhammad Aslam Son of Nawab Jan Resident of Tehsil & District Karak



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-21-Klyber Bakhtunkhwa A sis Uthali Khan Produom O 0333-011444 C 935-011444 apra APTA Houses Gove Printing School آل يراتمري شيجرز ايسوي اليتن (اينا) خيبر بخنونخوا Honerwe ايلف : ميكولوك الجنوى الامتكادى ايج كيش فيهم بنوان مناعب الل يراقرق لمجرد عدى التى فير بتوال جات بال ا مواد المراج ك بدوموشو بر المادت عما الدست إلى 11 ك مراكمك 414 ك تماش الل ب بردم شوك الجد الدكرة الماكر جر عادم ايك اكرمى مجروع قت ایک داد برد موافز : لمی ودد بحر ایم اسما باد سال تک بردام انز این سال تک باد سال تک بحر ان کا پرد مانتر تین ادعل حن مامناکرتا بڑے کا ایک مام مالات الل می فرد من مرد مرض الد ودورالا مجمعا می دادان الدان اقدان وقل کا خلاف دول ب کوک فیر بخوش اعل بد حتی ب خامدان و علیم می الل بت الله عامت می به الم لیمین جر Base ک محلالی ایرک براب می می کماج بر بدانی اد بادل اندان ۱۰ ق ک طال بت ، اس سے مثال تال من ال من ال ال مثل بن ، ول ا تن مى مولا ديکے ال ( الدا مال بن ، ولا دیکے ال ال ال من ال ال ال م الا اہم آب سے حداد الل مسل ال مرك ( المجيش كر دانى الا مار ول وليم كر ؟، براكرك ( Chelanalion) ما بات الد ال كر لمد تأ مام تن لي ك ملك ال أرمن - لي او بل -س سلسن عن آب ميد الدماد تام (DEO) ال ال الا / آي. تسرس مراحل بيري كما باع تاكر اطلاع عرب عل / ليسل پراترى ماند، / دان المرت الدجوي من تيباً باسع كوك المصين بدل است ما بالرما امات، / وال طور المري كرا معلد شرائ ادبكا + دالاتم ب 5 من وكت ول كر آب ماحل فعل اليمن فير معد مر عن الرواد الدر فسوما لمسل براتم كا اما 2. كو ال وال الدين ب الما ت والر ا شكري فزيز الله خالنا مرياتي مدده آل بمالمرك كمجرز ايدى أيش فيم بمونود WP4442-2023 AZIZULLAH VE GOVT CF PG43 + 0.11

NAKALAT NAMA

## **BEFORE THE SERVICE TRIBUNAL PESHAWAR**

MUHAMMAD ASLAM Versus

Appellant

£

Government of KP & others

 $\mathbf{n}$   $\mathbf{E}$ 

Respondents

# I (the Appellant)

do hereby appoint and retain

## MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC . BASSAM AHMAD SIDDIQUI AHC

# ASSOCIATES OF MUAZZAM LAW FIRM

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

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

**IPPELLANT** 

ACCEPTED

MUHAMMAD MUAZZAM BUTT Advocatesupreme Court

MUHAMMAD ADEEL BUTT Advocate High Court

BASSAM AHMAD SIDDIOUI Advocate fligh Court