FORM OF ORDER SHEET

Court of		
Appeal No.	7377	/2024

	Apr	peal No. 232 / /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
ו	2	3
1-	05/11/2024	The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 12.11.2024. Parcha Peshi given to counsel for the appellant.
**************************************		By order of the Chairman
		<u> </u>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____-P of 2024
In Ref to
Service Appeal No 23272024

Zafar Imran

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

-1-

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 3327 /2024

Zafar Imran Son of Nabi Bakhsh, SPST

GHHS Tajazai, District Lakki Marwat

.....Appellant

VERSUS

- 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 Senior Primary School Teacher.

Copy of Monthly Salary account is annexed as **Annexure A**

- 2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always applicable and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- 4. That Government of K.P without following the rules position mentioned in Para 6 übeve promulgated Netification No. 50 (Policy) B&AD/1 3/2020; dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/29 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:-

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. .

"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 Servente (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 pervice appeal is filed on the following grounds:-:

GROUNDS:-

11/16

. :

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/ 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 with 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.

- '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.
- 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 preyed that an 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:

1/4

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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

Deponent

Muhaminid Muazzzam Butt Advocate/Supreme Court

Muhammad Adeel Bud AdvocateHigh Court

Bassam Altmad 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

Zafar Imran

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.

Through

Muhammad Muazzam Butt Advocate Supreme Court

Advocate High Court

Dist: Govt. KP-Provincial District Accounts Office Loids Monthly Salary Statement (October-2923)



Personal Information of Mr ZAFAR IMRAN divis of NABI BAKESH

Personnel Number: 00181682

CNIC: 1120103840769

Date of Birth: 01.01.1973

Entry into Govt. Service: 01.04.1993

NTN:

Length of Service: 30 Years 07 Months 001 Days

Employment Category: Vocational Temporary

Designation: SENIOR PRIMARY SCHOOL TEA

80003025-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6004-

March Court River

Payroll Section: 001

GPF Section: 001

GPF Interest applied

- Cash Center;

GPF Balance:

592,975.00 (provisional)

GPF A/C No: EDUBU013892 Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: 'Civil BPS: 14

Pay Stage: 20

- محافا	Wage type	Amount		We see the see	
0001	Besic Pay	57,330.00	1001	House Rent Allowance 45%	Amegat
	Convey Allowance 2005	2,856,00		Medical Allowance	3,321.00
	15% Adhoc Relief All-2013	766,00		Adhoc Relief Allow @10%	1.500.00 515.00
2316	Teaching Allowance 2021	3,036.00		Disnr. Red All 15% 2022ICP	5.612.00
2347	Adhoc Rel Al 15% 22(PS17)	5,612.00		Adhoc Relief All 2023 35%	20,055,00

Deductions - General

;	Wage type	Amount		Wage type	Amount
3014	GPF Subscription	-3,900.00	3501	Benevolent Fund	-1.200.00
3609	Income Tax	-995.00	4004	R. Benefits & Death Comp:	-600.00

Deductions - Lorns and Advances

Loan	Descr	1ption	Principal amount	Deduction	Bhlanco
Deductions	- Income Tax		•		
Payable:	15,919.88 Recover	ed till OCT-2023; 3,9	80,00 Exempted	: 3979.8R Recove	emble: 7,960,00
Gross Pay ((Rs.): 100.613.98	Deductions: (Rs.);	-5.695.00	Net Pay: (Rs.): 9	93,919.00
-	e: ZAFAR IMRAN				
Bank Detai	omber: 1263-96 ls: HABIB BANK LIMIT	'ED, 220328 TAJAZAI, E	ANNU TAJAZAL BAI	NNU, BANNU	
		'ED, 22032B TAJAZAI, E Availed:	ANNU TAJAZA). BAJ	NNU, BANNU Balance:	
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Bank Detni Leaves:	ls: HABIB BANK LIMIT Opening Balance: Address: BANNU	•	Enmed:	Balance:	as: No Official

Email: zafarimran753@gmail.com

GISE THITTE LOKKI Marviol

System generated document in accordance with APPM 4,6.12,9(360465/26,10,202)/w? 0)
* All amounts are in Pak Rupers
* Ferrors & amissious excepted (SEPSTCES/01.11,2022/19:27:34)

City:

CPPICE OF THE AGRACY SOUCA TON OFFICER PROMETER REGION BANNU.

ADJUSTHRAP.

5

Mr. Zaffer Isran S/S, Wabi Bakhah Borking against leave vacancy of PIC Post at G.P.S. Shoi Khel P.A. Bannu is Beraby adjusted and regularized against vacant PTC Past at G.G.P.S. Gaz Baba F.R. bannu in the interest of Public Service with effect from his taking over charge in the school

Note:-No TA/DA atc: 1a ellowed. Charge reports should be submitted in duciteate to all Concerned.

Agendy Raucatton efficer,

Frontier Region Bannu. Dated the Copy forwarded to the:-

H/reachers concerned Schools. 1. 2

A. A. B. C. Cirole Concerned.

D. A. C. Bannu.

5. Accountant Local Office.

Prontissinica Bannu.

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CONTRACTOR OF THE STATE OF THE

OFFICE OF THE AGENCY EDUCATIONS OFFICER F.R. PANNU.

ADJUSTMENT.

Mr. Zafar Imran S/O Nabi Baksh candidate is hereby appointed against larve escancy of PTO post at Govt: Primary School Shoi Khel R.R.Bannu in BPS-NO. 7 is. Rs: 1095/-PM Fixed plus usual allowances as admissible under the rules(vice Mr:Azad Lhan PTO proceeded on long leave in the interest of public service with effect from 1/4/93)

" TON

On the expiry of leave of Mr. Azod Khen PTCg the appointment of Zarar Imran PTC will considered as canclled.

He should produced his health& age cortificate, from the N/S DHQ Hospital Bannu.

Agency Education Officer,

44179-75

- 1. Headteacher GPB, Shoi Khel F.R.Bannu.
- 2. Candidate concerned.
- 3. Accountant local office.

Senior English Toocher

Agency Sluc tion Officer Frontier Region Banna.

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CHYBRII RAICHTUNKEY USTABLISHMENT DEPARTME (BECHEATION WING)

MOTUMEATION

Dollad Pashawar the 06 / 8-120211 CIVIS Servines Ach 1977 (Khyber Pakhunkhwa Act No. XVIII of Pakhunkhwa Minister of Khyber Pakhun The Chief Minister of Khyher Pakhinhkhwa is pleased to direct that in the Khyber of the Civil Servanis (Appointment manufacture) (i) the cases common of contract reachings is pleased to direct that in the Khyber (ii) the Civil Survents (Appointment, Promotion and Transful) Rules, 1989, the substitute of the cases o Junius further innendment shall be mide, namely:

AMTENDMENT

In ruje 7, sub-rule: (5) shall be deleted:

GOVERNMENT. DE THE KIEVBER LY KRITINKRINY CHIEF SECRETARY

MERITO & EVEN DATE

Additional Chief Secretary, Oovl. of Khyber Pakhtunkhwa. Planning & Copy is Imwurded 10:-

The Senior Member Board of Revenue, Khyber Pakhtunkhwa. All Administrative Secretaries to Gove of Khyber Palbrunkhya.

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

All Divisional Commissioners in Khyber Pakhunkhwa All Heeris of Attached Departments in Khyber Pakhlunkhwa. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.

All Deputy Convolssioners in Khyber, Pakhunkhwa The Registrar Khyber Rakhunkhwa Service Tribunal, Peshawara The Registrur Peshawar High Court, Peshawar

The Secretary, Chyber Pakhunkhwa Public Service Compission, Peshuviu, HII Southon Officers in Establishment & Administration Department. The Section Officer (Admn), Administration Department with the request to

arrange 20, gazette copies. he Carciaker, Acministration Department.

ATTESTED

DEBUTY SECRETARY (POLICY

A-11.01

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, namply:

AMENDMENT

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

GHIER SEGRETARY
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

A

PRINCES AZIZINENH VS'GOVT CF PC

1. Pil to Deputy Scentury (Reg), Bucklishment Deputanting. 2. Pri to Additional Scentury (Reg-11), Euchlishment Reputation.

Copy forwarded to the:-

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QMccr (Palloy)

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-Overnment of инчвер Раннтинкних ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-922360Y)

1'n.60 (Pilmay-M)/EBSED17-6/2023 Lialed Pashawar the, June 25*,2023

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The Director

Elementary & Secondary Education Department

Khyber Palihlunkhwo, Peshawar.

Aziz Ullah Khan

President.

All Primary Teacher's Association, KP

Bublect:

GUIDANGE REGARDING DELETION OF RULE 7151 IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS IAPPEINTMENT, 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)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 Chalimanship of Additional Secretary (Estab) EASE Department in his office.

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

Encl: AA

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(MUHANMAD ISHAO SECTION OFFICER (PRIMARY MALE)

Copy (orviarded to tha:

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

SECTION OFFICE

CEGP 75 TVGD EV HAJJUSISA ETTS-1844

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

To

The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar

Aziz Uliah IChan Provident 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 (Chyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZDZULLAH VS GOVT CF PG43

A

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY ME AND HILAH PRIMARY TRACHERS ASSOCIATION KNYBER FAXININGHWA REGARDING OF DELETION OF RULE 7(5) IN THE CTVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

A meeting regolding the subject motter was held on 06-07-2023 of 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

5∦	NAME .	DESIGNATION		
1	Mr. Pazal Wahld	Deputy Director Extablishment of Directorate Elementary & Secondary Education Department		
2	ı Mr. Aziz Viloh	Provincial President All Frimary Teachers - Association Khyber Pokhlunkhwa		
1	Mr. Ralagal Vilah	General Secretary AFTA Foshowar		
4	Анна цатирии	Socilar Olice: (Primary) ELSE Deportment Civil Socialaria Rhyber Pakhyakhwa Pakhawar		

- The meeting started with recitation tram the Holy Ouron, the chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education bristed the forum regarding agenda Item in detail.
- 3. After threadbdra discussion it was decided that Directorale at Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for anward submission to Establishment Department for further necessary action.

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

(Mr. Fozal Wahld)
Deputy Director-1
E&SE Department

(Mr. Ralagat Ullah) Géneral Societary APTA Peshawai

11/6

(Ar Aziz Ulion)
Provincial President
No Primary Teachers Association
Knyber Pakhlunkhwa

(Muhammad Lihag)
Sociion Officer (Primary-Male)
EASE Department

(Aboullah) Addillanai Sacretary (Sitablishmeni) EASE Deparlmeni EASE Deparlmeni

WP4442-2013 AZIZULLAH VS GOVT CF PG43

1

J:

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHYUNKHWA REGARDING OF DELETION OF BULE 7/51/IN THE CIVIL SERVANT (APPOINTMENT, PROVINCION & TRANSFER BULES 1989).

A meeting regarding the subject matter was held on 05-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting

SII NAME	DESIGNATION
1 Mr. Fozal Wohld	Deputy Director Establishment of Olrectorate Elementary & Secondary Education Department
2. Mr. Aziz Ullah	Provincial President Ali Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4 Muhammad Ishaq	Section Officer (Primary) EBSE Department Civil Secretarial Khyber Pakhtunkhwa Poshawar

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

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

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(Mr. Fazal Wahld)	• •
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Provincial President	
All Primary Teachers Association	· · · · · · · · · · · · · · · · · · ·
Khyber Palihtunkhwa	
(Mr. Rafaqat Ullah)	
General Secretary APTA	
Peshawar	
(Muhammad Isliaq)	•
Section Officer (Primary-Male)	-
E&SE Department	
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Phone: 037-9225144

Kliyber Pakikunkliya, Peshawar IF No. 3 USSTINUCaliard Cates. Dated 25

Email: establishmentmates @goods.com

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The Souther Officer (Primary-Male). Elementary & Secondary Ethicollan Department. Kliyber Pathtunkhwa Perluwor.

MINUTES OF THE MEETING Subject: 4. Door Sir.

Door Sir.

| am firectal to refer to the letter No.20(Primary-AGE&SED/3-1/
G.Misz/Ministes of the Healing/PST/2023 dated 10-07-2023 on the subject cited above and to
Present hele literary earlist his anexground of the case of under

- (a) Klyber Pakinunkhya Establishmant Departmant (Ragulation Wing) rani Government of Alyocr Potalitakhyo Establishment Department (Regulation Wing) delated Rule 7(4) in the Civil Servants (Appalatment, promotion & Transfer Rules 1989) vide halffentiab No. No. SOR-VI (E&AD)/1-1/2020 dated 06-08-2020.

 That this office length guidance from your good office in the following words vide letter No. 6987 dated 16-02-2021.
- - n poor anies prove-eves.

 (i) Now it is obligatory upon the civil servant to eccept Promotion in every condition.

 (ii) It is the prepagative of the civil servant to other accept or turn down the affer of
- Time your golf office ferworded the same to the quarter concerned vide letter No.50 (Primary-b) E&SED/2-2/Appointment/2023 for necessary guidance.
 That the Government of Knyber Pokhumbuya Establishment Department (Regulation iVing) vide letter No.50 (Palley) E&AD/1-3/2020 doted 6-06-2023 entergorically stated that there exists no providen to decline or forgo premotion. It is obligatory upon every civil servant to accopt premotion under every condition.
- The same was received by this office from your good office vide letter No.50 (Primary-M) E&SEO/2-2/Appointment/2021 dated 12-06-2021.
- That, in the light of the minutes of meeting dated 6-07-2023, held under the Chairmonship offices, Additional Secretary Establishment of his office this office, has been asked for submission of consolidated case.

in wish of the above, this office is of considered opinion that the deletion of Rilies

7(5) have officeed degatively a large numbers of Female Touchers. Thus it is proposed that

Teachers heldin 176-16 may be exempted of implications of the amendment in the rules little provided they pulled their written refuel prior to conduction of the meeting of Departmental Provided Committee.

assits submitted for perusal and necessary actions please.

Autuani Direttor (Estab Al-I) Elemontary & Secondary Education Khyber Pakhamkhwa

Endst: No.

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Capy of the ibove is to:-

- PA to Director Lated Directorate.
- Master Copy.

Ambious Director (Establi-1) Stementary & Socondary Education Klyber Pakhinnkhwa

4442-2023 AZIZULLAH VS GOVT CF PG43

DIRECTORATE OF ELEMENTORY & SECONDARY COURTIONS (EPIENTED) (EPIENTED) -5/8-

Elementage & Sciendery Education Department. Section Office (Primary-Male).

19K) Perhaiser.

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(Brilly certificated the Establishment (Regulation Will) present thirties, and bockgrand of cous as under.

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That this office earlier guidance from your good uffice in the fellowing

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livis trovs may brokelists at the mothermora graft will set notaining an EGADIL-Alant tark betate your contemporates correspond about that there exists . That the government of KP-ED (Regulation Willy) vide letter No. So (Rolling)

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consolidated case. To resisting the balls cost with siffs titl soft in the trumhald under the Chairmanship of than Additional Secretary Establish Cros-Fo-8 potab gritorn out to watering of the tall of the total o

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The case is elbrilled for period and recessary action

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Copy of the chave to:

1. PA to Diricton Local Directorate

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

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

Hunexing

The Georgiary to Govi, of Khyber Pakhlunkhwa, Eslephsteriem & Administration Departments

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

Ceer Sir.

I am directed to refer to your letter No. SO(Policy)/ E&AD/ 1-3/2020 dated (767 Justie 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovii Servant (Applicatment, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials virto do not comply with promotion order of the competent authority or by to exade promotion through different means shall be proceed under Knyber Pelangunkawa Civili Servant (Efficiency & Discipline) Rules, 2011.

In this connection it is submitted that in some same lady seather of primary level with 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 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

extens of lasty teacher in primary schools.

MUHAMMAU ISH BECTION OFFICER PRIMARY MALE

Copy (crylaided to the:

Director EBSE Khyber Pakhbunkhwa.
 PS to Secretary, EBSE Department Khyber Pakhbunkhwa.

SECTION OFFICER

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

Pedroum Dated 234 August 2013. 18-6 (A- Maray) = .0V) = .0V

Peshewan. Establishment and Administration Department, The secretary to government of Khylon Buchamblum.

Ciri Sewart (Appointment, Monellon & Transfer Rules. BUBDECT: - Chiptone regarding deliction of Dute 7(5) in the

deletten of first (2) Whyber Bildrinkhua and German (Apparatual with tail state or large scar smillite potos scor /8-1/ Opposited to refer to your letter No. Soltiniary) [E.A.A) Decr Sir,

Civil Servant (Efficiency and Discipline) Rule 2012. different means shall be proceed under Khyber Alkhtunkhun Appendit noisternory states of but to peterstain breatespares with to those officers officiall who do not comply with promotion order toth bostomitri rosed red 40 (1881 2011) of prior prior redomed

فلأدطء من عوسرو ططابعي Mahar-in-law who need agg. In such cases threezerone negative Mest of them are married with bills and elder father of , without teaperant / soctobizer on other Enotions tratomer ent of fore serious incovenionce which though hove to preform duties of good richamony have avoid given frament to rentract In this connection it is submitted that in some cases lady

Caty formand to eleans yroning all respect you go truster with In view of above, the said ammendment may be reconsidered to

Section offices (Among)

4 29. Secretary, E. & S. E. Bendand Least Andrews of 29. Dheets E & SE Khybo Rehhure,

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

Dated Peshawar the September 07, 2023

The Secretary to Government of Khyber Pakhtunkhwa, Elementary & Sewandary Education Department.

Subject: -.

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PARTUNKTIVA CIVIL SERVANTS JAPPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir.

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appnintment-Rule/2023 dated 23:08:2023 on the subject noted above and to state that necessary guidance has alreadylizen randered to your good office vide this department letter of even No. dated 06.06.2023 (cops enclosed).

Yours faithfully,

Endst. Of even No & date

Copy forwarded to the:-

- 1. PS to Special Secretary (Reg), Establishment Department.
- PA to Additional Secretary (Reg-11), Establishment Depurtment.
- PS to Deputy Secretary (Police), Establishment Department.



- B C-

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

Dated Peshawar the September 07, 2023

'ra

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.

I am directed to refer to your letter No. SD(Primary-M)/E&SED/2- 2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that necessary guidance has already been tendered to your good office vide this department letter of even No. dated 06.06.2023 (copy enclosed).

Yours faithfully

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

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

Section nicer (Policy)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

Annexure - G

Τo,

 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 BRUITING

Sir/ Madam:-

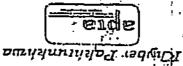
Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Elementary & Secondary Education vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against 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 06-00-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakittunkhwa 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 O6th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(6) in the Khyber Pakhrankhwa 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,

It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) EED/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 28/01/2024

ZAFAR IMRAN ISID NABI BAKHSH SPST.

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WP4443-2023 AZIZULLAH VS GOVT CF PG43

JAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Appellant

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

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

ASSOCIATES OF MUAZZAM LAW FIRM

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

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

ACCEPTED

MAD MUAZZAM BUTT

Advocate Supreme Court

CHITHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDBIQUI

Advocate High Court