FORM OF ORDER SHEET

Court of		
Appeal No.	7320 /20	24

	<u>A</u> p	peal No. 753-50 /2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
.1	2	3
1-	05/11/2024	The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 12.11.2024. Parcha Peshi given to counsel for the appellant.
		By order of the Chairman RECISTRAR
		1 1000 1000 at 1000 at 1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No ______-P of 2024 In Ref to Service Appeal No <u>233</u>2024

Khursheed Iqbal

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

INDEX

S#	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification	*	1-6
2.	Application for suspension	*	7 - 8
3.	Copy of Monthly Salary Account	Α	9-13
4.	Copy of notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020	В	14 - 15
5 .	Copy of impugned Letter dated June 6 th , 2023	С	16 - 18
6.	Copy of Minutes of meeting dated 06-07-2023	D	19-22
7.	Copy of Letter dated 23-08-2023	E	23 - 24
8.	Copy of Impugned letter dated 07.09-2023	F	25 - 26
9.	Copy of Representation against the said notification and representation made by APTA President	G&H	27 -28 29 -30
10.	Wakalat Nama		31

ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

Service Appeal No 2330 /2024

VERSUS

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

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT 1974, AGAINST THE
IMPUGNED NOTIFICATION BEARING
NO.SO(POLICY)E&AD/1-312020, DATED 06/08/2020,
COMMUNICATED TO RESPONDENT NO. 2 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

PRAYER:

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ON ACCEPTANCE OF INSTANT SERVICE APPEAL,
THE IMPUGNED NOTIFICATION BEARING NO: SO
(POLICY) E&AD/1-312020, DATED 06/08/2020,
COMMUNICATED TO RESPONDENT NO. 2 VIDE
LETTER D06/06/2023, MAY BE DECLARED AND
ORDERED TO BE STRUCK DOWN BEING VOID AND

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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 PSHT in the year 09-10-1998.

Copy of Monthly Salary account 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.

Copy of the relevant rules is annexed as Annexure B

- 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.

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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 C</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 D

- 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 E</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/AppointmentRule/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 Annexure F

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 G

10. That the Appellant with other employees filed Writ Petition No. 973-A/2013 and 1101-A/2023, through President APTA before the Honorable High Court Peshawar and obtained restraining order dated 14/09/2023 to cover the mandatory statutory period of time.

Copies of restraining order dated 14/09/2023 and Writ Petition No. 4442-P 2023 are annexed as <u>Annexure "H & I"</u>

- 11. 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 "I & K"</u>
- 12. 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 setaside.

- 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.

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- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchaquer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- 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 1-2020 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 60/06/2023 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.

Dated:

Peshawar

Through

Affidavit:-

1 Khursheed Egbal solemnly declare on anth That the

contents are true ¿correct

Deponent

Muhammad Muazzzam Butt Advocate Supreme Court

Appellant

Muhammad Adee Butt Advocate High Count

Bassam-Ahmad Siddigui Advocate High Court

LL.M- Human Rights

	-7-
	BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA
C.	M No/2024
ln	•
Se	rvice Appeal No/2024
	• •
	Khursheed Iqbal
	v/s
	Government of KP & others
	APPLICATION FOR SUSPENSION OF IMPUGNED
	NOTIFICATION SO. (POLICY)E&AD/1-3/2020 NO. DATED
	06/08/2023 AND PROMOTION ORDER DATED 29/08/2023
	TILL FINAL DISPOSAL OF MAIN SERVICE APPEAL.
Re	spectfully Sheweth:-
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 als lies in favour
3.	There is likelihood of success of the appellant in the lis. The impugned notification dated 06/06/2023 is against Section 25 of KP Civil Servant Act, 1973 and promotion order dated 29/08/2023 of the appellant/applicant is also to be set-aside.

In view of the above it is humbly prayed that notification No.

Appellan

Muhammad Muazzzam Butt Advocare Supreme Court

Muhammad Adeel Butt Advocate High Court

SO(POLICY)E&Ad/1-3/2020, dated 06/06/2023 and promotion order dated

29/08/2023 to the extent of appellant/applicant may graciously be ordered to be

Through

4. That valuable right of the appellant is involved.

<u>Dated:</u> Peshawar

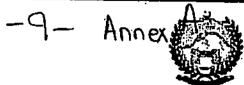
suspended till final disposal of the main service appeal.

AFFIDAVIT:

I Khursheed Iqbal Son of Zafar Iqbal Resident of Palosai Sir, Karak do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court

Deponent

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



Personal Information of Mr KHURSHEED IQBAL d/w/s of ZAFAR IQBAL

Personnel Number: 00302358

CNIC: 1420213456927

NTN:

Date of Birth: 15.03.1975

Entry into Govt. Service: 09.10.1998

Length of Service: 25 Years 03 Months 024 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

KOKO2667-DISTRICT GOVERNMENT KITYBE

DDO Code: KK6011-Deputy District Officer (M)Primary B.D Shah (KARAK)

Cusli Center: 19

Payroll Section: 001 OPF A/C No: EDUKKIKH956

OPF Section: 001 GPF Interest applied

GPF Balances

318,736.00 (provisional)

Vendar Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 18

	Wage type	Amount	Wage type	Amount
	Basie Pay	59,560,00	1001. House Rent Allowance 45%	3.524.00
	Convey Allowance 2005	2,856,00	1300 Medical Allowance	4,500,00
	15% Adhoc Relief All-2013	625,00	2199 Adhoe Rejiel Allow @ 10%	456,00
2316	Teaching Allowance 2021	3,224,00	2341 Dixpr. Red All 15% 2022KP	5,610.00
2347	Adhice Rel Al 15% 22(PS17)	5,610.00	2378 Adhoc Relief All 2023 35%	20,153,00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 OPF Subscription	-4,290,00	3501 Benevolent Fund	-1,200,00
3609 Income Tax	-1,230.00	3990 Emp.Edu. Fund KPK	-135,00
4004 R. Benefits & Denth Comp:	-600,00		0,00

Deductions . Lumps and Advances

Louis	Description	Principal amount	Deduction	Bulance
6505	GPF Loan Principal Instal	400,000,00	-11,111,00	277,779,00

Deductions - Income Tax

Poyuble:

RE, CE 1, 81

Recovered till JAN-2024:

7.683.IKI

Exempted: 4609.18

Recoverable:

6.147.20

Gruss Pay (Rs.):

103,118.00

Deductions; (Rs.):

-18,566,00

Net Pay: (Rs.):

84,552.00

Payce Name: KHURSHEED IQBAL

Account Number: 1846-9

Bank Details: HABIB BANK LIMITED, 220985 Habib Bank Lid Palasa Sar Karak Habib Bank Lid Palasa Sar Kara, KARAK

Leaves:

Opening Balance:

Availed:

Ennied.

Balance:

Permanent Address: KK

City: KARAK

Dandeile: NW - Khyber Pakhtunkhwa

Housing Status; No Official

Temp. Address:

City:

Email: khursheedktk1975@gmail.com

OFFICE OF THE DISTRICT COORDIN

APPOINTMENT

Consequent (upon) the recommendation to the District Recruitment/Selection Committee constituted by the Government of NWFP Schools and Literacy Department (he following candidates and bytchy appointed as PST(Primary Schools cacher) on Contract basis in BPS -7(.2220-120-5820) PM Fixed plus usual allowance/assadmissible lunder the rules on 25% open Merit and 75% Union Council wise basis we the date of the fluking over charge on the terms and conditions mentioned below:

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TERMS & CONDITION

- NO TA/DA etc is allowed
- Charge reports should be submitted to all concerned in duplicate. 2.
- 3. Appointment is purely on temporary & contract basis initially for three years
- They should not be handed over charge if They exceed 35 years or below 18 4: years of age.
- 5. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities. If They is found producing bogus Certificate They will be reported to the law enforcing agencies for further action.
- If They fails to take over charge within fifteen days, the appointment order will be deemed as cancelled.
- Health and Age Certificale should be produced from the Medical Superintendent concerned before taking over charge.
- Before handing over charge. They will sign an agreement with the department, otherwise this order will/not be valid
 - They will have to serve at the place of posting for the period of his agreement.
- DO(M) S&L: Local office is directed to verify their documents personally before drawing their 10.

(MUHAMMAD NASIM) DISTRICT COORDINATION OFFICER KARAK.

Endst:No6663-09 WAE-II/PST/Appointment

Dated Karak the/6/ 05 /2005.

- Copy of the above is forwarded to Director Schools & Literacy NWFP Peshawar.

- District Officer (M) Karak District Officer (M) Karak District Officer (M) Schools and Literacy Karak District Officer (M) Karak and B D Shah.

 District Accounts Officer Karak

- Candidate concerned

EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY KARAK

GOVERNMENT DE CHYBRIC PAICHTUNKHYA establishment departme (REGULATION-WING)

NOTIFICATION

Dafed Peshaniar the, 06 / 8 /2020

intertector of the powers conferred by section 25 of the The Parlimentary Civil Servents Act, 1975 (Klyber Paklitonkhwa Act, No.XVIII of The Chief Minister of Khyher Pokhinikliwa is pleased to direct that in the Khysus beginning Civil Servanis (Appointment, Promotion and Tourist Appointment, Promotion and (Appointment, Promotion and Transfer) Rules 1989, the Thomas Junker uncordined shall be made, namely:

AMENDMENT

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

CHIEF SECRETARY GOVERNMENT OF THE KHYDER PAKETUNKH

MISTEND & EVEN DATE

Copy is forwarded to:-

Additional Chief Secretary, Gove of Khyber Pakhtunkhwa. Planning &

Development Department.

The Senior Member Bould of Revunue, Khyber Pakhrunkhwa. All Administrative Secretaries to Govt. of Khyber Politicushwa.

The Principal Secretary to Governor, Khyber Pakhtunkhwa. The Principal Secretary to Chief Minister, Khyber Pakhninkhwa. All Divisional Commissioners in Khyber Pakhrunkhwa

All Heads of Attached Departments in Kliyber Pakhtunkhwa. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkh An 6.

All Deputy Commissioners in Khyber, Pakhunkhwa.

The Rugistrar Peshawar High Court, Peshawar.

The Registrar, Khyber Pakhiunkhwa Service Tribunal, Peshawar. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Prishit Williams

All Section Officers in Establishment & Administration Department. The Section Officer (Admn), Administration Department with the Equestion

he Caretaker, Acministration Department. arrange 20 gazette copies.

ATTESTED

MAH LATIF DEPUTY SECRETARY (POLICY)

All She

BC -15

GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT {REGULATION WING}

<u>NOTIFICATION</u> Dated Peshawar the, 05/08/2020

In exercise of the powers conferred by section 26 of the Pakhtunkhwa Civil Servants Act, 1973(Khyber Pakhtunkhwa Act No XVIII) the chief Minister of Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Civil Servants (Appointment Promotion and Transfer) Rules 1989, the following further amendment shall be made, namely:

AMENDMENT

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

CHIER SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

- 1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa. Planning & Development Department)
- 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.
- All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 8. All Autonomous/Semi Autonomous Bódies 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

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KALVIIPIZIIVIRAL ÜRBYILLVIRAL CONFIDENCE OF GUADER PAIGUTURICITY

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The Covernment of Khyber Pakhunkhwa, Hementory & Secondary Uducadan Dapathpent.

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nolloment caret to accibing or fergo premaflom. Rules, 1989 stands deleted vide this department neutheating dated od.08.20201 thus, no (5) of Rule-7 of Ehyber, Inchinational Civil Servanis (Appointment, Promotion and Transfer) plust-due faith class of ban avode being jestdus gift in CEGE. 10.81 beinft CEGEUnominloggAls -ranesanda-vombilion and teller has sollidmory-Mynasuna-

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

э́руекимент Ор Кичвек Ракитинкима ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phone No.091-9223587)

> No.SO (Pilmary-M)/E&SED/2-8/2023 Daled Pashavar Inc. June 25th, 2023

īa

The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan President

All Primary Teacher's Association, KP

Subject:

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER

PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION

AND TRANSFER) RULES, 1988.

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.

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

Encl: AA

(MUHANMAD ISHAO SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER

WP4442-2023 AZIZULLAH VS GOVT CF PG43

- 18-

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

To

The Director Elementary & Socondary Education Department Khyber Polditunkhwa, Peshawar

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

Subject:

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

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH V8 GOVT CF PG43

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. AZIZ 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 04-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting.

	i ,	
5#	NAME	DESIGNATION
<u>'</u>	Mr. Fazal Wahld	Deputy Director Establishment of Directorale Elementary & Secondary Education Department
2	į Mr. Aziz Ulloh	Provincial President All Primary Teachers Association Khyber Pakhlunkhwa
3	Mr. Rataqal Ullah	Ganeral Secretary APTA Pathowar
4	Muhammad Ishaq	Secjion Officer (Primary) ESSE Department Civil Secretarial Khyber Pakhlunkhwa Peshawar

- 2. The meeting started with recitation from the Hoty Ouran. 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 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. Fazai Wohld) Deputy Director-i E&SE Department (Mr. Aziz Ullah)
Provincial President
Primary Teachers Association
Khyber Pakhlunkhwa

(Mr. Ralaget Ullah) General Secretary APTA Peshawar (Muhammad Lhaq) Sacilan Officer (Primary-Male) E&SE Department

(Abdullah) Addillanal Secretary (Establishment) E&SE Department

WP4442-2023 AZIZULLAH V8 GOVT CF PG43

-B/c-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ 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 06-07-2023 at 12:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following ottended the meeting

SII NAME)	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. Rafaqat Ullah	General Secretary APTA Peshawar
4. Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretarial Khyber Pakhtunkhwa Peshawar

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

Addin	(Abdullah) URB SERGERAL ESTERA ESTERA
i	
(Muhammad Ishaq) Section Officer (Primary-Maja) E&SE Department	·
(Mr. Rafaget Ullah) General Secretary APTA Peshawar	
Provincial President All Primary Teachers Association Khyber Pakhtunkhwa	
(Mr. Fazal Wahld) Deputy Olrector-1 E&SE Department	·

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> 2. Master Copy. PA to Director Local Directorate.

> > Copy of the above is to:-

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The core is submitted for pertural and necessary actions please.

Deportmental Promotion Gemalitee.

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Chairmonship of Hon, Additional Secretory Entablishment of his office this office has That, in the light of the minutes of meeting doub 6-07-2023 held under the

(Primary-A) E&SED/2-2/Appointment/2023 doted 12-06-2023. Oz.ok with soils able soils book work mort eafle that he besteen were anti-

civil servani to accopi prontalion under every candition.

that there exists no provision to decline or forgo promotion. It is abilgulary upon every Wind biller No.50 (Polloy) E&ADVI-17000 doled 6-06-2023 colegorically stated

noticitigs S) - inominação inomitaldois continuitad subjet (Regulation of Noticinal (Regulation) Να. SO (Ρτίφοιγ-64) Ε&SED/2-2/Appointment/2022 for necessory guidonee.

That youn gonf office forwarded the some to the quarter concerned vide letter promotion.

(i) It is precognitive of the civil servant to accept fromption in every condition. (ii) It the precognitive of the civil servant in alther accept or turn down the offer of

"FZOZ-ZO-90 P210P L869"0N That this office saught guidance from your good office in the following words vide letter

vide hotification No. No. SOR-VI (EAADVI-1/2020 dated 06-08-2020. delojed Rulo 7(5) in the Civil Servents (Appointment, promotion & Tranger Rules 1989)

Railyi notinlingosi) inaminaqaQ inamintalidan दश्क्रतिमामाध्येकः १ वर्गस्यामाना । अवस्थितः १० inaminaqaQ iniff

present brief littory abaut the background of the case as under: C. Mischilling of the Moething/PST/2073 deted 10-07-2023 on the subject effect above and to I am directed to refer to the letter No.50(Primary-A.)E&SED15-11

Door Sir, ΑΙΙΝυτές οτ της Αιξετίνε 2nplaci: -

Liyber Pakhunkiwa Peshawar. Elementory & Secondary Education Department. The Socilon Officer (Primary-Mule).

इत्याना स्थापन स्थापन विकास विकास स्थापन Phone: 091-9225344 F. No. 14/25T/AVGeneral Cates Doted 2-1-7- 2023 Кһубег Ракһіппкіна, Резіпанаг

-(t) -

-B/c-

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR (21-7-1023)

20、日本物理的 发现的比较

To: Section Officer (Primary Male) Elementary & Secondary Education Department

KPK, Peshowar.

Subject : Minutes of Meeting

Dear Sir; 9 am directed to refer to Letter No. (SO. Aimany -TV) E & SED /5-1/GANKY Minutes of meeting PST/2023 dialed 30-7-2023 on subject cited above and to present brief history, about background of cure as under.

+ That Government of KP Establishment deportment (Regulation Wing) deleted rule 7(5) in Civil Servants (Appointment, promotions, Transfer Rules 1919) vide notification No. No. 50R-VI(ESAD)1-3/2020 dated 06-08-2020.

· That this office sought guidance from your good uffice in the following words vide letter No. 5987 defed ob-owners

is Now it is obligatory upon wil scavout to accept promotion. (ii) Still presogative of civil servent to effor accept/temdown the offer of promotion.

· That your good office forwarded the same to avantes concerned wide letter No. So (Primary M.) E&SED/2-2/Appointment (2023 for necessary

- . That the government of KP-ED (Regulation Why) vide letter No. So (Policy) EGAD 1-3/2070 dated 6-06-2073 categorically stated that there outs no provision to decline forgo promotion. It is obligatory upon every civil servent to accept promotion under entitle condition.
- . That in light of the mainutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establish. -ment at his office. This office has been asked for submission of

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge members of Female teachers.

The case is submitted for period and necessary actions please.

Copy of the above to;

1. PA to Director Local Directorate

2. Master Copy

Accident Director Elementary & Secondary Education Khyber Richtenkhula.

WP4447-2023 AZIZULLAH VS GOVT CF PG43



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR (Phona Ho.091-9223587)

Ժննեչևուն

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

The Becretary to Govt of Khyber Pakhtunkhwa. Establishment & Administration Department. Pethaviai

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

Case Sec.

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

- In this connection it is submitted that in some cases lady teacher of primary level who 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-taw who need care. In such cases, there are negative effects on service delivery.
- In view of the above, the said amendment may be reconsidered to the where of lady teacher in primary schools.

MUHAMMAU ISSUACE SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1.

1. Director ERSE Khyber Pakhbunkhwa.

2. PS to Secretary, ERSE Department Knyber Pakhtunkhwa.

SECTION OFFICER JERER

Scanned with ComScanner

174442-2023 AZIZULLAH VS GOVT CF PG43

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اكدي أعور يعتمه. Establishment and Adminishation Department, The secretary to Government of Khylon Bakhambhua.

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In New of above, the soil ammendment may be reconsidered to

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In this connection it is submitted that in some raves lacky

different means shall be proceed under Khyber Pakhtunkhun

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GOVERNMENT 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 & Secondary Education Department.

Subject: -

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

Dear Sir,

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

Yours faithfully.

Meer (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 Depurtment.
- 3. PS to Deputy Secretary (Policy), Establishment Department.



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

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Section nicer (Policy)

WP4442-2023 AZIZULLAH VS GOVT CF PG43

To.

Annexure G

- 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 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.

Best Regards

Khursheed Igbal

Son of Zafar Igbal

Resident of Tehsil & District

Karak

CNIC NO: 14203-1345692-7

الك بدائر كا فجرد الديما الحق نير بخوالا مد نال مول الله على المد

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07.05.2024



- t. Learned counsel for the appellant present.
- 2. Let a pre-admission notice be issued to the respondents through TCS for submission reply/comments. Appellant is directed to deposit TCS expenses within three days. To come up for reply/comments as well as preliminary hearing on 10.06,2024 before S.B. P.P given to learned counsel for the appellant.
- 03 Alongwith the service appeal there is an application for suspension of Notification dated 06.06,2023 and letter dated 23,08,2023 till the final disposal of main service appeal. In the meanwhile, no adverse action shall be taken against the appellant till next date of hearing.

Gertified to be true copy(Muhammad Akbar Khan). Member (E)

Date of Procentation of Application 10 15

Tasi.---

(Same of)

Date of Comments 13-6-23-

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

KHURSHEED IOBAL 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 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.

APPELLANT

ACCEPTED

MUHAMWAD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocate High Court