FORM OF ORDER SHEET

Court of			
Appeal No.	2349	/2024	

	Appear No. A 2 1 / 2024				
S.No.	Date of order proceedings	Order or other proceedings with signature of judge			
1	2	3			
1-	06/11/2024	The appeal presented today by Mr. Muhammad			
		Muazzam Butt Advocate. It is fixed for preliminary hearing			
		before Single Bench at Peshawar on 14/11.2024. Parcha Peshi			
		given to counsel for the appellant.			
		By order of the Chairman			
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	
Service Appeal	No 2349 2024

Hidayat Ullah Khan 🕠

V E R Ś U S

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

_ Service Appeal No 2349 ____/2024

Hidayat Ullah Khan Son of Abdur Razaq Khan, PSHT GPS Fateh Khan, Tehsil & District Lakki Marwat

.....Appellant

VERSUS

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

.....Respondents

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

PRAYER:

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

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

RESPECTFULLY SHEWETH:

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

Copy of appointment letter is annexed as Annexure A

- That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- 4. That Government of 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 Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 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 Annexure E

- 9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

 Copy of impugned letter dated 07-09-2023 is attached as Annexure F
- 10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed.

 Copy of Representation against the said notification is annexed as Annexure G & H
- 11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-.

GROUNDS:-

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- 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 will foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is vold, 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 jn 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.
- 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.

AFFIDAVIT:

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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

Muham and Munzzzam Butt Advocate Supreme Court

Muhammad Adeel But _AdvocateHigh Court

Appellant

Bassan Alanad Siddiqui Advocate High Cour

LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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

Hidayat Ullah Khan

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY RESPONDENT NO.1, VIDE LETTER DATED 06/06/2023 TILL THE FINAL DISPOSAL OF CASE IN HAND.

Respectfully Submitted:-

- That the instant application may be treated as part and parcel of service appeal of the appellant.
- 2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant.
- 3. That there is likelihood success of the appellant in the lis. And if the notification bearing No. So (Policy) E&D/1-3/2020 Dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 is not suspended the appellant would suffer irreparable loss.
- 4. That valuable rights of the appellant is involved in the case.

In view of the reasons, it is humbly requested that the notification bearing No. So (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Vide Letter Dated 06/06/2023 may kindly be suspended till the final disposal of the main appeal in hand.

AFFIDAVIT

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

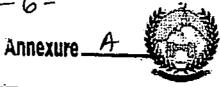
Deponent

Through

Muhammad Muazzam Butt Advocate Supreme Court

Muhammad Adeel Butt Advocate High Court

Dist. Govt. KP-Provincial District Accounts Office Lukki Monthly Salary Statement (May-2023).



Personal Information of Mr HIDYAT ULLAH KHAN d/w/s of ABDURAZAQ KHAN

Personnel Number: 00308436

CNIC: 1120103557867

NTN:

80003025-DISTRICT GOVERNMENT KHYBE

Date of Birth: 09,09,1966

Entry into Govt. Service: 10.10,2000

Length of Service: 22 Years 07 Months 023 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

DDO Code: LK6004-

Payroll Section: 001

GPF Section: 001 **GPF** Interest applied Cash Center: 02

GPF Balance:

640,618.00 (provisional)

Vendor Number: -

GPF A/C No:

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 24

	Wage type	Amount		Wage type	Amount
0001	Basic Pay	71,440.00	1001	House Rent Allowance 45%	3,524,00
1210	Convey Allowance 2005	2,856.00		Medical Allowance	1,500.00
<u> 2148</u>	15% Adhoc Relief All-2013	985.00		Adhoc Relief Allow @10%	660.00
<u> 2316</u>	Teaching Allowance 2021	3,224.00		Dispr. Red All 15% 2022KP	7,006.00
2347	Adhoc Rel Al 15% 22(PS17)	7,006.00	7	Adj. Adhoc Rel Allow 2021	1,596.00
5155	Adj. Disp. Red All 2022KP	2,286.00		Adj. 15% Adhoc Allowance	6,650.00
5322	Adj Adhoc Relief All 2018	6,384.00		Adj Adhoc Relief All 2019	4,788.00
5360	Adj Adhoc Rel Al 22(newen	1,990.00		Adj Basic Pay	143,500.00
<u>5938</u>	Adj.Adhoc Relief All 2012	3,920.00		Adj:Adhoc Relief All-2014	1,680.00
<u>5964</u>	Adj Adhoc Relief All 2015	2,966.00		Adj Adhoc Relief All 2016	8,064.00
5990	Adj Adhoc Relief All 2017	7,980.00			0.00

Deductions - General

·	Wage type	- Atnount	Wage type	Amount
3015	GPF Subscription	4,290,00	3501 Benevolent Fund	
3609	Income Tax	-7,787.00	1004 R. Benefits & Death Comp:	-600.00
4200	Professional Tax	-1,200.00		0.00

Deductions - Loans and Advances

Loan	Description ·	Principal amount	Deduction .	Balance
6503	MCYC Loan Principal Insta	80,000.00	-1,334.00	17,302,00

Deductions - Income Tax

Payable:

31,950.63

Recovered till-MAY-2023: 16,177.00

Exempted: 7987.17

Recoverable:

7,786.46

Gross Pay (Rs.):

290,005.00

Deductions: (Rs.):

Net Pay: (Ru.):

273,594.00

Poyce Name: HIDYAT ULLAH KHAN

Account Number: 3328-9

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

Leaves:

Opening Balance:

Availed:

Earned:

Balance:

Permanent Address;

City: LAKKI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: hidayatuliah3395@gmail.com

System generated document in accordance with APPM 4.6.12.9(360663/30.05.2025/v3.0)
*All amounts are in Pak Rupees:
*Errors & amissions excepted (SERVICES/31.05.2023/21:48:43)

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GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT (REGULATION WING)

NOTIFICATION Dated Peshawar the, 06/08/2020

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

AMENDMENT

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

CHIER SÉCRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

- 1. Additional Chief Secretary, Govt of Khyber Pakhtunkhwa. Planning & Development Department)
- 2. The Senior Member Board of Revenue, Khyber Pakhtunkhwa.
- 3. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
- 4. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
- 5. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
- 6. All Divisional Commissioners in Khyber Pakhtunkhwa.
- 7. All Heads of Attached Departments in Khyber Pakhtunkhwa.
- 8. All Autonomous/Semi Autonomous Bodies in Khyber Pakhtunkhwa.
- 9. All Deputy Commissioners in Khyber Pakhtunkhwa.
- 10. The Registrar, Peshawar High Court, Peshawar.
- 11. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar
- 12. The Secretary, Khyber Pakhtunkhwa Public Service Commission, Peshawar.
- 13. The Deputy Director (IT), E&A Department.
- 14. All Section Officers in Establishment & Administration, Department.
- 15. The Section Officer (Admin), Administration Department with the request to arrange 20 gazette copies.
- 16. The Caretaker, Administration Department.

(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)

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-Overnment of Khyber Ракитиркима ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Phono Ho.091-9223507)

1'n.80 (Pdmary-MYEBSEDIZ-8/2023 Caled Pashaviar the, June 26*,2073

Τņ

The Director

Elementary & Secondary Education Department Khyber Pakhlunkhwa, Poshawar.

Aziz Ullah Khan President-

All Primary Teacher's Association, KP

Şubject:

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

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

You are, therefore, requested to depute a representative of your respective Department to allend the meeting on a date, time & venue as mentioned ábove, pleasé.

Engl: AA

(MUHANMAD ISHAO SECTION OFFICER-(PRIMARY MALE)

Copy forwarded to the:

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

SECTION OF

WP4442-PIET AZIZULLAH VS GOVT CF PG43

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

To

The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar

Aziz Uliah Khan Prosident 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, 1909.

i am directed to refer to the subject noted above and to enclose here with a letter of Establishment Department letter No. SO (Policy)E&AD/1-3/2020 dated 06 June, 2023 and to 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 & vanue as mentioned above, please.

Encl: AA

(MUHAMMAD ISHAQ) , SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

WP4442-2023 AZIZULLAH VS GOVT GF FG43

A

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. ATT LISTAH PROVINCIAL PRESIDENT IALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING OF DELETION OF RULE 7(5) IN THE CIVIL SERVANT (APPOINTMENT, PROMOTION & TRANSFER RULES 1989).

A meeting regarding the subject matter was held on 06-07-2023 at 11:00 AM under the Chalmanship of Additional Secretary Establishment in his affice. The following attended the meeting.

-		·
5#	NAM#	DESIGNATION
1,	Mr. Fazal Wahld	Deputy Director Establishment of Observator Elementary & Secondary Education Department
2	i Mr. Azir Viloh	Provincial President All Primary Teachars • Association Khyber Paktilunkhwa
3	Mr. Ralagal Ullah	General Secretary AFTA Feshawar
4	Muhammad Ishaq	Socilon Oliker (Primary) ELSE Department Civil Societariai Khyber Fakhlunkhwa Peshawar

- The meeting started with recitation from the Holy Ouran. The chair welcomed
 the participants. The Deputy Director (Establishment) of Directorals of Elementary &
 Secondary Education billeted the forum regarding agenda flem in detail.
- 3. After Ihreadbare 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. Fazal Wahld)
Deputy Director-I
EASE Department

(Mr. Ralagat Ullah) Géneral Socratory APIA Peshawar (Air Asiz Ullah)
Provincial Prosident
All Primary Teachers Association
Khyber Pathlunkhwa

(Muhahimad Lihon) Sacilan Officar Primary-Malo) E&E Department

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

WP4447-2023 AZIZULLAH VS GOVT CF PG43

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1:

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 05-07-2023 at 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following attended the meeting

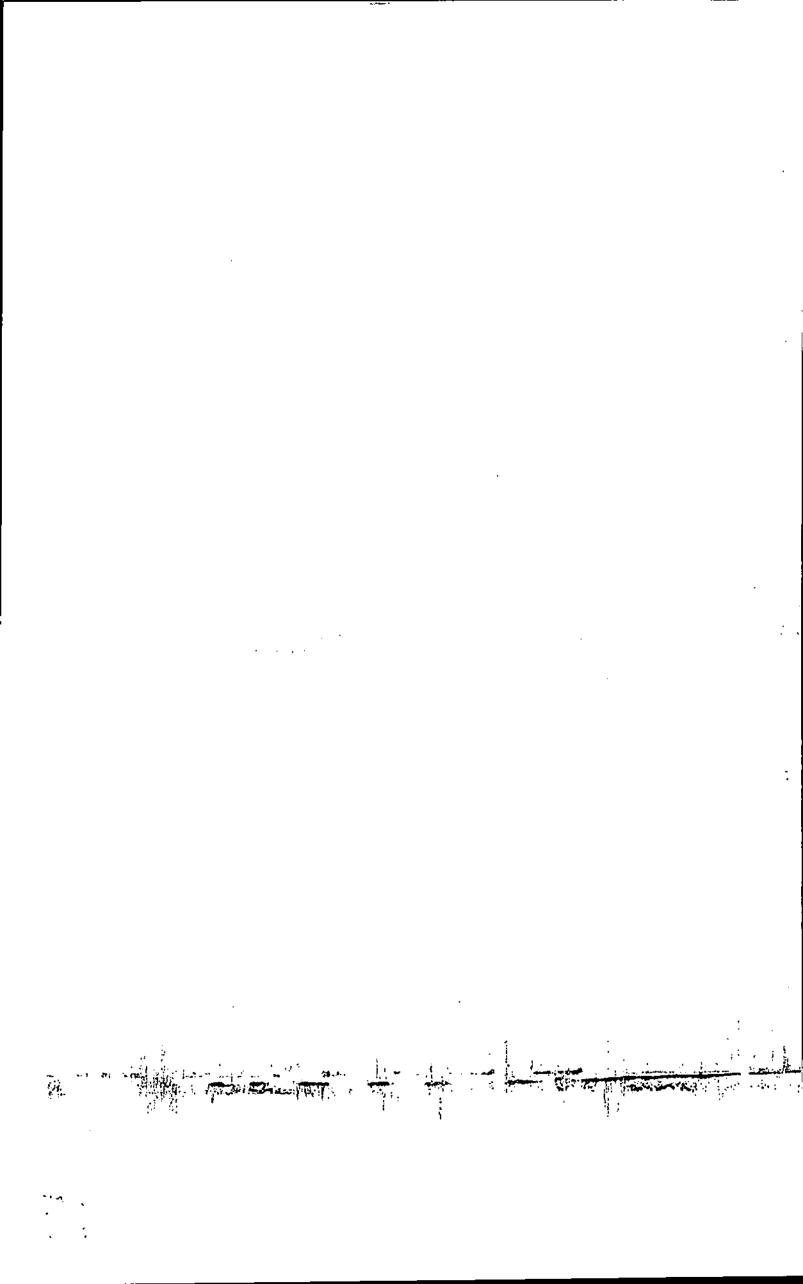
SII NAME I	DESIGNATION
1 Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2 Mr. Aziz Ullah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
3. Mr. Refeqat Ullah	General Secretary APTA Peshawar
4. Muhammad Ishaq	Section Officer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

- 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.

ः	(Abdullah) Luga September (Abdullah
1_	· ·
E&SE Department	•
Section Officer (Primary-Male)	·
(Muhammad Ishaq)	
Peshawar	
General Secretary APTA	· · · · · · · · · · · · · · · · · · ·
(Mr. Rafaqat Ullah)	
Khyber Palihtunkhwa	
All Primary Teachers Association	· · · · · · · · · · · · · · · · · · ·
Provincial President	
E&SE Department	
Daputy Director-1	
(Mr. Fazal Wahld)	• •
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No.6987 doted be-02-2023.

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(ii) It is the prelogative of the civil servant to alther accept an turn down the office from the promotion.

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are is submitted for persual and necessary aciliars please.

provided they puliate their vellies refund prince to conduction of the meeting of 7(5) have offeedd (egailvely a huge munbers of Femalo Tenebras. Thur it is graposed that Tenetiers balan Hib-16 may be exempted of implications of the amandment in the rules fold

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That Government of Klober Pothlunkhyo Exteblishman Departmoni (Regulation Wing) doloted Rule 1989) to doloted Rule 1989) and Covernment Premariton & Tronger Rules 1989) vide haiffentlabild No. SOR-14 (Ed.AD)/1-1/2020 dated 06-08-2020.
That this office sought guidence from your good affice in the following word vide letter That the Aned Mc-2-2020.

1 on Area Minister of the Acellay to refer to the latter Ma.Sagardmany-MRESEDIS-IV C. Alber Minister of the Acellay PSTY2023 dated 10-07-2023 on the maject clical above and to present the case as uniter?

Lotal Directorate.

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DIRECTORATE OF ELANEATARY & SECONDARY EDUCATION, KPK

Elementicay & Secondary Education Department Section Office (Rimary-170le) (201-F-153)

KPK Parkaises.

Subjed: Minister of Heeting

Minister of meeting 127/2017 dated 10-F-02 an expect offed above and Dear Ein g am dereited to refer to teller No. (50. Anney-17) & & ED/5-1/64/134/

(Brilly restricted by Et Establishment department (Regulation Willy) present batif history, about background of crue as undan-

wide notification No. No. sup-VI(EEAD)1-3/2020 dashed ob ob-1200. delated rille 7(5) in Civil Servert (Applications, promotions, Into Nit (2) Poller bolobe

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o That you good office forwarded the come to quarter concerned what letter we so (Minery 1.1) Et SED/2-2-/Appointment (2023 for necessary) enrichment

sensit to accept paretin under engly condition. livis from come Britished at the conthinung graft will set orienting on. والمنا عسال المحال المحادة والمعابرة ويتمام المحال المحاد المام عادمد المراجع المام عادمد المراجع المام عادمد . That the government of KP-ED (Regulation Why) vide letter No. So (Relicy)

held under the Chairmanship of then. Additional Secretary Establish. Cros-Fo-3 betab griban art fo columns of to Will in took o

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members of Ferrale forchars. which the delains of the above this office is of considered apprehent that

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2. Master Copy 1. PA to Director Local Directorate ومولا ملا علم وللمالا إلى الم

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ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PEBHAWAR (Phone No.091-9223,587)

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

DUNEXUIC

The Georgiany to Gord of Khyber Pakhlunkhwa, Establishment & Administration Department, Peshaver

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

Case Su,

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated (367 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servant (Appioniment, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials vitro do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakrounkrina Civil Servant (Efficiency & Discipline) Rules, 2011.

In this connection it is submitted that in some cases lady teacher of primary lavel vimo 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 reed care. In such ැයදෙ, there are negative effects on service delivery.

In view of the above, the said amendment may be reconsidered to the প্রাহ্রণ বে হিন্দু (reacher la julmary schools.

BECTION OFFICER (PRIVARY HALE)

Copy (cryrarded to the:

1. Olrector EBSE Khyber Pakhbunkhwa. 2. PS to Secretary, EBSE Department Knyber Pakhlunkhwa

SECTION OFFICER

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WP4442-2023 AZIZULLAH VS GOVT CF FG43

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The Secretary to Government of Khypa Bekhambhua. Establishment and Administration Department.

SUBJECT: - Gillenne regending deletion of Rule 7(5) in the CLA Servant (Appointment, Romation & Transfer Rules.
[1987]

Dear Sir,

Dear Sir,

Dear Sir,

Dear Sir,

Dear Sir,

Dear Homer Schriefer to your letter No. Softier 110. Softier of the state of the

To this connection it is sibmitted that in same coses lady
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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 Secretory 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 um directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appuintment-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.

Endst. Of even No & date

Copy forwarded to the:-

- 1. PS to Special Secretory (Reg), Establishment Department.
- PA to Additional Secretary (Reg-II). Establishment Department.
- 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

Datéd Peshawar the September 07, 2023

Τą

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,

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 Kliyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar

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

3) Director Elementary and Secondary Education Department

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-312020. DATED 06/08/2020. COMMUNICATED TO SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA, ELEMENTARY & SECONDARY EDUCATION DEPARTMENT VIDE LETTER D06/06/2023. WHEREIN IT WAS STATED THAT SUB RULE 5 OF RULE 7 OF KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1989 STANDS DELETED

Sir/ Madam:-

Your Honorable authority promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Elementary & Secondary Education vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. That, as per notification No. SD (Policy) /EDAD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber 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.

Dated 28/01/2024

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Mayber Pakhitunkhwa

BEFORE THE SERVICE TRIBUNA

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.

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

APPELLANT

ACCEPTED

AD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocate High Court