


FORM OF ORDER SHEET

Court of _____

Appeal No. 2342 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/11/2024	<p>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.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No _____ -P of 2024

In Ref to

Service Appeal No 2342 2024

Ghulam Sarwar Khan

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2342 /2024

Ghulam Sarwar Khan Son of Abdul Qayyum Khan, PSHT

GPS Hayat Khel, Tehsil-& District Lakki Marwat

.....Appellant

V E R S U S

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

.....Respondents

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

PRAYER:

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

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

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.
Copy of appointment letter is annexed as **Annexure A**

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 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) /E&AD/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) E&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 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:-

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

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

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.

علامہ سرور خان
Deponent

علامہ سرور خان
Appellant

Through

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt
Advocate High Court

Bassam Ahmad Siddiqui
Advocate High Court
LL.M- Human Rights

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

- 6 -

Annexure A



13

Personal Information of Mr GHULAM SARWAR KHAN d/w/s of ABDUL QAYYUM KHAN

Personnel Number: 00295133

CNIC: 1120103913259

NTN:

Date of Birth: 08.10.1970

Entry into Govt. Service: 07.10.1989

Length of Service: 34 Years 03 Months 026 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH

81203358-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6777-

Payroll Section: 001

GPF Section: 001

Cash Center: 10

GPF A/C No:

GPF Interest applied

GPF Balance:

411,196.00 (provisional)

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type: Civil BPS: 15

Pay Stage: 25

Wage type	Amount	Wage type	Amount
0001 Basic Pay	73,420.00	1001 House Rent Allowance 45%	3,524.00
1210 Convey Allowance 2005	2,856.00	1300 Medical Allowance	1,500.00
1505 Charge Allowance	40.00	2148 15% Adhoc Relief All-2013	985.00
2199 Adhoc Relief Allow @10%	660.00	2316 Teaching Allowance 2021	3,224.00
2341 Dispr. Rcd All 15% 2022KP	7,006.00	2347 Adhoc Rel AI 15% 22(PS17)	7,006.00
2378 Adhoc Relief All 2023 35%	25,004.00		0.00

Deductions - General

Wage type	Amount	Wage type	Amount
3015 GPF Subscription	-4,290.00	3501 Benevolent Fund	-1,200.00
3609 Income Tax	-3,302.00	4004 R. Benefits & Death Comp:	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
6505	GPF Loan Principal Instal	504,000.00	-14,000.00	378,000.00

Deductions - Income Tax

Payable: 51,599.88 Recovered till JAN-2024: 22,190.00 Exempted: 12899.98 Recoverable: 16,509.90

Gross Pay (Rs.): 125,225.00 Deductions: (Rs.): -23,392.00 Net Pay: (Rs.): 101,833.00

Payee Name: GHULAM SARWAR KHAN

Account Number: 5011-0

Bank Details: NATIONAL BANK OF PAKISTAN, 231305 NBP TITER KHEL LAKKI NBP TITER KHEL LAKKI MARWAT, LAKKI MARWAT

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: LAKKI

City: LAKKI

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: ghulamsarwar295133@gmail.com

System generated document in accordance with APPM 4.6.12.9(818037/26.01.2024/v3.0)

* All amounts are in Pak Rupees

* Errors & omissions excepted (SFRVICES/02.02.2024/20:08:48)

Handwritten signature and stamp

APPOINTMENT.

6 A

The appointment of candidates mentioned below duly recommended by Hon'ble Ministers and Hon'ble Minister for Irrigation / P.W. and approved by the Chairman Distt. Dev. Adv. Committee, Bannu dated 16.9.1989 at schools notes against their names in SP5-7 Rs.750/-PM Fixed/ Rs.750-31-1370 plus usual allowances as admissible under rules as P.T.C. teachers is hereby ordered in the interest of public service with immediate effect.

No.	Name & Address of the Candidate.	Place of posting.	Remarks.
1.	Abdul Jalil S/O Amir Khan of W. J. Khel.	GPS, Gara Khan Baka Khel.	V/Post
2.	Sawidullah Khan S/O Lomidullah of Kallan.	GPS, Mak Killa Wazir.	-do-
3.	Gul Mohd S/O Ghulam Nabib of B. J. Khel.	GPS, Musharraf Wazir Khel.	-do-
4.	Muhammad Khan S/O Abdul Qadir of B. J. Khel.	GPS, B. J. Khel.	-do-
5.	Ayaz Khan S/O Gul Hakim of B. J. Khel.	GPS, Saor Ali Khan Bizen Khel.	-do-
6.	Ghulam Sarwar S/O Ghulam Sarwar of B. J. Khel.	GPS, Manzil Khel.	-do-
7.	Mir Jan S/O Sadullah Jan of Mina Khel.	GPS, Mir Ghafar Ghora Baka (Vice Khel).	Sakhi Zaman transferred
8.	Abdul Wahid Khan S/O Mohd Said of Magra Landiwah.	GPS, Warkhan Ghora Baka Khel.	V/P
9.	Usar Gul S/O Sh. Karim of Bakhsh Lakki Mina Khel.	GPS, Jonai Baka Khel.	V/Post
10.	Mohd Salim Khan S/O Sher Jan of Bakhsh Lakki Mina Khel.	-----do-----	-do-
11.	Abdur Wahid S/O Arab Khan of Bakhsh Lakki Mina Khel.	GPS, Mohd Khel Wazir.	-do-
12.	Saharwar Khan S/O Syed/Khan of Kana Toti Sai Colony Mixhan Khel Landiwah.	MPS, Noor Sul.	-do-
13.	Mohd Akram Khan S/O Mohd Sher of Mangi Khel.	GPS, Sanzar Khel Murghali.	-do-
14.	Muhammad Khan S/O Khadar Khan of Bakhsh Lakki Mina Khel.	MPS, Kankal Ghora Baka Khel.	-do-
15.	Muhammad Khan S/O Qasim Khan of B. J. Khel Lakki.	MPS, Nasardin Suerdil.	V/Post.
16.	Muhammad Khan S/O Ghulam Nabib of B. J. Khel.	GPS, Lapri Killa.	-do-

- OTs:-
1. Charge report should be sent to all concerned.
 2. NO. Tr/D. is allowed.
 3. The appointment of the candidates is purely on temp. basis and liable to termination at any time without any notice.
 4. The candidates will produce their health & age certificates from the M.S. D.H.Q. Hospital, Bannu.
 5. The head of the office is required to check the org. certificates of candidates and also verified the antecedence for the candidates under the rules. (6) They will be on probation for the period of two years as per rules.

(Signature)
 HAJI MOHAMMAD ASLAM KHAN
 DISTRICT EDUCATION OFFICER (M.A.E)
 BANNU
 23.9.1989

POST: NO. 130-152 / 2-2500
 Copy of the above is forwarded to the

Annexure - B

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar, the 06/8/2020

(Sd/-) Chief Secretary In exercise of the powers conferred by section 25 of the
Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of
1973) 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-rule (5) shall be deleted.

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

NOTE: NO & 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.
- The Deputy Director (IT), E&A Department.
All Section Officers in Establishment & Administration Department.
The Section Officer (Admn), Administration Department with the request to
arrange 20 gazette copies.
The Caretaker, Administration Department.

(Signature)
OWALJAH LATIF
DEPUTY SECRETARY (POLICY)

ATTESTED



(Signature)

B/C -8-

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:

AMENDMENT

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

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

(WARDAH LATIF
DEPUTY SECRETARY (POLICY)

[Handwritten signature]

21.06.23

Section Officer (Policy)

Yours faithfully,
Section Officer (Policy)

Copy forwarded to the:
1. PS to Special Secretary (Reg), Establishment Department.
2. PS to Additional Secretary (Reg-III), Establishment Department.
3. PS to Deputy Secretary (Policy), Establishment Department.

3/6
-ASE

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

The Government of Kyber Pakhtunkhwa,
Secretary & Secondary Education Department.

Subject: GUARANTEE REGARDING PROMOTION OR HIGHER POST IN THE CIVIL SERVICE (MANNERS) RULES, 1987.

Dear Sir,

I am directed to refer to your letter No. SO (History-M) dated 18.04.2023 in the subject noted above and to state that Sub-rule (3) of Rule-7 of Kyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1987 stands deleted vide the departmental notification dated 06.08.2020; thus, no provision exists to decide or forgo promotion.

The basic rationale behind the deletion of the said rule is aimed at preventing a prevalent trend of resignation for higher posts by making it a rigidly normative provision or to prevent those who tend to forgo promotion for evade posting/transfer or show lack of responsibility to take higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

6.2

GOVERNMENT OF KYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
The Government of Kyber Pakhtunkhwa
Establishment Department
Islamabad



Amex - C



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Form No. 091-9223587)

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

To

The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.

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

[Handwritten Signature]
26/6/23

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

[Handwritten Signature]

[Handwritten Signature]
(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

[Handwritten Signature]

[Handwritten Signature]
SECTION OFFICER (PRIMARY MALE)
26/6/23

[Handwritten Signature]



B/c -11-

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

To
The Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

Aziz Ullah Ichan President
President
All Primary Teacher's Association, KP

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

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

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

Encl: AA

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)



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

Annexure
①


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


Sl	NAME	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. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat Khyber Pakhtunkhwa Peshawar

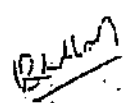
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.


3. After thorough discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case properly and submit a self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

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


(Mr. Fazal Wahid)
Deputy Director-I
E&SE Department


(Mr. Aziz Ullah)
Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


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

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



-13-
-B/C-

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

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

S/N	NAME	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. RAFAQAT ULLAH	GENERAL SECRETARY APTA PESHAWAR
4.	Muhammad Ishaq	Section Officer (Primary) E&SE Department Civil Secretariat 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 a self-contained/consolidated case for onward submission to Establishment Department for further necessary action.

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

(Mr. Fazal Wahid)
Deputy Director-1
E&SE Department

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Rafaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

[Handwritten signature]

WP4443-2023 AZIZULLAH VS GOVT OF POKH

Assistant Director (Exhibit-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

- 1. PA to Director, Local Directorate.
- 2. Master Copy.

Copy of the above is as:-

Assistant Director (Exhibit-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa
21/7/2023

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.
Teachers holding JPE-16 may be exempted of implications of the amendment in the rules laid
7(2) have offered respectively a huge number of female Teachers. Thus it is prepared that

In view of the above, this office is of considered opinion that the decision of Rules
has been asked for exhibition of consolidated case.

Chairman/Secretary of the Departmental Promotion Committee at his office this office has
That in the light of the minutes of meeting dated 6-07-2023 held under the
(Primary-4) EASED/2-1/19/2023 dated 12-06-2023.

The same was received by this office from your good office vide letter No.50
civil servant to accept promotion under every condition.

That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation
No.50 (Primary-4) EASED/2-1/19/2023 for necessary guidance.

That your office forwarded the same to the quarter concerned vide letter
promotion.

(ii) If the promotional of the civil servant to either accept or turn down the offer of
No.6987 dated 06-02-2023.

That this office should guide from your good office in the following words vide letter
wide notification No. 50-N-1 (EAD)/1-2/2020 dated 08-08-2020.

That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing)
dated Rule 7(2) in the Civil Servants (Appointment, Promotion & Transfer Rules 1980)

present brief history about the background of the case as under:

G. Muz/Ministry of the meeting/PT/2023 dated 10-07-2023 on the subject cited above and in
I am directed to refer to the letter No.50(Primary-4)EASED/2-1/19/2023

The Section Officer (Primary-Male),
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Peshawar.

To

Phone: 09122344
Email: esohab@khyber.gov.pk



No. 8145

Khyber Pakhtunkhwa Peshawar
PR No. 11557/2023
Date: 21/7/2023

Asst. Director
Elmentary & Secondary Education
Khyber Pakhtunkhwa

Copy of the above to:
1. PA to Director Local Directorate
2. Master Copy

In view of the above, this office is of considered opinion that the deletion of Rules 7(S) have effected negatively a huge members of female teachers. The case is submitted for perusal and necessary action please.

That in light of the minutes of the meeting dated 6-07-2023 held under the chairmanship of Hon. Additional Secretary Education, this office has been asked for submission of consolidated case.

That the government of KP-ED (Regulation Wing) vide letter No. SO (Reg) EQAD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to declare foreign provision. It is obligatory upon every civil servant to accept promotion under any condition.

That your good office forwarded the same to a/units concerned vide letter No. SO (Promo) EQSED/2-2/Appointment-2023 for necessary guidance.

That this office sought guidance from your good office in the following words vide letter No. 6983 dated 06-08-2023.

That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, Promotion, Transfer Rule 1997) vide notification No. No. SOP-VI (EQAD) 1-3/2020 dated 06-08-2020.

I am directed to refer to letter No. (SO. Promo-M) EQSED/5-1/67111/Ministry of meeting/PST/2023 dated 30-7-2023 on subject cited above and to present brief history, about background of case as under.

Subject: Minutes of Meeting
KPR, Peshawar
Elmentary & Secondary Education Department

To: Section Officer (Promo-Male)
Elmentary & Secondary Education, KPR
Peshawar
(21-7-2023)



ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-8223587)

No. 50(Policy-M)EBSE/1-3/APPOINTMENT/RULE /2023
Peshawar Dated 23rd August, 2023

Annexure
E

The Secretary to Govt. of Khyber Pakhtunkhwa,
Establishment & Administration Department,
Peshawar

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

Dear Sir,

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated 05th June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer Rules 1989) it has been intimated that those officers/ officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceed under Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

2. In this connection it is submitted that in some cases lady teacher of primary level who avail such promotions have to face serious inconvenience 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 or mother-in-law who need care. In such cases, there are negative effects on service delivery.

3. In view of the above, the said amendment may be reconsidered to the extent of lady teacher in primary schools.


MUHAMMAD ISHAQ
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
20/8/23

Scanned with CamScanner

-B/c- 17-

No. 50 (Primary - M) E & SE D / 9-201
Amendment - Rule / 2023
Peshawar Dated 23rd August, 2023.

To

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment and Administration Department,
Peshawar.

SUBJECT: - Guidance regarding deletion of Rule 7(S) in the
Civil Servant (Appointment, Promotion & Transfer Rules
1989).

Dear Sir,

I am directed to refer to your letter No. So (Primary) (Policy) / E & AD
/ 1-3 / 2020 dated 31st June 2020 and to state that after
deletion of Rule 7(S) (Khyber Pakhtunkhwa Civil Servant (Appointment,
Promotion and Transfer Rules 1989)) it has been intimated that
those officers/officials who do not comply with promotion order
of the competent authority or try to evade promotion through
different means shall be proceed under Khyber Pakhtunkhwa
Civil Servant (Efficiency and Discipline) Rule 2011.

In this connection it is submitted that in some cases lady
teachers of primary level who avail such promotion have to
face serious inconvenience while they have to perform duties
in the remotest stations with no residential / transport facilities.
Most of them are married with kids and elder father of
Mother-in-law who need care. In such cases there are negative
effects on service delivery.
In view of above, the said amendment may be reconsidered to
the extend of lady teacher in primary schools.

Copy forwarded to;

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

(Muhammad Ishaq)
Section Officer (Primary
Males)

UPPAAZ-2023 Khyber Pakhtunkhwa



Annexure - F



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

To

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

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE
KHYBER 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 rendered to your good office vide this department letter of
even No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Encls. 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.

-19-

- B/c -

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

To

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

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

Dear Sir,

I am directed to refer to your letter No. SO(Primary-M)/E&SBB/2- 1/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)

Index 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 Officer (Policy)

Annexure - G

To,

- 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

Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020, 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 that, as per notification No. SO (Policy) E&AD/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&AD/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 28/10/2024

06/10/24

Ghulam Sarwar Khan
S/O Abdul Quyyum Khan
PSHT

Khyber Pakhtunkhwa

A-12, Ullah Khan
President
0333-8114648
www.apta.org.pk



APTA House
Govt. Primary School No.1,
Quicker Pathwar Circle

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) خیبر پختونخوا

Annexure - H

مہذب: سیکرٹری وائس پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا
مہذب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا
بیت مال

گزارش ہے کہ پروسٹیز اور ایسے ہی ایسے ہیں کہ سرکاری ملازم کی خواہش اور اس سے پروسٹیز کا ایک ٹائون اڈا کرنا تھا کہ ہر ملازم ایک ایک کسی
بجورگے وقت ایک رولہ پروسٹیز میں تو وہ آٹھ چار سال تک پروسٹیز میں لے سکتے تھے مطلب پانچ سال تک ہر اس کی پروسٹیز میں وہ سکن تھی
پھر اس ٹائون میں سرکاری دہلیت رکھا گیا پانچ سال بعد کہ اس کی ایک ملازم ایک سال پروسٹیز نہ لیں تو دوسرے سال لے سکتا ہے
لیکن اب ایک رولہ پہلے ایک اور ٹیچر میں ہوا ہے

جس کے مطابق اب ہر ملازم پروسٹیز نہیں لے کر لے لیا جس کے خلاف ایسے ٹائون کے مطابق ٹائون کرنا کہا گیا ہے
اس معاملے میں آخری ٹیچر میں ایسے ٹائون کی کئی خلاف دہلیت ہے جسے کی دہلیت اور پانچ سال قانون میں اس کی خواہش اساتذہ کے اہم مطالبات کا
مقابلہ ہے

پھر عام حالات میں بھی لہذا وہی پروسٹیز اور دوسرا بیجا کی بیانیہ ایسے ٹائون کی خلاف دہلیت ہے کہ ٹیچر پختونخوا میں پروسٹیز سے قانون دشمنی
کی آہلی ہے لیکن حالات میں یہ یا ٹیچر میں جو اس کے خلاف دہلیت ہے جس کی بیانیہ ٹیچر کی جواب میں کیا گیا ہے جو دہلیت اور بیانیہ ایسے ٹائون کی خلاف ہے
میں اس کے خلاف دہلیت پانچ سال تک کی صورت دیکھتے ہیں

ملازم آپ سے دہلیت ایسے کہہ کر کہ ٹیچر میں کہ دہلیت لیا جائے یا اس میں جو قسم کر کہ پرائمری اساتذہ کو (Debarment) دیا جائے اور اس
لہذا اس پروسٹیز لینے کی ہمارے ان کو مرضی سے لینے دیا جائے

اور پروسٹیز لینے کی صورت میں پانچ سال دہلیت لیا جائے لیکن یہ لہذا دہلیت نہ کی جائے
اس سلسلے میں آپ سہ ماہی لہذا (DRO) ایسے ایسے ایک قسم سے معاملہ دہلیت کیا جائے تاکہ اطلاع میں یہ سب / لیٹل پرائمری اساتذہ کو دہلیت
البتہ اور پانچ سال سے لینا جائے

کہے کہ ٹیچر میں دہلیت ایسے ہی پرائمری اساتذہ کو دہلیت طور پر دہلیت کر کے اس سلسلے شروع ہونا ہے
لہذا یہ دہلیت دیکھتے ہیں کہ جب سامان لہذا ایسے لہذا سب بر کے پرائمری اساتذہ، خیر ما لیٹل پرائمری اساتذہ، کہ اس دہلیت البتہ سے ہمارے دہلیت کے

عکریہ

عزیز اللہ خان سربراہ امور
آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا