


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

Appeal No. 2373 /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 23722024

Muhammad Younus

**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. 2372 /2024

Muhammad Younas Son of Niaz Khamim Resident of Karak District Karak

.....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

.....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. 3 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**

**P R A Y E R:**

**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**

**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 01-09-1988.  
Copy of Monthly Salary account is annexed as **Annexure A**
2. That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always 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,

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 **Annexure C**
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 **Annexure E**
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 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 **Annexure "H & I"**

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 **Annexure "J & K"**

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:-

**GROUND:-**

- a. That as per various judgments it is established and settled principle that executive notifications cannot be given retrospective effect. A valid Notification

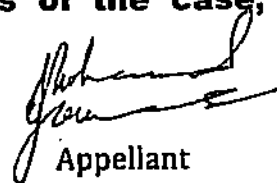
- which confers rights is always applicable with prospective effect, however, if an amendment notification that adversely effects the interests of the employees or causes disadvantage to the employee is not tenable in the eyes of law. The notification/ guidance dated 06/08/2020 06/06/2023 are liable 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 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.
- 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 appellants 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 06/08/2020 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.**

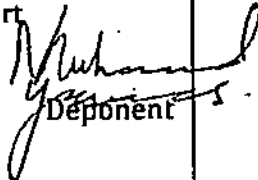
**It is further prayed that no penal action as proposed and envisaged in letter dated 60/06/2023 may be declared as unlawful, illegal and without having any legal effect.**

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


  
Appellant

**AFFIDAVIT:**

I Muhammad Younas Son of Niaz Khamim Resident of Karak District 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

Through

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

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



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

C.M No \_\_\_\_\_/2024

In

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

Muhammad Younas

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.**

Respectfully Sheweth:-

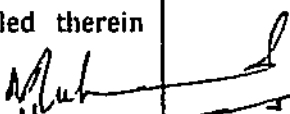
1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant has brought a good prima facie case and balance of convenience also lies in favour
3. There is likelihood of success of the appellant in the lis. The impugned notification dated 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.
4. That valuable right of the appellant is involved.

In view of the above it is humbly prayed that notification No. 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 suspended till final disposal of the main service appeal.

  
Appellant

**AFFIDAVIT:**

I Muhammad Younas Son of Niaz Khamim Resident of Karak District 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

through

  
Muhammad Muazzam Butt  
Advocate Supreme Court

  
Muhammad Adeel Butt  
Advocate High Court

8

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK.

ALFOIN

Mr. Mohammed Younsas/o Niaz Khamim resident of Vill: 2, P.O Karak Tehsil & District: Karak is hereby appointed as P.T.C. (Un-Trained) Teacher in BPS.7 (750-31-1370) at Rs. 750/- Fixed pay usual allowances as admissible under the rules at G.P.S. Spina vice Mr. Azmat Ali selected for P.T.C Training in the interest of public service with effect from his taking over charge.

TERMS AND CONDITIONS.

1. His appointment is made purely on temporary basis and liable to termination at any time with out assigning any reason or prior notice.
2. In case of resignation he will have to submit one month prior notice or to submit one months pay to the department.
3. He should produce Health and Age certificate from a Medical Superintendent concerned before handing over charge.
4. He will not be allowed to take over charge in case his age is less than 18 years and above 25 years.
5. Charge report should be submitted to all concerned.
6. TA/DA and transfer grant etc is allowed.

*(Signature)*  
(ANZAL MOHAMMAD)

// District Education Officer  
(Male) Karak.

Encl. No. 592-73 Dated 31.8.1983.

Copy of the above is forwarded for information and necessary action to the:-

1. Sub Divisional Education Officer (Male) Karak.
2. Candidate concerned.

*(Signature)*  
// District Education Officer

Office of the Sub Divisional Education Officer Karak

Encl. No. 598-600 (A-5) Dated 31/8/1983

Copy of the above is forwarded to the:-

1. Head Teacher G.P.S. Spina.
2. ASDEO Comisariat.
3. Assessmental local office.

*(Signature)*  
Sub Div: Education Officer  
(Male) Karak

4-

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



Personal Information of Mr MUHAMMAD YOUNAS d/w/s of NIAZ KHAMIM

Personnel Number: 00301014    CNIC: 1420213566809    NTN:  
 Date of Birth: 03.06.1968    Entry into Govt. Service: 01.09.1988    Length of Service: 35 Years 05 Months 001 Days

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL HEAD TEACH    80002665-DISTRICT GOVERNMENT KHYBE  
 DDO Code: KK6007-Deputy District Officer(M) Primary KARAK

Payroll Section: 001    GPF Section: 001    Cash Center: 28  
 GPF A/C No:    GPF Interest applied    GPF Balance:    249,891.00 (provisional)

Vendor Number: -

Pay and Allowances:    Pay scale: BPS For - 2022    Pay Scale Type: Civil    BPS: 15    Pay Stage: 26

Wage type		Amount	Wage type		Amount
0001	Basic Pay	75,400.00	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	1,020.00
2199	Adhoc Relief Allow @10%	682.00	2316	Teaching Allowance 2021	3,224.00
2341	Dispr. Red All 15% 2022KP	7,206.00	2347	Adhoc Rel Al 15% 22(PS17)	7,206.00
2378	Adhoc Relief All 2023 35%	25,697.00			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	-3,596.00	3990	Emp.Edu. Fund KPK	-135.00
4004	R. Benefits & Death Comp:	-600.00			0.00

**Deductions - Loans and Advances**

Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax**

Payable: 56,294.88    Recovered till JAN-2024: 24,244.00    Exempted: 14073.23    Recoverable: 17,977.65

Gross Pay (Rs.): 128,355.00    Deductions (Rs.): -9,821.00    Net Pay (Rs.): 118,534.00

Payee Name: MUHAMMAD YOUNAS

Account Number: 0271-7

Bank Details: NATIONAL BANK OF PAKISTAN, 230451 KARAK KARAK CITY, KARAK

Leaves:    Opening Balance:    Availed:    Earned:    Balance:

**Permanent Address:**

City: KARAK

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: m.younas78675@gmail.com

System generated document in accordance with APPM 4.6.12.9(50398429/26.01.2024/v3.0)

All amounts are in Pak Rupees

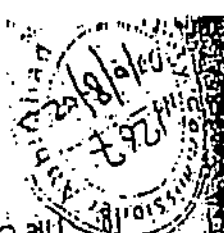
\* Errors & omissions excepted (SERVICES/02.02.2024/20:10:53)

1-11-80

DEPUTY SECRETARY (POLICY)  
(WALAH LATIF)

*Walaha Latif*

ATTESTED



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

NO. & EVEN DATE

CHIEF SECRETARY  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

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

AMENDMENT shall be made, namely:

(i) the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, in which the powers conferred by section 26 of the Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. VIII of 1973) shall be amended to read as follows:

(ii) 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 amendments shall be made, namely:

NOTIFICATION  
Dated: Peshawar, the 08/8/2020

GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)

Annexure B



B/C - 11 -

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)

Section Officer (Policy)

(Jaan Bahadur Khan)  
Section Officer (Policy)

Yours faithfully,

- 1. SG to Special Secretary (Reg.) Establishment Department
- 2. PA to Additional Secretary (Reg-III), Establishment Department
- 3. AS to Deputy Secretary (Policy), Establishment Department

Copy forwarded to:-  
Rudal: Of even No & date

2011, please.

Further, those officers/Offials 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,

3. Furthermore, those officers/Offials 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.

The basic rationale behind the bid rule is aimed at preventing a civil servant from competing for a single lucrative position or to prevent those who tend to forge promotion to evade posting/transfer or show lack of capacity to take higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

1. I am directed to refer to your letter No. HO/17/2023 dated 18.01.2023 on the subject noted above and to state that sub-rule (5) of rule-7 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 stands deleted vide this department notification dated 08.08.2020 thus, no provision exists to defile or forge promotion.

Dear Sir,  
Subject: **QUARANTINE DIRECTION OF RULE 7(a) IN THE CIVIL SERVICE (GENERAL) REGULATIONS, 1954**

To  
The Government of Khyber Pakhtunkhwa  
(Ministry & Secondary Education Department)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. 60(Pol/Reg-III)/2020  
Dated: 06.06.2023



Annexure C



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.001-9223507)

No.SO (Primary-MYE&SED/2-6/2023  
Dated Peshawar lhc. June 26<sup>th</sup>, 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, 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 (E&SE)  
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 initials]*

*[Handwritten signature]*  
(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

*[Handwritten initials]*

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

- 14 -

B/c

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

To

The Director  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa, Peshawar

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

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

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

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

Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)



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.


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

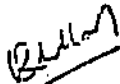
2. The meeting started with recitation from the Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

3. After 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-  
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

- 16 -

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

S/II	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 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. Razaqat Ullah)  
General Secretary APTA  
Peshawar

\_\_\_\_\_

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

\_\_\_\_\_

(Abdullah)

Additional Secretary (Establishment)



No. 8145

Khyber Pakhtunkhwa, Peshawar

F.No. 34/SST/NU General Cases

Dated 21-7-2023

Phone: 091-9223344

Email: establishmentmale1@gmail.com

To

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

Subject - MINUTES OF THE MEETING  
Dear Sir,

I am directed to refer to the letter No. SO (Primary-M) E&SED/3-1/ G.Misc/Minutes of the Meeting/PST/2023 dated 10-07-2023 on the subject cited above and to present brief history about the background of the case as under:

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, promotion & Transfer Rules 1989) vide notification No. No. SOR-VI (G&AD)/1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 6987 dated 06-02-2023.
  - (i) Now it is obligatory upon the civil servant to accept Promotion in every condition.
  - (ii) It is the prerogative of the civil servant to either accept or turn down the offer of promotion.
- That your good office forwarded the same to the quarter concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) vide letter No. 44 (Follow) PMA/1-3/2020 dated 06-06-2020 categorically stated that there exists no provision in decline or forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- The same was received by this office from your good office vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 dated 12-06-2023.
- That, in the light of the minutes of meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office this office has been asked for submission of consolidated case.

In view of the above, this office is of considered opinion that the deletion of Rules 7(5) have affected negatively a huge numbers of Female Teachers. Thus it is proposed that Teachers below OPS-16 may be exempted of implications of the amendment in the rules (bid provided they submit their written refusal prior to conclusion of the meeting of Departmental Promotion Committee.

The case is submitted for perusal and necessary actions please.

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

Encls: No. \_\_\_\_\_

Copy of the above is to:-

1. PA to Director Local Directorats.
2. Master Copy.

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

- TX -

- B/C -

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

To:

Section Officer (Primary-Male),  
Elementary & Secondary Education Department  
KPK, Peshawar.

PESHAWAR.  
(21-7-2023)

Subject: Minutes of Meeting

Dear Sir;

I am directed to refer to letter No. (SO Primary-M) E&SED/S-1/G/Mtl/Minstes of meeting/PST/2023 dated 10-7-2023 on subject cited above and to present brief history, about background of case as under:-

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion, Transfer Rule 1989) vide notification No. No. SDR-VI (E&AD) 1-3/2020 dated 06-08-2020.
- That this office sought guidance from your good office in the following words vide letter No. 6987 dated 06-07-2023
  - (i) Now it is obligatory upon civil servant to accept promotion.
  - (ii) It is prerogative of civil servant to either accept/turndown the offer of promotion.
- That your good office forwarded the same to quarters concerned vide letter No. SO (Primary-M) E&SED/2-2/Appointment/2023 for necessary guidance.
- That the government of KP-ED (Regulation Wing) vide letter No. SO (Policy) E&AD/1-3/2020 dated 6-06-2023 categorically stated that there exists no provision to decline/forgo promotion. It is obligatory upon every civil servant to accept promotion under every condition.
- That in light of the minutes of the meeting dated 6-07-2023 held under the Chairmanship of Hon. Additional Secretary Establishment at his office. This office has been asked for submission of consolidated case.

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

The case is submitted for perusal and necessary actions please.

Copy of the above to;

1. PA to Director Local Directorate
2. Master Copy

Assistant Director  
Elementary & Secondary Education,  
Khyber Paktunkhwa.

Scanned with CamScanner

SECTION OFFICER (PRIMARY MALE)  
28/09/23

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

Copy forwarded to the:

SECTION OFFICER (PRIMARY MALE)  
(AUNHABAD)

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

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.

I am directed to refer to your letter No. SO(Policy)/EAD/1-3/2020 dated 06 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.

Yours Sir,

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

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

(T). SO(Primary-M)EASED/2-2/Appointment-Rule /2023  
Peshawar Dated 28<sup>th</sup> August, 2023

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No.091-822387)



Annexure

E

- B/c -

- 22 -

No. 50 (Primary-M) E3 SED / 8-8 /  
Appointment - 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. 50 (Primary)  
(Policy) / E3 AD  
1-3/2023 dated 8th June 2023 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 2012.

In this connection it is submitted that in some cases lady  
teacher 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 extent of lady teacher in primary schools.

Copy forwarded to,

1. Director E3 SE Khyber Pakhtunkhwa.

2. PS to Secretary, E3 SE Department Khyber Pakhtunkhwa

(Muhammad Ishaq)  
Section Officer (Primary  
Male)

Annexure



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 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.

- 22

- 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&SED/2- 2/Appointment-  
Rule/2023 dated 28.08.2023 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 officer (Policy)



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

**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**

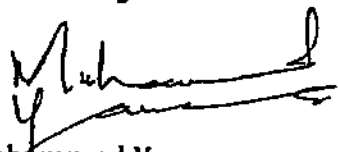
Sir/ Madam:-

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



Muhammad Younas  
Son of Niaz Khamim  
Resident of Karak District Karak



07.05.2024



1. Learned counsel for the appellant present.
2. Let a pre-admission notice be issued to the respondents through TCS for submission of 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.

Certified to be true copy (Muhammad Akbar Khan)  
Member (I)

*[Handwritten signature]*  
13-6-24

Date of Presentation of Application 10-6-24  
 Number 5/1  
 Copy 5/1  
 Urgent 5/1  
 Total 5/1  
 Name of 5/1  
 Date of 13-6-24  
 Date of Delivery of copy 17-6-24

# VAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD YOUNAS.  
Versus

Appellant

Government of KP & others

Respondents

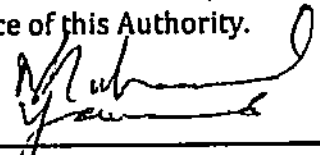
*I (the Appellant)*

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.

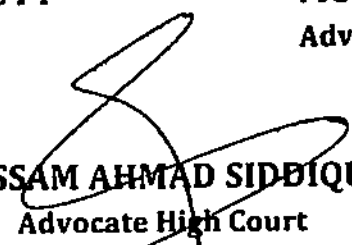
I agree to ratify all acts done by the aforesaid Advocate in pursuance of this Authority.

  
\_\_\_\_\_  
**APPELLANT**

**ACCEPTED**

  
**MUHAMMAD MUAZZAM BUTT**  
Advocate Supreme Court

  
**MUHAMMAD ADEEL BUTT**  
Advocate High Court

  
**BASSAM AHMAD SIDDIQUI**  
Advocate High Court