FORM OF ORDER SHEET

Court of	W
Appeal No.	2386 /2024

Court of			
	<u>Ap</u>	peal No. 2386 /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	
į		Muazzam Butt Advocate. It is fixed for preliminary hearing	
		before Single Bench at Peshawar on 14/11.2024. Parcha Peshi	
1		given to counsel for the appellant.	
		By order of the Chairman REGISTRAR	
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

C.M No	P of 2024
In Ref to	
Service Appeal No	238/2024

Sana Ullah

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

INDEX

S#	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification	*	1-4
2.	Application for suspension	*	5
3.	Copy of Monthly Salary Account	/ A	6-69
4.	Copy of notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020	В	7-8
5.	Copy of impugned Letter dated June 6 th , 2023	. c	9-11
6.	Copy of Minutes of meeting dated 06-07-2023	D :	12-15
7.	Copy of Letter dated 23-08-2023	E	16-17
8.	Copy of Impugned letter dated 07.09-2023	F	18-19
9.	Copy of Representation against the sald notification and representation made by APTA President	G&H	20-21
10.	Wakalat Nama		22

ADVOCATE

M. Muazzam Butt

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2386 /2024

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:

1. That the Respondents Department appointed the Appellant as Theology Teacher. Copy of Monthly Salary account is annexed as <u>Annexure A</u>

- 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.
- 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:-

"Purthermore, 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
- 6. That the Directorate of Blementary & 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 prevision 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 Rhyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department svide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. Copy of Letter dated 23-08-2023 is attached as <u>Annexure E</u>

- 9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Capy 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 ustablished and social 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 wife foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were permanently deharred from availing the facility of gremation 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.
- Fig. 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 hutter 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 bb/06/2020, may please be declared and official 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.

APPHAVPP

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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

Deponent

Through

Muham ried Muazzzam Butt Advocate/Supreme Court

Appellant

Muhammad Adeel But Advocate High Court

Bassam Aldnad Siddiqui Advocate High Court

LL.M- Human Rights

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

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

Sana Ullah

VERSUS

Secretary to Government of Khyber Pakhtunkhwa, & others

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

Respectfully Submitted:-

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

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

AFFIDAVIT

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

Deponent

Alder

Through

Muhammad Muazzam Butt Advocate Supreme Court

melllah

Muhammad Adeel Butt Advocate High Court

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





Personal Information of Mr SANA ULLAH diwa of HAMEED ULLAH KHAN

Personnel Number: 00308471

CNIC: 1120103774605

Osie af Blitti: 02.02.1971 र्रातिक विवाद देवार के स्थान हुए । बर्जनियं होति ।

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Employment Category: Active Temporary

Designation: THEOLOGY TEACHER

80003030-DISTRICT GOVERNMENT KHYDE

DDO Code: LK6002-

Payroll Section: 001

GPF A/C No: V_12CPF P-95

GPF Section: 001 **GPF** Interest applied

Cash Center: 43

711,293 (#) (processoral)

Vendor Number -

Pay and Allowanees:

Pay scale: BPS For - 2022

Pay Scale Type: Civil 109S: 15

GPF Balance:

Pay Stage: 13

	Wage type	Ampunt		Wage type	Amount
9601	Basic Pay	49,660 (8)	1001	Thatse Rent Allowance 45%	3.524.00
1210	Convey Allowance 2005	2,856 00	1300	Medical Allowance	\$ \$4(e),4(e)
_	15% Adhoc Relief All 2013	530.00	2199	Adhor Relief Allow to 10%	353 UU
	Teaching Allowance 2021	3,224,00	2341	Dispr. Red All 15% 2022KP	4,613 (84
	Adhue Rel Al 15% 22(PS17)	4,615 (0)	2378	Adhoc Relief All 2023 35%	16.655 (8)

Deductions - General

	Wage type	Amount	Wage type	Amount
3015	GPF Subscription	-4,290.00	3501 Denevolent Fund	-1,200.00
3600	Income Tax	-705.00	3990 Emp.Edu. Fund KPK	+133,091
	R. Benefits & Death Comp:	-600 00		0.00

Deductions - Loans and Advances

Luan	Description	Principal amount-	Deduction	Balance

Deductions - Income Tax

11.031.28 Payable

Recovered till JAN-2024:

4,750,60

Exempted: 2757.63

Recoverable:

3,523,65

Gross Pay (Rs.):

87,596,00

Deductions: (Rs.):

-6.930.00

Net Pay: (Rsd:

80,666,00

Payee Name: SASA ULLAH Account Number, 2716-5

HARE DOWN: NATIONAL HANK OF PAKISTAN, 221/05 NIP TITBE RHEE LAKKENDP TITER KHEL LAKKENARWAT. LAKKIMARWAT

Leaves:

Opening Halance

Availed:

Earwel:

Dalance.

Permanent Address:

Chy: LAKKI

Domicile: NW - Klyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City.

Email: khankumat082@gmail.com

Section generated document in accordance with APPM 4-6-12 9(8180) (7-26-01-2023); 0) * All amounts are in Pak Ropecs * Econy & militarity every field (SERCICES 02-02-2024-20-38-10).

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APECOUNTAIL STORING Officer (School S. Literacy) Labidi Murwat

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Charge reports should be submitted to all concerned.
No FA/DA is allowed to any one.
The appointment is purely made on temporary I contract basis in facts without a reging any reasonduction.
The initial period of appointment shall be for three years; after to be years it will require removably the competent authority purely in view of the best performance of fidefield paperfield.
The original documents shall be varified before drawn of pay by the DDO from the concented University Mechabitation asset of fabre drawn and approximate thall be considered. shall be considered as cancelled.

The appointee will take overclunge within 15 days, Those who failed to take overclarge with in 15 days after the of issue of this nater their appointment shall be automatically considered as cancelled.

The undersigned reserves the rights of amendment/afternion in this appointment

The appointee is required to produce their Health & age Certificates from the Medical Superintendent DHO Hospital Lakki Manwat.

(MR, MIR AZAM KHAN)
ENFORTME DISTRICT OFFICER Colond & Laconvellado Marva

11935 Dated Lakki The 16/9 coms.

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

Personal Secretary to District Co-malination Officer Lakki Marwat District Officer (S&L) (Male)Lakki Marwat District Accounts Officer Lakki Marwat.

Principal Aleadmastre Concerned.

Candidate Concerned.

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BKI MAKWAI RICT OFFICER

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07/57/14 DEPUTY SECRETARY (POLIC The Carembers, eccumination Department-·salgoa 201, gazalte, toppies. (Action of Resident Parament, Any Octavioral September), Administration Department, Administration Department, Administration Department, Mile Department, Administration Department with the request to Section of Registration Department with the request to Section of Registration Department with the request to Section of Registration Department. Mynthes Anto Sigil State Perint Resident, Perint Mary and and and an antonion of the Control of All Deputy Commissioners in Khyber, pathumbhwa. M. Authoritan Semi Autonomous Bodies in Khyber Pakhunlchwa. Hiteris of Anached Department in Klyber Paldnurklive. All Divisional Commissioners in Khyber pakhunkhwa The Principal Secretary to Chlet Minister, Khyber pakhunkhya. Participal Breteinty to Covernor Klyber, Pakhlunkhwa, Endhundinalistrictio dove of Khyber Pablininh IIA The Senior Member Bond of Revenue, Khyber Pakhunkliva. Development Deputiment. A.ldinonal Chief Secretory, Covi. of Khyber Pokhunkhwa, Planning "tot habrarrand b. m TILYU NON WOOD ON THE GOVERNMENT OF THE ICHYDER PAKEIT CHIEF SECRETARY in rule 7, yele-ruler(5) shull be deleted. Winner multiple managent shall be mitter namely: V.WILLIDWINT the kinder uncading a standard of production in pressed to direct that in the kinder the kinder of the kinder and the kinder of have the Khyber of Khyber Pakhluhklymi is pleased to direct this khyber khyber one to the khyber with the khyber to the principal to t The fraction of Khyber Pokhinikliwn is shearend to their the Khyber Pokhinakhwa Aci Bo.XVIII of the fraction of the fraction of Khyber Pokhinakhwa Aci Bo.XVIII of the fraction of the fractio in entireles of the puwers conferred by sectlehad affilier usery at at forth anything ! point. NOTTADIFUSION пвеньятьмийся อัพบัร งายตาทอพทราปแก่เรอ KHANGLEDVI HERRITA CONCENUENT OF

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.

CHIER SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)

A

PROPERTY AZIZIALAN VS GOVT CF

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РОУВ®ИМЕЩТ ФР КНУВЕК РАКИТИМКНЖА

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Pinono Mo.091-9223507)

No.50 (Primary-M)/E8SED/2-8/2023 Lialed Peshaviar Inc. June 26*,2073

Tσ

The Director

Elementary, & Secondary Education Department Khyber Palihlunkhwa, Peshowar.

Aziz Ullah Khan

President-

All Primary Teachor's Association, KP

Subject:

GUIDANCE REGARDING DELETION OF RULE 715) 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)E8A0/1-3/2020 dated 06 June, 2023 and to state that the subject meeting is to be held on 06 July, 2023 at 11:00 AM in this department under the Chalimanship of Additional Secretary (Estab) E&SE Department in his office.

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

Encl: AA

(MUHANIMAD ISHAO) SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFIC

WP4442-7723 AZIZULLAH VS GOVT CF PG43

Blc

No SO (Primary-M)/RRSED/2-6/2023 Dated Peshawar the June 26th 2023

To

The Director Elementary & Secondary Education Department Hyper Palchtunkhwa, Pashawar

Aziz Uliah 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&SC 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 MALII)

Copy forwarded to the:

1. PS to Secretary, E&SE Department Khybar Palchtunkhwa

SECTION OFFICER (PRIMARY MALE)

WP4442-2022 AZIZULLAH VS GOVT CF PG43

A

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR. ATIZ UILAH PROVINCIAL PRESIDENT IALL PRIMARY TEACHERS ASSOCIATION XHYBER 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 offended the meeting.

		· · · · · · · · · · · · · · · · · · ·
58	NAME	DESIGNATION
1	Mr. Pazal Wahld	Deputy Director Establishment of Directorols Elementary & Secondary Education Department
1	i Mir Abii Viloh	Provinciai Presideni Ali Primary Teachers : AsiBajailish Khyber Pokhlunkhwa
3	Mr. Ralagal Villah	General Secretary AFTA Foshowar
. 4	Muhammad Ishaq	Section Officer (Primary) ELSE Department Civil Sectelarial Khyber Pakhtunkhwa Peshawar

- The meeting started with recitation from the Holy Ouran. The chair welcomed
 the participants. The Deputy Director (Establishment) of Directorate of Elementary &
 Secondary Education bileted the forum regarding agenda Item in detail.
- 3. After threododic 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 thenks from the Chair.

(Mr. Fazal Wahld) Deputy Otraclar-I E&SE Department

(Mr. Rolagai Ullah) Géneral Socretary APIA Peshawai

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(Mr Axis Ulloh)
Provincial Provident
All Pimary Teachers Association
Khyber Pakhlunkhylo

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

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

WP4442-2023 AZIZULLAH VS GOVT CF PO43

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MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AND HELDEN 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 of 11:00 AM under the Chairmanship of Additional Secretary Establishment in his office. The following ottended the meeting

SII	NAME I	DESIGNATION
1.	Mr. Fazel Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2.	Mr. Aziz Uifah	Provincial President All Primary Teachers Association: Khyber Pakhtunkhwa
n	Mr. Rafaqat Ullah	General Secretary APTA Peshawar
4.	Muhammad Ishaq	Section Officer (Primary) EBSE Department Civil Angestarial Khyber Rakhtunkhwa 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.

	•
(Mr. Fakti 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	
· 1	•
' <u></u>	
	(Abdullah)
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Flore: 037-9271144

Kliyber Paklitunkliwa, Peshawar

No. 34/SST/)-UGdiaral Coses

Email: establellinienilmals [@guull.com

The Section Officer (Primery-Male), Elementery & Secondary Education Department, Kliyber Pakhtunkhon Pesharor...

MINUTES OF THE MEETING

APPHIN . I am directoit to refer to the latter No.SO(Primery-M)E&SED/3-1/ G.Mise/Minister of the Healths/PST/2023 dated 10-07-2023 on the subject clied above and to present brief liketory about the background of the case as under:

- That Government of Klyber Politicathyo Establishment Department (Regulation Wing) deleted Rulo 7(3) Initia Civil Servonts (Appointment, promotton & Transfer Rules 1989) wide notification No. No. SOR-VI (E&AD)/I-1/2020 doted 06-08-2020.

 That this office bought guidance from your good affice in the fallowing words vide latter
- No.6987 dated 06-02-2023.
 - (i) Now it thou ligatory upon the civil servant to accept Promution in every condition.
 (ii) It is the prepagative of the civil servant to other accept or turn down the offer of
- (ii) it in imprerogative of the civil servant to other accept or turn news the after of promotion.

 That your golf, office forwarded the same to the quarter concerned vide letter No.50 (Primary-b) EASED/2-2/Appointment/2021 for necessary guidance.

 That the Government of Klyber Pokhtunktivo Establishment Department (Regulation
- Wing) vide let it No.SO (Policy) &&AD/1-1/2020 deted 6-06-2023 categorically stated that there exists an provision in deciles or forgo premation. It is obligatory upon every givit septial is the spin provision uniter every 200 distribution with septial is the spin faceled by this office from your good office wide letter No. 168 (Primary-M) EASED/2-2/Appointment/2021 dated 12-05-2021.
- That, in the light of the minutes of mariling dated 6-07-2023 held under the Chairmonship of Han, Additional Secretary Establishment at his office, has sibmizion of consolidated case. heen asked fo

In vials of the above, this office is of constituent opinion that the deletion of Rilles. 7(5) have officed degalively a huge numbers of Female Teachers. Thus it is proposed that Teachers below 11%-16 may be exempted of implications of the amendment in the rules (bid provided they submit their written refued prior to conduction of the moeting of Departmental framotion Committee.

use is submitted for permal and necessary actions picture.

Austribut Director (Estab MI-I) Elamentary & Secondary Editention Khyber Pakhumkhwa

Endst: No.

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Capy of the libere is to:-

1. PA to Director Local Directorate.

2. Moster Copy.

Ambiew Director (Establis) Eleuwniary & Esecutiony Ethication Klipher Paklitunkhura

WP4442-2023 AZIZULLAH V5 BOVT CF PG43

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DIRECTORATE OF ELBYVENTARY & SECONDARY EDUCATION, KPK

To:

Section Officer (Primary Male).
Elementory & Secondary Education Department
1494, Peshawar.

Subject: Minutes of Meeting

Dear Sir; I am directed to rife to letter No. (So frimany -M) E & SED /5-1/GAVISL/ Minutes of meeting /357/2023 dated 20-7-2023 on subject cited above and to precent bit history, about backgrand of case as under:

That assumment of the Establishment dependment (Regulation Wing)

That Countyment of HP Establishment dependences (Agricultural Wings)

defeded rule 7(5) in Civil Servonts (Appointment, promotions, Transfer Rela 1989)

vide notification IVo. No. 5DR-VI(EGAD)1-3/2020 dated 06-08-2020.

· That this office sought guidance from your good inffice in the following words vide lotter No. 6987 dated ob-orzons

(i) Place it is obligatory upon civil servent to accept promotion.

(ii) It is presigative of civil servent to either accept/turndown the offer of promotion

offer of promotion.

That you good office forwarded the caime to appostes concerned vide letter No. So (Primay-M) EGSED/2-2/Appointment (2073 for necessary guidance.

- That the government of KP-ED (Regulation Wing) vide letter No. So (Policy) Ex-AD (1-2)2070 dated 6-06-2073 categorically started that there with no provision to decline forgo promotion. It is obligatory upon every civil several to accept pomotion under entry condition.
- nent at his effice. This office has been asked for submission of consolidated case.

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

please.

Cipy of the colone to;

1. PA to Director Local Directorate

2. Master Copy

Actional Director

Elementary & Searchery Education

Klyther Rochlonishus.

WP4447-2023 AZIZULLAH V5 GOVT GF PG43



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

143. SO/Primary-M)E&SED/2-2/Appointment-Rule /2023 Peshaviar Dated 23rd August, 2023

MORKLEO

The Becretary to Govl. of Khyber Pakhlunkhwa, Inerritage O registration & Inerrital Color Peshavar

GUIDANCE REGARDING DELETION OF RULE 7/5) IN THE CIVIL (APPOINTMENT, PRPMOTION & SERVANT 19891

Gear Sir.

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated 067 June 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servant (Appronument, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials vitro do not comply with promotion order of the competent authority or एम प्रा सम्बद्धि अर्थामद्यक्ति धार्वपद्धि different means shall be proceed under Knyber Parriantima Civil Servant (Efficiency & Discipline) Rules, 2011.

In this connection it is submitted that in some cases lady teacher of primary level virio avail such promotions have to face sedous inconvience while they have to perform duties in the remotest station with no residential or transport facility. Most of them are married with lids and elder father of mother-in-law who peed care. In such cases, there are negative effects on service delivery.

In view of the above, the said amendment may be reconsidered to the enters of law teacher in primary schools.

MUHAMMAU ISH SECTION OFFICER (PRIMARY HALE)

Copy (cryiarded to the:

1. Olrector EPISE Khyber Pakhbunkhwa. 2. PS to Secretary, ERSE Department Knyber Pakhtunghwa.

SECTION OFFICER (ERI

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494442-2022 AZIZULLAH VS GOVT CF PG43

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Pedrama Dated 23rd Augustes More (Mingray - M) ESSED 18-8/ Cos July - Countrieson

The secretary to Government of Khyston Bakhtunbhuma.

Establishment and Administration Deportment.

SUBJECT: - Gildance reginding deletion of Rule 7(5) in the

(6861) Civil Servani (Appointment, Amelian & Transfer Rules.

Chi Servant (Efficiency and Dixiphine) Ruse 2011. different means shall be proceed under Khyber flikhtunkhua offerent northernory shows at but to plantitus bresponses wit for these officeres officialle who do not camply with promotion order tenth lostenitry need earl 40 (P8P1 20AUS edition) and nothined delition of fine 7(5) Whyler Althunthine and Servent (Apprintment ufto tast state of long Ecological petab asoc 18-11 9 app directed to refer to your letter No. Softimenty (H2000) Deca Six,

by view of above, the sould ammendment may be reconsidered to effects on service delivery. Mather-in-law who need onse. In such casu threke one negative Mast of them are married with kills, and elder father of whilings teaperant / witnessings on other emotives turbings with oil estub major of ever tight alith escentioners every teacher of primary level who avoil such promother have to In this connection it is submitted that in some couss lady

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GOVERNMENT OF KHYBER PAKHTUNKHWA

ESTABLISHMENT DEPARTMENT

No. SO(Policy)E&AD#-3/2020 Dated Peshawar the September 07, 2023

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

Subject: -

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1982

Dear Sir.

I um directed to refer to your letter No. SO(Primary-M)/E&SED/2-2/Appointment-Rule/3923 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 Secretary (Reg), Establishment Department.
- PA to Additional Secretary (Reg-II), Establishment Depurtment.
- PS to Deputy Seamency (Policy), Establishment Department.



- B|<u>C</u>-

GOVERNMENT OF KHYSER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT H6. 68(F6)16(AB/6-8/8686

No. 80(P8)164] BAAD/4-8/2088 Dated Peshawar die 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 PAIGHTUNKHWA 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- Z/Appointment-Rule/ROSS dated 88.00.2088 on the supper notes above and to state that have supper 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

CABY forwarded to their

- 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)

VIP4442-2023 AZIZULLAH V5 GOVT CF PG43

Annexure - G

Τo,

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 06/08/2020. COMMUNICATED NO.SO(POLICY)E&AD/1-312020. DATED SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA. ELEMENTARY & 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 premotion 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 Klayber Pakhtunkhwa Civil Servants (Appointment, Promotion and Pransfer) Rules, 1989 in respect of which the Establishment Department vide its letter No. SO. (Policy) E&AD/1- 3/2020 dated Peshawar the June O6th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(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 a laid 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 hrevided 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 Kliyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules,

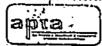
It is, therefore, humbly prayed that on the acceptance of the instant fupresentation; the Notification bearing No. SO (POLICY) $_{\eta,0}$ E&D/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution of Pakistan and against the fundamental principles of natural justice.

Dated 26/01/2024

SANA ULLAH! SIO HANNEED ULLAH KHAN

Klyber Pakhtunkhwa

Acic Minit Kinns Prosident 0 0331.0444649 - detailsh1073@gmail.com 5 natakgh



APTA House: Govt Printery School No.4 Culbahar Peshawar City

آل يَ الْمَعِلَى لِيَجْهِدُ السِوى السِّن (الله) جَبِه بِحَنَّوْنَيْ ا

Annexue - 14

ا المب : ميكولول المنتول الا ميكنوال الديمين فيم المنتولاا مجانب اللهيرالول في والدى التي فير بمنوالها بتاب مال

کنادٹی ہے کہ بروشز پر اللاے عما ہوتے ہیں او کہ مراکا بلائم کا فراش ہوت ہودو فنوکا ایک قالن اوا کر تا تیا کہ بر ملام ایک اکر کس جورسیکہ فنت ایک المد بروس فنو در فی قرود فی آمیں بار سال تک بروس فنو فیل نے بیٹے مطلب بار سال تک بھر اس کا بروس مجر اس تافون عما قرداکا رمایت دل گا بار سال دلل بات من کر دان کو اگر ایک ملام ایک سال بروس ٹن نے فیل فردد وارش سال لے سکا ہے میں اس ایک بروس ہوئی دمایت دل گا بار سال دلل بات کے بات کیا اگر ایک اور لیکھیٹن دوات

ام این کے نقالہ اول کیا ہے خوالہ اول بال بیل کا کا کا کا کا کا کا بیل کا انداز کا اللہ کا انداز کا اللہ کا کا کا بیان کار کار کار کار

کے کے کرلیکیٹن بفکا ہوئے ہا کہ امالاء کر این طوبہ ہوتا کہ سلا ٹریٹ ہوہ کا ہے۔ ابلام نے آنٹا مکے این کر کب سامیلن فول ایکٹن لیکر میں بر کے ہائمرل بسائا، کشورالیمیل پرائمرکا امالاء کو اس ائن البعث سے نہاے والیک ک

WP4442-2023 AZIZULLAH VS GOVT CF PG43

JAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

SANA ULLAH

Appellant

Versus

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ARE, MUHAMMAD ADRIL 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 fite and obtain return of documents, and to represent me/us and to take all necessary steps on my/our behalf in the above matter.

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

سينافلا

APPELLANT

ACCEPTED

MUHAMMAD MUAZZAM BUTT

Advocate Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocato High Court