FORM OF ORDER SHEET

Court of	. _	
Appeal No.	3756	/2024

	<u> </u>	Jean No. 2 1 2024
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2.	3
	_	<u> </u>
1-	06/11/2024	The appeal presented today by Mr. Muhammad
		Muazzam Butt Advocate. It is fixed for preliminary hearing
		before Single Bench at Peshawar on 14/11.2024. Parcha Peshi
		given to counsel for the appellant.
	•	given to counter for the appendix.
+++++++++++++++++++++++++++++++++++++++		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 2356 2024

Habib Ullah

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 2356 /2024

Habib Ullah Son of Ghulam Haider PSHT (BPS-15)

Tehsil and District Batagram

.....Appellant

VERSUS

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

.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974. AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020. 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 <u>TO THE</u> 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

Copy of Appointment letter is annexed as Annexure A

- That as per Khyber Pakhtunkhwa (Appointment/ Promotion/ Transfer) Rules, 1989, as well as in other sister services of the other Provinces and Federation as well, availing of promotion by the employees is always optional and the employees as a matter of right may avail or forego their promotion and the next employee in seniority list is to be promoted.
- 3. That some employees specifically have foregone their promotion as they could not serve in the areas where there is no facility of accommodation and no houses of their elders are available to look after them in far-flung and solitary mountainous hard areas, and as per Section 25 of per KP Civil Servant Act, 1973, rules to the extent of terms and condition is framed by the Chief Minister and such promotion rules are not made applicable with retrospective effect. The rules framed are published in the Gazette notification and part and parcel of KP Civil Servant Appointment, Transfer and Promotion Rules 1989.
- That Government of K.P without following the rules position mentioned in Para 6 above promulgated Notification No. SO (Policy) E&AD/1 3/2020, dated 06/08/2020, communicated to Respondent No.2 vide letter dated 06/06/23 wherein it has been made mandatory to the employees to avail the promotion, otherwise, disciplinary action shall be taken against the employees. The impugned Notification is reproduced as under:-

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

- 5. That as per notification No. SD (Policy) /EDAD/1- 3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020.

 Copy of Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
- 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 <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.

 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:-

 g_{M}

- ii. 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.
- h. 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 with foregone their promotion were allowed not to avail the promotion for a period or 04 years and on second refusal the employees were permanently debarred from availing the facility of promotion during their entire service. Hence the employees himself/herself forebear agonies of foregoing their promotions. As a result, junior to the appellant according to the order of seniority cum fitness are granted promotion to next rank.
- c. That as per Civil Servant laws, promotion is a kind of appointment which is always optional to get promotion or not, hence the impugned notification is void, illegal and against the law and the same to the extent of the appellant is liable to be set-aside.
- . d. That it is further submitted that on account of grant of promotion, some employees who are suffering from severe medical ailment or facing acute domestic issues cannot avail promotion with transfer in other areas, therefore, no employee can be compelled to accept the promotion compulsorily which is not beneficial to the employee but if an employee does not avail and get benefit of her promotion it must be optional for the employees as to whether to avail or forego the benefits. Any promotion without willingness of employee is illegal and liable to be setaside.

- c. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the impugned promotion Notification dated 06/08/2020 communicated on 06/06/2023 is perverse, discriminatory, against the law, pungent and is a blunt blow of hammer on the rights of the appellant. It is not out of place to mention here that the appellant are teachers and have to look after their children as well as ailing dependent family members and in these circumstances in the presence of impugned Notification dated 06/08 /2023 communicated on 06/06/23 would not be able to serve in the department and which shall amount to the snatching of bread and 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 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:

n/s

i, (the appellant) solemnly declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Through

Deponent

Muhammad Muazzzam Butt Advocate/Supreme Court

Muhammad Adeel But Advocate High Court

Sppellant

Bassan Alfanad 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

Habib 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.

Deponent

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.

Through

Muhammad Muazzam Butt Advocate Supreme Court

Appellant

Muhammad Adeel Butt Advocate High Court

Dist. Govt. KP-Provincial District Accounts Office Balagram Monthly Salary Statement (August-2024)



rsonal Information of Mr HABIB ULLAN draw of GHULAN HADER

Sectionari Number: 00325435 gaje of Olab: 01,01,1969

CNIC: 1320207752215

Hitty into Guet, Service: 25.03,1990,

STN.

Langth of Service: 34 Years 65 Months 607 Days

imployment Category: Vocational Permanent

Designation, PRIMARY SCHOOL HEAD TRACH

80000698-DISTRICT COVERNMENT KILYBE

DDO Code: BM6039-DY DISTT OFFICIER HDU (M) PRIMARY SC

Payroll Section, 601

GPF Section: 001 **GPF** Interest Free

Cash Center: 11

438,025.00 (provisional)

DPF AAC No.

Vendo-Number -'ay and Allowances:

Pay scale: BPS For - 2022

Pay Scale Type, Civil: DPS: 15.

GPF Balances

Pay Stage: 23

	Wage type	Amount		. Wage type	. • .	Amount
0001	Fave Pay	69,460 00	1001	House Ryet Allowance 45%	·	3,524,00
1210	Convey Allowance 2005	2,856.00		Medical Allowonce	24.1.1	1,500,00
1505	Charge Allowance	40,00		UAA-OTHER 20%/1-15)		1,000.00
2148	15% Adhue Relief All-2013	880)./ 0	2199	Aillioc It:lief Allow @10%s		\$91.00
2316	Teaching Allowance 2021	3,224.00	2341	Dispr. Red All 1535 2022KP.	A .	6,608.00
2347	Adhus Rel Al 15% 22(PS17)	6,608,00		Adhoc Relief All 2023:35%		23,618.00
2393	Adhee Relief All 2024 25%	17,165,00	:			0.00

Deductions - General

	Wage type	Annuant		Wag. Type	·1	Amount
3015	GPF Subscription	-1.294 Da	3501:	Benevole a Fund	*.	-1,200.00
3609	Income Tax	-6,062 (0)	3990	Emp.Pdo Fund KCX		÷-6135.00
4004	8. Henefity & Death Comp:	-fere fic				0,00

eduction's - Luans and Advances

Lora Description	Hat about an annual state of the second state
Log t Hescription	Principal amount Deduction : Balance

Deductions - Income Tax

Payable:

97,093,05

Recovered till AUG-2024:

12,138.00

Exempted: 24272,45

Recoverable:

60,682.69

Gross Pay (16.):

137,274.00

Deductions: (Rs):

-12,294.00

Net Pay: (Rs.): 124,980.00

Payee Home: HABIB GLLAII Account Number: 4125-8

Bank Getails: NATIONAL BANK OF PAKISTAN, 230926 MAIN BRANCH BATTAGRAM, KUTCHARY, ROAD

DATTAGRAM, BATTAGRAM

Opening Balance:

Availed:

Earned:

Halance.

Panezest Address:

CHY: UATGRAM

Danleile: NW - Khyber Pakhtinkhwa

Housing Bratus: No Official

Tring Addiese: City:

Linash lightfeiligh (247@gmail.com



CamScanner

CHYBRIC PARTEUNKHYM LISTIMBNY DEPARTME (BREINFY FLOW AND INC.) NOTHFICATION Duled Peshinvar the 06 / 8-12020 Biguilland The Civil Servinis Act 1973 (Knyber Pokhunkhwa Act Ho.XVIII of Pakhunkhwa Act Ho.XVIII of P Civil Servania (Appointment, Promotion and Transfer of the Khyber in the Chief that in the Khyber (Appointment, Promotion and Transfer) Rules, 1989, the Manual Civil Servanta (Appointment, Promotion and Transfer) Rules, 1989, the Manual Civil Servanta (Appointment) parture further uncondinent shall be mude, namely: AMRINDMENT In rule 7, sub-rule (5) shall be deleted: Consument, of the intainer Lykhlany SE BO & EVER DATE Additional Chief Secretary, Govi, of Khyber Pakhtunkhwp., Planning & Copy is forwarded to:-The Senior Member Board of Revenue, Khyber Pakhrunkhwa. All Administrative Secretaries to Goal of Khyber Palbtunkhwa The Principal Secretary to Governor Klyber Pekhtunkhwa. The Principal Secretary to Chief Minister, Knyber Politicunkhwa. All Divisional Commissioners in Khyber Pakhturkhwa All Hearts of Anached Departments in Khyber Pokhiunkhwa. All Autonomous/Semi Adlonomous Bodies in Khyber Pakhtunkhwa All Deputy Compilessioners in Khyber, Pakhunkhwa The Registrar, Khyber nakhunkhwa Service Eributal, Peshawaran The Rusisian Peshawar High Court Peshawar The Secretary, Chyber Pakhunkhwa Public Service Conunission, Peshuwa. All Soutism Officers in Establishment & Administration Department. The Section Officer (Admn), Administration Department with the request to The Caretaker, Administration Department. arrange 20-gazette copies. DERUTY SECRETARY POLICY ATTESTED TESTED TESTED

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)

ATTESTED

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OUASUSCIEM, ON KITADEN LYKULINKUIAV estancishabbit depautabby No. Still alley) HALADI - 2/2020 "Hated Pedawar the June 96, 2023

62

The Covernment of Klyber (bikingshiwa, Elementary & Secondary Princo an Napailment.

Subject: *: GUIDANCE INTALIDINE, HELSTION OF HUIK 715) IN THE HUYBER PARTITIONALLY GIVE, SERVANTS (APPOINTMENT, PROMOTIONAND TRANSPERLEMENT, 1982.

I am directed to teles to your letter No. SO(filmory-Mytherstiff)?-2/Appalatment/2023 detect 12.04.2023 on the subject noted above and to state that Sub-Rula . Den Str. (5) of Rule-7 of Khyper Pakhimkhun Clerk Servints (Appulationant, Promotion and Transfer) Rules, 1989 stands deleted while this depertment mulficollon detect 00,08.2020; thus, no provision axists to decilie or large premation.

The bull- rationale unhind the defection of the field rate is olmed at prevential a efoll servant frant temptation for itital palu by sticking to a single fuerative postipostitan or to bieneui spore into reug to talko inamatfen sa enene borguegianizet, at spor sack at erboegia to tochic higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to necest binavotion in every condition,

Funhermore, those officers/affiolals who do not comply with promotion order of the competent authority or my to evada promotion through different means shall be proceeded against under Khyber-Pakhjunkinen Civil Servents (fifficiency & Discipline) fluies, and Collability 2011, pieme.

Radal. Of even No & date

Copy forwarded to thus.

1. PH to Special Secretary (Reg.): Establishment Department.
2. PA to Additional Secretary (Reg.)), Establishment Department.
3. PE to Oppury Secretary (Policy), Establishment Repartment.

delling.

mmid (Chan) Real (Policy)

differ (halley)

WE 4442-2022 AZIZULLAH VE GOVT OF PG4

OVERNMENT OF MAYBER PARHTUNKHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT CIVIL SECRETARIAT PESHAWAR

(Phono No.091-9223587)

FILEO (Primary-M)/EBSEDIZ-6/2023 Lialed Peshawar Inc. June 26*,2023

Tŋ

The Director

Elementary & Secondary Education Department

Khyber Pakhlunkhwa, Peshawar.

Aziz Ullah Khan President-

All Primary Teachor's Association, KP

Subject:

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

AND TRANSFERI 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)E8AD/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 Chalmanship of Additional Secretary (Estab) ERSE Department in his office.

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

Encl: AA

(MUHANMAD ISHAO SECTION OFFICER-(PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, EASE Department Khyber Pakhtunkhyra.

SECTION OFFIC

WP4442-7723 AZIZULLAH VS GDVT GF PO43

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

To

The Director Elementary & Secondary Éducation Department Khyber Pakhtunkhwa, Peshawar

Aziz Uliah Khon President President Ali Primary Teacher's Association, KP

Subject

GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER PAICHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER) RULES, 1909.

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

2. You are, therefore, requested to depute a representative of your respective Department to attend the meeting on a date, time & vonus 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)

WP4442-2023 AZIZIILLAH VS GOVT GP PG43

ATTESTED

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 RULE (1989).

A meeting regarding the subject matter was held on 06-07-2020 of 11:00 AM under the Chalmonship of Additional Secretary Establishment in his office. The following attended the meeting.

58	NAME	DESIGNATION
1	Mr. Pazal Wahld	Dopuly Director Establishment of Directorale Elementary & Secondary Education Department
2	ı Mr. Aziz Ullah	Provincial President All Primary Teachers Association Kinyber Pakhlunkhwa
3	Mr. Ralagal Uliah	General Secretary AFTA Peshowar
4	Muhammad Ishaq	Section Officer (Primary) EASE Department Civil Secretariol Khyber Pakhtunkhwo Peshawar

- The meeting started with recitation from the Holy Quron, the chair welcomed
 the participants. The Deputy Director (Establishment) of Directorate of Etementary &
 Secondary Education briefed the forum regarding agenda item in detail.
- 3. After three-discussion it was decided that Directorate of Elementary & Secondary Education Department may examine the case property and submit a self-contained/consolidated case for anward submission to Establishment Department for turther necessary action.

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

(Mr. Fazal Wahld)
Deputy Director-I
EASE Department

(Mr. Relegal Lillah) General Secretary APTA Peshawat

N 16

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

(Muhammad Litiga) Saction Officer (Primary-Male) EESE Department

(Abdullah) Addillonol Societary (Establishment) E&SE Department

WP4442-2023 AZIZULLAH VS GOVT CF PG43



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

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

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

- 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 Cheir.



EPBH 93 TVOD BY HAJJUSISA ESGS-SPAPHY

լկետեղած Մ Հուսուգան Էլիուսիու Assistant Director (Establi-1)

> Maxier Copy. PA to Director Local Directorate.

Copy of the above is fair

ON INDIES

Arriculm Director (Exind Me-1)
Elemoniary & Secondary Education

Rhyder Pakininkhwa

Letter (Allege (Exind Me-1)

Elas L

The costs is submitted for perutal and necessary actions please.

provided they ruthful their wellien refused arine to conduction of the meeting of Deportucinal the meeting of

(3) have affected depointed in managers of Femals Toachers. Thus it is proposed that is fold that the contract of the contract In viole of the above, this affice is of considered opinion that the deletion of Adles

That, in the light of the minutes of merting doted 6-07-2023 held under the Chairmantal of this office, has been constituted adjust this office, has been asked let submission of consolidated cose. LEGS-80-51 beind LEGS/Insminionphis-S/G32-30 (M-vromh'I)

that there exists no provident in dealine or forgo promotion. It is abiligatory upon avery condition, the cash special promotion under every condition.

Challes and a but to color of the office from your good office vide letter Ma.So.

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premotes and allies for a series of a seri

(1) Norv is likelybolner upon the civil servont to accept Promotion in every condition.
(1) It the best egalive of the civil servont to other accept or turn down the affer of

That Coverance it of Elyber Politiunklys Extoblishment Departmant (Regulation Wings) adoleted Rula 7(4) Indias Cloil Servants (Appaintment, premation & Transfer Rules 1969) vide hatyltentioniski, No. SOR-VI (EEAD)/I-3/2020 dutad 06-08-2020.
That this office bought galdonce from your good office in the fallowing words vide latter No. 6087 adoleted 16-02-2022.

1 om directed in the december of the case or under chied above and in processed on the collect ched above and in Grancial including the case or under chied block above and in

,412 YOOD MINUTE OF THE MEETING ्रम् अञ्चितिमञ्ज

The Society Officer (frimery-Adule), Elomen in & Secondary Education Deportment, Klyber Politundiwa Pestamor.

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2. Master Coffy 1. PA to Director Local Directorate Copy of the cebare to

The case is submilled for period eval necessary action

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Traction of the sought guidoure from you good uffice in the following wide mily control (EEAD)1-3/200 data ob ob. deliated of profession of the service of the servic

o Treat Government of 19 Establishment depositment (Regulation Wing) present birly history, about background of come as unchasing Ainster of meeting 1727 Part Date to Esse Fol bethe Craf [27] British of being Dear Sir) on directed to refer to teller No. (50. Almora -17) E & CED /5-1/6. Will.

British to whining - bolling 149K) Perhause

Elementical & Secondary Education Department

Section office (Rimay-170le) (21-7-2063) THOMUNG

DIRECTURATE OF ELEMENTARY & SECONDARY EDUCATION, KPK

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

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

HUNEXUIE

The Georgiany to Govil of Khyber Pakhlunkhwa, Establishment & Administration Department. Peshavar

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

Geer Sir,

I am directed to refer to your letter No. 50(Policy)/ EBAD/ 1-3/2020 dated ്ര് വണ്ട 2023 and to state that after deletion of rule 7(5) Khyber Pakhtunkhwa Ovil Servers (Applicationent, Promotion & Transfer Rules 1989) It has been intimated that those officers/ officials virto do not comply with promotion order of the competent authority or by to evade promotion through different means shall be proceed under Knyber Pekinpunkinya 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 serious inconvience while thay have to perform duties in the remotest station with no residential or transport facility. Most of them are married with kids and elder father of mother-in-law who reed care. In such रहार्ड, प्रेरंडांट are negative effects on service delivery.
- In view of the above, the said amendment may be reconsidered to the extern of lasty teacher in primary schools.

MUHAHHAU IS BECTION OFFICER (PRIMARY MALE)

Copy Convianded to the:

1. Director EBSE Khyber Pakhtunkhwa.

2. PS to Secretary, ENSE Department Knyber Pakhtunkhwa.

SECTION OFFICER LER

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WP4442-2023 AZIZULLAH VS GOVT CF PG43

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Charles Secretary , E & SE Deposition & Line & Secretarian & Continued of SA לאינלאי ב ב צב צרילטי ולציויליתליייה.

(Muhamad Ishay) Section officer (Antray)

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in view of above, the said ammendment may be reconsidered to offices on service delivery. Mather-in-law who need age. In such cases there-are negative A restat reals ever till cities and rest one teams . Williage texperent / Withouse on Alive Enothing textomer and in satub makes incoverience while they have to people duties theacher of primary level who avoid such promised by sochest In this connection it is submitted that in some coves backy

Civil Servant (Efficiency and Discipline) Rule 2012. different means shall be proceed under Khyber Akhhinkhun algorith nonfermong stones at but no titinostius breategones with to sation motherman the derivation and with prompted executions order thank between intimated that been intimated that deletion of falle 7(5) Whele Rethinsthine and Several (Apprintend with tail state or long scar since to state aros /2-1/ Opposited to refer to your letter No. Solvining

Deen Sir, Civi servant (Asportament, Amalian & Transfer Rules.

SUBJECT: - Galdance regarding deletion of Rule 7(5) in the اكدي كيوريون.

Establishment and Administration Department, The Secretary to Government of Khylon Bikhlunbhuza.

Castarphlogs bated wanted 18-8 (13233 (M- Housing) 22.0V)

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

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

Subject: -

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

Dear Sir,

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

Endst. Of even No & dote

Copy forwarded to the:-

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

Yours faithfully,

ser (Policy)

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

Τa

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

Subject -

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

Dear Sir.

I am directed to refer to your letter No. SO(Primary-M)/E&SED/2- 2/Appointment-Rule/2023 dated 23.08.2023 on the subject noted above and to state that necessary guidance has already been tendered to your good office vide this department letter of even No. dated 06.06.2023 (copy enclosed).

Yours faithfully,

Section Officer (Policy)

Endst. Of even No & date

Copy forwarded to the:-

- 1. PS to Special Secretary (Reg), Establishment Department
- 2. PA to Additional Secretary (Reg-II), Establishment Department
- 3. PS to Deputy Secretary (Policy), Establishment Department

Section nicer (Policy

VIP 4442-7023 AZITULLAH VS GOVT CF PG13

Annexure - Gy

To,

 Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Civil Secretariat, Peshawar

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

3) Director Elementary and Secondary Education Department

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

Sir/ Madam:-

Your Hunorable 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 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 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 a be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

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

Dated 26 /03/2024

HABIB WHALL S/O GHULAM HAIDBR PSHT

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Kliyber Pakhtunkhwa



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آل پراتمری میچرزایسوی ایش (اینا) نیبر پختوشخوا

HUVErME -

مال : مَكُولُ كَا الْمُعْزَلُ عَدْ مَكِنَّدُ اللَّهُ مِينَ فَير بَحْوَيْلًا مَهَابِ ا ٱلْمَدِيمَالُوكَ لَجِيرُ الدَّى التَّقُ لِيمِ بِحَوْلُهُا

کنادئی ہے کہ جدموشن ہر اللاے علی اور ہے اللہ ہو کہ مراکبال الان کی تمامل ہوئے ہدم شوکا ایک تافان اوا کر تاقا ک اور اللام ایک اگر کمی بجدر ہے۔ آجت ایک دائد چدموشن نہ کمی قرد دمیر کا تھا جار سال تک جدموشن کھیا ہے تھے مطلب جار سال تک ہمر اس کی چرا موشن خیل او تال کی

مامنا کرنا باے کا

جکہ عام علات کی کی نیروکن پر مرش اور مستقل میجا کی بیادل المال حزل کی نقاف روک ہے کے کا فیر پختر اور کی بر شنی سے عادان رخویں کی عدل ہے دیے ملات عمل ہے والر لیکیٹن پر 1820 کی بھالی لیز ک جماع کی کیا کیاہے عرب کی ادر بیادل المال حزل کی نقاف ہے

لمدن کا بدول کے کا علے ان کر می سے کینے وہ بلے ان بلے ا

الت الاجرة عكست بمليا بلنظ

کوکر لیکیشن بادگاہ دے کا پرائمری اماؤن کر این طور پائڈ کر اے کا سفلہ ٹریٹ ہوبکا ہے بال ہم نے آتی دیکنے ہے کہ آپ صامیان لوی ایکٹی لیکر معب بر سے پہائمری اساکا، فسومالیمیل پرائمری اماؤ، کر اس وائل الریت سے کہات دائیں سے

آل پرائمری کیجرز ایس ایش نیج، پخونورا

WP4442-2023 AZIZULLAH VE GOVT CF PG43

UDKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

HABIB ULLAH Versus

Appellant

N

Government of KP & others

Respondents

I (the Appellant)

do hereby appoint and retain

MUHAMMAD MUAZZAM BUTT ASC. MUHAMMAD ADEEL BUTT AHC .
BASSAM AHMAD SIDDIQULAHC

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

Advocite Supreme Court

MUHAMMAD ADEEL BUTT

Advocate High Court

BASSAM AHMAD SIDDIQUI

Advocato High Court