


FORM OF ORDER SHEET

Court of _____

Appeal No. 2534/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/11/2024	<p>The appeal presented today by Mr. Muhammad Muazzam Butt Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 21.11.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p>  <p>REGISTRAR</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: _____ v/s _____

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: _____	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AC/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: _____

Signature: _____

Dated: _____

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

A No - 2534 / 24

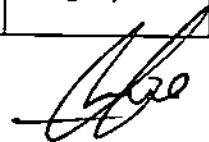
Muhammad Shoaib

V/S

Government of KP & others

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ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2534 /2024

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 18068
Dated 19/11/24

Muhammad Shoaib Son of Muhammad Rafique Resident of Tehsil & District Kohat

Designation: Primary School Head Teacher at GPS Lar Garhi

.....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. 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/1-312020, DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO. 2 VIDE LETTER DATED 06/06/2023, MAY BE DECLARED AND ORDERED TO BE STRUCK DOWN BEING VOID AND ULTRA VIRES TO THE CONSTITUTION OF PAKISTAN AND FUNDAMENTAL PRINCIPLES OF NATURAL JUSTICE AND AGAINST THE RIGHTS OF APPELLANT.

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

RESPECTFULLY SHEWETH:

1. That the Respondents Department appointed the Appellant as Primary School Head Teacher.
Copy of Monthly Salary account is annexed as Annexure A

Filed to day
Registrar
19/11/24

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

"Furthermore, those officers/officials who do not comply with promotion order of the competent authority or try to evade promotion through different means shall be proceeded against under Khyber Pakhtunkhwa Civil Servants (Efficiency Discipline) Rules, 2011, please".
5. That as per notification No. SD (Policy) /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 B**
6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and ,therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. Copy of Impugned Letter dated June 06th, 2023 is attached as **Annexure C**
7. That thereafter the meeting was also held in the office of Additional Secretary Establishment on 06-07-2023 in which it was decided to examine the case properly and submit a self-contained/ consolidated case for onward submission to the Establishment Department for further necessary action. Copy of Minutes of Meeting dated 06-07-2023 is attached as **Annexure D**
8. That the Respondent No.3 i.e. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber

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

9. That the respondent vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011. Copy of Impugned letter dated 07-09-2023 is attached as **Annexure F**
10. That the petitioner feeling aggrieved, filed Representation to the respondents in person, and also approached to respondents through APTA President but the grievances of the appellant have not so far been redressed. Copy of Representation against the said notification is annexed as **Annexure G & H**
11. That feeling aggrieved from the letters dated 06-06-2023 and 07-09-2023 and the deletion of Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989; the petitioners filed this Hence, the instant service appeal is filed on the following grounds:-

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

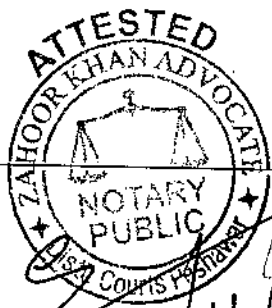
- e. That non-availing of promotion and foregoing thereof does not cause loss to the government exchequer and in consequence of foregoing promotion, pave way to the next employee in seniority, aspiring for promotion could be promoted.
- f. That the impugned promotion Notification dated 06/08/2020 communicated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

It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3 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 06/06/2023 may be declared as unlawful, illegal and without having any legal effect.

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

AFFIDAVIT:
I Muhammad Shoaib Son of Muhammad Rafique Resident of Tehsil & District Kohat 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



Shoaib
Deponent

Shoaib
Appellant

Through

Muhammad Muazzam Butt

Muhammad Muazzam Butt
Advocate Supreme Court

Muhammad Adeel Butt

Muhammad Adeel Butt
Advocate High Court

Bassam Ahmad Siddiqui

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 Shoaib

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.

Shoaib
Appellant

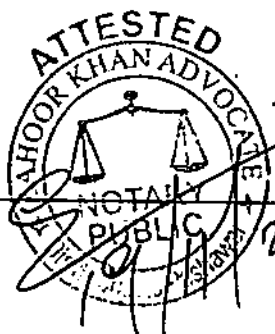
Muhammad Muazzam Butt
Muhammad Muazzam Butt
Advocate Supreme Court

Adal Butt
Muhammad Adeel Butt
Advocate High Court

AFFIDAVIT:

I Muhammad Shoaib Son of Muhammad Rafique Resident of Tehsil & District Kohat 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

through



Shoaib
Deponent

-6- EES
Dist. Govt. KP-Provincial
District Accounts Office Kohat
Monthly Salary Statement (January-2024)



Personal Information of Mr MUHAMMAD SHUAIB d/w/s of MUHAMMAD RAFIQUE

Personnel Number: 00159857 CNIC: 1430119982385 NTN: 0
Date of Birth: 01.01.1966 Entry into Govt. Service: 30.09.1985 Length of Service: 38 Years 04 Months 003 Days

Employment Category: Active Temporary

Designation: SENIOR PRIMARY SCHOOL TEA 80002872-DISTRICT GOVERNMENT KHYBE
DDO Code: KT6088-Government Primary Schools (Male) K
Payroll Section: 002 GPF Section: 001 Cash Center: 11
GPF A/C No: EDUKT010421 GPF Interest applied **GPF Balance:** 124,792.00 (provisional)
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2022 Pay Scale Type: Civil BPS: 14 Pay Stage: 24

Wage type		Amount	Wage type		Amount
0001	Basic Pay	64,290.00	1001	House Rent Allowance 45%	3,321.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	857.00	2199	Adhoc Relief Allow @10%	574.00
2316	Teaching Allowance 2021	3,036.00	2341	Dispr. Red All 15% 2022KP	6,138.00
2347	Adhoc Rel A1 15% 22(PS17)	6,138.00	2378	Adhoc Relief All 2023 35%	21,892.00

Deductions - General

Wage type		Amount	Wage type		Amount
3014	GPF Subscription	-3,900.00	3501	Benevolent Fund	-1,200.00
3609	Income Tax	-1,931.00	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
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Deductions - Income Tax

Payable: 29,815.69 Recovered till JAN-2024: 12,707.00 Exempted: 7453.89 Recoverable: 9,654.80

Gross Pay (Rs.): 110,602.00 Deductions: (Rs.): -7,766.00 Net Pay: (Rs.): 102,836.00

Payee Name: MUHAMMAD SHUAIB

Account Number: PLS 7335-8

Bank Details: ALLIED BANK LIMITED, 250186 BANNU ROAD KOHAT BANNU ROAD KOHAT, KOHAT

Leaves: Opening Balance: Aailed: Eamed: Balance:

Permanent Address: KOHAT

City: KOHAT

Temp. Address:

City:

Domicile: NW - Khyber Pakhtunkhwa

Email: vikiafr@gmail.com

Housing Status: No Official

**Attested to be True
Copy**

APPOINTMENT

Appointment of the following candidates are hereby ordered against the post of PTC (Untrained) Teacher Temporary in BPS-7(Rs. 750-~~Fixed~~) plus usual allowances in the interest of the public service with effect from the dates of taking over their charges:-

S/No	Name and Address of Candidate	Posted At	Remarks
1.	Mr. Pir Ahmed Khan s/o Awla Khan, R/O Navi Dand	GPS Chapri Waziran No.2	Vacant Post
2.	Mr. Gul Rehman s/o Mir Man R/O Dallan	MPS Dallan	-do-
3.	Mr. Hayat Khan s/o Abdul Sattar R/O Dallan	MPS Wakil Koroona	-do-
4.	Mr. Wajid Ali, s/o Samanad Ali R/o Lodhi Khel	GPS Lodhi Khel	N.C.P.
5.	Mr. Lal Manoor s/o Zarmin R/O Chamba Gul	GPS Chamba Gul	Vacant Post
6.	Mr. Naeef Khan s/o Mohammad Khan R/O Togh Sarai	GPS Saroozai Piala	-do-
7.	Mr. Khalid Mohammad s/o Subedar Abdul Haq, R/O Hangu	MPS Sangher Hangu	-do-
8.	Mr. Zulqarnain s/o Gulab Gul R/O Hangu	MPS Darwaizi	-do-
9.	Mr. Gul Zaman s/o Khawat Gul R/O Mianji Khel	GPS Mianji Khel No.1	N.C.P.
10.	Mr. Abdul Rehman /o Mir Mohammad R/O Togh Sarai	MPS Mohammad Amin Banda	Vacant Post
11.	Mr. Maeen Ali Khan s/o Gunj Ali R/O Dallan	MPS Wakil Koroona Chapri Waziran	-do-
12.	Mr. Abdul Rashid s/o Kamal Khan R/O Hangu	GPS Mohallah Saidan Hangu	N.C.P.
13.	Mr. Nawab Khan s/o Luq Khan R/O Dalian	MPS Dalian	Vacant Post
14.	Mr. Riazud Din s/o Noora Jan R/O Karbogha	GPS Shamal Din Killa	-do-
15.	Mr. Afsar Khan s/o Painda Khan R/O Chapri Waziran	MPS Chani Polla	-do-
16.	Mr. Naz Ali s/o Waris Ali R/O Ibrahimzai	MPS Ibrahimzai	-do-
17.	Sayyad Kamal Hussain s/o Shah Amre Hussain R/O Ibrahimzai	MPS Darband	-do-
18.	Mr. Mussali Jan s/o Abdullah Jan R/O Dalian	GPS Navi Jand	-do-
19.	Musam Gul s/o Rahim Gul R/O Chamba Gul	GMS Chamba Gul	-do-
20.	Mr. Tariq Ali, s/o Ali Nazar R/O Bahadar Garhi Hangu	MPS Spin Ahawri	-do-
21.	Mr. Saifur Rehman s/o Karim Khan R/O Mohammad Khawaja	GPS Mohammad Khawaja	-do-
22.	Mr. Akhtar Gul s/o Jassan Gul R/O Mohammad Khawaja	GPS Azimi Banda	-do-
23.	Mr. Hamidur Rehman s/o Sultan Shah R/o Mohammad Khawaja	GPS Rashid Abad	-do-
24.	Mr. Jamshid Ali s/o Fazal Jan R/O Hangu	MPS Mulla Abad	-do-

Attested to be True



25.	Mr. Bashir Batabah, S/o Khial Shah R/O Kahl	GPS Kahl	Vacant Post
26.	Mr. Miyyatullah Jan s/o Abullah Jan R/O Hangu	GPS Hangu No.3	N.C.P.
27.	Mr. Irfan Ali s/o Zaman Ali R/O Raisan	GPS Raisan	N.C.P.
28.	Mr. Nawab Ali s/o Mohammad Ghulam R/O Ibrahimzai	GPS Babar Banda	-10-
29.	Mr. Hajdar Raza s/o Mehboob Ali R/O Ibrahimzai	GPS Marau Khel	-10-
30.	Mr. Ali Raza s/o Hussain Ghulam R/O Ibrahimzai	GPS Haji Khel	-10-
31.	Mr. Shahid Ali s/o Abdul Raza R/O Sherkot	GPS Mirco Dak	-10-
32.	Mr. Zulfqar Hussain, s/o Hanayun Shah R/O Mohallah Mian Khel	GPS Mohammad Zai	Rx Vacant Post
33.	Mr. Arshad Mahmood s/o Haji Gul R/O Shino Khel Kohat	GPS Subedar Korona (Mohammad Zai)	Vacant Post
34.	S. Mohammad Abbas s/o Shabab Hussain R/O Sher Kot	GPS Khawaja Khizar	N.C.P.
35.	S. Shabbir Hussain, s/o Talib Hussain R/O Chikarkot Jala	GPS Marai Payan	Vacant Post
36.	Mr. Ashiq Ali s/o Isa Ali R/O Usterzai Payan	GPS Miro Sak	N.C.P.
37.	Mr. Tasleem Hussain, s/o Kifayat Hussain R/O Marai Jala	GMS Samana	Vacant Post
38.	Mr. Anjar Ali Shah s/o Master Rauf Shah R/O Hayat Shaheed Colony Kohat	GMS Lal Garhi	N.C.P.
39.	Mr. Rifaqat Hussain, s/o Batloob Hussain R/O Sherkot	GPS Ibrahimzai	Vice Taj Ali Transferred
40.	Mr. Samiq Hussain, s/o Gulab Hussain R/O Usterzai Payan	GPS Khawaja Khizar	N.C.P.
41.	Mr. Mushtaq Hussain s/o Abdul Qasim R/O Isa Khel Kachai	GPS Bagato	V.B
42.	Mr. Faqir Hussain s/o Mohammad Ishaq R/O Mian Bah Shah Kohat	GPS Torkani	Vice M. Sahib Khan selected for PTC Trg.
43.	Mr. Mohammad Shoab s/o Mohammad Rafiq R/O Bahawalnagar	GPS Lari Garhi	N.C.P.
44.	Mr. Samran Sohail s/o Abdul Aziz R/O Mohallah Sikanar Shaheed Kohat	GPS Maroofi Banda	V.P.
45.	Mr. Mohammad Sohail s/o Abdul Chaffar Shinwari R/O Jangal Khel	GPS Balamina	V.P.
46.	S. Atif Hussain Shah s/o Zahir Ali Shn. R/O Mian Khel Kohat	GPS Naryab	V.P.
47.	Mr. Amir Khan s/o Bashir Khan R/O Tapi	GMS Serozal	V.P.
48.	Mr. Shoab Uddin s/o Shamas Uddin R/O Garhi Langan	GPS Soaba No.1	V.P.
49.	Mr. Tariq Shah s/o Hudasir Shah R/O Jangal Khel	GMS Torawari	V.P.
50.	Mr. Ziauddin s/o Asjad Din R/O Mian Bah Shah Kohat	GPS Labour Colony	V.P.
51.	S. Atab Ali s/o S. Hussain R/O Usterzai Payan	GPS Azimi Banda	V.P.

Attest to be True
Copy

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/8/2020

SCH/Policy/S&A/1/1-3/2020

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

AMENDMENT

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

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

NO & EVEN DATE

Copy is forwarded to:-

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

1267
05/08/2020

ATTESTED

(WAJDAH LATIF)
DEPUTY SECRETARY (POLICY)

Attested
Attested to be True
copy

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 of B) 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.

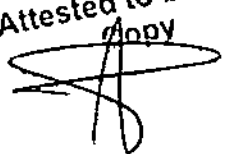
CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(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)

Attested to be True
Copy




GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SO(Polcy)HRAD/1-3/2020
Dated Peshawar the June 06, 2023

62

To: The Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

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

Dear Sir,
I am directed in refer to your letter No. SO(Polcy-M)T&S/1072-
2/Appointment/2023 dated 18.04.2023 in 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 06.08.2020; thus, no
provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the said rule is aimed at preventing a
civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to
prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity
to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every
civil servant to accept promotion in every condition.

3. 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.

Yours faithfully,
(Issa Muhammad Khan)
Section Officer (Polcy)

AS/E
7/6

7/6

Encl: Of even No & date

Copy forwarded to the:-

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

SE/...

26/3
2.1.8

Section Officer (Polcy)

Attested to be True
Copy

B/c

To,
The 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. 80 (Primary-M) / E & ED / 2-2 / Appointment / 2023 dated 18.04.2023 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 06.08.2020; thus, no provision exists to decline or forgo promotion.

2. The basic rationale behind the deletion of the ibid rule is aimed to preventing a civil servant from temptation for illicit gain by sticking to a single lucrative post/position or to prevent those who tend to forgo promotion to evade posting/transfer or show lack of capacity to tackle higher responsibilities in case of promotion. Therefore, it is obligatory upon every civil servant to accept promotion in every condition.

3. 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.

WP4442-2023 AZIZULLAH VS GOVT OF PG43

Attested to be True
Copy

-18-

- B/c -

Yours faithfully,

(Issa Muhammad Khan)
Section Officer (Policy)

Endst. of even No Ep date

Copy forwarded to the :-

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

Section Officer
(Policy)

Attested to be True

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

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

To

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

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

[Handwritten Signature]
26/6/23

Subject: GUIDANCE REGARDING DELETION OF RULE 7(5) IN THE KHYBER
PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION
AND TRANSFER) RULES, 1969.

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

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

Encl: AA

[Handwritten Signature]

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

Copy forwarded to the:

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

[Handwritten Signature]

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

Attested to be True
Copy *[Handwritten Signature]*

-15-

B/c

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

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

Aziz Ullah Khan President
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 -

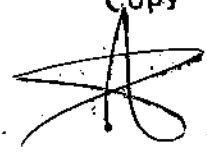
(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)

Attested to be True
Copy



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


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.

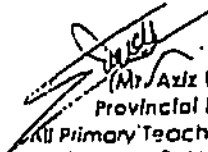
S#	NAME	DESIGNATION
1	Mr. Fazal Wahid	Deputy Director Establishment of Directorate Elementary & Secondary Education Department
2	Mr. Aziz Ullah	Provincial President All Primary Teachers Association Khyber Pakhtunkhwa
3	Mr. Razaqat Ullah	General Secretary APTA Peshawar
4	Muhammad Ishaq	Section Officer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

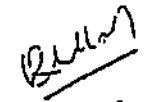
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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-I
E&SE Department


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


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


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

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

-17-

-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#	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

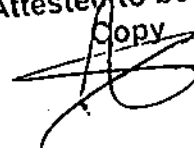
(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)

Attested to be True
Copy





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.Mixc/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 (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 06-02-2023.
 - (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.SO (Policy) E&AD/1-3/2020 dated 6-06-2023 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 DPS-16 may be exempted of implications of the amendment in the rules ibid provided they submit their written refusal prior to conduction 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

Endst: No. _____
Copy of the above is to:-

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

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

Attested to be True
Copy

-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/Misc/
Minutes of meeting/PST/2023 dated 20-7-2023 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 Rules 1999) 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 Pakhtunkhwa.



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

No. SO(Priary-M)E&SED/2-2/Appointment-Rule /2023-
Peshawar Dated 23rd August, 2023

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

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

Dear Sir,

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

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

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

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CamScanner

-21-

-B/c-

-22-

No.50 (Primary-M) E&SE/D/2-2/
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) E&AD
/1-3/2020 dated 3rd 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 2011.

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.

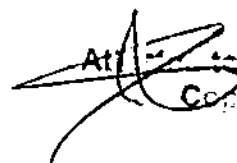
In view of above, the said ammendment may be reconsidered to
the extent of lady teacher in primary schools.

Copy forwarded to;

1. Director E&SE Khyber Pakhtunkhwa.

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

(Muhammad Ishaq)
Section Officer (Primary
Male)

Attest:  be True
Copy



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.

Attested to be True

Copy

WP443-2023 AZIZULLAH VS GOVT OF PG43

-22-

-23-

-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 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 Officer (Policy)

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]
13-5-24

Date of Presentation of Application 10-7-23
 Number of V.C. 1-1
 Copying 5/-
 Urgent 5/-
 Total 5/-
 Name of 13-5-24
 Date of 12-6-24
 Date of delivery of copy 12-6-24

~~Attested to be True~~
~~Copy~~

To,

Dated: 28-01-2024

- 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.

Best Regards

~~As per~~ to be True
Copy

Muhammad Shoaib Son of Muhammad Rafique Resident of Tehsil & District Kohat

Khyber Pakhtunkhwa

Aziz Ullah Khan
President
0333-0414648
azizullah1973@gmail.com
Ppripkpk



APTA House:
Govt. Primary School No.1,
Gulbaha Peshawar City.

آل پرائمری ایجوکیشنل ایسوسی ایشن (اپٹا) خیبر پختونخوا

مقام: سیکرٹری ایجوکیشن و سیکولریٹی ڈیپارٹمنٹ خیبر پختونخوا
مقام: آل پرائمری ایجوکیشنل ایسوسی ایشن خیبر پختونخوا
تاریخ: 15/07/2023

گزارش ہے کہ پروسٹنڈر ہر ادارے میں ہونے والی سرکاری ملازم کی خواہش ہوتی ہے پروسٹنڈر کا ایک سالوں اور آگے جاتا کہ ہر ملازم ایک اگر کسی
بجورگے تحت ایک رولڈ پروسٹنڈر نہ لیں تو وہ ہر آگے پانچ سال تک پروسٹنڈر نہیں لے سکتے تھے مطلب پانچ سال تک ہر اس کی پروسٹنڈر نہیں ہو سکتی تھی
ہر اس سالوں میں تواری رعایت دی گئی پانچ سالوں والی بات غم کر دی گئی کہ اگر ایک ملازم ایک سال پروسٹنڈر نہ لیں تو وہ دوسرے سال لے سکتا ہے
لیکن اب ایک ہفتے پہلے ایک اور نوٹیفکیشن ہوا ہے

جس کے مطابق اب ہر ملازم پروسٹنڈر ضرور لیں گے اگر نہیں لیں گے تو اس کے خلاف ای سی ڈی رولڈ کے مطابق کارروائی کرنے کا کہا گیا ہے
دراصل یہ آئی ٹی نوٹیفکیشن بنیادی انسانی حقوق کی کئی خلاف ورزی ہے سونے کی دور دراز اور پہلی ملازموں میں خاص کر خواتین اساتذہ کو انتہائی مشکلات کا
سامنا کرنا پڑے گا

جیکہ عام حالات میں کسی زبردستی پروسٹنڈر اور دور دراز سمیت انسانی حقوق کی خلاف ورزی ہے کیونکہ خیبر پختونخوا میں بد قسمتی سے خواتین دشمنی
میں ہوتی ہے ایسے حالات میں یہ خواتین نوٹیفکیشن جیسے EASE کی کاغذات لیکر کی جواب میں کیا گیا ہے جو بدلتی اور بنیادی انسانی حقوق کی خلاف
ہم اس کے خلاف قانونی چارہ جوئی کا حق بھی محفوظ رکھتے ہیں

لہذا ہم آپ سے درخواست کرتے ہیں کہ نوٹیفکیشن کو واپس لیا جائے یا اس میں ترمیم کر کے پرائمری اساتذہ کو (Relaxation) دیا جائے اور ان کو
زبردستی پروسٹنڈر لینے کی ہمت نہ کی جائے اور پروسٹنڈر لینے کی سہولتیں باقاعدہ ملایا جائے لیکن یہ زبردستی نہ کی جائے

اس سلسلے میں آپ جلد از جلد تمام (DEOs) ای سی ڈی اور ایک مخصوص سرٹیفکیٹ جاری کیا جائے تاکہ اطلاع میں آپ سیکل / لیٹیل پرائمری اساتذہ کو ذاتی
ذمہ لیتے اور ہر ہفتے سے مطلع کیا جائے

کیونکہ نوٹیفکیشن جاری ہونے ہی پرائمری اساتذہ کو ذاتی طور پر ہر ہفتے سے مطلع شروع ہو چکا ہے
لہذا ہم یہ توقع رکھتے ہیں کہ آپ صاحبان آئی ٹی نوٹیفکیشن لیکر سونے ہر ہفتے پرائمری اساتذہ کو مخصوص لیٹیل پرائمری اساتذہ کو اس ذاتی لیت سے ہمت دلائیں گے

شکریہ

Handwritten signature and date 08/07/23

مولانا محمد خان سہیلان مسدود
آل پرائمری ایجوکیشنل ایسوسی ایشن خیبر پختونخوا

Attested True Copy

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

MUHAMMAD SHOAB
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.

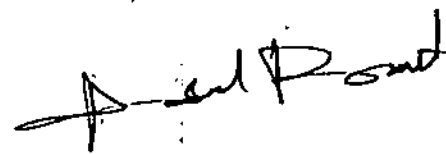


APPELLANT

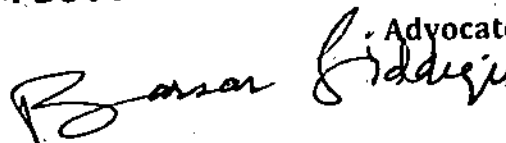
ACCEPTED



MUHAMMAD MUAZZAM BUTT
Advocate Supreme Court



MUHAMMAD ADEEL BUTT
Advocate High Court



BASSAM AHMAD SIDDIQUI
Advocate High Court



Attested to be True
Copy