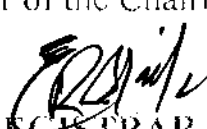


FORM OF ORDER SHEET

Court of _____

Appeal No. 2528 /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 AG/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 = 2528/24

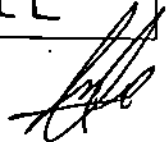
Abdullah Shad

V/S

Government of KP & others

INDEX

S#	DESCRIPTION OF THE DOCUMENTS	ANNEX	PAGES
1.	Appeal and Verification	*	1-4
2.	Application for suspension	*	5
3.	Copy of Monthly Salary account	A.	6-6A
4.	Copy of notification No. SD (Policy) EV AD/1-3/2020 dated 06/08/2020	B.	7-8
5.	Copy of Impugned Letter dated June 06th, 2023	C.	9-11
6.	Copy of Minutes of Meeting dated 06-07-2023	D.	12-15
7.	Copy of Letter dated 23-08-2023	E.	16-17
8.	Copy of Impugned letter dated 07-09-202	F.	18-19
9.	Copy of Representation against the said notification and representation made by APTA President	G & H	20-21
10.	Wakalat Nama		22


ADVOCATE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA

In Ref to

Service Appeal No 2528 /2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 18074

Dated 19/11/24

Abdullah Shad Son of Sawoo Khan Resident of Tehsil & District Torghar

Designation: Primary School Teacher at GPS Zangia KD

.....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 Teacher.
Copy of Monthly Salary account is annexed as Annexure A

Filed today
Registered
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.

Paul
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

AFFIDAVIT:

I Abdullah Shad Son of Sawoo Khan Resident of Tehsil & District Torghar 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

Paul
Deponent



BEFORE THE SERVICE TRIBUNAL KHBER PAKHTUNKHWA

CM No _____ -P-Of 2024

In Ref to

Service Appeal No _____ /2024

Abdul Wahid Shad
VERSUS

Secretary to Government of Khyber Pakhtunkhwa & others

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION BEARING NO. 50 (POLICY) E&D/1-3/2020 DATED 06/08/2020, COMMUNICATED TO RESPONDENT NO.2 BY WIDE 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 I/s. And if the notification bearing No. 50 (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Wide Letter Dated 06/06/2023 is not suspended the appellant would suffer irreparable loss.

4. That valuable rights of the appellant is involved in the case.

In view of the reasons, it is humbly requested that the notification bearing No. 50 (Policy) E&D/1-3/2020 dated 06/08/2020, communicated to Respondent No.2 by Respondent No.1, Wide Letter Dated 06/06/2023 may kindly be suspended till the final disposal of the main appeal in hand.

Appellant
[Signature]

Through

Muhammad Musazzam Butt
Advocate Supreme Court

[Signature]

Muhammad Adeel Butt
Advocate High Court

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 from this honorable Court.

ATTESTED

[Signature]
Deponent

20-04



OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MANSEHRA

ORDER

Consequent upon the approval of the District selection Committee, the Competent Authority is please to appoint the following eligible PST (Male) Open Merit, Candidates (KALA DAKA) purely on Merit / Policy in BPS -5 @-Rs2415/- fixed plus usual allowances as admissible under the rules Posted in the Schools as noted against each with effect from the date of their taking over charge with the following terms & conditions:-

S. NO	MSL NO	Name & Father Name	Address	Place of Posting	Remarks
1	39	Khwaj Muhammad S/O Muhammad Ashraf.	Gwandla M. Khel.	Msq School Kalala.	
2	40	Zahir Said S/O Abdul Zaman.	Gwandla M. Khel.	GPS Abu Hassan, Zai.	A/V Post --do--
3	41	Wazir ur Rehman S/O Noor ur Rehman.	Zargaay	Msq School Gambat.	--do--
4	43	Raza Meen Khan S/O Ghulam Rasool.	G.M. Khel.	GPS Mera KD	--do--
5	45	Muhd Tahir Iqbal s/o Muhd Yaseen.	Mangoona A/Zai	GPS Karla	--do--
6	47	Zar Muhd Said s/o Imam Said	Chara Kot	GPS Chara-Kot	--do--
7	46	Niaz Hussain Shah s/o Taj Hussain shah	Tilly Shanai	GPS M. Khan Khail KD.	--do--
8	48	Fazal Shah s/o Maboon' Shah	Kamasar	GPS Bartooni	--do--
9	49	Abdullah Shah s/o Sawoo Khan.	Dher K, Khail KD	GPS Zangia KD	--do--
10	50	Alimullah s/o Abdur Raheem	Bateela	GPS Balkot	--do--
11	51	Noor Muhd Khan s/o Abdul Haleem	Karcor M. Khail	GPS Shagai KD	--do--
12	52	Muhd Qasim s/o Ghulam Qasim	Bela Maidan	GPS Halima Dada	--do--
13	53	Muhd Nisar s/o Meva Khan	Bartochi	GPS Shagai KD	--do--
14	54	S. Naseem Shah s/o Hakeem Said	Kamasar	GPS Judbah.	--do--
15	55	Jane Alam s/o Shamzad Khan	Bimbal A/Zai	GPS Judbah	--do--

TERMS & CONDITIONS

1. Their appointments are made on purely temporary basis and liable to termination at any stage without assigning any reason/notice.
2. They will be governed by such rules and regulations enforce and as may be prescribed by the Govt. from time to time for the category of the Govt. servant which they belong.
3. In case any of the above candidate failed to assume the charge of his post within 15 days of his appointment, candidature ship will be stand automatically cancelled.
4. The Candidate will enter into an agreement with the Govt. and will be governed by the terms and conditions herein after mention in such agreement. They will sign the agreement on the prescribed form on stamp paper before joining service.

- 2 They will be governed by such rules and regulations enforce and as may be prescribed by the Govt from time to time for the category of the Govt servant which they belong.
- 3 In case any of the above candidate fail to assume the charge of his post within 15 days of his appointment, candidature ship will be stand automatically cancelled.
- 4 The Candidate will enter into an agreement with the Govt and will be governed by the terms and conditions herein after mention in such agreement. They will sign the agreement on the prescribed form on stamp paper before joining service.
- 5 The Principal/Headmasters /DDO, concerned are responsible to get verified their certificates etc from the concerned Universities/Board & RDE etc before the drawl of their pay and report genuineness of their Degrees/Certificates or otherwise.
- 6 They will get initial of the scale including usual allowances as admissible under the rules, they are entitle to annual increment according to the rules except Pension and commutation.
- 7 Their services are liable to termination on one month prior notice from either side in case of resignation, without prior notice, their one month pay /allowances if any shall be forfeited to Govt.
- 8 They will not contribute any amount towards GPFund however they will contribute CPFund @Rs.5% of the minimum of the pay and the 5% contribution will be made by the Govt.
- 9 They shall be required to furnish the copies of all their certificates/Degrees along with original with the original receipt and photo copies of thereof pertaining to the verification fee of the concerned examination Agencies i.e Board/University to the District officer S & L. The District officer S & L shall arrange verification of all the certificates/Degrees of the appointee and will issue a clearance certificates to each appointee for the release of his pay. Their pay bills should not be submitted to the Distt Account officer Manshehra before verification of all certificates/Degree from the concerned institution of each candite.
- 10 They should produce age and health certificate from the Medical Supdt:DHQ,Hospital Manshehra.
- 11 The Head of Institution /DDO must check their original certificates/Degrees.
- 12 The average candidates should not be handed over charge, The age limit is 18 to 35 years.
- 13 No TADA is allowed.
- 14 Charge report should be submitted(in duplicate)to all concerned.

Syed Shah Jee
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MANSEHRA.

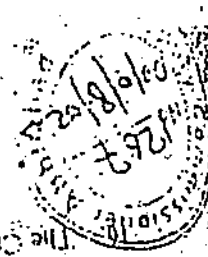
Encls: 14/2006-2007 AT Male appt: 2006, Dated Manshehra the 13/9/2006.
Copy forwarded for information and necessary action to the

- 1 Director Schools & Literacy NWFP Peshawar.
- 2 District Nazim Manshehra.
- 3 District Coordination officer Manshehra.
- 4 District Account officer Manshehra.
- 5 Principal/Headmaster concerned.
- 6 Budget & Account officer local office.
- 7 P/S to EDO S&L local office.
- 8 Candidates concerned.
- 10 Office order file

[Handwritten Signature]
DISTRICT OFFICER (MALE)
SCHOOLS & LITERACY MANSEHRA.

M.H. 11/1/82

ATTESTED



DEPUTY SECRETARY (POLICY)
GWAJDAH LATHI

[Handwritten signature]

- The Secretary, Administration Department.
The Section Officer (Admn), Administration Department.
The Deputy Director (IT), E&A Department.
The Registrar, Khyber-Pakhtunkhwa Public Service Commission, Peshawar.
The Registrar, Khyber-Pakhtunkhwa High Court, Peshawar.
All Deputy Commissioners in Khyber-Pakhtunkhwa.
All Heads of Attached Departments in Khyber-Pakhtunkhwa.
The Principal Secretaries to Chief Minister, Khyber-Pakhtunkhwa.
The Principal Secretary to Governor, Khyber-Pakhtunkhwa.
All Administrative Secretaries to Govt. of Khyber-Pakhtunkhwa.
The Senior Member, Board of Revenue, Khyber-Pakhtunkhwa.
Development Department, Khyber-Pakhtunkhwa.
Additional Chief Secretary, Govt. of Khyber-Pakhtunkhwa. Planning &

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

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

Following further amendment shall be made, namely:
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:
In exercise of the powers conferred by section 25 of the Khyber-Pakhtunkhwa Civil Servants Act, 1973 (Khyber-Pakhtunkhwa Act No. XVIII of 1973) the Chief Minister of Khyber-Pakhtunkhwa is pleased to direct that in the Khyber-Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the following further amendment shall be made, namely:

NOTIFICATION
Dated Peshawar, the 06/18/2011

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION-WING)

Annexure - B -

B/C -8-

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)

NOTIFICATION

Dated Peshawar the, 06/08/2020

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

AMENDMENT

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

CHIEF SECRETARY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA

(ANDS): & EVEN DATE

Copy is forwarded to :-

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

(WARDAH LATIF)
DEPUTY SECRETARY (POLICY)



[Handwritten signature]

WP4447-2023 AZIZULHAQ VS GOVT OF PG43

21.01.23

- 1. PG to Special Secretary (Reg: Establishment Department)
- 2. PG to Additional Secretary (Reg: Establishment Department)
- 3. PG to Deputy Secretary (Reg: Establishment Department)

Copy forwarded to the
Rd. Officer No. & date

[Handwritten initials]

Section Officer (Policy)

Section Officer (Policy)

Yours faithfully,

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

The basic rationale behind the debarment of the said rule is aimed at preventing a person from completion for being by sticking to a single lucrative position or to prevent those who tend to forge 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.

The basic rationale behind the debarment of the said rule is aimed at preventing a person from completion for being by sticking to a single lucrative position or to prevent those who tend to forge 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.

The Government of Khyber Pakhtunkhwa
Ministry of Secondary Education

Subject: GUIDANCE REGARDING: DEBARMENT OF RULE 215 IN THE
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT, PROMOTION AND TRANSFER)
REGULATIONS, 1989 AND (AMENDED) RULES, 1989.

The Government of Khyber Pakhtunkhwa
Ministry of Secondary Education



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
No. SOP/Policy/KA/AD/1-2/2020
Dated Peshawar the June 06, 2023

62

Annexure - C

-10-

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No. 091-9221587)

No. SO (Primary-M)/E&SED/2-6/2023
Dated Peshawar, the June 26th, 2023

To

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

Aziz Ullah Khan
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 (E&SE) E&SE Department in his office.

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

Encl: AA


(MUHAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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


SECTION OFFICER (PRIMARY MALE)
26/6/23

B/c -11-

No 50 (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

(MURAMMAD ISHAQ)
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)



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

Annexure
①


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


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

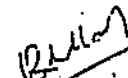
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

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

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

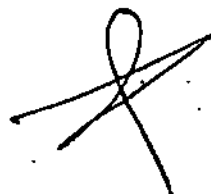

(Mr. Fazal Wahid)
Deputy Director-I
E&SE Department


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


(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar


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

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



-13-
-B/C-

MINUTES OF THE MEETING REGARDING APPLICATION SUBMITTED BY MR AZIZ ULLAH PROVINCIAL PRESIDENT ALL PRIMARY TEACHERS ASSOCIATION KHYBER PAKHTUNKHWA REGARDING DELETION OF RULE 7(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

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

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

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

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

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

Provincial President
All Primary Teachers Association
Khyber Pakhtunkhwa

(Mr. Razaqat Ullah)
General Secretary APTA
Peshawar

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

(Abdullah)

Additional Secretary (Establishment)



No. 8145

Khyber Pakhtunkhwa, Peshawar

/P.No. 34/SST/M/General Cases

Dated: 23/7/2023

Phone: 091-9223344

Email: establish@entimale1@gmail.com

To

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

Subject: MINUTES OF THE MEETING

Dear Sir,

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

- That Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) dated Rule 7(5) in the Civil Servants (Appointment, promotion & Transfer Rules 1989) vide notification No. No. SOR-1/ (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.
 - Now it is obligatory upon the civil servant to accept promotion in every condition.
 - 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/2-3/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/2-3/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 DP-16 may be exempted of implications of the amendment in the rules if 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

Encls: 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

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/Mil/Minutes of meeting/PST/2023 dated 10-7-2023 on subject cited above and to present brief history about background of case as under:

- That Government of KP Establishment department (Regulation Wing) deleted rule 7(S) in Civil Servants (Appointment, promotion, Transfer, Rules 1997) 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.



-16-

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

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

Annexure
E

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

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

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.


SECTION OFFICER (PRIMARY MALE)
28/8/23

Scanned with CamScanner

[Handwritten signature]

No. 50 (Primary - M) E3, SED / 8-81 /
Appointment - Rule / 2023
Peshawar Dated 29th August, 2023.

- b/c -
- 17 -

The Secretary to Government of Khyber Pakhtunkhwa,
Establishment and 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 (Primary)
/1-3/2020 dated 8th June 2023 and to state that after
deletion of Rule 7(5) Khyber Pakhtunkhwa Civil Servant (Appointment,
Promotion and Transfer Rules 1989) it has been intimated that
those officers/officials who do not comply with promotion order
of the competent authority or try to evade promotion through
different means shall be proceed under Khyber Pakhtunkhwa
Civil Servant (Efficiency and Discipline) Rule 2012.

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

Copy forwarded to:
1. Director E3 SE Khyber Pakhtunkhwa.
2. PS to Secretary, E3 SE Department, Khyber Pakhtunkhwa.

(Muhammad Ishaq)
Section Officer (Primary
Work)

Annexure - F



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

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

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

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

Yours faithfully,

Section Officer (Policy)

Enclst. Of even No & date

Copy forwarded to the:-

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

-19-

- B/c -

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

To

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

Subject:

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

Dear Sir,

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

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



Abdullah Shad Son of Sawoo Khan
Resident of Tehsil & Dsistrict
Torghar

Handwritten signature or scribble at the top of the page.

WP4442-2023 AZIZULAH VS GOVT CF PG43

Handwritten text in Urdu, possibly a date or reference number.

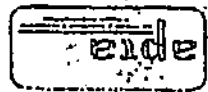
Handwritten signature and date '08/11/23'.

Main body of handwritten text in Urdu, appearing to be a legal document or affidavit.

Handwritten text at the bottom of the main body, possibly a signature or name.

Annexure - H

APTA House
Govt Primary School No.4
Gubnhar Peshawar City



Khyber Pakhtunkhwa

At: Pindi Khair
Production
0333-0412688
0333-0412688@ptanll.com

VAKALAT NAMA

BEFORE THE SERVICE TRIBUNAL PESHAWAR

Abdullah Shad

Appellant

Versus

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