


# FORM OF ORDER SHEET

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

**Appeal No. 2517 /2024**

S.No. 1	Date of order proceedings 2	Order or other proceedings with signature of judge 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  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

Gul Khan  
 S. ANO: 25/7/24  
 V/S  
 Government of KP & others

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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
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ADVOCATE  
 M. Muazzam Butt

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHUWA**

In Ref to

Service Appeal No 2517 /2024

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 18099

Dated 19/11/24

Gul Khan Son of Abdul Ul Akbar Resident of Tehsil & District Torghar

Designation: Primary School Head Teacher at Primary School Male

.....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 Impugned notification No. SD (Policy) EV AD/1- 3/2020 dated 06/08/2020 is attached as Annexure B
6. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the respondent No. 1 vide its letter No. SO(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the respondent No 3 (Directorate of Elementary & Secondary Education) that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forego 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

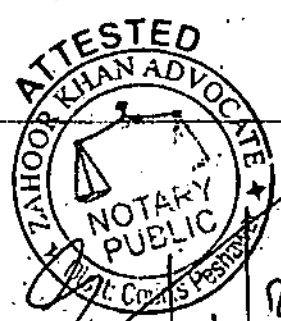
It is, therefore, humbly prayed that on the acceptance of the instant Service Appeal; the impugned Notification bearing No. SO (POLICY) E&D/1-3/2020 DATED 06/08/2020, communicated to Respondent No.2 by Respondent NO.1, vide letter dated 06/06/2023, may please be declared and ordered to be struck down 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, (the appellant) solemnly declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

*Cul Khan*  
 Deponent



*Cul Khan*  
 Appellant

Through

*Muhammad Muazzam Butt*  
 Advocate Supreme Court

*Muhammad Adeel Butt*  
 Advocate High Court

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

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

CM No \_\_\_\_\_ -P of 2024

In Ref to

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

Gul Khan  
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 RESPONDENT NO.1, VIDE LETTER DATED 06/06/2023 TILL THE FINAL DISPOSAL OF CASE IN HAND.

Respectfully Submitted-

1. That the instant application may be treated as part and parcel of service appeal of the appellant

2. That the appellant has brought a good prima facie case and balance of convenience also lies in favor of the appellant

3. That there is likelihood success of the appellant in the 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, Vide Letter Dated 06/06/2023, is not suspended the appellant would suffer irreparable loss.

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

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

AFIDAVIT:  
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  
deponent

Through

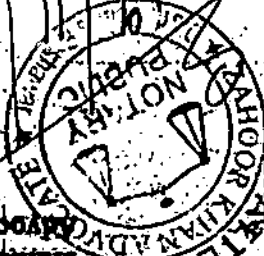
Appellant

Richard Muhammad Butt

Advocate Supreme Court

Richard Muhammad Butt

Advocate High Court





Annex: A

Tor Ghar

S# 1

P Sec:001 Month:January 2020  
TG6052 -Govt. Primary Schools (MAL)  
GOVT. PRIMARY SCHOOLS (MAL)

Pers #: 00226065 Buckle:  
Name: GUL KHAN  
PRIMARY SCHOOL HEAD TEACH  
CNIC No 1350422549857

NTN:  
GPF #: EDUMA011729  
Old #: 12393594068

GPF Interest Applied  
15 Active Temporary

TG6052 -10

PAYS AND ALLOWANCES:

0001-Basic Pay	32,080.00
1000-House Rent Allowance	2,349.00
1300-Medical Allowance	1,500.00
1923-UAA-OTHER 20%(1-15)	1,000.00
2148-15% Adhoc Relief All-2013	670.00
2199-Adhoc Relief Allow @10%	456.00
2211-Adhoc Relief All 2016 10%	2,359.00
2224-Adhoc Relief All 2017 10%	3,208.00
2247-Adhoc Relief All 2018 10%	3,208.00
Gross Pay and Allowances	50,038.00

DEDUCTIONS

GPF Balance 449,142.00	Subrc: 2,890.00
3501-Benevolent Fund	600.00
3990-Emp Edu Fund KPK	125.00
4004-R. Benefits & Death Comp:	600.00

Total Deductions

4,215.00  
5,823.00

D.O.B  
01.02.1975  
21 Years 07 Months 005 Days

LFP Quota:  
ALLIED BANK LIMITED NEW DARBAND TOWN S  
PLS 3300-3

Handwritten mark resembling a large 'X' or signature.

Handwritten text: 4-11-82

ATTESTED



DEPUTY SECRETARY (POLICY)  
(VA) (DAH LATI)

Handwritten signature/initials.

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

CHIEF SECRETARY  
GOVERNMENT OF THE KYBER PAKHTUNKHWA

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

AMENDMENT

Following further amendment shall be made, namely:

(i) the Chief Minister of Kyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989, the

(ii) the Chief Minister of Kyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the

(iii) the Chief Minister of Kyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the

in exercise of the powers conferred by section 25 of the

Dated Peshawar the 06/11/82

NOTIFICATION

GOVERNMENT OF  
KYBER 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-rule (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)

Annexure - C



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
No. SO(Polcy)II&AD/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(S) IN THE  
KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPOINTMENT,  
PROMOTION AND TRANSFER) RULES, 1989.

Dear Sir,  
I am directed to refer to your letter No. SO(Polcy-MYA:9803/1-2/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 said rule is aimed at preventing a civil servant from temptation for illicit gain by seeking 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 N. Khan)  
Section Officer (Policy)

ASE  
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-II), Establishment Department.
3. PS to Deputy Secretary (Policy), Establishment Department.

88/10/23

2023

21/6/23

Section Officer (Policy)

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
CIVIL SECRETARIAT PESHAWAR  
(Phone No. 001-9221587)

No. SO (Primary-MYE&SED/2-6/2023,  
Dated Peshawar lhc. June 26<sup>th</sup>, 2023

To

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

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

*[Handwritten Signature]*  
26/6/23

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

*[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

*[Handwritten Signature]*

B/c -11-

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

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

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

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

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

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

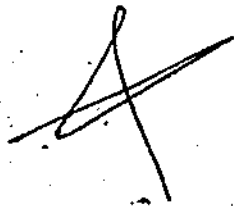
Encl: AA

(MUHAMMAD ISHAQ)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

SECTION OFFICER (PRIMARY MALE)



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

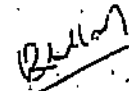
2. The meeting started with recitation from The Holy Quran. The chair welcomed the participants. The Deputy Director (Establishment) of Directorate of Elementary & Secondary Education briefed the forum regarding agenda item in detail.

3. After 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.

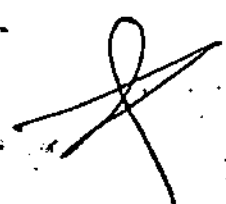
  
(Mr. Fazal Wahid)  
Deputy Director-I  
E&SE Department

  
(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



-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

S/N	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)



*[Handwritten signature]*

WP4442-2023 AZIZULAH VS GOVT OF PG43

Assistant Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

*[Handwritten signature]*  
21/7/2023  
Assistant Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

Ends: No. \_\_\_\_\_  
Copy of the above is as:-  
1. PA to Director, Local Directorate.  
2. Master Copy.

The case is submitted for perusal and necessary actions please.

Departmental Promotion Committee.  
provided they submit their written refusal prior to conduction of the meeting of Teachers Union. DPs-16 may be exempted of implications of the amendment in the rules bid 7(5) have affected negatively a huge numbers of Female Teachers. Thus it is proposed that in view of the above, this office is of considered opinion that the decision of Rules been asked for finalization of consolidated case.

Chairmanship of Hon. Additional Secretary Establishment at his office this office has  
That, in the light of the minutes of meeting dated 6-07-2023 held under the  
(Primary-4) E&SED/2-1/Appointment/2023 dated 12-06-2023.  
The same was received by this office from your good office vide letter No.50  
Civil servant to accept promotion under every condition.  
that there exists no provision in decline or forgo promotion. It is obligatory upon every  
Wing) vide letter No.50 (Policy) E&AD/1-1/2020 dated 6-06-2023 categorically stated  
That the Government of Khyber Pakhtunkhwa Establishment Department, (Regulation  
No.50 (Primary-4) E&SED/2-1/Appointment/2023 for necessary guidance.  
That your office forwarded the memo to the quarter concerned vide letter  
promotion.  
(ii) It is the prerogative of the civil servant to either accept or turn down the offer of  
(i) Now it is obligatory upon the civil servant to accept promotion in every condition.  
No.687 dated 06-02-2023.  
That this office sought guidance from your good office in the following words vide letter  
dated 06-08-2020.  
No. No. SOR-VI (E&AD)/1-3/2020 dated 06-08-2020.  
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-VI (E&AD)/1-3/2020 dated 06-08-2020.

I am directed to refer to the letter No.50 (Primary-4) E&SED/2-1  
G.Mts/Minutes of the Meeting/PS77023 dated 10-07-2023 on the subject cited above and in  
present brief history about the background of the case as under:

**MINUTES OF THE MEETING**

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

Subject: \_\_\_\_\_  
Dear Sir,

Phone: 091-9222344 Email: estab@khyber.gov.pk

Khyber Pakhtunkhwa, Peshawar  
Date: 22/7/2023



-B/C-

DIRECTORATE OF - ELEMENTARY & SECONDARY EDUCATION, KPK

PESHAWAR.  
(21-7-2023)

To:

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

Subject: Minutes of Meeting

Dear Sir, I am directed to refer to letter No. (SO Primary - IV) E & SED/S-1/G.M.B./  
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 1987) 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 quonates concerned vide letter No. SO (Primary-I) 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 Establish-ment 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 23<sup>rd</sup> 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).**

Dear Sir,

I am directed to refer to your letter No. SO(Policy)/ EB&AD/ 1-3/2020 dated 06<sup>th</sup> 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 ISMAIL)  
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

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

  
SECTION OFFICER (PRIMARY MALE)  
28/8/23

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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)

Encls. 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)

Annexure - G

To,

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

**Subject: REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION BEARING NO.SO(POLICY)E&AD/1-3/2020, 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. SO (Policy) /E&AD/1-3/2020 dated 06/08/2020, the right of foregoing of promotion was withdrawn and the Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) deleted Rule 7(5) in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 vide notification no SOR-VI (E & AD)/1-2/2020 dated 06-08-2020. That the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar asked for guidance regarding deletion of Rule 7(5) in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 in respect of which the Establishment Department vide its letter No. SO.(Policy) E&AD/1-3/2020 dated Peshawar the June 06th, 2023 directed the Directorate of Elementary & Secondary Education that Rule 7(5) in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 has been deleted vide notification dated 06-08-2020 and therefore, no provision exists to decline or forgo promotion and it is obligatory upon every civil servant to accept promotion under every condition. That Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa also wrote a letter to the office of Establishment & Administrative Department vide No SO(Primary-M) E&SED/2-2/Appointment Rule/2023 dated 23-08-2023 to reconsider the amendment made in Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 as it had negatively affected a large number of teachers and especially female teachers. In the meanwhile, the department vide its letter dated 07th of September 2023 directed the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa that necessary guidance has already been provided to the department and therefore no provision exists to decline or forgo promotion and those teachers who do not comply with the promotion order of the competent authority or try to evade promotion through different means shall be proceeded under the Khyber Pakhtunkhwa Civil Servant (Efficiency & Discipline) Rules, 2011.

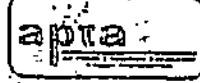
**It is, therefore, humbly prayed that on the acceptance of the instant representation; the Notification bearing No. SO (POLICY) E&D/1-3 1-2020 DATED 06/08/2020, communicated to vide letter dated 06/06/2023, may please be declared and ordered to be struck down being Void, Ultra vires to the Constitution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

Dated 10/05/2024



Gul Khan  
PSHT  
Torghar

Aziz Ullah Khan  
President  
0333-0114648  
azizullah1973@gmail.com  
aptkpk



APTA House  
Govt Primary School No.4  
Gulbaha Peshawar City.

آل پرائمری ٹیچرز ایسوسی ایشن (اپٹا) خیبر پختونخوا

Annexure - A

مہاب: میگزرائی واپس لے کر دیا گیا ہے  
مہاب: آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا  
جناب عالی

گزارش ہے کہ پروفیسر ہر ایسے میں آئے ہیں اور کہ سرکاری ملازم کی خواہش آتی ہے پروفیسر کا ایک سالن ازا کر چکا کہ ہر ملازم ایک اگر کسی  
بھریے تحت ایک دن پروفیسر نہ میں تو وہ پروفیسر ہر سال تک پروفیسر نہیں لے سکتے تھے مطلب ہر سال تک ہر اس کی پروفیسر نہیں اور سنی تھی  
پھر اس سال میں تھوڑی رعایت دی گئی ہر سال سال ہات ختم کر دی گئی کہ اگر ایک ملازم ایک سال پروفیسر نہ میں تو دوسرے سال لے سکتا ہے  
لیکن اب ایک ہات پہلے ایک اور پروفیسر اور ہے  
میں کے مطابق اب ہر ملازم پروفیسر ضرور میں کے اگر نہیں میں کے تو اس کے خلاف آئی و لی روڑ کے مطابق کارروائی کرنے کا کہا گیا ہے  
اصل یہ آئی و لی پروفیسر بنیادی ایسوسی ایشن کی کئی خلاف روڑی ہے جسے کہ دو روز اور پھرتی ملازم میں خاص کر خواتین اساتذہ کو انہی کے خلاف کام  
سازگار کرنے کا  
جبکہ عام حالات میں بھی ڈیرا لگتی پروفیسر اور دو روز بھی بنیادی ایسوسی ایشن کی خلاف روڑی ہے کہ خیبر پختونخوا میں پروفیسر سے نام آئی و لی میں  
میں آئی ہے ایسے حالات میں یہ یا تو پروفیسر جو اساتذہ کی کاپی نہیں لیں کہ ہر اب میں کیا گیا ہے جو بدلتا اور بنیادی ایسوسی ایشن کی خلاف ہے  
اس میں کے خلاف کارروائی ہوتی ہے کہ اس کے خلاف روڑی ہے  
لہذا ہم آپ سے درخواست کرتے ہیں کہ پروفیسر کو واپس لیا جائے یا اس میں تو میں کہ پرائمری اساتذہ کو (Relaxation) دیا جائے اور ان کو  
روڈ لگتی پروفیسر لینے کی ہمت ان کو مرضی سے لینے دیا جائے  
اور پروفیسر نہ لینے کی صورت میں اساتذہ کو اپنا لیا جائے لیکن یہ ضرورتی نہ کی جائے  
اس سلسلے میں آپ جلد از جلد تمام (DEO) آئی آئی اور کہ ایک قسم سے رابطہ جاری کیا جائے تاکہ اساتذہ میں پ کی ایسوسی ایشن پرائمری اساتذہ کو ذہنی  
البتہ اور روڑی کے سے چلایا جائے  
کہ کہ پروفیسر ہر ایک اور ہے یا پرائمری اساتذہ کو اپنی طور پر روڑی کرنے کا سلسلہ شروع ہونا ہے  
لہذا ہم یہ فریق دیکھتے ہیں کہ آپ صاحبان آئی و لی میں ہر سب ہر کے پرائمری اساتذہ خصوصاً ایسوسی ایشن پرائمری اساتذہ کو اس اپنی البتہ سے ہمت دلائیں گے

شکریہ

مذکورہ خان سہیلی مسود  
آل پرائمری ٹیچرز ایسوسی ایشن خیبر پختونخوا

# WAKALAT NAMA

## BEFORE THE SERVICE TRIBUNAL PESHAWAR

*Gul Khan*

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.

*Gul Khan*

APPELLANT

ACCEPTED

*[Signature]*  
MUHAMMAD MUAZZAM BUTT  
Advocate Supreme Court

*[Signature]*  
MUHAMMAD ADEEL BUTT  
Advocate High Court

*[Signature]*  
BASSAM AHMAD SIDDIQUI  
Advocate High Court