

GOVERNMENT OF THE ¹[Khyber Pakhtunkhwa]
ESTABLISHMENT DEPARTMENT

NOTIFICATION

Dated 5th March, 2002.

No. SOR-IV(E&AD)/3-11/2002.—In exercise of the powers conferred by Section 26 of the ²[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (³[Khyber Pakhtunkhwa] Act No. XVIII of 1973) read with Cabinet Division, Government of Pakistan, Notification No. SOR 475(1)/2001, dated the 28th June, 2001, the Governor of the ⁴[Khyber Pakhtunkhwa] is pleased to make the following rules regulating recruitment to the Judicial Service and prescribing the terms and conditions of service of persons appointed thereto, namely;

THE ⁵[Khyber Pakhtunkhwa] JUDICIAL SERVICE RULES 2001

PART-I

GENERAL

1. **Short title and commencement.**— (1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Judicial Service Rules, 2001.
 (2) They shall come into force at once.
2. **Definitions.**— In these rules, unless there is anything repugnant in the subject or context:
 - (a) “Administrative Committee of the High Court” means Committee constituted under High Court Rules and Orders, Volume-V, Chapter 10-A.
 - (b) “Appointment on Contract basis” means appointment made for a specified period in accordance with the policy of Government applicable to appointment on contract basis;

¹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

² Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

³ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁶ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (c) “Chief Justice” means the Chief Justice of Peshawar High Court, Peshawar;
- (d) “Commission” means the ⁷ [Khyber Pakhtunkhwa] Public Service Commission;
- (e) “Departmental Promotion Committee” means the Committee constituted under High Court Rules and Orders, Volume-V, Chapter-10-A;
- (f) “Government” means the Government of the ⁸[Khyber Pakhtunkhwa];
- (g) “High Court” means Peshawar High Court, Peshawar;
- (h) “Initial appointment” means appointment made otherwise than by promotion or transfer from another service, department or post;
- (i) “Provincial Judicial Selection Board” means a Board comprising the Administration Committee or such number of Judges of the High Court as may be nominated by the Administration Committee;
- (j) “Recognized University” means the University established by or under a law in Pakistan or any other University which may be declared by Government to be a recognized University for the purpose of these rules;
- (k) “Selection Authority” means the Commission or, as the case may be, the Provincial Judicial Selection Board; and
- (l) “Service” means the ⁹[Khyber Pakhtunkhwa] Judicial Service.

PART – II

RECRUITMENT

3. Constitution of Service.— The Service shall comprise the posts of:

- (a) District and Sessions Judge / Zilla Qazi.
- (b) Additional District and sessions Judge/Izafi Zilla Qazi.

⁷ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁸ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

⁹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (c) Senior Civil Judge-cum-Judicial Magistrate, empowered under section 30 Cr.P.C/ Aala Alaqa Qazi.
- (d) Civil Judge-cum-Judicial Magistrate/Alaqa Qazi.

Note: The designations of Zilla Qazi, Izafi Zilla Qazi, Aala Alaqa Qazi and Alaqa Qazi, wherever used in these rules, shall be deemed to be relevant only to the Provincially Administered Tribal Areas of the ¹⁰[Khyber Pakhtunkhwa]

4. Appointing Authority.— Appointment to a post shall be made by the High Court.

5. Method of recruitment.— Appointment to Service shall be made in the following manner:

- (a) appointment to a post of Civil Judge-cum-Judicial Magistrate/Alaqa Qazi shall be made by initial recruitment;
- (b) appointment to a post of Senior Civil Judge-cum-Judicial Magistrate empowered under section 30 Cr.P.C./Aala Alaqa Qazi shall be made on seniority-cum-fitness basis from amongst the Civil Judges-cum-Judicial Magistrates/Alaqa Qazis on the recommendations of the Departmental Promotion Committee.
- (c) Appointment to a post of Additional District and Sessions Judge/Izafi Zilla Qazi shall be made to the extent of —
 - (i) not less than two-third by promotion, on the recommendations of Departmental Promotion Committee, from amongst the holders of the post of Senior Civil Judge-cum-Judicial Magistrate, empowered under Section 30 Cr. P.C/ Aala Alaqa Qazi; and
 - (ii) not more than one-third by initial recruitment, from amongst the members of the Bar, Public Prosecutors/Government Pleaders and A.P.P./A.G.P;
- (d) Appointment to a post of District and Sessions Judge/Zilla Qazi shall be made by promotion, on the recommendations of the Departmental Promotion Committee, on the basis of seniority-cum-fitness from amongst the holders of the post of Additional District and Sessions Judge/Izafi Zilla Qazi;

¹⁰ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (e) Appointment by initial recruitment to a post of Civil Judge-cum-Judicial Magistrate/ Alaqa Qazi shall be made on the recommendations of the Commission based on the result of a competitive examination to be conducted by it in the subjects specified in the Appendix to these rules;

Provided that the High Court may make appointment by initial recruitment on contract basis, on the recommendations of the Provincial Judicial Selection Board in accordance with the policy of Government applicable to appointment on contract basis.

6. Age.— (1) No person shall be appointed to the Service if;

- (i) in case of initial recruitment as Civil Judge-cum-Judicial Magistrate/Alaqa Qazi he/she is less than twenty three years and more than thirty two years of age; provided that;
- (a) in the case of a Government servant who has served in connection with the affairs of the Federation or the ¹¹[Khyber Pakhtunkhwa] for a period of not less than four years, the upper age limit shall be automatically relaxed by 10 years or by the number of years the officer has actually served, which ever is less;
- (b) in the case of Barrister or an Advocate of the High Court and/or the Courts subordinate thereto or a Pleader, the period during which he/she practiced at the Bar shall, for the purpose of upper age limit under this rule, be excluded, subject to a maximum period of three years from his/her age; and
- (c) in the case of a person whose service under Government has been terminated for want of vacancy, the upper age limit shall be relaxed by 10 years or equal to the period of his/her actual service upto its termination whichever is less; and
- (iii) in case of initial recruitment as Additional Distrit and Sessions Judge/Izafi Zilla Qazi, he/she is less than thirty five years or more than forty-five years of age.

(2) For the purpose of this rule, age shall be reckoned as on the last date fixed for submission of applications for appointment.

¹¹ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

7. Qualification.— (1) No person shall be appointed to a post in the service by initial recruitment unless he/she—

- (a) in case of appointment to a post of Civil Judge-cum-Judicial Magistrate/Alaqa Qazi, possesses a Degree in law from a recognized University entitling him/her to practice the profession of law or is a Barrister of England or Ireland or is a Member of the Faculty of Advocates of Scotland.

Explanation.— For the purpose of this clause, the expression “practiced the profession of law” shall include any period of Government servant by a person as Government Pleader, Public Prosecutor on behalf of the Government.

- (b) in case of appointment to a post of Additional District and Sessions Judge/Izafi Zilla Qazi, apart from possessing the qualification in clause (a), is also a practicing Advocate of High Court and/or the Courts subordinate thereto with a minimum practice of eight years.

Provided that the experience of practicing as an Advocate shall also include the service rendered as Public Prosecutor, Government Pleader, Additional Public Prosecutor or Additional Government Pleader.

8. Eligibility.— (1) No person shall be initially appointed to the service unless he/she—

- (a) is a citizen of Pakistan and is bonafide resident of the ¹²[Khyber Pakhtunkhwa]
- (b) produces a certificate of character from the Principal Academic Officer of the academic institution last attended and also certificates of character from two other respectable persons, not being his/her relatives, who are well acquainted with his/her character and antecedents; and
- (c) is declared to be physically fit by a Board of Medical Officers, appointed by Government.

PART – III

CONDITIONS OF SERVICE:

9. Probation.— (1) A person appointed to a post against a substantive vacancy shall remain on probation for a period of two years, if appointed by initial recruitment, and for a period of one year, if appointed otherwise.

¹² Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

Explanation.— Officiating service and service spent on deputation to a corresponding or a higher post may be allowed to count towards the period of probation.

(2) If the work or conduct of a member of the service during the period of probation has been unsatisfactory, the High Court may, notwithstanding that the period of probation has not expired, dispense with his/her service.

(3) On completion of the period of probation of a member of the service, the High Court may, subject to the provisions of sub-rule (4), confirm him/her in his/her appointment, or if his/her work or conduct has, in the opinion of the High Court not been satisfactory;

- (a) dispense with his/her services, if he/she was not an employee of a department/organization before his/her appointment as above or his/her lien was not retained by his/her parent Department/Organization, or may revert him/her to the parent Department/Organization if he/she was an employee of a Department/Organization and his/her lien has been retained by the parent department/organization or
- (b) extend the period of probation by a period not exceeding two years in all, and during or on the expiry of such period pass such orders as it could have passed during or on the expiry of the initial period of probation.

Explanation-I- If no order has been made by the day following the completion of the initial period of probation, the period of probation shall be deemed to have been extended.

Explanation II. If no order has been made by the day on which the maximum period of probation expires, the probationer shall, subject to sub-rule (4), be deemed to have been confirmed in his/her appointment from the date on which the period of probation was last extended or may be deemed to have been so extended.

- 4. No person shall be confirmed in the service unless he/she successfully completes such training and passes such departmental examination as may from time to time be prescribed by the High Court.
- 5. If a member of the Service fails to complete successfully any training or pass any departmental examination prescribed under Sub-Rule (4), within such period or in such number of attempts as may be prescribed by the High Court, then the High Court may dispense with his/her services, if he/she was not an employee of department/organization or his/her lien has not been retained by his/her parent department/organization, or revert him/her to the parent department/organization if he/she was an employee of a department/organization and his/her lien has been retained by the parent department/organization.

10. Seniority:- The seniority inter-se of the members of the service in the various Pay Scales thereof shall be determined by the High Court, subject to the conditions that:

- (a) in case of member appointed by initial recruitment, in accordance with the order of merit assigned by the Selection Authority as mentioned in Rule-5; Provided that persons selected for the service in an earlier selection shall rank senior to the persons selected in a later selection.
- (b) in the case of members appointed by promotion, seniority in a post, service or cadre to which a Civil Servant is promoted, shall take effect from the date of regular appointment to that post; Provided that Civil Servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se seniority as in the lower post.

Explanation-I If a Jr. Officer in a lower grade is promoted temporarily to a higher grade in the public interest, even though continuing later permanently in the higher grade, it would not adversely affect in the interest his/her senior officer in the fixation of his/her seniority in the higher grade.

Explanation-II If a Jr. Officer in a lower grade is promoted to higher grade by superseding a senior officer and subsequently that officer is also promoted, the officer promoted first shall rank senior to the officer promoted subsequently.

11. Selection Grade:-

- (i) Not less than 33% of the posts of:-
 - (a) District & Sessions Judges/Zilla Qazis;
 - (b) Additional District & Sessions Judges/Izafi Zilla Qazis;
 - (c) Senior Civil Judges/Magistrates, empowered under Section-30 Cr.P.C./Aala Alaqa Qazis;
 - (d) Civil Judges cum Judicial Magistrates/Alaqa Qazis
 - (e) Including members of the Service serving against ex-cadre posts.

Shall be placed in the next higher basic pay scale.

- (ii) Selection Grade of officers shall be made by the High Court on the recommendations of the Departmental Promotion Committee from amongst the senior most incumbents.

12. Liability to transfer and serve. Members of the Service shall be liable to:

- (a) transfer anywhere in the ¹³[Khyber Pakhtunkhwa];
- (b) serve in any department of Government or any local authority or statutory body set up or established by Government; and
- (c) serve anywhere in Pakistan under the Federal Government.

13. General Rules: In all matters not expressly provided for in these rules, members of the Service shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to their employees, with such modifications and changes as the High Court may prescribe.

14. Repeal and Saving: The West Pakistan Civil Service (Judicial Branch) Rules, 1962 and the ¹⁴[Khyber Pakhtunkhwa] Senior Judicial Officers (Terms and Conditions of Service) Rules, 1979, are hereby repealed.

**CHIEF SECRETARY
GOVERNMENT OF ¹⁵[Khyber Pakhtunkhwa]**

¹³ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁴ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

¹⁵ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

APPENDIX**SYLLABUS AND STANDARD FOR THE ¹⁶[Khyber Pakhtunkhwa] JUDICIAL SERVICE COMPETITIVE EXAMINATION.**

1. The Competitive Examination shall be in the subjects as listed below and each candidate shall take all the subjects.
2. A candidate shall answer the papers in English, unless otherwise directed.
3. The subjects and maximum marks fixed for each subject/paper shall be such as shown below in column 2 and 3 respectively;

SUBJECTS/PAPERS

Serial Number	Subject	Maximum Marks
1	2	3
1.	English General and English Eassy.	100
2.	Urdu/pushto and General Urdu/Pushto Paper.	100
3.	General Knowledge: a. Current Affairs and Every Day Science. b. Pakistan Studies	100 50
4.	Civil Law-I	100
5.	Civil Law-II	100
6.	Criminal Law	100

¹⁶ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

7.	Islamic Jurisprudence	100
8.	Qanun-e-Shahadat 1984 and Pleading	100
9.	Viva-voice	100

Note:- All papers shall be of three hours duration.

4. Qualifying marks in the aggregate of written papers and viva voce shall "respectively be 425 and 30.
5. NO CANDIDATE SHALL BE SUMMONED FOR VIVA VOCE TEST UNLESS HE/SHE HAS OBTAINED AT LEAST 33 PERCENT MARKS IN EACH INDIVIDUAL WRITTEN PAPER AND 50 PERCENT MARKS IN THE AGGREGATE. NO CANDIDATE SHALL BE CONSIDERED TO HAVE QUALIFIED IN THE EXAMINATION UNLESS HE/SHE ALSO OBTAINED AT LEAST 30 PERCENT MARKS IN VIVA VOCE, FAILURE IN OR ABSENCE FROM, VIVA VOCE SHALL MEAN THAT THE CANDIDATE HAS FAILED TO QUALIFY FOR APPOINTMENT AND HIS/HER NAME WILL NOT BE INCLUDED IN THE MERIT LIST.
6. Five grace marks may be given to really deserving candidates in one or two papers; provided that such grant of grace marks shall not entitle the grantee to have a better position on the merit list than those successful candidates who have not been granted any grace marks.
7. If a candidate's handwriting is not easily legible, deduction which may be considered suitable may be made on this account from the total marks secured by him/her.
8. Credit will be given for good English including orderly, effective and exact expression combined with the economy of words, in all subjects of the examination and not only in subjects which are specially devoted to English.
9. Names of candidates who qualify shall be arranged in order of merit according to the aggregate marks obtained in the examination.
10. In the event of a tie, the order of merit shall be determined in accordance with the highest marks secure in the viva voce. Should the marks in the viva voce of the candidates who tie be equal, then the candidate who is older in age shall be placed senior.

**DETAILED SYLLABUS FOR THE ¹⁷[Khyber Pakhtunkhwa]
JUDICIAL SERVICE COMPETITIVE EXAMINATION.**

1. **English General and English Essay.** This paper is intended to test the candidate's command of the English language and may include precise writing usage of idioms, with an essay in English on one of the several specified subjects and is intended to test the candidate's ability to compose.
2. **Essay and General Paper in Urdu/Pushto.** This paper is intended to test the candidate to write the language fluently and to translate from English into it. Candidate's will be expected to have a grasp of the language and to understand poetry and prose. Knowledge of literature as such will not form part of this paper.
3. **General Knowledge including every day science and Pakistan Studies.** This paper is intended to test the candidate's knowledge of current world affairs and also of broad facts of historical political geographical and economic importance. A section will be included to test the candidate's knowledge and understanding of matters of every day observation and experience in the scientific aspect. Eighty marks will be allowed for General Knowledge Current Affairs and 20 marks for every day Science Paper of Pakistan studies will be of Degree standard.
4. **Details of subjects with respect to certain paper.** The following papers shall comprise the subject noted against each:
 - a. **Civil Law Paper I**
 - (i) Civil Procedure Code, 1908
 - (ii) West Pakistan Civil Court Ordinance, 1962.
 - (iii) Contract Act, 1872
 - (iv) Sales of Goods Act, 1930.
 - b. **Civil Law Paper II**
 - (i) Muhammadan Law/Islamic Law;
 - (ii) Registration Act, 1908
 - (iii) Limitation Act, 1908
 - (iv) Specific Relief Act, 1877
 - c. **Criminal Law**
 - (i) Pakistan Penal Code, 1860
 - (ii) Criminal Procedure Code, 1898.
 - (iii) Hudood Ordinances, 1979.
 - d. **Islamic Jurisprudence**
 - (i) Pre-Islamic Arab Society Evolution of the Islamic Legal system and sources of Islamic Law;

¹⁷ Subs. by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (ii) Importance of Qiyas, Istehsan, Istidlal, Ijtehad and Taqlid;
- (iii) Acts, Rights and Obligations;
- (iv) Ownership and Possession;
- (v) Contracts, Torts and Crimes;
- (vi) Procedure and Evidence;
- (vii) Constitutional and Administrative Laws and Relations between Muslims and Non-Muslims.

e. Qanun-e-Shahadat 1984 and Pleading.

- (i) Qanun-e-Shahadat 1984.
- (ii) Particulars of Plaints.
- (iii) Particulars of written statements;
- (iv) Drafting of Plaints and written statements.

Note:-Except in case of Muhammadan Law/Islamic Law, Hudood Ordinance, Islamic Jurisprudence and Pleadings, bare copies of the relevant Acts will be provided to the candidates.

5. The object of the Examination is to test the practical ability of the candidates rather than the range of their theoretical knowledge. For this purpose the kind of questions that will be asked will be to give the facts of a typical case and ask the candidate to frame issues, to write a Judgment and to discuss the admissibility of evidence.

6. Viva Voce: The viva voce will be a test of the personal qualities of the candidates. This examination will be in matters of general interest and is intended to test the candidates alertness, intelligence and general outlook. The bearing and physique of the candidate will also be taken into Consideration.