

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA ESTABLISHMENT
AND ADMINISTRATION DEPARTMENT.**

NOTIFICATION

Peshawar dated the 16th September, 2011.

NO.SO(REG-VI) E&AD/2-6/2010.-In exercise of the powers conferred by section 26, of the Khyber Pakhtunkhwa Civil Servants Act. 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

1. Short title, application and commencement.—(1) These rules may be called the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

(2) These shall apply to every person who is a member of the civil service of the Province or is the holder of a civil post in connection with the affairs of the Province and shall also apply to or in relation to a person in temporary employment in the civil service or post in connection with affairs of the Province.

(3) These shall come into force at once.

2. Definitions.—(1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "accused" means a person in Government service against whom action is initiated under these rules;
- (b) "appellate authority" means the authority next above the competent authority to which an appeal lies against the orders of the competent authority;
- (c) "appointing authority" means an authority declared or notified as such by an order of Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder or an authority as notified under the specific laws/rules of Government;
- (d) "charges" means allegations framed against the accused pertaining to acts of omission or commission cognizable under these rules;
- (e) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;
- (f) "competent authority" means-
 - (i) the respective appointing authority;
 - (ii) in relation to a Government servant of a tribunal or court functioning under Government, the appointing authority or the Chairman or presiding officer of such tribunal or court, as the case may be, authorized by the appointing authority to exercise the powers of the competent authority under these rules:

Provided that where two or more Government servants are to be proceeded against jointly, the competent authority in relation to the accused Government servant senior most shall be the competent authority in respect of all the accused ¹[:]

²[Provided further that where Chief Minister is the Appointing Authority, the Chief Secretary shall be the competent authority for the purpose of these rules except rules 14 & 15.]

¹ Full-stop replaced by Notification No. SO (Policies) E&AD/1-41/2017 dated 07.12.2017.

² Added by Notification No. SO (Policies) E&AD/1-41/2017 dated 07.12.2017.

- (g) "corruption" means-
- (i) accepting or obtaining or offering any gratification or valuable thing, directly or indirectly, other than legal remuneration, as a reward for doing or for bearing to do any official act; or
 - (ii) dishonestly or fraudulently misappropriating, or indulging in embezzlement or misusing Government property or resources; or
 - (iii) entering into ¹[voluntary return or] plea bargain under any law for the time being in force and returning the assets or gains acquired through corruption or corrupt practices voluntarily; or
 - (iv) possession of pecuniary sources or property by a Government servant or any of his dependents or any other person, through his or on his behalf, which cannot be accounted for and which are disproportionate to his known sources of income; or
 - (v) maintaining a standard of living beyond known sources of income; or
 - (vi) having a reputation of being corrupt;
- (h) "Governor" means the Governor of the Khyber Pakhtunkhwa;
- ²[(h-i) "hearing officer" means an officer, as far as possible, senior in rank to accused, appointed by the competent authority, to afford an opportunity of personal hearing to the accused on behalf of the competent authority;]
- (i) "inefficiency" means failure to efficiently perform functions assigned to a Government servant in the discharge of his duties;
- (j) "inquiry committee" means a committee of two or more officers, headed by a convener, as may be appointed by the competent authority under these rules;
- (k) "inquiry officer" means an officer appointed by the competent authority under these rules;
- (l) "*misconduct*" includes-
- (i) conduct prejudicial to good order or service discipline; or
 - (ii) conduct contrary to the Khyber Pakhtunkhwa Province Government Servants (Conduct) Rules, 1987, for the time being in force; or
 - (iii) conduct unbecoming of Government servant and a gentleman; or
 - (iv) involvement or participation for gains, directly or indirectly, in industry, trade, or speculative transactions by abuse or misuse of official position to gain undue advantage or assumption of such financial or other obligations in relation to private institutions or persons as may compromise the performance of official duties or functions; or
 - (v) any act to bring or attempt to bring outside influence, directly or indirectly, to bear on the Governor, the Chief Minister, a Minister or any other Government officer in respect of any matter relating to the appointment, promotion, transfer or other conditions of service; or

¹.Inserted by Notification No. SO (Policies) E & AD/2-6/2017 dated 07.12.2017

².Inserted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

- (vi) making appointment or having been appointed or promoted on extraneous grounds in violation of any law or rules; or
- (vii) conviction for a moral offence by a court of law ¹[; or
- (Viii) Avoiding submission of Annual confidential Report / Performance Evaluation Report by a Government Servant, or withholding such report by the Reporting Officer or the countersigning Officer as the case may be, within the required period as provided in the instructions issued by the Government under the Khyber Pakhtunkhwa Civil Servants Act, 1973, from time to time ²[;]

³[(m) “penalty” means a minor or major penalty, as provided under rule 4 of these rules.]

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Grounds for proceedings.—A Government servant shall be liable to be proceeded against under these rules, if he is-

- (a) inefficient or has ceased to be efficient for any reason; or
- (b) guilty of misconduct; or
- (c) guilty of corruption; or
- (d) guilty of habitually absenting himself from duty without prior approval of leave; or
- (e) engaged or is reasonably believed to be engaged in subversive activities, or is reasonably believed to be associated with others engaged in subversive activities, or is guilty of disclosure of official secrets to any un-authorized person, and his retention in service is prejudicial to national security; or
- (f) entered into ⁴[voluntary return or] plea bargaining under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices voluntarily.

⁵[**4. Penalties.**--- (1) The following shall be penalties under these rules:

- (a) minor penalties:
 - (i) censure;
 - (ii) withholding of increment or increments for a specific period, subject to maximum of three years, without cumulative effect:

Provided that the penalty of withholding of increment shall not be imposed upon a Government servant who has reached the maximum of his pay scale or shall superannuate within the period of penalty;

¹ Added by Notification No. SO(REG-VI) E&AD/2-6/2010 dated 26-05-2014

² Full-stop replaced by semi-colon by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

³ Added by Notification No. SO (Policies) E&AD/2-6/2021 dated 31-12-2021.

⁴ Inserted by Notification No. SO (Policies) E & AD/2-6/2017 dated 07.12.2017.

⁵ Substituted by Notification No. SO (Policies) E&AD/2-6/2021 dated 31-12-2021.

- (iii) reduction to a lower stage or stages, in pay scale, for a specific period, subject to a maximum of three stages without cumulative effect; and
- (iv) withholding of promotion for a specific period, subject to a maximum of three years, if the accused is otherwise eligible for promotion in accordance with these rules or orders pertaining to the service or post:

Provided that specific period of punishment under this sub-clause shall be counted from the date when a permanent vacancy for promotion in respect of accused is available and the accused is otherwise eligible for such promotion:

Provided further that penalty under this clause shall not be imposed upon a Government servant, who has no further prospects of promotions, or who will superannuate during the period of the said penalty; and

(b) major penalties:

- (i) reduction to a lower post and pay scale from the substantive or regular post, for a specific period, subject to a maximum of three years:

¹[Provided that on restoration to original pay scale or post, the penalized Government servant shall be placed below the erstwhile juniors promoted to higher post during subsistence of the period of penalty:]

Provided further that this penalty shall not be imposed upon the accused, who is likely to be superannuated within the period of the penalty ²[:]

³[Provided also that this penalty shall not be imposed upon the Government servant, who has been appointed against the post by initial recruitment.]

- (ii) compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2) The penalty of removal from service shall not but dismissal from service, under these rules, shall disqualify the Government servant for further employment of any kind under Government.

(3) Subject to any restraining orders, passed by any court of competent jurisdiction, any proceedings under these rules shall not be discontinued merely on the ground that the matter is sub-judice before the Court.

(4) Subject to sub-rule (3), where the holding of departmental inquiry during judicial custody is not possible or where holding of such departmental inquiry has effect of impeding the course of justice in criminal proceedings or prejudicing the trial, the competent authority may defer such inquiry till release on bail or termination of criminal proceedings, as the case may be.

¹ Substituted by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

² Semi-colon replaced by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

³ Added by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

(5) In addition to the minor or major penalties, as the case may be, where a Government servant is convicted of any embezzlement or where any pecuniary loss is caused to Government or organization in which he is employed or posted, such embezzled amount and the amount due shall be recovered from such accused from his pay or any other amount payable to the accused in whole or in part, as provided in the financial rules:

Provided that if the amount, due from any such Government servant cannot be wholly recovered from the pay or any other amount payable to him, such amount shall be recovered under the law for the time being in force.]

5. Initiation of proceedings.—(1) If on the basis of its own knowledge or information placed before it, the competent authority is of the opinion that there are sufficient grounds for initiating proceedings against a Government servant under these rules it shall either:-

- (a) proceed itself against the accused by issuing a show cause notice under rule 7 and, for reasons to be recorded in writing, dispense with inquiry:

Provided that no opportunity of showing cause or personal hearing shall be given where-

- (i) the competent authority is satisfied that in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity; or
- (ii) a Government servant has entered into plea bargain under any law for the time being in force or has been convicted on the charges of corruption which have led to a sentence of fine or imprisonment; or
- (iii) a Government servant is involved in subversive activities; or
- (iv) it is not reasonably practicable to give such an opportunity to the accused; or
- (b) get an inquiry conducted into the charge or charges against the accused, by appointing an inquiry officer or an inquiry committee, as the case may be, under rule 11:

Provided that the competent authority shall dispense with the inquiry where-

- (i) a Government servant has been convicted of any offence other than corruption by a court of law under any law for the time being in force; or
- (ii) a Government servant is or has been absent from duty without prior approval of leave:

Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry.

(2) The charge sheet or statement of allegations or the show cause notice, as the case may be, shall be signed by the competent authority.

¹[6. **Suspension and leave.**— (1) The competent authority may place any Government servant under suspension or sent him on leave, against whom proceedings are proposed to be initiated for an initial period not exceeding one hundred and twenty days at one time extendable in writing, by the competent authority for such period as it may deem appropriate or till conclusion of the proceedings, if in the opinion of the competent authority, suspension or sending the Government servant on leave is necessary or expedient. If the period of suspension is not extended before the expiry of initial period of suspension, the suspension of such Government servant shall cease to have effect.

²[Provided that in cases where the Chief Minister or Chief Secretary is the competent authority, the Administrative Secretary may suspend the Government servant and submit charge sheet and statement of allegations, forthwith, to the competent authority for signature and initiation of disciplinary proceedings, in accordance with these rules.]

(2) A Government servant, who has been charged for a criminal offence and is committed to prison shall be considered as under suspension from the date of his arrest without the formal approval of competent authority:

Provided that in case such Government servant is not arrested or is released on bail, the competent authority may suspend him by specific order to be notified in this behalf.

(3) During suspension period, the Government servant shall be entitled to his pay, allowance and other benefits in accordance with Fundamental Rule-53.

(4) If a Government servant is sent on leave, in pursuance of an order under sub-rule (1), such period shall be treated as on duty.

(5) If a Government servant is absent from official duty during the disciplinary proceedings under these rules, such period may be treated as extraordinary leave without pay with the approval of competent authority.]

³[7. **Procedure where inquiry is dispensed with.**--- If the competent authority decides that it is not necessary to hold an inquiry against the accused, it shall –

- (a) inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along-with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (b) give him a reasonable opportunity of showing cause against the proposed action, which shall not be less than ten days and more than fourteen days, from the receipt of the order or within such extended period, as the competent authority may allow;
- (c) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record of facts of the case, as the case may be, determine whether the charges or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused or in case where no reply is received, the competent authority shall, except in such cases where the Chief Minister is the competent authority, decide the case within a period of thirty days;

¹ Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021.

² Added by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

³ Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021.

- (d) afford an opportunity of personal hearing, before passing any order of penalty under clause (f), if the charges or charges have been proved against him;
- (e) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him; and
- (f) impose any one or more penalties, mentioned in rule 4, by an order in writing, if the charge or charges have been proved against the accused.]

8. Action in case of conviction or plea bargain under any law.—Where a Government servant is convicted by a court of law on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices, or has been acquitted by a court of law as a result of compounding of an offence involving moral turpitude under any law for the time being in force, the competent authority, after examining facts of the case, shall-

- (a) dismiss the Government servant where he has been convicted on charges of corruption or moral turpitude or has entered into plea bargain and has returned the assets or gains acquired through corruption or corrupt practices voluntarily:

Provided that dismissal in these cases shall be with ¹[.....] effect from the date of conviction by a court of law; and

- (b) proceed against the Government servant under rule 5, where he has been convicted of charges other than corruption or moral turpitude.

²**9. Procedure in case of willful absence.**— Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the Administrative Secretary in case the competent authority is Chief Minister or Chief Secretary and in all other cases by the competent authority concerned, through registered acknowledgement on his home address directing him to resume duty within fifteen (15) days of issuance of the notice. If the same is received back as undelivered or no response is received from such Government servant, within stipulated time, a notice shall be published in at least two leading newspapers, directing him to resume duty within fifteen (15) days of the publication of the notice, failing which an ex-parte decision shall be taken by the competent authority against him. On expiry of the stipulated period given in the notice, major penalty of removal from service may be imposed upon such Government servant by the competent authority:

Provided that upon publication of the notice in the newspaper, pay of such Government servant shall be stopped.]

¹ Deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

² Substituted by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

¹[10. Procedure to be followed by competent authority where inquiry is necessary.---

(1) If the competent authority decides that it is necessary to hold an inquiry against the accused, under rule 9 of these rules, it shall pass an order of inquiry in writing. An inquiry order shall include—

- (a) the appointment of an inquiry officer or inquiry committee, subject to sub-rule (2); provided that the inquiry officer or the convener of the inquiry committee, as the case may, shall, as far as possible, be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall, as far as possible, be of a rank senior to the senior most accused;
- (b) the grounds for proceedings, clearly specifying the charges alongwith apportionment of responsibility which shall be communicated to accused within fourteen days, from the date of initiation of proceedings;
- (c) appointment of the departmental representative by designation; and
- (d) direction to the accused to submit his written defense to the inquiry officer or the inquiry committee, as the case may be, within reasonable time which shall not be less than ten and more than fourteen days from the date of receipt of orders under clause (b) or within such an extended period as the competent authority may allow.

(2) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along-with the order of inquiry.

(3) In case where the inquiry officer or any of the members of the inquiry committee is required to be replaced for one reason or the other, the competent authority may appoint another inquiry officer or the inquiry committee, as the case may be.]

11. Procedure to be followed by inquiry officer or inquiry committee.—(1) On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charges and may examine such oral or documentary evidence in support of the charges or in defense of the accused as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day and no adjournment shall be given except for reasons to be recorded in writing, in which case it shall not be of more than seven days.

²[(4) Statements of witnesses shall be recorded in the presence of accused and departmental representative.]

¹ Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

² .Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if, thereafter, he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned on the recommendations of a Medical Board; provided that the competent authority may, in its discretion, sanction medical leave up to seven days without such recommendations.

¹[(7) The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within sixty days or within such an extended period, which the competent authority may allow on the request of the inquiry officer or inquiry committee, as the case may be, for reasons to be recorded and shall submit his or its report to the competent authority within seven days of the date of completion of inquiry. The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused ²[:]]

³[Provided that the Inquiry Officer, Inquiry Committee or hearing officer, as the case may be, shall record cogent reasons for recommending exoneration of the accused.]

⁴[(8) On receipt of the inquiry report from the Inquiry Officer or Inquiry Committee, as the case may be, the Administrative Department concerned shall submit the case to the Chief Minister or Chief Secretary, if so required, within fifteen (15) days for orders.]

12. Powers of the inquiry officer or inquiry committee.—(1) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents, and receiving evidence on affidavits; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be the judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

¹ Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

² Full stop replaced by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

³ Added by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

⁴ Added by Notification No. SO (Policies) E&AD/2-6/2022, dated 16th January, 2023.

¹[12A. **Provision of record.**-- After initiation of order of inquiry, the competent authority shall ensure that relevant record of the case and other related documents shall be supplied to the inquiry officer or the inquiry committee, as the case may be, within seven days or within such an extended period which the competent authority may allow.]

13. Duties of the departmental representative.— ²[1] The departmental representative shall perform the following duties, namely:

- (a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;
- (b) cross-examine the witnesses produced by the accused, and with the permission of the inquiry officer or inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and
- (c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

³[2] In case of failure to perform duties, assigned under sub-rule (1), the departmental representative shall be liable to departmental proceedings under these rules.]

14. Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(1) On receipt of report from the inquiry officer or inquiry committee, as the case may be, the competent authority, shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the charge or charges have not been proved, the competent authority shall exonerate the accused by an order in writing, or it shall follow the procedure as given in sub-rule (6) of this rule.

(4) Where the charge or charges have been proved against the accused, the competent authority shall issue a show cause notice to the accused by which it shall-

- (a) inform him of the charges proved against him and the penalty or penalties proposed to be imposed upon him;
- (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than ⁴[ten] days and more than fifteen days from the day the charge or charges have been communicated to him: provided that the accused shall, in his reply to show cause notice, indicate as to whether he wants to be heard in person or not;

¹ Inserted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021.

² Re-numbered by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021.

³ Added by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

⁴ Word substituted by Notification No. SO (Policies) E&AD/2-6/2022, dated 16-01-2023.

- (c) provide a copy of the inquiry report to the accused; and
- (d) direct the departmental representative to appear, with all the relevant record, on the date of hearing.

(5) After affording personal hearing to the accused the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or inquiry committee, as the case may be, facts of the case and defense offered by the accused¹ during personal hearing, by an order in writing-

- (i) exonerate the accused if charges had not been proved; or
- (ii) impose any one or more of the penalties specified in rule 4 if charges have been proved.

6. Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons in writing, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee ¹[subject of sub-rule (7) of rule 11].

²[(6A) The competent authority may, in a case specified under sub-rule (6), also require the inquiry officer or the inquiry committee, as the case may be, to explain as to why the inquiry has not been conducted in accordance with these rules, or as to why the facts or merits of the case have been ignored. On the receipt of reply from the inquiry officer or the inquiry committee, as the case may be, if it is determined that the omission or commission committed by the inquiry officer or the inquiry committee, as the case may be, was not in good faith and there are reasonable grounds that the competent authority may proceed against the inquiry officer or inquiry committee, as the case may be, under these rules.]

(7) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fifteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

(8) If the case is not decided by the competent authority within the prescribed period of fifteen days, the accused may submit an application before the appellate authority for early decision of his case, which may direct the competent authority to decide the case within a specified period.

³[**15. Personal hearing.**— The competent authority may, by an order in writing, call the accused and the departmental representative, along-with relevant record of the case, to appear before him, or before a hearing officer, for personal hearing, on the fixed date and time ⁴[:]]

⁵[Provided that the hearing officer shall submit the report to the competent authority within twenty one (21) days of affording opportunity of personal hearing to the accused;]

¹ Added by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

² Inserted by Notification No. SO (Policies) E&AD/2-6/2021 dated 31-12-2021.

³ Substituted by Notification No. SO(Policies)E&AD/2-6/2021 dated 31-12-2021

⁴ Full stop replaced by Notification No. SO (Policies) E&AD/2-6/2022, dated 16-01-2023.

⁵ Added by Notification No. SO (Policies) E&AD/2-6/2022, dated 16-01-2023.

16. Procedure of inquiry against Government servant lent to other governments or organizations etc.—(1) Where the services of Government servant to whom these rules

apply are transferred or lent to any other government department, corporation, corporate body, autonomous body, authority, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the competent authority for the post against which such Government servant is posted in the borrowing organization may-

- (a) suspend him under rule 6; and
- (b) initiate proceedings against him/her under these rules:

Provided that the borrowing organization shall forthwith inform the authority which has lent his services, (hereinafter referred to as the lending organization) of the circumstances leading to the order of his suspension or the initiation of the proceedings, as the case may be:

Provided further that the borrowing organization shall obtain prior approval of the competent authority in the lending organization before taking any action under these rules against a Government servant holding a post in basic pay scale 17 or above.

(2) If, in the light of findings of the proceedings taken against the accused in terms of sub rule (1), the borrowing organization is of the opinion that a penalty may have to be imposed on him, it shall transmit the record of the proceedings to the lending organization, and the competent authority in the lending organization shall thereupon take action against the accused under rule 14.

(3) Notwithstanding anything to the contrary contained in sub-rules (1) and (2), the Chief Minister may, in respect of certain Government servant or class of Government servants to whom these rules apply, authorize any officer or authority in the borrowing organization to exercise all the powers of the competent authority under these rules.

¹**[16A. Proceedings before or during training, scholarship and leave.**— (1) In case where a Government servant, who has been nominated for training or scholarship, is required to be proceeded under these rules and the accused has not yet joined the training institute or institution, his nomination shall be withdrawn forthwith by the nominating competent authority under intimation to the training institute or institution concerned.

(2) In case where a Government servant has already joined the training institute or institution he shall be allowed to complete his training or scholarship, and the proceedings against him may be deferred till completion of the training or scholarship.

(3) A Government servant shall not be denied training on account of ongoing proceedings for a period of more than one year.

(4) In case where a Government servant on leave, is required to be proceeded against, his leave shall be cancelled by the competent authority and shall be called back from the leave to join the proceedings.]

¹ Inserted by Notification No. SO (Policies) E&AD/2-6/2021 dated 31-12-2021.

17. Departmental appeal and review.—(1) An accused who has been awarded any penalty under these rules may, within thirty days from the date of communication of the order, prefer departmental appeal to the appellate authority:

Provided that where the order has been passed by the Chief Minister, the accused may, within the aforesaid period, submit a review petition directly to the Chief Minister.

(2) The authority empowered under sub-rule (1) shall call for the record of the case and comments on the points raised in the appeal from the concerned department or office, and on consideration of the appeal or the review petition, as the case may be, by an order in writing-

- (a) uphold the order of penalty and reject the appeal or review petition; or
- (b) set aside the orders and exonerate the accused; or
- (c) modify the orders or reduce the penalty.

(3) An appeal or review petition preferred under these rules shall be made in the form of a petition, in writing, and shall set forth concisely the grounds of objection in impugned order in a proper and temperate language.

18. Appearance of counsel.—No party to any proceedings under these rules at any stage of the proceedings, except proceedings under rule 19, shall be represented by an advocate.

19. Appeal before Khyber Pakhtunkhwa Province Service Tribunal.—(1) Notwithstanding anything contained in any other law or rules for the time being in force, any Government servant aggrieved by any final order passed under rule 17 may, within thirty days from the date of communication of the order, prefer an appeal to the Khyber Pakhtunkhwa Province Service Tribunal established under the Khyber Pakhtunkhwa Province Service Tribunals Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974).

(2) If a decision on a departmental appeal or review petition, as the case may be, filed under rule 17 is not communicated within period of sixty days of filing thereof, the affected Government servant may file an appeal in the Khyber Pakhtunkhwa Province Service Tribunal within a period of ¹[ninety] days of the expiry of the aforesaid period, whereafter, the authority with whom the departmental appeal or review petition is pending, shall not take any further action.

20. Exception.—Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, wilfully absent themselves from duty or abandon their official work, the competent authority in respect of senior most accused may serve upon them through newspapers or any other mean, such notice as may be deemed appropriate to resume duty and in the event of failure or refusal to comply with the directive contained in the notice, impose upon the defaulting Government servants any of the major penalties prescribed in these rules.

¹ Substituted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.

21. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the competent authority or any other authority for anything done or intended to be done in good faith under these rules or the instructions or directions made or issued there-under.

¹[.....]

23. **Repeal.**—(1) The Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 1973 are hereby repealed.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any Government servant under repealed rules shall continue under these rules.

(3) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any employee under the said repealed rules or under the Khyber Pakhtunkhwa Civil Servants Act, 1973 and rules made thereunder, or any other law and rules shall continue under that law and rules, in the manner provided thereunder.

**SECRETARY TO
GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT.**



¹Rule 22 deleted by Notification No. SO(REG-VI)E&AD/2-6/2010. Dated 18th July, 2012.