

## PESHAWAR HIGH COURT, PESHAWAR

### NOTIFICATION

7TH JANUARY, 1990

**No. 32** – In exercise of the powers conferred by Article 208 of the Constitution of the Islamic Republic of Pakistan and in supersession of all previous rules made in this behalf, the Peshawar High Court, with the approval of the Governor of the <sup>1</sup>[Khyber Pakhtunkhwa], is pleased to make the following rules regulating the terms and conditions of service of persons serving in the High Court, namely --

#### THE PESHAWAR HIGH COURT MINISTERIAL ESTABLISHMENT (APPOINTMENT AND CONDITIONS OF SERVICE) RULES, 1989

**1. Short title, application and Commencement.**---(1) These rules may be called the Peshawar High Court Ministerial Establishment (Appointment and Conditions of Service) Rules, 1989.

2. They shall apply to all persons appointed to the posts borne on the Establishment except those appointed by transfer or on deputation from any other Department, service or post.

3. They shall come into force at once.

**2. Definitions.**---In these rules, unless there is anything repugnant in the subject or context-

(a) “Appendix” means the Appendix to these rules;

(b) “appointing authority” means the authority specified in rule 4;

(c) “Board” means a Board of Intermediate and Secondary Education, established by law in Pakistan or any other educational authority or institution declared by Government to be a Board for purpose of these rules;

(d) “Chief Justice” or “Judge” shall respectively means the Chief Justice or a Judge of the Peshawar High Court;

(e) “holder of post” means a person appointed to any post specified in Column of the appendix, but does not include a person appointed by transfer or on deputation from other service, Department or post;

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<sup>1</sup> Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (f) “Establishment” means the Ministerial Establishment of the Peshawar High Court consisting of the posts specified in column 2 of the Appendix;
- (g) “Government” means the Government of <sup>2</sup>[Khyber Pakhtunkhwa];
- (h) “initial appointment” means appointment made otherwise than by promotion or transfer;.
- (i) “post” means a post specified in column 2 of the Appendix and includes such other post or posts as may, from time to time, be added to it;
- (j) “recognized University” means any University incorporated by Law in Pakistan or any other University declared by Government to be recognized University for the purpose of these rules;
- (k) “Zone” means the different areas for the time being notified by Government as a separate Zone for the purpose of giving representation to the bonafide residents of each such area in the services of the Province.

**3. Constitution of the Establishment.--** The Establishment shall consist of the posts specified in Appendix, and shall include such other posts as may be added to it from time to time.

**4. Appointing Authority.--** Appointment to the posts shall be made by the Chief Justice or by an officer of the High Court authorized by the Chief Justice in that behalf.

**5. Method of Recruitment.---**(1) Recruitment to the cadre posts borne on the Establishment shall be made by initial recruitment or by promotion or transfer in the manner specified in these rules.

(2) Subject to these rules, vacancies in various posts shall be filled in the following manners;

- (a) vacancies in the post of Registrar shall be filled by transfer;
- (b) vacancies in the post of Additional Registrar and Secretary to the Chief Justice shall be filled at the discretion of the appointing authority by transfer or by promotion; provided that the said two posts shall be inter-transferable;
- (c) vacancies in the post of Assistant Registrar, Private Secretary to the Chief Justice, Superintendents and Senior Clerks shall be filled by promotion, provided that the posts of Assistant Registrar and Private Secretary to the Chief Justice shall be inter-transferable;

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<sup>2</sup> Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

- (d) vacancies in the posts of Judgment Writers and Stenographers shall be filled by promotion or, if no suitable person is available for promotion, by initial appointment;
- (e) seventy five percent of the posts of Assistants shall be filled by promotion on the basis of seniority-cum-fitness and the remaining twenty five percent by initial appointment;
- (f) vacancies in the remaining posts specified in column 2 of the appendix shall be filled by initial recruitment; provided that twenty percent of the vacancies in the posts of Junior Clerk may be filled by promotion from amongst Daftaries and Naib Qasids who have passed the Secondary School Certificate Examination from the Board.

(3) Vacancies to be filled by initial recruitment shall be reserved for bonafide resident of Zones in accordance with such policy or proportion as may be laid down by Government from time to time.

(4) Vacancies to be filled by promotion or transfer shall be filled from amongst persons eligible for such promotion or transfer in accordance with the provisions contained in column 4 of appendix.

**6. Age---**No person shall be appointed to a post by initial recruitment who is less than eighteen years or more than twenty five years of age-

- (a) where recruitment is to be made on the basis of written examination, on the 1st January of the year in which the examination is proposed to be held; and
- (b) in other cases, on the last date fixed for submission of application for appointment; provided that that appointing authority may, in the case of upper age limit, grant such concession to a candidate as may be admissible to him for appointment to Government service under any general or specific order of Government for the time being in force.

**7. Qualification.—**(1) No person shall be appointed to a post by initial recruitment unless he possesses the qualifications prescribed for the post in column 3 of the Appendix.

(2) No person, if not already in Government service, shall be appointed to a post unless he/she produces a certificate of character from the principal academic officer of the academic institution last attended and also certificate of character from two other responsible persons not being his/her relatives, who are well acquainted with his/her character and antecedents.

**8. 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.

**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 holder of post during the period of probation has, in the opinion of the appointing authority, not been satisfactory, the appointing authority may, notwithstanding that the period of probation has not expired dispense with his services, if he has been appointed by initial recruitment and if he has been appointed otherwise, revert him to his former post, or if there be no such post, dispense with his services.

(3) On completion of the period of probation of a holder of the post, the appointing authority may, subject to the provisions of sub-rule (4), confirm him in his appointment or if his work or conduct has, in the opinion of the appointing authority, not been satisfactory.-

- (a) in case he has been appointed by initial recruitment, dispense with his services; or
- (b) in case he has been appointed otherwise, revert him to his former post, and if there be no such post, dispense with his services; or
- (c) 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 probationary period.

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

**Explanation-II.--** If no orders have been made by the day on which the maximum period of probation expires, the probationer shall be deemed to have been confirmed in his appointment.

**Explanation-III.-** A probationer who has satisfactorily completed his period of probation shall be confirmed with effect from the date of his continuous appointment to the post in a substantive vacancy; provided that where the period of his probation has been extended under the provisions of clause (c) of this sub-rule, the date of confirmation shall, subject to the other provisions of this rule be the date on which the period of probation was last extended.

(4) Where the appointing authority has prescribed any training or departmental examination for the purpose of confirmation against a post, no person shall

be confirmed against the post, unless he successfully completes the training or passes the departmental examination so prescribed.

(5) If a holder of the post 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 appointing authority, the appointing authority may.—

- (a) in case he has been appointed by initial recruitment, dispense with his services; and
- (b) in case he has been appointed otherwise, revert him to his former post, or if there be no such post, dispense with his services.

**9. Seniority.**---(1) The seniority inter-se of the holders of posts shall be determined.--

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the authority on whose recommendation the appointment is made; provided that persons selected in an earlier selection shall rank senior to persons selected in a latter selection; and
- (b) in the case of persons appointed otherwise, with reference to the date of their continuous regular appointment; provided that persons selected for promotion in one batch shall retain their inter-se seniority as held by them in the lower cadre.

**Explanation-I.**-- If a junior person in a lower post is promoted to a higher post by superseding a senior person and subsequently that senior person is also promoted, the person promoted first shall rank senior to the person promoted subsequently.

**Explanation-II.**-- A junior person appointed to a higher post shall be deemed to have superseded a senior person if both the junior and senior persons were considered for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority of the holder of posts appointed by initial recruitment vis-à-vis those appointed otherwise shall be determined with reference to the dates of their continuous regular appointment to the post; provided that if the date of continuous regular appointment in the case of two or more persons is the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

**10. Pay and Allowances and other Fringe benefits.**--- Members of the Establishment shall be entitled to the same pay and allowances (including the scale of pay) and other fringe benefits as are admissible to Government Servants of the equivalent status or rank in accordance with the rules made by the Government from time to time.

**11. Liability of Transfer.--** Holders of posts shall be liable to transfer anywhere in the <sup>3</sup>[Khyber Pakhtunkhwa] from the principal seat of the High Court to any of its Circuit Benches and vice versa.

**12. General Rules.--** In all other matters not expressly provided for in these rules or any other rules hereafter made, the rules made or deemed to have been made by Government under the <sup>4</sup>[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (<sup>5</sup>[Khyber Pakhtunkhwa] Act XVIII of 1973), shall mutatis mutandis apply to the holders of posts under these rules.

**13. Relaxation.--** Any of these rules may, for reasons to be recorded in writing, be relaxed in individual cases, if the Chief Justice is satisfied that a strict application of the rule would cause undue hardships to the individual concerned.

**14. Delegation.--** The Chief Justice may delegate all or any of his powers under these rules to a Judge or officer of the High Court.

**15. Powers of the Chief Justice to safeguard rights of holders of posts.--** Whenever in the application of these rules, the terms and conditions of service of a holder of post, as guaranteed by any law for the time being in force, are likely to be adversely affected, the Chief Justice shall make appropriate orders to safeguard the legal rights of such person in accordance with law.

#### APPENDIX

[See rules 2(a), 3, 5(2)(f), 5(4) and 7]

S. No.	Nomenclature of the post	Minimum qualification for appointment by initial recruitment or by transfer	Method of Recruitment
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1	2	3	4
1	Registrar	----	By transfer of a District and Sessions Judge
2	Member Inspection Team	----	By transfer of a District and Sessions Judge
3	Additional Registrar		a) By transfer of an Additional District

<sup>3</sup> Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>4</sup> Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

<sup>5</sup> Sub.by the Khyber Pakhtunkhwa Act No. IV of 2011.

1	2	3	4
			and Sessions Judge; or (b) By promotion on merit with particular reference to fitness for higher responsibilities, from amongst holders of posts in the next below cadre.
4	Secretary to Chief Justice		By promotion from the holder of the post of Private Secretary to the Chief Justice or by transfer of Judicial Officer in BPS-18.
5	Assistant Registrar, (General) Assistant Registrar (Budget & Accounts)		(a) By promotion on the basis of seniority cum-fitness, from amongst the holders of posts of Superintendents and Judgment Writers, who were in the service of the High Court immediately before the dissolution of the Province of West Pakistan; and (b) after absorption of the Superintendent and Judgment Writers referred to in clause (a) above, two-third by promotion, on the basis of seniority cum-fitness from amongst holders of the post of Superintendent and one-third by promotion, on the basis of seniority cum-fitness, from amongst the holders of the posts of Judgment Writers in the following manner: First vacancy: Superintendents Second vacancy: Judgment Writers Third vacancy: Superintendents

1	2	3	4
			Fourth vacancy: Superintendents Fifth vacancy: At the discretion of the Chief Justice
6	Private Secretary to Chief Justice		By promotion, on the basis of seniority-cum-fitness, from amongst the holders of posts of Judgment Writers
7	Superintend ent		By promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant
8	Judgment Writer.	i). Degree from a recognized University. (ii). Speed of 120 words per minute in shorthand and 40 words per minute in typing	(a) By promotion on the basis of seniority-cum fitness from amongst the holders of the posts of Stenographer. (b) If no suitable stenographer is available for promotion, by initial recruitment.
9	Stenographe r	(i).Secondary School Certificate or equivalent qualification from a Recognized Board; and (ii). Speed of 100 words per minute in shorthand and 40 words per minute in typing	(a) By promotion, on the basis of seniority-cum fitness from amongst the holders of the post of steno typist; or (b) If no suitable stenographer is available for promotion, by initial recruitment.
10	Assistant	Degree from a recognized University	a) seventy five percent by promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Senior Clerk; and (b) twenty five percent by initial recruitment.



<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
11	Librarian	Diploma in Library Science	By initial recruitment
12	Assistant Librarian	Diploma in Library Science	By initial recruitment
13	Stenotypist	1. Secondary School Certificate or equivalent qualification from a recognized Board; and 2. Speed of 80 words per minute in shorthand and 35 words per minute in typing	By initial recruitment
14	Security Officer	Ex-Service man	By initial recruitment
15	Senior Clerk		By promotion on the basis of seniority-cum-fitness from amongst the holders of the post of Junior Clerk.
16	Telephone Operator	Secondary School Certificate or equivalent qualification from a Recognized Board with experience of one year in any recognized Organization.	By initial recruitment
17	Junior Clerk	Secondary School Certificate or equivalent qualification from a recognized Board	(a) By promotion on the basis of seniority-cum-fitness from amongst the holders of posts of Daftari, Qasid, Naib Qasid or equivalent post who possess the qualification prescribed for initial recruitment; or (b) by initial recruitment
18	Driver	Possessing a valid driving license to drive a light	By initial recruitment

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
		motor vehicle	
19	Daftri	Middle Standard	By initial recruitment
20	Lift Operator	Middle Standard with experience of one year in any recognized Organization	By initial recruitment
21	Book Binder	Middle Standard with experience of five years	By initial recruitment
22	Qasid/Naib Qasid	Preferably Literate	By initial recruitment
23	Mali/Naib Mali/ Frash/ Behishti/ Sweepter		By initial recruitment
24	Security Guard	Ex-Service man	By initial recruitment

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