

¹[Khyber Pakhtunkhwa]
Senior Judicial Officers (Terms and Conditions of Service) Rules, 1979

[Gazette of ²[Khyber Pakhtunkhwa]., Extraordinary, page No. 273-275, 8th September, 1979]

No. SORI (S&GAD) 4-9/78, dated 29-08-1979.---In exercise of the powers conferred by sub-section (1) of section 26 of the ³[Khyber Pakhtunkhwa] Civil Servants Act, 1973 (⁴[Khyber Pakhtunkhwa]. Act XVIII of 1973), the Governor of the ⁵[Khyber Pakhtunkhwa] is pleased to make the following rules regulating appointment to the posts of Districts and Sessions Judges and Additional District and Sessions Judges and prescribing terms and conditions of service for the persons appointed thereto, namely:-

1. Short title and commencement.---(1) These rules may be called the ⁶[Khyber Pakhtunkhwa] Senior Judicial Officers (Terms and Conditions of Service) Rules, 1979.

(2) They shall come into force at once.

2. Definition.---In these rules, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say:

- (a) ‘Governor’ means the Governor of the ⁷[Khyber Pakhtunkhwa];
- (b) ‘High Court’ means the Peshawar High Court;
- (c) ‘initial recruitment’ means appointment made otherwise than by promotion or transfer;
- (d) ‘post’ means a post of an Additional District and Sessions Judge or, as the case may be, a District and Sessions Judge;
- (e) ‘recognised University’ means any University incorporated by law in Pakistan or any other University which may be declared by Government to be recognised University for the purposes of these rules.

PART II - RECRUITMENT

3. Number of posts.---The number of posts shall be such as may be determined from time to time by the Governor in consultation with the High Court.

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

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

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

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

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

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

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

4. Appointing Authority.---Appointment to posts under these rules shall be made by the Governor.

5. Method of recruitment.---(1) Recruitment to posts under these rules shall be made in the following manner;

- (a) in the case of Additional District and Sessions Judges;
 - (i) not less than two-third by promotion, on the recommendation of the High Court, from amongst the holders of the posts of Civil Judges who have rendered at least five years service as such; and
 - (ii) not more than one-third by initial recruitment, in the manner specified in sub-rule (2), from amongst the members of the Bar with such qualifications and experience as specified in Rule 7, and
- (b) in the case of District and Sessions Judges, by promotion on the recommendation of the High Court, on the basis of seniority-cum-fitness, from amongst the holders of the posts of Additional District and Sessions Judges.

(2) For filling up vacancies specified in sub-rule (1) (a) (ii) above, the High Court shall recommend the names of suitable candidates twice the number of vacancies to be filled and Government would make selection from amongst such candidates for appointment to the said posts.

6. Age.---(1) No person shall be appointed by initial recruitment to a post, who is less than thirty years or more than forty-five years of age.

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

7. Qualifications and experience.---No persons shall be appointed to a post by initial recruitment unless he is a Law Graduate from a recognised University and has practised as an Advocate for at least 8 years.

PART III - CONDITIONS OF SERVICE

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 an officer during the period of probation has 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 an officer, 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 such 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 from the date on which the period of probation was last expended or may be deemed to have been so extended.

(4) No person shall be confirmed in a post unless he successfully completes such training and passes such departmental examinations as may be prescribed by Government from time to time.

Explanation.---There shall be no confirmation against any temporary post.

(5) If an officer 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 Government, the appointing authority may,--

- (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.

9. Seniority.---(1) The seniority inter-se of officers appointed in various grades shall be determined;

- (a) in the case of officers appointed by initial recruitment, in accordance with the order of merit assigned by Government at the time of appointment; provided that persons selected for appointment to a post in an earlier selection shall rank senior to the persons selected in a later selection; and
- (b) in the case of officers appointed otherwise, with reference to the date of their continuous appointment in the grade; provided that if the date of continuous appointment in the case of two or more officers is the same, the older officer if not junior to the younger officer in the next below grade, shall rank senior to the younger officer.

(2) The seniority of the officers appointed by initial recruitment vis-a-vis those appointed otherwise shall be determined with reference to the date of continuous appointment to the grade; provided that if two dates are the same, the officer appointed otherwise shall rank senior to the officer appointed by initial recruitment.

10. General rule.---In all matters not expressly provided for in these rules, the holders of posts under these rules shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.
