

THE ISLAMABAD HIGH COURT ESTABLISHMENT (APPOINTMENT AND CONDITIONS OF SERVICE) RULES, 2011

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NOTIFICATION

THE ISLAMABAD HIGH COURT ESTABLISHMENT (APPOINTMENT AND CONDITIONS OF SERVICE) RULES, 2011



[Gazette of Pakistan, Extraordinary, Part-II, 20th May, 2011]

S. R. O. 442 (I)/2011, dated 14.5.2011.—In exercise of the powers conferred by Article 208 of the Constitution of Islamic Republic of Pakistan (1973), the Chief Justice of Islamabad High Court with the approval of the President of Pakistan, has been pleased to make the following rules namely: —

1. Short title, application and commencement.—(1) These rules may be called "The Islamabad High Court Establishment (Appointment and Conditions of Service) Rules 2011".

(2) They shall apply to all persons borne on the establishment of the Islamabad High Court.

(3) They shall come into force at once.

2. Definitions.—(1) In these rules unless there is anything repugnant in the subject or context,—

(a) "Administration Committee" means the Administration Committee of the High Court;

(b) "Administration Judge" means a Judge who is member of the Administration Committee of the High Court or any other judge who is nominated by the Chief Justice to deal with specific matters connected with the establishment arising out of these rules;

(c) "Appointing Authority" means the Chief Justice and includes any other Judge or the officer nominated or designated by the Chief Justice in this behalf and mentioned in column 2 of the Schedule;

(d) "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 the purposes of these rules;

(e) "cadre" means a group of posts in the establishment identifiable by their common designation or nomenclature;

- (f) "Chief Justice" or "Judge" shall respectively means the Chief Justice or Judge of the Islamabad High Court. Islamabad;
- (g) "Court staff means an officer and staff of the High Court who holds a post of establishment or has been appointed to such post, but does not include a person who is appointed against any post in the High Court by transfer or on deputation from any other service, department or organization and also a person who is employed on contract, or on work charge basis, or who is paid from contingencies;
- (h) "Departmental Promotion Committee" means a committee constituted under these rules;
- (i) "Establishment" means the establishment of the High Court comprising the posts mentioned in Part-II and the schedule;
- (j) "Government" means the Federal Government;
- (k) "High Court" means the Islamabad High Court;
- (l) "initial recruitment" means appointment made otherwise than by promotion or transfer;
- (m) "pay" means the amount drawn monthly by any officer or staff of the High Court as pay and includes technical pay, special pay, personal pay and any other emoluments declared as pay by the Competent Authority;
- (n) "permanent post" means a post sectioned without limit of time;
- (o) "post" means a post borne on the strength of the establishment included in Part-II and the Schedule to these rules;
- (p) "prescribed" means prescribed by these rules;
- (q) "recognized university" means any university established by or under a law in Pakistan or any other university which may be declared to be a recognized university by the Higher Education Commission;
- (r) "Registrar" means the Registrar of the High Court or any other officer of the Court to whom the powers and functions of Registrar are delegated or assigned by the Chief Justice, from time to time;
- (s) "Schedule" means the Schedule to these rules;
- (t) "Selection Authority" means any Authority on the recommendation of which any appointment or promotion, as the case may be is made and includes Selection Board, or a Selection Committee or Departmental Promotion Committee;
- (u) "Selection Board" means a Selection Board constituted under these rules; and
- (v) "Selection Committee" means a Selection Committee constituted under these rules;

(2) The words and expressions used, but not defined in these rules shall have the meanings assigned to them by the General Clauses Act, 1897 (X of 1897).

PART-II

ESTABLISHMENT AND APPOINTMENT

3. Establishment.—(1) The establishment of the High Court shall consist of officers, officials and other staff as provided in Schedule, having qualifications, experience and other conditions as contained therein.

4. Appointments.—(1) Appointment to a post shall be made by initial recruitment, promotion or transfer or on deputation as prescribed by these rules by the Appointing Authority.

(2) No person shall be appointed to a post unless he is a citizen of Pakistan.

(3) A candidate for appointment to a post shall possess the prescribed educational qualifications, experience and fulfill other conditions as enumerated in the Schedule.

(4) In case of initial appointment a person also be within the age limit as mentioned in Rule 5 or fixed by the Appointing Authority from time to time:

Provided that prescribed experience shall include equivalent experience in the service of a governmental organization as may be determined by the appointing authority.

(5) The members of other Services posted on deputation in the Islamabad High Court may apply for absorption in the establishment and the Chief Justice may order their absorption and appoint them on the posts for which they are eligible under these rules:

Provided that the seniority of members so appointed shall reckon in the manner as may be determined by the Chief Justice.

5. Age limit.—(1) No person shall be appointed through initial recruitment if he is less than twenty-one years and more than thirty years of age:

Provided that a candidate shall be entitled to relaxation in upper age limit in accordance with such rules as may be made by the High Court from time to time.

(2) In the case of a Government servant who has served in connection with the affairs of the Federation or the Provinces, or an officer serving in the legal departments of statutory organizations, this rule shall not be applicable.

6. Appointment of child of deceased member of a Court staff.—Notwithstanding anything contained to the contrary in any rule, whenever a member of Court staff dies while in service or is declared invalid or incapacitated for further service, any one of his unemployed children may be employed against a post in BPS-1 to 15 for which he possesses the prescribed qualification and experience in relaxation of selection procedure under these rules.

7. Recruitment Committee, Departmental Promotion Committee and Selection Board.

—(1) The Chief Justice may constitute one or more Recruitment Committees to recruit suitable persons for their appointment and a Departmental Promotion Committee to select for appointment by promotion to such posts in BPS-1 to BPS-15 as may be specified by him from time to time.

(2) The Chief Justice may constitute a Selection Board to select for appointment through initial recruitment and by promotion to such posts in BPS-16 and above as may be specified by him from time to time:

Provided that the Chief Justice may, by a special or general order, refer a post to the Selection Board for making its recommendations for a selection.

(3) The Chief Justice shall determine the composition of Selection or Departmental Promotion Committee or Selection Board and the procedure to be observed by them.

(4) The Chief Justice may authorize Selection or Departmental Promotion Committee or Selection Board to formulate a procedure to recruit and select suitable persons for appointment to any post.

(5) Where an appointing authority, other than the Chief Justice, does not accept the recommendation of a Selection or Departmental Promotion Committee or a Selection Board, it shall record the reasons therefrom and obtain orders of the Chief Justice and act accordingly.

PART-III

PROCEDURE FOR INITIAL RECRUITMENT AND APPOINTMENT THROUGH PROMOTION AND TRANSFER

8. Initial recruitment.—(1) Initial recruitment to all posts shall be made after proper advertisement of the vacancies in the newspaper having wide circulation and in any other manner to be determined by the Chief Justice or subject to his approval by the Selection Committee or Selection Board, as the case may be, and the applications of the candidates received whereof shall be scrutinized accordingly.

(2) Initial Recruitment to all posts in BPS-1 to BPS-15 shall be made on the basis of test and interview to be conducted by the concerned Selection Committee in the manner as determined by the Chief Justice or subject to his approval by the Selection Committee itself.

(3) Initial recruitment to all posts in BPS-16 and above or such other post specially referred by the Chief Justice to the Selection Board, shall be made on the basis of written examination and interview to be conducted by the Selection Board in the manner as determined by the Chief Justice or subject to his approval by the Selection Board itself.

(4) Notwithstanding anything contained in sub-rules (2) and (3) an appointment through initial recruitment shall be subject to verification of character and antecedents of the person appointed to the satisfaction of the Appointing Authority.

9. Special quota for females.—(1) Ten percent seats 'shall be reserved across the board for women in the establishment to be filled by direct recruitment subject to the condition of fulfilling the prescribed criteria and method.

(2) If sufficient number of women candidates are not available the posts shall be filled in on merit as prescribed:

Provided that there shall no carry forward of the seats reserved for women.

10. Appointment through Promotion or Transfer.—(1) All officers and staffs of the High Court, who possess the minimum qualifications and experience prescribed for a higher post reserved under the rules for departmental promotion, shall be eligible to be considered for promotion to a higher post in the manner and subject to conditions as provided in the Schedule.

(2) Promotion to a higher post shall be made on the recommendations of the Departmental Promotion Committee.

(3) A post referred to in sub-rule (1) above may either be a selection post or a non-selection post to-which promotion shall be made in the following manner namely:—

- (a) in the case of a selection post, on the basis of selection on merit; and,
- (b) in the case of a non-selection post, on the basis of seniority-cwm-fitness.

11. Probation.—(1) An initial appointment to a post through initial recruitment shall be on probation for a period of two years:

Provided that the Appointing Authority may, for sufficient reasons, extend the period of probation for one year or curtail it before two years.

(2) If in the opinion of the Appointing Authority, the work or conduct of an employee on probation is unsatisfactory, or he is unlikely to become efficient, the Authority may discharge him without any notice.

(3) A person appointed to a post by promotion may also be placed on probation for the period mentioned in sub-rule (1):

Provided that if, in the opinion of the Appointing Authority, the work or conduct of any employee is unsatisfactory, it may revert him to his substantive post:

Provided further that if no order is passed before the expiry of initial or extended period of probation, the probation shall stand terminated.

PART-IV EFFICIENCY AND DISCIPLINE

12. Efficiency and Discipline.—To ensure efficiency and discipline, the Appointing Authority may impose any of the penalties laid down in sub-rule (2) upon an employee, who is,—

- (a) inefficient or has ceased to be efficient; or

- (b) guilty of misconduct as defined in the Government Servants (Conduct) Rules, 1964; or
- (c) corrupt, or may reasonably be considered to be corrupt because he,—
- (i) is or any of his dependents or any other person through him or on his behalf is, in possession (for which he cannot reasonably account) of pecuniary resources or of property disproportionate to his known sources of income; or
 - (ii) has assumed a style of living beyond his ostensible means; or
 - (iii) has a persistent reputation of being corrupt; or
- (d) engaged, or is reasonably suspected of being engaged, in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person; and his retention in service is therefore prejudicial to national security, the authority may impose on him one or more penalties.

(2) One or more of the following penalties may be imposed upon an employee found guilty of any of the charges mentioned in clause (1), namely:—

- (a) Censure;
- (b) withholding of promotion or increments for a specified period of time;
- (c) recovery of the whole or any part of any pecuniary loss caused to the Court or to a party litigating before the Court;
- (d) reduction in rank to a lower post;
- (e) compulsory retirement;
- (f) removal from service; and
- (g) dismissal from service.

(3) No penalty would be imposed upon an employee unless he is apprised of the allegations against him and has been given an opportunity of submitting his defense in writing and is personally heard by the Appointing Authority.

(4) The Appointing Authority may also, in appropriate cases, appoint an Enquiry Officer above the rank of the person against whom proceedings are initiated to hold a detailed fact-finding inquiry or examine evidence in the presence of the person being proceeded against:

Provided that no penalty shall be imposed unless the person proceeded against is provided with a copy of the enquiry report and given an opportunity of being heard.

PART-V

SENIORITY

13. Seniority—Seniority lists of persons appointed against different posts enumerated in the Schedule shall be maintained in the following manner namely,—

(a) the seniority of an employee shall be reckoned from the date of his regular appointment against the post held by him or from the date of such appointment in an equivalent post in the Schedule; and

(b) notwithstanding anything contained in clause (a), upon the commencement of these rules, the Chief Justice shall constitute a committee or committees comprising at least two Judges for determination of inter-se seniority of officers and staff in various pay scales and the findings of such committee or committees shall be final:

Provided that any order regarding the seniority of the officers or staff, before commencement of these rules, passed by the authority shall remain intact until varied by orders.

PART-VI MISCELLANEOUS

14. Terms and Conditions.—Subject to these rules, other terms and conditions of service including pay, allowances, retirement, deputation, pension, gratuity, provident fund, benevolent fund, group insurance, financial or family assistance in case of death during service, leave or other privileges of an employee shall be governed by the laws for the time being in force and applicable to the employees in posts in the same scale in the Federal Government:

Provided that the powers of the Federal Government shall be exercised by the Chief Justice or such other Judges upon whom such powers may be delegated by the Chief Justice:

Provided also that the Chief Justice whenever he thinks fit may grant a special allowance to any officer or an employee keeping in view the nature of the services that he is required to perform.

15. Power to create, upgrade or abolish posts.—The power to create or abolish, upgrade or down grade a post, temporary or permanent, vests in the Chief Justice.

16. Relaxation.—The Chief Justice may relax any of these rules, subject to reason in writing, if the Chief Justice is satisfied that a strict application of the rule would cause undue hardships and his decision shall be final in such matter.

17. Delegation of power—The Chief Justice may delegate all or any of his powers under these rules to any Judge or officer of the High Court.

18. Powers of the Chief Justice.—Nothing in these rules shall be deemed to limit or abridge the powers of the Chief Justice to appoint or promote any person as may appear to him to be just and equitable.

19. Appeal.—An employee aggrieved by an order relating to the terms and conditions of his service may, within thirty days from the date of such order, prefer an appeal to the Appellate Authority indicated herein below, namely,—

Authority passing the order.	Appellate Authority.
1. Registrar	Administration Judge
2. Administration Judge	Chief Justice.
3. Chief Justice	Chief Justice for Review

See the Schedules in Gazette of Pakistan at pages 1632 to 16328.