



JUDICIAL ESTACODE

Second Edition
Revised & Enlarged

2011

Peshawar High Court

FOREWORD TO SECOND EDITION

To author a book may not be so big an undertaking in today's context. Learned men write books on the subjects of their interest. Some reproduce the events and incidents they witness from the sidelines, some reproduce the events and the incidents they have been part of. The readers read all this and forget about it. Many learn lessons from these events and incidents. The book under review does not fall in either of these categories. It provides light and guidance to all those who want to do everything by staying within the parameters of law. Many things in the past had been done but without knowing what was the origin of such practice and what was the sanction behind that. Pains, pangs and pines of Mr. Niaz Muhammad Khan have culminated in the compilation of this Code which not only shows the origin of all those acts in practice but also the sanction behind them. Exhaustive efforts have made this code exhaustive enabling the reader to find a ready answer to all the questions which arise in the mind of everyone working in the hierarchy from ministerial staff upto the Chief Justice. A useful compilation tending to benefit all those who are linked with the institution one way or the other including the members of the bar. A commendable effort adding another feather to Mr. Niaz Muhammad Khan's cap.

Justice Ejaz Afzal Khan
Chief Justice

PREFACE TO SECOND EDITION

The 1st edition of “Judicial Estacode”, a reference book, has completed its 5 years. The second revised and enlarged edition has been necessitated on two counts. The enormous body of rules, instructions, notifications and modifications issued from time to time. And the suggestions for improvement from related persons.

The revised edition besides amendments contains a new section of Judicial Commission of Pakistan. The most important inclusion in the edition is a section containing Calendar of job descriptions. This section contains all important job descriptions of Judicial Officers and staff members of district judiciary. The importance of the section can be described in the way that due to scattered job descriptions in different rules, laws and directives many of them are unknown to the concerned officer/official and hence are left unattended. Similarly the responsibility for their non performance cannot be fixed on any one for want of handy availability. This calendar shall enhance the personal and institutional output and accountability.

Let me add here that the task of revising the edition could not have been possible without the inspiring leadership of his lordship Mr. Justice Ejaz Afzal Khan, honourable the Chief Justice. Mr. Musadiq Hussain Gilani, the learned Registrar also facilitated the accomplishment of the undertaking.

The suggestions for improvement have always been given due weight and have been incorporated in this edition. Looking for future guidance from the users of the book.

Dated: 10.05.2011

Niaz Muhammad Khan



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CHAPTER-I
(HIGH COURT)
SECTION-1
(PRINCIPAL SEAT AND BENCHES)

C.No. 1(1-1)

CONSTITUTIONAL PROVISION ESTABLISHING HIGH COURT PRINCIPAL SEAT AND BENCHES

Article 198 of the Constitution of Islamic Republic of Pakistan, 1973. (1) Each High Court in existence immediately before the commencing day shall continue to have its principal seat at the place where it had such seat before that day.

(2) Each High Court and the Judges and divisional courts thereof shall sit at its principal seat and the seats of its Benches and may hold, at any place within its territorial jurisdiction, circuit courts consisting of such of the Judges as may be nominated by the Chief Justice.

(3) The Lahore High Court shall have a Bench each at Bahawalpur, Multan and Rawalpindi; the High Court of Sind shall have a Bench at Sukkur; the Peshawar High Court shall have a Bench each at Abbottabad ¹[, Mingora] and Dera Ismail Khan and the High Court of Baluchistan shall have a Bench at Sibi.

(4) Each of the High Courts may have Benches at such other places as the Governor may determine on the advice of the Cabinet and in consultation with the Chief Justice of the High Court.

(5) A Bench referred to in clause (3), or established under clause (4), shall consist of such of the Judges of the High Court as may be nominated by the Chief Justice from time to time for a period of not less than one year.

(6) The Governor in consultation with the Chief Justice of the High Court shall make rules to provide the following matters, that is to say,--

- (a) assigning the area in relation to which each Bench shall exercise jurisdiction vested in the High Court; and

¹ Added vide Constitution (Eighteenth Amdt.), Act 2010 (10 of 2010)

- (b) for all incidental, supplemental or consequential matters.

C.No. 2(1-1)

**GOVERNMENT OF NORTH WEST FRONTIER PROVINCE
LAW DEPARTMENT**

NOTIFICATION

Peshawar, Dated The 27th September, 1982

No. Legis:3(3)/81. In pursuance of clause (6) of Article 7 of the Provisional Constitution Order, 1981 (C.M.L.A. Order No. I of 1981), the Governor of the North-West Frontier Province, in consultation with the Chief Justice of the Peshawar High Court, is pleased to make the following rules, namely:-

**THE PESHAWAR HIGH COURT (ESTABLISHMENT OF
BENCHES) RULES, 1982**

1. (1) These rules may be called the Peshawar High Court (Establishment of Benches) Rules, 1982.

(2) They shall come into force at once.

2. In these rules, unless the context otherwise requires,-

(a) "Bench" means a Bench established under clause (3) or clause (4) of Article 7 of the Order; and

(b) "Order" means the Provisional Constitution Order, 1981 (C.M.L.A Order No. I of 1981).

3. The High Court Bench at Abbottabad shall exercise the jurisdiction vested in the High Court, in respect of cases relating to the Civil Division of Hazara.

4. The High Court Bench at Dera Ismail Khan shall exercise the jurisdiction vested in the High Court, in respect of cases relating to the Civil Division of Dera Ismail Khan.

¹[4A. The High Court Bench at Mingora shall exercise the jurisdiction vested in the High Court, in respect of cases relating to the Civil Division of Malakand.]

¹ Added vide Notification No. LEGIS 3(3) 81 of Government of Khyber Pakhtunkhwa, dated 14.07.2010

5. Subject to the other provisions of these rules all matters arising within the area assigned to a Bench shall be filed before and disposed of by that Bench.
6. There shall be established a “Registry” of the High Court at each Bench consisting of an Additional Registrar and such other officers and servants as the Chief Justice may appoint.
7. The Chief Justice may transfer any proceedings pending at the principal seat or a Bench to another Bench or the principal seat of the High Court.
8. The Chief Justice may determine cases or class of cases which may be heard and disposed of at the principal seat or a Bench.
9. If at any time it is found expedient for the efficient functioning of the principal seat or a Bench, the Chief Justice may require any Judge to sit for such period as may be determined by him at any Bench, or the principal seat.
10. The most Senior Judge for the time being at a Bench shall exercise such powers of the Chief Justice as may be delegated to him by the Chief Justice.
11. Without prejudice to the generality of the foregoing rules and subject to the provisions of the Order, the Chief Justice may, from time to time, pass such orders as may be considered necessary for efficient working of a Bench.
12. The Peshawar High Court Benches Area of Jurisdiction Rules, 1981, are hereby repealed.

C.No. **2A** (1-1)**CONSTITUTION OF DIVISION AND SINGLE BENCHES AT
HIGH COURT BENCHES*****PESHAWAR HIGH COURT*****ORDER****Peshawar, Dated The 13th May, 1984**

In pursuance of clause (6) of Article 7 of the Provisional Constitution Order, 1981, read with Rule 10 of the Peshawar High Court (Establishment of Benches), Rules, 1982, Hon'ble the Chief Justice, Peshawar High Court, Peshawar has been pleased to empower the Senior Judge of Circuit Benches at Abbottabad and D.I. Khan, to constitute Benches for the disposal of D.Bs/S.Bs. cases as their respective Benches.

(PHC Endst 5600-1/Admn Dated Peshawar the 16-05-1984)

C.No. **2B** (1-1)**CONSTITUTION OF DIVISION AND SINGLE BENCHES AT
HIGH COURT BENCHES*****PESHAWAR HIGH COURT*****ORDER****Peshawar, Dated The 15th January, 1994**

In supersession of this courts Order dated 13.05.1984, Hon'ble the Chief Justice Peshawar High Court, Peshawar in exercise of powers under clause (6) of Article 198 of the Constitution of Islamic republic of Pakistan read with Rule 10 of the Peshawar High Court (Establishment of Benches), Rules, 1982, has been pleased to order that hence forth the Senior Judge at the Circuit Benches, Abbottabad and D.I. Khan shall constitute Division Benches/Single Benches for the disposal of cases pertaining to their respective Benches.

(PHC Endst 315-316/Admn Dated Peshawar the 17-01-1994)

C.No. 2C (1-1)

ESTABLISHMENT OF BANNU AND SWAT BENCHES***GOVERNMENT OF NWFP******ESTABLISHMENT & ADMINISTRATION DEPARTMENT*****NOTIFICATION****Peshawar, Dated The 5th April, 2007**

No. SO(E-I)E&AD/9-94/95:- In exercise of the powers conferred by clause (4) of Article 198 of the Constitution of the Islamic republic of Pakistan, the Governor of the North-West Frontier Province, on the advice of the Cabinet and in consultation with the Chief Justice of Peshawar High Court, Peshawar is pleased to determine that the Peshawar High Court, Peshawar shall have its Benches, one each at Bannu ¹[and Swat], subject to creation of seats for four Additional Judges for the Said High Court.

C.No. 3(1-1)

MINUTES OF THE MEETING OF THE ADMN: COMMITTEE OF PESHAWAR HIGH COURT PESHAWAR, HELD ON 18.12.1976, AT 10:30 A.M.**PRESENT**

1. CHIEF JUSTICE.
2. MR. JUSTICE SHAH NAWAZ KHAN, SENIOR PUISNE,J.
3. MR. JUSTICE MIAN BURHAN-UD-DIN,J.

A meeting of the Chief Justice and Judges of Peshawar High Court, Peshawar, was held on 18.12.1976 at 10:30a.m., in which the following matters were considered and decided.

¹ With the establishment of Mingora Bench vide Constitution (Eighteenth Amdt.), Act 2010 (10 of 2010), the words and Swat have become infructuous

DISTRIBUTION OF ADMINISTRATION WORK OF THIS COURT
AMONGST JUDGES OF THE ADMN: COMMITTEE & FORMATION
OF ADMN: COMMITTEE ITSELF

It was decided that the Administrative and executive work of the High Court shall be controlled by a committee of Judges.

The Administration Committee shall consist of four Judges. At all meetings of the Administration committee, at least two Judges will form a quorum.

If any Member of the Administration Committee is not available, the work assigned to him will be disposed of by the Senior Puisne Judge and in case of Senior Puisne Judge, by the Chief Justice. Quorum for a meeting of Full Court shall be three.

Each member of the Administration Committee shall act as an Administration judge and the powers and duties of each Administration Judge shall be as follows:-

1. CHIEF JUSTICE.

Rosters and cause-lists. Constitution of Benches and the appointment and control of High Court Establishment, except reimbursement of medical charges and G.P.Fund Advance cases.

Appointment, transfers, promotions, deputations etc. of the members of subordinate Judiciary. Conferment of powers on Civil Judges and Magistrates.

2. SENIOR PUISNE JUDGE

Rules of Procedure in civil and Criminal Courts. Statistics for the purpose of annual notes on the administration of civil and Criminal Justice.

All matters relating to lower Court's establishment. Budget, Accounts and appointment of Oath Commissioners.

3. SECOND JUDGE

Library and Law Reports. Matters relating to Legal Practitioners. Record room and Loss of Record.

High Court Building, Garden and Compound and other minor works. Petition-Writers, Commissioner and Letters of Request. Stationery and forms of the High Court and Civil Courts. Expenses of witnesses.

4. **THIRD JUDGE**

Reimbursement of medical charges, and G.P.Fund Advance cases of High Court Establishment. Notice under section 80 C.P.C. Insolvency work. Guardian and Wards work. Official Receiver. Copying Agency. Transfer of Prisoners.

C.No. 4(1-1)

HIGH COURT OF WEST PAKISTAN (CIVIL SERVICES) DELEGATION OF POWERS RULES, 1960

[Gazette of Pakistan, Part I, 6th January 1961]

No. FD-SOI(SR)-654/60 – In pursuance of the Presidential Proclamation of the seventh day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following rules:-

1. (1) These rules may be called the High Court of West Pakistan (Civil Services) Delegation of Powers Rules, 1960.
(2) They shall come into force at once.
2. Notwithstanding any provision to the contrary in any Civil Services Rules for the time being in force in the Province or any part thereof, the Chief Justice of the High Court of West Pakistan shall have:-
 - (i) the powers specified in column 2 of Appendix 'A' to these rules to the extent mentioned in column 3 thereof in respect of Judicial Officers up to the level of District and Sessions Judges; and
 - (ii) all the powers of Government in the Administrative Department under the Civil Services Rules in force in the different integrating units of West Pakistan, in respect of –
 - (a) the officers and servants of the High Court, its Benches and Circuits other than C.S.P and P.C.S officer, and
 - (b) the establishment of the Civil and Sessions Courts.

3. The Chief Justice may delegate all or any of his powers under these rules to any Judge of the High Court.
4. The powers delegated under these rules shall be in addition to, and not in derogation of, the powers already vested in or delegated to the Chief Justice under any law, rule or order in force.
5. The powers specified in column 2 of Appendix 'B' to these rules are to the extent prescribed in column 4, delegated to the authorities mentioned in column 3 thereof.
6. Nothing herein contained shall be deemed to empower any authority other than the authority competent to do so on the thirteenth day of October, 1955, to remove, dismiss or otherwise punish any official who was in the service of Government on that date.

Powers under these rules exercisable by Lahore High Court, Sindh High Court, Peshawar High Court and Balochistan High Court by virtue of Art.7 of High Courts (Establishment) Order (P.O. No.8 of 1970).

APPENDIX 'A'
**DELEGATION OF POWERS TO THE CHIEF JUSTICE IN
 RESPECT OF JUDICIAL OFFICERS**

<i>SN</i>	<i>Nature of Powers</i>	<i>Extent of Powers</i>
1	2	3
1	Power to declare headquarters	Full powers
2	Power to define the limits of sphere of duty	Full powers
3	Power to sanction absence on duty beyond sphere	Full powers; provided that the absence is for a public purpose and the period of absence does not exceed 15 days
4	Power to suspend or transfer a lien	Full powers in the case of Civil/Sub-Judges.
5	Power to allow making over charge	Full powers
6	Power to allow making over charge at a place other than headquarters of the Government servant being relieved	Full powers
7	Power to permit either the relieved or relieving Government servant not to be	Full powers Full powers

	present at the time of handing or taking over the charge	
8	Power to retire after attaining the age of superannuation.	Full powers
9	Power to withhold increments or to order that a Government servant should or should not cross the efficiency bar	Full powers
10	Power to grant additional pay where charge of more than one independent post is held by an officer	Full powers in accordance with the rules and orders laid down by Government from time to time; provided that where additional charge is allowed for a period exceeding 4 months, the prior concurrence of Government is to be obtained
10-A	Power to accept officiating Government servant's reasons for not occupying a house placed at his disposal by a permanent incumbent while on leave or transfer	Full powers
11	Power to direct that the Government servant on leave shall be in occupation of residence	Full powers
12.	Power to grant or permit a Government servant to undertake work and receive an honorarium or fees	Up to Rs.1,000/- in a financial year; provided that the service rendered does not fall within the course of ordinary duties of the Govt: servant and the work is done outside office hours
13.	Powers to direct that the whole or any part of a fee for work done during official time may be paid to a Government servant who did the work	Full powers

14	Power to transfer a Government servant to foreign service	Full powers; subject to the conditions that- (i) his emoluments in foreign service do not exceed more than 25 percent of the substantive emoluments of the Government servant deputed and no concessions not admissible to the Government servant, are sanctioned by the foreign employer in addition to pay; and (ii) the foreign employer agrees to pay leave and pension contributions in accordance with the rules
15	Power to grant leave other than study leave, special disability leave and leave after the date of compulsory retirement	Full powers subject to the report of Accountant-General/Comptroller regarding the title to leave
16	Power to extend leave overstayed	Full powers
17	Power to permit combination of holidays and /or vacation with leave	Full powers
18	Power to accept employment during leave	Full powers
19	Power to order that joining time should be calculated by a route other than the shortest route	Full powers
20	Power to grant casual leave	Full powers

21	Power to sanction the grant of temporary advances from Provident Fund	Full powers, subject to the condition that- (i) the amount of advance does not exceed 03 months' pay or half the amount at the credit of the subscriber, whichever is less; and (ii) the second advance not to be granted within 12 months of the final re-payment of the first advance ,if the amount of the first advance exceeded 2/3 rd of the amount admissible under (i) above.
22	Power to decide the shortest of two or more routes	Full powers
23	Power to permit mileage allowance to be calculated by a route other than the shortest or cheapest	Full powers
24	Power to certify that a journey by a motor car between places connected by railway is performed in the public interest	Full powers
25	Power to decide whether an absence from headquarters is absence from duty	Full powers subject to the condition that the absence is for a public purpose
26	Power to restrict the duration and frequency of tours	Full powers
27	Power to grant exemption from the rule limiting the drawl of daily allowance for a halt on tour to a period of ten days.	Up to a limit of 15 days
28	Power to sanction travelling expenses to a Government servant compelled to answer a civil case or criminal charge or required to attend a departmental enquiry	Full powers

Sr No	Nature of Powers	Extent of Powers
1	2	3
29	Power to fix the maximum weight of personal effects on transfer lower than that prescribed in the rules	Full powers
30	Power to allow travelling allowances for a journey to attend an obligatory examination	Full powers
31	Power to disallow travelling allowance for a journey to attend obligatory examination if it is considered that the candidate has culpably neglected preparing for it	Full powers
32	Power to sanction travelling allowance to a Government servant for journeys to attend conferences held by Government while on leave	Full powers
33	Powers to allow actual cost of a journey to appear before a medical board preliminary to voluntary retirement on invalid pension	Full powers
34	Power to declare Controlling Officers	Full powers
35	Power to sanction pension	Full powers; provided that the pension is covered by the rules and certified by the Audit Officer to be admissible and no deduction is to be made there from
36	Power to sanction commutation of pension	Full powers, provided the conditions laid down in the rules are fulfilled

APPENDIX ‘B’
DELEGATION OF POWERS REGARDING
THE ESTABLISHMENT
UNDER THE CIVIL AND SESSIONS COURT IN WEST
PAKISTAN

Sr No	<i>Nature of Power</i>	<i>To Whom Delegated</i>	<i>Extent</i>
1	2	3	4
1	Power to appoint a Government servant to officiate in a vacant post	Authority competent to make a substantive appointment to the post	Full powers
2	Power to sanction the absence on duty of a Government servant beyond his sphere of duty	Appointing Authority	Full powers
3	Power to suspend the lien of a Government servant	Appointing Authority	Full powers
4	Power to allow making or taking over charge at a place other than the headquarters of the Government servant being relieved	Transferring Authority	Full powers
5	Power to permit either the relived or reliving Government servant not to be present at the time of handing or taking over charge	Transferring Authority	Full powers
6	Power to withhold increments	(i) Where service rules have been framed in this behalf, the authority competent to do so under the service rules. (ii) Where no service rules have been framed in this behalf, the appointing authority	As provided in the service rules Full powers

Sr No	Nature of Power	To Whom Delegated	Extent
1	2	3	4
7	Power to order Government servants transferred as a penalty to a lower grade or post to draw pay not exceeding the maximum of the lower grade or post	The authority empowered to make the transfer	Full powers
8	Power to declare that service of a Government servant reduced shall not count for increment on reinstatement	The authority competent to reinstate	Full powers
9	Power to reduce pay of officiating Government servants	Appointing Authority	Full power
10	Power to appoint a Government servant to hold substantively or to officiate in two or more independent posts at one time	Appointing Authority	Up to a maximum of 4 months
11	Power to sanction the grant of temporary advances from Provident Fund	District and Sessions Judge	Full powers subject to the condition that (i) the amount of advance does not exceed 3 months; pay or half the amount at the credit of the subscriber, whichever is less, and (ii) a second advance is not granted within 12 months of the final repayment of the first advance if the amount of the first advance drawn exceeded 2/3 rd of

			the amount admissible under (i) above.
12	Power to sanction pension to Government servants whom they are competent to appoint	Appointing Authority	Full powers provided that Accountant General /Comptroller certifies that the pension is admissible
13	Power to sanction commutation of pension	Appointing Authority	Full powers provided the conditions laid down in the rules are fulfilled.
14	Power to decide the shortest of two or more routes	Controlling Officer	In the case of individual journeys only
15	Power to permit mileage allowance to be calculated by a route other than the shortest or cheapest	Controlling Officer	Full powers for journeys within their own sphere of duty
16	Power to decide whether an absence from headquarters is absence on duty	Heads of offices	Full powers in individual cases only, provided that the absence is for a public purpose which should be stated, and the period of absence does not exceed 14 days in each case
17	Power to restrict the duration and frequency of tours	Heads of offices	Full powers
18	Powers to permit exchange of Daily Allowance for mileage allowance during the whole period of a tour	Heads of offices	By special order in individual cases of non-gazetted Government servants whose pay does not exceed Rs.199-

19	Power to grant leave other than study leave, special disability leave and leave after the date of compulsory retirement	(a) Appointing Authority (b) Transferring Authority	Full powers For a period not exceeding 30 days in case the leave vacancy is to be left unfilled or can be without direct recruitment or promotion
20	Power to sanction the grant of travelling allowance in cases where a suspended Government servant is required by the suspending authority to make a journey for the purpose of attending a departmental enquiry	Heads of offices	Full powers in respect of non-gazetted Government servants at tour rates; provided that no daily allowance for halts shall be allowed
21	Power to allow the actual cost of a journey to appear before a medical board preliminary to voluntary retirement on invalid pension	Heads of offices	Ditto

C.No. 5(1-1)

HIGH COURT OF WEST PAKISTAN DELEGATION OF POWERS RULES, 1960

Note:- No more relevant to the extent of Ministerial Establishment of the High Court as decided by the Chief Justice in a number of departmental cases and finally decided in W.P. No. 1705 of 2004 (Gul Tiaz Khan V/s Registrar Peshawar High Court) decided on 24.1.2006.

Has also become irrelevant to other posts in the wake of change in related laws and rules regarding appointing authorities and other delegation of powers rules.

C.No. 6(1-1)

**INITIAL APPOINTMENTS TO CIVIL POSTS (RELAXATION
OF UPPER AGE LIMIT) RULES, 2008**

GOVERNMENT OF NWFP

ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(Regulation Wing)

NOTIFICATION

Peshawar, dated the 01st March, 2008

No. SOE-III/(E&AD)2-1-2007.- In pursuance of the powers granted under Section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N-W.F.P. Act XVIII of 1973), the competent authority is pleased to make the following rules, namely:-

PART-I – GENERAL

1. (1) These rules may be called the Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008.

(2) These shall come into force with immediate effect.

2. (1) Nothing in these rules shall apply to the appointment in BS-17 to be filled through the competitive examination of the Public Service Commission, in which case two years optimum relaxation shall be allowed to:

- a) Government servants with a minimum of 2 years' continuous service;
- b) Disabled persons; and
- c) Candidates from backward areas.

¹[(2) For appointment to the post of Civil Judge-cum-Judicial magistrate/Illaq Qazi, the period which a Barrister or an Advocate of the High Court and / or the Courts subordinate thereto or a Pleader has practiced in the Bar, shall be excluded for the purpose of upper age limit subject to a maximum period of two years from his/her age.]

¹ Added vide Notification No. SOE-III(E&AD)2-1/2007, dated 03rd September, 2008

PART-II – GENERAL RELAXATION

¹[3. (i) Maximum age limit as prescribed in the recruitment rules shall be relaxed in respect of the candidates mentioned in column No. 2 to the extent mentioned against each in column No. 3 of the Table below:

TABLE

S. No.	Category of candidates	Age Relaxation admissible
1	2	3
i.	Government Servants who have completed 2 years' continuous service	Upto 10 years automatic relaxation
ii.	Candidates belonging to backward areas as specified in the Appendix attached herewith.	3 years automatic relaxation
iii.	General Candidates	Upto 2 years by the appointing authority and exceeding 2 years upto 5 years by the Establishment Department
iv.	Widow, son or daughter of a deceased civil servant who died during service	Discretion of the appointing authority.
v.	Disabled persons	10 years automatic relaxation
vi.	(a) Employees or ex-employee of development projects of the Government of Khyber Pakhtunkhwa; and (b) Employee or ex-employee of development projects of the Federal Government under the administrative control of the Government of Khyber Pakhtunkhwa.	Equal to the period served in the projects, subject to a maximum limit of ten years."

(ii) In case of divorced woman or widow, the following certificates shall be produced by the applicant at the time of applying for age relaxation.

(a) in case of widow, death certificate of husband;

¹ Added vide Notification No. SOE-III/(E&AD) 2-1-2007 dated 9th December, 2010 & Notification No. SOE-III/(E&AD) 2-1-2007 dated 29th January, 2011

(b) in case of divorced woman, divorce certificate from the District Coordination Officer of the District concerned;

(c) certificate from the District Coordination Officer of the District concerned to the fact that the applicant whether divorced or widow has not remarried at the time of submitting application.”]

4. A candidate shall only be allowed relaxation in age in one of the categories specified in rule 3:

Provided that the candidates from backward areas, in addition to automatic relaxation of three years under category (ii) specified in rule 3, shall be entitled to one of the relaxations available to Government Servants, general or disabled candidates, whichever is relevant and applicable to them.

5. The age relaxation under category (iii) specified in rule 3, shall be subject to (a) full justification in support of the proposal: and (b) a certificate to the effect that no eligible candidates within the prescribed age limits are/were available. The certificate shall be provided by the concerned Departments.

6. Age relaxation in respect of overage candidates shall be sought prior to their appointment.

7. For the purposes of these rules, age of a candidate shall be calculated from the closing date of submission of applications for a particular post.

8. The cases of age relaxations, beyond the competence of Administrative Departments, shall be sent to the Establishment Department through the Administrative Department concerned.

9. All existing instructions, relating to age relaxation, issued from time to time shall stand superseded.

[Appendix]
[See Rule 3 (ii)]

- i. Khyber Agency
- ii. Kurram Agency
- iii. Mohamnad Agency
- iv. North Waziristan Agency
- v. South Waziristan Agency
- vi. Malakand Agency including protected areas (Swat Ranizai and Sam Ranizai) and Bajour.
- vii. Tribal Areas attached to Peshawar, Kohat and Hazara Division.
- viii. Tribal Areas attached to D.I. Khan and Bannu Districts.
- ix. Shirani Area.
- x. Merged areas of Hazara and Mardan Division and upper Tanawal.
- xi. Swat District.
- xii. Upper Dir District.
- xiii. Lower Dir District.
- xiv. Chitral District.
- xv. Buner District.
- xvi. Kala Dhaka Area.
- xvii. Kohistan District.
- xviii. Shangla District.
- xix. Gadoon Area in Swabi District.
- xx. Backward areas of Mansehra and District Batagram.
- xxi. Backward areas of Haripur District, i.e. Kalanjar Field Kanungo Circle of Tehsil Haripur and Amazi Field Kanungo Circle of Tehsil Ghazi.

C.No. 7(1-1)

**POWER OF CHIEF JUSTICE AS AUTHORITY UNDER
NWFP GOVERNMENT SERVANTS (E&D) RULES, 1973**

**NOTIFICATION
PESHAWAR, DATED 16TH JANUARY, 1992**

No.SORII(S&GAD)5(29)/86:- In exercise of the powers conferred by clauses (b) and (c) of rule 2 of the North -West Frontier Province (Efficiently and Discipline) Rules, 1973, and in supersession of this department's Notification No.SOSIII(S&GAD)1-80/73, dated the 28th January ,1975, the Governor of the North -West Frontier Province is pleased to direct that the officers specified in column 3 and 4 of the table below shall respectively be the "Authority" and "Authorized Officer" for the purpose of the said rules in respect of civil servants specified against each in column 2 of the said table.-

TABLE

S.No.	Basic Pay Scale of Govt. Servant	Authority	Authorised Officer
1	2	3	4
1.	Officers of former Provincial Civil Secretariat Service and ex Provincial Civil Service (Executive Branch) in Basic Pay Scale 17.	Chief Minister	Chief Secretary
2.	Officers of former Provincial Civil Service (Judicial Branch) in Basic Pay Scale 17 and above.	Chief Justice	As authorized by the authority
3.	Deputy Superintendent of Police in basic Pay Scale 17.	Chief Secretary	Inspector General of Police.
4.	Officers in BPS-17 in the Education Department.	Chief Secretary	Director of Education concerned.

5.	Other Officers in Basic Pay Scale-17 (other than Members of All Pakistan Unified Grades)	Chief Secretary	Administrative Secretary.
6.	Officers in BPS-18 in the Education Department.	Chief Minister	Administrative Secretary.
7.	Other officers in BPS-18 and above (other than Members of All Pakistan Unified Grade)	Chief Minister	Chief Secretary
8.	Sectt: Officers in BPS-16	Chief Secretary	Secretary S& GAD
9.	Government servants in BPS-16 on the Establishment of Peshawar High Court, Peshawar.	Chief Justice	As authorized by the authority
10.	Government servants in BPS-16 on the Establishment of Board of Revenue & the offices subordinate to it.	Senior Member Board of Rev:	Secretary, BOR
11.	Government servants in BPS-16 serving in the office of Divisional Commissioners and Officers subordinate to them.	Commissioner of the Division concerned.	As authorized by the authority
12.	Government servants in BPS-16 serving in the Directorate of Local Fund Audit.	Secretary Finance	Director, Local Fund Audit.
13.	Government servants in BPS-5 to 16 serving in the Public Service Commission.	Chairman of the Commission	Secretary of the Commission.
14.	Other Government servants in BPS-16.	Head of Attached Department	As authorized by the authority

15.	Government servants in BPS-5 to 15 serving in the Secretariat.	Administrative Secretary concerned	Dy. Secy(Admn) of the Department concerned.
16.	Government servants in BPS-1 to 4 serving in the Secretariat.	Dy. Secy(Admn) of the Department concerned.	Section Officer (Admn) of the Department concerned.
17.	Government servants in BPS-1 to 14 serving in Public Service Commission.	Secretary of the Commission	As authorized by the authority
18.	Other Government Servants in BPS-1 to 15.	Appointing authority	As authorized by the authority
19.	“Government Servants in BPS-1 to 4 serving in the Chief Minister’s Secretariat.	Deputy Secretary-II of C.M’s Sectt:	Section Officer (Coord:) Chief Minister’s Sectt:

C.No. 8(1-1)

CHIEF JUSTICE AS APPOINTING AUTHORITY OF JUDICIAL OFFICERS

***No. SOR-IV(E&AD)/3-11/2001:** In exercise of the powers conferred by Section 5 of the North-West Frontier Province Civil Servants Act, 1973, and in partial modification of Rule 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Governor of the North-West Frontier Province is pleased to authorize the Chief Justice, Peshawar High Court, Peshawar, to appoint Judicial Officers sub-ordinate to the said High Court, with immediate effect, which authorization shall be deemed to have taken effect on 26-07-2001.

(Govt: of NWFP E&D No. SOR-IV (E&AD)/3-11/2001 Dated: 28th August, 2001)

* on the promulgation of NWFP Judicial Service Rules, 2001, the High Court has become the appointing authority

C.No. 9(1-1)

AUTHORISATION TO CHIEF JUSTICE AS ADMINISTRATIVE DEPARTMENT UNDER THE NWFP DELEGATION OF POWERS UNDER THE FINANCIAL RULES AND THE POWERS OF RE-APPROPRIATION RULES, 2001.

Proviso to Rule 4

Provided that the Chief Justice, Peshawar High Court, Chairman NWFP Public Service Commission, Secretary Provincial Assembly of the NWFP, Secretary (Administration), Inspector General of Police, District Coordination Officer, Secretary to the Governor, Secretary to the Chief Minister, Chief Executives Government Lady Reading Hospital, Khyber Teaching Hospital/Khyber Medical College and College of Dentistry, Hayatabad Medical Complex/ Post Graduate Medical Institute, Ayub Teaching Hospital/Ayub Medical College shall respectively exercise powers of an Administrative Department.

C.No. 10(1-1)

REVISED SYSTEM OF FINANCIAL CONTROL AND BUDGETING

**FINANCIAL INDEPENDENCE OF JUDICIARY OF
PESHAWAR HIGH COURT**

In continuation of this department Notification No. SO (A/Cs)FD/2-1/93, dated 08/10/1995 and in relaxation of the provisions contained in Government of NWFP Delegation of Powers under the Financial Rules and the Powers of Re-Appropriation Rules 1981 (as revised in 1992), the following financial powers will be exercised by the Chief Justice of Peshawar High Court, Peshawar.

- i) Full powers to re-appropriate funds from one head of account to another head of account within the allocated budget of the Peshawar High Court, Peshawar.

- ii) Full powers to sanction expenditure on any item from within the allocated budget of the Peshawar High Court, Peshawar.
- iii) Full powers to create new posts and abolish old posts provided that expenditure is met from within the allocated budget of Peshawar High Court, Peshawar.
- iv) Full powers to change nomenclature and upgrade/down-grade any post provided expenditure is met from within the overall allocated budget of Peshawar High Court, Peshawar.

(Finance Department letter No. SO (A/Cs)FD/2-1/96 Dated Peshawar the 7-12-1996)

C.No. 11(1-1)

**REGISTRAR'S POWERS OF APPOINTMENT OF
MINISTERIAL ESTABLISHMENT OF HIGH COURT**

PESHAWAR HIGH COURT PESHAWAR

NOTIFICATION.

Dated Peshawar the 18th November, 2004.

No. 155-J. In exercise of the powers conferred on him under rule 4 of the Peshawar High Court Ministerial Establishment (Appointment & Conditions of Service) Rules, 1989, Hon'ble the Chief Justice of this court has been pleased to authorise NAME, Registrar, Peshawar High Court, Peshawar as 'Appointing Authority' for the Posts in BPS-1 to 16, borne on the Establishment of Peshawar High Court.

C.No. 12(1-1)

CERTAIN POWERS DELEGATED TO REGISTRAR

PESHAWAR HIGH COURT, PESHAWAR.

ORDER

With an objective to ensure smooth running of routine office work, Hon'ble the Chief Justice of this Court has been pleased to authorize the

Registrar of this Court to pass orders regarding the following matters, with immediate effect and until further orders.

1. Placement of cases on the agenda of the 'Administration Committee' which relate to the Hon'ble Committee.
2. Sanction of G.P. Fund Advance to the officials/officers of this Court.
3. Issuance of Experience/Service Certificates, NOC for Passport/Visa.
4. Relieving of Judicial Officers whose notifications are issued for appointment against Ex-cadre posts.
5. Sanction casual leave/earned leave upto 4 days at a time to the District & Sessions Judges and to sanction casual leave/earned leave for unlimited period to the Additional District & Sessions Judges, Senior Civil Judges and Civil Judges.
6. Sanction of casual leave/earned leave ¹[for unlimited period] to the official / officers of this Court including Private Secretaries.

(PHC ENDST/F 11085-1109 DATED 14-9-2004)

C.No. 13(1-1)

**REGISTRAR'S POWER TO SANCTIONED CASUAL LEAVE
OF JUDICIAL OFFICERS**

PESHAWAR HIGH COURT, PESHAWAR

ORDER

The Registrar of this court is hereby authorized to sanction casual leave for District and Sessions Judges and Additional District and Sessions

¹ Added vide PHC Notification No. 133-J dated 15-05-2008

Judges up to 04 days at a time and in case of grant of casual leave to the Senior Civil Judges and Civil Judges, he is granted full powers.

(PHC letter No. Nil Dated Peshawar the 23rd September, 1978)

C.No. 13A(1-1)

CERTAIN POWERS DELEGATED TO ADDITIONAL REGISTRAR (ADMN)

The Competent Authority has been pleased to delegate the following powers to Additional Registrar (Admn) in addition to the Registrar of this Court:-

1. Making all correspondence with concerned quarters after approval by the Competent Authority.
2. Seeking routine comments on applications for appointment as Oath Commissioner, Petition Writers, Fitness Certificate for license as an Advocate of Supreme Court, Exemption u/s 27(c) of NWFP Legal Practitioners and Bar Councils Act, 1973, departmental appeals of staff of district judiciary, inclusion of newspapers in the approved list of this Court and service of notices.

(PHC ENDST NO. 3449-54/ADMN DATED 16-3-2011)

C.No. 13 B(1-1)

CERTAIN POWERS DELEGATED TO OFFICERS OF HIGH COURT

The competent Authority has been pleased to order that, henceforth, whenever the Registrar of this Court is out of station, the following Officers of this court shall act as Registrars in the order mentioned below.

1. Additional Registrar (Admin) [in absence of Registrar]
2. Additional Registrar (Judicial) [in absence of AR (Admin)]
3. Member Inspection Team [in absence of AR (Judicial)]
4. Secretary to Hon'ble Chief Justice [in absence of MIT]

(PHC ENDST NO. 12872-82/ADMN DATED 14-7-2010)

C.No. 14(1-1)

**DELEGATION OF POWERS TO ADDITIONAL REGISTRAR
(JUDICIAL) REGARDING CERTAIN JUDICIAL MATTERS**

PESHAWAR HIGH COURT PESHAWAR

ORDERDated Peshawar the 2nd June, 2005

In exercise of the powers vested in him under Rule 14 of Chapter 10-A of Volume-V of High Court Rules and Orders, Hon'ble the Chief Justice is pleased to empower NAME, Additional Registrar of this Court to order, on request and upon good grounds, deletion of cases from the cause list of this Court till further orders.

(PHC Endst. No.4650-4667/Admn Dated Peshawar the 6-6/2005)

C.No. 15(1-1)**POWERS OF DEPUTY REGISTRAR TO BE EXERCISED BY
ASSISTANT REGISTRAR ... DELEGATION**

PESHAWAR HIGH COURT PESHAWAR

ORDERDated Peshawar the 28th September 2004

The Hon'ble Chief Justice is pleased to authorize NAME, Assistant Registrar (Judicial) of this Court to perform the functions and exercise the powers of Deputy Registrar within the meanings of Chapter 3-C, Volume-V of the High Court Rules & Orders till further orders.

(PHC Endst. No. 11663-11678/Admn. Dated Peshawar the 06-10-2004)

C.No. 16(1-1)

**WORKING HOURS OF PESHAWAR HIGH COURT
(PRINCIPLE SEAT), BENCHES AND DISTRICT COURTS
(WINTER)**

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION

Dated Peshawar the 28th September, 2010.

No.D(a)-180-VII-06/208-J. Hon'ble the Chief Justice has been pleased to order that Peshawar High Court, Peshawar, its Benches and all Civil/Criminal Courts in the Khyber Pakhtunkhwa, subordinate to this Court shall observe the following working hours, during the winter season:-

W.E.F 16TH OCTOBER, 2010 TO 15TH APRIL, 2011 BOTH DAYS
INCLUSIVE)

Monday to Thursday and Saturday:

8:30 A.M. to 2:30 P.M (with 30 minutes break from 1:00 P.M to 1:30 P.M for Zohar Prayers).

Friday. 8:30 A.M to 12:00 Noon
Sunday. Closed.

(PHC Endst: No. 16376-16425/Admn: Dated Peshawar 1st October, 2010)

C.No. 17(1-1)

**WORKING HOURS OF PESHAWAR HIGH COURT
(PRINCIPLE SEAT), BENCHES AND DISTRICT COURTS
(SUMMER)**

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION

Dated Peshawar the 6th April, 2011.

No. D(a)-180-VII-06/117-J. Hon'ble the Chief Justice has been pleased to order that Peshawar High Court, Peshawar, its Benches and all the Civil/Criminal Courts in the Khyber Pakhtunkhwa, subordinate to this Court shall observe the following working hours during the summer season:-

W.E.F 16TH APRIL,2011 TO 15TH OCTOBER, 2011 BOTH DAYS INCLUSIVE)

Monday to Thursday and Saturday.

8:00 A.M to 2:30 P.M (With 30 minutes break from 1:00 P.M to 1:30 P.M for Zohar Prayers).

FRIDAY: 8:00 A.M to 12:00 Noon

SUNDAY: Closed.

(PHC Endst: No. 4585-4680/Admn: Dated Peshawar 09th April, 2011)

C.No. 18(1-1)

POWERS OF THE HIGH COURT TO FRAME RULES ... SOME CONSTITUTIONAL AND LEGAL PROVISIONS

Article 202 of the Constitution of the Islamic Republic of Pakistan

Rules of Procedure: “Subject to constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it”

Section 122 of CPC: Power of certain High Courts to make Rules The High Courts may, from time to time after previous publication, make rules regulating their own procedure and the procedure of the Civil Courts subject to their superintendence, and may by such rules annul, alter or add to all or any of the rules in the First Schedule.

Section 554 of Cr.PC: Power of High Court to make Rules of inspection of records of Subordinate Courts (1) With the previous sanction of the Provincial Government, any High Court may from time to time, make rules for the inspection of the records of subordinate courts.

(2) Power of High Courts to make rules for other purposes:- Every High Court may, from time to time, and with the previous sanction of the Provincial Government:-

- (a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the

- preparation and transmission of any returns or statements to be prepared and submitted by such Courts;
- (b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;
 - (c) make rules regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and
 - (d) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

- (3) All rules made under this section shall be published in the official Gazette”.

Section 20 of the Civil Courts Ordinance 1962: The High Court in consultation of the Board Revenue, NWFP may make rules consistent with this Ordinance and any other enactment for the time being in force.-

- (d) declaring what persons shall be permitted to act as petition writers in Courts;
- (e) regulating the issue of licenses to such persons, the conduct of business by them and the scale of fees to be charged by them; and
- (f) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

Section 27 of the Civil Courts Ordinance 1962: Power to frame rules:

(1) The High Court may, with the approval of Government, frame rules for the purposes of carrying in to effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the High Court may, with the approval of Government frame rules for all are any of the following purposes, namely:-

- (a) the supervision of all Civil Courts and their visitation and inspection;
- (b) the exercise by the District Judges of the general control vested in them over the Civil Courts in their respective districts;

- (c) the places and times for the holding of Civil Courts;
 - (d) the fees to be charged for processes issued by the Civil Courts or by any officer of any such Court;
 - (e) the fees payable in any suit or proceeding in any Civil Court by any party in respect of the fees of the pleader of any other party, and
 - (f) the manner in which the proceedings of the Civil Courts shall be kept and recorded, the manner in which the paper books for the hearing of appeals shall be prepared and the granting of copies.
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C.No. 19(1-1)

LETTERS PATENT (PEHSAWAR)

No. 20/J – In supersession of this court’s Notification No.50-J dated 21st July, 1981, and in exercise of the powers conferred on them by clause 35 of the letters patent, the Chief Justice and Judges of the Peshawar High Court, Peshawar, are pleased to delegate the following functions to the Additional Registrar of this Court with effect from the assuming of charge.—

- (i) to issue notice on an application for probate or Letters of Administration or for revocating the same.
- (ii) to dispose of all matters relating to service of notices or other processes including substituted service, except the power to dispense with service or proforma respondents.
- (iii) to dispose of applications under Order XXII, rules 2,3,4 and 10 Cr.P.C., except in a case under appeal to Supreme Court.
- (iv) to appoint or discharge next friend or guardian ad *litem* of a minor or person of unsound mind, except in a case under appeal to Supreme Court.
- (v) to dispose of applications for withdrawal of an appeal or for consent decree.
- (vi) to dispose of applications under Order XLV, rule 10, C.P.C.
- (vii) to issue notice on application under Order XLV, rule 15 C.P.C.
- (viii) to issue notice on application for substitution of names in an appeal to the Supreme Court.
- (ix) to dispose of applications for return of documents.

- (x) to require any person or party to file an affidavit with respect to any application or matter in respect of which he has power to exercise any discretion or to make any order.
- (xi) to call for further deposit when insufficient in appeal to Supreme Court.
- (xii) to order payment of the interest on Government Promissory Notes under Order XLV, rule 12, C.P.C.
- (xiii) to direct in what newspapers publication referred to in Order XLV, rule 9-A C.P.C, be made.
- (xiv) to pass orders on first appeals in which record is to be printed and amount deficient asked for to be deposited under rules 8 & 9, Chapter 2-A, Volume V is not deposited.
- (xv) to pass formal orders regarding translation and typing of documentary evidence and to summon files and records. (C.P. No. 35, dated 18th November, 1954).
- (xvi) to grant time for making up deficiency in court-fees in cases referred to him as Taxing Officer under section 5 of the Court Fee Act, 1870. No application for extension of the time will be refused without the orders of the Court.

(PHC Nonfiction No.20/J Gazzett of NWFP., Extraordinary, 25th Jan, 1983)

C.No. 20(1-1)

FIRST AMENDMENT --- OATH COMMISSIONERS RULES

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 read with Article 2 of the Provisional Constitutional Order, 1981, the Honorable Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to make the following amendment in Rule 5(i) Chapter 12-B of the High Court Rules and Orders Vol-IV.-

For the words “two to four” occurring in second line of rule 5(i) as aforesaid the words “four to eight” shall be substituted.

(PHC Endst: No. 12064-12077/Admn: Dated the 1st June, 1982.)

C.No. **21**(1-1)

SECOND AMENDMENT --- OATH COMMISSIONERS RULES

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 read with Article 2 of the Provisional Constitutional Order, 1981, the Honorable Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to make the following amendment in Rule 5(i) Chapter 12-B of the High Court Rules and Orders, Volume IV.-

For the words “Four to Eight” occurring in second line of rule 5(1) as foreshaid the words “Eight to Twelve” shall be substituted.

(PHC End: No-5283-5300 Admn: Brh: Dated Peshawar the 5th July, 1993)

C.No. **22**(1-1)

THIRD AMENDMENT--- OATH COMMISSIONERS RULES

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973, Honorable the Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to make the following amendment in Rule 5(i) Chapter 12-B of the High Court Rules and Orders Volume IV.

For the words “Eight to Twelve” occurring in second line of Rule 5(i) as aforesaid the words “Twelve to Sixteen” shall be substituted.

(PHC End: No 4319-4343 Admn: Brh Dated: Peshawar the 17th June, 1996)

C.No. 23(1-1)

FOURTH AMENDMENT --- OATH COMMISSIONERS RULES

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973, the Honorable Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to make the following amendment in Rule 5(i), Chapter 12-B of the High Court Rules and Orders, Volume-IV.

1. ALL DIVISIONAL HEADQUARTERS:

For the words “Twelve to Sixteen” occurring in second line of Rule 5(i) as aforesaid, the words “Sixteen to Thirty” shall be substituted.

2. DISTRICT HEADQUARTERS OF CHARSADEA, NOWSHERA, HARIPUR, MANSEHRA & SWABI:

For the words “Twelve to Sixteen” occurring in second line of Rule 5(i) as aforesaid, the words “Sixteen to Twenty” shall be substituted.

(PHC End No 3421-3443 Admn: Brh: Dated Peshawar the 2nd May, 1997)

C.No. 24(1-1)

FIFTH AMENDMENT --- OATH COMMISSIONERS RULES

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973, the Honorable Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to make the following amendments in Rule 5(i), Chapter 12-B of the High Court Rules and Orders Volume-IV.-

1) ALL DIVISIONAL HEADQUARTERS:

For the words “sixteen to thirty” occurring in second line of rule 5(i) as aforesaid, the words “thirty to thirty five” shall be substituted.

2) ALL DISTRICT HEADQUARTERS:

For the words ‘District Headquarters of Charsadda, Nowshera, Haripur, Mardan and Swabi’ occurring in second line of rule 5(i) as aforesaid, the words “all District Headquarters shall be substituted.

3) ALL SUB-DIVISIONS:

For the words “one to three” occurring in third line of rule 5(i) as aforesaid, the words “three to six” shall be substituted.

(PHC Endst No. 9352-9399 /Admn Dated Peshawar the 21st Dec, 2000)

C.No. **25**(1-1)

**AMENDMENTS --- HIGH COURT RULES AND ORDERS,
CHAPTER 1-C, VOLUME-IV**

“The words “February, ‘May’, ‘August’ and ‘November’ occurring in Rule 10, Chapter 1-C of Volume: IV of the High Court Rules and Orders shall stand substituted by the words ‘March’, ‘June’, ‘September’ and ‘December’.

(PHC Endst: No. 3798-3815/Admn: Brn:Dated Peshawar, the 9th July 1990)

C.No. **26**(1-1)

**AMENDMENTS --- CHAPTER-16-A, VOLUME-IV OF THE
HIGH COURT RULES AND ORDERS**

In exercise of the powers vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan 1973, Hon’ble the Chief Justice and Judges of the Peshawar High Court are pleased to make the following amendments in the High Court Rules and Orders (Civil).

1. Rule 5, Chapter 16-A Volume IV,

(a) Rule 5 ibid is substituted as follows:

“Record of cases decided by all Criminal and Civil Courts Subordinate to the High Court excepting those which have separate record rooms of their own shall be consigned to the Record Room of District and Sessions Judge”.

(b) Notes 1, 2 and 3 at the footing of Rule 5 shall be omitted.

2. Rule 5-A . Chapter 16-A. Volume IV.

- (a) In Rule 5-A for the words “District Record Room under the control of Deputy Commissioner” the words “Record Room of District and Sessions Judge” shall be substituted.
- (b) In Rule 5-A (ii) for the words “District Record Room” the words “Record Room of District and Sessions Judge” shall be substituted.
- (c) In Rule 5- A (iii) for the words “February, May, August and November” the words “March, June, September and December” shall be substituted.
- (d) In Rule 5- A (iv) in the Form of Challan for the words “District Record Room” the words “Record Room of District and Sessions Judge” shall be substituted.

(PHC Notification No. 67.- Dated Peshawar 28th May, 2003)

C.No. 27(1-1)

FIRST AMENDMENT --- CHAPTER-3-B, OF VOLUME-V OF THE HIGH COURT RULES AND ORDERS

In exercise of the powers conferred by Article 204 of the Interim Constitution of the Islamic Republic of Pakistan, the Chief Justice and Judges of the Peshawar High Court, Peshawar, with the prior approval of the Governor of North-West Frontier Province, are pleased to direct, that in the application of Chapter 3-B of the Rules and Orders of the High Court of Jurisdiction at Lahore, Volume V, to the practice and procedure of the Peshawar High Court, Peshawar, the following amendments shall be made, namely:

AMENDMENTS

1. For Rule 1, the following Rule shall be substituted:--

1. Save as provided by law or by these rules or by a special order of the Chief Justice, all cases shall be heard and disposed of by a Judge sitting alone.

EXPLANATION.-- ‘Case’ includes a motion, application, petition, reference, suit, appeal or other proceedings to be heard and disposed of by the High Court under any law in the exercise of its ordinary, extraordinary, original or appellate jurisdiction.

2. For Rule 2, the following Rule shall be substituted.—
The following cases shall be heard and disposed of by a Division Bench: --

- (1). (a) A regular first appeal from the decree of a subordinate Court, jurisdictional value of which exceeds Rs. 50,000.00/- and any cross-objections to the decree.
(b) An appeal under the Land Acquisition Act if the amount involved in the appeal exceeds Rs. 50,000.00/-
- (2). (a) An appeal or reference in a case in which a sentence of death or transportation for life has been passed.
(b) A case in which a notice has been issued to a person sentenced to imprisonment or transportation for life, requiring him to show cause as to why the sentence should not be altered to death.
(c) A case in which a notice has been issued to a person sentenced to imprisonment requiring him to show cause as to why the sentence should not be altered to transportation for life.
(d) Any appeal by the Provincial Government under section 417 of the Code of Criminal Procedure, from an order of acquittal in a charge punishable with death or transportation for life.
- (3). Rules 3 & 4 shall be deleted.

(PHC Notification No. 6-J Dated Peshawar, the 2nd of June 1972)

C.No. 28(1-1)

SECOND AMENDMENTS --- CHAPTER 3-B, OF VOLUME-V OF THE HIGH COURT RULES AND ORDERS

In exercise of the powers conferred by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 read with Article 2 of the Provisional Constitution Order, 1981 (C.M.L.A Order No.1 of 1981), the Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to direct that in Chapter 3-B of the High Court Rules and Orders, Volume-V, the following amendments shall be made namely.--

AMENDMENTS

Deleted Rule-3 be substituted as follows:--

Rule 3 is deleted, except that all urgent matters relating to the subordinate courts are to be entertained by the High Court, during vacation, in exercise of the original jurisdiction vested in the subordinate courts, and such petitions later on will be transmitted to the courts concerned on their re-opening after vacations.

(PHC Notification No 51 J dated Peshawar, Dated the 26th July 1981)

C.No. 29(1-1)

THIRD AMENDMENT --- CHAPTER-3-B, VOLUME-V OF THE HIGH COURT RULES AND ORDERS

In exercise of the powers conferred by Article 202 of the Constitution of the Islamic Republic of Pakistan, 1973 Honorable the Chief Justice and Judges of the Peshawar High Court, Peshawar are pleased to direct that in the application of chapter 3-B of the High Court Rules and Orders Volume-V, to the practice and procedure of the Peshawar High Court, Peshawar the following amendments shall be made namely:--

AMENDMENTS

1. for Rule 2, the following Rule shall be substituted:--
- 2.(a) A regular 1st appeal from the decree of a subordinate Court, jurisdictional value of which exceed Rs. five lacs and any cross objections to the decree shall be heard and disposed of by Single Bench while such appeals the valuation of which exceeds Rs. one million shall be heard and disposed by a Division Bench.
- (b) An appeal under the Land Acquisition Act if the amount involved in the appeal exceeds Rs. five lacs shall be heard and disposed by a Single Bench while such appeals the valuation of which exceeds Rs. one million shall be heard by a Division Bench.

(PHC letter No 45-J dated Peshawar, the 7th July 1996)

C.No. **30**(1-1)

FOURTH AMENDMENT --- CHAPTER 3-B, VOLUME-V OF THE HIGH COURT RULES AND ORDERS

In exercise of the powers under article 202 of the Constitution of the Islamic Republic of Pakistan 1973, Hon'ble the Chief Justice and Judges, Peshawar High Court Peshawar, are pleased to Order that in application of Chapters 3-B of the High Court Rules and Orders Vol-V, to the practice and procedure of Peshawar High Court, the following amendment shall be made namely:

For Rule 2(I) (a), the following shall be substituted:-

“A regular first appeal from the decree of a subordinate Court, jurisdictional value of which exceeds Rs. two Million and any cross-objection to the decree”.

For Rule 2(I) (b), the following shall be substituted:-

“An appeal under the Land Acquisition Act if the amount involved in the appeal exceeds Rs. two Millions”.

(PHC Notification No. 167 –J., Dated: Peshawar the 20th December, 2003.)

C.No. **31**(1-1)

AMENDMENTS --- VOLUME- IV AND VI OF THE HIGH COURT RULES AND ORDERS

In exercise of power vested in them by Article 202 of the Constitution of the Islamic Republic of Pakistan 1973 the Hon'ble Chief Justice and Judges of the Peshawar High Court are pleased to make the amendments and new Rules in the High Court Rules and Order (Civil) as per Appendix A & Appendix B.

APPENDIX “A”

1. Volume IV Chapter 5-A Rules (II)

After full stop of Rule 11 of Chapter 5-A of Volume IV the following shall be inserted

“After the order for substituted service by the court the plaintiff shall produce a bank receipt of the required amount on the next date of hearing”

2. Volume IV, Chapter 6-A Rule (3)

In Rule (3) of chapter 6-A of Volume IV for the words “senior sub Judge or the Administrative sub Judge in district where there is an administrative Sub-Judge” the words “Senior Civil Judge” shall be substituted. This substitution shall be deemed to have been made wherever these words occur in the High Court Rules and Orders (Civil) unless the context requires otherwise.

3. Volume IV Chapter 6-A Rule (8)

In Rule 8 Balliffs (a) of chapter 6-A Volume IV for the words “Rs. 8” the words “Rs. 350” and for the words “Rs. 3.25” the words “Rs. 300” shall be substituted.

In Rule 8 Balliffs (b) of chapter 6-A Volume IV for the words “Rs. 2.50” the words “Rs. 250” shall be substituted.

In Rule 8 Process Serves (a) of chapter 6-A Volume IV for the words “Rs. 6.37” the words “Rs. 350” and for the words “Rs. 1.62” the words “Rs. 300” shall be substituted.

In Rule 8 Process Servers (b) of chapter 6-A Volume IV for the words “Rs. 2.50” the words “Rs. 250” shall be substituted.

4. Volume IV, Chapter 6-A Rule (9)

In Rule (9) of chapter 6-A of Volume IV, for the words “expected” the words “responsible” shall be substituted.

5. Volume IV, Chapter 7-G Rule (1)

In Rule (1) of chapter 7-G of Volume (IV) for the words “are expected to” the word “shall” shall be substituted.

6. Volume IV, Chapter 7-G Rule (2)

Rule (2) of chapter 7-G of Volume IV shall be omitted.

7. Volume IV, Chapter 7-J Rule (2)

In Rule (2) of chapter 7-J of Volume IV, for the words “District Magistrate” the words “Police Officer Incharge of the District” shall be substituted.

8. **Volume IV , Chapter 7-J Rule (3)**

In Rule (3) of chapter 7-J of Volume IV for the words “District Magistrate” and “Commissioner” the words “Police Officer Incharge of the District” and “Officer to whom such Police Officer incharge of the District is subordinate” shall be substituted respectively. The words “to the Provincial Government” at the end shall be omitted and these words shall be placed in between the words “him” and “through”

9. **Volume VI, Part A-IV No. XXIX**

In No XXIX of Part A-IV of Volume VI, Column No, 9 & 11 shall be omitted.

10. **Volume VI , Part A-IV No. XXIII**

In No. XXIII of Part A-IV of Volume VI, in the end a new column “Process received un served” shall be inserted.

APPENDIX “B”

1. The following new Rule 2-A Shall be inserted after Rule 2 in Volume IV Chapter 7-B (b).

“2A (i).Each Presiding Judge to carry out a monthly review of the performance of the process serving establishment:- Each Presiding Judge shall carry out a monthly review of the performance of the process serving establishment with special reference to his handling of the workload of his court. This report should mention the number of processes returned after the expiry of the prescribed time limit of fifteen days. A report to this effect shall be submitted to the Senior Civil Judge with a copy sent to the District & Sessions Judge.

2. **“2A (ii) Each Senior Civil Judge shall ask each presiding officer to assess the performance of Process Server working for his or her court on annual basis. These remarks shall be included in the Register of Process Server.”**

3. For Rule 14 of Chapter 5 A Volume IV the following shall be substituted.

“(14) Party to submit bank receipt:- The concerned party shall submit bank receipt of required amount on the next date of hearing in case of substituted service.”

4. After Rule 2-A of Chapter 7-B(b) of Volume IV the following new rule shall be inserted

“(2) B. The postal feed backs to be used by the Presiding Officers for checking the reports:-All the acknowledgments and other processes received served or unserved through postal service shall be put before the Presiding Judge by the reader at the time of hearing of the concerned case. It shall be the responsibility of the reader to put all such feedbacks before the Judge at the time of preparation of cause list. All such feedbacks shall be received by the reader and a record of all such receipts shall be maintained by the reader.

The Presiding Judge shall use these feed backs for the purpose of cross checking the veracity of the reports received from the process servers”.

5. In Part A IV Volume VI a new Form of Register K – Register Dak shall be inserted.

(Form ‘K-Register Dak’ on Next Page)

K - REGISTER DAK**REGISTER OF PROCESSES RECEIVED FROM OTHER DISTRICT AND COURTS.**

1	2	3	4	5	6	7	8	9
S.No.	Name of Court from which received	Date of receipt	Particulars of Parties	For what purpose received	Date fixed for return of process to the issuing court	Date of return	Action taken	Remarks

(PHC End No 5011-5090Admn. Branch,Dated Peshawar the 12 May, 2003)

C.No. **32**(1-1)

FOURTH AMENDMENT --- CHAPTER 3-B, VOLUME-V OF THE HIGH COURT RULES AND ORDERS

In exercise of the powers under article 202 of the Constitution of the Islamic Republic of Pakistan and in supersession of all previous rules on the subject, the Chief Justice and Judges are pleased to direct that in the High Court Rules and Orders Vol-V, with effect from 1st January, 2011 the following further amendments shall be made namely:

AMENDMENTS

In the said Rules, in Volume-V in Chapter-4 in Part-J:-

- (ii) in paragraph 10, in clause (i), for the figures “100” the figures “500” shall be substituted;
- (iii) for paragraph 10-A, the following shall be substituted:-
“10-A. Court fee of Rs. 1000/- shall be payable on an Intra Court Appeal”

(PHC Notification No. 265 –J., Dated: Peshawar the 14th December, 2010)

C.No. 33(1-1)

STREAMLINING THE AFFAIRS OF COPYING BRANCH OF HIGH COURT*PESHAWAR HIGH COURT PESHAWAR***ORDER**Dated Peshawar the 09th March, 2011.

Endst No. 3201-13/Admn: In order to streamline the collection of Court Fee and copying charges as per law and rules in vogue and to improve financial discipline in Copying Branch of this Court and for providing actual *terminus a quo* and *terminus ad quem* in computing limitations, the Competent Authority has been pleased to order that:-

1. In all civil cases, other than Writ and Intra-Court Appeals, where the value for the purpose of jurisdiction exceeds twenty five thousand rupees, Court Fee stamp of two rupees shall be affixed on applications submitted for attested copies.
2. For getting attested copies in Writ Petitions and Intra Court Appeals a Court Fee stamp of two rupees shall also be affixed on applications.
3. In all cases falling under serial No.1, Court Fee stamp of four rupees shall be affixed on every copy of decree and final order.
4. Incharge copying branch is directed to collect approximate copying fee in advance at the following rates in order to meet photo state expenses:
 - a) For copy of order of bail petition and interim injunction: Rs. 20/-
 - b) For copy of final judgment: Rs. 50/-
 - c) For copy of record: Rs.100/-The additional amount, if any, shall be recovered from applicant and surplus, if any, shall be refunded to applicant at the time of providing attested copies.
5. The proper manual register alongwith the computer record shall be maintained.
6. An additional column of final date given for delivery of attested copies shall also be included in the endorsement at the foot of attested copies.

SECTION-2 (HIGH COURT JUDGES)

C.No. 1(1-2)

CONSTITUTIONAL PROVISIONS REGARDING TERMS AND CONDITIONS OF SERVICE OF JUDGES

Article 205 of the Constitution of Islamic Republic of Pakistan, 1973. The remuneration and other terms and conditions of service of a Judge of the Supreme Court or of a High Court shall be as provided in the Fifth Schedule.

*FIFTH SCHEDULE

[Article 205]

THE HIGH COURT

1. There shall be paid to the Chief Justice of a High Court a salary of Rs. ¹[9,400] per mensem, and to every other Judge of a High Court a salary of Rs. ¹[8,400] per mensem ²[or such higher salary as the President may, from time to time, determine.]
2. Every Judge of a High Court shall be entitled to such privileges and allowances, and to such rights in respect of leave of absence and pension, as may be determined by the President, and until so determined, to the privileges, allowances and rights to which, immediately before the commencing day, the Judges of the High Court were entitled.
3. ³ [3. The pension payable per mensem to a Judge of a High Court who retires after having put in not less than ⁴[five years] service as such Judge shall not be less or more than the amount specified in the table

* W.e.f 1-7-2010, the salary of the Chief Justice of High Court and other Judges of a High Court has been determined by the President to be Rs. 361,238/- and Rs. 347,345/- respectively vide (P.O. No. 7 of 2010) paragraph 2 (3).

(W.e.f. 27-7-1991, vide P.O. No. 3 of 1997) the Chief Justice and a Judge of the High Court on his retirement or resignation or removal shall be entitled to the minimum pension equal to 70% of the salary on the completion of 5 years service for pension as Judge and an extra pension @ 2% of such salary for each subsequent completed year of service as Chief Justice or the Judge including his service if any the maximum pension not exceeding 80% of the salary.

¹ Subs. by the Constitution (Twelfth Amdt) Act. 1991. (14 of 1991), s. 3, for “7,200” and “6,500”, which was previously amended by P.O. No. 6 of 1985, Art. 2 (w.e.f. 1-7-1983)

² Added ibid.

³ Subs. ibid., for paragraph 3rd.

⁴ Term five years declared unconstitutional vide Judgment reported in PLD 2008 SC 522.

below, depending on the length of his service as Judge and total service, if any, in the service of Pakistan:

Provided that the President may, from time to time, raise the minimum or maximum amount of pension so specified:-

Judge	Minimum amount.	Maximum amount
Chief Justice	Rs. 5,640	Rs. 7,050
Other Judge	Rs. 5,040	Rs. 6,300.]

¹ [4. The widow of a Judge of the High Court shall be entitled to a pension at the following rates, namely:-

- (a) if the Judge dies after retirement-50 per cent of the net pension payable to him; or
 - (b) if the Judge dies after having rendered not less than five years' service as Judge and while still serving as such-50 per cent of the pension admissible to him at the minimum rate.
5. The pension shall be payable to the widow for life or, if she remarries, until her marriage.
6. If the widow dies, the pension shall be payable-
- (a) to the sons of the Judge who are less than twenty-one years of age, until they attain that age; and
 - (b) to the unmarried daughters of the Judge who are less than twenty-one years of age, until they attain that age or are married, whichever first occurs.]

C.No. 2(1-2)

PRESIDENT'S ORDER 3 OF 1997

HIGH COURT JUDGES (LEAVE, PENSION AND PRIVILEGES) ORDER, 1997

No. F.2 (2)/97-Pub., dated 12-2-1997.—The following Order made by the President is hereby published for general information: --

¹ Added by P.O. No. 6 of 1985, Art 2, (w.e.f. the 1st July, 1981)

Whereas paragraph 2 of the Fifth Schedule to the Constitution of Islamic Republic of Pakistan relating to the High Courts provides that every Judge of High Court shall be entitled to such privileges and allowances, and to such rights in respect of leave of absence and pension, as may be determined by the President;

Now, therefore, in exercise of the said powers the President is pleased to make the following Order: ---

Now, therefore, in exercise of the powers conferred by the aforesaid paragraph, the President is pleased to make the following Order: ---

PART I. PRELIMINARY

1. Short title and commencement.---

(1) This Order may be called the High Court Judges Leave, Pension and Privileges Order, 1997.

(2) It shall come into force at once and paragraph 15 shall be deemed to have taken effect on the twenty-seventh day of July, 1991.

2. Definitions.---In this Order, unless there is anything repugnant in the subject or context,---

- (a) **“Acting Chief Justice”** means a Judge appointed by the President to act as Chief Justice;
- (b) **“actual service”** means the time spent by a Judge on duty as such or in the performance of such other functions as he may be required under any law to perform or may be requested by the President or the Governor to discharge and includes vacation but excluding any time during which the Judge is absent on Leave and joining time on transfer from---
 - (i) a High Court to the Supreme Court;
 - (ii) the Supreme Court to a High Court;
 - (iii) one High Court to another;
 - (iv) one permanent seat of a High Court to another permanent seat;
 - (v) a High Court to the place where he is required under any law to perform any function; and

- (vi) from a place where he is required under any law to perform any function to another such place or to a High Court;
- (c) **“Additional Judge”** means a Judge appointed by the President to be an Additional Judge;
- (d) **“Chief Justice”** means the Chief Justice of a High Court but does not include an Acting Chief Justice;
- (e) **“High Court”** shall include a High Court which existed in Pakistan at any time before the commencement of the Constitution;
- (f) **“Judge”** means a Judge of High Court and includes the Chief Justice, and Acting Chief Justice and an Additional Judge;
- (g) **“service for pension”** means actual service and includes thirty days or the amount actually taken, whichever is less, of each period of leave of full salary; and
- (h) **“vacation”** means the summer vacation of the High Court, as notified by such High Court.

PART II.---LEAVE

3. Kinds of leave admissible.---

(1) Subject to the provisions of this Order, leave granted to a Judge may, at his option, be either---

- (a) leave on full salary; or
- (b) leave on half salary; or
- (c) leave partly on full salary and partly on half salary.

(2) For the purpose of this Part, any period of leave on full salary shall be reckoned as double the period of leave on half salary.

4. Leave account.---

(1) A leave account shall be kept for each Judge showing therein the amount of leave due to him in terms of leave on half salary and in such account there shall be.---

- (i) credited to him in two separate columns—
 - (a) a period equal to one-fourth of actual service; and
 - (b) where any duties not connected with the business of the High Court are assigned to a Judge and, for reasons of such assignment, the Judge does not avail of any vacation or avails of less than thirty days of vacation in any calendar year, in addition to the leave credited under the preceding sub-clause, a further period equal to double the period by which the vacation availed of by him falls short of thirty days; and
- (ii) debited to him the period of all leave on full or half salary granted to him:

Provided that the opening credit at the commencement of this order shall not exceed six months in the case of any Judge.

(2) Any period of leave taken by a Judge before the commencement of this Order under the rules or orders then applicable to him as an Acting Judge, Additional Judge or Judge of a High Court shall for the purpose of this Order be treated as if it were leave taken by him under this Order.

5. Aggregate amount of leave admissible to a Judge.---

(1) The aggregate amount of leave granted to a Judge during his whole period of service as such shall not exceed, in terms of leave on half salary, thirty-six months.

(2) The aggregate amount of leave on full salary granted to a Judge during his whole period of service as such shall not exceed one twenty-fourth of the period spent by him on actual service, but the leave credited to a Judge under sub-clause (b) of clause (i) of paragraph 4 shall not be subject to the limit herein specified.

(3) The period of leave granted at any one time shall not exceed, in the case of leave on full salary six months and, in the case of leave of any other kind specified in paragraph 3, sixteen months.

6. Grant of leave not due.— Subject to the maximum limit specified in sub-paragraph (1) of paragraph 5, leave on half salary may be granted to a Judge in excess of the amount at his credit.---

- (a) on a medical certificate; and
- (b) for a period not exceeding six months and not more than once during the whole period of his service as Judge, otherwise than on medical certificate.

7. Leave Salary. --(1) The monthly rate of leave salary payable to a Judge while on leave on full salary shall be equal to the monthly rate of his salary.

(2) The monthly rate of the leave salary payable to a Judge while on leave on half-salary shall be equal to half the monthly rate of his salary.

(3) A Judge appointed after the commencement of this Order, shall not be entitled to draw his leave salary, otherwise than in Pakistan rupees unless he, immediately before such appointment, was entitled, in the service of Pakistan to draw leave salary in foreign exchange in which case he may draw leave salary in foreign exchange on the same terms and conditions as were applicable to him as a person in the service of Pakistan.

8. Encashment of leave.---A Judge who has, at the time of retirement, three hundred and sixty-five days leave on full salary to his credit, shall be paid six months salary in lieu of leave not availed of.

9. Extraordinary leave.---(1) Leave in excess of any leave admissible under foregoing provisions of this Order may be granted to a Judge for a period not exceeding six months and not more than once during the whole period of his service.

(2) No leave under sub-paragraph (1) shall be granted to a Judge so as to terminate with his retirement nor after he has tendered his resignation.

(3) No leave salary shall be payable to a Judge in respect of the period of leave granted under sub-paragraph (1).

10. Special Disability Leave.--- Special disability leave may be granted to a Judge when he is disabled by injury intentionally inflicted or caused in, or in consequence of, the due performance of his official duties or in consequence of his official position and the provisions of Fundamental Rule 83 shall, so far as may be, apply to a Judge as they apply to a Government servant under the rule making power of the President.

11. Combining leave with vacation.--- A Judge may be permitted to combine vacation with leave of any kind if the leave is either at the commencement or at the end of vacation but not at both:

Provide that no such permission shall be granted to a Judge if it becomes necessary thereby to appoint an Additional Judge.

12. Consequences of over-staying leave or vacation.---If a Judge overstays his leave or any vacation, whether combined with leave or not, he shall receive no salary for the period of his absence in excess of the leave granted to him or beyond the end of the vacation, as the case may be:

Provide that, if such absence is due to circumstances beyond his control, the period thereof may be treated as leave admissible to him.

13. Authority competent to grant leave.---The authority competent to grant or refuse leave, or to revoke or curtail leave already granted, shall, in the case of the Chief Justice, be the Governor and, in the case of other Judge, the Chief Justice.

PART III.---PENSION

14. Conditions or admissibility of pension.---A Judge shall, on his retirement, resignation or removal, be paid a pension in accordance with the provisions of this Order if he has---

- * (a) completed not less than five years of service for pension and attained the retiring age; or
- * (b) completed not less than five years of service for pension and, before attaining the age, resigned (or sought retirement); or

* Term five years declared unconstitutional vide Judgment reported in PLD 2008 SC 522.

- ^{*}(c) completed not less than five years of service for pension and, before attaining the retiring age, either resigned, his resignation having been medically certified to be necessitated by ill-health or been removed for physical or mental incapacity or been allowed by the President for sufficient cause to retire.

15. Payable pension.-- The Chief Justice and a Judge on his retirement, resignation or removal as provided in paragraph 14 shall be entitled to the minimum amount of pension equal to seventy percent of the salary determined by the President from time to time ¹[and shall include Superior Judicial Allowance] payable to the Chief Justice, or as the case may be, a Judge on the completion of five years service for pension as Judge, and thereafter an extra pension at the rate of two per cent of such salary for each subsequent completed year of service as the Chief Justice or, as the case may be, the Judge, including his service, if any ²[other], in the service of Pakistan the maximum pension not exceeding eighty percent of the said salary:

Provided that for the period between twenty-seven day of July, 1991 and the thirty-first day of May, 1994 the minimum and the maximum amounts shall refer to the amounts specified in the Pension of Judges of Superior Courts Order, 1993 (P.O. 2 of 1993).

³[**Explanation.**—The expression “salary” means the salary referred to in paragraph 1 of the Fifth Schedule to the Constitution of the Islamic Republic of Pakistan or such higher salary as the President may determined from time to time but shall not include any allowance or amount representing any privilege or facility].

⁴[**15-A. Pension re-employment etc.** – ⁵{ (1) Where a retired Judge in receipt of pension is appointed to, or is holding, a post in connection with the affairs of the Federation or a Province or a body owned or controlled by the Federal Government or a Provincial Government, he shall be entitled to receive full pension in addition to pay, allowance and privileges of the post on which he is reemployed in accordance with the rules applicable on re-employment to retired civil servants.}]

¹ Added vide President's Orders 2 of 2008 to be effective from 1st January, 2008

² Added vide President's Orders 2 of 2008 to be effective from 1st January, 2008

³ Added vide President's Order 3 of 1998

⁴ Added vide President's Order 3 of 1998

⁵ Substituted vide President's Order NO. 3 of 2000

- (2) Where a Judge who is receiving a pension----
- (a) is appointed to act an arbitrator by the Federal Government or Provincial Government or a Commission of Inquiry; or
- (b) is required by such Government to give a legal opinion in any matter,

he shall not receive any fee or compensation for so acting or tendering a legal opinion except reimbursement of out of pocket expenses.

(3) Nothing contained in subparagraph (1) and (2) shall apply to a Judge who is in receipt of a pension before the commencement of the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1988, and opts not to have his pension increased as a consequence of the increase in salaries provided thereby].

16. Pension of Judges not covered by paragraph 14.---A Judge who immediately before his appointment as such was a member of a civil service in Pakistan or was holding a post in connection with the affairs of the Federation or of a Province and who does not fulfill the conditions laid down in paragraph 14 shall, on retirement, be entitled to such pension as would have been admissible to him in his service or post, had he not been appointed a Judge, his service as a Judge being treated as service for the purpose of calculating that pension.

17. Treatment of acting appointments.---For purpose of pension under this Order, the following acting service shall be treated as though it were service rendered as Chief Justice of High Court, namely:---

- (a) service as an Acting Judge of the Supreme Court, if preceded or followed by service as Chief Justice of a High Court;
- (b) service as an Acting Chief Justice of a High Court, if followed by service as Chief Justice of a High Court.

18. Extraordinary pension.---The Central Civil Services (Extraordinary Pension) Rules shall apply to a Judge who may suffer injury or die as a result of violence as they apply to an officer of the Federal Government subject to the modification that references in those Rules of tables relating to injury, gratuities and pensions and family gratuities and pensions shall be construed as references to the corresponding tables in the First Schedule.

¹[19. **Commutation of pension.**--- (1) Subject to paragraphs (2) and (3) the Civil Pension (Commutation) Rules shall, with necessary modifications, apply to a Judge.

(2) Where the pension of a Judge increases at any time after his retirement on account of a subsequent increase of salaries payable to Judges, he shall not be entitled to have the differential of the pension payable to him at the time of his retirement and the subsequent increase in pension commuted.

(3) Where a Judge at the time of his appointment to a High Court was in receipt of a pension of any post and had got any part of the said pension commuted, the amount of commutation so paid shall be deducted from the amount of commutation arrived at under sub-paragraph (1)]

²[20. **Abeyance of pension.**---(1)The pension admissible to a Judge under this Order shall be held in abeyance on his appointment as a Judge of the Supreme Court and shall cease to be payable if on his retirement as a Judge of the Supreme Court, he is entitled to a pension as Judge of that Court.

Explanation.---In this paragraph the expression “Judge of the Supreme Court” includes the “Chief Justice of that Court”.

(2) Where a person before his appointment as a Judge is in receipt of a pension in respect of any post such pension, on his appointment as Judge, shall be held in abeyance and shall cease to be payable if on his retirement as Judge he is entitled to pension as Judge]

PART IV.---MISCELLANEOUS

21. Official residence etc.--- (1) A Judge shall be entitled, without payment of rent, to the use of a residence throughout his term of office and for a period of thirty days thereafter and no charge shall fall on him personally in respect of its maintenance.

(2) Where a Judge chooses to reside in a house not provided by Government he shall be entitled to be paid a monthly allowance of ³[sixty

¹ Substituted vide President’s Order No. 3 of 1998

² Substituted vide President’s Order No. 3 of 1998

³ Substituted vide President’s Order No. 3 of 2007

five thousands] rupees and his residence shall also be, maintained at Government expense,--

Explanation.---In this paragraph.—

- (a) maintenance in relation to a residence includes the payment of local rates and taxes and the provision of electricity, gas and water; and
- (b) residence includes the staff quarters and other building appurtenant to, and the gardens of the residence.

22. Official car. --- (1) A Judge shall be entitled to the use of an official car maintained at Government expense, but shall have to bear the cost of petrol used in the car during a month in excess of ¹[five] hundred liters.

(2) A car provided for the use of a Judge shall be used by him until he retires, subject to its replacement earlier, either because of its having completed the specified number of years of service or distance to be covered or of its having become unserviceable in accordance with the rules.

²[**23. Superior Judicial Allowance.**---A Judge shall be entitled to be paid monthly, a superior Judicial Allowance amounting to ³[one hundred thirty six thousand and five hundred rupees].

Explanation.--- For the purposes of this paragraph, “Judge” shall include the “Chief Justice” or “an Acting Chief Justice]

24. *Omitted vide President’s Order No.3 of 1998.*

25. Transfer allowance.---Where a Judge of High Court is transferred from one High Court to another or from the principal seat of a High Court to a Bench of that Court, or is appointed to an office other than that of Judge at a place other than the principal seat of the High Court, he shall, during the period for which he serves as a Judge of the High Court, or at the Bench, to which he is transferred, or holds such other office, be entitled, in addition to his salary, to a monthly allowance of ⁴[ten thousands] rupees.

¹ Substituted vide President’s Order No. 4 of 2009

² Substituted vide President’s Order No.3 of 1998

³ Substituted vide President’s Order No. 8 of 2010

⁴ Substituted vide President’s Order No. 4 of 2007

26. Transfer privileges.---If the family of a Judge referred to in Article 22 does not join him at the place to which he is transferred or at which he is posted, he shall be provided at such place with---

- (a) single rent free accommodation maintained by Government; and
- (b) an official car maintained at Government expense, including the supply of petrol not exceeding one hundred and fifty liters per month for use in such car:

Provided that, if there are two Judges of the same Court serving as such at the same place, they shall share one official car provided with the aforesaid quantity of petrol.

27. Exemption from income-tax.---No income-tax shall be payable in respect of the allowance admissible to a Judge under paragraph 21 or paragraph 23 ¹[] or the other benefits and perquisites to which a Judge is entitled under the said paragraph 21 or paragraph 22 or paragraph 26.

28. Facilities to retired Judges.--- ²[(1) A judge on retirement, and after his death, the spouse shall be entitled to the following benefits and perquisites at government expense, namely:-

- a) the service of a driver or an orderly at his option;
 - b) 800 free local calls per month;
 - c) 800 units of electricity per month as well as 25 HM³ of gas per month;
 - d) free supply of water;
 - e) 150 litres of petrol per month;
- (2) If during service a judge dies or has died before the commencement of this Order, the spouse shall also be entitled to the benefits and perquisites provided in sub-paragraph (1);

¹ Omitted vide President's Order NO. 3 of 1998

² Substituted vide President's Order NO. 6 of 2009

- (3) No income tax shall be payable in respect of benefits and perquisites to which a judge or the spouse, as the case may be, is entitled under this paragraph.
- (4) A judge on retirement opting to avail the facilities specified in subparagraph (1) shall undertake to perform the work of arbitration involving Government interest if assigned to him without charging any fee.”
- (5) The facility and benefits given to the retired judge under this paragraph shall stand suspended on his re-employment with Federal or Provincial Government.]

29. Subsidiary condition of service.---Subject to the provisions of this Order and such other provisions as the President may make in this behalf, the other privileges and rights of a Judge shall be determined by the rules for the time being applicable to an officer appointed by the President holding the rank of Secretary to the Government of Pakistan:

Provided that nothing in this paragraph shall have effect so as to give to a Judge who is a member of a civil service less favorable terms in respect of his conditions of service than those to which he would have been entitled as a member of such service if he had not been appointed as a Judge, his service as a Judge being treated as service for the purpose of determining those privileges and rights.

30. Repeal.---The High Court Judges (Leave, Pension and Privileges) Order, 1970 (P.O. No. 9 of 1970) and the Transfer of High Court Judges (Allowances and Privileges) Order, 1983 (P.O. No.22 of 1983) are hereby repealed.

FIRST SCHEDULE

See paragraph 18

INJURY GRATUITIES AND PENSIONS

Judge	Gratuity	Annual Pension Higher Scale	Annual Pension Lower Scale
Chief Justice	Rs.37,500	Rs.7,700	Rs.5,500
Judge or Additional Judge or Acting Chief Justice	Rs.22,500	Rs.7,200	Rs.5,000

**FAMILY GRATUITIES AND PENSIONS
A---WIDOWS**

Judge	Gratuity	Annual Pension
Chief Justice	Rs.20,600	Rs.8,000
Judge or Additional Judge or Acting Chief Justice	Rs.17,600	Rs.7,000

B---CHILDREN

	Annual Pension for Child
If child is motherless:	Rs.1,300
If child is not motherless:	Rs.600

C.No. 3(1-2)

SALARY OF JUDGES OF SUPERIOR COURTS

**GOVERNMENT OF PAKISTAN
LAW, JUSTICE AND HUMAN RIGHTS DIVISION**

Islamabad, the 23rd December, 2010

No. F. 2(2)/ 2005-Pub.—The following Order promulgated by the President is hereby published for general information:--

PRESIDENT'S ORDER No. 7 OF 2010

AN
ORDER

WHEREAS the first paragraph of the fifth schedule to the Constitution of the Islamic Republic of Pakistan relating to the Supreme Court and High Courts provides that such higher salary other than that specified in the said paragraph shall be paid to a Judge of the Supreme Court or a High Court as the President may from time to time determine;

Now, THEREFORE, in exercise of the powers conferred by the aforesaid paragraph the President is pleased to make the following Order:--

1. **Short title and commencement.**— (1) This Order may be called the Salary of Judges of Superior Courts Order, 2010.

(2) It shall come into force at once and shall be deemed to have taken effect on and from the first day of July, 2010.

2. **Salary.**—(1) The salary to be paid per mensem to the Chief Justice of Pakistan shall be Rs. 389,757/- and that to be paid to every other Judge of the Supreme Court shall be Rs. 368,186/-.

(2) The salary to be paid per mensem to the Chief Justice of a High Court shall be Rs. 361,238/- and that to be paid to every other Judge of a High Court shall be Rs. 347,345/-

3. **Repeal.**—The salary of Judges of Superior Courts Order, 2010 (P.O.No. 1 of 2010), is hereby repealed.

C.No. 4(1-2)

HIGH COURT JUDGES (TRAVELLING ALLOWANCE) ORDER, 1965

(Notified as President's order 4 of 1965 in the Gazette of Pakistan (Extraordinary) dated the 16th of August, 1965 and amended by President's Order 2 of 1974, notified in the Gazette of Pakistan (Extraordinary) dated the 13th of April, 1974, amended by President's Order No. 10 of 1979 and President's Order No. 4 of 1981 as notified in the Gazette of Pakistan (Extraordinary) dated the 15th July, 1979 and 21st March, 1981, and further amended by President's Order No. 11 of 1982, notified in the Gazette of Pakistan (Extraordinary) dated the 28th July, 1982.

2. **DEFINITION:-** In this Order, unless there anything repugnant in the subject or context, "JUDGES" means a Judge of High Court, and an Additional Judge of such court.

3. **TRAVEL ON DUTY:-** Travelling allowance of a Judge, travelling on duty in Pakistan shall be determined in accordance with paragraphs 4 to 10.

EXPLANATION:

The expression “travelling on duty” shall include travels within Pakistan during vacation by a Judge not being a vacation Judge.

- i) for doing duty during vacation in the High Court of which he is the Judge.
- ii) for performing the functions of the office or post to which he may be appointed during the period of services as Judge, and
- iii) for returning after doing such duty or performing such functions to the place from where journey was undertaken for the purpose.

4. **TRAVEL BY RAILWAY.** When travelling by Railway, a Judge shall be entitled to :-

- (1)(a) a first class two-berth compartment in a coupe-compartment in an air conditioned coach reserved on High Official Requisition, without payment of any fare for himself, or
- (b) the reimbursement of one first class fare, including Air Condition Surcharge, if any, he actually pays for himself:
- (2) the reimbursement of fare for two servants, or, in the case of a Judge who was holding office immediately before the commencement of this Order, for such number of servants as was admissible to him immediately before such commencement, if actually paid, at the lowest class rate, and
- (3) the reimbursement of the expenses actually incurred in carrying luggage, not exceeding ¹[one hundred and twelve Kilo-grams], exclusive of free allowance.

5. **TRAVEL BY STEAMER.** When travelling by Steamer, a Judge shall be entitled to:-

¹ Substituted vide President's Order No. 4 of 1981

- (1) (a) a first class cabin reserved on High Official Requisition, without payment of any fare for himself or
- (b) the reimbursement of one first class fare he actually pays for himself.
- (2) the reimbursement of fare for two servants, or in the case of a Judge who was holding office immediately before the commencement of this Order, for such number of servants as was admissible to him immediately before such commencement, if actually paid, at the lowest class rate, subject to usual deductions on account of messing charges; and
- (3) the privileges specified in clause (3) of Paragraph 4.

6. **TRAVEL BY RAILWAY OR STEAMER IN RESERVED ACCOMMODATION** Any person (other than the servants) travelling with a Judge in reserved accommodation allowed under Para 4 and 5 shall pay the usual fare by purchase of first class ticket.

7. **TRAVEL BY ROAD.** When travelling by road, a Judge shall be entitled to mileage allowance at the rate of ¹[Six rupees] only per ²[kilometer].

8. **TRAVEL BY AIR.**

(1) When travelling by air, a Judge shall be entitled to:-

- (a) the reimbursement of one air fare actually paid by him.
 - (b) the reimbursement of the actual cost of transporting luggage upto Forty Six Kgs. inclusive of free luggage allowances admissible on a ticket; and
 - (c) the reimbursement or fare for two servants by rail or steamer if actually paid, at the lowest class rate subject to usual deductions on account of messing charges.
- (2) In the case of return journey by scheduled flights a Judge should purchase a return ticket if this involves a saving.
- (3) In the case of air journey performed as a part of or as a link in, a journey, a judge shall be entitled to the same privileges

¹ Amended vide President's Order No. 2 of 2006 to be effective from 1-07-2005

² Substituted vide President's Order No. 4 of 1981

in respect of servants and luggage as he is entitled in the case of a railway journey.

- (4) The following certificate of the Judge should be appended to every travelling allowance bill for his travel involving air journey:-

“I certify that I have actually paid the amount of this bill and that it does not include any charge for the freight of any stores or goods, other than personal luggage or any charge for refreshment, hotels or staging bungalows, other than what is included on that account in air fare itself:

9. TRANSPORT OF CONVEYANCE

- (1) A Judge shall be entitled to recover the actual cost incurred by him for transport by closed Railway van or steamer, at owner's risk, of his own car, including the fare at the lowest class rate for one driver or cleaner for the car.
- (2) A Judge may hire a taxi for journey performed on duty at the place of halt while on tour and may recover, in lieu of costs allowed under sub-para (1) the expenditure actually incurred by him on the taxi hire.

PROVIDED that the total amount recoverable for hire charges shall not exceed the cost of transporting his own car from his Headquarters to the place of halt.

¹ [9 A CONCESSION ON TOURS. When proceeding on a tour within Pakistan a Judge may take his wife with him in his reserved accommodation by rail without payment of fare].

² [9.B When proceeding on a tour within Pakistan exceeding one month in duration, a Judge may take his wife with him on a journey by air and charge one extra fare of the class by which she actually travels, but no charge for extra luggage transported by air beyond the free Allowances may be made.”

¹ Added vide President's Order No.2 of 1974

² Added by President's Order No. 1 of 1999

Note. A return air-ticket will be purchased for the wife, wherever possible].

10. **TRAVEL ON TRANSFER.** When a Judge is transferred from one High Court to the other, or from One Bench of the High Court to another,¹ [or appointed to an office other than that of Judge at a place other than the Principal seat of the High Court].he shall :-

- (1) When travelling to the place of transfer by Railway or steamer, be entitled to the same privileges to which a person appointed to be a Judge is entitled under paragraph '14'
- (2) When travelling to the place of transfer by air, be entitled to:-
 - (a) the reimbursement of his air fare actually paid.
 - (b) the reimbursement of air fare for his wife and children, including his step-children ordinarily residing with him.
 - (c) the reimbursement of the fares, if actually paid, for personal servants, not exceeding three in number, by road, rail or steamer, at the lowest class rate;
 - ² [(d) the cost of carriage of personal effects not exceeding ³[four thousand and five hundred kilograms] if he has a family and two thousand two hundred and forty kilograms if he has no family at the rate of paisa ⁴[0.083] per kilometer per kilogram or ⁵[Paisa 1.66] per kilometer per unit of twenty kilograms) from the residence of the judge at the old station to his residence at the new station, irrespective of the mode by which the personal effects are carried and without being required to produce receipts in support of his claim of cost of transportation of personal effects;]
 - (e) the reimbursement of the cost of carrying his own motor car by passenger train or steamer at owner's risk; and

¹ Added by President's Order No. 1 of 1988

² Substituted vide President's Order No. 2 of 1974

³ Substituted vide President's Order No. 4 of 1981

⁴ Amended by President's Order No.4 of 1989

⁵ Amended by President's Order No. 4 of 1989

¹[(3) irrespective of the mode of travel, be granted a transfer grant ²[equal to one month's pay] if he has a family and ³[half month's pay] if he has no family.

Explanation:- In this clause, “family” means wife and children, including step-children, of a Judge actually residing with him.]

11. DAILY ALLOWANCE.

⁴[(2)] A Judge shall be entitled to daily allowance at the rate of ⁵[two thousand] per diem in respect of any period of halt on duty including ⁶[Fridays] and other holidays, outside the headquarters of the High Court, or, if he belongs to a particular Bench of the High Court, outside the headquarters of the Bench to which he belongs:

⁷[Provided that special rate of daily allowance at ⁸[twenty four hundred] rupees per diem shall be admissible at Bahawalpur, Hyderabad, Islamabad, Karachi, Lahore, ⁹[Faisalabad], Multan, Peshawar, Quetta and Rawalpindi.]

¹⁰{(2) A Judge who stays in a hotel, ¹¹[Inspection Bungalow or Inspection lodge or in a guest house, rest house or residential club] shall, in addition to the daily allowance mentioned in sub paragraph (1), be allowed reimbursement of actual single room rent, subject to the production of ¹²[receipts or vouchers of the hotel, Inspection bungalow, Inspection lodge, guest house, rest house, or residential club], upto the following maxima per day:-

¹ Added vide President's Order No. 2 of 1974

² Amended vide President's Order No.8 of 1991

³ Amended vide President's Order No.8 of 1991

⁴ Renumbered vide President's Order No. 10 of 1979

⁵ Amended vide President's Order No. 5 of 2009

⁶ Added vide President's Order No. 10 of 1979

⁷ Substituted vide President's Order No.10 of 1979

⁸ Amended vide President's Order No. 5 of 2009

⁹ Amended vide President's Order No. 1 of 1988

¹⁰ Added vide President's Order No.10 of 1979

¹¹ Added vide President's Order No.10 of 1979

¹² Substituted vide President's Order No.10 of 1979

- (a) Localities where special rates of daily allowance is admissible. – ¹[three times] the amount of special daily allowance.
- (b) Other localities.—Equal to ²[one and one half times] the amount of daily allowance.

(3) Daily allowance for each calendar day shall be admissible for the period of absence on duty from headquarters, including the time spent in transit.

(4) Not more than one daily allowance shall be admissible on any calendar day, a fraction of a calendar day being reckoned as a calendar day.

EXPLANATION:- In this sub-paragraph “calendar day” means a day beginning on one midnight and ending on the next midnight.

(5) In the case of departure from headquarters, the rate of daily allowance during transit shall be the same as admissible at the station of immediate destination and in the case of return to head-quarters, the rate shall be the one admissible at the last station of temporary duty before return to headquarters.

(6) The period of absence from headquarters shall commence from the time of departure of the Judge from his office or residence, as the case may be, till the time of his return to his office or residence, as the case may be.

(7) The period of forced delays in transit shall be treated as part of the total transit period.

(8) Extra daily allowance for arrival at and departure from the place of temporary duty shall not be admissible}.

12. **TRAVEL WHEN NOT ON DUTY.**

While proceeding on or returning from leave, or when returning to resume duty after vacation spent outside Pakistan, or when returning to his place of residence after retirement, a Judge shall be entitled for journeys in Pakistan.

- (a) If he travels by railway or steamer, to a first class two-berth compartment of a coupe-compartment in an air-conditioned

¹ Substituted vide President's Order No.10 of 1979

² Substituted vide President's Order No.10 of 1979

- coach, or a first class cabin, reserved on High Officials Requisition, without payment of any fare for himself; and
- (b) If he travels by air, to the reimbursement of one air fare actually paid by him.

13. **TRAVEL BY A PERSON BEING A GOVERNMENT SERVANT TO JOIN POST WHEN APPOINTED AS A JUDGE**

- (1) When a person already in Government service on being appointed as a Judge, travels to join his post, he shall be deemed to be Government servant on transfer and his travelling allowances shall be determined accordingly.
- (2) Such person may, at his option and in lieu of drawing travelling allowance under sub-paragraph (1) claim the same privileges as are specified in paragraph 14.

14. **TRAVEL BY A PERSON NOT BEING A GOVERNMENT SERVANT TO JOIN THE POST WHEN APPOINTED AS JUDGE.**

When a person not already in Government service is appointed to be a Judge, he shall, when travelling to join his post, be entitled:-

- (1) If he travels by rail or steamer, to:-
- (a) (i) a-first class two-berth compartment or coupe compartment in an air-conditioned coach, or a first class cabin, reserved on High Official Requisition, without payment of any fare for himself; or
- (ii) the reimbursement of the actual first class fare including Air-Conditioned Surcharge if any, he actually pays for himself;
- (b) the reimbursement of the first class fares, if actually paid, for his wife and children, including his step-children, ordinarily residing with him and;
- (c) the privileges specified in sub-clause (c) (d) and (e) of clause (2) of paragraph 10, and
- (2) If he travels by air to the privileges specified in clause (2) of paragraph 10.

14.A. TRAVELLING ALLOWANCE FOR JOURNEY ON RETIREMENT.

(1) A Judge shall be allowed travelling allowance to the extent specified below, in respect of the journey from the place of his last posting to his home town, performed during leave preparatory to retirement or on or after retirement:-

- (i) when travelling by railway or by steamer, to the privileges under sub-clause (a) (b) and (c) of clause (1) of paragraph 14;
- (ii) when traveling by air, to the reimbursement of his air fare actually paid and the reimbursement of air fare for his wife and children, including step-children, ordinarily residing with him; and
- (iii) cost of transportation of personal effects to the extent admissible to him immediately before retirement for journey on transfer.

(2) Advance payment for expenditure as in sub-paragraph (1) shall be made and be treated as final payment.

(3) The home town shall be determined either according to the entries pertaining to the permanent address of the Judge in the records of the High Court or according to the declaration made by him for that purpose.

(4) The term “retirement” shall mean retirement on attaining the age of superannuation, or on completing the prescribed service limit, or on invalid pension.

15. TRAVEL BY SHORTEST ROUTE

When a journey can be performed by two or more routes travelling allowance should be claimed by the shortest or the cheapest route.

C.No. 5(1-2)

HIGH COURT JUDGES (SERVICE BENEFITS) ORDER, 2000

CHIEF EXECUTIVES'S ORDER 5 OF 2000

An Order to provide for certain matters in respect of the Judges of the High Courts who ceased to continue to hold office of Judges of the High Court in pursuance of Article 3 of the Oath of Office (Judges) Order, 2000.

[Gazette of Pakistan, Extraordinary, Part. I, 30th March, 2000]

F. No. 2(4)/2000-Pub., dated 30-3-2000.—The following Order made by the Chief Executive is hereby published for general information:

Whereas it is expedient to provide for retirement or, as the case may be, pension of the Judges of the High Court and to provide for matters connected therewith or ancillary thereto;

Now, therefore, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, as amended and in exercise of all powers enabling him in that behalf, the Chief Executive of the Islamic Republic of Pakistan is pleased to make the following Order:

1. Short title and commencement.—(1) This Order may be called the High Court Judges (Service Benefits) Order, 2000.

(2) It shall come into force at once.

2. Interpretation. -- In this Order “Judges” means a Judge of a High Court.

3. Order to override the other law.— The provisions of this Order shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

4. Retirement and pension. etc.—A Judge who was not administered oath and ceased to continue to hold office of a Judge of High Court in terms of Article 3 of the Oath (Judges) Order, 2000 (C.E.O. No. 1 of 2000), shall

- (a) if he has rendered service as such Judge for less than five years, be eligible to plead or act as an Advocate in any Court or before any authority including the High Court in which he had served as such Judge; and
- (b) in case such Judge has rendered service as a Judge for five years or more be deemed to have retired from his office on attaining the age of sixty-two years for the purpose of pension and shall be entitled to receive full pension and all benefits calculated on that basis;

Provided that commutation of pension shall be admissible to such Judge on the basis of his actual age.

C.No. 6(1-2)

FEDERAL SERVICES MEDICAL ATTENDANCE RULES, 1990

Islamabad, the 11th August, 1990

No. F.20-5/88-MF (1) In exercise of the power conferred by Section 25 of the Civil Servants Act 1973 (LXXI of 1973) and in supersession of the Central Services (Medical Attendance) Rules, 1958, the President is pleased to make the following rules, namely;

- 1.(i) These rules may be called the Federal Services Medical Attendance Rules, 1990.
- (ii) They shall apply to all Government servants other than those in railway service whose conditions of service are prescribed by rules made or deemed to be made by the Federal Government when they are on duty or on leave or under suspension in Pakistan or on foreign service in Pakistan.

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

- (a) **“Government servant”** means the serving and the retired Government servants.

(b) **“Authorized medical attendant”** means:-

- (i) in the case of Government servants in BPS-1 to 15 ‘Medical Officers’, and
- (ii) in the case of Government servants in BPS-16 and above, Civil Surgeon, Associate Physician and Assistant Surgeon.

(c) **“district”** means the district in which the Government servant falls ill.

(d) **“family”** means parents, husband, wife, legitimate children and step children of government servant’s parents, sister and minor brothers residing with and wholly dependent upon him.

Explanation (1) **Wife** of a Government servant shall be deemed to be wholly dependent upon him so long as she is not judicially separated, and where the wife herself is a government servant (that is, the servant of the Central or a Provincial Govt). the husband shall be entitled to claim any benefit admissible to him in respect of the wife if she does not claim the benefit in her own right as Government servant.

Explanation (2) **Sons** and step sons of government servants shall be deemed to be wholly dependent upon him till they complete the age of eighteen years, and shall thereafter be deemed to be so dependent only if he certifies that they are wholly dependent upon him.

Explanation (3) **Daughters** and step/daughters of a Government servant shall be deemed to be wholly dependent upon him till they are married, and thereafter shall normally be assumed to have ceased to be so dependent unless he certifies that they are wholly dependent upon him.

Explanation (4) In case of **more than one wife**, the wife nominated by the government servant to receive medical attendance and treatment will be entitled to it.

Explanation (5) The expression **“residing with”** shall not be so construed as to exclude any member of the family of a government servant wholly dependent upon such servant but

not actually resident with him, so far example, the son or daughter of a government servant studying at a place other than his headquarters or the wife of Govt. servant temporarily away from such headquarters.

(e) **“the Government”** means:-

- (i) in respect of Islamabad the Federal Government.
- (ii) in respect of a province the Provincial Government, unless the federal government medical hospital is available.

(f) **“Government Hospital”** means a hospital maintained by Government or under autonomous arrangement under the Government, by a local authority, and includes

(g) **“Medical Attendance”** means:-

- (i) in respect of Government servants specified in sub clause (ii) to clause (b), in Rule 2 an attendance in hospital or at the residence of the Government servant, including such pathological, bacteriological, radiological or other methods of examination for the purpose of diagnosis as are available in any Government hospital in the district, and are considered necessary by the authorised medical attendant, and such consultation with a specialist or other medical officer in the service of the Government stationed in the Province as the authorised medical attendant certifies to be necessary to such extent and in such manner as the specialist or medical officer may, in consultation with the authorised medical attendant, determine;

- (ii) in respect of any other Government servant is BPS 1 to 15, attendance at a hospital or in case of illness which compels the patient to be confined to his residence, at the residence of the Government servant, including such methods of examination for purposes of diagnosis as are available in the nearest Government hospital and such consultation with a specialist or other medical officer of the Government stationed in the district as the authorised medical attendant certifies to be necessary to such extent and in such manner as the specialist or medical officer may, in

consultation with the authorised medical attendant, determine;

(h) **“Patient”** means a Government servant to whom these Rules apply and who has fallen ill;

(i) **“Province”** means the Province in which a patient has fallen ill;

(j) **“treatment”** means the use of all medical and surgical facilities available at the Government hospital in which a Government servant is treated and includes:-

- (i) The employment of such pathological, bacteriological, radiological or other methods as are considered necessary by the authorized medical attendant;
- (ii) The supply of such medicines, vaccines, sera or other therapeutic substances as are ordinarily available in the hospital;
- (iii) the supply of such medicines, vaccines, sera or other therapeutic substances nor ordinarily so available as the authorized medical attendant may certify in writing to be essential for the recovery or for the prevention of serious deterioration in the condition of the Government servant.
- (iv) Such accommodation as is ordinarily provided in the hospital and is suited to his status. In case of retired Government servant his status will be determined by the last appointment held.
- (v) Such nursing as is ordinarily provided to impathical by the hospital.
- (vi) The specialist consultation described in clause (g), but does not include provision of the request of the Government servant of accommodation superior to that described in sub-clause (iv).
- (vii) **“Dental treatment”** which includes treatment of alveolar (gum and jaw bone) disease, extraction of teeth, treatment for dental caries, gingivitis pyorrhoe and filling (temporary or permanent) of dental cavities including root canal treatment scaling, but does not include dental implants, orthodontic

appliances, bridging, crowning and provision of dentures.

(viii) The provision of artificial limbs, joints and implants.

(ix) The facility of circumcision.

3. (1) A Government servant shall be entitled, free of charge, medical attendance by the authorized medical attendant.

(2) Where a Government servant is entitled under sub rule (1) of rule 3 free of charge, to receive medical attendance, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf and after necessary verification, be reimbursed to him by the Federal Government.

4. (1) When the place at which a patient falls ill is not the headquarters of the authorized medical attendant:-

(a) the patient shall be entitled to travelling allowance for the journey to and from such headquarters; or

(b) if the patient is too ill to travel, the authorized medical attendant shall be entitled to travelling allowance for the journey to and from the place where the patient is.

(2) Applications for traveling allowance under sub rule (1) (a) shall be accompanied by a certificate in writing by the authorized medical attendant stating that medical attendance was necessary, and if the application is under clause (1) (b) of that sub rule, that the patient was too ill to travel.

5. (1) If the authorized medical attendant is of opinion that the case of a patient is of such a serious or special nature as to require medical attendance by some person other than himself, and, such attendance or treatment which is not available at the place where the patient is fallen ill he may, with the approval of the Medical Superintendent of the hospital (which shall be obtained before hand and unless the delay involved details danger to the health of the patient):-

(a) send the patient to the nearest specialist or other medical officer as provided in clause (g) of rule 2, by whom in his opinion medical attendance is required for the patient.

(b) if the patient is too ill to travel, summon such specialist or other medical officer to attend upon the patient.

(2) A patient sent under clause (a) of sub rule (1) shall on production of a certificate in writing by the authorized medical attendant in this behalf, be entitled to travelling allowance for him and attendant if recommended by authorized medical attendant for the journeys to and from the headquarters of the specialist or other medical officers on the place where he is sent for treatment.

(3) A specialist or other medical officer summoned under clause (b) of sub rule (1) shall, on production of certificate in writing by the authorized medical attendant in this behalf be entitled to travelling allowance for the journey to and from the place where the patient is.

6. (1) A Government servant shall be entitled, free of charges;

(i) to treatment;

(a) in such Government hospital being a hospital maintained by Government, at or near the place where he falls ill as can, in the opinion of the authorized medical attendant provide the necessary and suitable treatment, or

(b) if there is no such hospital as is referred to in sub clause (a), in such other Government hospital at or near that place as can in the opinion of the authorized medical attendant, provide the necessary and suitable treatment;

(ii) to get medical treatment from any unauthorized /private hospital /clinic in emergency if in the opinion of the authorized medical attendant it was necessary.

(iii) A Government servant shall also be entitled to ambulance charges if actually provided with an ambulance and the hospital authorities consider such provision to be necessary.

(2) Where a Government servant is entitled under sub rule (1) free of charge to treatment in a hospital any amount paid by him on account of such treatment, shall on production of certificate in writing by the

authorized medical attendant in this behalf, be reimbursed to him by the Federal Government.

7. (1) If the authorized medical attendant is of opinion that owing to the absence or remoteness of a suitable hospital or to the serity of the illness, a Government servant cannot be given treatment as provided in clause (1) of sub rule (1) of rule 6, the Government servant may receive treatment at his residence.

(2) A Government servant receiving treatment at his residence under sub-rule (1) shall be entitled to receive towards the cost of such treatment incurred by him a sum equivalent to the cost of such treatment he would have been entitled, free of charge, to receive under those rules if he had not been treated at his residence.

(3) Claims for sums admissible under sub-rule(2) shall be accompanied by a certificate in writing by the authorized medical attendant stating:-

- a) his reasons or the opinion referred to in sub rule (1);
- b) the cost of similar treatment referred to in sub rule (2).

8. (1) Charges for services rendered in connection with but not included in medical attendance on or treatment, of, patient entitled free of charge, to medical attendance or treatment under those rules, shall be determined by the authorized medical attendant and paid by the patient.

(2) If any question arises as to whether any service is included in medical attendance or treatment, it shall be referred to the Government and the decision of the Government shall be final.

9. The controlling officer of a patient may require that any certificate required by these rules to be given by the authorized medical attendant for travelling allowances purpose shall be countersigned:-

- (a) in the case of a certificate, given by the 'medical officer' by the Civil Surgeon or the Associate Physician.

(b) in the case of certificate given by the Civil Surgeon or Associate Physician by the Medical Superintendent of the hospital.

10. The family of a Government servant shall be entitled, free of charge, to medical attendance and treatment, on the scale and under the conditions allowed to the Government servant himself, at hospitals including recognized hospitals at which the Government servant is entitled to receive treatment free of charge. This shall include confinement of a Government servant's wife in a hospital but not prenatal or post natal treatment at a Government servant's residence.

C.No. 7(1-2)

THE SUPERIOR COURTS (COURTS DRESS AND MODE OF ADDRESS) ORDER, 1980

PRESIDENT ORDER NO. 15 OF 1980

No. F.17(2)/80-Pub.- The following Order made by the President is hereby published for general information;-

Whereas in a meeting attended by the Chief Justices of the Superior Courts in June, 1979, certain decisions were taken having regard to the views of the Pakistan Bar Council relating to Court dress and the mode of address in the Superior Courts;

AND WHEREAS it is expedient to make provision in respect of the aforesaid matters;

NOW, THEREFORE, in pursuance of the proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following order:-

1. **SHORT TITLE, EXTENT AND COMMENCEMENT.**- (1) This order may be called the Superior Courts (Court Dress and Mode of Address) Order, 1980.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the day of November 1980, which is the first day of the Fifteenth Century Hijri.

2. **INTERPRETATION.-** In this Order. “Superior Court” means the Supreme Court of Pakistan or a High Court or the Federal Shariat Court and “Judge” includes Chief Justice or, in the case of the Federal Shariat Court, the Chairman or a member thereof.

¹ [3. **COURT DRESS ETC.-** (1) A Judge of the Superior Court shall wear,-

- (a) while he is attending sittings of the Court, a black suit with a white shirt, a black tie and a black gown; and
- (b) while he is attending State or ceremonial functions, a black suite with a white shirt and a black tie.

(2) A lady judge of the Superior Court shall wear,-

- (a) while she is attending the sittings of the Court, white dress with winged collar white shirt, black coat and black gown, and
- (b) while she is attending the State or ceremonial functions, white dress with winged collar white shirt and black coat].

(3) **MODE OF ADDRESS.-** The use of the expressions “My Lord” and “Your Lordship” and the like, in relation to a Judge shall be discontinued and he shall only be addressed as “Sir” or “Janab-e-Wala” or “Janab-e-Aali” or referred to in judgments, correspondence or other instruments as “Mr. Justice” so and so or the like.

C.No. 8(1-2)

PURCHASE OF OFFICIAL CARS BY RETIRED JUDGES OF SUPREME COURT, SHARIAT COURT AND HIGH COURTS AT DEPRECIATED PRICE

I am directed to refer to the above subject and to state that the following guidelines have been approved by the competent authority for disposal of pending and future cases regarding purchase of official cars by the Judges who retired from the Supreme Court, High Courts and the Federal Shariat Courts:--

¹ Substituted vide Chief Executive’s Order No. 42 of 2002

- (a) The amount of depreciation shall be calculated on the basis of the actual period from the date of purchase of the staff car to the date of retirement of the Judge. Depreciation for each month would be 1/12th of the assumed rate. A period of 15 days or more would count as one month. Less than 15 days would be ignored.
- (b) The concession for purchase of an official car at depreciated price shall be admissible to a retiring Judge of the superior court only if he has not availed the facility provisionally.
- (c) The concession for purchase of an official car would be extended to a Judge who has served the superior court for at least three years.
- (d) The retired Judges who possess a private car would also be eligible to enjoy the facility.

(Government of Pakistan Law and Justice Division No. F.5(2)/91-AII.
Islamabad, the 13th May, 1991)

C.No. 9(1-2)

FIXATION OF CEILING ON OFFICEAL/RESIDENTIAL TELEPHONES

The undersigned is directed to state that in order to make the ceilings on residential / official telephones borne on the public account more realistic and commensurate with the duties and responsibilities of the officers and to avoid repeated resort to condonation of excess expenditure, the following ceilings on telephones have been fixed for different categories of officers in supersession of all the orders/instructions issued in this regard previously:-

Designation	Ceiling for the office telephones	Total Expenditure (in Rs)	Ceiling for the residential telephones	Total Expenditure (in Rs.)
Secretary	No limit	-	No Limit	-
Additional Secretary	Do	-	2000 calls P.M	1200/-
J.S. and equivalent	Do	-	1600 –do-	960/-
D.S and equivalent	4500 calls P.M	2700/-	900 – do -	540/-
S.O.,P.S. and equivalent	3500 do	2100/-	800 –do-	480/-

2. The undersigned is also directed to advise that greatest care should be exercised to ensure that any excess expenditure over and above these ceilings is not incurred and that any such excess expenditure especially in case of residential telephones should not normally be condoned.

3. These issues with the approval of Finance Division vide their u.o.No.D-426-Reg (12)/85. Dates 8.4.1985.

(Govt. of Pakistan, Cabinet Division No. 1/2/81-C.C Rawalpindi, the 14th April, 1985)

C.No. 10(1-2)

FLYING OF PAKISTANI FLAGS ON VEHICLES

Rule 6 (b) of the Government Staff vehicles
(Use and Maintenance) Rules 1997

6.(b) According to Govt. of Pakistan Ministry of Interior Notification No. 8/4/97-Public, dated the 27th February 1997, only the following persons shall be entitled to fly the Pakistan flags on their vehicles when the dignitaries themselves are seated:-

- i. President of Pakistan
- ii. Prime Minister of Pakistan.
- iii. Chairman Senate of Pakistan.
- iv. Speaker of the National Assembly of Pakistan.
- v. Chief Justice of Supreme Court of Pakistan.
- vi. Chief Justices of High Courts.
- vii. Governor of the Provinces.
- viii. Chief Ministers of the Provinces.

C.No. 11(1-2)

EXEMPTION FROM BODY SEARCH OF VVIPs / VIPS AT AIRPORTS IN PAKISTAN

Copy of Ministry of Defence (Aviation Division)

The undersigned is directed to say that it has been decided with immediate effect that following VVIPs/VIPs will be exempted from body search while going through the security check at the airports in Pakistan.

- a) President of Pakistan.
- b) Chairman of Majlis-e-Shoora.
- c) Chief Justice of the Supreme Court of Pakistan.
- d) Chairman, Joint Chiefs of Staff Committee.
- e) Vice Chief of Army staff.
- f) Chief of Naval Staff
- g) Chief of Air Staff
- h) Governors of the Provinces
- i) Wafaqi Mohtasib (Ombudsman).
- j) Ministers of the Federal Government
- k) Advisors to the President
- l) Ambassadors and Consuls General in Provincial Capitals
- m) Judges of the Supreme Court of Pakistan
- n) Chief Justices of High Courts
- ¹ o) Judges of the High Courts
- ² p) Chief Justice and judges of the Federal Shariat Court.

(Govt. of Pakistan Ministry of Defence, O.M.No.sec-1(32)/76, Rawalpindi,
dated 4-11-1984)

C.No. 12(1-2)

CAR ENTITLEMENT OF THE JUDGES OF THE SUPERIOR COURTS

I am directed to convey approval of the Prime Minister for enhancement of entitlement of staff cars for the Chief Justice, Federal

¹ Added vide Ministry of Defence (Aviation Division) RWP., O.M. No. SEC-1(32)/76 dated 21-5-1987

² Added vide Ministry of Defence (Aviation Division) RWP., O.M. No. SEC-1(32)/76 dated 25-8-1987

Shariat Court, Chief Justices of the High Courts, Judges of the High Courts,
Judges of the Federal Shariat Court from 1300 cc to 1800 cc.

(Minister for Justice and Parliamentary Affairs No.F.5 (2)/87-AII Dated:
27.05.2009)

SECTION-2A (JUDICIAL COMMISSION OF PAKISTAN)

C.No. 1(1-2A)

*[175A. (1) There shall be a Judicial Commission of Pakistan, hereinafter in this Article referred to as the Commission, for appointment of Judges of the Supreme Court, High Courts and the Federal Shariat Court, as hereinafter provided.

Appointment of Judges to the Supreme Court, High Courts and the Federal Shariat Court.

(2) For appointment of Judges of the supreme Courts, the Commission shall consist of –

- i. Chief Justice of Pakistan Chairman
- ii. ¹[four] most senior Judges of Members
the Supreme Court;
- iii. a former Chief Justice or a Member
former Judge of the supreme
court of Pakistan to be
nominated by the Chief Justice
of Pakistan, in consultation with
the ²[four] member judges, for a
term of two years;
- iv. Federal Minister for Law and Member
Justice;
- v. Attorney-General for Pakistan; Member
and
- vi. a Senior Advocate of the Member
Supreme Court of Pakistan
nominated by the Pakistan Bar

* Added vide 18th Amendment to the Constitution

¹ Substituted vide 19th Amendment to the Constitution

² Substituted vide 19th Amendment to the Constitution

Council for a term of two years

(3) Notwithstanding anything contained in clause (1) or clause (2), the President shall appoint the most senior Judge of the Supreme Court as the Chief Justice of Pakistan.

(4) The Commission may make rules regulating its procedure.

(5) For appointment of Judges of a High Court, the Commission in clause (2) shall also include the following, namely;-

- i. Chief Justice of High court to Member which the appointment is being made;
- ii. the most senior Judge of that Member High Court;
- iii. Provincial Minister for Law; Member and
- iv. ¹[an advocate having not less Member than fifteen years practice in the High Court to be nominated by the concerned Bar council for a term of two years

Provided that for appointment of the Chief Justice of a High Court the most Senior Judge mentioned in paragraph (ii) shall not be member of the Commission:

Provided further that if for any reason the Chief Justice of High Court is not available, he shall be substituted by a former Chief Justice or former Judge of that Court, to be nominated by the Chief

¹ Substituted vide 19th Amendment to the Constitution

Justice of Pakistan in consultation with the four member Judges of the Commission mentioned in paragraph (ii) of clause (2) in the manner as provided in the foregoing proviso.]

(6) For appointment of Judges of the Islamabad High Court, the Commission in clause (2) shall also include the following, namely;-

- i. Chief Justice of Islamabad High Member Court;
and
- ii. the most senior Judge of that Member High Court;

Provided that for initial appointment of ¹[the Chief Justice and the] Judges of the Islamabad High Court, the Chief Justices of the four Provincial High Courts shall also be members of the Commission:

Provided further that subject to the foregoing proviso, in case of appointment of Chief Justice of Islamabad High Court, the provisos to clause (5) shall, *mutatis mutandis*, apply.

(7) For appointment of Judges of the Federal Shariat Court, the Commission in clause (2) shall also include the Chief Justice of the Federal Shariat Court and the most senior Judge of that court as its members;

Provided that for appointment of Chief Justice of Federal Shariat Court, the provisos, to clause (5) shall, *mutatis mutandis* apply,

(8) The Commission by majority of its total

¹ Substituted vide 19th Amendment to the Constitution

membership shall nominate to the Parliamentary Committee one person, for each vacancy of a Judge in the Supreme Court, a High Court or the Federal Shariat Court, as the case may be.

(9) The Parliamentary Committee, hereinafter in this Article referred to as the Committee, shall consist of the following eight members, namely:-

- i. four members from the Senate; and
- ii. four members from the National Assembly;

¹[Provided that when the National Assembly is dissolved, the total membership of the Parliamentary Committee shall consist of the members from the Senate only mentioned in paragraph (i) and the provisions of this Article shall, *mutatis mutandis*, apply].

(10) Out of the eight members of the Committee, four shall be from the Treasury Benches, two from each House and four from the Opposition Benches, two from each House. The nomination of members from the Treasury Benches shall be made by the Leader of the House and from the Opposition Benches by the Leader of the Opposition.

(11) Secretary, Senate shall act as the Secretary of the Committee.

(12) The Committee on receipt of a nomination from the Commission may confirm the nominee by majority of its total membership within fourteen days, failing which the nomination shall be deemed to have been confirmed;

¹ Added vide 19th Amendment to the Constitution

¹[Provided that the Committee, for reasons to be recorded, may not confirm the nomination by three-fourth majority of its total membership within the said period.

Provided further that if a nomination is not confirmed by the Committee it shall forward its decision with reasons so recorded to the Commission through the Prime Minister:

Provided further that if a nomination is not confirmed, the Commission shall send another nomination].

²[(13) The Committee shall send the name of the nominee confirmed by it or deemed to have been confirmed to the Prime Minister who shall forward the same to the President for appointment].

(14) No action or decision taken by the Commission or a Committee shall be invalid or called in question only on the ground of the existence of a vacancy therein or of the absence of any member from any meeting thereof.

³[(15) The Meetings of the Committee shall be held in camera and the record of its proceedings shall be maintained.

(16) The provisions of Article 68 shall not apply to the proceedings of the Committee].

⁴[(17) The Committee may make rules for regulating its procedure].

¹ Substituted vide 19th Amendment to the Constitution

² Substituted vide 19th Amendment to the Constitution

³ Added vide 19th Amendment to the Constitution

⁴ Renumbered vide 19th Amendment to the Constitution

C.No. 2(1-2A)

JUDICIAL COMMISSION OF PAKISTAN RULES 2010***NOTIFICATION***

S.R.O. (I) / 2010. – In exercise of powers conferred by clause (4) of Article 175(A) of the Constitution of the Islamic Republic of Pakistan, the Judicial Commission of Pakistan is pleased to make the following rules, namely, -

- 1. Short title and commencement.** – (1) These rules may be called the Judicial Commission of Pakistan Rules, 2010.
(2) These rules shall come into force at once.
- 2. Definition.** – (1) In these rules, unless the context otherwise requires, -
 10. “Chairman” means chairman of the Commission;
 11. “Commission” means the Judicial Commission of Pakistan, established under Article 175A of the Constitution of the Islamic Republic of Pakistan;
 12. “Committee” means a Committee constituted by the Chairman from amongst the members of the Commission;
 13. “Member” means a member of the Commission; and
 14. “Secretary” means the Registrar Supreme court or any other person authorized as such by the Chairman.
- 3. Nominations for Appointments.** (1) For each anticipated or actual vacancy of the Judge in the Supreme Court or the Chief Justice of Federal Shariat Court or the Chief justice of High Court, the Chief Justice of Pakistan shall initiate nominations in the Commission for appointment against such vacancy.
(2) For each anticipated or actual vacancy of a Judge in the Federal Shariat Court or Judge in the High Court, the Chief Justice of the respective court shall initiate and send nomination for appointment against such vacancy to the Chairman for convening meeting of the Commission.
- 4.** The Chairman shall regulate the proceedings of the Commission.
- 5. Proceedings of the Commission.** – (1) Whenever a nomination is received under Rule 3, the chairman shall call a meeting of the Commission on a date, time and place determined by him and notified by the Secretary to each member.

(2) The Commission may call for any information or record required by it from any person or authority for the purposes of carrying out its functions.

(3) The Secretary shall forward the nominations made by the Commission to the Secretary of the Parliamentary Committee constituted under clause (9) of Article 175A of the Constitution.

(4) The proceedings of the Commission shall be held in camera. A record of the proceedings shall be prepared and maintained by the Secretary Duly certified by the Chairman under his hand.

6. The Chairman may constitute one or more committees of members for such purpose as may be deemed necessary.
7. A retired Chief Justice or retired Judge Supreme court and a retired Chief Justice or a retired Judge of High Court, while attending a session of the Commission, shall be entitled to TA/DA and accommodation as admissible to Judge of Supreme Court, or Judge of High Court, as the case may be.
8. **Relaxation of Rules.** – Without prejudice to the foregoing, the Chairman may relax strict application of these rules in the public interest.

SECTION-3 (SUPREME JUDICIAL COUNCIL)

C.No. 1(1-3)

CONSTITUTIONAL PROVISION REGARDING ISSUANCE OF CODE OF CONDUCT BY SUPREME JUDICIAL COUNCIL

ARTICLE 209 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973.

- (1) There shall be a Supreme Judicial Council of Pakistan, in this Chapter referred to as the Council.
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Court and of the High Courts.

C.No. 2(1-3)

CODE OF CONDUCT TO BE OBSERVED BY JUDGES OF THE SUPREME COURT OF PAKISTAN AND OF THE HIGH COURTS OF PAKISTAN

(Supreme Judicial Council)

Notification

Islamabad, the 2nd September, 2009

No.F.SECRETARY-01/2009/SJC.-In exercise of powers conferred by Article 209(8) of the Constitution of Islamic Republic of Pakistan, 1973, the Supreme Judicial Council in its meeting on 8th August, 2009 approved the addition of a new Article No. XI in the Code of Conduct for Judges of the supreme Court and High Courts and in its meeting on 29th August, 2009

decided to publish the full text of amended Code of Conduct in the Gazette of Pakistan (Extraordinary) for information of all concerned as under:-

Code of Conduct for Judges of the Supreme Court and High Courts (Framed by the Supreme Judicial Council under Article 128 (4) of the 1962 Constitution as amended upto date under Article 209 (8) of the Constitution of Islamic Republic of Pakistan 1973).

The prime duty of a Judge as an individual is to present before the public an image of justice of the nation. As a member of his court, that duty is brought within the disciplines appropriate to a corporate body.

The Constitution, by declaring that all authority exercisable by the people is a sacred trust from Almighty Allah, makes it plain that the justice of this nation is of Divine origin. It connotes full implementation of the high principles, which are woven into the Constitution, as well as the universal requirements of natural justice. The oath of a Judge implies complete submission to the Constitution, and under the Constitution to the law. Subject to these governing obligations, his function of interpretation and application of the Constitution and the Law is to be discharged for the maintenance of the Rule of Law over the whole range of human activities within the nation.

To be a living embodiment of these powers, functions, and obligations calls for possession of the highest qualities of intellect and character. Equally, it imposes patterns of behavior, which are the hall-mark of distinction of a Judge among his fellow-men.

In this code, an attempt is made to indicate certain traditional requirements of behavior in the Judges of the Superior Courts, conducive to the achievement of a standard of justice worthy of the nation.

ARTICLE- I

On equiponderance stand the heavens and the earth. By equiponderance, oppression meaning unjust and unequal burdens is removed. The Judge's task is to ensure that such equality should prevail in all things.

ARTICLE- II

A Judge should be God-fearing, law-abiding, abstemious, truthful of tongue, wise in opinion, cautious and forbearing, blameless, and untouched

by greed. While dispensing justice, he should be strong without being rough, polite without being weak, awe inspires in his warnings and faithful to his word, always preserving calmness, balance and complete detachment, for the formation of correct conclusions in all matters coming before him.

In the matter of taking his seat and of rising from his seat, he shall be punctilious in point of time, mindful of the courtesies, careful to preserve the dignity of the Court, while maintaining an equal aspect towards all litigants as well as lawyers appearing before him.

ARTICLE- III

To be above reproach, and for this purpose to keep his conduct in all things, 'official and private, free from impropriety is expected of a Judge.

ARTICLE- IV

A Judge must decline resolutely to act in a case involving his own interest, including those of persons whom he regards and treats as near relatives or close friend.

A Judge must rigidly refrain from entering into or continuing any business dealing, howsoever unimportant it may be, with any party to a case before him. Should the dealing be unavoidable, he must discontinue his connection with the case forthwith. A judge must refuse to deal with any case in which he has a connection with one party or its lawyer more than the other, or even with both parties and their lawyers.

To ensure that justice is not only done, but is also seen to be done, a Judge must avoid all possibility of his opinion or action in any case being swayed by any consideration of personal advantage, either direct or indirect.

ARTICLE- V

Functioning as he does in full view of the public, a Judge gets thereby all the publicity that is good for him. He should not seek more. In particular, he should not engage in any public controversy, least of all on a political question, notwithstanding that it involves a question of law.

ARTICLE- VI

A Judge should endeavor to avoid, as far as possible, being involved, either on his own behalf or on behalf of others, in litigation or in matters which

are liable to lead to litigation such as industry, trade or speculative transactions.

To employ the influence of his position to gain undue advantage, whether immediate or future, is a grave fault.

A Judge must avoid incurring financial or other obligations to private institutions or persons such as may embarrass him in the performance of his functions.

ARTICLE- VII

Extra-Judicial duties or responsibilities, official or private, should be generally avoided. He should equally avoid being a candidate, for any elective office in any organization whatsoever.

ARTICLE- VIII

Gifts are to be received only from near relatives and close friends, and only such as are customary. Everything in the way of favours in consequence of the office must be refused. In accepting any entertainment offered, whether general or particular, care should be taken that its real purpose does not conflict with a Judge's duty to maintain detachment from likely litigants, and from partisan activity.

ARTICLE- IX

In his judicial work, and his relations with other Judges, a Judge should act always for the maintenance of harmony within his own Court, as well as among all Courts and for the integrity (If the institution of justice. Disagreement with the opinion of any Judge, whether of equal or of inferior status, should invariably be expressed in terms of courtesy and restraint.

ARTICLE- X

In this judicial work a Judge shall take all steps to decide cases within the shortest time, controlling effectively efforts made to prevent early disposal of cases and make every endeavor to minimize suffering of litigants by deciding cases expeditiously through proper written judgments. A Judge who is unmindful or indifferent towards this aspect of his duty is not faithful to his work, which is a grave fault.

ARTICLE- XI

No Judge of the superior judiciary shall render support in any manner whatsoever, including taking or administering oath in violation of the oath, of office prescribed in the Third Schedule to the Constitution, to any authority that acquires power otherwise than through the modes envisaged by the Constitution of Pakistan.

C.No. 3(1-3)

**SUPREME JUDICIAL COUNCIL PROCEDURE OF ENQUIRY,
2005****SUPREME COURT OF PAKISTAN
[SUPREME JUDICIAL COUNCIL]****NOTIFICATION**

Islamabad, the 22nd November, 2005

No. P.Reg. 113/2005-SJC.—(SUPREME JUDICIAL COUNCIL PROCEDURE OF ENQUIRY 2005). Pursuant to the decision taken by the Supreme Judicial Council, in its Meeting on 24th September, 2005 the Supreme Judicial Council is pleased to lay down the following procedure for effective performance of functions vested in it under Article 209 of the Constitution of Islamic Republic of Pakistan.

1. Title and application;

- (1) The procedure of enquiry shall be called “The Supreme Judicial Council Procedure of Enquiry 2005”.
- (2) It shall only apply to the Supreme Judicial Council and its proceedings.

2. Scope ;

The Procedure shall provide for effective implementation of Article 209 of the Constitution and regulate all inquiries required to be undertaken and all other matters which need to be addressed there under.

3. Definitions;

In the present Procedure, unless the context provides otherwise, the following expressions used in the Procedure will have the meanings as assigned to them hereunder;

- (a) **“Any matter”**, includes all matters and facts associated with the enquiry that the Council may carry out.
- (b) **“Any other source”**, includes all sources through which information is received in respect of the conduct of a Judge.
- (c) **“Code of conduct”**, means the code of conduct issued by the Supreme Judicial Council in terms of Article 209(8) of the Constitution of Islamic Republic of Pakistan.
- (d) **“Chairman”**, means and includes the Chief Justice of Pakistan.
- (e) **“Incapacity”**, will include all forms of physical or mental incapacity howsoever described or narrated, which render the Judge incapable of performing the duties of his office.
- (f) **“Conduct”**, will include series of facts associated with the matter being inquired into by the Council, including the facts which are attributed to the person of the Judge.
- (g) **“Guilty”**, will include arriving at an opinion by the Council that a Judge has been guilty of misconduct.
- (h) **“Opinion”**, will include arriving at a conclusion by the Council, that misconduct has or has not taken place.
- (i) **“Information”**, includes any material, facts, documentation, photographs, video or audio tapes, affidavits, letters or any other reasonable evidence that has come to the knowledge of any Member of the Council or the Council itself sufficient to initiate an enquiry.
- (j) **“Enquiry”**, means the consideration of any matter, in relation to conduct of a Judge, by the Council, or any Member of the Council.
- (k) **“Member”**, means Member of the Supreme Judicial Council.
- (l) **“Misconduct”**, includes.
 - (i) conduct unbecoming of a Judge,
 - (ii) is in disregard of the Code of Conduct issued under Article 209(8) of the Constitution of Islamic Republic of Pakistan.
 - (iii) is found to be inefficient or has ceased to be efficient.
- (m) **“Report of the Council”**, includes the findings of the enquiry proceedings carried out by the Council including

recommendations for the President of Pakistan for removal of the Judge or otherwise.

- (n) **“Secretary”**, means the Registrar, Supreme Court or any person appointed by the Council.
 - (o) **“Supreme Judicial Council”**, means the Supreme Judicial Council as constituted by Article 209 of the Constitution of Islamic Republic of Pakistan.
4. The Headquarter of the Council shall be at Islamabad, but the Council may hold its meeting or enquiry into reference or a complaint at any other place in Pakistan, as the Chairman may deem convenient.
5. **Receiving of Information.**—(1) Any member of public may bring to the notice of the Council or any of its Member or the Secretary, information alleging incapacity or misconduct of a Judge.
- (2) The allegation may be supported by material which is sufficient in the opinion of the Council to commence enquiry.
 - (3) The person providing the said information shall identify himself properly.
 - (4) The information may be received through any mode by the Council or any Member of the Council, without being restricted to any of the following sources such as ;
 - (a) Print or electronic media;
 - (b) Written Complaint.
 - (5) Information received under sub-para (4) shall be entered in the Register maintained by the Secretary.
 - (6). **Cognizance by the Council**,--Without prejudice to the general requirement of receiving information in the manner provided for above, nothing in this Procedure shall be read to curtail or limit the jurisdiction of the Council to initiate an enquiry against a Judge.

- (7). **Procedure for scrutinizing information.**—(1) Once any information in respect of enquiry into the conduct of a Judge is received by any member or the Council, it shall be presented to the Chairman of the Council, who; shall
- (a) refer the same to any Member of the Council to look into the said information; and to express his opinion in relation to sufficiency or otherwise of the information.
 - (b) if the Council is satisfied that the information *prime facie* discloses sufficient material for an enquiry, it shall proceed to consider the same.
- (2) The Member, to whom the chairman has referred the information, will examine the same and ascertain if the information so received discloses specific particulars of misconduct, and provides factual details necessary to form *prima facie* opinion in respect of the guilt of the Judge.
- (3) If the Member forms an opinion that the information does reveal sufficient material to commence enquiry, he shall inform the Council accordingly and the information shall be placed before the Council.
- (4) If the Member comes to a conclusion that the information is false, frivolous, concocted or untrue, he shall inform the Council accordingly and may recommend action against the person who initiated the information.
8. **Enquiry by the Council,**—(1) The Chairman may, call the meeting of the Council, for discussion and enquiry into the information received.
- (2) The information in respect of the conduct of a Judge shall be placed before the Council for examination.
 - (3) If the Council is of the view that before forming an opinion, it should also hear the Judge under enquiry, it shall require

the said Judge to present himself before the Council. The Council shall provide him the information and material received against him.

- (4) If the Council is of the opinion that it requires more material or seeks additional information before it can form any opinion, it shall direct accordingly.
 - (5) The Council may, if necessary, secure the attendance of the person who has provided the information, for enquiry into any aspect of the information provided.
 - (6) The Council may summon any expert, where the enquiry is in respect of the incapacity of a Judge and may order any medical investigation by local or foreign expert.
 - (7) Without prejudice to the foregoing, the Council shall have inherent powers to adopt any procedure specific to the enquiry which is considered by the Council to be just and proper in the circumstances.
9. (1) If the Council decides to proceed against a Judge, a show cause notice shall be issued to him alongwith supporting material calling upon him to explain his conduct within 14 days.
- (2) On receipt of reply from the Judge, Council shall convene its meeting to proceed further with the matter.
10. (1) The Attorney-General for Pakistan and in his absence a senior counsel of the Supreme Court, instructed by him, shall conduct a reference.
- (2) The Council may require the Attorney-General for Pakistan or any other counsel to appear and assist the Council in relation to smooth and efficient conduct of its proceedings.
11. **Procedure of Council.**—(1) In the event of a difference of opinion amongst the members of the Council regarding, further enquiry, granting right of hearing to the Judge concerned, securing attendance of the persons providing

information and related matters, opinion of the majority shall prevail.

- (2) In the event of a difference of opinion amongst the members of the Council whether the Judge concerned is guilty of misconduct, opinion of the majority shall prevail.
12. **Report to the President of Pakistan.**—If the Council in its meeting, on conclusion of the proceedings forms an opinion, that the Judge concerned has been guilty of misconduct or incapacitated in the performance of his duties properly, it shall express its views accordingly and the same shall be communicated by the Chairman to the President as a Report of the Council for action under Article 209(6) of the Constitution of Islamic Republic of Pakistan.
13. **Proceedings of the Council not to be reported.**—(1) Proceedings of the Council shall be conducted in camera and shall not be open to public.
 - (2) Only the findings of the proceedings shall be allowed to be reported.
 - (3) Proceedings of the meetings of the Council or any other steps that Council may take shall not be reported, unless directed otherwise.
14. **Punishment for frivolous information.**—(1) Whenever the Council finds that the information or evidence provided to it was false in material particulars or with the sole intention to malign a Judge, or scandalizing the Court or to undermine it in any form whatsoever, it may direct action against all those who are found to have provided the said information, or evidence as the case may be.
 - (2) For this purpose, the Council may direct the Secretary of the Council to pursue the course of action against the offender.
15. **Council Secretariat.**—(1) The Council shall have a permanent secretariat and in order to carry out the affairs and functions, the Council may appoint such officials and staff as deemed fit and proper.

- (2) The Council shall have a perpetual seal which shall be retained in the custody of the Secretary.
- (3) The Secretary of the Council shall be the custodian of the record and proceedings of the Council.
- 16. **Powers to issue directions.**—The Council shall have the power to issue any directive, pass any order and prescribe the procedure for achieving the objects of the Council,
- 17. This Procedure shall, *mutatis mutandis*, apply to proceedings against other office holders, who can be removed from office in the manner prescribed by Article 209 of the Constitution.

C.No. 4(1-3)

JUDGES (COMPULSORY LEAVE) ORDER, 1970

*Declared ultra vires by judgment entitled Chief Justice of Pakistan
Vs President of Pakistan reported as PLD 2010 SC 61.*

SECTION-4
MINISTERIAL ESTABLISHMENT OF
THE HIGH COURT

C.No. 1(1-4)

CONSTITUTIONAL PROVISION REGARDING OFFICERS
AND SERVANTS OF THE HIGH COURT

Article 208 of the Constitution of Islamic Republic of Pakistan, 1973. The Supreme Court and the Federal Shariat Court, with the approval of the President and a High Court, with the approval of the Governor concerned, may make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment.

C.No. 2(1-4)

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

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 North-West Frontier Province, 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 2 of the appendix, but does not include a person appointed by transfer or on deputation from other service, Department or post;
 - (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 North-West Frontier Province;
 - (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;
- (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 interse 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 North-West Frontier Province 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 North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P 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
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 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,

1	2	3	4
			<p>who were in the service of the High Court immediately before the dissolution of the Province of West Pakistan; and</p> <p>(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:</p> <p>First vacancy: Superintendents</p> <p>Second vacancy: Judgment Writers</p> <p>Third vacancy: Superintendents</p> <p>Fourth vacancy: Superintendents</p> <p>Fifth vacancy: At the discretion of the Chief Justice</p>
6	Private Secretary to Chief Justice		By promotion, on the basis of seniority-cum-fitness, from amongst the holders of posts of Judgment Writers

1	2	3	4
7	Superintendent		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	Stenographer	(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

1	2	3	4
			(b) twenty five percent by initial recruitment.
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

1	2	3	4
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 posses the qualification prescribed for initial recruitment; or (b) by initial recruitment
18	Driver	Possessing a valid driving license to drive a light motor vehicle	By initial recruitment
19	Daftari	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/ Farash/ Behishti/Sweeper		By initial recruitment
24	Security Guard	Ex-Service man	By initial recruitment

C.No. 3(1-4)

***PROCEDURE GOVERNING THE ATTENDANCE AND GRANT OF LEAVE TO THE MEMBERS OF THE HIGH COURT ESTABLISHMENT**

HIGH COURT OF JUDICATURE AT LAHORE

The following procedure will govern the attendance of, and the grant of leave to, members of the High Court Establishment.

PART I. REGULAR LEAVE

A. – Grant of Regular leave.

1. Leave will be granted to all members of the Establishment according as they are subject to the leave rules in Section II or in section III of Chapter VIII, Civil Services Rules, (Punjab), Volume I, Part I. Except on prescribed medical certificate, leave cannot be claimed as of right. When the exigencies of the public service so require discretion to refuse or revoke leave is reserved to the authority empowered to grant it.

2. All applications should be superscribed and particularized as follows. There will be no printed forms.

APPLICATION FOR REGULAR LEAVE

1. Name _____,
2. Post held _____,
3. Amount and nature of leave applied for _____,
4. Reason for leave _____,
5. Address while on leave _____,
6. Signature of application _____,
7. Recommendation by Superintendent of Branch _____,

* All rules made under NWFP Civil Servants, Act 1973, dealing with the subject of leave shall prevail in case of any inconsistency

8. Report by S.S. _____,
 - (a) Admissibility of leave applied for _____,
 - (b) Period of last leave _____,
 - (c) Whether substitute is available from candidate's list for chain of promotions.
9. Opinions of Gazetted Officer.
10. Order of the sanctioning authority _____.

Except in cases of sudden illness or for other sufficient reasons to be specified, all applications for leave or extension of leave must be submitted at least 10 days in advance of the date from which such leave or extension of leave is required. Superintendents of Branches should refuse to send applications for leave unless this rule has been complied with. These applications nearly always need early orders, and should therefore, always bear a red "Urgent" slip, except where the urgency is so great that they should bear a blue "Immediate" slip.

3. Superintendents of Branches must, when sending on applications for regular leave, do so through the Superintendent Staff Branch. Any period of absence immediately before the date of application, or medical certificate, must also be ascertained and reported.

4. In order to prevent the undesirable practice of clerks taking a few days' casual or regular leave, and then applying from home for repeated extensions, involving in some cases absence from office months, no leave of any kind will in future be granted to any member of the establishment unless he gives an undertaking that no extension of leave will be applied for by him except in very special circumstances, such as illness duly vouched for by medical certificate, etc. It is unnecessary for such an undertaking to be given separately in writing; the mere fact of the submission of the application by him will in itself imply that it is submitted on this undertaking alone.

5. No member of the High Court Establishment who is entitled under the rules to a compensatory allowance while on duty will be allowed to draw the same during the period of his absence on leave unless he states the following facts in his application for leave, and satisfies himself that a certificate to that effect, if admissible, has been recorded in the original order sanctioning his leave:-

(I) That he has either a lien on a paid post in this office carrying a compensatory allowance or will in all probability be appointed to such a post on the expiry of his leave;

(II) That his pay is less than Rs. 200 and his leave Salary will not exceed this amount.

No excuse for the non-supply of this information will be entertained as, under the orders of Government, the recording of the above certificate is a condition precedent to the grant of compensatory allowance under Rule 5.3 of Civil Services Rules (Punjab), Volume I, Part I.

6. Every member on leave will report any change of address. All applications for extension of leave will also give an address.

7. Superintendents of Branches will not permit any one to proceed on leave unless they receive orders that the leave applied for has been sanctioned and that the official appointed to officiate is ready to take over charge. Every official returning from leave (other than casual leave) must report himself to the Superintendent Staff Branch, immediately, so that necessary orders may be obtained for his posting and for consequent reversions.

8. The Staff Branch will maintain the prescribed leave accounts for each official, according as he is subject to the Fundamental Leave Rules or the Punjab Revised Leave Rules.

B. _____ Leave on Medical Certificate.

9. (I) All medical certificates must be in the form prescribed in Note 3 to Rule 8.13 of Civil Services Rules, (Punjab), Volume I, Part I. Under Rules 8.13 and 8.16 of those Rules, all applicants for leave on medical certificate must continue to attend office until orders are passed on their applications. This attendance can only be dispensed with in cases in which the applicant is too ill to attend office in order to present his application for leave and await orders upon it, but this fact must be clearly stated in the medical certificate. Any member of the establishment who applies for leave on medical grounds and simultaneously absents himself from duty without a proper medical certificate or previous permission, renders himself liable to be treated as absent from duty without leave for which no pay is admissible and to be disciplined for misbehavior.

(II) Applications for extension of leave on medical certificate, in continuation of leave on medical certificate or otherwise, must be supported by a proper medical certificate as prescribed in Note 3 to Rule 8.13 of Civil Services Rules (Punjab), Volume I, Part I.

(III) A member of the Establishment who requires an authorization to the District Health Officer, Lahore, for his examination, with a view to obtaining a recommendation for the grant of leave on medical grounds, should apply for the same to the Superintendent Staff Branch, in person or through a duly accredited representative. On receipt of such authorization it will be the duty of the applicant to forthwith present it and himself to the District Health Officer for the necessary examination. The report of the District Health Officer should be obtained by the applicant and tendered to the Staff Branch as quickly as possible to enable the leave to be sanctioned without delay.

(IV) In the case of a member who is too ill to attend office or the Civil Dispensary and requires the examination to be conducted at his residence, he should apply for the authorization to the Superintendent, Staff Branch, through a duly authorized representative, who should be directed by the applicant to receive the authorization from the Superintendent, Staff Branch, deliver it to the District Health Officer, and accompany him or his assistant to the applicant's house. He should also be authorized by the applicant to receive the District Health Officer's report in due course and deliver it to the Staff Branch.

PART II

CASUAL LEAVE

10. Casual leave up to a maximum limit of 20 days in each year, may be granted to members of the High Court establishment. It cannot be claimed as of right, but may be granted for reasons of health or for any other reason, up to 4 days at a time. This limit of four days at a time may be exceeded once in the year only for special reasons up to a minimum of 10 days. Holidays may not be prefixed or affixed to casual leave, but one Sunday either at the beginning or at the end may be so combined with it. All other holidays, if before or after the leave shall be included in the period of leave taken, but will not, however, be counted as casual leave enjoyed for purposes of accounting the maximum limit of 20 days.

11. Applications for casual leave should be superscribed and particularized as follows. There will be no printed form:

APPLICATION FORM CASUAL LEAVE

- (1) Name _____,
- (2) Post held _____,
- (3) Period of casual leave asked for, i.e.
No. of days _____,
From _____,
To _____,
- (4) Reasons for leave _____,
- (5) Place where casual leave will be spent and address while on leave _____,
- (6) Signature of applicant _____,
- (7) Report by Superintendent of Branch _____,
 - (a). Whether recommended _____,
 - (b). Number of holidays to be deducted for purposes of accounting:-
 - (i) Before _____,
 - (ii) After _____,
 - (c). Number of times leave in excess of 4 days at a stretch has been taken since 1st January, 19 _____
 - (d). Total casual leave taken prior to present application since 1st January 19 _____,
 - (e) Grant _____ days and to count as _____ days?
 - (f) Signature of Superintendent _____,
- (8) Order of Gazetted Officer granting leave.

Save in the case of sudden illness, or other special circumstances, applications must be submitted at least five days in advance of the date from which such leave is required. Applications for casual leave or extension of casual leave with simultaneous absents from duty on ground of illness for a period exceeding two days, will not be granted unless accompanied by a medical certificate in accordance with provisions of paragraph 8 above. No one can leave to a place beyond 36 hours recall. If casual leave to the extent admissible in paragraph 10 is overstayed for any reason whatsoever, for example, a breakdown on the road due to floods or landslips, the entire period of absence will be debited to the official's ordinary leave account, and not only the period by which he has overstayed his casual leave.

12 Superintendents of Branches will maintain casual leave accounts of all permanent, temporary / officiating clerks and inferior servants in their branches and the Superintendent, Staff Branch, will also do so in the case of

- (I) Honorable Judges,
- (II) Gazetted Officers,
- (III) P.S. to Honorable Chief Justice.
- (IV) P.A. to Registrar and
- (V) Inferior Staff attached to Nos. (II), (III) and (IV).

The Superintendent, Miscellaneous Branch, will also maintain the casual leave account of the inferior staff attached to (I) above. These accounts will be in the following form:-

CASUAL LEAVE ACCOUNT FOR THE YEAR 19 _____, of (Name)

1	2	3	4	5	6
Number of days of leave including all holidays.	Dates Form-To	Number of holidays prefixed or affixed in period of leave (Col.I)	Casual leave granted to count as (Col.I) minus 3	Date of order	Signature of Superintendent

13. All applications for casual leave by permanent and temporary/officiating clerks, and inferior servants in branches will be dealt with by the Superintendents of the said branches themselves in accordance with the instructions in Part II of this order. When leave is granted by the Gazetted Officer concerned, the necessary entry will be made by the Superintendent himself in the casual leave account, which along with the application will be kept in his personal custody. When a clerk or inferior servant is transferred from one branch to another, the two Superintendents concerned will be responsible for passing on and receiving his casual account and previous application forthwith. When a clerk or inferior servant proceeds on regular leave, his leave papers will be retained by his Superintendent until called for the Superintendent of the branch to which he is posted on return from leave. When a case arises where no casual leave is admissible, the Superintendent will immediately send the application for casual leave to the Superintendent, Staff Branch, for action under the regular leave rules.

Superintendents will preserve all casual leaves accounts and applications till the end of each following calendar year since reference to these accounts would have to be made for purpose of paragraph 15 (a) below.

PART III

SPECIAL CASUAL LEAVE VACATION

14. Special casual leave may be granted to the establishment by the Honorable the Chief Justice for such period during the Court's vacation as his Lordship may think fit. It must be clearly recognized that this special leave is a concession entirely within the discretion of the Honorable the Chief Justice and when granted is subject always to the condition that proper arrangements are made for the normal disposal of the work of the office.

15. From the period of special casual leave during the vacation granted to the establishment the following period will be deducted in the case of each clerk;-

- (a) Casual leave in excess of 10 days taken since the end of the special casual leave in vacation enjoyed by him in the preceding year; and
- (b) Any regular leave taken during the period when the court is closed for vacation.

Holidays cannot be prefixed or affixed to a period of special casual leave granted in the vacation. Where a period is for a multiple or multiples of a week, however, one Sunday only at the beginning or end of the period of special casual leave may be combined, other gazetted holidays that occur during the period must be included in the account of vacation special casual leave.

Superintendent will note special casual leave in vacation availed of under this rule by each clerk or menial servant as a separate entry in the casual leave account prescribed in paragraph 12.

PART-IV

QUARANTINE LEAVE

16. A member of the High Court Establishment who is prohibited from attending office on account of an infectious disease in his family or household may be granted quarantine leave on the certificate of a medical or public health officer as provided in Rule I, Appendix 17-II, Civil Services Rule (Punjab), Volume I, Part II.

It will be the duty of the member concerned to see that such a certificate is furnished and submitted to the Registrar.

It should be remembered that in the case of small-pox, the grant of quarantine leave specified above is discretionary and would not, therefore, ordinarily be given to one who has neglected or refused to have himself and his family vaccinated, or re-vaccinated as the case may be.

PART V

GRANT OF REGULAR LEAVE TO UNPAID CANDIDATES

17. The grant of leave to unpaid candidates on the High Court Establishment is regulated by Office Order No.164, dated 21st March 1939.

PART VI

ATTENDANCE IN OFFICE

18. Attendance registers will be maintained for each branch and Superintendents will be responsible to see that all members (clerical, candidates and menials) of their respective branches attend office punctually. Habitual unpunctuality will be severely dealt with. In marking up these registers, the Superintendent will follow the directions given on the cover of the register. These registers will be sent to the Gazetted Officer-in-charge every morning at 9.15 in Summer and 8.45 in Winter after being initialed by the Superintendent. Any clerk arriving after this will report himself to the Gazetted officer for marking the time of his attendance.

2. "The hours of attendance are from 9 a.m to 4p.m. with a break of half an hour at 12.30 p.m, for Luncheon and prayers in Summer and 8.30 to 3 p.m with a break of half an hour at 12 (noon) to 12.30 p.m in Winter throughout the week except Sunday and Friday. Friday will be a half holiday, hours of attendance being from 9 a.m to 12 p.m in Summer and 8.30 a.m to 12 noon in Winter. A skeleton Staff will, however, be placed on duty in each branch of the office on Friday from 1.30 p.m to 4 p.m in Summer and 1.30 to 3. p.m in Winter in order to deal with urgent work that may be received after 12 (noon) on that day. This will leave the time between 12 (noon) and 1.30 pm. free for Juma prayers."

PART VII
ABSENCE OF CLERK FROM THEIR ROOMS

19. During office hours, no clerk shall leave the room in which he ordinarily works for more than five minutes, without the permission of the head of his section or branch. If such absence is likely to exceed five minutes, but not one hour, the clerk must obtain the permission in writing of his Superintendent, and such permission must not be given except where it is absolutely necessary for the clerk to absent himself. Permission to be absent from the office for more than one hour must be obtained from the gazetted officer in charge through the Superintendent. Such absence will be treated as casual leave for half a day for purposes of para 19. “but, unlike other full working days, an absence on Friday for

- a. more than half an hour but less than one hour will be treated as half a day’s casual leave and
- b. more than one hour as a full day’s casual leave.

PART VIII
PERMISSION TO LEAVE DURING HOLIDAYS

20. A member of the office Establishment wishing to leave Lahore during holidays must obtain the previous permission in writing of the gazetted officer-in-charge of the Branch in which he works, and when permission is granted, must leave his address with his Superintendent. (Office Order No. 171 Dated the 23rd October 1939 as amended, is hereby cancelled)

CASUAL LEAVE ACCOUNT

Department/Office _____

Section/ Branch _____ Casual Leave Account of (name and

Designation _____ for the year 19 _____

1	2	3	4	5
Leave granted (days)	Period From-To	Total leave taken up- to-date (days)	Leave due	Initials with date of the sanctioning authority

Note—This Causal Leave Account should be completed and sent to the Department/Office or Section/Branch concerned immediately the official is transferred.

(LHC Office Order No.281 Dated the 20th December 1952)

C.No. 4(1-4)

SPECIAL CASUAL LEAVE (VACATION)

I am directed to say that according to paragraph 14 of Office Order No.281, dated the 20th December 1952, it is within the discretion of the Chief Justice to grant special casual leave to the members of the High Court establishment for such period during the Court's vacation as his Lordship may deem fit. This special casual leave is granted normally every year subject to the condition that the proper arrangements are made for disposal of office work and is enjoyed by the staff as follows:-

- | | | |
|--|---|-----------------|
| 1. Registrar. |) | |
| 2. Deputy Registrar. |) | one month each. |
| 3. Assistant Registrar. |) | |
| 4. Superintendents,
Clerical establishment
Including Judgment-writers,
Readers and menials excluding
the Ushers and Orderlies of the Judges. |) | 28 days each |

5. Ushers and Orderlies of the Judges. They remain at the disposal of Judges and are granted Special casual leave for such period as their Lordship may permit.

As regards the question whether the vacation or any portion thereof enjoyed is debitable to any other leave or not, I am to invite your attention to paragraph 15 of the above Office Order, a copy of which was forwarded to you under this Court's letter No.3111-S/V.D.32(d), dated the 26th March 1956.

This disposes of your letter No.A/-1158, dated the 30th April 1956.

(PHC letter No. 4782-S/V.D Dated Lahore, 16th May, 1956)

C.No. 5(1-4)

SUBMISSION OF APPLICATION FOR CASUAL LEAVE IN ADVANCE

It has come to notice that the officials of the Establishment of this Court, while seeking casual leave on the ground of urgent work on domestic affair, usually apply for that purpose one day before or send applications from their homes. This practice must be stopped, as it negates the spirit of Rule 11(8) of the Casual Leave Rules which says that save on the ground of sudden illness or owing to special circumstances, application by an official for casual leave on any other ground must be submitted at least five days earlier.

Let all officials, therefore, note as a warning for future guidance that they must apply for casual leave strictly in accordance with the above conditions laid down in the cited rule. In future if an official seeks casual leave on the ground of urgent work or domestic affair or on such other ground in relaxation of the requirement of the said rule, he must in his application explain the special circumstances which may show that seeking of leave is unavoidable. In case of his failure to comply with this condition, leave will be refused and disciplinary action will be taken against him.

(PHC letter No. 947/ Admn: Brh: Dated Peshawar the 14th February, 1988.)

C.No. 6(1-4)**PRIOR PERMISSION OF HON'BLE JUDGES BEFORE APPLYING FOR CASUAL LEAVE**

To avoid the un-necessary inconvenience all the Officers/Officials attached to the Courts are advised that in future they should take prior permission of the Hon'ble Judge before applying for leave.

(PHC Endst: No. 962-63/Admn: Brh: Dated Pesh: the 30th January, 1992)

C.No. 7(1-4)

UPGRADATION OF THE POST OF PRIVATE SECRETARY TO FEDERAL SECRETARIES/ADDITIONAL SECRETARIES AND OTHER OFFICERS IN BPS-21 & 22 PROVIDED WITH THE SERVICES OF PRIVATE SECRETARY IN FEDERAL GOVERNMENT

The undersigned is directed to say that the Prime Minister has been pleased to approve the following proposals made by the Establishment Division in consultation with the Finance Division:

- a. All the posts of Private Secretary to the Secretaries/Additional Secretaries and other officers in BPS-21 & 22 provided with the services of Private Secretary, in the Federal Government alongwith their incumbents who have been appointed to these posts on regular basis, are upgraded from BPS-16 to BPS-17 with effect from 1st July, 1983.
- b. The incumbents of the post of Private Secretary (BPS-17) will be eligible for the grant of BPS-18 after putting in ¹[seven] years satisfactory service in BPS-17, ²[unless they move-over to BPS-18 from an earlier date].
- c. The special pay admissible to the Private Secretary (BPS-16) to the Secretary/ Additional Secretary and other officers in BPS-21 & 22 at the rate of Rs.200/- and Rs.150/- per month respectively will continue to be admissible in BPS-17/18.
- d. No arrears due to retrospective upgradation of the post from BPS-16 to 17 and on account of accrual of increments shall be admissible prior to the date of issue of this O.M.

(Govt: of Pakistan Cabinet Secretariat No. 9/2/74-FII(R.6)Rawalpindi, 18th March, 1986)

¹ Substituted vide Govt: of Pakistan Cabinet Secretariat No. 9/2/74-FII(R.6) Islamabad, 19th February, 1992

² Substituted vide Govt: of Pakistan Cabinet Secretariat No. 4/3/22-FII(R.6) Islamabad, 12th February, 1995

C.No. 8(1-4)

**UPGRADATION OF THE POST OF JUDGMENT WRITERS
B-16 AS PRIVATE SECRETARIES B-17 WITH SPECIAL PAY
@ RS.200/- PM**

I am directed to refer to the subject cited above and to state that in pursuance of the judgment of the Peshawar High Court in W.P. No.424/1989, the Provincial Government have decided to implement the Government of Pakistan, Cabinet Secretariat Establishment Division O&M No.9/2/74-F.II(R.6) dated 18/03/1986 and to upgrade the post of Judgment Writers *B-16 to Private Secretaries B-17 with effect from 01/07/1983. The incumbents would, however, not be entitled to arrears on account of retrospective upgradation of the posts from B-16 to B-17 and on account of increments for the period prior to 18/03/1986.

(Establishment Division No. FD(SR.I) 1-11/88
Government of NWFP Finance Department
Dated Peshawar the 12th August, 1990)

C.No. 9(1-4)

**UPGRADATION OF THE POST OF
READERS/SUPERINTENDENTS FROM BPS-16 TO BPS-17**

In exercise of the powers conferred by the Finance Department, Government of N.W.F.P, Peshawar under Notification No. SO(A/C)FD/2-1/96 dated 07/12/1996, and in compliance with the decision of the Supreme Court of Pakistan, passed in Civil Review Petition No. 5-P of 1997 in O.M.I.A. No. 386-P of 1997, Honorable the Chief Justice, Peshawar High Court, Peshawar has been pleased to upgrade the posts of the Readers/Superintendents from **BPS-16 to BPS-17 of the Peshawar High Court and its Circuit Benches, Abbotabad and D.I. Khan with effect from 1st July, 1983. The incumbents of the upgraded posts would not claim arrears upto 31/05/1997. The Honorable Chief Justice has further been pleased to order that whoever out of them, shall renders seven years service in BPS-17, shall further be held entitled to BPS-18 (Selection Grade).

* Post upgraded to BPS-18 vide PHC Endst. No. 2300-2308/ B&A dated 23-04-2008

** Post upgraded to BPS-18 vide PHC Endst. No.2292-2300/B&A dated 23-04-2008

The expenditure involved will be met out of the sanctioned budget grant under head “6-20000-Law and Order-6-21000-Justice Law Courts-6-21105-High Court....Charged”, 1997-98.

(PHC Endst: No B & A/6829-36 dated Peshawar the 16th December 1997)

C.No. 10(1-4)

REPORTING CHANNEL OF PER OF THE MINISTERIAL ESTABLISHMENT OF PESHAWAR HIGH COURT (PRINCIPAL SEAT)

The Hon’ble Chief Justice is pleased to order that henceforth, the reporting channel and the authorities for the expunction of adverse remarks in connection with the Performance Evaluation Report of the Ministerial Establishment of Peshawar High Court (Principal Seat) shall be, as laid down in Appendix-A to this order.

APPENDIX - A

CHART SHOWING DETAILS OF AUTHORITIES FOR INITIATING/COUNTERSIGNING/EXPUNCTION OF ADVERSE REMARKS IN CONNECTION WITH THE PERFORMANCE EVALUATION REPORT FOR MINISTERIAL ESTABLISHMENT OF PESHAWAR HIGH COURT (PRINCIPAL SEAT)

S.No	Designation of Post	Initiating Authority	Countersigning Authority	Authority for expunction of Adverse Remarks
1	Registrar	Hon’ble Chief Justice	—	Hon’ble the Chief Justice
2	Member Inspection Team	Hon’ble Chief Justice	—	Hon’ble the Chief Justice
3	Additional Registrar	Hon’ble Chief Justice	—	Hon’ble the Chief Justice
4	Additional Member Inspection Team	Hon’ble Chief Justice	—	Hon’ble the Chief Justice

5	Secretary to HCJ	Hon'ble Chief Justice	—	Hon'ble the Chief Justice
6	Draftsman	Hon'ble Chief Justice	—	Hon'ble the Chief Justice
7	Director P&D	Registrar	Hon'ble Chief Justice	Hon'ble the Chief Justice
8	Assistant Draftsman	Registrar	Hon'ble Chief Justice	Hon'ble the Chief Justice
9	Deputy Registrar	Incharge Branch	Registrar	Hon'ble the Chief Justice
10	Budget Officer	Incharge Section	Registrar	Hon'ble the Chief Justice
11	Reader to Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble the Chief Justice
12	Private Secretary to HCJ	Hon'ble Chief Justice	—	Hon'ble the Chief Justice
13	Private Secretary to Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble the Chief Justice
14	Superintendent	Incharge Branch	Registrar	Hon'ble the Chief Justice
15	Librarian	Incharge Branch	Registrar	Hon'ble the Chief Justice
16	Research Officer	Registrar	Hon'ble Chief Justice	Hon'ble the Chief Justice
17	Manager M.I.S	Incharge Branch	Registrar	Hon'ble the Chief Justice
18	Computer Programmer	Incharge Branch	Registrar	Hon'ble the Chief Justice
19	Accounts Officer	Incharge Section	Registrar	Hon'ble the Chief Justice
20	Asstt: Librarian	Librarian	Registrar	Hon'ble the Chief Justice

21	Protocol Officer	Incharge Branch	Registrar	Hon'ble the Chief Justice
22	Court Officer	Incharge Branch	Registrar	Hon'ble the Chief Justice
23	Data Supervisor	Incharge Section	Registrar	Hon'ble the Chief Justice
24	Stenographer	Immediate Superior Officer	—	Hon'ble the Chief Justice
25	Computer Operator	Incharge Section	Registrar	Hon'ble the Chief Justice
26	Assistants	Incharge Section	Registrar	Hon'ble the Chief Justice
27	Nazir	Incharge Section	Registrar	Hon'ble the Chief Justice
28	KPO	Incharge Section	Registrar	Hon'ble the Chief Justice
29	Senior Clerk	Incharge Section	Registrar	Hon'ble the Chief Justice
30	Junior Clerk	Superintendent Judicial	Registrar	Hon'ble the Chief Justice
31	Binder	Librarian	Registrar	Hon'ble the Chief Justice
32	Telephone Operator	Incharge Branch	Registrar	Hon'ble the Chief Justice
33	Security Officer	Incharge Branch	Registrar	Hon'ble the Chief Justice
34	Security Guard	Incharge Branch	Registrar	Hon'ble the Chief Justice
35	Imam Masjid	Incharge Branch	Registrar	Hon'ble the Chief Justice
36	Driver with Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble the Chief Justice

37	Driver with Officer	Immediate Superior Officer	Registrar	Hon'ble the Chief Justice
38	Daftari/Record Lifter	Incharge Branch	Registrar	Hon'ble the Chief Justice
39	Bailiff	Incharge Section	Registrar	Hon'ble the Chief Justice
40	Naib Qasid with Hon'ble Judges	Private Secretary Concerned	Registrar	Hon'ble the Chief Justice
41	Naib Qasids in various Branches	Incharge Section	Registrar	Hon'ble the Chief Justice
42	Chowkidars	Incharge Branch	Registrar	Hon'ble the Chief Justice
43	Lift Operator	Incharge Branch	Registrar	Hon'ble the Chief Justice
44	Cook	Court Officer	Registrar	Hon'ble the Chief Justice
45	Other Class-IV	Incharge Section	Registrar	Hon'ble the Chief Justice

NOTE:

1. All other posts not mentioned in the Appendix, shall be reported upon by the immediate superior authority with whom they have actually worked, subject to minimum period for the purpose, and their reports shall be countersigned by the Registrar, while authority for the expunction of adverse remarks shall be Hon'ble Chief Justice.

2. Incharge Section means Immediate Incharge.

3. Incharge Branch means the Incharge Officer of the Branch to whom charge is given in distribution of administrative business.

(PHC Endst: 5162-207/Admn: Dated Peshawar the 21st April, 2011)

C.No. 11(1-4)

Became infructuous due to above mentioned document

C.No. 12(1-4)

**REPORTING CHANNEL OF THE PER OF THE
MINISTERIAL ESTABLISHMENT OF PESHAWAR HIGH
COURT (ABBOTABAD AND D.I. KHAN BENCHES)**

The Hon'ble Chief Justice is pleased to order that henceforth, the reporting channel and the authorities for the expunction of adverse remarks in connection with the Performance Evaluation Report of the Ministerial Establishment of Peshawar High Court (Abbotabad and D.I. Khan Benches) shall be, as laid down in Appendix-A to this order.

APPENDIX-A

CHART SHOWING DETAILS OF
AUTHORITIES FOR INITIATING / COUNTERSIGNING /
EXPUNCTION OF ADVERSE REMARKS IN CONNECTION WITH
THE PERFORMANCE EVALUATION
REPORT FOR MINISTERIAL ESTABLISHMENT OF
PESHAWAR HIGH COURT
(ABBOTTABAD & DIKHAN BENCHES)

S.No	Designation of Post	Initiating Authority	Countersigning Authority	Authority for expunction of Adverse Remarks
1	Additional Registrar	Hon'ble Chief Justice	—	Hon'ble Chief Justice
2	Private Secretary to Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble Chief Justice
3	Reader to Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble Chief Justice
4	Superintendent	Additional Registrar	Registrar	Hon'ble Chief Justice
5	Stenographer	Additional Registrar	Registrar	Hon'ble Chief Justice

6	Assistant	Additional Registrar	Registrar	Hon'ble Chief Justice
7	Supervisor	Additional Registrar	Registrar	Hon'ble Chief Justice
8	Senior Clerk	Additional Registrar	Registrar	Hon'ble Chief Justice
9	Junior Clerk	Additional Registrar	Registrar	Hon'ble Chief Justice
10	Driver with Hon'ble Judge	Hon'ble Judge concerned	—	Hon'ble Chief Justice
11	Driver with office	Immediate Superior Officer	Registrar	Hon'ble Chief Justice
12	Record Lifter/Daftari	Additional Registrar	Registrar	Hon'ble Chief Justice
13	Naib Qasid/Chowkidar	Additional Registrar	Registrar	Hon'ble Chief Justice
14	Caretaker	Additional Registrar	Registrar	Hon'ble Chief Justice
15	Bearer-cum-Cook	Additional Registrar	Registrar	Hon'ble Chief Justice

NOTE :

All other non-gazetted officials working on deputation, detailment etc. from District or other cadres shall be reported upon by the immediate superior authority with whom they have actually worked, subject to minimum period for the purpose, and their reports shall be countersigned by the Registrar, while Authority for the expunction of adverse remarks shall be the Hon'ble Chief Justice.

(PHC Endst: No. 2681-2705/Admn Dated Peshawar the 6th April, 2005.)

SECTION-5 (INSPECTIONS)

C.No. 1(1-5)

CONSTITUTIONAL PROVISION REGARDING SUPERVISION AND CONTROL BY THE HIGH COURT

Article 203 of the Constitution of Islamic Republic of Pakistan. Each High Court shall supervise and control all courts subordinate to it.

C.No. 2(1-5)

PRESCRIBED PROCEDURE FOR THE OFFICE OF THE MEMBER INSPECTION TEAM

NOTIFICATION
8TH OCTOBER, 2002

MEMBER INSPECTION TEAM (PROCEDURES)

No. D.R/(ADMN)/HC/43-Association-9/2002- The Honourable Chief Justice has been pleased to prescribe the procedure to be followed by the Member Inspection Team, Peshawar High Court, in the discharge of his functions detailed below:

- i. To deal with the informal complaints against judges or employees of district courts per procedure **Annex-F/1**;
- ii. To keep a watch, in view of scheme of unit-wise disposal (**Annex-F/3**), on the working of district Courts by examining their monthly statements;
- iii. To deal with applications for early disposal of old cases pending in the lower Courts per instructions of the Honourable Chief Justice;.
- iv. To issue directions for the disposal of old cases under the Time Bound Delay Reduction Plan of Access to Justice Program on monthly basis and scrutinize for follow up action per **Annex-B**;
- v. To make surprise visits for inspection of subordinate Courts per instructions of the Honourable Chief Justice;

- vi. To examine reports of inspections carried out by the Judicial Officers per High Court Rules and Orders Volume-IV;
- vii. To put suggestions deemed necessary for the promotion of speedy disposal of cases and measures for the convenience of Bar and litigant public;
- viii. To maintain record and follow up action in view of Inspection Notes regarding periodical and other inspections of subordinate Courts conducted by the Hon'ble Inspection Judges of the High Court or other officers including MIT under the directions of Hon'ble the Chief Justice;
- ix. To Control and supervise the working of confidential Branch and Computer Branch of the High Court per instructions of the Honourable Chief Justice;
- x. To maintain record of pendency and disposal of cases of Anti Terrorism Courts on weekly basis;
- xi. To Chalk out program for the inspection of jails by the presiding officers of the District criminal courts;
- xii. To regularly obtain and check reports from criminal Courts about disposal of cases of prisoners involved in offences of petty nature;
- xiii. To inspect the courts under the Incentive and Reward Policy **Annex-C**;
- xiv. To coordinate the activities pertaining to Access to Justice Program; and
- xv. Any other task specially assigned to him by the Hon'ble Chief Justice.

PESHAWAR HIGH COURT, PESHAWAR
OFFICE OF THE MEMBER INSPECTION TEAM

**INFORMAL COMPLAINTS AGAINST
JUDGES OR EMPLOYEES OF COURT**

The following procedure shall be followed when making a complaint about the conduct of a judge or other court employee. All complaints filed as under are investigated and answered within a period of two months.

1. INFORMAL COMPLAINT:

The informal complaint process is a method for addressing complaints or concerns about judges and employees of the court. The informal complaint system is confidential, non-confrontational and educational. It is intended to constructively influence conduct and resolve issues before they rise to the level of a formal grievance or disciplinary proceeding.

2. HOW TO MAKE AN INFORMAL COMPLAINT.

- Complaints must be in writing.
- To make a complaint about the conduct of a judge/other court employee, contact Office of the Member Inspection Team (MIT) Post Office Box No. 182, Peshawar, NWFP Tel. 091-9210159 FAX: 091-9210881.
- The envelope should be marked: Personal and Confidential.
- To make a complaint against the operation of the Court or the conduct of its employees, fill out a **Complaint Form (Annex-F/2)** available in the office of the MIT, District Bar Association and Citizen-Court-Liaison Committee's District Office. You can also write your concerns in a letter that is clearly labeled COMPLAINT to the Community Liaison Facilitator of the district who must respond to the grievance within a period of one week.
- A complaint must identify the person who is making the complaint and the person complained about.

3. THE INFORMAL COMPLAINT PROCESS WILL ADDRESS:

- Complaints about the conduct of judges and employees of the court
- The complaint cannot be used to complain about a judges' decision.
- Complaints are limited to conduct occurring in connection with judicial proceedings or in the judicial employment environment.
- Complaints which will be considered include those involving temperament; bias related to race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status; or other inappropriate behavior
- Complaints that a judge committed legal error are not included.

- The complaint cannot be about a judge's legal decision, or an existing court order. A judge's decision can only be changed through the appeals process.

4. ANONYMITY

Complaints will be accepted only if the identities of the person making the complaint and the person who is the subject of the complaint are known. The name of the person making the complaint will not be disclosed to the person who is the subject of the complaint unless the person who is making the complaint consents.

5. ACTION

- (1) All complaints shall be classified, numbered, dated and entered, accordingly, in:
 - a. The Register of complaints against the judges;
 - b. The Register of complaints against the employees of court;
 - c. The Register of complaints against the other departments/civil servants.

(2) The MIT shall scrutinize the complaint, if covered by sub-para (1) a & b, and endorse thereon his findings about its maintainability per procedure prescribed hereinbefore. If it is maintainable, he shall forward the same to the Honourable Judge Incharge of the district as per distribution work given in the following sub para-3, for further necessary action. If it is not maintainable it shall be filed with intimation to the Honourable Judge Incharge. In case of complaints covered by sub-para (1) c, he shall forward the same to the department concerned for further necessary action. The MIT shall complete these proceedings within 7days of receipt of the complaint.

(3) *Distribution of work is made as under to coordinate and assist the Honourable Chief Justice in discharge of his function of coordinating the functions of the Member Inspection Team:

* This distribution is at the discretion of Hon'ble the Chief Justice which is notified from time to time

S. No	Honourable Inspection Judge	District
	Name of Honourable Judge	Name of District
	-do-	-do-
	-do-	-do-
	-do-	-do-
	-do-	-do-

(4) The following procedure of **“discreet inquiry”** shall be observed by the Honourable Judge Incharge to investigate the complaints:

- a) The discreet inquiry may be conducted through any officer with prior approval of the Honourable Chief Justice and under the supervision of the Honourable Inspection Judge and the Member Inspection Team. The discreet inquiry shall be completed within twenty-one days of receipt of the complaint;
- b) The officer complained against should neither be associated with the inquiry nor any explanation be called from him;
- c) The inquiry officer should simply ascertain from the complainant and the enclosed record, if any, or through other means, as to whether or not there is any substance in the allegations;
- d) Inquiry officer may also rely on his personal knowledge, reputation of the accused officer in the Bar, litigant public and opinion of his appellate and supervisory authorities;

- e) Honourable Judge Incharge shall forward the discreet inquiry report alongwith his views to the Honourable Chief Justice not later than 7 days of completion of the discreet inquiry;
- f) On the basis of discreet inquiry report, the competent authority shall, within 7days of receipt of views of the Honourable Judge Incharge, decide as to whether or not the accused officer is to be proceeded against for misconduct, etc. under the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973.

(5) The complainant shall be informed of the fate of his complaint within six weeks of the date of receipt of complaint in the office of the MIT.

PESHAWAR HIGH COURT, PESHAWAR
OFFICE OF THE MEMBER INSPECTION TEAM

COMPLAINT FORM

(Fill it out and mail it to the address at the bottom of the form. Please answer all questions, and then describe your complaint. Feel free to express the realities and add additional pages if necessary.)

Name _____

Mailing Address _____

Day time Phone Number _____ **Today's Date** _____

Name of court you are complaining about:

Where is the court located? _____

Is it a complaint against a court ? Yes [] No []

If the complaint is not against a court, the MIT'S Office probably cannot help you except to refer you to the right place. The MIT'S Office only investigates complaints about courts under the administrative control of the Peshawar High Court Peshawar.

Have you filed any appeal or grievance with the court complained against itself? Yes [] No []

If you have an appeal or grievance, what was the court's answer? Please attach copies of your appeal and the court's answer. IT IS IMPORTANT TO TRY TO RESOLVE YOUR PROBLEM WITH THE COURT'S HELP BEFORE COMPLAINING TO THE MIT.

Name(s) of the person(s) you spoke or wrote to at the court about your problem:

Phone number(s) of the person(s) _____

Has your complaint ever been the subject of a court hearing? Yes [☐] No [☐]

If so, what is the court case number? _____

Have you asked anyone else for help to solve your problem?

(An attorney, any other state agency etc.) Yes [☐] No [☐]

May we talk to that person about your complaint? Yes [☐] No [☐]

Names and phone numbers of persons you talked to about your problem:

Please give us any other information we need to help us investigate your complaint. (Your date of birth, domicile, qualification, profession national, identity card number etc.).

Your name will not be released unless you give your permission. Can we use your name when talking with the court about your complaint? Yes [] No []

Use these lines to briefly state your complaint. Please tell us:

What did the court do that you do not like or think is wrong?

What did you want from the court?

What do you want the MIT to do to help you?

Affidavit: I hereby solemnly affirm that all the contents given above are true and correct to the best of my knowledge and belief; and nothing has been concealed in this behalf.

PLEASE SIGN HERE: _____ **Date** _____

Please send this form alongwith supporting documents to :

Office of the Member Inspection Team

Post Office Box No. 188

Peshawar, NWFP.

Tel. 091-9210159 FAX: 091-9210881

Note: Comments, questions and suggestions for total quality management shall be appreciate and may be sent to Member Inspection Team on the given address or e-mail to phc@psh.paknet.com.pk

C.No. 3(1-5)

DISPOSAL PERFORMANCE EVALUATION POLICY (DPEP)**Introduction**

Performance Evaluation of a Judicial Officer is an important aspect of the administration of justice. It can be carried out in many ways. The Unit Policy was one of the methods. The latest developments in performance evaluation techniques suggest 'Time Standard' adjudication for ensuring disposal of a case within a certain time. This new standardization has been adopted in the DPEP, which is predominantly focused on disposal of cases, though qualitative indicators have also been taken into consideration. The DPEP was introduced for realizing the targets set out in the National Judicial Policy (NJP), 2009. The DPEP is evolving in its nature and re-fixation of the NPJ targets coupled with suggestions from Judicial Officers, have necessitated its revision.

Under the DPEP, the performance of a Judicial Officer is to be counted in terms of *scores/grades*: (i) **Point Scores/Grades** indicating disposal performance in terms of 100/A1, 80/A, 60/B, 40/C, 20/D, and (ii) **Range Scores/Grades** denoting disposal performance in terms of A+ (between 100-80), B+ (between 80-60), C+ (between 60-40), D+ (between 40-20) and D- (between 20-00). The performance at pitch A1 is desired as it will ensure clearance of backlog and disposal of others (like new cases) in the *available period*. The performance evaluation is dependent on her/his disposal of cases from various *applicable areas* and *categories*.

The DPEP contents are divided into the following parts:

- I. Compatibility of scores and grades
- II. The time of calculation, for area A and B only
- III. Areas and categories
- IV. Concept of 50/50 old and new cases
- V. Score calculation of areas A & B
- VI. Score calculation of area C
- VII. Score calculation of area D
- VIII. Score, totaling, Overall and Grand
- IX. The Judicial Officer and District
- X. Comparative Performance
- XI. Explanation and glossary

I.

- (i) The *point scores* and *grades* are compatible as indicated above, i.e.,
 100 score = A1
 grade, 80 score = A grade, 60 score = B grade, 40 score = C grade
 and 20 score = D grade.
- (ii) The compatibility of *range scores* and *grades* is elaborated below:

Range score	Range grade
99.99-80.01	A+
79.99-60.01	B+
59.99-40.01	C+
39.99-20.01	D+
19.99-0.00	D-

II.

A Judicial Officer is required to calculate the pendency, number of cases for disposal from various applicable areas and categories on the commencing date of the DPEP. The purpose of such calculation is to know in advance about the required number of disposal of cases for achieving grades A1, A+, A, B+, B, C+, C, D+, D and D-. The change in the **available period** and/or **number of cases** necessitates recalculation.

III.

Cases are divided into four areas on the basis of date of institution. The four areas are: A, B, C and D, denoting Oldest plus Older Cases, Old Cases, New Cases Backlog and New Cases, respectively.

The Oldest	Pre-2001 year
The Older	Post-2000 to Pre-2006
The Old	Post-2005 to Pre-2009
The New cases backlog	New Cases not disposed of within available period.
The New	Post-2008.

Cases are also divided into categories on the basis of the relevant laws. Disposal is required in each applicable area and category to achieve the desired score.

IV.

It is a sort of guide lines for achieving the NJP target of simultaneous disposal of Old and New cases; and concentrating on one type of cases at the cost of other be avoided. The concept of 50/50 particularly attracts when the targets of disposal of cases could not be achieved; then 50/50 ratio must be observed. Otherwise when proportionate disposal is made from Old (including Oldest and Older) and New Cases, culminating into achievement of targets at the end of available period, then no need of 50/50 arises at all.

V.

The score calculation is the outcome of multiplying actual disposal of cases by 100 divided by the result of (pendency divided by *available period*). Precisely:

$(\text{Disposal} \times 100) / (\text{Pendency} / \text{Available Period}) = \text{Score}.$

Illustration: the pendency is 122 cases, the available period is 7 months and disposal in a given month is 13 cases.

Formula:

$(\text{Disposal} \times 100) / (\text{Pendency} / \text{Available Period}) = \text{Score, inter convertible to grade}$

Putting data in formula: $(13 \times 100) / (122/7)$
 $= 1300 / (122/7)$
 $= 1300 / 17.428571429$
 $= 74.590$
 $= \text{B+}$

These cases are to be disposed of in the available period as provided. For the purpose of **disposal**, the **pendency** of both areas is to be counted together. But preference should be given to disposal of the oldest cases followed by older.

The pending cases in these areas are required to be fully disposed of within the available period. The modality is to dispose of cases in equal proportion each month, which is equivalent to A1 grade/100 score. The deficiency from this level will be proportionately counted to lower score.

Illustration: The total pendency is 122 cases. The available period is 5 months. The total number of cases, i.e. 122, is to be divided by the

available period of time in months, i.e.5: $122/5=25$ approximate. The disposal at this rate per month is equal to grade A1/score 100. The deficiency, from this level, in disposal will be proportionately calculated to ascertain the grade/score concomitant with the actual disposal achieved. To further clarify, if disposal is 18 cases, then proportionately, it is equal to grade B+/72 score.

The Judicial Officer is never required to cross 100 score, as the score above 100 will never be counted towards the credit under the formula. The reason is to rationalize the disposal in various *areas* and *categories*. Disposal above 100, however, will reduce the pendency and base for disposal, resulting into lesser requirement for achieving the higher grader/score.

For example, the pendency is 100 and the available period is 10 months. In the given circumstances, it is required to dispose of 10 cases a month to achieve 100 score. If the disposal is 60 in the first month, even then the score will be 100. But from the next month onward, the disposal of only 5 cases a month will earn 100 scores.

VI.

The cases in this area are those which: (i) at the start of the policy have already consumed its available period and (ii) are instituted after the enforcement of the policy, but not disposed of within the available period. There is no possibility of institution in area C, but it continuously receives influx from area D when the cases are not disposed of within the available period. The influx (reflected in area C) from area D remains in incubation for that month. The area C cases require immediate disposal, having already consumed its available period when in area D. Practically, a month will be in hand for disposal as performance statement is prepared on monthly basis. The existence of higher pendency in this area reflects negatively on performance. **The pendency is taken as base against which disposal is counted in percentage, which is equivalent to score.**

VII.

The cases in this area are to be disposed of within the available period. During the available period, the score for each month in each applicable category will be recorded 100 by default.

If cases are not decided within the available period (i.e. the number of cases not disposed of within available period), the percentage of such cases is to be calculated on the basis of total pendency in the applicable

category. This percentage is deducted from the default 100 and the result is the score for that particular month.

Illustration:

A number of 10 **rent** cases instituted on 01/01/2010 (**first ten**), followed by 10 cases each on 01/02/2010 (**second ten**) and 01/03/2010 (**third ten**). The available period for the disposal of rent cases is 4 months. The 100 score is awarded until the end of 30/04/2010, irrespective of the disposal. If the **first ten** are decided till 30/04/2010, the score will still remain 100 for no disposal from the **second ten** and **third ten**. If on 01/06/2010, some of the cases, say **5**, remain not disposed of from the second ten, the total pendency in category of rent cases stands **15**. The percentage of **5** cases on the basis of **15** is equal to 33.33. This percentage of 33.33-100(default score) =66.67 is the score for the month.

VIII.

The scores are recorded in columns of **Score of Areas A, B** and **Score of Areas C, D** of the proforma, regarding each applicable category. The sum up score of all applicable categories is divided by number of applicable categories which is reflected at the bottom of these columns.

These scores automatically get summed up and divided by number of applicable categories.

The Overall Score:

Both the above figures of total score are added, and then divided by 2(due to 2 scores/ columns) for ascertaining the Overall Score Civil or Criminal ----- reflected in the relevant cell of the Proforma.

If both civil and criminal works are applicable then the Overall Score of DPEP (P-II) is added with Overall Score of DPEP (P-I) for Grand Score.

The progressive periodic/ yearly disposal performance will also be calculated. The required disposal for that period/year will be ascertained and compared with out put of a judicial officer; the proportionate disposal will be his score for the period/year.

The Grand Score Calculation in context of per working day:

The Score of Judicial Officer will also be calculated in terms of per working day which will show his out put accordingly. In this respect:

- a. The touring day will be considered as half working day when actual traveling is involved.

- b. The official meeting day required under law or directive of High Court will be treated as half working day
- c. Senior Civil Judge will have three (3) discounted days for administrative work i.e. three days in a month will not be counted for judicial work.

N.B. The per working day performance will be used for specific purposes by the High Court to ensure equal treatment to all Judicial Officer, but the achievement of disposal targets per month according to policy will have the prime consideration.

IX.

The realization of DPEP essentially requires equalization of pendency, administrative support and close coordination with High Court and even Supreme Court for which the role of District and Sessions Judge may be transformed. His evaluation to be made on the basis of over all out come of a district in following manner:

- a. The pendency of a district as a whole will be taken as a base, against which disposal will be measured.
- b. The **Final Grand Score i.e. Civil plus Criminal Cases, Performance** of a district will be the out come of summation of Civil and Criminal cases disposal of a district.
- c. The performance of a District and Sessions Judge will be based on 40% of his court disposal and 60 % on the disposal of a district.

The information about monthly, progressive periodic/yearly disposal performance will be provided from time to time.

X.

There are numerous variable effecting the disposal performance, but pendency per judge is one of the most important. The posting/ transfer, due to administrative consideration, can not be made in such a manner to equalize the pendency per judge in each district. So, comparison is made between judicial officers of districts having matching pendency per judge. As regarding equalization or rationalization of pendency among the judges within the district is concerned that is the responsibility of District and Sessions Judge. Need not to mention that his disposal performance is linked with result of the district, so he has to optimize the disposal performance of the district.

XI.

- i) DPEP may be read with NJP and revised NJP, 2009.
- ii) The Chronological List-I of Civil Cases and Chronological List-II of Criminal Cases, per format, is required for calculation of age of a case.
- iii) DPEP to be revisited periodically for out put optimization.
- iv) Dismissal in default will not be counted towards disposal for the purpose of grading.
- v) The number of Remanded cases will be kept watch on.
- vi) The available period, shorter than the NJP, provided under any law, rule or regulation, for instance in Malakand Area, is to be observed as available period.
- vii) The assessment of performance shall be judicial officer specific and not court specific. The judicial officer posted in different courts shall carry with him his performance in different courts. Similar is the case of D&SJ posted in different districts.
- viii) Final judgment case: There is no requirement of number of contested cases (as used and required in Unit Policy). Therefore, a new terminology has been introduced with the name “Final Judgment Case”, which reflects in all DPEP proformas. The purpose is to collect only data to see how much final judgment cases are decided by an individual judicial officer which shall be considered for incentive and reward policy, likely to be revamped in the light of DPEP and shall also be considered in final weightage of inter-district and inter-judicial officer competition.
- ix) In DPEP Proformas the omnibus categories entries, like cases punishable up to 7 years and above 7 years will include only those cases not fitting in any other category. One case be mentioned only once, giving preference to special category.
- x) The DPEP Proformas statement will be required on monthly basis; and may be tried to match with NJPMC fortnightly statement.
- xi) The “Others” in DPEP form includes only cases and miscellaneous matters should never be entered in this row.
- xii) For calculation purpose some of the figures have been rounded.
- xiii) Score and grade are interchangeable.

Glossary

- a. **Applicable Category:** The category in which Case/Appeal/Review/ Revision/ legal matter(s), are available for a particular Court. The number of cases in applicable categories to be traced from last

balance of January 2010 (when Unit Policy was in Place) to pendency/ opening cases of February(when DPEP was introduced), so that consistent transition is ensured.

- b. **Area:** The age group of cases i.e. Old Cases Backlog, Old Cases, New Cases Backlog and New Cases. These are described horizontally in DPEP Proformas.
- c. **Available Period:** The time in which Cases are required to be disposed of according to statute, NJ Policy or otherwise directed.
- d. **Category:** The nature of Case/Appeal/Review/ Revision/ legal matter, specifically falling under some provision of law. These are described vertically in DPEP Proformas.
- e. **Conversion:** The transformation of Grade in to Score for calculation purpose. For instance, A1, A, B, C and D(grades) will be equivalent to 100, 80, 60, 40 and 20 (score)
- f. **Final Judgment Case:** The case decided after full trial by recording full evidence followed by judgement.
- g. **Fix Point Grade:** Disposal performance representation, connoted as A1, B, C and D
- h. **Fix Point Score:** The fix point scores are 100, 80, 60,40 and 20.
- i. **Grade:** Includes fix point grade and range grade.
- j. **Provincial District Grade/Score (PD):** Grades converted into No. of cases divided into number of judges for provincial position of inter district.
- k. **Provincial Judicial Grade/Score (PJ):** Grade/Score obtained after converting grades into N o. of cases.
- l. **Range Grade:** Disposal performance representation, connoted as A+,B+,C+,D+ and D-.
- m. **Range Score:** The score range A+ is (between 100 to 80), B+ (between 80 to 60), C+ (60 to 40), D+ (between 40 to 20) and D- (between 20 to 0).
- n. **Re-Conversion:** The reverse of Conversion for ascertaining Grade after calculation of Score.
- o. **Score:** Includes both fix point score and range score.

Instructions for Proforma:

1. The performance evaluation calculations are based on soft proforma but for record purpose the judicial officers will also submit a signed hard copy. The hard copy should be print out of soft copy.

2. Before entering the proforma it is required to provide the relevant data to the control centre. After filling the proforma the check shall be checked for the inconsistency in entries the proformas.
3. The relevant proformas are programmed for auto calculations. The grey color cells require no manual entry nor is it possible. In all relevant white cells, entries are to be made manually in the soft proforma to be uploaded officially. The black area is blocked. The filling should be made in such a manner that there is no red color which indicate the inconsistency in entries.
4. In the proforma, Areas are shown horizontally, while Categories are laid down vertically.
5. New/ Area D Cases not disposed of within available period form influx for New Cases Backlog/ Area C, are to be manually summed up with pendency of Area C in the next month. In Area C the disposal is counted against the pendency and not against the number of cases in the influx column, but any disposal from the influx column is also credited.
6. The scores secured in area C and D are not reflected as such. The respective scores of the both is summed up and divided by 2; the result thereof is reflected in column of “Score of Areas C,D.”. If there be no cases in either of the areas then no summation and division by 2 takes place.
7. The PID, hosted on the web, must be entered for proper identification of the officers.
8. The Total working days will include the judicial and administrative working days etc.
9. Judicial working days are those in which judicial work of disposal of cases has been undertaken.
10. Non-JWD entry means those working days in which duty has been performed other than judicial work.
11. The categories have available period indicated with reference to National Judicial Policy, Statute or on analogy of combination of requirements. If shorter period for disposal is fixed under any law or

regulation, then that period be taken as available period e.g. the Sharia Nizam Adl Regulation in Malakand Division.

12. The cases and misc. matters should be entered in the proper register as indicated.
13. (i) the pending non-proceedings cases and (ii) the No. of Cases Converted to "Non Proceedings" (Parcha Yadasht, Stay of Proceedings, Sine die adjourned) are different from each other the former indicate the pending cases of this nature at the start of the month while the latter represents those cases which were normal at the start of the month but during the month converted to Non-Proceedings. In the next month the latter will be entered by summation in the former.
14. The No. of cases disposed of indicated in the column of "Total no. of cases disposed of (Area A+B+C+D)" including dismissal in default should **match** with manner of disposal, (ADR, Final Judgment, Ex-parte, Remanded, No. of cases disposed of u/s 249-A/ 265-K CrPC, No. of cases disposed of summarily, No. of Cases Disposed of During Jail Visit etc.). The cases dismissed in default should be entered in column of others (OS). Need not to say that dismissal in default is not taken as disposal for purpose of score. If, these disposal columns would not match then the relevant cell will be in red color.

Effective from 1-02-2010 and upgraded to new version (V 1.6)

- Judicial Estacode 2011

Explanation 1: "P" Refers to Para of NJ Policy 2009. St. refers to Statute. Explanation 2: The "Others" with Code "22-027" includes Cases not covered under the Categories. The mention of Miscellaneous Matters/ Applications/Petitions be entered in "Misc Ma

C.No. 4(1-5)

REVISED INCENTIVE AND REWARD POLICY

In view of the proposals of Judicial Officers during the recent visits of Hon'ble Chief Justice to various Districts, and to achieve the object of administering expeditious and qualitative justice more effectively, Hon'ble the Chief Justice and Judges of this Court are pleased to revise the Incentive and Reward Policy as under:-

1. Hon'ble Chief Justice or an Hon'ble Judge of the High Court, nominated by the Hon'ble Chief Justice, Member Inspection Team and Additional Members Inspection Team shall yearly inspect the courts of the District and Sessions Judges/Zila Qazis, the Additional District and Sessions Judges/Izafi Zila Qazis, and the Senior Civil Judges/Aa'la A'laqa Qazis/Civil Judges-cum-Judicial Magistrates/A'laqa Qazis, respectively, for assessing their performance on the following lines:-

2. Performance of the entire Judicial year (1st April to 31st March next) shall be assessed under this policy. The current Judicial year, for the purpose of this Policy shall, however, comprise 10 months, starting from 1st June, 2004.

3. There shall be the following three areas of assessment, to be evaluated in terms of points:-

- A. QUANTITATIVE PERFORMANCE**
- B. QUALITATIVE PERFORMANCE.**
- C. PERFORMANCE IN CASE AND COURT MANAGEMENT.**

A. QUANTITATIVE PERFORMANCE.

i.	Trial. (Contested)	.....	2 points.
ii.	Appeal. (Contested).	.....	1 point.
iii.	Revision. (Contested).	.....	½ point.
iv.	*Execution.	.....	1 point.
v.	*Objection Petition.	.....	1 point.
vi.	*ADR.	.....	1 point.
vii.	Target achievement under the Units Policy. (Per month).	.....	1 point
viii.	Target achievement under the Time Bound Delay Reduction Plan. (Per month).	.....	1 point.
	* Not applicable to Criminal Courts.		

B. QUALITATIVE PERFORMANCE**(a) JUDGMENT.**

i.	Concise statement of the case.	.....	5 points.
ii.	Incorporation of arguments.	.....	5 points.
iii.	*Decision on all issues of law, even if not pressed.	.....	5 points.
iv.	Appreciation of evidence.	.....	10 points.
v.	Reference to Statutory & Case law.	.....	5 points.
vi.	Grounds for decision and relief granted.	.....	10 points.
vii.	Clarity of expression and comprehensiveness.	.....	10 points.
	* Not applicable to Criminal Courts.		

(b) PROCEEDINGS.

viii	Proper framing of charge/issues.	.....	3 points.
ix.	Proper disposal of interlocutory matters, and precision in recording order sheet.	.....	5 points.
Total			58 points

C. PERFORMANCE IN CASE & COURT MANAGEMENT.

i.	Use of Checklist during all stages of proceedings	.....	10 points.
ii.	Case prioritization as per instructions of the High Court.	.....	10 points.
iii.	Timely issuance of processes, and follow up.	.....	10 points.
iv.	Maintenance of Registers, case files and Accounts	.....	10 points.
v.	Proper Correspondence.	.....	5 points.
vi.	Management of Library and Court Assets.	.....	10 points.
vii.	Maintenance of updated monthly chronological list, also showing stages, of all pending cases, both category-wise and combined.	.....	10 points.
viii	Proper levying of Court fee, stamp fee and process fee and maintenance of record thereof.	.....	10 points.
ix.	Timely consignment of Judicial record.	.....	10 points.

x.	Preparation of correct monthly & year-wise statements	10 points.
xi.	Quarterly Inspections.	5 points.
	Total	100 points.

FOR DISTRICT AND SESSIONS JUDGE/ZILA QAZI AND SENIOR CIVIL JUDGE/AA'LA A'LAQA QAZI (IN ADDITION TO ABOVE).

xii.	**Timely completion and proper maintenance of ACRs of Ministerial staff.	5 points.
xiii.	**Maintenance of updated seniority list of Ministerial staff.	5 points.
xiv.	*Timely submission of periodical statements.	10 points.
xv.	*Inspections/Surprise visits.	10 points.
xvi.	**Initiative and Leadership.	10 points.
xvii.	*Conducting proceedings of District Committees.	10 points.
xviii.	*Management/Maintenance of Record Room.	10 points.
	*Applicable to District and Sessions Judge/Zila Qazi only. **Applicable to both District and Sessions Judge/Zila Qazi and Senior Civil Judge/Aa'la A'laqa Qazi.	
	Total	60 points

4. While assessing the qualitative performance, mentioned in 2(B)(a) and 2(B)(b), at least 4 judgments (2 Civil and 2 Criminal) and 4 Cases (pending or decided) respectively, to be selected at random, shall be examined.

5. Consolidated judgments in more than 1 case shall be considered as 1 case/Trial for the purpose of this policy.
6. The term “**Contested**” would refer to the definition provided in the Revised Units Policy.
7. The term “**Trial**” used in 2(A)(i) would denote all kinds of Trial i.e. Civil, Criminal, Family, Rent, Tribunal cases and other Special Court cases, and includes disposal mentioned at Sr # 16 of A and Serial # 15 of C of the Revised Units Policy.
8. “**Execution**” mentioned in 2(A)(iv) above would denote execution, resulting in full/partial satisfaction of the decree through comprehensive execution proceedings.
9. Disposal through Alternate Dispute Resolution (ADR), mentioned in 2(A)(v) above would not include disposal through compromise without efforts of the Court.
10. The qualifying period of Judicial work for entering the competition shall be 6 months.
11. In case of posting of a Judicial Officer at different stations during the Judicial year, his/her performance at all the stations shall be assessed.
12. In order to rationalize the competition with the pendency of a particular Court, the quantitative performance of Judicial Officers of a particular category shall be evaluated inverse to the formula given in D(4) of the Revised Units Policy.
13. Quantitative performance shall be evaluated in respect of one particular month, the contested disposal whereof is nearest to the average monthly disposal of the whole year.
14. For the purpose of competition for reward, the Judicial Officers are categorized as follows:-
 - a. District and Sessions Judges/Zila Qazis.
 - b. Additional District and Sessions Judges/Izafi Zila Qazis.
 - c. Senior Civil Judges/Aa'la A'laqa Qazis.
 - d. Civil Judges/A'laqa Qazis.
 - e. Judicial Magistrates. (Exclusively).
15. The qualifying marks for entering the competition shall be as follows:-

a. District and Sessions Judge/Zila Qazi.....	135 points.
b. AD&SJ/Izafi Zila Qazi.....	110 points.
c. Senior Civil Judge/Aa'la A'laqa Qazi.....	110 points.

Working either exclusively as a Civil Court or as Magistrate as well.

- d. Civil Judge 105 points.
 e. Judicial Magistrates (Exclusively)..... 95 points.

16. (a) Rewards to the successful competitors shall be given as per table below: -

CATEGORY	POSITION	MONITOR Y REWARD	OTHER REWARD.
District and Sessions Judge/Zila Qazi.	1 st	Rs. 10000/-	Certificate & entry in ACR.
	2 nd	Rs. 9500/-	
	3 rd	Rs. 9000/-	
	4 th	Rs. 8500/-	
	5 th	Rs. 8000/-	

Additional District and Sessions Judge/Izafi Zila Qazi.	1 st	Rs. 9500/-	Certificate & entry in ACR.
	2 nd	Rs. 9000/-	
	3 rd	Rs. 8500/-	
	4 th	Rs. 8000/-	
	5 th	Rs. 7500/-	
	6 th	Rs. 7000/-	
	7 th	Rs. 6500/-	
	8 th	Rs. 6000/-	

Senior Civil Judge/Aa'la A'laqa Qazi.	1 st	Rs.8000/-	Certificate & entry in ACR.
	2 nd	Rs.7500/-	
	3 rd	Rs. 7000/-	
	4 th	Rs. 6500/-	
	5 th	Rs. 6000/-	

Civil Judge/A'laqa Qazi.	1 st	Rs. 7500/-	Certificate & entry in ACR.
	2 nd	Rs. 7000/-	
	3 rd	Rs. 6500/-	
	4 th	Rs. 6000/-	
	5 th	Rs. 5500/-	
	6 th	Rs. 5000/-	
	7 th	Rs. 4500/-	
	8 th	Rs. 4000/-	
	9 th	Rs. 3500/-	
	10 th	Rs. 3000/-	

Magistrate.	1 st	Rs. 7000/-	Certificate & entry in ACR.
	2 nd	Rs. 6500/-	

- (b) In case of tie for any position, except the last position, the position of competitors shall be determined by draw, subject to the maximum limits of rewards for each category. In case of tie for the 1st position, all the competitors falling in tie shall be entitled to certificate and entry in ACR. In case of tie for the last position, the reward shall be distributed among the competitors, equally.

(PHC letter No. 985-1008/MIT Dated 5th of June, 2004)

C.No. 5(1-5)

TIME-BOUND DELAY REDUCTION PLAN FOR DISPOSAL OF OLD CASES.

I am directed to refer to the subject noted above and to enclose herewith the subject plan of cases to be disposed of on or before specified target dates for which at least seven cases are to be heard on day to day basis so that the targets may be achieved conveniently.

The targets have been so planned as to not to affect the routine disposal of comparatively fresh cases which would continue as such. In case of transfer of old cases amongst the Judicial Officers, for any plausible reason, the priority and emphasis would not only travel with the case but would also be so adjusted as to ensure constant achievement of disposal of 4 old cases monthly.

(PHC letter No. DR/(ADMN)/HC/43-A-9/2002 Dated 3-7-2002)

C.No. 6(1-5)

TIME-BOUND DELAY REDUCTION PLAN FOR DISPOSAL OF OLD CASES.

I am directed refer to this Court letter # D.R./(Admn)/HC/43-A-9/2002 dated 5th July, 2002, on the subject noted above and to state that

Hon'ble the Chief Justice has been pleased to revise the subject Plan, to the effect that henceforth each District and Sessions Judge/Zila Qazi and Additional District and Sessions Judge/Izafi Zila Qazi shall decide monthly 3 out of 8 oldest cases(including Appeals) pending on his diary. Each Senior Civil Judge/A'ala A'laqa Qazi and Civil Judge/A'laqa Qazi shall decide monthly 4 out of 8 oldest cases pending on his diary, whereas each Judicial Magistrate shall decide monthly at least 3 out of 8 oldest cases on his diary. In case of a Judicial Officer working both as Civil Judge and Judicial Magistrate, he shall decide monthly at least 2 Civil and 2 Criminal cases out of 6 oldest Civil and 6 oldest Criminal Cases, on his diary. In the event of any of such cases not disposable for un-avoidable reasons, the same may be taken up for disposal in the next month, provided that no such old case shall be carried forward for disposal beyond 4 months in any case.

In case of non-achievement of targets, the relevant columns in the monthly statement must be filled in future by stating the reasons. Rectified Proformas are also attached herewith. The revised plan shall be effective from 1st September, 2003.

I am, therefore, to ask you to please circulate the revised plan amongst all the Judicial Officers of your respective District for information and compliance.

(PHC letter No. 9918-9941/Admn dated 18th August, 2003.)

C.No. 7(1-5)

TIME-BOUND DELAY REDUCTION PLAN FOR THE DISPOSAL OF OLD-CASES.

I am directed to refer to this Court letter No 9918-9941/Admn dated 18th August, 2003 on the subject noted above and to state that, in view of the increased administrative responsibilities of District and Sessions Judges/Zila Qazis and Senior Civil Judges/A'ala A'laqa Qazis, Hon'ble the Chief Justice has been pleased to further revise the subject plan as under:-

- a. The subject plan shall not apply to the District and Sessions Judges/Zila Qazis;

Provided that in those Districts where no Additional District and Sessions Judge/Izafi Zila Qazi is posted, the District and Sessions Judge/Zila Qazi shall decide 2 out of 6 oldest cases (including appeals) on his diary.

- b. A Senior Civil Judge/A'ala A'laqa Qazi shall decide monthly at least 3 out of 8 oldest cases on his dairy. In the case of a Senior Civil Judge/A'ala A'laqa Qazi working both as Civil Judge and Judicial Magistrate, he shall decide at least 2 Civil cases and 1 criminal case out of 6 oldest civil and 4 oldest criminal cases on his diary.
- c. The above plan shall be effective from 1st February, 2004.

(PHC letter No. 112-244/MIT, Dated 27-1-2004)

C.No. 8(1-5)

TIME-BOUND DELAY REDUCTION PLAN FOR DISPOSAL OF OLD CASES.

I am directed to refer to this Court letter # 9918-9941/Admn dated 18th August, 2003, (copy enclosed), on the subject noted above and to state that, in view of the units policy having been revised, Hon'ble the Chief Justice has been pleased to further amend the subject plan, to be effective from 1st June 2004, as under-

In the letter referred to above, for the figures, words and comma "2 Civil and 2 Criminal cases out of 6 oldest Civil and 6 oldest Criminal Cases," the figures and words "4cases out of 8 oldest cases" shall be substituted.

I am, therefore, to request you to please circulate the above amendment amongst all the Judicial Officers of your respective District for information and compliance.

(PHC letter No. 925-48/MIT Dated 25-5-2004)

C.No. 9(1-5)

TIME-BOUND DELAY REDUCTION PLAN FOR DISPOSAL OF OLD CASES.

I am directed to refer to the subject noted above and to forward the following consolidated subject plan, in supersession of all the previous directions issued from time to time in this behalf:-

1. Each District and Sessions Judge/Zila Qazi, in those Districts where no Additional District and Sessions Judge/Izafi Zila Qazi is posted, shall decide monthly 2 out of 8 oldest cases (including appeals) on his diary.
2. Each Additional District and Sessions Judge/Izafi Zila Qazi shall decide monthly 3 out of 8 oldest cases (including appeals) on his diary.
3. Each Senior Civil Judge/Aa'la A'laqa Qazi, whether working exclusively as such or both as Senior Civil Judge and Magistrate, shall decide monthly at least 3 out of 8 oldest cases on his diary.
4. Each Civil Judge/A'laqa Qazi, whether working exclusively as such or both as Civil Judge and Magistrate, shall decide at least 4 cases out of 8 oldest cases on his diary.
5. Each Magistrate shall decide at least 3 out of 8 oldest cases on his diary.
6. In the event of any of such cases, required to be disposed of in a month, but not decided for unavoidable reasons, the same may be taken up for disposal in the next month:
Provided that in no circumstances shall such old case be carried forward for disposal beyond 4 months.
7. In case of non-achievement of target, the relevant column in the monthly statement must be filled in by stating the reasons.

I am, therefore, to request you to please circulate this consolidated plan amongst all the Judicial Officers of your respective District for information and compliance.

(PHC letter No. 1068-91/MIT, Dated 8-7-2004)

CHAPTER-II (DISTRICT JUDICIARY)

SECTION-1 (JUDICIAL OFFICERS --- TERMS AND CONDITIONS OF SERVICE)

C.No. 1(2-1)

CONSTITUTIONAL AND LEGAL PROVISIONS ESTABLISHING DISTRICT COURTS AND TERMS AND CONDITIONS OF SERVICE OF JUDICIAL OFFICERS.

Article 175 of the Constitution of Islamic Republic of Pakistan, 1973.

(1) There shall be a Supreme Court of Pakistan, a High Court for each Province and such other courts as may be established by law.

Article 240. Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined-

- (a) in the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Majlis-e-Shoora (Parliament); and
- (b) in the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.-In this Article, "All-Pakistan Service" means a service common to the Federation and the Provinces, which was in existence immediately before the commencing day or which may be created by Act of Majlis-e-Shoora (Parliament).

Article 241. Until the appropriate Legislature makes a law under Article 240, all rules and orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution, continue in force and may be amended from time to time by the Federal Government or, as the case may be, the Provincial Government.

Section 5 of the NWFP Civil Servants Act, 1973: -

Appointment:- Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorised by the Governor in that behalf.

Section 26. Rules:- (1) The Governor or any person authorised by the Governor in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purposes of this Act.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

C.No. 2(2-1)

NWFP JUDICIAL SERVICE RULES, 2001

GOVERNMENT OF THE NORTH WEST FORNTIER
PROVINCE ESTABLISHMENT
AND ADMINISTRATION DEPARTMENT

NOTIFICATION

Dated Peshawar the 05/03/2002

No. SOR-IV (E&AD)/3-11/2002. In exercise of the powers conferred by section 26 of the North West Frontier Province Civil Servants Act 1973 and in supersession of the North West Frontier Province Senior Judicial Officers (Terms and Conditions of Services) Rules, 1979, the Governor of the North West Frontier Province 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 NORTH WEST FRONTIER PROVINCE
JUDICIAL SERVICE RULES, 2001

PART-1
GENERAL

1. **Short title and commencement:** (1) These rules may be called the North-West Frontier Province 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) “Administration Committee of the High Court” means Committee constituted under High Court Rules and Orders, volume-V, Chapter 10-A.
 - (b) “Chief Justice” means the Chief Justice of Peshawar High Court Peshawar.
 - (c) “Commission” means the North West Frontier Province Public Service Commission.
 - (d) “Departmental promotion committee” means the Committee constituted under High Court Rules and Orders Volume-V, chapter 10-A.
 - (e) “Government” means the Government of North West Frontier Province.
 - (f) “High Court” means Peshawar High Court Peshawar.
 - (g) “Initial appointment” means appointment made otherwise than by promotion or transfer from another service, department or post;
 - (h) “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;
 - (i) “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;
 - (j) “Selection Authority” means the Commission or, as the case may be, the Provincial Judicial Section Board; and
 - (k) “Service” means the North West Frontier Province Judicial Service.

- (l) “Contract” means appointment on contract basis for a specific period in accordance with the policy of Govt: applicable to appointment on contract basis.

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

Note:- The designation 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 North West Frontier Province.

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 Magistrate/Alaqa Qazi on the recommendation of 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 recommendation of Departmental promotion committee from amongst the holders of the post of Senior Civil Judge-cum-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 Additional
Public Prosecutors/Additional Government Pleaders;

- (d) appointment to a post of District and Sessions Judge/Zila Qazi shall be made by promotion on the recommendation 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;
- (e) appointment by initial recruitment to a post of Civil Judge-cum-Judicial magistrate/Alaqa Qazi shall be made on 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 one 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 North West Frontier Province 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, whichever 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 ten years or equal to the period of his/her actual service upto its termination whichever is less; and

- (ii) in case of initial recruitment as Additional District 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.

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 Advocate of Scotland.

Explanation – For the purpose of this clause, the expression “practiced the profession of law” shall include any period of government service by a person as Government Pleader, Public Prosecutor, Additional government Pleader or Additional Public Prosecutor on behalf of 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 North West Frontier Province.
- (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 the 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.

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 be prescribed by the High Court from time to time.
- (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, the High Court may dispense with his/her services, if he/she was not an employee of a department/organization or his/her lien has not been 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.

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 following conditions:

- (a) In the case of members 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 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 higher post, retained 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 the seniority in the interest of 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 a higher grader by superseding a Sr. officer and subsequently that officer is also

promoted, the officer promoted first shall rank senior to the officer promoted subsequently.

11. Pay Scales of members of the service: (1) The members of the Service shall have the following scales of pay, whether on in-cadre or ex-cadre posts:-

- | | | |
|-----|--|--------|
| (a) | Civil Judge-cum-Judicial Magistrate/Alaqa Qazi; | BPS-17 |
| (b) | Senior Civil Judge-cum-Judicial Magistrate empowered under section 30 Cr.P.C/Aala Alaqa Qazi (with not less than five years service in BPS-17 | BPS-18 |
| (c) | Additional District and Sessions Judge/Izafi Zilla Qazi; | BPS-19 |
| (d) | District and Sessions Judge/Zilla Qazi, with five years service as Additional District and Sessions Judge, in case of a person initially recruited as Additional District and Sessions Judge or seventeen years of service in BPS-17 and above, in all other cases; | BPS-20 |
| (e) | District and Sessions Judge/Zilla Qazi, with ten years service as Additional District and Sessions Judge and above, in case of a member initially recruited as Additional District and Sessions Judge, or twenty-two years of service in BPS-17 and above, in all other cases. | BPS-21 |
- (2) Promotion to the higher post/higher scale shall be made by the High Court on the recommendations of the Departmental Promotion Committee from amongst the senior most incumbents.
- (3) A member of the Service shall carry and retain his pay scale on transfer and posting against an ex-cadre post, unless a higher basic pay is allowed to him/her on such posting.

12. Liability to Transfer and Serve: Members of the Service shall be liable to:

- (a) transfer anywhere in the North-West Frontier Province;

- (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. **Saving:** Notwithstanding the repeal of the North-West Frontier Province Senior Judicial Officers (Terms and Conditions of Services) Rules, 1979, everything done, action taken, orders made, Notification issued, persons appointed, liability incurred or rights accrued, shall, so far it is not inconsistent with the provisions of these rules, continue in force and be deemed to have been done, taken, made, issued, appointed, incurred or accrued under these rules, unless altered, amended or suspended.

APPENDIX

SYLLABUS AND STANDARD FOR THE NORTH-WEST FRONTIER PROVINCE 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	Subjects	Maximum Marks
1	2	3
1.	English General and English Essay	100
2.	Urdu/Pushto Essay and General Urdu/Pushto Paper	100
3.	General Knowledge: a. Current Affairs and Everyday Science. b. Pakistan Studies	100 50
4.	Civil Law-I	100
5.	Civil Law-II	100
6.	Criminal Law.	100
7.	Islamic Jurisprudence	100
8.	Qanun-e-Shahadat 1984 and Pleading	100
9.	Viva-Voce	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. Deleted vide No. SOR-IV(E&AD)5-4/2006 dated 21st January, 2010.
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 the 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 secured 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 NORTH-WEST FRONTIER PROVINCE 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's 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 twenty marks for every day Science. Paper of Pakistan studies will be of Degree standard.
4. **Details of subject with respect to certain paper.** The following papers shall comprise the subject noted against each:
 - a **Civil Law Paper-I**
 - (i) Civil Procedure Code;
 - (ii) West Pakistan Civil Court Ordinance, 1962.
 - (iii) Contract Act;
 - (iv) Sales of Goods Act.
 - b **Civil Law Paper-II**
 - (i) Muhammadan Law/Islamic Law;
 - (ii) Registration Act;
 - (iii) Limitation Act;
 - (iv) Specific Relief Act.
 - c **Criminal Law**
 - (i) Pakistan Penal Code;
 - (ii) Criminal Procedure Code;

(iii) Hudood Ordinances.

d **Islamic Jurisprudence**

- (i) Pre-Islamic Arab Society
Evolution of the Islamic Legal system and sources of Islamic Law;
- (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 Ordinances, 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. Consideration will also be paid to these bearing and physique of the candidate.

C.No. 3(2-1)

**THE NWFP JUDICIAL SERVICE RULES, 2001
(SUBSTITUTED)**

TO BE SUBSTITUTED FOR THE NOTIFICATION
BEARING THE SAME NO. & DATE
GOVERNMENT OF THE NORTH WEST FRONTIER
PROVINCE ESTABLISHMENT DEPARTMENT

NOTIFICATION

Dated Peshawar the 05/03/2002

No. SOR-IV (E&AD)/3-11/2002. In exercise of the powers conferred by Section 26 of the North West Frontier Province Civil Servants Act 1973 (N.W.F.P 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 North West Frontier Province 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 NORTH WEST FRONTIER PROVINCE
JUDICIAL SERVICE RULES 2001

**PART-1
GENERAL**

1. **Short title and commencement:** (1) These rules may be called the North West Frontier Province 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) “Administration 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 Govt: applicable to appointment on contract basis.
- (c) “Chief Justice” means the Chief Justice of Peshawar High Court Peshawar.
- (d) “Commission” means the North West Frontier Province 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 North West Frontier Province.
- (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 Section Board; and
- (l) “Service” means the North West Frontier Province 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
- (c) Senior Civil Judge-cum Magistrate, empowered under section 30 Cr.P.C/ Aala Alaqa Qazi
- (d) Civil Judge cum Judicial Magistrate /Alaqa Qazi

Note –

The designation 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 North West Frontier Province.

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 Magistrate/Alaqa Qazi on the recommendation of 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 recommendation 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 Additional Public Prosecutors/Additional Government Pleaders;
- (d) Appointment to a post of District and Sessions Judge/Zila Qazi shall be made by promotion, on the recommendation 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;
- (e) Appointment by initial recruitment to a post of Civil Judge-cum-Judicial magistrate/Alaqa Qazi shall be made on 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 North West Frontier Province 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, whichever 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 ten years or equal to the period of his/her actual service upto its termination whichever is less; and
 - (ii) in case of initial recruitment as Additional District 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.

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 service by a person as Government Pleader, Public Prosecutor, Additional Government Pleader or Additional Public Prosecutor on behalf of 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 North West Frontier Province.
- (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 the 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.

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 services.
- (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 be prescribed by the High Court from time to time.
- (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 a department/organization or his/her lien has not been 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.

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 following conditions:

- (a) In the case of members 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 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 higher post, retained 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 the seniority in the interest of 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 a higher grader by superseding a Sr. 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/Isafi 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 North-West Frontier Province;
- (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 North West Frontier Province Senior Judicial Officers (Terms and Conditions of Service) Rules, 1979, are hereby repeated.

APPENDIX

SYLLABUS AND STANDARD FOR THE NORTH-WEST FRONTIER PROVINCE 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	Subjects	Maximum Marks
1	2	3
1.	English General and English Essay	100
2.	Urdu/Pushto Essay and General Urdu/Pushto Paper	100
3.	General Knowledge: c. Current Affairs and Everyday Science. d. Pakistan Studies	100 50
4.	Civil Law-I	100
5.	Civil Law-II	100
6.	Criminal Law.	100
7.	Islamic Jurisprudence	100
8.	Qanun-e-Shahadat 1984 and Pleading	100
9.	Viva-Voce	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. Deleted vide No. SOR-IV(E&AD)5-4/2006 dated 21st January, 2010.

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 the 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 secured 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 NORTH-WEST FRONTIER PROVINCE 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's 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 twenty marks for every day Science. Paper of Pakistan studies will be of Degree standard.

4. **Details of subject with respect to certain paper.** The following papers shall comprise the subject noted against each:

- | | |
|------------------------------------|---|
| a <u>Civil Law Paper-I</u> | (i) Civil Procedure Code; |
| | (ii) West Pakistan Civil Court Ordinance, 1962. |
| | (iii) Contract Act; |
| | (iv) Sales of Goods Act. |
| b <u>Civil Law Paper-II</u> | (i) Muhammadan Law / Islamic Law; |
| | (ii) Registration Act; |
| | (iii) Limitation Act; |
| | (iv) Specific Relief Act. |
| c <u>Criminal Law</u> | (i) Pakistan Penal Code; |
| | (ii) Criminal Procedure Code; |
| | (iii) Hudood Ordinances. |

- | | |
|---|--|
| <p>d <u>Islamic Jurisprudence</u></p> | <p>(i) Pre-Islamic Arab Society
Evolution of the Islamic Legal system and sources of Islamic Law;</p> <p>(ii) Importance of Qiyas, Istehsan, Istidlal, Ijtehad and Taqlid;</p> <p>(iii) Acts, Rights and Obligations;</p> <p>(iv) Ownership and Possession;</p> <p>(v) Contracts, Torts and Crimes;</p> <p>(vi) Procedure and Evidence;</p> <p>(vii) Constitutional and Administrative Laws and Relations between Muslims and Non-Muslims.</p> |
| <p>(e) <u>Qanun-e-Shahadat 1984 and Pleading</u></p> | <p>(i) Qanun-e-Shahadat 1984.</p> <p>(ii) Particulars of Plaints.</p> <p>(iii) Particulars of written statements;</p> <p>(iv) Drafting of Plaints and Written Statements.</p> |

Note: Except in case of Muhammadan Law/Islamic Law, Hudood Ordinances, 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. Consideration will also be paid to these bearing and physique of the candidate.

C.No. 4(2-1)

CASUAL LEAVE RULES OF JUDICIAL OFFICERS

The Rules on the subject of casual leave are to be found in paragraphs 10.3 to 10.10 of the Subsidiary Rules (Fundamental Rules Volume II). The original object of the casual leave was to enable an officer to leave his duty for a day or two to attend to an urgent private business without demitting the charge of his duties and thereby making it necessary to appoint some one to officiate in his place. This is still the idea which underlines the grant of casual leave, though the practice has been some what extended. Government servants are not entitled to casual leave as of right. It is entirely within the discretion of the sanctioning authority either to refuse or sanction leave. Undoubtedly, the sanctioning authority will use its discretion judiciously and take steps to ensure that the leave is allowed to the extent considered necessary and proper. In case leave is not sanctioned and the Judicial Officer concerned remains away, his absence is to be treated as unauthorized and he shall not be entitled to pay for that period. In addition, action can be taken against him, as willful absence amounts to 'misconduct'.

- 1). The District and Sessions Judges/Additional District and Sessions Judges are entitled to a total period of 25 days casual leave during a year commencing from the 15th of April. They can ordinarily have only one period of casual leave exceeding 07 days but not exceeding 15 days at a time during the leave year.
- 2). The District and Sessions Judges/Additional District and Sessions Judges are to apply to the High Court, whatever be the number of days, for which casual leave is required by them.
- 3). The period during which any Judicial officer of the rank of a District and Sessions Judges/or an Additional District and Session Judge, remains absent from court, but not from the headquarters, on account of illness, shall be reported to the High Court even if this does not exceed four days, so that a separate account of such absences may be kept, though this period is not to be debited to the leave account of the officer concerned. Should the period of absence from court, on account of sickness exceeds four days, the total period of such absence will be debited to the casual leave account of the Officer concerned subject to admissibility of the causal leave.

4). The District and Sessions Judges/Additional District and Sessions Judges if need urgently a short leave up to a period of 04 days and orders of the High Court are not received in time, the Officer may proceed on leave in anticipation of sanction, if the object for which leave is desired would be otherwise defeated.

5). Casual leave may not be combined with the summer vacation leave granted to the District and Sessions Judges/Additional District and Sessions Judges and ordinarily casual leave is not to be granted to them so as to end or begin less than a week before or after the summer vacation.

6). The total amount of casual leave allowed to the Senior Civil Judges/Civil Judges is also 25 days. They are eligible to have one period of casual leave exceeding 04 days but not exceeding 15 days during summer i.e. from 15th of April to 14th of October and another period exceeding 04 days but not exceeding 10 days during the winter i.e. from the 15th of October to 14th of April.

7). In the case of casual leave granted to the District and Sessions Judges/Additional District and Sessions Judges and Senior Civil Judges/Civil Judges holidays may not be prefixed or affixed to casual leave but one Sunday either at the beginning or end of the leave may be combined with it. All other holidays shall be included in the period of leave taken but such holidays will not, however, be counted as casual leave enjoyed.

Casual leave may not be combined with the vacation of subordinate courts and ordinary casual leave is not to be granted so as to end or begin less than a week before or after the vacation.

8). When submitting application for grant of casual leave, the judicial officers are required to state the purpose for which the leave is required, as well as to make a report about the arrangement which have been made for dealing with the cases, if any fixed during the period of leave.

9). When an application for a period of casual leave exceeding 04 days is submitted to the High Court, the following form must invariably accompany it with all details filled in by the District and Sessions Judges concerned and duly signed by them:

i. Application for casual leave by _____

ii. Leave asked for _____ days, from _____ to _____

iii. (a) Gazetted holidays before _____

Gazetted holidays after _____

(b) Local holidays before _____

Local holidays after _____

iv. Number of times leave in excess of 04 days at a stretch has already been taken since 15th April _____

v. Total leave taken prior to present application since 15th April _____

vi. Place where leave will be spent _____

vii. Pending files on the date of application.

Appeals _____

Regular suits (each class to be stated separately)

Small cause court suits _____

Insolvency and guardianship cases _____

Executions (regular and small cause separately)

10). Those Civil Judges who exercise the criminal powers will not be granted casual leave, save for really urgent reasons, for the grant of such leave may involve the adjournments of the hearing of important criminal cases. In all cases where a Civil Judge who exercises criminal powers is granted leave, the District Magistrate concerned must be informed.

11). When casual leave is granted to a Senior Civil Judge / Civil Judge who is responsible for the control of monetary transactions by Nazirs or Naib-Nazirs, such Civil Judge must within a week of his return from casual leave forward a certificate to the District and Sessions Judge that he has carefully scrutinized the records of all the transactions which took place in his absence and he has satisfied himself that no irregularities were committed.

12). Applications for casual leave should be submitted well in advance from the date it is wanted and care must be taken that no case is fixed for hearing during the period of absence of leave. The District and Sessions Judges should generally refuse to forward applications for casual leave which are not made in an ample time to permit a reply from the High Court in the ordinary course, unless urgency is proved, unless this condition is fulfilled such applications will be summarily rejected when received in the High Court.

13). Casual leave for which the sanction of his Lordship the Chief Justice is necessary, should not be granted by the District and Sessions Judges in 'anticipation of sanction' save in cases of grave urgency, where casual leave has been sanctioned by his Lordship, the Chief Justice no subsequent change of dates should be permitted by the District and Sessions Judges without the previous permission of sanctioning authority. Such applications should, however, be discouraged in view of the dislocation of work and inconvenience and expenses which they entail to all concerned.

14). All applications for casual leave by Judicial Officers must state the place where the applicant proposes to spend his leave. The giving of address would not be sufficient but an address of urgent correspondence should always be left with the District and Sessions Judges, by Senior Civil Judges/Civil Judges and in his office by the District /Additional District and Sessions Judges.

15). When an officer is compelled by the circumstances to ask for the grant of casual leave by telegram, he should in no case forward postage stamps to meet the costs involved. The cost of the telegram sent in reply will always be intimated to him and he should thereupon make the necessary deposit in the local treasury informing the High Court (through proper channel), that this has been done.

16). The District and Sessions Judges are empowered to grant casual leave not exceeding 04 days at a time to the Civil Judges under their control, provided where the period of such leave exceeds the limit of 04 days, the High Court shall alone be competent to grant the leave.

17). The District and Sessions Judges may absent themselves from their divisions on gazetted holidays without previous reference to the High Court provided that:

- i. They do not leave their court earlier or return later than the regular hours.

- ii. Their judgments are not in arrears.
- iii. They report the actual period of absence, specifying the dates, to the Registrar, Peshawar High Court, Peshawar.
- iv. they certify that the holidays are not spent outside their home districts in the N.W.F.P.

18). No Civil Judge may leave his headquarter during the casual leave or holidays except with the permission of the sanctioning authority.

19). It is the primary duty of the Clerk of Court of the Sessions Courts to see that the casual leave applications of the Judicial Officers are quite in accordance with the rules and if not they may be got corrected accordingly and then forwarded to the High Court for necessary action, otherwise they will be held responsible for their negligence and will be exposed to disciplinary action.

(With covering letter PHC letter No. 1764-181 dated 18-4-1974)

C.No. 5(2-1)

INSTRUCTIONS REGARDING CASUAL LEAVE BY THE JUDICIAL OFFICERS

I am directed to refer to the subject noted and to say that the Competent Authority has taken serious view of the escalating trend of casual leave in anticipation of sanction by the Judicial Officers and the practice of clubbing casual leave with holidays.

While reviewing instructions on the subject circulated vide this Court's letter No. 1764-181 dated 18th April, 1974, in order to check the availing of casual leave in anticipation of sanction and to streamline the matters connected thereto, the Competent Authority has been pleased to direct that: -

1. Henceforth no Judicial Officer shall leave the station **prior to sanction** of leave sought for, except in acute emergencies, to be verified by the District & Sessions Judge concerned.
2. The purpose of casual leave, short leave or permission to leave the station shall **clearly and specifically** be mentioned in the relevant space of the leave form, mentioned hereinafter.

3. Before proceeding on casual leave, Judicial Officers must ensure the compliance of **Rule 4 Chapter I-K Vol-I** of the High Court Rules & Orders, which is reproduced hereunder: -

“On the occurrence of an unexpected holiday or the unexpected absence of an Officer, the Presiding Officer, before his departure or before finishing the work on the day preceding the holiday, should himself fix fresh dates of hearing in his Peshi Register for the cases fixed for the day in question. The Register should then be made over to the Reader of the Court, or in the case of holiday to a selected Reader, who should be made responsible for informing all parties and witnesses of the adjournments given on their coming to attend the closed Court or Courts.

Whenever the Presiding Officer has obtained leave in advance, he should, as soon as possible, fix fresh dates in the cases fixed for the date for which he has obtained leave, and should issue notices to parties, their counsel and witnesses on the dates fixed”.

4. Proceeding of several Judicial Officers on casual leave at a time from a station shall be discouraged.

5. Applications from Senior Civil Judges and Civil Judges-cum-Judicial Magistrates for leave upto 4 days shall be submitted on the enclosed Form ‘A’, to the District Judge who shall send it through Fax to this Court the same day, after endorsing his orders thereon.

6. The casual leave applications in respect of District & Sessions Judges and Additional District & Sessions shall be submitted on the enclosed Form ‘B’ through fax, which shall be faxed back to the concerned District the same day after obtaining the orders of the Leave Sanctioning Authority thereon.

7. In cases, where the leave sought for by Senior Civil Judges and Civil Judges exceeds 4 days, such applications shall be submitted on enclosed Form ‘C’ and shall be processed by the District & Sessions Judge as per procedure provided for Form ‘B’.

8. The District & Sessions Judge concerned shall maintain proper casual leave account of each Officer, to be indicated on each form, submitted for the purpose.
9. The aforementioned forms shall also be used for short leave and permission to leave the station, with the same procedure.
10. Short leave shall not be for more than **two hours** in any case.
11. Forms are also available at
www.peshawarhighcourt.gov.pk/district_judiciary.html.

PESHAWAR HIGH COURT, PESHAWAR FORM "A"								
Name of Officer	<div style="border: 1px solid black; height: 20px;"></div>							
Designation with place of posting	<div style="border: 1px solid black; height: 20px;"></div>							
Leave sought for *	<div style="border: 1px solid black; height: 20px;"></div>							
Days for which Leave required (for casual Leave only)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 33%; text-align: center;">No. of days</th> <th style="width: 33%; text-align: center;">From</th> <th style="width: 33%; text-align: center;">To</th> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> </table>	No. of days	From	To				
No. of days	From	To						
Purpose	<div style="border: 1px solid black; height: 30px;"></div>							
		Signature of the Officer <div style="border: 1px solid black; height: 30px; width: 150px; margin: 0 auto;"></div>						
No. _____		Dated _____.						
Forwarded Please.		SENIOR CIVIL JUDGE <div style="border: 1px solid black; height: 15px; width: 150px; margin: 0 auto;"></div>						
F O R - O F F I C E - U S E								
No. _____		Dated _____.						
Leave Account (for casual leave only)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 33%; text-align: center;">Previous Balance</th> <th style="width: 33%; text-align: center;">This Leave</th> <th style="width: 33%; text-align: center;">Remaining Balance</th> </tr> <tr> <td style="height: 20px;"></td> <td></td> <td></td> </tr> </table>		Previous Balance	This Leave	Remaining Balance			
Previous Balance	This Leave	Remaining Balance						
Orders of the Leave Sanctioning Authority.	<div style="border: 1px solid black; height: 40px; width: 150px; margin: 0 auto;"></div>							
		DISTRICT & SESSIONS JUDGE <div style="border: 1px solid black; height: 15px; width: 150px; margin: 0 auto;"></div>						
<i>Casual Leave, Short Leave, Permission to Leave the Station.</i>								

FORM "B"			
Name of Officer	<div style="border: 1px solid black; height: 20px;"></div>		
Designation with place of posting	<div style="border: 1px solid black; height: 20px;"></div>		
Leave sought for *	<div style="border: 1px solid black; height: 20px;"></div>		
Days for which Leave required (for casual Leave only)	No. of days	From	To
	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>
Purpose	<div style="border: 1px solid black; height: 30px;"></div>		
Signature of the Officer <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px auto;"></div> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px auto;"></div> <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px auto;"></div>			
No. _____	Dated _____.		
<i>Forwarded to Registrar, Peshawar High Court, Peshawar.</i>		DISTRICT & SESSIONS JUDGE <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px auto;"></div>	
F O R - O F F I C E - U S E			
No. _____	Dated _____.		
Leave Account (for casual leave only)	Previous Balance	This Leave	Remaining Balance
	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>
Orders of the Leave Sanctioning Authority.	<div style="border: 1px solid black; height: 40px;"></div>		
REGISTRAR, Peshawar High Court, Peshawar.			
<small>* Casual Leave, Short Leave, Permission to Leave the</small>			

**PESHAWAR HIGH COURT, PESHAWAR
FORM "C"**

Name of Officer

**Designation with place
of posting**

**Days for which
C/Leave required**

No. of days	From	To
<input type="text"/>	<input type="text"/>	<input type="text"/>

Purpose

Signature of the Officer

No. _____

Dated _____.

*Forwarded
Please.*

**SENIOR CIVIL
JUDGE**

No. _____

Dated _____.

**Leave
Account**

<i>Previous Balance</i>	<i>This Leave</i>	<i>Remaini ng Balance</i>
<input type="text"/>	<input type="text"/>	<input type="text"/>

*Forwarded to Registrar,
Peshawar High Court,
Peshawar.*

**DISTRICT &
SESSIONS JUDGE**

FOR - OFFICE - USE

No. _____

Dated _____.

*Orders of the Leave
Sanctioning Authority.*

**REGISTRAR,
Peshawar High Court,
Peshawar.**

C.No. 6(2-1)

INSTRUCTIONS REGARDING CASUAL LEAVE BY THE JUDICIAL OFFICERS

I am directed to refer to the instructions issued vide this Court's letter No. 12258-12281/Admn dated 27th October, 2004 and to say that the Competent Authority is pleased to further issue the following instructions, on the subject, for compliance by all concerned: -

1. Casual leave may be clubbed with Sundays falling either at the beginning or at the end of such leave.
2. Practice of mentioning vague sentences and stereotype phrases, as purpose for leave shall be avoided.
3. The forms 'A, B & C' shall be sent to the High Court through fax only. It shall not follow the dispatch of the original form by post.

(PHC letter No. 87-177/Admn Dated 4.1.05)

C.No. 7(2-1)

SENIOR CIVIL JUDGES, CIVIL JUDGES AND THEIR ESTABLISHMENT AS A VACATION DEPARTMENT

LEAVE

ANNEXURE I.

[See Rule 8.60 of Civil Services Rules (Punjab) Volume-I Part-I]

1. A vacation department is a department, or part of a department, to which regular vacations are allowed during which Government servants serving in the department are permitted to be absent from duty.
2. (i) The following classes of Government servants serve in vacation departments when the conditions of paragraph I above are fulfilled:--
 - a. Educational officers, other than the Director of Public instruction and Inspecting officers and their establishments.

- b. Judicial officers of rank not higher than that of subordinate Judge and their establishments.
- c. Any other class of Government servant which a competent authority may declare to be so serving.
- (ii) In case of doubt, a competent authority may decide whether or not a particular Government servant is serving in a vacation department.

Note. 1- District and Sessions Judges may, with the express permission of the Hon'ble Judges of the High Court, Lahore, avail themselves, without prejudice to their regular leave, of so much of the vacation during the month of September as is not needed for the disposal of Criminal business: provided that suitable arrangements, with the approval of the High Court, can be made for the disposal of work and that the State is not put to any additional expenditure in the way of telegraph, postal or other similar charges. Vacation in their case shall be treated as recognized holidays.

Note. 2- A complete list of Government servants serving in vacation departments is given in Appendix 18.

C.No. 8(2-1)

**REPRESENTATION AGAINST ADVERSE REMARKS IN
PERFORMANCE EVALUATION REPORT OF JUDICIAL
OFFICERS TO BE DECIDED BY THE HIGH COURT**

Please refer to your D.O. letter No. 39-72/PS dated the 16th March, 1972 regarding representation made by District/Additional District and Sessions Judges for expunction of adverse remarks in their Character Rolls.

2. On reconsideration, the Governor, NWFP desires that the representation by the affected persons may be decided by the High Court itself.

3. The representation enclosed with your letter quoted above alongwith the Character Rolls of the officers concerned are returned herewith.

(Government of NWFP D.O.NO. PS /CS- NWFP-72/236 Dated Peshawar the March 17, 1972) ... ADDRESSED TO HIGH COURT

C.No. 9(2-1)

**THE NWFP SUBORDINATE JUDICIARY SERVICE
TRIBUNAL ACT, 1991**

1. Short title application and commencement:- (1) This Act may be called the North-West Frontier Province Subordinate Judiciary Service Tribunal Act, 1991.

(2) It shall apply to all members of subordinate Judiciary wherever they may be.

(3) It shall come into force at once.

2. Definition: In this Act, unless the context otherwise requires:-

- (a) “Chairman” means the Chairman of the Tribunal;
- (b) “Government” means the Government of the North-West Frontier Province;
- (c) “Governor” means the Governor of the North-West Frontier Province;
- (d) “Member” means a Member of the Tribunal and includes the Chairman;
- (e) “Members of Subordinate Judiciary” means and includes all the Judicial Officers under the administrative control of the Peshawar High Court;
- (f) “Tribunal” means the Service Tribunal established by this Act and includes a Bench thereof.

3. Tribunal:- (1) The Governor may by Notification in the Official Gazette establish a Service Tribunal for the North-West Frontier Province.

(2) The Tribunal shall have exclusive jurisdiction in respect of matters relating to terms and conditions of the service of members of Subordinate Judiciary including disciplinary matters.

(3) The Tribunal shall consist of four sitting Judges of the Peshawar High Court to be nominated by the Chief Justice of whom the senior most shall be the Chairman.

Provided that Judge against whose orders an appeal is preferred shall not be member of the Tribunal.

4. **Constitution of Benches:-** (1) Notwithstanding anything contained in Section 3, Chairman may constitute a Bench consisting of two Members with or without the Chairman and when so constituted a Bench shall be deemed to be a Tribunal.

(2) If a Bench is unable to arrive at an unanimous decision in an appeal, the matter shall be referred to any one of the remaining two Members of the Tribunal as the Chairman may determine and the decision of the Tribunal shall be expressed in terms of the opinion of the majority.

(3) The Chairman may at any stage of hearing of an appeal withdraw it from the Tribunal and entrust it to a Bench or may withdraw any appeal pending before a Bench and make it over to another Bench or to the Tribunal.

5. **Appeal to Tribunal:-** Any member of Subordinate Judiciary aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the Tribunal, whichever is later, prefer an appeal to the Tribunal.

Provided that-

(a) where an appeal, review or representation to a departmental authority is provided under the North-West Frontier Province Civil Servants Act, 1973 (NWFP Act XVIII of 1973), or any rules against any such orders, no appeal shall lie to the Tribunal unless the aggrieved person has preferred an appeal or application for review or representation to such departmental authority and a period of ninety days has elapsed from the date on which such appeal, application, or representation was so preferred;

(b) no appeal shall lie to the Tribunal against an order or decision of a departmental authority determining-

(i) the fitness or otherwise of a person to be appointed to or hold a particular post or to be promoted to a higher post; or

(ii) the quantum of departmental punishment or penalty imposed on a member of Subordinate Judiciary as a result of departmental inquiry, except where the penalty imposed is dismissal from service, removal from service or compulsory retirement or any minor penalty as defined in the rules.

Explanation:-In this section “Departmental Authority” means the authority, other than a Tribunal which is competent to make an order in respect of any of the terms and conditions of service of members of Subordinate Judiciary.

6. Powers of Tribunal:- (1) The Tribunal may, on appeal, confirm, set aside, vary or modify the order appealed against.

(2) The Tribunal shall for the purpose of deciding any appeals, be deemed to be a Civil Court and shall have the same powers as are vested in civil court under the Code of Civil Procedure, 1908(Act V of 1908), including the powers of-

- (a) enforcing the attendance of any person and examining him on oath.
- (b) compelling the production of documents; and
- (c) issuing commission for the examination of witnesses and documents.

(3) No court fee shall be payable for preferring an appeal to or filing, exhibiting or recording any document in, or obtaining any document from a Tribunal.

7. Limitation:- The provisions of Section 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall apply to appeals under this Act.

8. Transfer of Appeal:- All appeals pending before the Tribunal established under the North-West Frontier Province Service Tribunal Act, 1974 (NWFP Act I of 1974), relating to members of Subordinate Judiciary shall stand transferred to the Tribunal established under this Act.

9. Rules:- The Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Act.

10. Repeal:- The North-West Frontier Province Subordinate Judiciary Service Tribunal Ordinance, 1991 (NWFP Ord. No.III of 1991) is hereby repealed.

C.No. 10(2-1)

**NWFP SUBORDINATE JUDICIARY SERVICE TRIBUNAL
RULES, 1992**

1. Short title and commencement:- (1) These rules may be called the North-West Frontier Province Subordinate Judiciary Service Tribunal Rules, 1991.

(2) They shall come into force at once.

2. Definition:- 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) “Act” means the North-West Frontier Province Subordinate Judiciary Service Tribunal Act, 1991 (NWFP Act No. VIII of 1991);
- (b) “Chairman” means the Chairman of the Tribunal.
- (c) “Member” means a member of the Tribunal.
- (d) “Registrar” means the Registrar of the Tribunal, and includes any other person authorized by the Tribunal to perform the duties and functions of the Registrar under these rules; and
- (e) “Tribunal” means the Tribunal established under section 3 of the Act and includes a Bench constituted under section 4 thereof.

3. Working hours:- The Tribunal shall observe such hours of sitting as it may determine.

4. Holidays:- The Tribunal shall observe such holidays as are notified by Government, and such local holidays as are observed by the Peshawar High Court, Peshawar.

5. Sitting of Tribunal:- The Tribunal shall hold its sitting at Peshawar.

6. Procedure to prefer Appeal:- (1) An appeal to the Tribunal may be sent by Registered post or presented to the Registrar personally or through an advocate, during working hours.

(2) Every memorandum of appeal shall-

- (a) by legibly, correctly and concisely written or printed;
- (b) be divided into paragraphs numbered consecutively, each paragraph containing as nearly as may be separate allegation;
- (c) containing the full name, official designation and place of posting of each party;
- (d) clearly set out the relief claimed;
- (e) be accompanied by-
 - (i) a copy of the seniority list or other order of the competent authority fixing seniority, or in order cases, copy of the impugned order; against which the appeal is directed;
 - (ii) copies of rules, orders and other documents on which the appellant proposed to rely in support of his claim;
- (f) be signed by the appellant;
- (g) be accompanied by four spare copies of the memorandum of appeal and as many other copies thereof, complete in all respects, signed by the appellant and accompanied by the documents referred to in clause(e), as there are respondents;

Provided that where the Tribunal is satisfied that it is not possible for an appellant to produce any document referred to in clause (e), it may waive the provision of the said clause.

Note: For the purposes of sub-clause (i) of clause (e), the appointing authority or any other authority to whom the powers to make decision regarding seniority of a member of the Subordinate Judiciary have been delegated shall prepare and notify in the official Gazette a list of seniority of the members of the subordinate Judiciary under its administrative control and the list so prepared shall be maintained upto date and shall be revised at least once a year preferably in the month of January.

(3) Every memorandum of appeal shall be presented to the Registrar in the covers and be accompanied by a typed or printed index of papers failing which the appeal may not be entertained.

(4) In every memorandum of appeal, the competent authority whose order is challenged shall be shown as Respondent No.1 and every civil servant who may be affected by the relief claimed, shall also be shown as respondent;

Provided that if the competent authority whose order is challenged is the Chief Justice or a Judge of the Peshawar High Court through the Registrar, Peshawar High Court shall be shown as Respondent No.1.

(5) Where an appeal is presented after the period of limitation prescribed in the Act, it shall be accompanied by a petition supported by an affidavit setting forth the cause of delay.

7. Security of appeals:- The Registrar shall scrutinize every memorandum of appeal received by post, or presented to him and shall-

- (a) if it be in order and drawn up in accordance with forgoing provisions, cause it to be registered in the Registrar of Appeals to be maintained by the Tribunal;
- (b) if it is not drawn up in the manner herein before prescribed, return it to the appellant or his advocate for amendment, within a time to be specified in an order to be recorded by him on the memorandum of appeal, pointing out the deficiency;
- (c) where the memorandum of appeal is not drawn up in the manner herein before prescribed and the appellant or his advocate fails to amend the same within the period specified by the Registrar, the Tribunal may pass such order as it may deem fit.

8. Admission of the time barred appeals:- Any appeal may be admitted after expiry of the period of limitation prescribed thereof when the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within such period and the decision of the Tribunal as to the sufficiency of cause shall be final.

9. Fixation of date of hearing:-(1) The Tribunal may, after fixing a day for hearing the appellant, and hearing him or where he is represented by an advocate, hearing the advocate, dismiss the appeal in limine.

(2) If the appeal is not dismissed in limine, notices of admission of appeal and of the day fixed for its hearing, issued under the signature of the Registrar or any other official authorized by him in this behalf, shall, subject to the provisions of Rule 10, be served on the appellant and the

respondents, or on their advocates if they are so represented, and on such other persons as the Tribunal may deem proper.

(3) Except as otherwise directed by the Tribunal, for reasons to be recorded in writing, the cases shall be fixed for hearing on their own turn, according to the dates of their admission.

10. Deposit of Security etc: - (1) If the appeal is admitted, the appellant shall deposit with the Registrar:-

- (a) cash security for costs in the sum of Rs.100.00 (rupees one hundred only); and
- (b) such cost of service of notices on the respondents as may be determined by the Registrar, including the cost of publication, if it is desirable to serve the notices by publication in the newspapers.

(2) If within 10 days of the admission of appeal, the appellant does not deposit the security and the cost of service of notices, the appeal may be dismissed.

11. Service of Notices: - (1) A notice under sub-rule (2) of Rule 9 may be served by registered post or in any other manner as the Tribunal may direct.

(2) The notices to the respondents shall be accompanied by a copy of the memorandum of appeal and all the documents appended therewith.

(3) The Tribunal may, where the number of respondents is large or where otherwise the Tribunal considers it appropriate or desirable to do so, direct that in addition to sending a copy of the notice to the respondents by registered post, the notice shall be published in one or more daily newspapers having circulation in the areas where the respondents ordinarily reside or are serving.

(4) Service of notice in accordance with the provisions of this Rule shall be as effected as if it had been made on the respondents personally, and it shall not be necessary to prove that a party has actually received the notice.

12. Submission of objections by respondents:- (1) A respondents on whom a notice of appeal has been served under the provisions of Rule 11 shall send his written reply by registered post (A.D) to the Registrar, or deliver the same to the Registrar personally or through an advocate, not later than seven days before the date specified in the notice for the hearing of the appeal.

(2) The reply shall be correctly and concisely written, type written or printed, shall be signed by the respondent and shall be accompanied by a copy of every seniority list, or order or other documents on which the respondent wishes to rely in support of his case.

(3) The written reply shall be accompanied by 4 spare copies thereof, complete in all respects and containing copies of the lists, order and documents referred to in sub-rule (2), for use of the Tribunal.

13. Determination of questions:- (1) Questions arising for determination by the Tribunal shall be decided ordinarily upon affidavits and documents proved by affidavits, the Tribunal may direct that such questions as it may consider necessary be decided on such other evidence and in such manner as it may deem fit.

(2) The party affected by an affidavit may be permitted by the Tribunal to cross-examine the deponent with reference to the statements in the affidavit.

14. Summoning of Witnesses:- (1) A list of witnesses shall be presented to the Tribunal, and application for summoning witnesses before the Tribunal shall be made, within 10 days after the service of notice of appeal under Rule 11 which shall state whether they are required to give evidence or to produce any documents, shall give, where a witness is required to give evidence, a brief resume of the evidence he is expected to give, and where a witness is required to produce a document, give a brief description of the documents so as to identify it.

(2) If Tribunal is of the opinion that the evidence of any witness specified in the list of witnesses given under sub-rule(1) will be of material assistance in the disposal of an appeal before it, it shall direct him to be summoned on a date to be fixed by the Tribunal, and direct that the daily allowance and travelling charges of such witness, at the rates admissible to witnesses appearing in the High Court, should be deposited by the person calling him, within the period to be specified by the Tribunal.

(3) If a person applying for the summoning of a witness fails to deposit the requisite costs of the witness, within the period specified by the Tribunal under sub-rule (2), or within any extension thereof that may be granted by the Tribunal, the application for summoning of witnesses, so far as it relates to such witness, shall be deemed to have been rejected.

(4) If the Tribunal is of the opinion that the evidence of any witness is necessary for the disposal of an appeal before it, it may direct that the witness be summoned.

(5) Where a Tribunal summons a witness under the provisions of sub-rule(4)-

(a) if such witness is a Government servant, his travelling and daily allowance, if any, shall be borne by Government; and

(b) if such person is a private person, his travelling and daily allowance shall be borne by the appellant.

(6) Process for service on witnesses of high rank shall be sent in the form of a letter.

(7) Except in urgent cases or as otherwise ordered by the Tribunal, a summon requiring a public officer to give evidence or to produce a document shall be served through the Head of his office.

15. Evidence of Witnesses:- (1) The evidence of witnesses examined by the Tribunal shall be taken down under the superintendence of the Tribunal, ordinarily in the form of a narrative and shall form part of the record.

(2) The Tribunal may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

16. What may be urged by an appellant;-- The appellant shall not, except by the leave of the Tribunal, urge, or be heard in support of any ground of objections not set forth in the memorandum of appeal, but the Tribunal, in deciding, the appeal shall not be confined to grounds of objections set-forth in the memorandum of appeal or taken by leave of the Tribunal under these rules:

Provided that the Tribunal shall not rest its decisions on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the appeal on that ground.

17. Notice Board:- (1) A cause list shall be prepared under the orders of the Registrar, which shall be affixed on the notice board of the court room of the Tribunal.

(2) Except as otherwise directed by the Tribunal cases to be set down in the cause list shall be in the order of the date of admission.

18. Hearing of Appeal:- (1) On the day fixed, or on any other day to which the hearing may be adjourned, the appellant or his advocate shall be heard in the support of the appeal.

(2) The Tribunal shall then, if it does not dismiss the appeal at once hear the respondent or his advocate against the appeal and in such case, the appellant shall be entitled to reply.

19. Consequence of Non-appearance of the Appellant or Respondent:- (1) Where on the day fixed for the hearing of an appeal or any other day to which the hearing may be adjourned the appellant or his counsel, if any, does not appear when the appeal is called for hearing, the Tribunal may make an order that the appeal stands dismissed.

(2) Where the appellant or his counsel, if any, appears and the respondent or his counsel, if any, does not appear, the appeal shall be heard ex-parte.

(3) Where an appeal is dismissed under sub-rule(1) or an ex-parte order made under sub-rule (2), the Tribunal may for sufficient cause on an application made within 15 days restore the appeal or as the case may be set aside the ex-parte order on such terms as to costs or otherwise as it thinks fit.

Provided that no order of restoration of an appeal dismissed in default or setting aside the ex-parte order shall be made unless notice of the application has been served on the opposite party.

20. Adding Respondent:- When it appears to the Tribunal at the hearing that any person who has not been made a respondent in the appeal is interested in the result of the appeal, the Tribunal may adjourn the

hearing to a further day to be fixed by the Tribunal and direct that such person be made respondent.

21. Pronouncement of Order:- The Tribunal shall pronounce order in open court, either at once on the conclusion of arguments or on some future date of which notice shall be given to the parties or their advocates.

22. Order regarding costs, etc:- (1) The Tribunal may make such order as to the costs of proceedings before it as it deems fit.

(2) Any cost awarded by a Tribunal which cannot be paid out of the cash security deposited by the appellant under Rule 10, if not paid by the appellant within one month of the order awarding the costs, shall, on the certificate of the Tribunal, be recoverable from the appellant as arrears of land revenue.

23. No entertainment of appeal in certain cases:- The Tribunal shall not entertain any appeal in which the matter directly and substantially in issue has already been finally decided by a court or a Tribunal of competent jurisdiction.

24. Appellant precluded from bringing another appeal in certain cases:- Where an appeal has been withdrawn by the appellant and is in consequence dismissed by the Tribunal, the appellant shall, unless otherwise directed by the Tribunal, be precluded from bringing another appeal in respect of the same cause of action.

25. Administrative functions of the Tribunal to vest in the Chairman:- The administrative functions of the Tribunal except the appointment of staff shall be performed by the Chairman on behalf of the Tribunal.

26. Constitution of Benches:- Where the amount of work so justifies the Chairman may, for the purpose of admission of appeals, constitute one or more benches, each bench consisting of two members to be nominated by the Chairman.

27. Additional powers of the Tribunal:- Nothing in these rules shall be deemed to limit or otherwise affect the powers of a Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

28. Furnishing of copy of final adjudication order by the Tribunal to the competent authority:- A copy of every order of final adjudication on an appeal shall be furnished by the Registrar, free of cost, to the competent authority concerned which shall forthwith give effect to it.

29. Inspection of Records:- The provisions contained in the High Court Rules and Orders as applicable to the Peshawar High Court, in regard to copies of inspection of record, shall mutatis mutandis and to the extent practicable apply to proceedings before a Tribunal.

C.No. 11(2-1)

TRAINING FOR PROBATIONERS JUDICIAL OFFICERS

In exercise of the powers conferred by Rule 9(4) of the North West Frontier Province Judicial Service Rules, 2001, the following training is prescribed by the High Court for Probationers, henceforth placed on probation, as mentioned against each category, to be undertaken in each institute / Academy / Body as may be specified by the Chief Justice of the Court from time to time.

S.No.	Category of Probationers	Duration of Training
1	District & Sessions Judges / Zila Qazis	Two weeks
2	Additional District & Sessions Judges / Izafi Zila Qazis appointed by promotion	Three weeks
3	Additional District & Sessions Judges / Izafi Zila Qazis appointed by initial recruitment	From Four to Eight weeks
4	Senior Civil Judges / A'ala A'laqa Qazis	Three weeks
5	Civil Judges-cum-Judicial Magistrates / A'laqa Qazis	From Four to Eight weeks

(PHC Notification No. 5-J dated Peshawar the 20th December, 2003)

SECTION-2

(ESTABLISHMENT OF THE DISTRICT COURTS ... TERMS AND CONDITIONS OF SERVICE)

C.No. 1(2-2)

***RULES FRAMED BY THE JUDICIAL COMMISSIONER UNDER SECTION 27 (3) OF THE NORTH-WEST FRONTIER PROVINCE COURTS REGULATION, I OF 1931, FOR SUBORDINATE SERVICES ATTACHED TO CIVIL COURTS OTHER THAN THE JUDICIAL COMMISSIONER'S COURT**

Application

I. These rules shall come into force on the 1st January 1937 and shall apply to the following: --

- (a) Ministerial and menial establishment of District and Sessions Judges, including establishment of Record Offices and Sessions Houses.
- (b) Ministerial and menial establishment of Sub-Judges, Stipendiary and Honorary.

Note.—The term “menial” used in this rule and the other rules includes all inferior Government servants other than process-servers who have been classed as ministerial officers for the purpose of these rules.

¹ [II. (a). The following officers, together with such others as the Judicial Commissioner may from time to time direct, shall be considered as ministerial officers:--

- (1). Clerks of Court;
- (2). Readers ;
- (3). Record keepers ;
- (4). English and Vernacular Clerks (Ahlmads and Muharris, paid candidates and Leave Reserve Clerks) ;
- (5) Stenographers ;
- (6) Translators and Assistant Translators ;
- (7) Copy Clerks, English and Vernaculars ;

* These rules are effective save their inconsistency with all the rules framed under section 26(1) of the NWFP Civil Servants, Act, 1973, including Peshawar High Court(Subordinate Courts Staff) Recruitment Rules, 2003

¹ Substituted vide No. 23999 – HGA(Governor, NWFP) dated 2nd June, 1947

- (8) District and Sessions Judges' Nazirs ;
- (9) Civil Nazirs, Naib-Nazirs and Madad Naib-Nazirs ;
- (10). Execution Bailiffs;
- (11). Process-servers.

Nos.(1). to (8) shall be classed as General Line; Nos. (9) to (11) shall be classed as Process-serving Establishment.

- (b). The ministerial officers serving in each civil division shall form a separate cadre. Provided that in those divisions, where one District and Sessions Judge has charge of more than one Revenue District, the following practice shall be observed :-

Unpaid candidates shall be recruited from each District separately. A joint list shall be kept in the office of the District and Sessions Judge, in which the name of the District to which candidates belong shall be clearly mentioned. As a general rule, a post in a particular district shall be given to an unpaid candidate of the District. This rule may, however, be departed from in those cases where it is considered that such an appointment will be prejudicial to the interests of the senior most unpaid candidate of the other district. In such cases, the later may be appointed in the district other than his own till his turn comes for appointment in his own district, when he should be sent back, and an unpaid candidate belonging to the other district appointed in his place. The prospects of a candidate shall not be prejudiced through his declining an appointment in a district other than his own.

Notes. (1). The process serving Establishment in each district shall for the purpose of promotion be treated as separate from the general line up to the post of Civil Nazir. The Civil Nazir shall be treated in the same way as an officer of the same grade in the general line for purposes of promotion to higher grades.

- (2) The term "ministerial" used in this rule is not intended to overrule the definition of a ministerial Government servant given in Fundamental Rule 9 (17). Bailiffs and process-servers will, therefore, continue to be regarded as non-ministerial and inferior Government servants, respectively, for the purpose of the rules relating to retirement, as contained in Fundamental Rule 56 for Bailiffs and Articles 481 to 485 of the Civil Service Regulations for process-servers.]

Qualifications

III. (1). No. person shall be accepted as a candidate for the clerical ministerial staff if he is over 25 years of age, or if there is no prospect of his getting a permanent Government post, or a post of paid candidate, or a post of section copyist, before attaining the age of 25 years.

(2). No person shall be appointed to or accepted as a candidate for, any clerical ministerial post, unless he has passed the Matriculation Examination or an equivalent examination:

Provided that a member of the non-clerical ministerial staff, who joined service before the 1st January 1937 may be appointed to a post of Madad Naib Nazir, Naib Naib Nazir or Civil Nazir if he has shown special ability, has a working knowledge of English and is able to examine and keep accounts:

Provided further that a non-Matriculate who joined service before the 1st January 1937, may be appointed to a post of Judicial Moharrir or Ahlmad in any of the Courts other than those of a District Judge, or Senior Sub-Judge, if he was actually accepted as a candidate for a clerical post and is otherwise fit for such appointment and if he has passed or has been exempted from passing the examination prescribed for appointment of Readers, may be appointed to any of the posts enumerated in Schedules I and II to this part.

(3). Preference shall be given in the recruitment of new candidates to those who are competent stenographers, and such candidates should be freely employed as court stenographers, while working as unpaid candidates.

(4). No person shall be appointed substantively as a Reader unless he has passed the examination prescribed for appointment of Readers or LL.B exam: of a reorganized university.

(5). No person shall be appointed as process-server or execution Bailiff unless he has passed the Lower Middle School Examination; provided that the Judicial Commissioner's Court may relax this rule in the case of ex-soldiers, provided further that a process server who joined service before 1st January 1937, may be appointed execution Bailiff if he is

considered otherwise fit for promotion, although may not have passed Lower Middle School Examination.

(6). No person shall be appointed civil Nazir, Naib Nazir or Madad Naib Nazir who is not able to keep and examine accounts both in English and in Urdu.

(7). No person who is sickly, old or incapable of much physical exertion, and has not a good knowledge both of Urdu and of the language current in the district of his employment shall be appointed as execution Bailiff or process-server.

(8). For posts of menials the officers empowered to make appointments shall appoint the best man, provided that preference be given to ex-soldiers competent to do the duties required. Literacy should be regarded as a desirable though not essential qualification.

(9). All appointments shall be subject to a medical certificate of fitness.

First appointments

*IV. First appointments shall be made as follows :--

- (1). By the District Judge--
 - (a). Ministerial officers in his own Court and in all Courts controlled by the District Court.
 - (b). Menials in his own Court.
- (2). By the Senior Sub-Judge—

Menials in his own Court and the Courts of other Sub-Judges in the same district.

Note.—A District Court may under the provisions of Section 29 of the North-West Frontier Province Courts Regulation with the previous sanction of the Judicial Commissioner delegate the power of appointment given above to any Sub-Judge, to be exercised by him in any specified portion of the district, subject to the control of the District Court.

* Now vide No. DR Peshawar dated 14.11.2002 Chief Justice, District & Sessions Judge and Senior Civil Judge have been authorized to be as appointing authorities for various posts of the establishment of District Courts.

Note.— This delegation has been made to the Senior Sub-Judge, Ist Class, in each district in regard to the process-serving establishment of all Courts in the districts.

Recruitment

V.(1). Recruitment to ministerial posts shall ordinarily be made either by open competition or by selection from a list of qualified candidates or apprentices accepted by the District Judge, or Sub-Judge to whom powers of appointment have been delegated, as the case may be. Any departure from either of these methods should be reported to the Judicial Commissioner for confirmation.

(2). No person shall be admitted to work in any Court as an apprentice unless his name is entered on the register of candidates by the written order of the District and Sessions Judge or Senior Sub-Judge, as the case may be, who shall in addition to the qualifications specified above satisfy himself by personal inspection that each candidate is otherwise qualified and suitable and has adequate means of subsistence. Each apprentice shall have his place and duty distinctly assigned to him in the office and shall work under the supervision of a recognized superior clerk.

(3). When appointment to a permanent post is made from candidates, preference must be given to the senior candidate unless he has shown himself unfit; provided that when candidates possessing higher educational qualifications for a post, for which an examination standard is fixed, such as graduates, are available they should be given preference over less well qualified candidates.

Promotion

VI. Appointment to the higher grades of the ministerial establishment should ordinarily be made by seniority from lower grades, provided that the official who would thus receive promotion possesses the prescribed educational qualifications and is otherwise fit to perform the duties to which he will be promoted, for which purpose tests may be imposed. This rule does not apply to such posts as that of stenographer for which special qualifications are needed; but preference should be given to officers with such qualifications who are already working in the lower grades; provided that permanent vacancies in the Rs. 70—5—125 grade shall be filled by the District and Sessions Judges in the following rotation :-

-
- (i) By Selection on merit out of graduates who have at least two years' experience in the work of the office, if there is no suitable graduate who fulfils this condition an "outsider" graduate may be appointed, but he must be one who normally resides within the jurisdiction of the District and Sessions Judge.
 - (ii) and (iii) By normal promotion in the office, i.e., the appointment of the next senior man whether graduate or non-graduate subject to his fitness:

Provided further that the rotation may be modified in very exceptional cases when the direct appointment of a graduate would mean the ousting of a man, who had been officiating quasi-permanently in the post concerned for an appreciable period. What is an appreciable period will depend on the circumstances of each case. After such a modification, the rotation should be restored as soon as possible.

Note.—For the purpose of complying with the provisions of this rule it is necessary that District and Sessions Judges should recruit graduates freely as candidates giving preference to those residing within their jurisdiction.

Security

VII. All officers having any dealings with public money or holding posts of particular trust shall on appointment give such security as the Judicial Commissioner may from time to time prescribe.

Conditions of service

VIII. (1). The establishment other than process-servers mentioned in Rule II in each district shall consist of so many posts as the Judicial Commissioner may fix from time to time by an order under this rule. The number of posts and the rates of pay of such posts as they stood on the 1st January 1937, are as enumerated in Schedules I and II annexed to these rules.

(2). The remuneration of process-servers and the number of the appointments are governed by rules issued by the Judicial Commissioner under Sections 20 and 22 of the Court Fees Act, 1870.

(3). Subject to Rule XI, service in grades the maximum pay of which is less than Rs. 125 shall be within the revenue district within which the

officer was first appointed; thereafter it shall be within the civil division in which that revenue district is situated.

(4). Members shall be governed by the provisions of the Fundamental and the Supplementary Rules as framed from time to time.

Discipline, Penalties and Appeals

¹[IX. In matter relating to discipline, punishment and appeals persons to whom these rules apply shall be governed by the North-West Frontier Province Civil Services (Punishment and Appeal) Rules, 1943, which will hereafter be referred to as the Punishment and Appeal Rules.]

² [IX-A (1) The Presiding Officer of a Court may impose the penalty mentioned in clause (I) of Rule 4 of the Punishment and Appeal Rules on any official of his own Court.

(2) The Senior Subordinate Judge may inflict any of the penalties mentioned in Rule 4 of the Punishment and Appeal Rules on any menial of his own Court or the Courts of other Subordinate Judges in the same district.

(3) Subject to the provisions of Rule XI the district Judge may impose any of the above penalties on the ministerial officers of the District Court or of any Court subordinate to him, and on the menials of the District Court.

(4) The District Judge, may, with the previous sanction of the Judicial Commissioner, delegate to a Senior Subordinate Judge the powers to inflict all or any of the penalties mentioned in Rule 4 of the Punishment and Appeal Rules on the ministerial officers or any class of ministerial officers serving in the Courts of the Senior Subordinate Judge and the other Subordinate Judges in the same district.]

³ [X. (1) An appeal from a penalty inflicted by a Subordinate Judge under clause (1) of Rule IX-A shall lie to the Senior Subordinate Judge.

¹ Substituted vide Governor NWFP Notification NO. 15 920-H Judl Dated 18.06.1943

² Same as 1

³ Same as 1

(2) An appeal from a penalty inflicted by the Senior Subordinate Judge, otherwise than on appeal, or from an order passed by him regarding any of the matters referred to in clauses (b) to (e) of Rule 8 of the Punishment and Appeal rules shall lie to the District Judge. The District Judge may transfer such appeal to an Additional Judge and in disposing of it the Additional Judge shall exercise the same powers as the District Judge.

(3). An appeal from a penalty inflicted by the District Judge, or an Additional Judge, otherwise than on appeal, or from an order passed by the District Judge, otherwise than on appeal regarding any of the matters referred to in clauses (b) to (e) of Rule 8 of the Punishment and Appeal Rules shall lie to the Judicial Commissioner.

(4). A further appeal under Rule 10 of the Punishment and Appeal Rules shall lie to-

- (a) The Judicial Commissioner from an appellate order passed under sub-rules (1) and (2) of this rule.
- (b) The Governor from an appellate order passed by the Judicial Commissioner under sub-rule (3) of this rule.

(5) An application for revision under Rule 11 of the Punishment and Appeal Rules may be made to the Judicial Commissioner.

(6) An appeal shall lie to the Governor from an order passed by the Judicial Commissioner in the following cases:--

- (i) When in exercise of the powers conferred upon him by Rule 12 of the Punishment and Appeal Rules the Judicial Commissioner increases a penalty imposed by a Subordinate Authority, or himself inflicts a penalty in a case in which no penalty was inflicted.
- (ii). When otherwise than on appeal or revision he interprets to the disadvantage of a person any rule by which such person's conditions of service are regulated, or terminates such person's appointment otherwise than upon his reaching the age fixed for superannuation.]

Appointments and Transfers in Special Cases.

XI. (1). All orders in regard to the appointment, suspension or removal of Clerks of Court attached to District and Sessions Judges' Offices should be reported to the Judicial Commissioner for confirmation.

(2). Notwithstanding Rule VIII (3) the Judicial Commissioner may transfer any ministerial officer or menial to any place within his jurisdiction.

General Orders regarding Discipline, etc

XII. Whenever any official (whether paid or unpaid) is personally interested in a case to be heard by the Court to which he is attached he must bring the fact to the notice of the presiding officer.

Conduct

XIII. Members shall observe the Government Servants Conduct Rules, and such other rules as may be framed by the Local Government from time to time.

Delegation of Powers

XIV. Any or all of the powers of the Judicial Commissioner under these rules may be delegated by him by general or special order to any Additional Judicial Commissioner.

SCHEDULE NO. I
ESTABLISHMENT OF COURTS OF DISTRICT AND
SESSIONS JUDGES

Posts	Rate of pay	Number		Total
		Peshawar	Dera Ismail Khan	
<i>Clerical</i>				
Clerks of Court	150-5-225	1	1	2
Readers	100-5-175	2	1	3
Stenographers	100-8-160*	...	1	1
Stenographers	50-5-95/5-125 plus 30% Special pay	2	...	2
Translators and Clerks	70-5-95/5-125	7	4	11
Clerks and Muharrirs	40-2-80/2-90	7	2	9
Clerks and Muharrirs	30-1-1/2-60/2-70	...	2	2
<i>Process Serving Establishment.</i>				
Nazirs	40-2-80/2-90	1	1	2
<i>Record Office Fund Establishment.</i>	plus 20% Special pay.			
Muharrirs	40	2	..	2
Muharrirs	16	...	1	1

* Old Grade for the present incumbent only

Note.--The above rates of pay are subject to 15 percent cut in the case of new entrants.

SCHEDULE NO. II
ESTABLISHMENT OF COURT OF SUBORDINATE JUDGES

Posts	Rate of pay	Total Number	Peshawar	Mardan	Hazara	Kohat	Bannu	Dera Ismail Khan
<i>Clerks</i>	Rs.	6	1	1	1	1	1	1
Clerk of Court	75-5-100/5-150	1	1	...	...	...	...	...
Assistant Clerk of Court	70-5-95/5-125	1	1	...	...	...	...	...
Stenographers	7-5-95/5-125	6	1	1	1	1	1	1
	Plus 30 Special pay	14	5	1	2	1	2	3
		20	6	2	3	2	3	4
Readers ...	70-5-95/5-125							
Readers ...	40-2-80/2-90							
Muharris ...	30-1½-60/2-70							
<i>Process Serving Establishment.</i>								
Nazir ...	70-4-110*	1	1	...				
Nazir s ...	30-1-50	4	...	...		
		2	...					
	Plus 20	33	9	...	...	...	...	...
Senior Naib-Nazirs ...	Special pay	41	7		1	1	1	1
Naib Nazirs ...	Ditto			5	6	5	4	4
Bailiffs ...	30-1-50			5	10	6	5	8
	20							

* Old grade for the present incumbent only.

Note. 1. The above rates of pay are subject to 15 percent, cut in the case of new entrants except in the case of Bailiffs.

Note. 2. In addition to above there will be temporary posts of two Readers on Rs.40-2-80/2- 90 and two Muharris on Rs.30-1½ -60/2-70 for Court of Sub-Judges borne on the leave reserve.

C.No. 2(2-2)

**PESHAWAR HIGH COURT (SUBORDINATE COURTS
STAFF) RECRUITMENT RULES, 2003****NOTIFICATION**

Dated Peshawar the 26.3.2003

No. 39-J In pursuance of the provisions contained in Sub Rule (2) of Rule 3 of the North West Frontier Province Civil Servants (appointment, Promotion and Transfer) Rules, 1989, and in supersession of all previous rules, issued in this behalf, the Competent Authority is pleased to lay down the method of recruitment, qualifications and other conditions specified in column 3 to 5 of the Appendix to this Notification, which shall apply to posts in Subordinate Courts in the N.W.F.P specified in column # 2 of the said Appendix.

APPENDIX

Peshawar High Court (Subordinate Courts Staff) Recruitment Rules, 2003.

1	2	3	4	5
S No	Nomenclature of Post	Minimum qualification for appointment by initial recruitment	Age Limit	Method of recruitment
1	Superintendent BPS-16			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Assistant/Reader, Assistant/Clerk of Court, Assistant/Assistant Clerk of Court, Assistant/Accountant and Assistant/Civil Nazir at serial # 4 to 8 (all BPS-11) with at least five years service as such: Provided that a common seniority list of holders of the posts at serial # 4 to 8 below shall be maintained for the

				purpose of promotion to the post of Superintendent BPS-16.
2	Senior Scale Stenographer BPS-15	<p>i. Bachelor's Degree from a recognized University and speed of 100 words per minute in Shorthand and 40 words per minute in typing in English. Preference will be given to the candidates having knowledge of MS Office.</p> <p>ii. In the Districts where Urdu is the Court language, speed of 30 words per minute in typing in Urdu as well.</p>	18 – 30 years	<p>i. Twenty five percent by initial recruitment; and</p> <p>ii. seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Stenotypist (BPS-12) with at least three years service as such.</p>
3	Steno typist BPS-12	<p>i. Intermediate or equivalent qualification from a recognized board; and</p> <p>ii. a speed of ¹[50] words per minute in shorthand and 35 words per minute in</p>	18 – 30 years	<p>i. Seventy five percent by initial recruitment; and</p> <p>ii: twenty five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Key Punch Operator (BPS-10) who possesses the required qualification as mentioned in column # 3.</p>

		typing in English. Preference will be given to the candidates having knowledge of MS Office. iii. In the Districts where Urdu is the Court language, speed of 30 words per minute in typing in Urdu as well.		
4	Assistant/Reader. BPS-11	Bachelor's Degree from a recognized University.	18 – 30 years	i. Twenty five percent by initial recruitment; and ii: seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such.
5	Assistant/Clerk Of Court BPS-11	Bachelor's Degree from a recognized University.	18 – 30 years	i. Twenty five percent by initial recruitment; and ii: seventy five percent by promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such.
6	Assistant/Assistant Clerk of Court BPS-11	Bachelor's Degree from a recognized University.	18 – 30 years	i. Twenty five percent by initial recruitment; and. ii: seventy five percent by promotion on the basis of seniority-cum-fitness, from amongst holders of the posts of

				Senior Clerks at serial # 10 to 12 (all BPS-7) with at least three years service as such.
7	Assistant/Accountant BPS-11	Bachelor's degree from a recognized University. Preference will be given to Bachelor's degree with Commerce, Economics or Mathematics/Statistics as Special subject.	18 – 30 years	By initial recruitment.
8	Assistant/Civil Nazir BPS-11			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Junior Clerk/Naib Nazir (BPS-5), capable of keeping and examining accounts in English and Urdu, with five years service as such.
9	Key Punch Operator BPS-10	i. Intermediate with Statistics/Economics/Mathematics/Physics as one of the subjects; and ii. a minimum speed of ten thousand key operations per hour for punching data entry/verification.	18 – 30 years	By initial recruitment.

10	Senior Clerk/ Reader BPS- 7			<p>By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such:</p> <p>Provided that a common seniority list of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/Reader.</p>
11	Senior Clerk/Record Keeper BPS- 7			<p>By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such:</p> <p>Provided that a common seniority list of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/Record Keeper.</p>

12	Senior Clerk/English Clerk BPS-7			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Junior Clerk/Nazir, Junior Clerk/Copyist, Junior Clerk/Copy Clerk, Junior Clerk/Examiner, Junior Clerk/Muharrir and Junior Clerk/Typist at serial # 13 to 18 (all BPS-5) with at least three years service as such: Provided that a common seniority list of the holders of the posts from serial # 13 to 18 below shall be maintained for the purpose of promotion to the post of Senior Clerk/English Clerk.
13	Junior Clerk/Nazir BPS-5	i. Secondary School Certificate Examination or equivalent qualification from a recognized Board, preference will be given to holders of additional qualifications in Accounts; and ii. a speed of 30 words per minute in typing.	18 – 30 years	i. Not less than 70 percent by initial recruitment; and ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such: and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such. Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and

				<p>Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.</p>
14	Junior Clerk/Copyist BPS-5	<p>i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and</p> <p>ii. a speed of 30 words per minute in typing.</p>	18 – 30 years	<p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such: and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper,</p>

				<p>Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.</p>
15	Junior Clerk/Copy Clerk BPS-5	i. Secondary School Certificate Examination or equivalent qualification	18 – 30 years	<p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and</p>

		<p>from a recognized Board; and</p> <p>ii. a speed of 30 words per minute in typing.</p>		<p>Record Lifter with Matric and three years service as such: and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience</p>
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				shall be promoted in preference to the senior official.
16	Junior Clerk/Examiner BPS-5	i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and ii. a speed of 30 words per minute in typing.	18 – 30 years	i. Not less than 70 percent by initial recruitment; and ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such. Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that: if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and where a senior official does not

				possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.
17	Junior Clerk/Muharrir/Reader BPS-5	i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and ii. a speed of 30 words per minute in typing.	18 – 30 years	<p>i. Not less than 70 percent by initial recruitment; and</p> <p>ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not possess the requisite experience at the time of filling up a vacancy, the official next junior to him possessing the requisite experience shall be promoted in preference to the senior official.</p>

18	Junior Clerk/Typist BPS-5	i. Secondary School Certificate Examination or equivalent qualification from a recognized Board; and ii. a speed of 30 words per minute in typing.	18 – 30 years	<p>i. Not less than 70 percent by initial recruitment; and ii. not more than 30 percent by promotion, from amongst the holders of the posts of Daftari and Record Lifter with Matric and three years service as such; and in case no suitable candidate from amongst holders of the posts of Daftari and Record Lifter is available, then from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier who have passed Secondary School Certificate Examination and have at least five years service as such.</p> <p>Note. For the purpose of promotion, separate common seniority lists of (i) the holders of the posts of Daftari and Record Lifter; and (ii) the holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier shall be maintained with reference to the date of their acquiring the Secondary School Certificate: Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and b. where a senior official does not have the requisite service at the time of filling up a vacancy, the official next junior to him having the requisite service and qualification shall be promoted in preference to the senior official.</p>
19	Junior Clerk/Naib Nazir BPS-5			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Bailiff, who have passed

				<p>Secondary School Certificate Examination, with at least three years service as such:</p> <p>Provided that in case no suitable candidate from amongst holders of the post of Bailiff is available, then by promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Process Server who have passed Secondary School Certificate Examination with at least five years service as such.</p> <p>Note. Seniority of the officials in the same BPS shall be reckoned with reference to the date of their acquiring Secondary School Certificate:</p> <p>Provided that:</p> <p>a. if two or more officials have acquired the Secondary School Certificate in the same session, the official having longer service shall rank senior to other officials; and</p> <p>b. where a senior official does not have the requisite service at the time of filling up a vacancy, the official next junior to him having the requisite service and qualification shall be promoted in preference to the senior official.</p>
20	Driver BPS-4	Middle standard and in possession of; i. HTV license or; ii. LTV License in case of light duty vehicle with at least five years experience as	30 -- 45 years	By initial recruitment.

		such.		
21	Daftari BPS-2			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier (all BPS-1) with at least two years service as such and having passed Middle Standard examination: Provided that a common seniority list of holders of the posts at serial # 25 to 30 below shall be maintained for the purpose of promotion to the post of Daftari.
22	Record Lifter BPS-2			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the posts of Chowkidar, Naib Qasid, Sweeper, Chowkidar-cum-Mali, Mali and Water Carrier (all BPS-1) with at least two years service as such and having passed Middle Standard examination: Provided that a common seniority list of holders of the posts at serial # 25 to 30 below shall be maintained for the purpose of promotion to the post of Daftari.
23	Bailiff BPS-2			By promotion, on the basis of seniority-cum-fitness, from amongst holders of the post of Process Server.
24	Process Server BPS-1	Matric	18 – 35 years	By initial recruitment.
25	Chowkidar BPS-1	Preferably literate	25 – 40 years	By initial recruitment.
26	Naib Qasid BPS-1	Preferably Literate	18 – 40 years	By initial recruitment.
27	Sweeper BPS-1	Preferably literate	18 – 40 years	By initial recruitment.
28	Chowkidar- cum-Mali BPS-1	Literate	25 – 40 years	By initial recruitment.
29	Mali BPS-1	Preferably literate	18 – 40 years	By initial recruitment.

30	Water Carrier	Preferably literate	18 – 40 years	By initial recruitment.
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C.No. 3(2-2)

APPOINTING AUTHORITIES, CONSTITUTION OF DEPARTMENTAL SELECTION AND DEPARTMENTAL PROMOTION COMMITTEES

The Honourable Chief Justice has been pleased to direct that for all the District Courts the Officers specified in column 3 of the table below shall perform the functions of Chairman and Members of the Departmental Promotion Committee (DPC) and Departmental Selection Committee (DSC), respectively, for the purposes of making selection and recommendations to the appointing authorities authorized and specified in column 4 of the said table for appointment, by promotion and initial recruitment, to posts specified in column 2 of the said table:

TABLE

S#.	POSTS	CHAIRMAN/MEMBERS OF DPC & DSC	APPOINTING AUTHORITY
1	2	3	4

I. SESSIONS COURTS (DISTRICT & SESSIONS JUDGES) ESTABLISHMENT

1.	1) Superintendent	1. Hon'ble Chief Justice-Chairman 2. Registrar-Member 3. District & Sessions Judge concerned-Member	Hon'ble Chief Justice
2.	2) Senior Scale Stenographer 3) Assistant 4) Reader	1. District & Sessions Judge/Zila Qazi concerned-Chairman	District & Sessions Judge/Zila Qazi Concerned

	5) Key Punch Operator 6) Record Clerk 7) Senior Clerk 8) Copiest 9) Copy clerk 10) Junior Clerk 11) Moharrir 12) Moharrir/ Clerk 13) Nazir 14) Driver 15) Daftari 16) Record Lifter 17) Water Carrier 18) Chowkidar 19) Chowkidar Cum Mali 20) Mali 21) Naib Qasid 22) Sweeper	2. Nominee of High Court- Member 3. Nominee of District & Sessions Judge/Zila Qazi concerned-Member	
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**II. CIVIL COURTS (CIVIL JUDGES)
ESTABLISHMENT**

1	2	3	4
3.	1) Junior Scale Stenographer 2) Steno typist 3) Stenographer 4) Assistant 5) Key Punch Operator 6) Reader 7) Senior Clerk 8) Civil Moharrir 9) Junior Clerk 10) Moharrir 11) Typist ¹ [12) Driver]	1. District & Sessions Judge/Zila Qazi concerned-Chairman 2. Nominee of High Court- Member 3. Nominee of District & Sessions Judge/Zila Qazi concerned-Member	District & Sessions Judge/Zila Qazi Concerned
4.	1) Chowkidar 2) Naib Qasid 3) Sweeper 4) Mali 5) Water Carrier	1. Senior Civil Judge/Aa'la A'laqa Qazi concerned-Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member	Senior Civil Judge/Aa'la A'laqa Qazi concerned

**III. Process Serving
Establishment**

5	1) Assistant 2) Civil Nazir 3) Junior Clerk	1. Senior Civil Judge/Aa'la A'laqa Qazi concerned-	Senior Civil Judge/Aa'la A'laqa Qazi
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¹ Added vide PHC No. 7060/Admn dated 25-06-2008

	4) Baillif 5) Process Server	Chairman 2. Nominee of High Court- Member 3. Nominee of Senior Civil Judge/Aa'la A'laqa Qazi concerned-Member	concerned
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(No. D.R Peshawar dated the 14th November, 2002.)

C.No. 3A(2-2)

**ANTI TERRORISM COURTS APPOINTING AUTHORITIES,
CONSTITUTION OF DEPARTMENTAL SELECTION AND
DEPARTMENTAL PROMOTION COMMITTEES**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 26th January, 2010

No. 21-J: In exercise of the powers conferred by Rule 2 read with Rule 5 of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, Hon'ble the Chief Justice is please to authorize all the Judges, Anti-Terrorism courts in the NWFP as Appointing Authority for the posts from BPS-01 to 15 borne on the ministerial establishment of their respective Courts.

The composition of Departmental Promotion Committee and Departmental Selection Committee shall be as follow:-

1. Judge Anti-Terrorism Court concerned CHAIRPERSON
2. Nominee of Peshawar High Court MEMBER
3. Nominee of Judge ATC concerned MEMBER

C.No. 4(2-2)

RECRUITMENT POLICY**FILLING OF VACANCIES IN
THE MINISTERIAL ESTABLISHMENT OF
SUBORDINATE COURTS THROUGH INITIAL RECRUITMENT**

I am directed to refer to this Court letter bearing endorsement # 4313-4360/Admn dated 19th April, 2003 on the subject noted above and to say that the competent authority has been pleased to lay down the following criteria for appointments against the subject vacancies: -

1. For posts in BPS-1 to 4: -

Such method and procedure as may be adopted by the concerned Departmental Selection Committee, subject, however, to the minimum prescribed qualification.

2. For posts in BPS-5 and above: -

The total marks shall be 100 as per detail below: -

(a)	Prescribed qualification	30
(b)	Higher qualifications	10
(c)	Experience	10
(d)	Test	25
(e)	Interview	25

Comparative grading of the marks above shall be according to Annexure "A"

3. For the posts in BPS-5 and above, candidates shall have to undergo screening test, before the aforesaid test and interview, in case their number exceeds four times the number of vacancies to be filled in.

4. I am, accordingly directed to request you to kindly ensure strict adherence to the aforesaid criteria. Working papers as per enclosed Annexure "B" be also prepared and columns # 1 to 8 thereof be filled up accordingly for placing before the respective Departmental Selection Committee.

ANNEXURE-A**COMPARATIVE GRADING OF
QUALIFICATIONS/EXPERIENCE****A. Minimum prescribed Qualification: -****Total Marks 30**

Sr No	Qualification	1st Division	2nd Division	3rd Division
i.	Matric	30	20	10
ii.	Matric	15	10	05
	F.A/F.Sc.	15	10	05
iii.	Matric	10	06	03
	F.A/F.Sc.	10	06	03
	B.A/B.Sc.	10	08	04

B. HIGHER QUALIFICATION: -

(Higher qualification than prescribed under the rules).

One stage above05 Marks.

Two stages above07 Marks.

Three or more stages above10 Marks.

C. EXPERIENCE: -

Experience upto one year04 Marks.

Experience upto two years07 Marks.

Experience upto three years and above.....10 Marks.

ILLUSTRATIONS: -

- (b) Where qualification prescribed in the rules is Metric, comparative grading of candidates shall be done as shown at "A"(i) above. Where typing is prescribed in the rules as a part of the qualifications after Metric, all persons possessing the prescribed speed shall be considered as equal.
- (c) Where the prescribed qualification is Intermediate, grading shall be done as indicated at "A"(ii) above. To illustrate; if the candidate is a 2nd Divisioner in Metric and 1st Divisioner in Intermediate, he shall get 10 plus 15 marks out of the total of 30 reserved for prescribed qualification.
- (d) Where prescribed qualification is Graduation, the comparative grading shall be done as shown at "A"(iii) above. If a candidate

is 3rd Divisioner in Metric, 2nd Divisioner in Intermediate and 1st Divisioner in Graduation, he shall get 03, 06 and 10 marks respectively i.e. 19 marks out of 30.

- (e) The above gradings are applicable only where academic qualifications are Metric and above. In cases where technical qualifications (like Diploma or Certificate) are also prescribed in addition to basic qualifications, then in such cases 30 marks for comparative grading shall be calculated as below: -

1	Total Marks	30
2	Basic qualification like Metric, Intermediate, Graduation as prescribed by the rules	20
3	Additional Technical qualification.	10

The method for further distribution of 10 marks shall be laid down on the analogy of the principles Indicated above. 20 marks shall be distributed for the basic qualifications by necessary modification in the formula indicated at "A" above. To illustrate, if the basic qualification is Metric, 20 marks shall be distributed as below: -

1 st Division	20
2 nd Division	13
3 rd Division	07

- (e) the equation of grades vis-à-vis Division shall be as follows: -

Grade A & B	1 st Division
Grade C.	2 nd Division
Grade D.	3 rd Division

- (f) In case where no Division/grade is given in the respective Certificates, it shall be worked out on the basis of marks secured by the candidate as follows: -

(a)	60% and above marks.	1 st Division
(b)	45% - 59% marks	2 nd Division
(c)	Below 45% marks	3 rd Division

A candidate securing less than 12 marks each in the test and interview shall not be considered for appointment.

Annexure-B
Working Paper[illegible]

(No. 4454-450/Admn: Dated Peshawar the 24th April, 2003)

C.No. **5(2-2)**

QUOTAS FOR DIFFERENT CLASSES BY INITIAL RECRUITMENT

I am directed to refer to the subject noted above and to say that under NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989 a quota of two percent for disabled candidates and ten percent for female candidates is fixed for initial recruitment. Similarly 25% quota is also fixed for children of retired government servants vide Government of NWFP letter No. SOR-I(S&GAD)4-1/80(Vol.III) dated 23.05.2000 for posts from BPS 1 to BPS 4. But none of the quotas is being observed by the Appointing Authorities nor advertised in the newspapers at the time of inviting applications.

You are, therefore, impressed upon to observe all the quotas in future and also advertise the same at the time of inviting applications for initial recruitment.

(PHC letter No.6298-9414/Admn Dated Peshawar, 05th April, 2010)

C.No. 6(2-2)

DEPARTMENTAL SELECTION AND PROMOTION COMMITTEE; PREPARATION OF WORKING PAPER

I am directed to invite your attention to the above noted subject and to state that selection and promotion to various posts and vacancies in systematic manner is vital for ensuring merit. In this regard the preparation of working paper should be considered as prerequisite for making request for nominee of the High Court. Therefore, such request should invariably to come with the working paper prepared on the attached proforma, at least a week prior to the date of meeting of the committee. The Judicial Officer under your administrative control vested with power of appointing authority should also be informed.

(PHC letter No.7564-7604/Admn Dated Peshawar, 28th April, 2010)

C.No. 7(2-2)

QUOTA FOR SPECIFIC CLASSES IN RECRUITMENT; OBSERVANCE OF SCHEDULE

I am directed to invite your attention to the above noted subject and to state that observance of quota is essential regarding recruitment to various posts and vacancies. To make the calculation convenient the following table may be considered for guidance which shows stage to stage fixation of percentage of quota to be worked out accordingly out of total strength of a post; a balance should be achieved taking in to consideration the adjustment of quota, if already observed.

S. No.	Nature of the Class	Initial % of Quota with date (from which Calculation is to be made)	Change in % of Quota with date (from which Calculation is to be made)	Relevant BPS
1	Retired Employee Son	10 % ; 27/10/1981	25% ; 23/5/2000	1-4

2	Female	2% ; 12/10/1993	10% ; 25/7/2007	All
3	Disabled	1% ; 12/10/1993	2% ; 19/2/1999	All
4	Minorities	1.0 % ; 6/1/2009	As initial	All

The calculation about the quota may be made at very preliminary stage when vacancies become available and the same be accordingly reflected in advertisement. For instance, if the total strength of cadre/ post is 3 then hardly any quota vacancy/ seat can be offered to **Disabled**; such facts may also be reflected in advertisement so that the specific class is aware of the fact, before hand, that the quota is observed but no seat can be curved out for them in the circumstances.

Moreover, for the recruitment of a Driver, Daftari, Record Lifter, Naib Qasid etc the annexed Table format, showing the relevant details about the applicants, should be observed.

Under the rules it is required that after advertisement, a minimum period of 30 days should be allowed for receipt of applications.

Attention is also drawn to the fact that the Working Paper and Table about the candidates/ applicants should invariably to reach this court at least a week prior to the committee meeting. For the purpose, the closing dates of submission of application and request for nomination of the representative of High Court may be scheduled accordingly.

The judicial officers working under your administrative control, vested with power of appointing authority, should also be informed.

TABLE SHOWING THE APPLICANTS FOR POSTS OF DRIVER, DAFTARI, RECORD LIFTER, NAIB QASID ETC									
S. No	Name	Father's Name	Domicile	Date of Brith	Whether Within required age limit		Education al Qualificati on	Experience in Relevant Field, if any	Remarks of the Committee
					Yes	No			

(PHC letter No.9662-9706/Admn Dated Peshawar, 28th May, 2010)

C.No. 8(2-2)

RESERVATION OF QUOTA FOR APPOINTMENT OF CHILDREN OF RETIRING CLASS-IV GOVT. SERVANTS ON SUPERANNUATION

I am directed to refer to the subject cited above and to state that in supercession of all instructions issued in this behalf, the competent authority has been pleased to direct that a quota of 25% falling to the share of initial recruitment in BPS-1 to BPS-4 shall be reserved for appointment of one of the children of a retiring civil servant on superannuation/invalidation; provided that:-

- 1) the appointment shall be made subject to the availability of vacancy;
- 2) a waiting list showing the name, designation and date of retirement/invalidation of retiring civil servant shall be maintained in the department/office. The merit shall be determined from the date of retirement/invalidation of the civil servant;
- 3) the child possesses qualification prescribed for the post;
- 4) in case, the date of retirement/invalidation of two civil servants is the same, the child of the civil servant older in age shall be considered first for appointment;
- 5) under age child of the said civil servant shall be included in the waiting list from the date of retirement/invalidation. However, he shall be considered for appointment after he attains the age prescribed for the post.

2. The competent authority has further been to pleased authorize the Chief Secretary, NWFP to exercise the power of grant of relaxation of ban for initial appointment in cases of appointment of one of the children of retired/invalid civil servant and deceased civil servant died during the service as required in rule 10(4) of the NWFP Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

3. I am, therefore, directed to request that the above policy instructions should be followed strictly in letter and spirit.

(No. SOR-I (S&GAD)4-1/80 (Vol.III) Dated Peshawar the 23rd May, 2000)

SECTION-3
(INVESTMENT OF JUDICIAL POWERS)

C.No. 1(2-3)

DISTRICT AND SESSIONS JUDGES AS JUVENILE COURTS
PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 16th April, 2002

No. 44-J: In exercise of the powers conferred by Section 4(2) of the Juvenile Justice System Ordinance, 2002, (Ordinance No. XXII of 2000), the Honorable Chief Justice of this court has been pleased to confer powers of Juvenile Courts upon all the District and Sessions Judges in the NWFP.

C.No. 2(2-3)

**ADDITIONAL DISTRICT AND SESSIONS JUDGES AND
JUDICIAL MAGISTRATES OF THE 1ST CLASS AS
JUVENILE COURTS**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 24th January, 2003

No. 19-J: In exercise of the powers conferred by Section 4(2) of the Juvenile Justice System Ordinance, 2000, (Ordinance No. XXII of 2000), the Honorable Chief Justice of this court has been pleased to confer powers of Juvenile Court, in addition to the District and Sessions Judges, upon all the Additional District and Sessions Judges and Judicial Magistrates of the First Class in the NWFP, in respect of the cases falling under their respective jurisdiction.

C.No. 3(2-3)

DISTRICT JUDGES AS COURTS OF PROTECTION

*GOVERNMENT OF NWFP HOME AND TRIBAL AFFAIRS
DEPARTMENT*

NOTIFICATIONDated Peshawar the 16th May, 2005

No. SO(JUDL)HD/3/8/2001: In exercise of the powers conferred by clauses (d) & (j) of Section 2 of the Mental Health Ordinance, 2001 (Order No. VIII of 2001), and in supersession of this Department Notification No. SO (JUDL)/HD/3/ 8/2001 dated 11/04/2005, the Government of North West Frontier Province is pleased to designate all the District Judges of the Province as Courts of Protection and empower all the Judicial Magistrates of 1st class to perform functions and exercise powers under the said Ordinance.

C.No. 4(2-3)**DISTRICT AND SESSIONS JUDGES AS CONSUMER COURT**

*GOVERNMENT OF NWFP HOME AND TRIBAL AFFAIRS
DEPARTMENT*

NOTIFICATIONDated Peshawar the 7th June, 2005

No. SO (JUDL) HD/3-71/05: In exercise of the powers conferred by Section 11.A of the North-West Frontier Province Consumers Protection Act, 1997 (Act No. VI of 1997), the Government of North West Frontier Province is pleased to establish, for the purposes of the said Act, a Consumer Court in each district to be presided by the District and Sessions Judge of the District concerned.

C.No. 5(2-3)

**DISTRICT AND SESSIONS JUDGES' POWER UNDER
CLAUSE (a) & (b) OF SUB-SECTION (1) OF SECTION 491
Cr.PC**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 17th April, 2002

No. 45-J: In exercise of the powers conferred under Section 491 (1 A) of the Code of Criminal Procedure, 1898 (Act V of 1898), the Honorable Chief Justice of this Court has been pleased to direct that all the District and Sessions Judges in the North-West Frontier Province shall exercise all powers specified in clause (a) & (b) of sub-section (1) of Section 491 Cr.PC within the territorial limits of their respective Sessions Divisions.

C.No. 5A(2-3)

**DISTRICT AND SESSIONS JUDGES AS CHILDREN
PROTECTION COURT**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 3rd August, 2010

No. 182-J: In exercise of the powers conferred by Section 15 (2) of the Khyber Pakhtunkhwa Child Protection and Welfare Ordinance, 2010, Hon'ble the Chief Justice of this Court have been pleased to confer powers of Children Protection Court upon all the District and Sessions Judges/Zila Qazis in the Khyber Pakhtunkhwa.

C.No. 5B(2-3)

DISTRICT AND SESSIONS JUDGES AS ANTI TERRORISM COURT*GOVERNMENT OF NWFP HOME AND TRIBAL AFFAIRS
DEPARTMENT***NOTIFICATION**Dated Peshawar, the 08th November, 2002

No. SO(Prosecution)HD/1-8/02:- In exercise of the powers conferred by section 14(5) of Anti Terrorism Act, 1997 (Act No. XXVII of 1997), Government of North-West Frontier Province, in consultation with Chief Justice of the Peshawar High Court, Peshawar, is pleased to direct that when a Judge of an Anti-Terrorism Court is on leave, or for any other reasons, is temporarily unable to perform his duties, the Session Judge, having jurisdiction at the principal seat of the Anti-Terrorism Court, shall conduct the proceedings of urgent nature pertaining to such Anti-Terrorism Courts, so long as such Judge is unable to perform his duties.

C.No. 6(2-3)

DISTRICT JUDGES' APPELLATE PECUNIARY POWERS*THE WEST PAKISTAN CIVIL COURTS ORDINANCE, 1962
(W.P.Ord No. II of 1962)*

Section 18. Appeals from Civil Judges: (1) Save as aforesaid, and appeal from a decree or order of a Civil Judge shall lie:-

- (a) to the High Court if the value of the Original suit in which the decree or order was made exceeds ¹[one million rupees] and
- (b) to the District Judge in any other case.

¹ Amended Vide the NWFP Civil Courts (Amendment) Act, 2003. (NWFP. Act No VII of 2003)

(2) where the function of receiving any appeal which lies to the District Judge under the last preceding sub-section has been assigned to an Additional District Judge, the appeal may be preferred to the Additional District Judge.

(3) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decrees or orders passed in any original suit by any Civil Judge shall be referred to such other Civil Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the Court of such Civil Judge shall be deemed to be a District Court for the purpose of all appeals so preferred.

C.No. 7(2-3)

**SESSIONS JUDGES AND ADDITIONAL SESSIONS JUDGES
AS SPECIAL COURTS UNDER CNSA, 1997**

*GOVERNMENT OF NWFP HOME AND TRIBAL AFFAIRS
DEPARTMENT*

NOTIFICATION

Dated Peshawar the 20th March, 1998

No. SO (JUDL)/HD/3-10/98: In exercise of the powers conferred by sub-section (5) of Section 46 of the Control of Narcotic Substances Act, 1997 (XXV of 1997), the Provincial Government, as directed by the Federal Government, in consultation with the Chief Justice of the Peshawar High Court, is pleased to confer the powers of a Special Court having the power to try all offences under the Act on all the Sessions Judges and Additional Sessions Judges in the Province in respect of the cases relating to the territorial limits within which each Sessions Judge or Additional Sessions Judge has jurisdiction to try cases under the Code of Criminal Procedure, 1898 (Act No. V of 1898).

C.No. 8(2-3)

**ADDITIONAL DISTRICT AND SESSIONS JUDGES AS
COURTS UNDER THE LAND ACQUISITION ACT, 1894**Dated Peshawar the 28th January, 1985

No. 3/60-HSO (JUDL)/85: In exercise of the powers conferred by clause (d) of section 3 of the Land Acquisition Act, 1894, the Government of North-West Frontier Province is pleased to appoint, with immediate effect, all Additional District and Sessions Judges to perform, concurrently with the principal Civil Court, all the functions of the Court under the said Act within their respective jurisdiction.

C.No. 8A(2-3)

**ADDITIONAL DISTRICT AND SESSIONS JUDGES' POWER
UNDER CLAUSE (a) & (b) OF SUB-SECTION (1) OF
SECTION 491 Cr.PC**

Dated Peshawar the 5th May, 2011

No. 155-J., In exercise of the powers conferred under Section 491 (1A) of the Code of Criminal Procedure 1898 (Act V of 1898), the Hon'ble Chief Justice of this Court has been pleased to direct that the Senior most Additional Sessions Judge in a Sub-Division/Tehsil/Station in the whole of Khyber Pakhtunkhwa shall exercise all powers specified in clauses (a) and (b) of sub-section (1) of section 491 Cr.PC within the territorial limits of their respective Sessions Divisions.

C.No. 9(2-3)

**SENIOR CIVIL JUDGES POWERS UNDER SECTION 29-B OF
THE CR.P.C, 1898**Dated Peshawar the 2nd February, 1999

No. SO (JUDL)/HD/3-13/98: In exercise of the powers conferred by Sub-section (2) of section 8 of the Reformatory School Act, 1897, the Government of North -West Frontier Province is pleased to empower all the Senior Civil Judges in NWFP to try youthful offenders under section 29-B of the Criminal Procedure Code, 1898 and send them to Reformatory Schools for detention within the limits of Districts in which they are posted from time to time.

C.No. 10(2-3)

**SENIOR SUB JUDGES POWERS AS DISTRICT JUDGES
UNDER THE SUCCESSIONS ACT, 1925**

CIVIL SECRETARIAT, NORTH-WEST FRONTIER PROVINCE,

NOTIFICATION

Dated Peshawar the 5th June, 1939

No. 21635-HJ: Under powers conferred by Section 388 of the India Succession Act, XXXIX of 1925, the Governor, North West Frontier Province, is pleased to invest all Senior Sub Judges in the North-West Frontier Province with power to exercise the functions of a District Judge under Part X of the said Act.

C.No. 11(2-3)

**SENIOR CIVIL JUDGES AS COURTS UNDER LAND
ACQUISITION ACT 1894**

GOVERNMENT OF WEST PAKISTAN, REVENUE DEPARTMENT

NOTIFICATION

Dated Lahore the 3rd September 1969

No. 4840-69/4342-E (F) VI: In pursuance of the provisions contained in clause (d) of section 3 of the Land Acquisition Act, 1894, the Government of West Pakistan is pleased to appoint all the Senior Civil Judges in the divisions of Peshawar and Dera Ismail Khan to perform within their respective jurisdictions all functions of the court under the said Act.

C.No. 11A(2-3)

**SENIOR CIVIL JUDGES AS ENVIRONMENTAL
MAGISTRATES***PESHAWAR HIGH COURT****NOTIFICATION***Dated Peshawar the 09th May, 2007

No. M (a) 21-A/341 -j In exercise of the powers conferred by subsection (1) of section 24 of the Pakistan Environmental Protection Act, 1997, (Act # XXXIV of 1997), the Peshawar High Court is pleased to empower all the Senior Civil Judges/Magistrates First Class in the North-West Frontier Province to try offences punishable under subsection (2) of section 17 of the Act, as Environmental Magistrates in respect of the cases falling under their respective Jurisdiction.

C.No. 12(2-3)

**SENIOR CIVIL JUDGES, CIVIL JUDGES AND JUDICIAL
MAGISTRATES AS COURTS OF SMALL CLAIMS AND
MINOR OFFENCES***GOVERNMENT OF NWFP, HOME AND TRIBAL AFFAIRS
DEPARTMENT,****NOTIFICATION***Dated Peshawar the 5th April, 2005

No. SO(JUDL)/HD/12-20/2004: In exercise of the powers conferred by Section 4 of the Small Claims and Minor Offences Courts Ordinance, 2002 (Ord: No. XXVI of 2002), read with Ministry of Law, Justice & Human Rights Division, Government of Pakistan Notification No.SRO-601 (1)/2004 dated 5th July,2004, and in supersession of Notification No. SO (JUDL)/HD/1-21/2004 dated 18/11/2004, the Government of the North-West Frontier Province in consultation with Peshawar High Court Peshawar, is pleased to establish and declare all Courts of Senior Civil

Judges, Civil Judges and Judicial Magistrates in the Districts Headquarters and Sub-Division Headquarters as Courts of Small Claims and Minor Offences.

2. Local limits of jurisdiction of the Courts established under this Notification shall be such as the Peshawar High Court may, from time to time, determine.

C.No. 13(2-3)

**SENIOR CIVIL JUDGES' POWERS UNDER SECTION 30
Cr.P.C**

*GOVERNMENT OF NWFP, HOME AND TRIBAL AFFAIRS
DEPARTMENT,*

NOTIFICATION.

Dated Peshawar the 22nd July, 1996

No.3/65-HSO(JUDL)/96. In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Procedure, 1898, and in supersession of West Pakistan Notification No.16/4-H-Judl/56/13664, dated 29.5.1957, the Government of the North-West Frontier is pleased to confer powers of Judicial Magistrate of the Ist Class upon every Senior Civil Judge in the Province to be exercised by them within the limits of the districts in which they are posted from time to time.

2. The Government of the North-West Frontier, in exercise of the powers conferred by Section 30 of the said Code, is further pleased to invest every Senior Civil Judge in the Province, who is a Judicial Magistrate of the Ist Class, with the powers to try as Judicial Magistrate all offences not punishable with death. These powers shall be exercised by them within the limits of the Districts in which they are posted from time to time.

C.No. 14(2-3)

**SENIOR CIVIL JUDGES' POWERS UNDER SECTION 30
CR.P.C AND AS MAGISTRATES 1ST CLASS AND 1ST CLASS
CIVIL JUDGES' POWERS AS MAGISTRATES 1ST CLASS**

*GOVERNMENT OF WEST PAKISTAN, HOME DEPARTMENT
(JUDICIAL)*

NOTIFICATION.

Dated Lahore the 29th May, 1957

No. 16/4-H-Judl/56/13664, In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Procedure, 1898, the Governor of West Pakistan is pleased to confer the powers of a Magistrate of the Ist Class upon every (1) Senior Civil Judge and (2) Civil Judge of the Ist Class in West Pakistan, within the limits of the districts in which they are posted from time to time.

No. 10/4-H-Judl/56. The Governor of West Pakistan is pleased to invest every Senior Civil Judge in West Pakistan, who is a Magistrate of the first Class, with powers under section 30 of the Code of Criminal Procedure, 1898, to try as a Magistrate all offences not punishable with death. These powers shall be exercised within the limits of the districts in which they are posted from time to time.

C.No. 15(2-3)

**JUDICIAL MAGISTRATES 1ST CLASS AS SPECIAL COURTS
UNDER CNSA, 1997**

*GOVERNMENT OF NWFP, HOME AND TRIBAL AFFAIRS
DEPARTMENT,*

NOTIFICATION

Dated Peshawar the 20th March, 1998

No. SO (JUDL)/HD/3-10/98: In exercise of the powers conferred by sub-section (5) of Section 46 of the Control of Narcotic Substances Act,

1997 (XXV of 1997), the Provincial Government, as directed by the Federal Government, in consultation with the Chief Justice of the Peshawar High Court is pleased to confer the powers of a Special Court having the power to try offences punishable with imprisonment for two years or less under the Act on all the Judicial Magistrates of the 1st class in the Province in respect of the cases relating to the territorial limits within which each such Magistrate has jurisdiction to try cases under the Code of Criminal Procedure, 1898 (Act No. V of 1898).

C.No. 16(2-3)

CIVIL JUDGES 1ST CLASS AS JUDICIAL MAGISTRATES 1ST CLASS

*GOVERNMENT OF NWFP, HOME AND TRIBAL AFFAIRS
DEPARTMENT,*

NOTIFICATION

Dated Peshawar the 21st December, 1996

No. 3/65-HSO(JUDL)/96: In exercise of the powers conferred by sub-section (1) of Section 12 of the Code of Criminal Proceedings, 1898 and in supersession of West Pakistan Notification No. 16/4-H-Judl/56/13664 dated 29/05/1957, the Government of North-West Frontier Province is pleased to confer powers of Judicial Magistrate of 1st Class upon every Civil Judge of 1st Class in the Province to be exercised by them within the limits of the districts in which they are posted from time to time.

C.No. 17(2-3)

SUMMARY POWERS OF MAGISTRATES 1ST CLASS

**GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE HOME
AND TRIBAL AFFAIRS DEPARTMENT**

Peshawar Dated The 07.06.2005

No. SO(JUDL)HD/3-8/2001. In exercise of the powers conferred by section 37 of the Code of Criminal Procedure, 1898 (V of 1898), read with

item (7) of Schedule IV thereof, the Government of the North-West Frontier Province is pleased to confer upon the Judicial Officers mentioned in column 2 of the Table below, having already been conferred with the power of Magistrate First Class, with the additional power to try cases summarily for the purposes of section 260 of the said Code.

TABLE
CONTAINING NAME OF 176 MAGISTRATES

C.No. 18(2-3)

**CIVIL JUDGE / JUDICIAL MAGISTRATE GHAZI TO
GRANT SUCCESSION CERTIFICATE**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 1st February, 2002

No. 15/J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate, Ghazi with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

C.No. 19(2-3)

**CIVIL JUDGE / JUDICIAL MAGISTRATE MATTA TO
GRANT SUCCESSION CERTIFICATE**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 26th March, 2002

No. 38/J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief

Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate-I Matta with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

C.No. 20(2-3)

**CIVIL JUDGE / JUDICIAL MAGISTRATE LAHORE (SWABI)
TO GRANT SUCCESSION CERTIFICATE**

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar the 24th May, 2002

No. M (a) 40/2002/59-J: In exercise of the powers conferred by Section 12 of the West Pakistan Civil Courts Ordinance-II of 1962, the Honorable Chief Justice of this Court has been pleased to invest the Civil Judge/Judicial Magistrate-I, Lahore (Swabi) with necessary powers to grant/issue Succession Certificate under the provisions of the Succession Act, 1925.

C.No. 20A(2-3)

**CIVIL JUDGES AT SUB-DIVISIONAL HEADQUARTERS TO
GRANT SUCCESSION CERTIFICATE**

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION

Dated Peshawar, the 19th October, 2007

No. 439-J:- In continuation of this Court's Notification Number 15/J dated Peshawar the 01.02.2002, No. M(a)40/2002/59-J dated 24.05.2002 and No1(a)67-VII/2002/42-J dated 05.06.2002, the Chief Justice and Judges of the Peshawar High Court, in exercise of the powers conferred by section 12 of the West Pakistan Civil Courts Ordinance, 1962 (Ordinance No II of 1962), are pleased to invest the following Civil Judges

with necessary powers to grant/issue Succession Certificates under the provisions of the Succession Act, 1925.

1. Civil Judge, Shabqadar.
2. Civil Judge-I, Tangi.
3. Civil Judge-I, Takht Bahi.
4. Civil Judge, Dargai.
5. Civil Judge, Puran.
6. Civil Judge, Samarbagh.
7. Civil Judge, Wari.
8. Civil Judge, Totalai.
9. Civil Judge, Booni.
10. Civil Judge, Kulachi.
11. Civil Judge, Paharpur.
12. Civil Judge-I, Takht Nasrati.
13. Civil Judge, B.D. Shah.
14. Civil Judge-I, Balakot.
15. Civil Judge, Oghi.

C.No. 21(2-3)

PECUNIARY POWERS OF CIVIL JUDGES

PESHAWAR HIGH COURT

NOTIFICATION

Dated Peshawar, the 5th June, 2002.

No. 1(a) 67-VII/2002/42-J: In exercise of the powers conferred by section 9 of the West Pakistan Civil Courts Ordinance, 1962, the Chief Justice and Judges of the Peshawar High Court, Peshawar, are pleased to order, in supersession of all previous orders issued in this behalf, that for the purpose of determining the pecuniary limits of the jurisdiction exercisable by the Civil Judges in original civil suits and proceedings, Civil Judges be placed in the under mentioned three classes, namely:

Civil Judge 1 st Class	To exercise jurisdiction in original Civil suits or proceedings without limit as regards value.
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Civil Judge 2 nd Class	To exercise jurisdiction in original Civil Suits or proceedings wherein the subject matter in amount or value does not exceed Rs.500,000/- (Five Hundred Thousand).
Civil Judge 3 rd Class	To exercise jurisdiction in original Civil Suits or proceedings wherein the subject matter in amount or value does not exceed Rs.100,000/- (One Hundred Thousand).

C.No. 22(2-3)

CRITERIA FOR CONFERMENT OF POWERS UPON CIVIL JUDGES

I am directed to say that the policy as to what civil powers the Civil Judges who have exercised such powers for a certain period prior to 3.7.1963, when the new classifications were introduced, are to be invested with under the classifications, was reconsidered in the Full Court Judges meeting and it was decided that the normal period of inclusion in class III be two years, with effect from the date of the first posting subject to the receipt of good reports of District Judges with regard to the work and conduct of Civil Judges and that the normal period in Class II be three years with effect from the date on which the said powers are first conferred subject to the receipt of good reports from District Judges in respect of the work and conduct of civil Judges.

2. This court's circular letter No.21290-Gaz/XXI.C.35, dated the 13th November, 1963, is hereby withdrawn.

3. I am, therefore, to request that before making a reference to this court for the conferment of second Class and First Class civil powers upon Civil Judges the above decision should be kept in view.

(No. 4013 GAZ/XXI.Q.35 Dated 15.03.1964)

C.No. 23(2-3)

**LOCAL LIMITS OF JURISDICTION OF SMALL CLAIMS
AND MINOR OFFENCES COURTS***PESHAWAR HIGH COURT****NOTIFICATION***Dated Peshawar the 23rd September, 2005

No. 119-5: In exercise of the powers conferred by sub section 3 of section 4 of the Small Claims and Minor Offences Courts Ordinance, 2002 (Ordinance No. XXIV of 2002), Honorable the Chief Justice and Judges of this Court are pleased to notify that the local limits of jurisdiction of Small Claims and Minor Offences Courts, established vide Government of NWFP Notification No. SO (JUDL)/HD/12-20/2004 dated 05/04/2005, shall be throughout the District in which the court is established.

C.No. 24(2-3)

**APPOINTMENT OF SENIOR SPECIAL JUDGE ANTI
CORRUPTION AND SPECIAL JUDGE ANTI CORRUPTION
(PROVINCIAL)***GOVERNMENT OF NWFP, ESTABLISHMENT DEPARTMENT,****NOTIFICATION***Dated Peshawar the 1st November, 2003

No. SOE-III/E&AD/1-7/2000: In exercise of powers conferred by sub-section (1) of Section 3 and sub-section (1) & (2) of Section 4 of the Pakistan Criminal Law Amendment Act, 1958 and in partial modification of previous notifications on the subject, the Government of North West Frontier Province is pleased:

- (a) To appoint the officers mentioned in column 2 of the table below as Special Judges at places mentioned and having jurisdiction within the local limits of the area shown against each in column 3 & 4 thereof respectively; and

- (b) To declare Mr. Ghulam Muhy-ud-Din Malik as Senior Special Judge Anti-Corruption for the areas falling within the jurisdiction of the officers at serial No. (ii) & (iii) of the table.

TABLE

Sr#	Name & Designation of Officer	Headquarter	Jurisdiction
1	2	3	4
(i)	Special Judge Anti-Corruption	Peshawar	The whole of North West Frontier Province
(ii)	Additional Special Judge, Anti-Corruption	Abbotabad	District of Haripur, Abbotabad, Mansehra, Batagram & Kohistan
(iii)	Additional Special Judge, Anti-Corruption Southern Districts	Bannu	Districts of Bannu, Laki Marwat, Tank and D.I. Khan

2. The Special Judges may hold their courts at the headquarters of the districts within which the offences have been committed or deemed to have been committed of their respective headquarters.

C.No. 25(2-3)

SESSIONS JUDGES AS SENIOR SPECIAL JUDGES ANTI CORRUPTION (CENTRAL)

GOVERNMENT OF PAKISTAN, MINISTRY OF LAW

NOTIFICATION

Dated Lahore the 25th November, 1958

No. F.Adm.15-8/58 (II): In exercise of powers conferred by sub-section (2) of Section 4 of the Pakistan Criminal Law Amendment Act, 1958 (Act of 1958), the Central Government is pleased to declare all the Sessions Judges in East Pakistan and West Pakistan to be the Senior Special Judges for their respective Sessions Division.

C.No. 26(2-3)

**SESSIONS JUDGES, ADDITIONAL SESSIONS JUDGES AND
ASSISTANT SESSIONS JUDGES AS SPECIAL JUDGES ANTI
CORRUPTION (CENTRAL)**

*GOVERNMENT OF PAKISTAN, MINISTRY OF LAW AND
PARLIAMENTARY AFFAIRS*

NOTIFICATION

Dated Lahore the 20th July, 1966

No. SRO (R)/66: In exercise of the powers conferred by sub-section (1) of Section 3 of the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958), and sub-section (1) of Section 4 thereof, and in super-session of the late Ministry of Law Notification No. F.Amn.15-8/58 (I) dated the 25th November 1958, the Central Government is pleased to appoint all Sessions Judges and Additional Sessions Judges and all such Assistant Sessions Judges as have been such Judges for not less three years to be Special Judges and to direct that each such Special Judge shall have jurisdiction within the territorial limits within which he exercises jurisdiction as a Sessions Judge, Additional Sessions Judge or an Assistant Sessions Judge. (File No. 12 (4) / 66-A)

SECTION-4 (DRESS)

C.No. 1(2-4)

DRESS CODE FOR JUDICIAL OFFICERS

ORDER

Dated Peshawar the 28th April, 2004

No. U-86-II The Competent Authority has been pleased to prescribe the following dress code for all the Judicial Officers of the District Judiciary as well as members of the bar, with immediate effect and until further orders;

	Summer(15th April to 14th October)
<u>Gents:</u>	White Shalwar Qameez with black coat/waist coat (Sherwani Collars) and black shoes. OR Black suit/black coat with gray pants, white shirt, black neck tie with black shoes.
<u>Ladies:</u>	White Shalwar Qameez with black scarf (Dupatta) and black shoes(black coat-optional).
	Winter(15th October to 14th April)
<u>Gents:</u>	White Shalwar Qameez with black coat and black Shoes. OR black Suit / Black coat with gray pants, white shirt, black neck tie with black shoes.
<u>Ladies:</u>	White Shalwar Qameez with black coat, black scarf (Dupatta) and black shoes.

This is issued in supersession of all previous orders on the subject.

SECTION-5 (JOB DESCRIPTIONS)

C.No. 1(2-5)

CALENDAR OF JOB DESCRIPTIONS OF JUDICIAL OFFICERS

The jobs given in this calendar have been taken from different laws, instructions and settled practice. Effort has been made to give maximum references to relevant law. Apart from these descriptions of jobs there are many other functions and this list is not all inclusive. Nevertheless an attempt is made to enlist most important of the jobs here.

I. DISTRICT & SESSIONS JUDGE

1. To see that Performance Evaluation Reports of all the staff of whom he is the appointing authority are record by 15th January each year. (Ch. 18-B, Vol-I of High Court Rules & Orders (HRO))
2. To check half yearly the register of security kept by Superintendent. (Ch. 18-C, Vol-I of HRO)
3. All the complaints and petitions in civil cases to be received and distributed by the District Judge or this power be delegated to any Subordinate Judge under section 15 of West Pakistan Civil Courts Ordinance, 1962. (Rule 3, Ch. 1-B, Vol-I of HRO)
4. The list of all cases so distributed be exhibited outside the Court house daily.
5. To distribute the business in criminal cases under section 17(1) Cr.PC.
6. To pass orders for disposal of urgent criminal applications while he is absent or incapable of acting under section 17 (3) CrPC.
7. Delegation of powers in his absence from headquarter under section 22 of the West Pakistan Civil Courts Ordinance, 1962.

8. Empowering any other Civil Judge in case of temporary vacancy of office of Civil Judge under section 23 of the West Pakistan Civil Courts Ordinance, 1962.
9. District judge to transfer cases to equalize the civil work by giving date to the parties in the transferee Court [Rule 6, Ch 1-B, Vol-I of HRO].
10. Examination of the plaint in cases retained by the Court.[Rule 1, Ch1-C of Vol-I of HRO]
11. Presiding Officer to decide that whether the Summon is to be issued for final disposal or for settlement of issue [Order 5, Rule 5, CPC].
12. Framing of issues [Rule 2, Ch 1-F of Vol-I of HRO].
13. Examination of parties [Rule 5, Ch-1-F of Vol-I of HRO].
14. Discovery, inspection and admission. [Rule 11, Ch 1-F, Vol-I of HRO].
15. In case of unexpected holiday or unexpected absence, he should himself fix fresh dates on the preceding day in the register. [Rule 4, Ch 1-K, Vol-IV of HRO]
16. District Judge to distribute execution work and to see that execution work is not neglected in Lower Courts [Rule 4&5, Ch 12-A, Vol-I of HRO].
17. District Judge to issue instructions on the subject of translation of Judgments [Rule 10, Ch 11-A, Vol-I of HRO].
18. In case of transfer of Civil cases under section 24 CPC regard should be had to Ch 13, Vol-I of HRO.
19. In remand reasonable time for return of findings by the Lower Court should be fixed. [Rule 24, Ch14-B, Vol-I of HRO].
20. Giving date in case of remand. [Rule 21, Ch 14-B, Vol-I of HRO].

21. Note by Court on limitation and explanation of delay from appellant. [Rule 4,5,6,7,8,9 & 10, Ch 14-D of Vol-I of HRO].
22. Rules of transmission of Appellate Courts Order to Lower Courts [Part E, Ch 14, Vol-I of HRO].
23. Holding of examination of petition writers [Rule VIII of Part B of Petition Writers Rules]
24. Constitution of Board for examination of petition writers [Rule IX of Part B of Petition Writers Rules]
25. Declaration of result of petition writers and submission of statements of their names to the High Court. [Rule X of Part B of Petition Writers Rules]
26. Granting of license to petition writers [Rule XI of Part B of Petition Writers Rules]
27. In case of failure to produce license by petition writer between prescribed period, his name to be posted on Board. [Rule XIV of Part B of Petition Writers Rules]
28. In case of promotion of grade of petition writer, the next grade license is to be issued. [Rule XV of Part B of Petition Writers Rules]
29. May transfer any petition writer from one place to another within district. [Rule XVI of Part B of Petition Writers Rules]
30. Issue of duplicate license to loser petition writer. [Rule XVII of Part B of Petition Writers Rules]
31. Order rewriting of petition to petition writer. [Rule XXXI of Part B of Petition Writers Rules]
32. Breach of Rule XXXV of petition writers rule, offence to be cognizable by District Judge. [Rule XXXVI of Part B of Petition Writers Rules]
33. Keys of will-safe [Ch 7-B, Vol-II of HRO]

34. Being Inspection Judge Civil Nazir to be checked [Rule 12, Ch 8-D, Vol-II of HRO].
35. Grant of leave to official receiver. [Ch 5-A, Vol-II of HRO]
36. Quarterly Inspection of his own court Nazir [Rule 18, Ch-8-D of Vol-II of HRO]
37. Daily checking of accounts, in case the district judge is also having PLA [Rule 32 & 33, Ch 8-D, Vol-II of HRO].
38. Prompt remittance of money to treasury, in case the district judge is also having PLA [Rule 38, Ch-8-D of Vol-II of HRO]
39. List of un-lapsed items, in case the district judge is also having PLA [Rule 43, Ch 8-D, Vol-II of HRO]
40. Physical verification of balance at the hands of Nazir, in case the district judge is also having PLA [Rule 44, Ch 8-D, Vol-II of HRO]
41. Monthly inspection of Nazir's balance with treasury pass book, in case the district judge is also having PLA [Rule 45, Ch 8-D, Vol-II of HRO]
42. Statements of lapsed items to be prepared, in case the district judge is also having PLA [Rule 48, Ch 8-D, Vol-II of HRO]
43. Checking of register, at least once a month, relating to pecuniary transactions by the Presiding Officer [Rule 4, CH-8-A, Vol-II of HRO].
44. Daily checking of cash book [Rule 8, CH-8-A, Vol-II of HRO]
45. Inquiry into embezzlement [Rule 5, 6 CH-8-B, Vol-II of HRO]
46. Maintenance of Land Acquisition Register [Rule 2, CH-8-D, Vol-II of HRO]
47. Quarterly inspection of Register of Process Servers and Bailiff Note Book [Rule 18, CH-8-D, Vol-II, Rule 3, CH-8-E, Vol-II of HRO]

48. Supervision and control of District Judge over subordinate courts – parameters [Rule 3, CH-1-A, Vol-IV of HRO]
49. Errors and Irregularities of lower courts – In Appellate Jurisdiction – Parameters [Rule 4, CH-1-A, Vol-IV of HRO]
50. Pecuniary control – Report of defalcation in accounts [CH-1-B, of Vol-IV of HRO]
51. Periodical Inspection by District Judge of subordinate courts [CH-1-C of Vol-IV of HRO]
52. Inspection by presiding officer of his own Court [Rule 10, CH-1-C of Vol-IV of HRO]
53. Assumption and Relinquishment of charges or appointments [CH-1-E, Vol-IV, Rule 15, CH-18, Vol-IV of HRO]
54. Circular Orders issued by District Judge only with prior approval of High Court [Rule 6, CH-2-A of Vol-IV of HRO]
55. Surprise Inspection to check cancellation of Court fee stamps [Rule 5, CH-2-B of Vol-IV of HRO]
56. Memorandum of points to be attended by inspection officers [Part I to V of CH-2-B of Vol-IV of HRO]
57. Dispatcher & receiver to be notified [Rule 7, CH-16-A Vol-IV of HRO]
58. Weeding out of books [Rule 16, CH-18, Vol-IV of HRO]
59. Annual checking of library [Rule 17, CH-18, Vol-IV of HRO]
60. Loss or damage of Record [Rule 5, CH-19, Vol-IV of HRO]
61. Signatures and addresses of officer on orders / correspondence [Rule 6, CH-19-B Vol-IV of HRO]Parwana and Arzi [Rule 7, CH-19-B Vol-IV of HRO]
62. Responsibility of preparation of estimated revenue and expenditure [Rule 4, CH-21-A, Vol-IV of HRO]

63. Procedure to be adopted whenever a civil construction work is proposed [CH-22 Vol-IV of HRO]
64. Placement of Furniture card on Wall [Rule 2, CH-22-C, Vol-IV of HRO]
65. Periodical returns and report [CH-23, Vol-IV of HRO]
66. Submission of Indents for Registers [Rule 1, CH-24, Vol-IV of HRO]
67. Submission of Indents for supply of Form [Rule 2, CH-25-A, Vol-IV of HRO]
68. Each page of account book to be paged [Rule 54, Ch 8-D, Vol-II of HRO]
69. Adjournment caused by holiday, how to be dealt with [Rule 8, CH-1-A, Vol-III of HRO]
70. Bail applications on holidays [Rule 7, CH-10, Vol-III of HRO]
71. Remand case should be fixed back in proper place – Procedure [CH-14-E, Vol-I of HRO]
72. Inspection of Judicial lockup [CH-27, Vol-III of HRO]
73. In case of transfer of Civil cases under section 24 CPC regard should be had to Ch- 13, Vol-I of HRO
74. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]
75. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]
76. Monthly reconciliation of all deposits in treasury. [GFR]
77. Table of Process Fee outside Court room [S-21, Court Fee Act]
78. Delegatee of Financial Powers (Delegation of Powers under the Financial Rules and the Powers of Re-Appropriation Rules, 2001)
79. For procurement see NWFP Procurement of Goods, Works and Services Rules, 2003.
80. For maintenance of vehicles see the Government Staff Vehicles (Use & Maintenance) Rules, 1997.

II. ADDITIONAL DISTRICT & SESSIONS JUDGE

1. Examination of the plaint in terms of Rule 1 of Chapter 1-C of Vol-I of High Court Rules and orders.
2. Presiding Officer to decide that whether the summons is to be issued for final disposal or for settlement of issues [Order 5, Rule 5 of CPC] .
3. Signing of summons himself or authorization to Reader. [Rule 6, Ch 1-D, Vol-I of HRO].
4. Framing of issues [Rule 2, Ch 1-F of Vol-I of HRO].
5. Examination of parties [Rule 5, Ch-1-F of Vol-I of HRO].
6. Discovery, inspection and admission. [Rule 11, Ch 1-F, Vol-I of HRO].
7. In case of unexpected holiday or unexpected absence, he should himself fix fresh dates on the preceding day in the register. [Rule 4, Ch 1-K, Vol-IV of HRO].
8. In remand reasonable time for return of findings by the Lower Court should be fixed. [Rule 24, Ch14-B, Vol-I of HRO].
9. Giving date in case of remand. [Rule 21, Ch 14-B, Vol-I of HRO].
10. Note by Court on limitation and explanation of delay from appellant. [Rule 4,5,6,7,8,9 & 10, Ch 14-D of Vol-I of HRO].
11. Reference can be made to High Court through D & SJ [Rule 6, Ch 15, Vol-I of HRO].
12. Checking of register at least once a month relating to procuring transactions by the Presiding Officers [Rule 4, CH-8-A, Vol-II of HRO]
13. Daily checking of cash book [Rule 8, CH-8-A, Vol-II of HRO]
14. Inquiry into embezzlement [Rule 5, 6, CH-8-B, Vol-II of HRO]

15. Errors and Irregularities of lower courts – In Appellate Jurisdiction – Parameters [Rule 4, Ch 1-A, Vol-IV of HRO]
16. Pecuniary control – Report of defalcation in accounts [CH-1-B, of Vol-IV of HRO]
17. Inspection by presiding officer of his own Court [Rule 10, CH-1-C of Vol-IV of HRO]
18. Memorandum of points to be attended by inspection officers [Part I to V of CH-2-B of Vol-IV of HRO]
19. Dispatcher & receiver to be notified [Rule 7, CH-16-A Vol-IV of HRO]
20. Weeding out of books [Rule 16, CH-18, Vol-IV of HRO]
21. Annual checking of library [Rule 17, CH-18, Vol-IV of HRO]
22. Loss or damage of Record [Rule 5, CH-19, Vol-IV of HRO]
23. Signatures and addresses of officer on orders / correspondence [Rule 6, CH-19-B Vol-IV of HRO]
24. Placement of Furniture card on Wall [Rule 2, CH-22-C, Vol-IV of HRO]
25. In case of transfer of Civil cases under section 24 CPC regard should be had to Ch- 13, Vol-I of HRO]
26. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]
27. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]
28. Monthly reconciliation of all deposits in treasury. [GFR]
29. Table of Process Fee outside Court room [S-21, Court Fee Act]

III. SENIOR CIVIL JUDGE

1. To see that Performance Evaluation Reports of all the staff of whom he is the appointing authority are record by 15th January each year. (Ch. 18-B, Vol-I of HRO)
2. To check half yearly the register of security kept by clerk of court. (Ch. 18-C, Vol-I of HRO)
3. Examination of the plaint in cases retained by the Court.[Rule 1, Ch1-C of Vol-I of HRO].
4. The list of all cases distributed amongst Civil Judge be exhibited outside the Court house daily, provided Senior Civil Judges is authorized to distribute the cases. (Rule 3, Ch. 1-B, Vol-I of HRO)
5. While distributing business he should keep in mind Rule 3(ii) of Ch 1-B, Vol-I of HRO
6. Presiding Officer to decide that whether the summon is to be issued for final disposal or for settlement if issues [Order 5, Rule 5 CPC].
7. Signing of summon himself or authorization to COC [Rule 6, Ch 1-D, Vol –I of HRO].
8. Framing of issues [Rule 2, Ch 1-F, Vol –I of HRO].
9. Examination of parties [Rule 5, Ch 1-F, Vol-I of HRO].
10. Discovery, inspection and admission. [Rule 11, Ch 1-F, Vol –I of HRO].
11. In case of unexpected holiday or unexpected absence he should himself fix fresh dates on the preceding day in the register. [Rule 4, Ch 1-K, Vol-I of HRO]
12. To see that money realized in execution is accounted for [Rule 7, Ch 12-A, Vol-I of HRO].

13. In case of transfer of Civil cases under section 24 CPC regard should be had to Ch- 13, Vol-I of HRO.
14. In case of remand if time cannot be honoured the Lower Court to apply for extension of time to Appellate Court [Rule 24, Ch 14-B, Vol-I of HRO].
15. In case of remand under Rule 23, Order XLI CPC, the case be registered on its original No, In case of re-investigation of certain issues under Order XLI Rule 25 CPC, it should remain on the register of Appellate Court.
16. Statement of Serving Officer [Rule 28, Ch 14-B, Vol-I of HRO].
17. Reference can be made to High Court through D & SJ [Rule 6, Ch 15, Vol-I of HRO].
18. Return of money.[Rule 17, Ch 8-D, Vol-II of HRO].
19. Periodical Inspection of his own court's Nazir [Rule 18, Ch-8-D of Vol-II of HRO]
20. Checking of Process Servers note book [Rule 23, Ch 8-D, Vol-II of HRO].
21. Daily checking [Rule 32, 33, Ch 8-D, Vol-II of HRO].
22. Prompt remission of money to treasury [Rule 38, Ch 8-D, Vol-II of HRO]
23. List of un-lapsed items [Rule 43, Ch 8-D, Vol-II of HRO]
24. Physical verification of balance at the hands of Nazir [Rule 44, Ch 8-D, Vol-II of HRO]
25. Monthly inspection of Nazir's balance with treasury pass book [Rule 45, Ch 8-D, Vol-II of HRO]
26. Statements of lapsed items to be prepared [Rule 48, Ch 8-D, Vol-II of HRO]

27. Each page of account book to be paged [Rule 54, Ch 8-D, Vol-II of HRO]
28. Checking of register at least once a month relating to procuring transactions by the Presiding Officers [Rule 4, CH-8-A, Vol-II of HRO]
29. Daily checking of cash book [Rule 8, CH-8-A, Vol-II of HRO]
30. Inquiry into embezzlement [Rule 5, 6, CH-8-B, Vol-II of HRO]
31. Quarterly inspection of Register of Process Servers and Bailif Note Book [Rule 18, CH-8-D, Vol-II, Rule 3, CH-8-E, Vol-II of HRO]
32. Pecuniary Control – Report of defalcation in accounts [CH-1-B, of Vol-IV of HRO]
33. Inspection by Presiding Officer of his own court [Rule 10, CH-1-C of Vol-IV of HRO]
34. Belts and Bedys of Bailif and Process Server [Rule 8, CH-6-A, Vol-IV of HRO]
35. Dispatcher & receiver to be notified [Rule 7, CH-16-A Vol-IV of HRO]
36. Weeding out of books [Rule 16, CH-18, Vol-IV of HRO]
37. Annual checking of library [Rule 17, CH-18, Vol-IV]
38. Loss or damage of Record [Rule 5, CH-19, Vol-IV of HRO]
39. Signatures and addresses of officer on orders / correspondence [Rule 6, CH-19-B Vol-IV of HRO]
40. Parwana and Arzi [Rule 7, CH-19-B Vol-IV of HRO]
41. Responsibility of preparation of estimated revenue and expenditure [Rule 4, CH-21-A, Vol-IV of HRO]

42. Placement of Furniture Card on the wall [Rule 2, CH-22-C, Vol-IV of HRO]
43. Periodical returns and reports [CH-23, Vol-IV of HRO]
44. Remand case should be fixed back in proper place – Procedure [CH-14-E, Vol-I of HRO]
45. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]
46. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]
47. Monthly reconciliation of all deposits in treasury. [GFR]
48. Table of Process Fee outside Court room [S-21 Court Fee Act]
49. Delegatee of Financial Powers (Delegation of Powers under the Financial Rules and the Powers of Re-Appropriation Rules, 2001)
50. For procurement see NWFP Procurement of Goods, Works and Services Rules, 2003.

IV. CIVIL JUDGE & JUDICIAL MAGISTRATE

1. Examination of the plaint in cases retained by the Court.[Rule 1, Ch1-C of Vol-I of HRO]
2. Presiding Officer to decide that whether the summons is to be issued for final disposal or for settlement if issues. [Order 5, Rule 5 of CPC]
3. Signing of summons himself or authorization to Reader. [Rule 6, Ch 1-D of HRO, Vol –I of HRO].
4. Framing of issues [Rule 2, Ch 1-F, Vol-I of HRO].
5. Examination of parties [Rule 5, Ch-1-F of Vol-I of HRO].
6. Discovery, inspection and admission. [Rule 11, Ch 1-F, Vol –I of HRO].
7. In case of unexpected holiday or unexpected absence, he should himself fix fresh dates on the proceeding day in the register. [Rule 4, Ch 1-K, Vol-IV of HRO]
8. Return of money.[Rule 17, Ch 8-D, Vol-II of HRO].

9. Reference case be made to High Court through D & SJ [Rule 6, Ch 15, Vol-I of HRO].
10. Checking of register at least once a month relating to procuring transactions by the Presiding Officers [Rule 4, CH-8-A, Vol-II of HRO]
11. Daily checking of cash book [Rule 8, CH-8-A, Vol-II of HRO]
12. Inquiry into embezzlement [Rule 5, 6, CH-8-B, Vol-II of HRO]
13. Pecuniary control – Report of defalcation in accounts [CH-1-B, of Vol-IV of HRO]
14. Inspection by presiding officer of his own Court [Rule 10, CH-1-C of Vol-IV of HRO]
15. Memorandum of points to be attended by inspection officers [Part I to V of CH-2-B of Vol-IV of HRO]
16. Dispatcher & receiver to be notified [Rule 7, CH-16-A Vol-IV of HRO]
17. Weeding out of books [Rule 16, CH-18, Vol-IV of HRO]
18. Annual checking of library [Rule 17, CH-18, Vol-IV of HRO]
19. Loss or damage of Record [Rule 5, CH-19, Vol-IV of HRO]
20. Signatures and addresses of officer on orders / correspondence [Rule 6, CH-19-B Vol-IV of HRO]
21. Placement of Furniture card on Wall [Rule 2, CH-22-C, Vol-IV of HRO]
22. In case of transfer of Civil cases under section 24 CPC regard should be had to Ch- 13, Vol-I of HRO]
23. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]

24. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]
25. Monthly reconciliation of all deposits in treasury. [GFR]
26. Table of Process Fee outside Court room [S-21, Court Fee Act]

C.No. 2(2-5)

CALENDAR OF JOB DESCRIPTIONS OF STAFF OF DISTRICT JUDICIARY

The jobs given in this calendar have been taken from different laws, instructions and settled practice. Effort has been made to give maximum references to relevant law. Apart from these descriptions of jobs there are many other functions and this list is not all inclusive. Nevertheless an attempt is made to enlist most important of the jobs here.

I. SUPERINTENDENT COURT OF DISTRICT & SESSIONS JUDGE

1. Maintenance of character Rolls of all the staff of whom the District & Sessions Judge is the appointing authority [Ch 18-B, Vol-I of High Court Rules & Orders (HRO)].
2. Submission of blank form of Performance Evaluation Reports of the staff to concerned reporting officer. (Ch. 18-B, Vol-I of HRO)
3. Maintenance of Register of Security of Officials required to give security. [Ch 18-C, Vol-I of HRO].
4. To see that all appeals, complaints and petitions etc, received in the court are properly stamped with court fee [Rule 5, Ch1-B, Vol-I of HRO].
5. Comparison of copies of accounts under Order 7 Rule 17 CPC, in cases retained by the District Judge for disposal.
6. Signing of summons if authorized by District Judge [Rule 6, CH 1-D, Vol-I of HRO].

7. To examine the letters of request and commission [Rule 34, Ch 10-F, Vol-I of HRO].
8. Reception of memorandum of appeals [Rule 5, Ch 14-B, Vol-I of HRO].
9. Memo of appeal to be checked for purpose of limitation [Rule 1&2, Ch 14-D, Vol-I of HRO].
10. To assist District and Sessions Judge in performing his duties as to petition writers.
11. Checking of Process Servers register of the Agency of District & Sessions Judge. [Rule 23, Ch 8-D, Vol-II of HRO].
12. Public Notice as to money transaction. [Rule 6(b), Ch-8-A, Vol-II of HRO].
13. Nazir accounts to be checked. [Rule 9, Ch-8-A, Vol-II of HRO].
14. Monthly checking of Register of processes. [Rule 18, Ch-8-D, Vol-II of HRO].
15. Accounts of process fee and costs of establishment to be maintained. [Rule 8, Ch-5-A, Vol-IV of HRO].
16. Incharge of library. [Rule 9, Ch-18, Vol-IV of HRO].
17. Budget Estimates as directed by Presiding Officer.
18. All correspondence pertaining to Court of District & Sessions Judge.
19. Review of monthly and annual statement both civil and criminal of all Courts.
20. Matters of establishment of District & Sessions Judge.
21. Checking and verification of copies issued by the Sessions courts.
22. Receipt of all the dak from other offices and marking to concerned officers.

23. Daily checking of copying accounts.
24. General Supervision of the work of staff.
25. Maintenance of stock register.

II. SENIOR SCALE STENOGRAPHER

1. Dictation of Judgments [Rule 7, Ch 11-A, Vol-I of HRO].
2. In camp carries clerical duties.

III. JUNIOR SCALE STENOGRAPHER

1. Dictation of Judgments [Rule 7, Ch 11-A, Vol-I of HRO].
2. In camp carries clerical duties.

IV. READER TO THE COURT OF DISTRICT/ADDITIONAL DISTRICT & SESSIONS JUDGE

1. Preparation of cause list of cases and exhibiting the same in the veranda of Court house one day before [Ch 1-A, Vol-I of HRO].
2. To see that all appeals, complaints and petitions etc received in the court are properly stamped with Court fee [Rule 5, Ch 1-B, Vol-I of HRO].
3. Comparison of copies of accounts under Order 7, Rule 17 CPC.
4. Giving Parcha Yadashat [Rule 13, Ch-1-C, Vol-I of HRO].
5. Signing of summons other than Court of District Judge, if authorized by the Presiding Officer. [Rule 6, Ch-1-D, Vol-I of HRO].
6. Giving information to the parties and witnesses of the next date in case of adjournment due to unexpected holiday or unexpected absence of Presiding Officer [Rule 4, Ch 1-K, Vol-I of HRO].

7. Recording note on warrant of attachment that all the formalities have been complied with [Rule 4, Ch-12-H, Vol-I of HRO].
8. Memo of appeal to be checked for purpose of limitation except court of District & Sessions Judge. [Rule 1&2, Ch 14-D, Vol-I of HRO].
9. Noting of number of case on application involving a deposit in the Sheriffs' Petty Account. [Rule 13, Ch 8-D, Vol-II of HRO].
10. Certificate to the effect that the subsistence allowance of all the servants of the state who appeared as witnesses in the case has been credited into the treasury under the relevant head. [Rule 50, Ch 8-D, Vol-II of HRO].
11. Certificates regarding diet money before consignment [Rule 29, Ch-8-D, Vol-II of HRO].
12. Records about service [Rule 3, Ch-7-B, Vol-IV of HRO].
13. To ensure that court room is locked.[Rule 10, Ch-18, Vol-IV of HRO].
14. Posting of correction slips in books.[Rule 14, Ch-18, Vol-IV of HRO].
15. Preparation of list of connected record. [Rule 5, Ch-20, Vol-IV of HRO].
16. Maintenance of registers of dates. (Part A-IV, Vol-VI & Part B-IV, Vol-VI of HRO)
17. Maintenance of register of return of documents. (Part A-IV, Vol-VI of HRO)
18. Maintenance of register of return of complaints. (Part A-IV, Vol-VI of HRO)
19. Maintenance of register of appointment of commission. (Part A-IV, Vol-VI of HRO)
20. Maintenance of register of Fine. (Part B-IV, Vol-VI of HRO)

21. Maintenance of stock register of Court other than that of District and Sessions Judge.
22. Maintenance of register of attendance.
23. Maintenance of register of general correspondence other than that of District and Sessions Judge.
24. Maintenance of management file other than court of District and Sessions Judge.
25. Maintenance of register of correspondence.
26. Maintenance of register of stamp deficiencies. (Part A-IV, Vol-VI of HRO)
27. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]
28. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]

V. CLERK OF COURT TO THE COURT OF SENIOR CIVIL JUDGE

1. Maintenance of character Rolls of all the staff of whom the Senior Civil Judge is the appointing authority [Ch 18-B, Vol-I of HRO].
2. Submission of blank form of Performance Evaluation Reports of the staff to concerned reporting officer. [Ch 18-B, Vol-I of HRO]
3. Maintenance of Register of Security of Officials required to give security [Ch 18-C, Vol-I of HRO].
4. To see that all appeals (if any), complaints and petitions received in the court are properly stamped with court fee [Rule 5, Ch 1-B, Vol-I of HRO].
5. Comparison of copies of accounts under Order 7 Rule 17 CPC, in cases retained by the Senior Civil Judge for disposal.

6. Memo of appeal to be checked for purpose of limitation [Rule 1&2, Ch 14-D, Vol-I of HRO].
7. Public Notice as to money transaction. [Rule 6(b), Ch-9-A, Vol-II of HRO].
8. Monthly checking of Register of processes. [Rule 18, Ch-8-D, Vol-II of HRO].
9. Monthly checking of Process Servers' Note Book. [Rule 23, Ch-8-D, Vol-II of HRO].
10. Incharge of library. [Rule 9, Ch-18, Vol-IV of HRO].
11. Maintenance of stock register
12. Maintenance of register of general correspondence.
13. Maintenance of management file.

VI. ACCOUNTANT/NAZIR

1. Budget Estimates as directed by Presiding Officer.
2. Signatures of all the Presiding Officers to be kept. [Rule 1, Ch-9-B, Vol-III of HRO].
3. Preparation of Pay & TA Bills of Judges and Establishment.
4. Preparation of contingent bills.
5. Correspondence connected with financial matters
6. Control over office contingency.
7. Preparation of progressive statement of expenditure.
8. Signatures of all the Presiding Officers (District and Sessions Judge and Additional District and Sessions Judges) to be kept [Rule 1, Ch-9-B, Vol-III of HRO].

9. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]
10. Monthly reconciliation of all deposits in treasury. [GFR]

VII. CIVIL NAZIR

1. Service of process of attachment of immovable property by himself or through his subordinate [Rule 3, Ch 12-H of HRO, Vol-I].
2. Jewels and portable property brought to the Court to be placed in cash chest. [Rule 2, Ch 12-K, Vol-I of HRO].
3. Civil Courts Deposit Account. [Ch 8, Vol-II of HRO]
4. Sheriffs' Petty Account. [Ch 8-D, Vol-II of HRO]
5. Deposit of cash of Sheriffs' Petty daily and monthly. [Rule 2, Ch-8-D, Vol-II of HRO].
6. Register of Receipt, Cash Book etc. [Ch-8-D, Vol-II of HRO].
7. Submission of report as to the members of establishment. [Rule 11, Ch-8-D, Vol-II of HRO].
8. Distribution of processes. [Rule 11, Ch-8-D, Vol-II of HRO].
9. To see that prescribed accounts are properly maintained. [Rule 11, Ch-8-D, Vol-II of HRO].
10. To prepare correspondence regarding the payment of diet money of witnesses and other similar matters. [Rule 11, Ch-8-D, Vol-II of HRO].
11. How deposit in Sheriffs' Petty account to be received. [Section-III, Ch-8-D, Vol-II of HRO].
12. How service of process of outside district to be dealt with. [Section-III, Ch-8-D, Vol-II of HRO].
13. Transmission of process and money between Agencies. [Section-V, Ch-8-D, Vol-II of HRO].

14. How deposit is Sheriffs' Petty claimed by LR's of deceased to be dealt with. [Rule 30, Ch-8-D, Vol-II of HRO].
15. Payment Order of Sheriffs' Petty to lapse after one month how revalidated. [Rule 31, Ch-8-D, Vol-II of HRO].
16. Lapsed deposit of Sheriffs' Petty how to be dealt with. [Section-XI, Ch-8-D, Vol-II of HRO].
17. Monthly verification of Accounts of Sheriff's Petty to be done. [Section X, Ch-8-D, Vol-II of HRO].
18. Diet Money of State Servants appearing as witnesses, how to be dealt with. [Rule 50, Ch-8-D, Vol-II of HRO].
19. Particulars of warrant to be entrusted in Bailiff's Note Book. [Rule 4, Ch-8-E, Vol-II of HRO].
20. Civil Court deposit, how to deal (voucher system). [Section-C, Ch-8-E, Vol-II of HRO].
21. Table of fee chargeable on processes should be exhibited in each court. [Rule 1, Ch-5-A, Vol-IV of HRO].
22. Particulars to be noted on process issued. [Rule 7, Ch-5-A, Vol-IV of HRO].
23. Account of process fee and costs of establishment to be maintained. [Rule 8, Ch-5-A, Vol-IV of HRO].
24. Register of process servers with remarks column to be maintained. [Rule 5, Ch-6-A, Vol-IV of HRO].
25. Distribution of business amongst process servers. [Rule 9, Ch-6-A, Vol-IV of HRO].
26. Stocking of Forms. [Rule 8, Ch-25-A, Vol-IV of HRO].
27. Budget Estimates. [As directed by PO].

28. Signatures of all the Presiding Officers to be kept. [Rule 1, Ch-9-B, Vol-III of HRO].
29. Maintenance of stock register.
30. Monthly reconciliation of all deposits in treasury. [GFR]

VIII. K.P.O/COMPUTER OPERATOR

1. Judgment writing.
2. Automated cause list.
3. Periodical statements.
4. Other computer related job.

IX. READER TO THE COURT OF SENIOR/CIVIL JUDGE/JUDICIAL MAGISTRATE

1. Preparation of cause list of cases and exhibiting the same in the veranda of Court house one day before [Ch 1-A, Vol-I of HRO].
2. To see that all appeals (if any), complaints and petitions etc received in the court are properly stamped with Court fee [Rule 5, Ch 1-B, Vol-I of HRO].
3. Comparison of copies of accounts under Order 7, Rule 17 CPC.
4. Giving Parcha Yadashat [Rule 13, Ch-1-C, Vol-I of HRO].
5. Signing of summons other than Court of District Judge, if authorized by the Presiding Officer. [Rule 6, Ch-1-D, Vol-I of HRO].
6. Giving information to the parties and witnesses of the next date in case of adjournment due to unexpected holiday or unexpected absence of Presiding Officer [Rule 4, Ch 1-K, Vol-I of HRO].
7. Noting of number of case on application involving a deposit in the Sheriffs' Petty Account. [Rule 13, Ch 8-D, Vol-II of HRO].

8. Certificate to the effect that the subsistence allowance of all the servants of the state who appeared as witnesses in the case has been credited into the treasury under the relevant head. [Rule 50, Ch 8-D, Vol-II of HRO].
9. Information to Nazir regarding statement of state witnesses. [Rule 50, Ch-8-D, Vol-II of HRO].
10. Reader's Note about service. [Rule 3, Ch-7-B, Vol-IV of HRO].
11. Index of files. [Part-II of Ch-16-A, Vol-IV of HRO].
12. Incharge of library. [Rule 9, Ch-18, Vol-IV of HRO].
13. To ensure that court room is locked. [Rule 10, Ch-18, Vol-IV of HRO].
14. Posting of correction slips in books.[Rule 14, Ch-18, Vol-IV of HRO].
15. Preparation of list of connected record. [Rule 5, Ch-20, Vol-IV of HRO].
16. Maintenance of registers of dates (Part A-IV, Vol-VI of HRO)
17. Maintenance of register of return of documents. (Part A-IV, Vol-VI of HRO)
18. Maintenance of register of return of complaints. (Part A-IV, Vol-VI of HRO)
19. Maintenance of register of appointment of commission. (Part A-IV, Vol-VI of HRO)
20. Maintenance of register of Fine. (Part B-IV, Vol-VI of HRO)
21. Maintenance of stock register of Court other than that of Senior Civil Judge.
22. Maintenance of register of attendance.

23. Maintenance of Register of General Correspondence other than that of Senior Civil Judge.
24. Maintenance of Management file other than that of Senior Civil Judge.
25. Judicial Fines to be deposited daily [Rule 5, Ch 11, Vol, IV of HRO]
26. Quarterly statements of fine realized to be sent to Sessions Judge [Rule 22, Ch 11, Vol-IV of HRO]

X. RECORD KEEPER

1. Record Keeper to ensure that certificate of reader regarding diet money is attached with file. [Rule 29, Ch-8-D, Vol-II of HRO].
2. Checking of record by the Record Keeper. [Rule 6, Ch-16-A, Vol-IV of HRO].
3. How to hand over judicial record to successor on transfer or leave. [Ch-16-D, Vol-IV of HRO].
4. To check list of connected record. [Rule 5, Ch-20, Vol-IV of HRO].
5. Checking of record received from the High Court. [Rule 6, Ch-20, Vol-IV of HRO].
6. Transmission of record of High Court. [Rule 7, 8 & 9, ch-20, Vol-IV of HRO].
7. To maintain a register C.D.8 for receipt of application and judicial files for copying purpose.
8. The reason for delay in handing over record to copying agency be given daily on the application for copies.
9. If it is not possible or desirable to hand over file then only the copy of concerned document be given to file fetcher and receipt taken in this respect.
10. To main a running list of all the cases in which copies of judgment have been sent out. [Rule 5, CH 14-E, Vol-I of HRO].

11. To direct & supervise all the current business of receiving and issuing records (CH-19 District Office Manual Punjab).
12. Receiving, examining, registering, placing, issuing and restoring files.
13. To perform all functions as catered in District Office Manual Punjab Chapter 9.
14. Some important task under District Office Manual Punjab Chapter 9 are as under.
 - a. Entry of all civil & criminal files in the registers and goshwara.
 - b. Necessary alteration in the index on receipt of the appellate or other paper regarding the period of retention.
 - c. Attachment of appeal, review, revision and execution files to the original file.
 - d. To separate “A” files from “B” files by the record rooms officials.
 - e. Arrangement of file by Muaziat or Khuliat.
 - f. Memorandum (Form R-16) to put in the bastas of the village.
 - g. To see whether proper Court fee have been realized.
 - h. To see whether stamp affixed to documents etc are genuine.
 - i. To see whether figure head of stamp has been punched by Court officials.
 - j. To punch second or third whole in the stamps.
 - k. To see whether form R-9 signed by Muharrir on receipt of files.
 - l. To see whether files are requisitioned by courts on form R-8.
 - m. Days to be fixed for receipt of files from each Muharrir.
 - n. To place the requisition slip (R-8) in the bundle in place of the files issued from the record room.
 - o. To send on the second day of the first month of each quarter a list in Form (R-10) of the files to Muharrir for verification.
 - p. To see whether files are sent by courts within 10 days or a week and beyond that Form (R-18) is sent by the Court.
 - q. To maintain register in Form (R-12).

XI. ENGLISH CLERK

1. Incharge of library [Rule 9, Ch-18-Vol-IV of HRO].
2. Work of stationary.
3. Issue & receipt of concerned dak.
4. Prepares all correspondence and notes of the superintendent.
5. Prepares all indents.
6. Annual returns of petition writers.
7. Maintenance of register of correspondence.
8. Maintenance of management file.

XII. VERNACULAR CLERK

1. Issued & Receipt of vernacular business (Ch 19-B, Vol-IV of HRO).

XIII. COPYING SUPERVISOR

1. To maintain stock of receipt book in form CD-10.
2. To keep account of receipts and issues in form CD-12.
3. To maintain the counter foil of receipts, issues and payment orders.
4. To maintain register in form CD-6 for payments received by money order or through V.P.P.
5. Conversion of money received through money order or V.P.P into Court fee stamp affixing the same on application and canceling the Court fee stamps.
6. The money order and V.P.P coupons to be pasted in a separate guard file.

7. He is to approve the duty list of copying agent.
8. Immediate Incharge of internal organization.
9. To witness all refunds.
10. Receive cash payment for the purpose of converting them into Court fee stamp.
11. Report all complaints to the officer Incharge and cases of dereliction of duty of staff members.
12. Examine the register weekly, deal with delays.
13. Secretary of the Copying Agency Committee.
14. Maintenance of register in Form C-D-4.

XIV. COPYING AGENT

1. Responsible for maintenance of accounts.
2. Sanctioning of application for copies.
3. Reject or accept the application for copies.
4. Endorsement of date and time on application.
5. Initial the endorsement.
6. In case of doubt he is to obtain orders of the officer Incharge.
7. Grant receipt in the prescribed form CD-10
8. Cause the application to be entered in register CD-2 and S.No. of register be given in red ink on the reverse of application.
9. Cause the application to be made over to the file fetcher for bringing the record.
10. He shall be responsible that no file is taken out of copying room by anyone.

11. That copyists and file fetcher are supplied with locks and keys.
12. To prepare the duty list of his staff.
13. To ensure that public has no access to the copyists or the copying room.
14. To maintain service books and leave account for all the members of agency.
15. He is responsible for regular and proper delivery of copies.
16. He is to ensure that no record is sent to the tehsil or outlying Court for supplying copies.
17. Cause of delay in delivery of copy beyond third day is to be written.
18. Recovery of outstanding fee.
19. Endorsement of date of delivery and of cancellation of stamps.
20. Maintain a register in form CD-11.
21. Assistant Secretary of Copying Agency Committee.
22. Keep income account in form CD-3.
23. Monthly to submit report in cases in which fee is to be realized.

XV. COPYIST

1. To keep all the file under lock and key which are in his possession.
2. To maintain a register in Form CD-8.
3. Procedure to be followed in making copies [See Rule 1.22 to 1.29 of R.C No. 45]
4. To maintain daily record of outturn in register CD-5.

XVI. FILE FETCHER

1. Maintenance of register Form CD-7 of application made over to record room and Court staff.
2. Maintenance of register in Form CD-8 for acknowledgement of receipts of application and judicial files. To be kept under lock and key.
3. In case of urgent application he is to endeavour to receive record.
4. To keep all the record and files in lock which are in his possession.

XVII. TRANSLATOR

1. Copying the translation.
2. Make a translation.
3. Entries of translation to be made in register CD-2 & CD-3.

XVIII. COPYING AGENCY CLERK

1. Maintenance of regular accounts in various registers prescribed under rules.

XIX. EXAMINER

1. Revision of copies.
2. Examine the copies.
3. Certify the copies.
4. Stamp the copies.
5. Page the copies
6. Endorsement on the copies.
7. Cancellation of defective copies.
8. Submission of report against the copyist for his carelessness.

9. Verification of delay in preparation of copy.
10. To see that Court fee stamps affixed are punched, cancelled and initiated.
11. To see that all provision of law and rules have been complied with.
12. Atleast every attestation made in such copy by initialing the same.
13. Make an entry in register CD-5 as to the outturn of the copyist.
14. Cause of delay in delivery of copy beyond third day is to be written.
15. To submit report about the carelessness of copyist.
16. Can supply unattested copies in case of documents mentioned in item No. 9 of schedule 'A' of RC-45.
17. Attest the translated copies.
18. Entries of translation to be made in register CD-2 & CD-3.

XX. MUHARIR

1. Diary of process fee to be maintained. [Rule 10, ch-5-A, Vol-IV of HRO].
2. Separate Index to each part of file. [Part-II of Ch-16-A, Vol-IV of HRO].
3. Goshwara Number to be entered in the court register. [Rule 5-A (iii), Ch-16-A, Vol-IV of HRO].
4. How to hand over judicial record to successor on transfer or leave. [Ch-16-D, Vol-IV of HRO].
5. Checking of judicial record received. [Rule 6, Ch-19, Vol-IV of HRO].
6. Checking of record received from the High Court. [Rule 6, Ch-20, Vol-IV of HRO].

7. Transmission of record of High Court. [Rule 7, 8 & 9, Ch-20, Vol-IV of HRO].
8. Custody of registers. [Rule 8, Ch-24, Vol-IV of HRO].
9. Consigning of registers to record room. [Rule 9, Ch-24, Vol-IV of HRO].
10. Periodical statements and returns. [Ch-20, Vol-IV as directed by PO].
11. Maintenance of all relevant Civil & Criminal Registers except those maintained by Reader of court, Civil Nazir, Record Keeper etc. [Vol-VI of HRO]
12. Receiving and dispatching all files to and from other courts.
13. Consigning of decided cases to Record Room.
14. Maintenance of register of application for inspection of files.
15. Punching of stamps coming to the files.
16. To maintain a register CD-8 for receipt of applications and judicial files for copying purpose.
17. The reason of delay in handing over record to copying agency be given daily on the application for copies.
18. If it is not possible or desirable to hand over the whole file then only the copy of concerned document be given to file fetcher and receipt taken in this respect.
19. Compilation of files as contained in Rule-9.6 of District Office Manual Punjab and HRO in three series.

XXI. NAIB NAZIR

1. Particulars to be noted on process issued. [Rule 7, Ch-5-A, Vol-IV of HRO].

2. Custody of registers. [Rule 8, Ch-24, Vol-IV of HRO].
3. Consigning of registers to record room. [Rule 9, Ch-24, Vol-IV of HRO].
4. How to deal with road and diet money in outlying court. [Rule (4) (a), Ch-9-B, Vol-IV of HRO].

XXII. DRIVER

1. Driving of official vehicle.
2. Responsible for maintenance, care and repair of vehicle.
3. Maintenance of log book.
4. Deposit change parts in store.

XXIII. DAFTARI

1. Dispatching all the dak.
2. Looks after the articles of stationery required by Judge.

XXIV. RECORD LIFTER

1. Provides assistance in arrangement of libraries.
2. Provides assistance in keeping, distributing and arranging stationary.
3. Preparing daily bundles of files ready for consignment.
4. Keeping bundles on proper place.

XXV. BAILIFF

1. Bailiff Note Book and its checking. [Rule 3, Ch-8-E, Vol-II of HRO].
2. Particulars to be noted on process issued. [Rule 7, Ch-5-A, Vol-IV of HRO].

3. Warrant of arrest. [Rule 11, Ch-7-B, Vol-IV of HRO].
4. Warrant of attachment. [Rule 11, Ch-7-B, Vol-IV of HRO].
5. Warrant of delivery of process. [Rule 11, Ch-7-B, Vol-IV of HRO].

XXVI. PROCESS SERVER

1. Payment of diet money to witness. [Rule 21, Ch-8-D, Vol-II of HRO].
2. Procedure when processes are returned served or unserved. [Rule 22 & 23, Ch-8-D, Vol-II of HRO].
3. Service of summons.
4. Service of warrant of attachment, arrest and sale only in certain circumstances. [Rule 11, Ch-7-B, Vol-IV of HRO].

XXVII. CHOWKIDAR

Duty of watching building & record of the courts.

XXVIII. NAIB QASID

1. Placing of petition box in the veranda of Court. [Rule 7, CH-1-B, Vol-I of HRO].
2. Dust
3. ing of court room and library. [Rule 11, Ch-8, Vol-IV of HRO].

XXIX. SWEEPER

Sweeping the court premises

XXX. MALI

Gardening

XXXI. Water Carrier

Water fetching

CHAPTER-III OATH COMMISSIONERS, NOTARIES AND PETITION WRITERS

SECTION-1 (OATH COMMISSIONERS)

C.No. 1(3-1)

LEGAL PROVISION REGARDING OATH COMMISSIONERS

Sec. 139 of CPC: *Oath on affidavit by whom to be administered.* In the case of any affidavit under this Code.

- (a) any Court or Magistrate, or
- (b) any officer or other person whom a High Court may appoint in this behalf, or
- (c) any officer appointed by any other Court which the Provincial Government has generally or specially empowered in this behalf, may administer the oath to the deponent.

C.No. 2(3-1)

HIGH COURT RULES AND ORDERS PART-B (AFFIDAVITS) CHAPTER-12, VOLUME IV

- 1. Relevant law.-** The provisions of the Code of Civil Procedure, 1908 on the subject of affidavits, are contained in section 139 and Order XIX of the Code.
- 2. Superior Court may send affidavit for attestation to a lower Court. ---** When an application for the attestation of an affidavit is presented to any Court superior to the Court of Sub-Judge, 4th Class, such Court may, if convenient, refer it for disposal to an inferior Court sitting at the same place.
- 3. Affidavit exempted from Court –fees.—**No Court-fee or other stamp is required upon an affidavit made for the immediate purpose of being

filed and used in any Court or before an officer of any Court under Stamp Act, 1899, Schedule I, Article 4, exemption (b) and no fee has been prescribed as chargeable for the attestation of an affidavit except as laid down in paragraph 5 below.

4. Joint affidavit- There is no legal objection to several persons joining in a single affidavit in whole or in part; but Courts or Magistrates should, in such cases, be careful that each declarant deposes separately, and that the certificate is adapted to the actual circumstances of the particular case.

5. Oath Commissioners.—their appointment. Fees etc. (i) Under section 139 (b) of the Code of Civil Procedure approximately ¹[thirty to thirty five] legal practitioners at ²[all Divisional Headquarters], ³[sixteen to twenty] at ⁴[all District Headquarters] and ⁵[three to six] at each station, where there is a Subordinate Judge, are appointed as commissioners for the purpose of administering oaths affirmations.

- (ii). Such Commissioners are ordinarily appointed from among legal practitioners of not less than three year's standing at the Bar. They may continue as such until the expiry of thirteen years reckoned from the date of first admission as a legal practitioner, provided that their work is satisfactory, * or until the further orders of the High Court, whichever is earlier.

Note:— The thirteen years referred to in this clause include periods during which a legal practitioner does not practice.

- (iii). Commissioners may charge a remuneration of rupee one in cash for each affidavit and shall keep a register in the form prescribed in paragraph 7 infra in which all affidavits shall be entered. A written receipt for the amount paid shall be given by the Commissioner to the deponent. The receipt shall be in a printed form consisting of foil and counterfoil, the foil being handed over to the person paying the money and the counterfoil being kept by the Commissioner for purposes of inspection.

¹ Amended vide PHC Endst. No. 9352-9399/Admn.Dated 21.12.2000

² Amended vide PHC Endst. No. 3421-3443/Admn Dated 02.05.1997

³ Amended vide PHC Endst. No. 3421-3443/Admn Dated 02.05.1997

⁴ Amended vide PHC Endst. No. 9352-9399/Admn.Dated 21.12.2000

⁵ Amended vide PHC Endst. No. 9352-9399/Admn.Dated 21.12.2000

* Ordinary term of appointment of oath commissions will be three years, and in exceptional cases it may be extended for a further period of three years and not beyond it--- (Decision of Admn: Committee of Peshawar High Court dated 06.04.1972)

The above charge will be in addition to any stamp duty payable on the affidavit under the Stamp Act, 1899, Schedule I, Article 4.

Note—The Commissioner will be entitled to an additional fee of Re. 1-8-0 from a deponent when he is required to attend the deponent's residence.

5-A. -- All Official Receivers in Punjab except the Special Receiver attached to the High Court, have been appointed ex-officio Oath Commissioners in respective districts. They will continue as such for the period they hold the office of Official Receiver or until the further orders of the High Court, whichever is earlier.

(High Court Notification No. 205-R-/X.-B. 9 (b). dated the 16 the July 1943).

6. Attestation of affidavits by process serving and other officials. In order to facilitate the verification of affidavits of serving officers made under Order V. Rule 19, Order XVI, Rule 10, of the Code of Civil Procedure the Provincial Government has empowered the Court of the Subordinate Judge of the First Class in charge of the Nazarat to appoint an officer subordinate to itself to administer oaths to process-servers, bailiffs, Naib-nazirs and nazirs making affidavits of service of summons, notice and other processes under the Code of Civil Procedure, (Punjab Government Notification No. 216—19, dated the 20th June 1931). In the case of such affidavits and of all other affidavits made by officers of the Courts in their official capacity, no application, such as is referred to in paragraph 2 is necessary.

7. Register of affidavits.—A register of affidavits, in the following form, should be maintained at the head-quarters of every district at each Court at a distance from headquarters in which every application to have an affidavit attested and every affidavit verified, should be entered:--

FORM OF REGISTER
REGISTER OF AFFIDAVTS ATTESTED IN
THE COURT OF THE-----
IN THE DISTRICT-----

1	2	3	4	5	6	7	8
Serial No	Date of application of tendering affidavit.	Name of person tendering application (if any) or affidavit.	Nature of affidavit briefly stated, if the affidavit relate to a cause in Court, the cause should be specified	Detail of exhibits (if any) attached to affidavit.	Civil Court, Magistrate or other officer empowered in that behalf administering the oath or affirmation.	Date of administering oath or affirmation.	Signature and designation of Civil Court, Magistrate or other officer.

8. Title of affidavit.—(i) Every affidavit to be used in a Civil Court shall be entitled:--

“In the Court of-----at-----
(naming the Court and place of sitting).

- (ii) If there be a cause in Court, the affidavit in support of or opposition to an application respecting it shall also be entitled in the cause, thus:--

_____ PLAINTIFF

against

_____ DEFENDANT

Claim: _____
(naming the parties and stating the nature of the claim)

(iii) If there be no cause in Court, the affidavit shall be entitled:

“In the matter of the petition of _____
_____ (name) praying _____
_____.” (brief statement of subject).

(iv) Every affidavit shall further entitled :-

“Affidavit of _____ (name) made on this _____
day of _____ 19 (date) before
_____ name of
Attesting officer), at _____” (place).

9. **Contents of affidavits.**—(i) Every affidavit containing any statement of facts shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject.

- (ii) Every person, other than a plaintiff or defendant in a suit in which the application is made, making any affidavit, shall be described in such manner as will serve to identify him clearly ; that is to say, by the statement of his full name, the name of his father, his profession or trade, and the place of his residence.
- (iii) When the declarant in any affidavit speaks to any facts within his own knowledge, he must do so directly and positively, using the words ‘*I affirm*’ or ‘*I make oath and say*’.
- (iv) When the particular fact is not within the declarant’s own knowledge, but is stated from information obtained from others, the declarant must use the expression “*I am informed*, -and, if such be the case, should add ‘*and verily believe it to be true*, - or he may state the source from which he received such information. When the statement rests on facts disclosed in documents, or copies of documents procured from any Court of Justice or other source, the declarant shall specify the source from which they were procured, and state his information or belief as to the truth of the facts disclosed in such documents.

10. **Affidavits generally to be confined to facts which are within defendant's knowledge.-** Attention is drawn to Order XIX, Rule 3, which lays down that affidavit shall be confined to such facts, as the deponent is able of his own knowledge to prove, except interlocutory applications (See Order XXXIX, Rules 6 to 10), on which statements of his belief may be admitted : provided that the grounds thereof are stated.

11. **Identification of deponent.** Every person making an affidavit shall, if not personally known to the Court, Magistrate or other officer appointed to administer the oath or affirmation, be identified to such Court, Magistrate or officer by some person known to him; and such Court, Magistrate or officer shall specify, at the foot of the affidavit, the name and description of the person by whom the identification is made, as well as the time and place of the identification and of the making of the affidavit.

12. **Mode of attestation.** — The Court, Magistrate, or other officer as aforesaid, before whom an affidavit is made, shall certify at the foot of the affidavit the fact of the making of such affidavit before him, and shall enter the date and subscribe his signature to such certificate, and shall, for the purpose of identification, mark, date, and initial every exhibit to in the affidavit. The name of the verifying authority must be signed in full, and care must be taken that proper designation as a Civil Court or Magistrate is added.

13. **Female deponents.**—An affidavit purporting to have been made by a female declarant, who has not appeared unveiled before the Court, Magistrate, or other officer as aforesaid, before whom the affidavit is made, shall not be certified, unless and until she has been identified before, and an affidavit of her identity by the person identifying her has been made before, and certified by such Court, Magistrate or officer.

14. **Attesting officer's duty.**—If any person making an affidavit appears to the Court, Magistrate or other officer administering the oath on affirmation, to be ignorant of the language in which it is written, or to be illiterate, or not fully to understand the contents of the affidavit , such Court, Magistrate or officer shall cause the affidavit to be read and explained to him in a language which both he and such Court, Magistrate or officer understand; either doing so himself, or causing another person to do so in his presence. When an affidavit is read and explained as herein provided, such Court, Magistrate or other officer as aforesaid shall certify in writing at the foot of the affidavit that it has been so read and explained, and that the declarant seemed perfectly to understand the same at the time making it.

15. **Attesting, signing and verification of affidavits.**—Every affidavit shall be signed or marked and verified at foot by the declarant and attested by the Court, Magistrate or other officer administering the oath or affirmation, the verification by the declarant shall be in one of the forms attached hereto, and shall be signed or marked by the declarant. The attestation of the Court, Magistrate or other officer administering the oath or affirmation shall also be in the form prescribed below.

16. **Manner of administering oath to deponent.** In administering an oath or affirmation to the declarant in the case of any affidavit under the Code of Civil Procedure, the Court, Magistrate or other officer appointed in that behalf shall be guided by the rules under the Oaths Act, 1873, printed in Part A of this Chapter and shall follow the form of verification by oath or affirmation hereto appended.

I. FORM OF VERIFICATION OF OATH OR AFFIRMATION

(Vide Paragraph 15 Above)

Oath

I solemnly swear that this my declaration's true, that it conceals nothing, and that no part of it is false—so help me God !

Affirmation

I solemnly affirm that this my declaration is true, that it conceals nothing, and that no part of it is false.

II. FORM OF CERTIFICATE

(Vide PARAGRAPH 12, 14 and 15 ABOVE)

Certified that the above was declared on (a) -----before me
this (b) -----day of (c) -----19,
at (d)-----in the district of (e) -----by
(f)-----who is
(g) -----

(Full signature)
A.B.

(Office) District Judge (or as the case may be) of-----
oath

- a. here enter-----as the case may be affirmation
- b. date
- c. months
- d. Place,
- e. name of district,
- f. full name and description of declarant,
- g. here enter “personally known to me” or “identified at (time
and place of identification by (full name and description of
person making the identification who is personally know to
me.”

II-A

The exhibits marked A, B, C (as the case may be) above referred to
are annexed hereto under this date and my initials.

II-B

Certified further that this affidavit has been read and explained to
(name) -----the declarant who seemed perfectly to understand the same at
the time making thereof.

SECTION-2
(NOTARIES)

C.No. 1(3-2)

THE NOTARIES ORDINANCE, 1961

(ORDINANCE No. XIX OF 1961)

[14TH June 1961]

An Act to provide for and to regulate the profession of notaries in Pakistan.

Whereas it is expedient to provide for and to regulate the profession of notaries in Pakistan.

Now, therefore, in pursuance of the Proclamation of the seventh day of October, 1958 and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance:-

1. Short title extent and commencement.-

- (1). This Ordinance may be called the Notaries Ordinance, 1961.
- (2). It extends to the whole of Pakistan.
- (3). It shall come into force on such date as the Provincial Government may, by notification in the official Gazette, appoint.

2. Definitions:- In this Ordinance, unless the context otherwise requires,--

- (a). "Instruments" includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;
- (b). "legal practitioner" means any advocates or attorney of the Supreme Court or any advocate of the High Court or any pleader authorized under any law for the time being in force to practice in any court of law;
- (c). "notary" means a person appointed as such under this Ordinance:

Provided that for a period of six months from the commencement of this Ordinance it shall include also a person who, before such commencement, was appointed a notary public by the Master of Faculties in England, and is, immediately before such commencement, in practice as a notary in any part of Pakistan;

- (d). “prescribed” means prescribed by rules made under this Ordinance;
- (e) “Register” means a Register of Notaries to be maintained under section 4.

3. Power to appoint notaries. -- The Provincial Government, for the whole or any part of the Province, may appoint as notaries any legal practitioners or other persons who possess such qualifications as may be prescribed.

4. Registers.—(1). The Provincial Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by that Government and entitled to practice as such under this Ordinance.

(2). Every such Register shall include the following particulars about the notary whose name is entered therein, namely:-

- (a) his full name, date of birth, residential and professional address;
- (b) the date on which his name is entered in the Register;
- (c) his qualification ; and
- (d) any other particulars which may be prescribed.

5. Entry of names in the Register and issue or renewal of certificates of practice.— (1). Every notary who intends to practice as such shall, on payment to the Provincial Government of the prescribed fee, if any, be entitled—

- (a) to have his name entered in the Register maintained by that Government under section 4, and
- (b) to a certificate authorizing him to practice for a period of three years from the date on which the certificate is issued so him.

¹[(2). Every such notary who wishes to continue to practice after the expiry of the period of three years referred to in clause (b) of subsection (1) shall, at such time before the expiry of the said period as may be prescribed, submit to the Provincial Government an application for renewal of his certificate of practice accompanied by the prescribed fee.

(3) On receipt of an application under subsection (2) from a notary, the Provincial Government may, if, after such inquiry as it may deem fit, it is satisfied that the conduct of the notary during the preceding three years has been unobjectionable, renew the certificate of practice for a period of three years.

(4) A person who has been in practice as a notary for a continuous period of six years shall not be appointed as a notary unless a period of not less than three years has elapsed since the expiry of the period for which his certificate of practice was renewed].

6. **Annual publication of lists of notaries.**—The Provincial Government shall, not later than the end of January each year, publish in the official Gazette a list of notaries appointed by that Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. **Sale of notaries.**—Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. **Functions of notaries.**—(1). A notary may do all or any of the following acts by virtue of his office, namely:--

- (a) verify, authenticate, certify or attest the execution of any instrument;
- (b) present any promissory note, hundi or bill of exchange for acceptance or payment or deemed better security;
- (c) note or protest the dishonor by non acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881, or serve notice of such note or protest;
- (d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

¹ Substituted by Ord. LI of 1984.

- (e) administer oath to, or take affidavit from, any person;
- (f) prepare bottomry and respondentia bonds, character parties and other mercantile documents;
- (g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate;
- (h) translate, and verify the translation of, any document from one language into other;
- (i) any other act which may be prescribed.

(2). No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

9. **Bar of practice without certificate.**—(1). Subject to the provisions of this section, no person shall practice as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5;

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(2). Nothing contained in sub-section (i) shall, until the expiry of six months from the commencement of this Ordinance, apply to any such person as is referred to in the proviso to clause (c) of section 2.

10. **Removal of names from Register.**-- The Provincial Government may, by order, remove from the Register maintained by it under section 4 the name of the notary if he--

- (a) makes a request to that effect ; or
- (b) has not paid any prescribed fee required to be paid by him; or
- (c) is an undischarged insolvent ; or
- (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government , renders him unfit to practice as a notary.

11. **Construction of references to notaries to public in other laws.**--subject to the provisions of section 16, any reference to a notary public in any other law shall be construed as a reference to notary entitled to practice under this Ordinance.

12. **Penalty for falsely representing to be a notary, etc.**—Any person who-

(a) falsely represents that he is a notary without being appointed as such or

(b) practices as a notary or does any notarial act in contravention of section, 9

shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. **Cognizance of offences.**—(1). No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Ordinance save upon complaint in writing made by an officer authorized by the Provincial Government by general or special order in this behalf.

(2). No magistrate other than a magistrate of the first class shall try an offence punishable under this Ordinance.

14. **Reciprocal arrangement for recognition of notarial acts done by foreign notaries.**—If the Central Government is satisfied that by the law or practice of any country or place outside Pakistan , the notarial acts done by notaries within Pakistan are recognized for all or any limited purposes in that country or place, the Central Government may, by notification in the official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognized within Pakistan for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

15. **Power to make rules.**—(1). The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2). In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely--

- (a) the qualifications of a notary, the form and manner in which applications for appointment as a notary may be made and the disposal of such applicants;
- (b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish ;
- (c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption, whether wholly or in part, from such fees in specified classes of cases ;
- (d) the fees payable to a notary for doing any notarial act;
- (e) the form of Registers and the particulars to be entered therein;
- (f) the form and design of the seal of a notary;
- (g) the manner in which inquiries into allegations or professional or other misconduct of notaries may be made ;
- (h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions.

16. **Saving of Act XXVI of 1881.** — Nothing in this Ordinance affects the provisions of the Negotiable Instruments Act, 1881, or any appointment made in pursuance of section 138 of that Act or the power of any person so appointed.

C.No. 2(3-2)

WEST PAKISTAN NOTARIES RULES, 1965

(Gazette of West Pakistan, Extraordinary, 5th January, 1966)

No. 5/8-H. Judl. (II)/61. In exercise of the powers conferred by section 15 of the Notaries Ordinance, 1961 (Ordinance XIX of 1961), the Governor of West Pakistan is pleased to make the following rules, namely:-

1. Short title and commencement. (1) These rules may be called the West Pakistan Notaries Rules, 1965.

2. Definitions. 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) “Competent authority” means the officer or authority designated as such by Government under rule 5 ;
- (b) “Form” means the respective forms appended to these rules ;
- (c) “Government” means the Government of West Pakistan;
- (d) “Ordinance” means the Notaries Ordinance, 1961 (XIX of 1961); and
- (e) “Section” means the respective sections of the Ordinance.

3. Qualifications for appointment as a notary. No person shall be eligible for appointment as a notary unless on the date of the application for such appointment-

- (a) he is a notary public appointed by the Master of Faculties in England ; or
- (b) he has been practicing as a legal practitioner for at least five years.

4. Age. (1) No person shall be appointed as notary who is less than thirty years.

(2) A person appointed as notary shall cease to hold office on his completing the sixty-fifth year of his age.

5. Application for appointment as a notary. (1) A person may make an application for appointment as a notary (herein after called “the applicant”) in the form of a memorial addressed to such officer or authority, as Government may, by notification, designate in this behalf.

(2) The memorial shall be drawn in accordance with Form 1

6. Preliminary action on application. The competent authority shall examine every application received by it and, if it is satisfied that the applicant does not possess the qualifications specified in rule 3, or is not within the age group specified in rule 4, shall reject it and inform the applicant accordingly.

7. Recommendations of the competent authority. (1) The competent authority, shall after holding such enquiry as it thinks fit, make report to

Government recommending either that the application may be granted for the whole or any part of the area to which the application relates or that it may be rejected.

(2) In making its recommendation under sub-rule (1), the competent authority shall have due regard to the following matters, namely:-

- (a) whether the applicant ordinarily resides (in the area in which he proposes to practice as a notary;
- (b) whether , having regard to the commercial importance of the area in which the applicant proposes to practice and the number of existing notaries practicing in the area, it is necessary, to appoint any additional notaries for the areas;
- (c) whether, having regard to his knowledge and experience of commercial law and the nature of the objections if any, raised in respect of his appointment as a notary and in the case of a legal practitioner also to the extent of his practice, the applicant is fit to be appointed as a Notary;
- (d) where the applicant belongs to a firm of legal practitioners, whether having regard to the number of existing notaries in that firm, it is proper and necessary to appoint any additional notary from that firm ; and
- (e) where applications from other applicants in respect of the area are pending, whether the applicant is more suitable than such other applicants.

8. *Appointment of notary.* (1) Government shall consider the report made to it by the competent authority under rule 7, and may thereupon:-

- (a) grant the application in respect of the whole or part of the area to which it relates ; or
- (b) reject the application.

(2) The applicant shall be informed of the order passed by Government under sub-rule (1).

(3) Where the application is granted, Government shall appoint the applicant as a notary and direct his name to be entered in the register of Notaries maintained under section 4 and issue to him a certificate on payment of prescribed fee authorizing him to practice in the area to which the application relates or any such part thereof as Government may specify

in the certificate, as a notary for a period of three years from the date on which the certificate is issued to him.

(4) The register of Notaries under section 4 shall be maintained by the Home Department in Form II.

9. *Extension of Area of practice:-* (1) A Notary, who holds a certificate of practice in respect of a particular area, may apply to Government for extension of his area of practice, and Government may thereupon after considering the application and other factors, pass such orders thereon as it may deem fit.

(2) Any extension of the area of practice shall not have the effect of extending the period of validity of the original certificate beyond the period of three years prescribed under sub-rule (3) of rule 8.

10. *Fees for the issue, extension or renewal of certificate of practice.* The fess for the issue, extension, renewal or duplicate copy of a certificate shall be as follows :-

(i)	issue of a certificate of practice as notary.	Rs. 100
(ii)	extension of the area of practice.	Rs. 50
(iii)	renewal of certificate of practice.	Rs. 25
(iv)	a duplicate of certificate.	Rs. 5

11. *Fees payable in West Pakistan to a notary for doing any notarial work :* (1) Every Notary shall be entitled to charge fees at the rate mentioned below: -

(a)	For noting an instrument if the amount of	
	instrument does not exceed Rs. 1,000,	5.00
	if it exceeds Rs. 1,000 but does not exceed Rs.5,000,	8.00
	if it exceeds Rs. 5,000 but does not exceed Rs.20,000,	12.00
	if it exceeds Rs. 20,000 but does not exceed Rs.30,000	6.00
	if it exceeds Rs. 30,000 but does not exceed Rs.50,000	20.00,
	if it exceeds Rs. 50,000,	25.00
(b)	For protesting an instrument –	
	if the amount of the instrument does not	
	exceed Rs.1,000,	10.00
	if it exceeds Rs. 1,000 but does not exceed Rs.5,000,	12.00
	if it exceeds Rs. 5,000 but does not exceed Rs.20,000,	15.00
	if it exceeds Rs. 20,000 but does not exceed Rs.30,000,	18.00

if it exceeds Rs. 30,000 but does not exceed Rs. 40,000,	21.00
if it exceeds Rs. 40,000 but does not exceed Rs.50,000	24.00
if it exceeds Rs. 50,000 but does not exceed Rs. 60,000	27.00
if it exceeds Rs. 60,000 but does not exceed Rs.70,000	30.00
if it exceeds Rs. 70,000 but does not exceed Rs.80,000	33.00
if it exceeds Rs. 80,000 but does not exceed Rs. 90,000	36.00
if it exceeds Rs. 90,000 but does not exceed Rs.1,00,000	40.00
if it exceeds Rs. 1,00,000	50.00
(c) For recording a declaration of payment for honour, Rs. 5.00:	
(d) For duplicate protests, half the charge of original;	
(e) For verifying, authenticating, certifying or attesting the execution of any instrument, Rs. 5.00.	
(f) For presenting any promissory note, hundi or bill of exchange for acceptance or payment or demanding better security, Rs.15.00.	
(g) For administering oath to , or taking affidavit from, any person, in relation to the matters enumerated in section 8, Rs. 2.50.	
(h) For preparing any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate, Rs. 50.00.	
(i) For attesting or authenticating any instrument intended to take effect in any country or place outside Pakistan in such form and language as may conform to the law of the place where such deed is intended to operate Rs. 25.00.	
(j) For translating, and verifying the translation of any document from one language into another, Rs. 25.00.	
(k) For any other notarial work, such sum as Government may fix from time to time.	

(2) In addition to the fees specified in sub-rule (i), a notary shall be entitled to charge, when required to attend at any place more than one mile from his office.

- (a) where the notary is a Government Officer- travelling allowance in accordance with the West Pakistan Travelling Allowances Rules ; and
- (b) where the notary is not a Government Officer-

- (i) if the place he is required to attend is in the same station as his office, Rs. 5.00 :
- (ii) if the place where he is required to attend is not in the same station as his office, travelling allowance at the rate of twenty paise per mile for a journey by rail, and fifty paise per mile for a journey by road.

12. Transaction of Business by a Notary. (1) A notary in performing his functions under the Ordinance, shall use Forms III to XIV.

(2) Every notary shall maintain a book, with pages consecutively numbered, known as Notarial Register in which he shall record-

- (a) all declarations of payment for honour;
- (b) verbatim copies issued by or protesting of instrument s ; and
- (c) all certificates issued by him, etc. for verification, authentication, certification and attestation of the execution of instruments and fix his signature to each entry in the said Register.

(3) Each notary shall, before bringing the Notarial register into use, add a certificate on the title page specifying the number of pages it contains. Such certificate shall be signed and dated by the notary.

(4) The District Judge, or such officer as Government may from time to time appoint in this behalf, may inspect the notarial register at such time, not oftener than twice a year, as the District Judge or the Officer may fix.

(5) District Judge, and Officers appointed by Government under sub-rule (4), shall have power to make a report to Government for taking action against a notary.

(6) When the original instrument is in a language other than English, any noting or protest or entry in his register which has to be made in respect of the instrument by a notary may be made either in that language or in English.

(7) In making presentment of bills or notes, a notary shall observe the provisions of Chapter V of the Negotiable Instrument Act, 1881 (XXVI of 1881).

(8) A notary may, in addition to the functions specified in clauses (a) to (h) of subsection (1) of section 8-

- (a) draw, attest or certify documents, including conveyance of properties, under his official seal ;
- (b) note and certify the general transactions relating to negotiable instruments ; and
- (c) prepare a will or other testamentary document.

(9) Every notary shall grant a receipt for the fees and charges realized by him, and maintain a register showing all the fees and charges realized.

13. *Seal of notary* Every notary shall use a plain circular seal , bearing, if he had been appointed by name, his name and the name of the area for which he has been appointed to exercise his functions, and the circumscription 'Notary'; and if he has been appointed by virtue of his Office, the name of his office and of the area within which he has been appointed to exercise his functions, and the circumscription 'Notary'.

14. *Inquiry into Allegations of Professional and other misconduct on the part of a Notary.* (1) Whenever there is any allegation of professional or other misconduct on the part of a notary, Government may direct an inquiry to be made by the competent authority into the allegation.

(2) The competent authority, after giving to the person making the allegation as well as to the notary against whom such allegation is made, an opportunity of being heard, and after taking into consideration any evidence, oral and documentary, that may be produced before it, shall make a report to Government.

(3) If Government, after considering the report of the competent authority, is of opinion that action should be taken against the notary, Government may make an order, according to the nature and gravity of the misconduct of the notary proved-

- (a) cancelling the certificate of practice and perpetually debarring the notary from practice ; or
- (b) suspending him from practice for a specified period ;
- (c) letting him off with a warning

15. *Submission of Returns.* Every notary, shall in the first week of January every year, submit to Government an annual return of the notarial work done by him during the preceding year.

16. *Notary to have of office.* Every notary shall have an office within the area mentioned in the certificate issued to him under sub-rule (3) of rule 8 and he shall exhibit in a conspicuous place thereon a board showing his name and his designation as a notary.

17. *Adoption of Forms.* If a notary has to deal with a case which does not in terms attract any of the forms, the notary should adopt the form which, so far as may be meets with the requirements of such case , with such modifications thereto as he thinks the exceptional peculiarities of the case justify.

FORM I TO XIV
(Not included)

SECTION-3
(PETITION WRITERS)

C.No. 1(3-3)

LEGAL PROVISIONS REGARDING PETITION-WRITERS

Section 14 of the Punjab Courts Act (XVIII of 1884) (I) The Chief Court may make rules consistent with this Act and any other enactment for the time being in force—

- (a)
- (b) declaring what persons shall be permitted to practice as petition-writers in the Courts of the Punjab, regulating the conduct of business by persons so practicing and determining the authority by which breaches of rules under this clause shall be tried;

Section 20 of W.P Civil Courts Ordinance, 1962, -- The High Court in consultation with the Board of Revenue. NWFP may make rules consistent with this Ordinance and any other enactment for the time being in force—

- (a) declaring what persons shall be permitted to act as petition-writers in Courts;
 - (b) regulating the issue of licences to such persons, the conduct of business by them and the scale of fees to be charged by them ; and
 - (c) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.
-

C.No. 2(3-3)

PETITION WRITERS' RULES

Rules made by the Chief Court, with the sanction of the Local Government, under the powers conferred by section 14, sub-section (I), clause (b) of the Punjab Courts Act, 1884, as amended, declaring what persons shall be permitted to practice as Petition-Writers in the Courts and Offices in the Punjab, regulating the conduct of persons so practicing, and determining the authority by which breaches of rules shall be tried.

RULES

A. Definitions:

I. In these rules:-

‘petition’ means a document written for the purpose of being presented to a Court or a Judicial or Revenue Office as such, and includes a plaint and memorandum of appeal;

‘To Practice as a Petition-Writer’ means to write petition as defined above, for hire, and extends to the writing of a single petition for hire;

A Petition-Writer is said to practice in a Court when he writes petition for the purpose of being presented to that Court;

‘Court Subordinate to the Chief Justice’ means all Civil Courts (including Courts of Small Causes) and all Criminal Courts, other than the Chief Court;

‘Revenue Officer’ means and includes all persons having authority as Revenue Officers under the Punjab Land Revenue Act, 1887 or the Punjab Tenancy Act, 1887;

‘Revenue Office’ means the office of a Revenue Officer;

‘Revenue Court’ means and includes all Revenue Officers exercising the jurisdiction described in section 77 of the Punjab Tenancy Act, 1887;

Revenue Officers invested with jurisdiction under chapter XI of the Punjab Land Revenue, 1887 shall be deemed to be subordinate Civil Courts or Revenue Courts according as they are under the control of the Chief Court or of the Financial Commissioner.

B. **Licensing of Petition-Writers:**

II. No person shall practice as a Petition-Writer in the Punjab unless he has been duly licensed under these rules provided;

1. That any person licensed under any rule hitherto in force shall be deemed to have been licensed under these rules;

2. That these rules shall not apply to any Advocate, Pleader or Mukhtar, in respect of a petition-written for presentation to a Court in which

he is qualified to practice, whether such petition be written by himself or his clerk or on his behalf;

Provided that in the latter case it be signed by the employer;

3. That no petition shall be rejected merely on the ground that it has been written by a person who is not a licensed petition-writers.

III. No person shall be licensed as a petition-writer while he is in the service of Government, or of a Native State or of a Legal Practitioner nor shall any person be so licensed within six months of his quitting the service of legal practitioner.

IV. Petition-Writers in the Punjab shall be of two grades that is to say:-

- (a) Petition-Writers of the first grade, who may practice petition-writing in the Chief Court and all Courts subordinate thereto, and in the Court and Office of the Financial Commissioner and all Revenue Courts and Offices under the control of the Financial Commissioner.
- (b) Petition-Writers of the second grade who may practice petition-writing on the original side of the Courts of only District Magistrate, Collectors and District Judges, and in Criminal, Civil or Revenue Courts and Offices of equal or inferior jurisdiction.
- (c) The number of licenses of each grade shall be in accordance with the scale fixed by the Chief Court from time to time for each District.

V. Any person, above the age of twenty years who has passed the Entrance Examination or any recognized examination equivalent thereto, and who has not during the preceding six months followed the "Calling of Clerk to a Legal Practitioner" may apply to the District Judge of the District in which he resides or desires to practice for admission to the special examination hereinafter provided.

VI. The application shall be written by the applicant with his own hand, and presented by him in person and shall state:-

- (a) the applicant's name; father's name; date of birth according to English Calendar; caste; residence, and present occupation (if any);

- (b) the names of two persons of respectability to whom reference may be made as to the applicant's character, should the certificates presented with the application be deemed insufficient;
- (c) Whether he is a candidate for a first grade or a second grade license.
- (d) Whether he has, during the next six months preceding the date of the application, followed the calling of clerk to a Legal Practitioner.

VII The application shall be accompanied by certificates of character and satisfactory evidence that the applicant has passed one of the examinations referred to in rule V. If the applicant has been convicted of a criminal offence, or removed from Government service, this shall be stated in the application. If the applicant is in the service of Government or of a Legal Practitioner, his application shall state that he is prepared to resign such service on being licensed as a Petition-Writer.

The District Judge to whom the application is made may in his discretion, on being satisfied (a) that the applicant is over twenty years of age, (b) that he is of good character, and (c) that he has passed the educational test required by rule V, and that he is not disqualified under these rules, pass an order admitting him, subject to payment of a fee of ¹[Rs. 200], to the examination provided for in the rule next following. The name of the applicant shall thereupon be entered by the District Judge in a register maintained for the purpose.

E. Candidates who succeed in passing the examination for a second grade license shall be required to pay another fee if they wish to appear at any examination and wish to appear again at any subsequent examination shall be required to pay a fee for such further appearance.

VIII. (I) Whenever in any District, in consequence of the number of Petition-Writers having fallen below the prescribed scale, the District Judge considers this necessary, he may with the previous sanction of the Divisional Judge, hold an examination as hereinafter provided.

¹ Substituted vide PHC Notification No. 121-J Dated 26.08.2004

(II) Candidates will be examined in the following subjects, or such other subjects as the Chief Court may, from time to time, notify in the Punjab Gazette:-

(1). Subjects will be given at the time of the examination for (1) a plaint, (2) a criminal complaint (3) one or more miscellaneous petitions, and (4) for candidates for the first grade, a petition of appeal. C.S. No. 54 of 21/05/1909

(2). The candidate will be examined in chapters II, III, IV, V, VIII and XVII of the Indian Penal Code; in sections 38, 39, 40 to 45, 48 to 50 and Order No. XXI, rules 4 to 10 and 11(2) to 16, 21, and 66; Order XXXIII, Rules 1 to 16; Order XXXII, Section 88, and Order XXXV, section 95; Order XXXVIII 2nd schedule, section 114 and Order XLVII, 1st Schedule (and for candidates for 1st grade, section 96 (1) (2), Section 98,99, 107(2), 144(1) Order XLI and Rule 11 of Order XXII, Sections 104 to 106, 108, Rules 1 and 2 of Order XLIII, and Rules 1 and 2 of Order XLIV, inclusive, of the Code of Civil Procedure (Act V, of 1908) so far as they relate to the drawing up of plaints and other documents for presentation in Court in Chapter and N.W.F.P., Tenancy Act, 1950 and Chapter West Pakistan Land Revenue Act and in the Court Fees Act, General Stamp Act, and the Indian Limitation Act, so far as a knowledge of these Acts is necessary for the efficient performance of the duties of Petition Writer.

(III). No candidate will be accepted unless he obtains 33 percent marks in each subject and 50 percent on the combined total.

(IV). The examination will be held in the month of September.

IX. The examination shall be conducted by a Board of such officer as the District Judge may appoint for the purpose, presided over by an officer of not lower standing than an Extra Assistant Commissioner, in such manner as the Chief Court may, from time to time, prescribe

X. The result of the examination shall be reported to the District Judge who shall decide what candidates have passed, and submit a statement of their names to the Divisional Judge to be forwarded to the Chief Court.

XI. The Chief Court will determine what candidate shall be accepted as Petition Writers of either grade, and the Divisional Judge or the District Judge, according as the license to be granted is of the first or second grade, will be authorized to grant to each accepted candidate a license in the Form A annexed to these rules.

A fee of ¹[Rs. 500/-] shall be charged for a license of the first grade, and a fee of ²[Rs.200/-] for a license of the second grade.

Such license will be valid only up to the 31st day of August in each year and will be renewable between the 1st and 31st day of August on payment of a renewal fee of ³[Rs.100].

XII. The Chief Court may by order.

(1) admit to either grade any person who has not qualified as required by these rules;

A fee of ⁴[Rs.200/-] shall be charged for a license of the first grade, and a fee of ⁵[Rs.100] for a license of the second grade.

(2) promote a Petition Writer of the second grade to the first grade.

XIII. A license granted to a Petition Writer under these rules authorize him to practice, subject to these rules, according to its tenor and continues in force until.—

(1) in the case of a second grade license, it is superseded by a first grade license;

(2) its operation is suspended by an order made under rule XIV, or the Petition-Writer enters the service of Government or of a legal Practitioner;

(3) the Petition-Writer is suspended or dismissed by competent authority.

XIV. (i) Every licensed Petition Writer shall, between the first and thirty first days of August of each year, produce, or, if he ordinarily practices in an inferior Court, forward through that Court, his license for the inspection of the Court under which it is held. A note of such production, with the date, will be entered on the license. If a Petition-Writer fails to comply with this rule, his name will be posted in a conspicuous place of the Courthouse of the highest Court in which he ordinarily practices, with an order that the

¹ Substituted vide PHC Notification No. 121 dated 26.08.2004

² Substituted vide PHC Notification No. 121 dated 26.08.2004

³ Substituted vide PHC Notification No. 121 dated 26.08.2004

⁴ Substituted vide PHC Notification No. 121 dated 26.08.2004

⁵ Substituted vide PHC Notification No. 121 dated 26.08.2004

operation of his license is suspended, and that he will be liable to penalties if found practicing whilst such order of suspension is in force.

- (ii) If the Petition Writer produces his license for inspection at any time before the thirty-first day of August of the following year, the order of suspension may be withdrawn, subject to a charge of ¹[rupees two hundred]; provided, that the charge shall not be made if it be shown to the satisfaction of the Court that the failure to produce the license within the time appointed was due to unavoidable causes, and that the license shall not be restored without the previous sanction of the Chief Court.

XV. When a licensed Petition Writer is promoted from the second to the first grade, a first grade license will be granted to him by the Divisional Judge upon surrender of his second grade license and payment of ²[rupees two hundred] to make up the full sum required for a first grade license.

XVI. No licensed Petition Writer shall transfer his place of business from anyone to any other district in the Punjab. But it shall be within the discretion of the District Judge to transfer any Petition Writer from anyone place to any other within his district and it shall be in the power of the Divisional Judge to transfer any Petition Writer from anyone district to any other in his Division.

XVII. If a licensed Petition-Writer loses the license granted to him under these rules he may apply to the Court under which it was held for a duplicate license. The application shall be made in writing, and shall be presented by the applicant in person. The Court to which it is made, if satisfied that the former license has been lost, shall, upon payment by the applicant of ³[rupees two hundred], cause a fresh license to be issued in the same form and bearing the same date as the lost license, and shall cause the words “duplicate license” to be enfaced thereon, with the date of issue, and shall sign such enfacement. Every matter required to be noted upon the license by rules XIV, (torn), XXXII (ii), XXXV(ii) or rule XXXIX shall be written on the back of the duplicate license under the signature of the Court granting it.

¹ Substituted vide PHC Notification No. 121 dated 26.08.2004

² Substituted vide PHC Notification No. 121 dated 26.08.2004

³ Substituted vide PHC Notification No. 121 dated 26.08.2004

C. Conduct of Petition-Writers.

XVIII. Every Petition Writer, licensed under the foregoing rules, shall kept up a register, in the Form B annexed to these rule, and shall enter therein every petition written by him, and shall produce the register for the inspection of any Court or Judicial or Revenue Officer demanding it.

XIX. Every licensed Petition-Writer shall, at his own expense, provide himself with an official seal, to be made under the direction of the Court which licenses him, on which shall be engraved, in the Urdu character, his name and the year in which he was licensed.

XX. Every licensed Petition-Writer in writing petitions shall confine himself to expressing in plain and simple language, such as the petitioner can understand, and in a concise and proper form, the statements and objects of the petitioner; and shall not introduce any argument or quotation from a Law Report or other Law book or refer to any decision not brought to his notice by.

XXI. Every licensed Petition-Writer shall record, at the foot of every petition written by him, other than a petition of a merely formal character, a declaration under his signature that, to the best of his knowledge and belief, the petition expresses the true meaning of the petitioner and that its contents have been fully explained to the petitioner.

XXII. Every licensed Petition-Writer shall sign and seal with his official seal, every petition written by him, and shall enter on it the number which it bears in his register, and the fee which has been charged for writing it.

XXIII. A licensed Petition-Writer shall not dictate a petition to, or cause a petition to be written by, a person who is not a licensed Petition-Writer; nor shall he employ any person who is not a licensed Petition-Writer to write petitions for him.

XXIV. Every licensed Petition-Writer shall rewrite at his own cost any petition written by himself when required to do so by order of competent authority.

XXV. A licensed petition-writer shall not instigate any person to cause to be written by himself, or by any other licensed Petition-Writer, any petition which he knows to be unnecessary.

XXV-A. A licensed Petition-Writer shall not write or cause to be written, any petition on behalf of any party, if he has already written a petition in regard to the same subject matter or proceeding for any opposing party.

XXVI.(i) Subject to the provisions of Rules XXX, every licensed Petition-Writer may make his own terms with his employer as to the remuneration to be paid for his services; Provided, that he enters correctly the actual amount agreed upon on the petition, and in the proper column of his register.

- (ii) A licensed Petition-Writer shall not take payment for his services by an interest in the result of any litigation in connection with which he is employed, or shall find, or contribute towards, the funds employed, in carrying on any litigation in which he is not otherwise personally interested.

XXVII. A licensed Petition-Writer shall not act as a recognized agent in any case in a Civil Court or in a Revenue Court or Office (except a case in which he is himself a party) or in a Criminal Court or (subject to the same exception) shall accept any Mukhtarnama, whether General or special, authorizing him to act as a recognized agent in a Civil Court or in a Revenue Court or Office.

XXVIII. Every licensed Petition-Writer:-

- (1) the operation of whose license is suspended under rule XIV;
- (2) who enters the service of Government, of a Native State, or of a Legal Practitioner; or (C.S No. 18).
- (3) Who is suspended or dismissed under these rules shall forthwith surrender his license to the Court under which it was held.

XXVIII-A. Every Petition-Writer who gives up practicing for over three years shall have his name struck off the register.

Note: *A Petition-Writer whose name has been removed after three years absence will be at liberty to apply for the restoration of his licenses; provided that there is a vacancy on the prescribed scale. He shall, however, be treated in this respect on the same footing as a fresh applicant.*

XXIX. No licensed Petition-Writer shall practice:

- (1) contrary to the terms of his license;

- (2) in any Court or Office in which he has been forbidden to practice, while such prohibition is in force;
- (3) after his license should have been or has been surrendered under these rules; or
- (4) while under suspension.

D. Procedure in dealing with breaches of Rules and Penalties

XXX. Any Judicial or Revenue Officer Court who, upon the representation of any person employing a Petition-Writer, after hearing such Petition-Writer (if he desires to be so heard finds that the fee charged for writing a petition presented in his office or Court was excessive, may, by order in writing, reduce the same to such sum as appears to be, under the circumstances, reasonable and proper, any may require the Petition-Writer to refund the amount received in excess of such sum. An order passed under this rule shall not be revised, except by the Officer or Court who made it.

XXXI. Any Judicial or Revenue Officer or Court may order a licensed Petition-Writer to rewrite any petition written by him which contravenes rule XX, or is illegible, obscure or prolix or contains any irrelevant matter or misquotation, or is from any to other cause, in the opinion of such officer or Court informal or otherwise objectionable, an order passed under this rule shall not be open to revision by any Officer or Court other than the Officer or Court which made the order.

XXXII. (i) The presiding officer of any Court (other than the Chief Court) or of any office may for any sufficient cause to be recorded in writing under his signature, prohibit any Petition-Writer from practicing in his Court or Office, pending a reference where the prohibition is issued by the Financial Commissioner, to the Chief Court and in any other case, to the Court under which such Petition-Writer holds his license.

- (ii) Every order of prohibition passed under this rule shall be communicated to the Court under which the Petition-Writer affected holds his license and such court shall forthwith endorse the substance and date of the order on the license under his own signature.

XXXIII. Any person who breaks rule II is liable to a penalty not exceeding ¹[rupees five hundred], under section 14 sub-section (3) of the Punjab Court Act, 1884, as amended.

¹ Substituted vide PHC Notification No. 121 dated 26.08.2004

XXXIV. Any licensed Petition-Writer who breaks any of the rules numbered XVIII, XIX, XXI, XXII, XXIII, XXV, XXV-A, XXVI, XXVIII and XXIX, is liable to a penalty not exceeding ¹[rupees five hundred], under section 14, sub-section (3) of the Punjab Courts Act, 1884 as amended and shall also be liable to be suspended, dismissed or reduced under the next rule.

XXXV. (i) Any licensed Petition-Writer who:

- (1) habitually writes petitions contrary to rule XX, or containing irrelevant matter, or which are informal or otherwise objectionable; or
- (2) in the course of his business as a Petition-Writer uses disrespectful, insulting or abusing language; or
- (3) is found to be incapable of efficiently discharging the functions of a Petition-Writer; or
- (4) by reason of any fraudulent in the discharge of his duty as a Petition-Writer is found to be unfit to practice as such; or
- (5) is convicted of a criminal offence; may be suspended or dismissed; or, if he is a petition-writer of the first grade, be reduced to the second grade, in addition to any punishment to which he may be liable under section 14, sub-section (3) of the Punjab Courts Act, 1884, as amended or any other enactment for the time being in force.

- (ii) Every final order passed under this rule shall be communicated to the Court under which the Petition-Writer affected holds his license, and such Court shall forthwith endorse the substance and date of the order on the license under his own signature.

XXXVI. (i) Breaches of rule XXXV or of any other rule regulating the conduct of business by licensed Petition-Writers, specified in rule XXXIV shall be cognizable by the Court under which the Petition-Writer holds his license at the time of trial.

- (ii) Breaches of rule II shall be cognizable by the District Judge of the District in which the alleged breach occurred.

¹ Substituted vide PHC Notification No. 121 dated 26.08.2004

XXXVII. In order imposing a penalty for any beach of rule mentioned in rule XXXVI clauses (i) and (ii) may be made by the officer taking cognizance thereof, after such inquiry as he thinks fit;

Provided, that no order shall be made under this rule unless the person charged shall have had an opportunity of defending himself.

XXXVIII. Notwithstanding anything herein before contained, the Chief Court may, for any sufficient cause, to be recorded in writing, and after such inquiry as it thinks fit.

- (1) dismiss any licensed Petition-Writer, or suspend him from practice for a specified period; and
- (2) in the case of a licensed Petition-Writer of the first grade.--
 - (a) suspend him from practice in the Chief Court for a specified period.
 - (b) reduce him to the second grade;

Provided that no order shall be made under this rule unless the person charged shall have had an opportunity of defending himself.

XXXIX. Any order, other than an order of dismissal, made and any caution given instead of penalty, by a court after an inquiry under rule XXXVII or rule XXXVIII, shall be noted on the back of the Petition-Writer's license by the Court passing the order, or under its direction.

XL . (i) No appeal shall lie from any order passed by any Court or officer under any of the preceding rules; but the Chief Court, as regards orders passed under rule XXXVII by any District Judge, or any Divisional Judge, and the subordinate to it, may in its discretion revise any such order, and in place thereof pass such order as it thinks fit.

- (ii) No Petition-Writer who has been suspended or dismissed for misconduct can claim to be heard through counsel.

XLI. The Chief Court may at any time, for sufficient reason, grant a new license to any licensed Petition Writer who has been dismissed, or direct that any license of which the operation has been suspended by an order

under rules XIV, XXXV or XXXVIII, or by the Petition Writer entering the service of Government or of a legal Practitioner, be restored to him.

XLII. Nothing in the foregoing rules shall be deemed to limit or restrict the exercise by the Chief Court of its general powers of superintendence and control.

Schedule of rules, the breaches of which renders the offender liable to fine under section 14, sub-section (3) of the Punjab Courts Act, 1884, as amended.

A. Un-Licensed Persons:

Practicing as a Petition-Writer without a License..... Rule II.

B. Licensed Petition-Writers:

Practicing in a higher grade than that for which licensed-----IV

Omitting to maintain prescribed register on to produce it when required-----
-----XVIII

Omitting to provide seal-----XIX

Omitting to record declaration on petition-----XXI

Omitting to sign, seal or give other particulars required on a petition --XXII

Omitting to make true entry on petition or in register-----XXII

Causing petition to be written by unlicensed person-----XXVII

Instigating the writing of unnecessary petitions-----XXV

Omitting to enter correctly the actual amount of remuneration agreed upon, on the petition and in register. Taking payment by an interest in the result of litigation-----XXVI

Acting as recognized agent for any party-----XXVII

Omitting to surrender license-----XXVIII

Practicing while under suspension or while license is surrendered-----XXIX

Disregarding prohibition from practice, pending reference-----XXXII

Omitting to comply with an order made under rule-----XXXI

Violation of rule, habitual writing of irrelevant or informal or otherwise
objectionable petitions-----XXXV

Fraudulent or improper conduct in discharging of duty-----XXXV

FORM A (RULE XI)

FORM OF LICENSE

In the court of the _____ Judge of the _____

Certified that _____ son of _____
resident of _____

has this day been licensed as a Petition-Writer of the _____ grade, and
is hereby permitted to practice as such in the manner prescribed by rule IV,
clause _____ of the rules relating to Petition-Writers in the Punjab and
subject to the provisions of the said rule.

Given under my hand and the seal of this Court. This _____ day
of _____ 19 _____ at _____ Seal

_____ Judge

Form B (Rule XVIII)

Register to be maintained by every licensed petition-writer

Serial No of petition	Date on which petition was written	Name, Parentage, caste, and residence of the person at whose instance the petition was written	Description of petition	Brief abstract of petition	Value of court fee labels affixed to the petition	Fee charged for writing the petition	Remarks	Signature of petition-writer
1	2	3	4	5	6	7	8	9

FORM III (PARAGRAPH 14)

Annual Return of licensed Petition-Writer whose names are borne on the Register of the _____ on the 1st September, 19____.

Sr. No .	Number in Register	Name of Licen- sed Petiti- on Writer	Father's Name	Grade of Licen- se	Date of Licen- se	Date of producti on of license for annual inspecti on	Re- marks
1	2	3	4	5	6	7	8

C.No. 3(3-3)

AMENDMENTS IN PETITION WRITERS' RULES

PESHAWAR HIGH COURT, PESHAWAR

NOTIFICATION

Dated Peshawar, the 26th August, 2004

No.121-J In exercise of the powers conferred by section 20 of the West Pakistan Civil Courts Ordinance 1962, the Chief Justice and Judges of the Peshawar High Court, Peshawar, in consultation with the Board of Revenue NWFP, are pleased to make the following amendments in the Petition Writers Rules made under the powers conferred by section 14 sub-section (I) clause (b) of the Punjab Courts Act, 1884.

Amendments

1. In VII(c) for the words and figure "Rs. 5" the words and figure "Rs.200" shall be substituted.
2. In rules XI for the words and figure "Rs.50" the words and figure "Rs.500" and for the words and figure "Rs.25" the words and figure "Rs.250" and for the words and

- figure “Rs.5” the words and figure “Rs.100” shall be substituted.
3. In rule XII(1) for the words and figure “Rs.10” the words and figure “Rs.200” and for the words and figure “Rs.5” the words and figure “Rs.100” shall be substituted.
 4. In rule XIV(ii) for the words “rupees five” the words “rupees two hundred” shall be substituted.
 5. In rule XV for the words “rupees five” the words “rupees two hundred” shall be substituted.
 6. In rule XVII for the words “rupees five” the words “rupees two hundred” shall be substituted.
 7. In rule XXXIII for the words “rupees fifty” the words “rupees five hundred” shall be substituted.
 8. In rule XXXIV for the words “rupees fifty” the words “rupees five hundred” shall be substituted.

C.No. 4(3-3)

SECTION 14 OF THE PUNJAB COURTS ACT (XVIII OF 1884),-- (1)

(2).....

(3) Whoever breaks any rule made under clause (b) shall be punished with a fine which may extend to fifty rupees.

SECTION-4
(ANCILLARY INSTRUCTIONS REGARDING
OATH COMMISSIONERS, NOTARIES AND PETITION
WRITERS)

C.No. 1(3-4)

UNAUTHORIZED ATTESTATION OF AFFIDAVITS BY
OATH COMMISSIONERS IN CRIMINAL MATTERS

I am directed to address you on the subject and to say that Hon'ble the Chief Justice of this Court, while disposing of criminal petitions, noticed that Oath-Commissioners appointed by this court under section 139(b) of the Code of Civil Procedure, 1908 for administering oaths and affirmation to the deponent and attestation thereof, also attest affidavits in criminal matters. This practice is absolutely illegal and unauthorized and need to be stopped forthwith. These oath-commissioners, having not been authorized by this court for administering oath, affirmation and attesting affidavits u/s 539 Code of the Criminal Procedure, 1898, shall be restrained from attestation of the affidavits. The courts referred to in this section shall on the contrary, continue to do the needful in accordance with law and the established procedure. The institution of the oath-commissioners, this court is constrained to say, can not be allowed to betray faith of the public litigants up till now reposed in the judiciary.

Pursuant to the above and order of the Hon'ble Chief Justice of this Court you are requested to direct all the oath-commissioners working under your administrative control not to attest affidavits in criminal matters in future and cases of lapse on their parts shall be referred to this court for cancellation of their appointment orders as oath-commissioners.

(PHC letter No. 9784-9854 / Dated 22 October, 1984.)

C.No. 2(3-4)

**UNAUTHORIZED ATTESTATION OF AFFIDAVITS BY
OATH COMMISSIONERS IN CRIMINAL MATTERS**

In continuation of this courts No. 9784-9854 / Admn: Brh: Dated:- 22/10/1984, I am directed to say that Hon'ble the Chief Justice of this Court has been pleased to order, for public convenience, that all the Oath Commissioners appointed by this court under section 139 (b) C.P.C. 1908, are also hereby authorized to attest the affidavits in the matters of only bail before arrest applications.

Please bring these instructions to the notice of all the Oath Commissioners working under your administrative control.
This is issued under section 539 Code of the Criminal Procedure, 1898.

(PHC letter No:- 10329-98 Dated:- 30/10/1984)

C.No. 3(3-4)

INSTRUCTIONS REGARDING PETITION WRITERS

I am directed to say that the Petition Writers do not follow the relevant Rules issued by this court from time to time. Hon'ble the Administration Judge of this Court has, therefore, been pleased to observe that all the District and Sessions Judges in the N.W.F.P., should keep watch on the Petition Writers working in their respective Districts. They should check the Registers maintained by the Petition Writers periodically and send their reports for the perusal of this Court. The Petition Writers should also be advised to charge a normal fee from the litigant public for writing the deeds / Petitions etc., and also enter the fee charged by them in the relevant registers as well as on the top of the petitions.

I am further to enclose herewith a copy of the Petition Writer's Rules with directions that the procedure contained therein and the instructions highlighted above should be brought to the notice of all the Petition Writers for strict compliance. Any Petition Writer who fails to comply with these instructions shall expose himself to strict disciplinary action liable to cancellation of license.

(PHC letter No. 6261-6275 / Admn: Brh: Dated
Peshawar the 31st August, 1991.)

C.No. 4(3-4)

INSTRUCTIONS REGARDING OATH COMMISSIONERS

I am directed to say that the Oath Commissioners do not follow the Rules prescribed in the High Court Rules and Orders Vol-IV and instructions issued by this Court from time to time. According to the relevant Rules all Oath Commissioners shall keep a Register in the prescribed form (copy attached) in which all affidavits attested by them shall be entered. A written receipt for the amount paid shall be given by them to the deponent of the affidavit. The receipt shall be in the printed form consisting of the foil and a counterfoil, the foil being handed over to the person paying the money and the counterfoil to be kept for inspection.

Hon'ble the Administration Judge of this Court has, therefore, been pleased to observe that all the District and Sessions Judges in the NWFP, should keep watch on the Oath Commissioners working in their respective Districts. They should check the Registers maintained by the Oath Commissioners periodically and send their reports for the perusal of this Court. The Oath Commissioners should also be advised to charge the prescribed fee of Rs 5/ from the litigant public for affidavit attested by them.

I am, therefore, to request that the instructions highlighted above should be brought to the notice of all the Oath Commissioner for strict compliance both verbally in discussion and in writing. Any Oath Commissioner who fails to comply with these instructions shall expose himself to strict disciplinary action liable to cancellation of license.

(PHC letter No. 8360-8374/Admn:Brh: Dated Pesh: the 25th Nov., 1991)

C.No. 5(3-4)

INSTRUCTIONS REGARDING OATH COMMISSIONERS AND NOTARY PUBLIC

It has been noted with concern that the Oath Commissioners and Notary Public do not follow the Rules as are available in the High Court Rules and Orders Vol. IV and instructions issued by this Court from time to

time. It has been reported that the Oath Commissioners / Notary Public are not maintaining the prescribed registers in which all the affidavits attested by them should be entered and that they do not issue the required receipt for the amount received by them from the deponents. Besides, it is also reported that the Oath Commissioners / Notary Public charge higher fee than the prescribed fee.

I am, therefore, directed to say that all the Oath Commissioners / Notary Public should be directed to keep the relevant registers in which all the affidavits attested by them shall be entered: that written receipt for the amount received by them shall be given to the deponents on printed form consisting of foil and counterfoil: that the foil shall be handed over to the person paying the fee and the counterfoil should be kept for record and inspection. Moreover, they should charge the prescribed fee for each affidavit and should fix a board indicating such fee to be charged by them for an affidavit.

Hon'ble the Chief Justice has further been pleased to observe that all the District and Sessions Judges in the N.W.F.P., should keep a strict watch on all Oath Commissioners / Notary Public working in their respective Districts and check the boards so fixed by the Oath Commissioner / Notary Public, and to send the compliance report to this Court.

I am, therefore, to request that the instructions highlighted above should be brought to the notice of all Oath Commissioners / Notary Public for a strict compliance both verbally and in writing, and who so ever fail to comply with these instructions shall expose himself to the strict disciplinary action including cancellation of license.

(PHC letter No. 5329-5345 / Admn: Brh: Dated Pes: the 29th August, 1992)

C.No. 6(3-4)

APPOINTMENT OF OATH COMMISSIONERS

I am directed to address you on the subject noted above and to say that it has brought to the notice of this Court that while filling up the post of Oath Commissioners some of the District and Sessions Judges send the name of a single person or send application of the candidate for consideration. I am, therefore, to request to refrain from sending single name and ensure submission of panel of three qualified lawyer against one post.

(PHC letter No.9958-9977/ Admn.Brh.Dated Pesh: the 13th Nov:, 1994)
C.No. 7(3-4)

GRANT OF PETITION WRITERS' LICENCES TO UNQUALIFIED PERSONS

I am directed to say that the Hon'ble Administration Judge of this Court has been pleased to order that in future applications of unqualified persons who have not passed the prescribed examination of Petition Writers may not be sent to this Court for the grant of such licenses as a special case.

(PHC letter No.1276-98/ Dated Peshawar the 18/2/2002)

C.No. 8(3-4)

MAL-PRACTICES BY OATH COMMISSIONERS, NOTARY PUBLICS , PETITION WRITERS AND DEED WRITERS

I am directed by the Hon'ble Chief Justice to address you on the subject noted above and to say that complaints are pouring in showing instances of over-charging and touting by the Oath Commissioners/Notary Publics/Petition Writers/Deed Writers in violation of the relevant rules and in contravention of instructions on the subject issued by this Court from time to time.

It is generally observed that inspite of clear rules and instructions, the Oath Commissioners and Petition Writers are not maintaining registers on the prescribed forms where in they are required to enter the Affidavits attested and the petitions written by them. Likewise, the Oath Commissioners are not issuing written receipt for the amount paid to them, although they are obliged under Rule 5(iii) of Chapter 12-B of the High Court Rules and Orders Vol: IV, to keep receipts in a printed form consisting of foil and counterfoil and hand-over foil to the person paying the money and keep the counterfoil for the purpose of inspection.

I am, therefore, to issue directions that a vigilant eye be kept on the activities of the Oath Commissioners/Notary Publics/Petition Writers by regular as well as surprise inspection of the Registers and counterfoils and furnish the inspection reports to the Member Inspection Team of this Court for strict disciplinary action including cancellation of Licenses in

appropriate cases of over-charging and other violations of Rules and Instructions of this Court.

(PHC letter No. 6757-78 Dated Peshawar the 26.8.2000)

C.No. 9(3-4)

STREAMLINING THE AFFAIRS OF PETITION WRITERS

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, during his recent visits to various districts, has been pleased to observe that the affairs of the Petition Writers are not properly dealt with by the District Judges in accordance with the Rules applicable to them, resulting in mismanagement, the ultimate sufferers whereof being the litigant public.

It is, therefore, desired by Hon'ble the Chief Justice to get the matter streamlined by taking appropriate steps in accordance with the Rules framed by the Chief Court under section 14 subsection (I), clause (b) of the Punjab Courts Act, 1884. These steps, interalia, include the annual inspection of the license of petition writers under Rule XIV, keeping a watch on the conduct of petition writers, specially the amount of fee charged, as set forth in Part C and then to exercise the powers conferred under Part D thereof.

(PHC letter No. 4682-4705 Dated 28.04.2004)

C.No. 10(3-4)

RENEWAL OF PETITION WRITERS' LICENSE

I am directed to refer to the subject noted above and to say that Hon'ble Administration Judge of this Court while taking serious notice of the escalating trend of non-renewal of Petition Writer's licenses, has been pleased to order that proper notice be circulated to the Petition Writers, requiring them to apply for renewal well in time.

His Lordship has further been pleased to desire that the consequences of non-compliance of such notice be also explained to the Petitioner Writers accordingly.

(PHC letter No. 12199-12222/ Admn: Dated Peshawar the 27-10-04)

CHAPTER-IV (INSTRUCTIONS ISSUED BY THE HIGH COURT)

SECTION-1 (JURISDICTION OF COURTS)

C.No. 1(4-1)

CIVIL COURTS TO TRY ALL SUITS OF CIVIL NATURE UNLESS THEIR COGNIZANCE IS BARRED EXPRESSLY OR IMPLIEDLY BY A SPECIAL ENACTMENT.

I am desired to address you on the subject and to say that there exists some doubt in mind of some of the Presiding Officers of Civil Courts with regard to the return or rejection of plaint without averments made in pleadings of the parties which is wrong under the law and for removing this wrong impression, it is hereby clarified for information and guidance of all concerned.

No doubt Civil Courts are competent to try all suits of Civil nature under section 9 of the Code of Civil Procedure, 1908, unless their cognizance is either expressly or impliedly barred by any other Special Enactment and for this reason plaint is either returned to the party concerned for presentation in the Court of competent jurisdiction under Rule 10 or rejected under Rule 11 (d), inter alia, of order VII Code of the Civil Procedure, 1908. Section 9 of the Code is a general provision of law controlled by provision of any other Special Enactment and as such can not be construed to operate independently without the provision of the special law. Certain matters have been excluded by the Legislature from the purview of the Civil Courts and in order to carry out intention of the legislature the authority concerned would restrain from taking cognizance as laid down by an Act of the legislature. In this respect, reference can be made with advantage for your guidance and convenience to the following provisions of the Special Enactment as noted against each. These instances, not exhaustive, can further be multiplied.

Sr.No.	Name of the Act with section of law.	Remarks
1	Section 17 of the West Pakistan Waqf Properties Ordinance, 1961.	Bars jurisdiction of the Civil and revenue Courts

		or any other authority in respect of certain matters mentioned in this section.
2	Section 172 of the West Pakistan Land Revenue, Act, 1967.	It bars jurisdiction of the civil courts in matters coming within the jurisdiction of Revenue Officers.
3	Section 14(2) of the Provincially Administered Tribal Areas, Civil Procedure (Special Provisions) Regulation, 1975.	It bars jurisdiction of the civil courts in respect of all matters/ disputes of civil nature and triable under this Regulation.
4	Section II(i) of the NWFP, Public Property (Removal of Encroachment) Act, 1977.	It bars jurisdiction of the civil courts in respect of the matters mentioned in this sub-section(i).
5	Section 162 of the Income Tax Ordinance, 1979.	It bars jurisdiction of the civil courts against any order made under the ordinance.

The Hon'ble Chief Justice and Judges of this Court expect a lot from Presiding Officers of Civil Courts in respect of dispensation of justice strictly in accordance with law. Scrutiny of plaint, an important job, shall not be left to the Court staff for avoiding subsequent legal complications and inconvenience to the parties. Courts are not to wait till attendance of the defendant or his counsel and filing of a written statement but rather these are competent to admit or reject the pleadings on presentation ipso facto in light of the provisions of the Special Enactment.

Pursuant to the above, I am desired to request that the law on the subject as contained in section 9 of the Code of the Civil Procedure read with any other Special Enactment may be implemented in letter and spirit in the ends of justice and for avoiding un-necessary inconvenience-both financial and physical-to the parties concerned. A wrong step, in this respect, not only result in miscarriage of justice but also makes the parties to a suit / proceedings to loose confidence in fair play of the Civil Courts thereby lowering the prestige and dignity of the Courts.

(PHC letter No. 4159-4198/ Admn: Brh: Dated Pesh: the 8th April, 1984)

C.No. 2(4-1)

INDEMNITY AND BAR OF JURISDICTION OF CIVIL COURTS.

I am directed to address you on the subject and to say that the provisions of Section 28 of Zakat & Ushr Ordinance, 1980(Copy enclosed) should be kept in view while entertaining suits pertaining to the assessment and collection of Zakat & Ushr.

(PHC letter No. 6855-6904 Dated: 12th November, 1988)

C.No. 3(4-1)

INDEMNITY AND BAR OF JURISDICTION OF CIVIL COURTS.

I am directed to address you on the subject noted above and to say that instructions with regards to the provisions of Section 28 of Zakat & Ushr Ordinance, 1980, as contained in this Courts letter No. 6855-6904 / Admn: Brh: Dated. 12.11.1988 (copy enclosed) issued by this court from time to time are not followed by some of the Judicial Officers.

I am, therefore, directed to say that the Rules and instructions issued on the subject should be followed strictly.

(PHC letter No. 8022-8072/Admn: Brh: Dated Pesh: the 4th Nov: 1991)

C.No. 4(4-1)

JURISDICTION IN CASES REGARDING CUSTODY OF CHILDREN AND GUARDIANSHIP

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that while dealing with the subject cases, majority of the Courts do not follow the provisions of section 5 of the N.W.F.P. Family Courts Act, 1964, read with schedule thereto in the true spirit thereof. The correct legal position is that the Family Court has exclusive jurisdiction to entertain, hear and adjudicate upon the subject

cases, as specified in the schedule *ibid*. Under section 25 of the aforesaid Act, a Family Court is a District Court for the purpose of Guardians and Wards Act, 1890. The insertion of non-obstante clause in section 25 gives overriding effect to Guardians and Wards Act 1890, merely vis-à-vis the procedure in dealing with matters specified in that Act. The jurisdiction nevertheless, lies with the Family Court.

I am, therefore, to ask for strict adherence to the aforesaid provisions of law, to entertain the subject cases as Family Court cases and to enter the same in the register of FC cases. The procedure shall, however, be followed as provided by the Guardians and Wards Act, 1890.

I am further to request that the aforesaid instructions be circulated among all the concerned Courts of your District for compliance and acknowledgement of receipt by them be sent to the Court.

(PHC letter No.3043-66/Admn Dated Peshawar the 11.3.03)

C.No. 5(4-1)

SHARIAH NIZAM-E-ADL REGULATION, 2009

I am directed to refer to the subject noted above and to say that two matters have been referred to this Court on administrative side, one by Zilla Qazi, Swat and other by Zilla Qazi, Dir Lower, involving a common question as to Jurisdiction of Judicial magistrates in Malakand in those cases which were pending before promulgation of the subject Regulation including forest cases.

Through the jurisdiction of a court is a pure Judicial matter which is to be decided by the concerned court in a *lis* before it keeping in view all the legal contours.

Nevertheless this office has taken the matter on the request of the two Zilla Qazis mentioned above and has come to the following conclusion, of course, subject to Judicial Pronouncement.

Whenever a new law repeals the earlier law and is re-promulgated then the settled rule of interpretation is that the saving clause of new law is to be followed for all matters including pending cases (1985 PSC 975). In the subject Regulation para 19(3) (e) very much saves, *inter alia*, all the pending legal proceedings which may be continued or enforced and such penalty, forfeiture or punishment may be imposed as if the law, instrument, custom or usage had not been repealed or ceased to have effect, as the case

may be. It may be added here that in the year 1994 when PATA (Nifaz-e-Nizame-e-Shariah) Regulation was promulgated and similar question including fate of pending cases came up before this court in a Reference entitled “Abdul Samad and other Versus Painda Muhammad and others” reported in PLD 1997 Peshawar 35 and in that it was decided that though paragraph 11 2(e) of PATA (Nifaz-e-Nizame-e-Shariah) Regulation 1994 saves pending actions but as the NWFP PATA Regulation I of 1975 and NWFP PATA Regulation II of 1975 were repealed with effect from 12th day of February 1994 on the basis of judgment of August Supreme Court reported in PLD 1995 SC 281, therefore, the fate of the pending cases was decided in the Reference in the light of the judgment of the august Supreme Court and not in the light of paragraph 11 (2)(e) of Regulation of 1994. The said judgment of the Supreme Court saved only those cases which had attained finality and not otherwise.

But in the present case the consequence of repeal qua the pending cases shall be ensuing from para 19 itself which is *pari materia* with section 6 of West Pakistan General Clauses Act 1956 and Article 264 of the Constitution of the Islamic Republic of Pakistan. The new cases shall, however, be dealt with in accordance with new law conferring jurisdiction of all those cases falling in schedule-III of the new Regulation including local and special laws like forest laws, traffic laws and the like in which punishment is not more than three years, cases under PPC of similar punishment, and other as mentioned in the said schedule.

(PHC letter No.1341-64/Admn Dated Peshawar, 27th January, 2010)

**SECTION-2
(JUDICIAL OFFICERS' CONDUCT
AND
DISCIPLINE)**

C.No. 1(4-2)

INSTRUCTIONS REGARDING TRANSFER OF JUDICIAL OFFICERS

I have been directed to inform you that transfer is an incident of service and is always ordered in the interest of the officers and the public in general. It has been noticed that Judicial Officers try to approach this Court for their transfer prematurely, which is not approved-rather it is deprecated.

The Officers are, therefore, directed to avoid approaching this Court for their transfers through indirect means. Entries to this effect shall be made in the ACRs of the officers disobeying these orders.

(PHC letter No. 9881-9950/ Admn: Brh: Dated Peshawar the 14th
September, 1982)

C.No. 2(4-2)

**PARTIES TO GOVERNMENT SERVANTS ON
RETIREMENT, TRANSFERS AND TOURS**

I am directed to address you on the subject and to say that on the eve of recent general postings and transfers of Judicial Officers it has been come in the notice of this High Court through press and otherwise that some Judicial Officers accepted individual and collective tea/dinner and lunch parties from Members of the bar and private persons on event of their transfers to other districts. In some districts the Superintendents of Police and Jail also acted as hosts in arranging the parties in which police shield etc were given to Judicial Officers. This sort of acceptance of farewell parties amounts to misconduct under the N.W.F.P., Government Servants (Efficiency and Discipline) Rules, 1973 liable to disciplinary action. It further amounts to demonstration and ostentation which both do not suit the status and position of a Judge and Presiding Officers of Courts. The best appreciation for Judicial Officers is honest, fair and prompt disposal of judicial matters. In this respect I am also to inform that acceptance of public

parties and functions by the Government Servants on the eve of their transfer, retirement and tour are not allowed as per the Government instruction contained in letters No. S(R) 225/1-5/67 SOXIII dated 01.02.1967 and No. S(R)-830/1-5/69-SOXIII, dated 27.03.1969 copies of which have already been sent to you. However, fresh copies of the same are enclosed with this communication for your guidance.

2. I am also directed to draw your attention to the subject titled “Ziafat may Shirkat” at page 66 of the Book “Islami Nizam-e-Adalat” by Dr. Tanzilur Rehman, which is reproduced in original as follows:-

”تاضی کو عام دعوت قبول کرنا جائز ہے کیونکہ رسول ﷺ نے فرمایا ”من لم یجب الدعوة فقد نہی بالقاسم“ یعنی جس شخص نے دعوت قبول نہ کی اس نے بالقاسم (محمد صلی اللہ علیہ والہ وسلم) کی نافرمانی کی۔ البتہ تاضی کو ایسی دعوت قبول کرنا جائز نہیں ہے جو اس کی ذات کیلئے کی گئی ہو، کیونکہ ایسا کرنے سے تاضی پر پرداری کی تہمت لگائی جاسکتی ہے البتہ اس شخص کی خاص دعوت میں جانا تاضی کو جائز ہے جو تاضی کے تاضی بننے سے پہلے بھی اسکی دعوت کرتا رہا ہو۔ اسی طرح تاضی کو عزیز و اقارب کی مخصوص دعوت بھی قبول کر لینی چاہیے تاضی کو کسی فریق مقدمہ کی دعوت نہ کرنا چاہیے کیونکہ ایسا کرنے سے رسول کریم ﷺ نے منع فرمایا ہے اور نہ انکی دعوت میں شرکت کرنی چاہیے“

the perusal of the aforesaid provisions indicates that participation of Qazis (Presiding Officers of Courts) in feast/ public functions / parties are not allowed under the ‘Islamic Fiqa’. It is first and foremost duty of every Judicial Officer to ensure that Justice is not only done but is also seem to be done without any fear and favour. A Judge has to act as a Judge and impartially.

3. In view of the above, I am directed to request that in future all possible ostentatious acts in accepting farewell parties on the eve of transfers etc shall be avoided. The Hon’ble Chief Justice and Judges of this Court further desire that these instructions would be adhered in letter and spirit in future.

(PHC letter No. 4351-4420 Dated: 13, May 1986)

C.No. 3(4-2)

OBSERVATION OF COURTS HOURS

I am directed to say that it has come to the notice of this Court that most of the Judicial Officers and their staff are not punctual in observing court hours and the Hon'ble Chief Justice of this Court has noted the matter with great concern. Punctuality for every Civil Servant is a must and especially for Head of an Office & presiding officer of court, it assumes additional responsibility. The Judicial Officer being a supervisory officer should be vigilant and regular in attendance. It is the Judicial Officer who has to control and supervise the work of the staff working under him and if a controlling officer becomes slack and unpunctual in attendance the result of office efficiency is quite evident. Moreover, non-observance of punctuality by a civil servant amounts to misconduct under the NWFP, Government Servant (Efficiency & Discipline) Rules, 1973.

In view of the above Hon'ble the Chief Justice has been pleased to order that these instructions should be followed by all the Judicial Officers and in case any complaint / report is received in this Court against any Judicial Officer or his staff in future strict action will be taken against him.

(PHC letter No. 6083-6152 Dated: 30th July, 1986)

C.No. 4(4-2)

**INSTRUCTIONS
(ACCEPTANCE OF PARTIES)**

It has come to the notice of the Hon'ble Chief Justice that some judicial officers do not hesitate in accepting dinners, lunches and Tea parties etc; from the lawyers and the general public. The Chief Justice has been pleased to deprecate this practice.

I am, therefore, directed to impress upon all the judicial officers that utmost discretion should be exercised in accepting such like invitations. These instructions are desired to be followed strictly.

(PHC letter No. 772-851/Admn: Dated Peshawar 30th January 1988)

C.No. 5(4-2)

**PUNCTUALITY IN SUBORDINATE COURTS AND
EXPEDITIOUS DISPOSAL OF CASES**

It has come to the notice of Hon'ble the Chief Justice that some Presiding Officers of the subordinate Courts do not observe Court hours, remain absent during working hours, waste much of their time in entertaining friends and relatives in their retiring rooms and frequently adjourn cases on one pretext or the other causing delay in disposal. Hon'ble the Chief Justice has viewed this state of affairs with grave concern and desired that corrective measures be taken immediately.

As envisaged by paragraph 6, chapter 1-A of volume IV, Rules and Orders of the High Court, all District and Sessions Judges are required to ensure that officers subordinate to them are punctual in keeping court hours and to pay surprise visits in order to verify that the Rules are strictly followed.

I am, therefore, to request that you should carry out frequent surprise visits of the subordinate courts, obtain explanations in respect of non-punctuality, remissness of duty or other dereliction concerning court hours and submit reports to this court about cases, which call for disciplinary action.

(PHC letter No. 1682 – 1696 Dated: Peshawar the 21st May, 1989)

C.No. 6(4-2)**USE OF HIGH COURT MONOGRAM BY THE
SUBORDINATE JUDGES ON EID CARDS AND VEHICLES**

I am directed to address you on the subject noted above and to say that it has come to the notice of the Hon'ble Chief Justice that some Judicial Officers use monogram of this Court on Eid Cards and on their vehicles. Deprecating this practice, Hon'ble the Chief Justice of this Court has been pleased to order that in future no member of the Subordinate Judiciary shall use the monogram of this Court on Eid Cards and on his Vehicle. Violation of these instructions shall expose the defaulting officer to disciplinary action.

(PHC letter No. 4318 – 4418/Admn: Brh: Dated. Pesh: the 27th May, 1991)

C.No.7(4-2)

**INTERVIEW WITH THE HONOURABLE CHIEF JUSTICE
AND JUDGES**

I am directed to say, that a tendency has been noticed in some of the Judicial Officers to purposelessly call on the Hon'ble Chief Justice or the Hon'ble Judges of this Court at their residence as well as in their chambers without seeking prior permission convenient for the purpose. Such frequent unscheduled visits on the part of the Judicial Officers are not only unwarranted but cause a lot of inconvenience to the Hon'ble Chief Justice and the Judges.

In view of the above position, you are hereby directed to note that in future no unscheduled visits are to be made, and that in case of dire necessity, prior permission will have to be obtained from the undersigned for any visit, either, to the Hon'ble Chief Justice or to the Hon'ble Judges of this Court.

Besides, it has also come to the notice of this Court that certain Judicial Officers directly or indirectly attempt to influence the Hon'ble Chief Justice of this Court in connection with their transfer or promotion. This practice is not only undesirable, but is also violative of the existing Disciplinary Rules on the subject and as such has to be deprecated.

In future any attempt by Judicial Officers to obstruct the Administrative orders of this Court through any means would be viewed as an act of in-discipline liable to be reflected in the ACR of the concerned Officer, besides exposing such officer for an action under the Efficiency and Disciplinary Rules.

I am, therefore, to request all the Judicial Officers that they shall in future desist from the above mentioned practices, and in case of any default on their part they shall render themselves liable for strict action by this Court.

(PHC letter No. 151-250 / Admn: Brh: Dated. Peshawar 5th January, 1992)

C.No. 8(4-2)

RECEPTION IN COURTS BY PRESIDING OFFICERS OF VISITORS AND ACCOMMODATING PERSONS ON THE DAIS AND IN THE RETIRING ROOMS

I am directed to say that it has come to the notice of Hon'ble the Chief Justice of this Court that some of the Presiding Officers of subordinate Courts, sometimes receive visitors in Court and made them to sit on the Dais / Retiring Room when they come to give evidence or otherwise come to meet the Presiding Officers. It is wholly un-desirable to allow the guests / visitors / witnesses to sit in the retiring room or on the dais beside the Presiding Officer, as such conduct is open to objection and can be easily misconstrued.

Moreover, no visitors should be received during the course of trial of cases as their presence and entertainment detracts from the dignity and decorum of judicial proceedings.

I am to request for strict compliance in future of above instructions.

(PHC letter No. 534-634 / Admn: Brh: Dated. Pesh: the 14th January, 1992)

C.No. 9(4-2)**USE OF THE WORDS "HIGH COURT" OR DESIGNATION ON THE REGISTRATION NUMBER PLATS OF VEHICLES**

It has come to the notice of Hon'ble the Chief Justice that some Officers/Officials serving in N.W.F.P. Judiciary display on their private vehicles the words 'High Court' or their designations with the Registration Number Plats which is apparently violative of the Rules and Regulations. All concerned are thus warned in their own interest to desist from doing so forthwith, failing which disciplinary action shall be taken as allowed under the Rules against the defaulting Officers/Officials.

(PHC Endst.No.8446-8474/Admn.Brh. Dated Peshawar the 19th Nov: 1996)

C.No. 10(4-2)

**ATTENDING VISITORS IN RETIRING ROOM AND USE OF
TELEPHONE DURING COURT HOURS**

I am directed to say that it has been brought to the notice of the Hon'ble Chief Justice that Presiding Officers of the Subordinate Courts spend unnecessary time in their retiring rooms in attending to visitors and telephone calls during their court hours.

2. You are, therefore, required to direct the subordinate courts under your control to desist from the aforesaid practice and ensure compliance of this directive.

I am further directed to say that the numbers of telephones installed by the subordinate courts in their court premises be intimated immediately.

(PHC letter No. 4833-4854 Dated Peshawar the 14.6.1997)

C.No. 11(4-2)

ENTERTAINMENT OF GUESTS IN THE RETIRING ROOM

I am directed to say that it has come to the notice of the Chief Justice and Judges of this Court that some Presiding Officers in flagrant violation of the standing Orders of this Court entertain guests in their retiring rooms during Court hours. Taking a serious view of this unsavoury practice, the Chief Justice and Judges have been pleased to Order that in future no Presiding Officer shall entertain guests in his retiring room.

(PHC No. 9244-9343/Admn/D(a)260-A,Part-III Dated Pesh: the 8.11.1998)

C.No. 12(4-2)

OBSERVANCE OF COURT HOURS

It has come to the notice of Hon'ble the Chief Justice that some of the Judicial Officers do not observe court time, remain absent during

working hours and entertain friends and relatives in retiring room. Hon'ble the Chief Justice has seriously viewed this unbecoming attitude and desired that corrective measures be taken immediately.

2) As laid down in paragraph 6, Chapter 1-A Volume IV, Rules and Orders of the High Court, all District and Sessions judges are required to ensure that Judicial Officers in the district observe court hours and may visit the courts in order to see that Rules on the subject are strictly adhered to.

3) I am, therefore, to request that frequent surprise visits of the subordinate courts should be carried out with a view to check unpunctuality, and other dereliction with regard to regular court hours and report cases which warrant disciplinary action.

(PHC letter No. 1751-1772 Dated Peshawar the 9.3.1999)

C.No. 13(4-2)

ENTERTAINMENT OF GUESTS IN THE RETIRING ROOM

In continuation of this Court's circular letter No. 9244-9343 Admn. Brh/D(A) 260-A, Part-III, dated 8.11.1998, I am directed to say that after following instructions on the subject for sometime a few Judicial Officers have revived the practice of entertaining guests in their retiring rooms. No words are strong enough to deprecate the practice as it adversely affects disposal of cases, which have increased manifold in the aftermath of separation of the Judiciary from the Executive.

2) The directions contained in the above referred circular letter are, therefore, once again reiterated with stern warning that those found defying the instructions will expose themselves to appropriate disciplinary action.

(PHC letter No. 10170-10220 Admn Dated Peshawar the 27th
October.1999)

C.No. 14(4-2)

**MEETING THE HON'BLE CHIEF JUSTICE AND JUDGES
WITHOUT PRIOR PERMISSION**

I am directed to say that despite clear warnings on the subject, some of the Judicial Officers are still making attempts to call on the Hon'ble chief Justice and Judges of this Court at their residences as well as in their chambers without seeking prior permission. It has also been observed that certain Judicial Officers directly or indirectly attempt to approach the Hon'ble Chief Justice in connection with their transfer or promotion.

2. Hon'ble the Chief Justice and Judges have taken serious notice of this unsavoury practice and have directed me to reiterate the earlier directions issued on the subject and impress upon all the Judicial Officers that in future no attempt should be made for meeting with the Hon'ble Chief Justice and Judges without seeking prior permission from the undersigned and desist from making attempts to influence administrative decisions, otherwise they shall expose themselves to stern disciplinary action under the Efficiency and Discipline Rules.

(No. 927-1126 Dated Peshawar the 8th February, 2000)

C.No. 15(4-2)

**NON-OBSERVANCE OF COURT HOURS AND
ENTERTAINMENT OF GUESTS IN THE RETIRING ROOM.**

1. In continuation of this Court's circular letters no.1751-1772, dated 9.3.1999 and No.10170-10220/Admn: dated 27.10.1999, I am directed to say that complaints are still pouring in showing non-observance of court hours and entertainment of guests in the retiring room by some Judicial Officers in flagrant violation of the standing orders of this Court. The incessant resort to this unsavoury practice not only tends to lower the image of Judiciary in the eyes of general public but also adversely affects the disposal of cases which have witnessed manifold increase owing to several reasons including separation of the Judiciary from the Executive and transfer of the entire judicial work from the Executive Magistrates to the Judicial Officers.

2. I am, therefore, to reiterate instructions on the subject issued by this Court from time to time with the directions to all the Judicial Officers to observe Court time by remaining in the Courtroom during working hours excepting thirty minutes break from 1.00 p.m. to 1.30 p.m for "Zohar Prayer", and shun the tendency of entertaining friends and relatives in the retiring room.

(PHC letter No.344-443/ Admn: Brh. Dated Pesh: the 10th January, 2002)

C.No. 16(4-2)

VIST TO HIGH COURT BY THE JUDICIAL OFFICERS

I am directed to inform that the Judicial Officers of the Subordinate Judiciary shall not visit the High Court without being called by the High Court or on prior appointment made at their request.

The Judicial Officers so visiting the High Court will be received by the Protocol Officer of this Court at the 'Judges' Entrance at the time and date fixed for the visit.

(PHC letter No.1494-1701/ Dated Peshawar the 26-2-2002)

C.No. 17(4-2)

GRANT OF INTERVIEWS TO JUDICIAL OFFICERS BY HONB'LE CHIEF JUSTICE TO AVOID ATTEMPTS TO HAVE INDIRECT ACCESS TO HIS LORDSHIP.

I am directed to refer to the subject noted above and to request you to please inform all concerned that the Hon'ble Chief Justice is accessible (subject to availability at station to be confirmed through the Registrar/Secretary to Hon'ble Chief Justice) to all the judicial officers and is anxious to remove all legitimate grievances but the attempts to have indirect access to his lordship must be avoided to avoid disciplinary action followed by reflection of such misconduct in the ACR of defaulter.

The receipt of this communication is to be acknowledged by all concerned and sent to the undersigned.

(PHC letter No. 4029-4051 Dated Peshawar the 4th May, 2002)

C.No. 18(4-2)

VISIT TO HIGH COURT BY JUDICIAL OFFICERS.

I am directed to refer to this Court's letter # 1494-1701/Admn dated 26th February, 2002 on the subject noted above and to state that the Hon'ble Chief Justice has been pleased to dispense with the requirement of prior appointment for visit to the High Court, to the extent of District and Sessions Judges/Zila Qazis.

(PHC letter No. 10065-10088/Admn Dated 04.08.2004)

C.No. 19(4-2)

EXTRANEIOUS INFLUENCE BY GOVERNMENT SERVANTS IN RESPECT OF SERVICE MATTERS

I am directed to refer to the subject noted above, and to say that bringing or attempting to bring any sort of extraneous influence on the Authority in respect of service matters, including transfers/postings, amount to **misconduct** within the provisions of Rule 2(1)(e) of the N.W.F-P., Government Servants (Efficiency and Discipline) Rules, 1973.

The Competent Authority, has therefore, been pleased to ask all concerned to desist from such practices. Any such attempt shall expose the delinquent officer/official to proceedings under the Rules *ibid*.

In case of any genuine problem of a Judicial Officer, appointment for interview with His Lordship the Chief Justice be sought through the Secretary. (091-9211296; Fax. 091-9210482).

I am further directed to require you to circulate these instructions amongst all the Judicial Officers of your District and their staff for strict compliance.

(PHC letter No. 10089-10112/Adm Dated 04.08.2004)

C.No. 20(4-2)

USE OF MOBILE PHONES DURING COURT HOURS

I am directed to refer to the subject noted above and to state that reports have been received about some of the Judicial Officers using mobile phones in the court rooms during court proceedings. Hon'ble the Chief Justice has taken serious notice of such practice.

I am, therefore, to direct that no Judicial Officer shall use or keep mobile phone in Court, during court hours, in future. It may, however, be kept either in retiring room or with any staff member, performing duty out side the court room.

I am further to request you to circulate these instructions among all the Judicial Officers of your District for compliance.

(PHC letter No. 3049-3072/Admn Dated 19.04.2005)

C.No. 21(4-2)**DELAY IN RELINQUISHMENT OF CHARGE BY THE JUDICIAL OFFICERS**

It has been observed that most of the Judicial Officers tend to delay relinquishment of charge on their transfer. This practice not only amounts to defiance of the order but also at times creates complications and inconvenience for the succeeding officers.

The Competent Authority has, therefore, been pleased to direct that henceforth, on receipt of transfer order, the officers shall immediately relinquish charge of their office.

I am further to request that such orders, when received either by fax or otherwise, be forthwith communicated to the transferee officers.

(PHC letter No.3332-3355/ Admn Dated Peshawar the 28.04.05)

C.No. 22(4-2)

**UNPLEASANT BEHAVIOUR OF JUDICIAL OFFICERS
WITH THE LITIGANTS.**

I am directed to say that complaints are pouring in regarding the rude and improper behaviour of some of the Judicial Officers with the litigants during court proceedings. Such undesirable attitude is adversely affecting the cause of justice and public confidence.

Hon'ble the Chief Justice has desired that a gentleman behaviour and sobriety should be observed in the Court and proceedings be conducted in a respectful manner, maintaining judicial norms and dignity of the Court, for better administration of justice.

I am further to request that the aforesaid instructions may please be circulated amongst all the Judicial Officers of your respective districts for strict compliance, to avoid such complaints in future.

(PHC letter No. 9324-9347 Dated 01.08.2005)

C.No. 23(4-2)**CODE OF CONDUCT FOR JUDICIAL OFFICERS OF NWFP
DISTRICT JUDICIARY**

Independence of an institution, infact, requires more responsible and accountable system from within, especially in dealing with stakeholders. Judiciary, being independent institution, demands all its members to show more responsibility than others. It was in this perspective that Hon'ble the Chief Justice desired to have a Code of Conduct for all the judicial officers in NWFP, in addition to the Rules of conduct already applicable to the government servants.

I am, therefore, directed to circulate the subject Code of Conduct for compliance by all the judicial officers. Receipt may be acknowledged by all within a week.

**CODE OF CONDUCT FOR JUDICIAL OFFICERS OF NWFP
DISTRICT JUDICIARY**

The conduct of judicial officers of NWFP has so far been regulated by the NWFP Government Servants (conduct) Rules 1987. These Rules are primarily meant for all government servants. However, the job requirement of the judicial officers warrant special behavior in the judges which demand for possession of the highest quality of intellect and character, Peshawar High Court, therefore, considers it imperative to further provide, the following, in addition to the aforesaid Rules, Code of Conduct for judicial officers of the District Judiciary.

- | | |
|-----------|--|
| Para I | A judicial officer should be God fearing, law abiding, abstemious, truthful of tongue, wise in opinion, cautious and forbearing, patient and calm, blameless, untouched by greed, completely detached and balanced, faithful to his words and meticulous in his functions. |
| Para II | He must not show any fear or favour to any party before him or their lawyers, both in his judgment and conduct. |
| Para III | He should avoid mixing up with people, roaming in hotels, markets and streets except in dire need. |
| Para IV | He should avoid rage and should abstain from deciding in rage. |
| Para V | He should be learned in law and should have command and control over the proceedings in the Court. |
| Para VI | He must be consistent in his judgments. |
| Para VII | He should be courteous and polite, but not weak, towards the litigants and their lawyers. He must maintain the decorum of the Court. |
| Para VIII | He should always endeavor to decide cases expeditiously and should take all necessary measures to ensure speedy justice. |
| Para IX | He should have effective control over the staff of his court without being rude, rough or humiliating. |
| Para X | A judicial officer must be punctual while taking or leaving his seat. |
| Para XI | He must be dressed in prescribed uniform and seated in dignified manner, but not so as to look a proud man. |
| Para XII | He must avoid hearing cases, receiving guests or his colleagues in the retiring room, besides avoiding frequent use thereof, except in urgent need. |
| Para XIII | He must avoid hearing one party or his lawyer in the absence |

-
- of the other except in the case of *ex parte* proceedings.
- Para XIV He must not hear those cases in which he, his near relatives or close friends have got any interest.
- Para XV He should not advise any of the parties so that it becomes a favour to the prejudice of the other party.
- Para XVI Judicial officers must avoid discussing particular cases before them save allowed by law or when it is intended to give advice or counselling by a higher forum to lower forum.
- Para XVII He should not engage in business with any party to the case before him. If, however, it is unavoidable, he should discontinue the hearing of the case forthwith.

(PHC letter No.10367-10390/Admn: Dated Pesh: the 25th November 2005)

C.No. 24(4-2)

APPROACH TO HIGHER AUTHORITIES FOR FAVOURS

I am directed to refer to the meeting of National Judicial Policy Making Committee (NJPMC) dated 19th November 2005, and to say that the Committee in the said meeting has resolved that no judicial officer may approach the higher authorities for securing favourable transfer, posting or promotion and that any such attempt shall be treated as misconduct and disciplinary action be taken against the delinquent judicial officer.

Attention is also invited to the earlier instructions, issued vide this Court's letter No. 469-569/Admn dated 08.01.1998, 927-1126/Admn dated 08.02.2000 and Endst # 10113-10162/Admn dated 04.08.2004 in the subject matter (Copies are attached).

I am, therefore, to ask you to circulate the above decision amongst all the judicial officers of your district for information and compliance.

(No. 10853-10876/Admn: Dated Peshawar, the 12.12.2005)

C.No. 25(4-2)

DISTINCTIVE NUMBER PLATES ON VEHICLES

In continuation of this Court's letter No. 4318 – 4418/Admn: Brh: Dated 27.05.1991 and Endst No. 8446 – 8476/Admn: Brh: Dated 19.11.1996 (C. No. 6(4-2) page No. 301 and C. No. 9(4-2) page No. 303 of Judicial Estacode), on the subject noted above, I am directed to say that it has come to the notice of this Court that some Judicial Officers display their own designation or other distinctive number like "Zaid-1" on registration plates of their private or official vehicles. This practice on the part of Judicial Officer is not upto their status resulting in lowering the image of Judiciary in the eyes of public.

All the Judicial Officers are, therefore, directed to desist from the aforesaid practice.

I am further to request that the aforesaid instructions may please be circulated amongst all the Judicial Officers of your district for strict compliance.

(PHC letter No. 2341-64/Admn Dated Peshawar, 04th May, 2007)

C.No. 26(4-2)

APPROACH TO THE AUTHORITY FOR TRANSFER & POSTING

I am directed to refer to this Court's earlier correspondence on the subject noted above and to say that all postings & transfers are made in public interest and in the interest of Institution. They are never motivated. However, it has been noticed that Judicial Officers approach the 'Authority', either directly or indirectly making request for their transfer and postings. This practice besides being uncalled for also militates against the service discipline and makes the delinquent Judicial Officer liable to disciplinary action on account of misconduct. Therefore, all the Judicial Officers are warned to desist from such practice in future.

However, if a Judicial Officer has some genuine personal reasons / unavoidable circumstances, he may approach the undersigned for redressal of his problems / difficulties by the Hon'ble Chief Justice.

You are, therefore, directed to circulate the above instructions amongst all the Judicial Officers in your district for strict compliance and forward acknowledgement obtained from them to this Court at the earliest.

(PHC letter No.14722-14746/Admn Dated Peshawar, 16th October, 2008)

C.No. 27(4-2)

VISIT TO HIGH COURT BY THE JUDICIAL OFFICERS

I am directed to refer to the subject noted above and to say that, except in the Court proceedings, henceforth all visits by the Judicial Officers to the Hon'ble Chief Justice and Judges of this Court shall be scheduled, with specific reference to the agenda, in consultation with the Secretary to the Hon'ble Chief Justice in order to save the precious time. Similarly, frequent visits to other offices of this Court should also be minimized except in urgent matters / problems which cannot otherwise be addressed.

All the Judicial Officers working under your administrative control be informed, accordingly. Please acknowledge the receipt.

(PHC letter No.14145-85/Admn-AMIT-II Dated Peshawar, 14th November, 2009)

C.No. 28(4-2)

CODE OF CONDUCT

I am directed to refer to the subject cited above and to say institutions are made and shaped by individuals and individuals, in turn, by possessing the traits of highest character and intellect. The independence of judiciary further fomented by the recent mass movement demand of all the judicial officers to behave in a manner befitting of an umpire as the fate of the nation is to be decided by these individuals in the days to come. The role of a Judge demands him to be abstemious, cautious, blameless, untouched by greed and meticulous in his functions. These behavioral manifestations, inter alia, must be jealously guarded in order to show impartiality on one hand and enhance the public confidence in the institution on the other.

But unfortunately instances have come on the notice of Hon'ble the Chief Justice that Judicial Officers do not care mixing up with the people at the stations of their posting, who are direct stakeholders, like lawyers, public office holders, politicians, other elites etc., in cases before them and such mixing up goes to the extent that the Judicial Officers get obliged by

demanding and accepting petty personal needs like borrowing of vehicles, fuel etc. Such petty personal benefits do tarnish the image of the concerned Judicial Officer as well as the Institution.

All the Judicial Officers are expected to show restraint from indulging in such practices in future, as the same militates against the established Code of Conduct of Judges. The directive may be circulated amongst all the Judicial Officers under your control for strict compliance.

(PHC letter No.761-835/Admn Dated Peshawar, 13th January, 2010)

No. 29(4-2)

INTERACTION WITH SUBORDINATE JUDICIAL OFFICERS BY DISTRICT & SESSIONS JUDGES

I am directed to refer to the subject noted above and to say that District & Sessions Judge being administrative head of other judges in the district on one hand and reporting officer on the other is to conduct himself, in dealing with subordinate judges, in a way not to affect his official duty in both the areas. Closeness with subordinates, at times, results in undue favours to them. The task of reporting officer becomes all the more daunting in such proximity with subordinates as he is to evaluate and assess performance objectively with detail microns of character. Such objectivity is possible only and only when assessor becomes circumspect and circumspection demands emotional detachment.

The Hon'ble Chief Justice has, therefore, desired that all the District & Sessions Judges of the province should regulate their interaction with subordinate judicial officers in line with the above mentioned objective so that human weaknesses should not mar their important official functions.

(PHC letter No.836-910/Admn Dated Peshawar, 13th January, 2010)

No. 30(4-2)

CODE OF CONDUCT

The behavioral province of a Judge transcends the jurisdictional bounds as opposed to *lis* and *dicta* which cannot go beyond circumscribed limits of law. The conduct of a Judge for maintenance of rule of law, therefore, extends to all areas within the range of human activities in a nation. But unfortunately, Judges feel them free of all clutches of standards of conduct in those matters not before them. Direct or indirect interference in judicial matters not before them is as culpable as a judge in his own cause.

The maxim “nemo debet esse judex in propria causa” does not relieve a judge or his friend to do through others what he cannot do himself in law or morality.

The Honourable Chief Justice has taken a very serious view of certain instances in which judicial officers oblige each other in judicial matters in respective home stations as, it too, militates against their integrity.

I am, therefore, to impress upon all the judicial officers to be highly wary in defending the attributes presumptively ingrained in a person of a Judge to save the institution in the ultimate. The directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.1601-46/Admn Dated Peshawar, 02nd February, 2010)

C.No. **31**(4-2)

CODE OF CONDUCT

I am directed to refer to this court letter No. 1601-46/Admn dated 02-02-2010 on the subject noted above and to draw you attention to the constant complaints of visits by Judicial Officers to their colleagues posted at the home stations of the former giving rise to multiple implications and doubts in the minds of litigants public marring their confidence in the system.

I am, therefore, to direct that henceforth no Judicial Officer shall visit any Judicial Officer at their home stations in particular and at any other station in general. This directive may be circulated amongst all the Judicial Officers under your control.

(PHC letter No.745-815/Admn Dated Peshawar, 17th January, 2011)

C.No. **32**(4-2)

APPROACH TO HIGHER AUTHORITIES FOR FAVOURS

I am directed to refer to the subject noted above and to say that approaching the authorities in the matter of postings and transfers is a misconduct and against service discipline which may entail the consequences adverse to the concerned judicial officer. All the judicial officers are, therefore, asked to desist from using any channel for the purpose in future.

This directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.2695-2755/Admn Dated Peshawar, 20th February, 2010)

C.No. 33(4-2)

ATTENDANCE OF PRESIDING OFFICERS

I am directed to refer to the subject noted above and to say that complaints are pouring in regarding lack of punctuality of the judicial officers necessitating a watch on them so that it may be seen whether they attend the courts regularly well in time. Telephonic communications in the morning in this connection revealed that most of the Judges do not attend their courts well in time.

I am, therefore, directed to ask you to mark the attendance of all the Presiding Officers at a station from 08.30-A.M to 08.50-AM on all the working days and fax the same on Telephone No. 091-9210170 on daily basis before 09.00-AM as per the form enclosed herewith. Similarly attendance at sub-divisional/tehsil headquarters may also be marked and faxed directly to this court. This circular may be circulated to Senior/Incharge Judge at sub-divisional/tehsil headquarters.

(PHC letter No.2944-68/Admn Dated Peshawar, 05th March, 2010)

C.No. 34(4-2)

MORAL AND JUDICIAL STANDARDS OF THE JUDICIAL OFFICERS

I am directed to refer to the subject noted above and to state that his lordship honourable the Chief Justice noticed that the District and Sessions judges feel least concerned in monitoring the activities of the judicial Officers subordinate to them notwithstanding it is the District and Sessions Judge who is to see and supervise their conduct and other activities, if any.

Failure of the District and Sessions Judges to focus on this aspect of their responsibility would worsen the already deteriorating moral and judicial standards. Therefore, they are required to maintain discipline in their interactions with each other to ensure check and balance in their working.

(PHC letter No.4803-4853/Admn Dated Peshawar, 11th March, 2010)

C.No. 35(4-2)

PHONE CALLS DURING COURTS HOURS

In continuation and partial modification of this Court's letter No. 3049-3072/Admn dated 19/04/2005 on the subject, I am directed to say that

Hon'ble the Chief Justice has taken serious view of the judicial officers attending to the phone calls during court hours which not only hampers the court proceeding but also create an impression amongst litigants that the judicial officer presiding over the proceedings of a case has been influenced by the person talking on telephone. This may result in shattering the confidence of the litigants in the courts though the phone call might not have any relevance with the proceedings before the court.

I am, therefore, to direct that no judicial officer shall use any landline or cell phone during court hours. Those judicial officers who have been provided facility of official phone should also take care of attending official calls keeping in view the spirit of this directive.

The instructions may be circulated amongst all the judicial officers of your district for compliance.

(PHC letter No.18859-99/Admn Dated Peshawar, 05th November, 2010)

C.No. **36**(4-2)

FAVOURS TO RELATIONS

I am directed to refer to the subject noted above and to say that certain instances have been noticed by Hon'ble the Chief Justice where Judicial Officers show inclinations towards litigants or advocates related in any way to any other Judicial Officer or Judge of superior judiciary. Hon'ble the Chief Justice has directed that propriety demands that in case of balance of scale between two parties, grains of mercy be poured on the party which is without such relation. It must further be borne in mind that the Hon'ble Chief Justice, Hon'ble Judges of superior courts or Judicial Officers have no friends or relatives. Their friends or relatives are those who are victims of injustice; misuse of their names thus be religiously guarded against.

(PHC letter No.5295-355/Admn Dated Peshawar, 27th April, 2011)

SECTION-3

(SUPERVISION, INSPECTIONS AND PROGRESS)

C.No. 1(4-3)

SURPRISE VISIT TO THE LOCAL SUBORDINATE COURTS

In supersession of this Court's letter No.1-60/Admn: Brh: dated 2.1.1982, I am directed to say that the District & Sessions Judges, at the Headquarter and the Additional District and Sessions Judges of the Sub-Divisions should pay surprise visits at least once in every month to the local subordinate courts and see that the pendency of old cases is reduced. They, in this connection, should submit a detailed report of their visit each time to this court.

I am further directed to say that each District & Sessions Judge/ Additional District & Sessions Judge, should keep a chart of all type of cases pending in the subordinate courts at the beginning of the month, disposed of during the month and balance at the close of the month as well as of the preceding month, particularly indicating the number of cases for more than a year.

These instructions should be followed strictly in letter and spirit.

(PHC letter No. 2125-2155/Admn: Brh; dated Pesh: the 11th Feb: 1982)

C.No. 2(4-3)

SUBMISSION OF MONTHLY SESSIONS / CIVIL STATEMENTS

I am directed to say that it has come to the notice of this court that the monthly sessions and civil statements are received in this Court incomplete and very late which not only hinders the consolidation work in time but also causes great inconvenience and difficulties to the office.

2. The monthly Sessions statements are required to be forwarded to the High Court by the District and Sessions Judges, by the 10th of each succeeding month without fail and in case the same is delayed for some reason an explanation to that effect must accompany that statement failing which the same would not be entertained.

3. The Civil Judges should prepare the required statement by the 3rd of next month and forward it to the Court of the Senior Civil Judge on the same date. In the court of Senior Civil Judge, the clerk of court, after necessary consolidation should forward one copy direct to this court before 5th of the month under report, and other copy of the consolidated statement to the court of District and Sessions Judge. The District and Sessions Judge will then forward the same copy with his remark by the 7th of the succeeding month without fail.

4. The clerk of court to the District Judge may call for the Monthly Civil Statements from the subordinate courts promptly and further ensure that the same are sent to this Court by the 7th of the month succeeding the month to which it relates.

5. I am further to say that the court Moharrirs should also be directed to observe aforesaid instructions carefully, while preparing the requisite civil statements.

(PHC letter No:- 1495-1565 Dated:- 31/01/1985)

C.No. 3(4-3)

MONTHLY DISPOSAL

The Judicial Officers are required to dispose of a fixed number of cases every month. This system occupies an important place in the Administration of justice. Some Judicial Officers, however, do not fully realize its importance and take it lightly. The Hon'ble Chief Justice has taken a serious view of this casual attitude. I am, therefore, directed to impress upon all the judicial officers to realize the importance of the monthly outturn and endeavor to achieve it invariably failing which the fact will be recorded in their Annual Confidential Reports.

(PHC letter No. 1164-1243. Dated 5. 3. 1988)

C.No. 4(4-3)

SURPRISE VISIT

During a surprise visit to the subordinate Courts on 22.3.97 Hon'ble Mr. Justice Qazi Muhammad Farooq observed that Presiding officers had not carried out quarterly inspections of their courts at all and some had overlooked the fact that the last inspection was carried out in the first quarter of the year, 1995. This omission on the part of the Presiding Officers is against Rules 10 and 11 of the High Court Rules and Orders contained in part-C Chapter 1-C of Volume No.IV which reads as under:-

“10. Inspection by Presiding Officer. The importance of the careful supervision of registers and pending files by Presiding Officers can hardly be exaggerated. On the first working days in the month of February, May, August and November every District Judge, Judge Small Cause Court and Subordinate Judge shall carry out regular inspection of his own court and shall fix no judicial work for those days.

11. Submission of inspection Notes. He shall inspect in detail work of the ministerial staff, and the registers and shall, in particular, look through the oldest files pending and see whether unnecessary delay has occurred or wrong orders have been passed. He should check all old registers preserved in his court, report any losses that have occurred and arrange for the destruction of all registers liable to be destroyed. He shall then write a brief inspection note on the lines of an Inspection Judge's note. This note shall be submitted by the Subordinate Judge to the District Judge”.

2)- Hon'ble the Chief Justice has been pleased to order that all the Presiding Officers should ensure meticulous compliance with the instructions relating to carrying out of quarterly inspection of their courts as contained in High Court Rules and Order.

(PHC letter No.2934-3033/Admn.Brh.Dated Peshawar the 9th April, 1997)

C.No. 5(4-3)**PHYSICAL INSPECTION OF DECIDED CASES /
ASSESSMENT OF UNITS**

I am directed to say that it has come to the notice of this Court that some Judicial Officers claim units by showing a false number of decided cases either purposely or depend upon information furnished by their staff. In some cases physical checking has revealed that the units claimed are different from the number of cases decided. In some cases, the units are also not claimed in accordance with the formula laid down by this Court. This practice has virtually damaged the efficiency and accountability of courts.

2- Therefore, it has been decided to advise you to assess and claim units according to the cases actually decided and keeping in view the formula framed by this Court. The staff of the Court should never be relied blindly and while claiming / calculating units you should yourselves make physical checking.

3- The District and Sessions Judges are also directed to physically check the record of decided cases of the subordinate courts and after verification forwarded the monthly statement of disposal to this Court.

(PHC letter No.269-368/ Admn:Brh: Dated Pesh: the 8th January, 1998)

C.No. 6(4-3)**EXERCISE OF EFFECTIVE SUPERINTENDENCE AND
CONTROL OF THE JUDICIAL OFFICERS.**

I am directed to say that incessant complaints about the conduct and reputation of the Judicial Officers speak of the lack of control, much less effective control, of the District and Sessions Judges over the Courts in the district.

2) - In this connection, I am to invite your attention to the High Court Rules and Orders Vol: IV. Chapter 1-G, Part G.(2) which places all civil courts including the court of Additional judge under the Administrative Control of the District Judge.

3) I am, therefore, to ask for the exercise of effective control over the Judicial Officers in the district not only by taking swift and timely appropriate remedial measures but also taking notice of the instances of inefficiency and misconduct as henceforth the District and Sessions judges will be held responsible for cases of inefficiency and misconduct on the part of Judicial Officers which could be checked by the timely exercise of control by the District and Sessions judges.

(PHC letter No. 4823-44 Dated Peshawar the 22.6.2000)

C.No. 7(4-3)

MATTERS AFFECTING THE JUDICIAL ADMINISTRATION

I am directed to refer to the subject noted above and to draw your attention to the provisions of Chapter I, Volume IV, High Court Rules and Orders (copies of relevant excerpts are enclosed for ready reference), vide which you are required to exercise an active and continuous supervision in regard to all matters affecting the Judicial Administration particularly vigilant check over the discipline of the staff, regular inspections of the court and submission of Inspection Notes and Special Reports. The Presiding Officer cannot be relieved of responsibilities in regard to anything which may be found to be in an unsatisfactory state, unless it can be shown that all that may reasonably be expected has been done to have the directions of the District & Sessions Judge/High Court complied with to prevent the occurrence of irregularities.

In future, in case of any irregularities, observed by the High Court, it shall be for the Presiding Officer to rationalize the extent of his effectiveness in the subject matter.

(PHC letter No. D. (a) 260-a/2000/5997-6019 Pesh: the 4th June, 2002)

C.No. 8(4-3)

CONTROL OF COURTS AND PRESIDING OFFICERS

1. I am directed to refer to the subject noted above and to draw your attention to the provisions of section-14 of NWFP Civil Courts Ordinance, 1962, and Chapter I, Volume IV. High Court rules and Orders (copies of relevant excerpts are enclosed for ready reference), vide which you, being controlling court, are required to exercise an active and continuous supervision over sub-ordinate Courts in regard to all matters affecting the Judicial Administration particularly vigilant check over the discipline of the Judicial officers, regular inspections of their courts and submission of Inspection Notes and Special Reports to the High Court. The District & Sessions Judge cannot be relieved of responsibilities in regard to any thing which may be found to be in an unsatisfactory state, unless it can be shown that all that may reasonably be expected has been done to have the directions of the High Court complied with to prevent the occurrence of irregularities.

In future, in case of any irregularities, observed by the High Court, it shall be for the District & Sessions Judge to rationalize the extent of his effectiveness in the subject matter.

(PHC letter No. 5997-6019/ Peshawar, the 4th June, 2002)

C.No. 9(4-3)

**SUBMISSION OF REPORTS REGARDING JAIL VISITS,
MEETINGS OF THE CRIMINAL JUSTICE COORDINATION
COMMITTEES AND BENCH-BAR LIAISON COMMITTEES**

I am directed to state that Hon'ble the Chief Justice has been pleased to direct all the learned District and Sessions Judges/Zila Qazis to submit, alongwith monthly statements, monthly reports regarding Jail Visits by the Judicial Officers and meetings of the Criminal Justice Coordination Committees constituted under Article 110 of the Police Order, 2002 and Bench-Bar Liaison Committees of their respective Districts to this Court on regular basis.

(PHC No. 11534-57/Admn: Dated Peshawar the 23.11.2002)

C.No. 10(4-3)

SUBMISSION OF QUARTERLY REPORT

I am directed to ask that henceforth, in addition to the quarterly inspection note, information on the enclosed proforma shall be furnished to this Court by all the Judicial Officers, pertaining to their respective Courts, on quarterly basis. The same may please be circulated to all the Judicial Officers of your respective Districts for compliance.

(PHC letter No. 418-441/MIT Dated Peshawar the 20th April, 2006)

QUARTERLY REPORT		
i)	Name of Court	
ii)	Name of Officer Conducting inspection	
iii)	Period of Inspection	_____/_____/_____
iv)	Date of Inspection	_____/_____/_____

DETAIL OF STAFF MEMBERS		
S #	Name	Designation
1	2	3

DETAIL OF COURT ASSETS INCLUDING BOOKS

S #	Name/Description of Assets	Remarks
1	2	3

DETAIL OF COURT'S REGISTERS MAINTAINED

S #	Register #/ Purpose	Custodian/ maintained by	Whether maintained properly or not	If not maintained properly – short coming	Detail of Action Taken	Remarks
1	2	3	4	5	6	7

**DETAIL OF PENDING CASES (PHYSICALLY
CHECKED)**

S #	Case Type	Number of cases physically checked to be pending	Number shown in the relevant register	Differenc e (+ -)	Action taken	Remarks
1	2	3	4	5	6	7

DETAIL OF PENDENCY/DISPOSAL OF CASES DURING THE QUARTER							
S #	Case Type	Number of cases pending from the last quarter	Number of cases instituted during the quarter	Number of cases transferred-in	Number of cases transferred-out	Total Disposal during the quarter	Total during at the end of the quarter
1	2	3	4	5	6	7	8

<ul style="list-style-type: none"> Short comings observed during the previous quarter. 	
<ul style="list-style-type: none"> Measures taken to remove the short comings. 	
<ul style="list-style-type: none"> Short coming observed during the current quarter. 	
<ul style="list-style-type: none"> Action taken/proposed to remove the short coming observed during the current quarter. 	

	YES	NO
• Whether check list is being maintained properly?		
• Whether decided cases are timely consigned?		
• Whether monthly chronological list of cases with stages is maintained?		
• Whether attention is paid to case prioritization?		
• Whether monthly statements of disposal of cases is being prepared and timely dispatched to this High Court?		

CERTIFICATE: IT IS HEREBY CERTIFIED THAT I _____ HAVE CHECKED THE RECORD OF THIS COURT PHYSICALLY TODAY ON ____/____/____ AND THE FIGURES AND DETAILS GIVEN ABOVE ARE CORRECT.

C.No. 11(4-3)

PLAN OF ACTION FOR EFFECTIVE JUDICIAL AND ADMINISTRATIVE CONTROL

I am directed to say that in the wake of phenomenal increase in the strength of Judicial Officers at all levels, judicial and administrative problems assuming new dimensions, and in order to establish an effective channel of communication between the High Court and District Judiciary, the Hon'ble Chief Justice has been pleased to visualize the system of liaison between the two through a well defined mechanism. In order to achieve the object, it has been decided to divide the Province in Four Zones as under: -

<u>Zone-I</u>	Peshawar, Nowshera, Mardan, Charsadda and Swabi.
<u>Zone-II</u>	D.I.Khan, Tank, Lakki Marwat, Bannu, Kohat, Karak and Hangu.
<u>Zone-III</u>	Abbottabad, Haripur, Mansehra, Batagram and Kohistan.
<u>Zone-IV</u>	Swat, Shangla, Buner, Malakand, Lower Dir, Upper Dir and Chitral.

2. At the High Court level, liaison with each district in the respective zones will be established by a Judicial Officer in the High Court, designated for the purpose by the Hon'ble Chief Justice.

3. The Liaison Officer shall remain in touch on regular basis with the District & Sessions Judges in the Zones for monitoring and then reporting to the Hon'ble Chief Justice the following activities at the district level:-

- a) The District & Sessions Judge shall set time frame targets for his Court as well as the Courts of other Judicial Officers in the district, including the Courts of Additional District & Sessions Judges, shall communicate a copy to High Court; and report achievements of the targets to the High Court through the Liaison Officer within 15 days of lapse of target time.
- b) The District & Sessions Judge shall also keep himself informed of the reputation, conduct and behaviour of the Judicial Officers in the district and report to the High Court through Liaison Officer any information in this respect coming to his knowledge. He is required to make himself a role model and set healthy examples for the Judicial Officers to emulate. Needless to say that eventually, it is the District & Sessions Judge, who shall bear responsibility for shortcomings and complaints in this regard.
- c) The District & Sessions Judge may first strive to resolve the problems of the Judicial Officers and subordinate staff at local level, and in case need be, approach the High Court through the channel for resolving the issue.

- d) The District & Sessions Judge shall explore ways and means for amicable settlement of disputes through ADR system in his Court and Court within his district, and should get invoked the relevant provisions of law for mediation, conciliation and arbitration. He should also establish necessary forums for pre-trial proceedings but within the four corners of law.
 - e) The District & Sessions Judge should avail the help and assistance of the forums like, Bench-Bar Liaison Committee, Citizen-Court Liaison Committee, Criminal Justice Co-ordination Committee and also that of regular meetings of the Judicial Officers to the optimum level for introducing reforms in the system within the available resources and in accordance with the letter & spirit of the law by assuming proactive and leadership role.
 - f) The District & Sessions Judge may devise an incentive mechanism locally for good performance of the Judicial Officers and subordinate staff as a tool of motivation and achievement for others to follow.
4. There shall be regular inspections of the Courts at three levels;
- I. By the High Court of all the District Courts in the Province.
 - II. By the District & Sessions Judge of the other Courts in the district.
 - III. By the Presiding Officer of his own court.
5. The mechanism may be kept under constant review at this level through feedback from the Judicial Officers for further improvements in order to achieve the sublime goal of coming upto the expectations of general masses on the one hand and providing a healthy working environment to the Judicial Officers on the other.
- Kindly acknowledge receipt.

(PHC letter No.14125-14149/Admn Dated Peshawar, 30th September, 2008)

C.No. 12(4-3)

OPENING OF MISCELLANEOUS “FILE OF COURT MANAGEMENT”

I am directed to refer to the subject noted above and to say that in order to ensure effective court management the subject file be opened, entered in Miscellaneous Register No. 6 of each court and it must be fixed on the cause list on daily basis by writing the order sheet too accordingly so that necessary follow up may be made by addressing all the problems affecting the court management.

In future, all the visits to and inspections of the courts shall be made, inter alia, with specific reference to the proceedings conducted in the subject file regarding the court management. Therefore, all the Presiding Officers are required to keep and maintain their track record of all the communications and directions received and issued for the court management in the said file. Further, each of the said file, on having received 150-pages, must be entered in the Registrar of consignment of Cases/Challan and be consigned to the Record Room like other files of a court and its fresh volume be opened, accordingly.

Please acknowledge the receipt of the subject communication duly signed by all the Judicial Officer working under your administrative control who be informed accordingly.

(PHC letter No.14188-14211/Admn-AMIT-II Dated Peshawar, 14th
November, 2009)

C.No. 13(4-3)

MANAGEMENT FILE; ANAMOLIES IN DATA; TRASITION FROM UNIT POLICY; PHYSICAL VERIFICATION

I am directed to refer to the above noted subject and to state that Hon’ble the Chief Justice has taken serious notice of mismanagement of courts and delayed response at district level, particularly in context of queries and information required to his Court. The relevant matters are not personally supervised and a stereotyped mechanical technique of shifting responsibility to ministerial staff is applied. It is also obvious that response is delayed until reminder even repeated reminders and telephonic messages are given. Delay in response defeat the very purpose of the information. These shortcomings result into hardships and inconveniences at

administrative level. Henceforth, all letters from this Court be properly channelised to come up before the presiding officer of the court, in this regard concerned officials should also be made responsible for promptly putting the letters and/ or information before the learned Presiding Officer. In this connection entries in Management File be kept updated, in the form of a register, providing such details as highlighted in the proforma, "FORMAT OF MANAGEMENT FILE" (Page 3). Need not to mention that it is just a category of entry to be made while the INITIATIVES, PROPOSALS, PLANNINGS, REQUIREMENTS, OCCURANCES, INSPECTIONS (with in the district and from out side i.e. High Court), ACTIONS, etc. originated from anywhere i.e. Supreme Court, High Court, Other Department, with in district or by any Judicial Officer for efficient and effective Administration/ other useful purpose should also be recorded; the seemingly insignificants should also be noted. The Management File will be inspected during Surprise Inspection coupled with other techniques periodically. (The photo state of the last page of management file as per the above format, be faxed immediately for perusal of this court).

Anomalies have been detected in DPEP statement for the months of February to July 2010. To make clear the point it is highlighted that even in pendency there are differences as per the statements annexure B. The anomalies may be removed.

It is reminded that vide letter No. 11585-11619, 2nd July 2010 of this court it had been intimated that transition of data from Unit Policy to DPEP may be intimated but the same is still awaited from majority of Districts. The same be furnished without delay.

The DPEP requires consistently matching figures flow from month to month but some of the districts, due to some courts, report anomalies on the pretext of physical verification. It results into perpetual variation in data which is neither acceptable at august Supreme Court nor Peshawar High Court, even no consequential analysis is possible. Hereafter, all consistent data sent, under DPEP or any other arrangement will invariably be considered as physically verified and no discrepancy on any ground is acceptable.

(PHC letter No.17097-120/Admn Dated Peshawar, 06th October, 2010)

Format of Management File (M.F.)

S.N o.	D a t e	T i m e (N o t e 2)	Nature of responsibility (Synopsis)		Whet her res pons e requi red and to who m	Dead Line for Respo nse	Letter or information required to				Response/ Reply (Name with designation)		Means of Dispatch with date					Weat her follo w up requir ed (Y/N)	If yes, then nature and date of follow up to be carried forward to the relevan t page of M.F.	If any Default is made in respon se or follow up indicat e the person and discipil anary action initiate d with stage of procee ding and result
			Initiat ive or 'other s' as explai ned in "Note 1"	In case of Supre me Court, High Court, Other Depat ment Letter Synops is Signed by Concer ned P.O.*			Supre me Cour t	Hi gh Co urt	Othe r Distr icts	Other Depa rtmen t(s)	Draf ted by	Sign ed by	E ma il	Fa x	Post (Post office/ Courri er Compa ny)	Tele pho ne	Spec ial Mess enge r			

IV-Instructions issued by the High Court

3-Supervision, Inspections
and Progress

No te:	<p>1. Record all INITIATIVES, PROPOSALS, PLANNINGS, REQUIREMENTS, OCCURANCES, INSPECTIONS (with in the district and from out side i.e. High Court), ACTIONS, etc. originated from anywhere i.e. Supreme Court, High Court, Other Department, with in district or by any Judicial Officer for efficient and effective Administration/ other useful purpose. (The minutes and seemingly insignificants should also be recorded)</p>																			
	<p>2. In one date several time entries are possible for different responsibilites therefore both date and time to be indicated</p>																			
<p>* A gist of Proposal or Synopsis of letters etc to be recorded not just few words (for the purpose sufficient space to be earmarked)</p>																				

C.No. 14(4-3)

SUPERVISION, INSPECTIONS, PROGRESS AND DISPOSAL

I am directed to refer to the subject noted above and to draw your attention to the instructions contained in Sections 3 & 4 of Chapter-IV and Section 5 of Chapter-I of the Judicial Estacode and to state that the instances of non-compliance of the said instructions are being noticed with concern. Similarly, it has also been observed that most of the Judicial Officers do not write more than three judgements a month in contested cases, and targets are being shown to have been achieved through the disposal of non-contested cases like compromise, ex-parte, dismissal in default, plead guilty, proceedings under sections 107, 133, 145, 249, 512 & 514 Cr.P.C. and the like, to such an extent that even the cases are sent back to the prosecution without having fully exercised the powers to compel the defiant to comply with the orders of the court and initiation of proceedings under Chapters X & XI of the Pakistan Penal Code, 1860. I am, therefore, directed to require you, being Incharge of the district, to make it certain:

- 1) that the said instructions are strictly followed by all the Judicial Officers in letter and spirit, accordingly;
- 2) that each Judicial Officer shall write the required number of contested judgements;
- 3) that Quarterly Inspections of the courts, in supersession of this Court's letter No.15981-16004/Admn, dated 04-12-2008, shall regularly be conducted without fixing any case on the day fixed for inspection, as per rules; and
- 4) that the District & Sessions Judge shall regularly inspect in detail the courts under his control with special reports to this Court, for further necessary action.

All the Judicial Officers working under your administrative control be informed, accordingly. Please acknowledge the receipt.

(PHC letter No.14512-62/Admn Dated Peshawar, 23rd November, 2009)

C.No. 15(4-3)

INSPECTIONS/WRITING OF PERs

I am directed to refer to the subject noted above and to say that under Rule 1 of Chapter 1-C, Vol-IV of the High Court Rules & Orders, each District and Sessions Judge/Zilla Qazi is required to inspect all the courts in the district and then forward the inspection note to the High Court, but no such information/note in this behalf is received by the High Court. Lest communication of this information to the High Court leads to any inference, it is desired that not only the courts be inspected regularly but information/note in this behalf be also communicated to the High Court. The record of such inspection notes shall be maintained in this court and failure in sending such notes shall reflect adversely upon those defaulting. Above all else, this inspection should be more of substance than of mere form with tangible results & progress.

It has also been noticed that writing of PER is also treated a mere formality to be performed with least application of mind and consideration of ground realities. If the picture painted in the PERs is true & correct and if every officer is assessed and adjudged honest, upright and hardworking, where does the huge number of complaints emerge from is not understandable. The District and Sessions Judges/Zilla Qazis are directed to make both the exercises mentioned above purpose oriented and meaningful.

(PHC letter No. 11923-47/Admn Dated Peshawar, 07th July, 2010)

C.No. 16(4-3)

QUARTERLY INSPECTION REPORT

I am directed to refer to the subject noted above and to say that while going through Quarterly Inspection Notes/Reports of the Senior Civil Judges and Civil Judges-cum-Judicial Magistrates, it was noticed that some of the Judicial Officers have adopted an approach of filling in the requisite proforma in a mechanical manner, without making much ado to fill in the columns with relevant data. It has also been noticed that Judicial Officers have placed more reliance on their ministerial staff for maintaining checklist and preparation of chronological list. Even some registers were found to have been maintained by unauthorized staff. In this scenario, it is directed that all the Judicial Officers be informed to take a dynamic approach towards the Quarterly Inspection of their Courts and to abolish the practice

of preparation of Inspection Note in a mechanical manner. In future, it must be ensured that the Quarterly Inspection Report accompany the chronological list of the pending cases coupled with a list of the decided cases with the date of consignment on the annexed proformas by Senior Civil Judges/Al-Illqa Qazis and Civil Judges-cum-Judicial magistrates/Illqa Qazis. The District & Sessions Judges shall ensure timely transmission of the Quarterly Inspection Notes of the Judicial Officers to this Court.

The Hon'ble Chief Justice has further expressed his desire to pay surprise visits to revenue courts personally and also through Inspection Team of the High Court.

(PHC letter No.17985-18008/Admn Dated Peshawar, 22nd October, 2010)

SECTION-4 (EXPEDITIOUS DISPOSAL)

C.No. 1(4-4)

SPEEDY DISPOSAL OF EXECUTION & OTHER CASES

I am directed to say that it has come to the notice of the Chief Justice and Judges that subordinate courts are in the habit of giving stay orders in execution and other proceedings by flouting the orders/instructions, issued for implementation from time to time by this Court with the result that decree-holders and parties suffer badly due to the lingering of the litigations. The Chief Justice and Judges have strongly deprecated this practice.

I am, therefore, to request that the aforesaid instructions must be complied with, in letter and spirit, in future.

(PHC letter No.5133-202/Admn: Brh: Dated Pesh: the 24th April, 1982)

C.No. 2(4-4)

SPEEDY DISPOSAL AND EXECUTION OF RENT CASES / APPEALS.

I am directed to address you on the subject cited above and to say that instances have come in notice of the Hon'ble Chief Justice and Judges of this Court, wherein the executing courts in Rent Cases issue fresh notices to the tenant for delivery of premises to the Land Lord inspite of expiry of the reasonable time, not exceeding four months in aggregate, given by the Rent Controller or the appellate court to the tenant for putting the land lord in possession of the premises in dispute. This practice is most irregular and shall be stopped forthwith. As you know that the Urban Rent Restriction Ordinance, 1959, prescribes a some what summary procedure for quick disposal of the rent cases. A tenant dishonouring the obligation under the Ordinance and disobeying the orders of the controller or the appellate court, as the case may be, is not entitled for further favour in issuing him a notice but in such like cases a warrant for delivery of possession should be issued immediately instead of a notice. In this respect, your attention is also invited to the instructions issued to you under this court letter No. 8164 – 8234/

Admn: Brh. Dated 13.03.1983, wherein you were requested to device way and means for prompt and quick disposal of Rent Cases / Appeals. Execution Proceedings equally important, should not be treated lightly but shall be carried out promptly.

Pursuant to the above, I am directed to request you that the above instructions shall be followed in letter and spirit in the ends of justice.

(PHC letter No. 3903 – 9992 / Admn: Brh. Dated 03.04.1984)

C.No. 3(4-4)

EXPEDITIOUS DISPOSAL OF FAMILY COURT CASES

I am directed to address you on the subject and to say that in order to provide speedy justice to the litigant public, the disposal of the family court cases pending in your court may please be expedited on priority basic.

(PHC letter No. 5097 – 6066 / Admn: Brh: Dated. Pesh: the 29 Nov: 1989)

C.No. 4(4-4)

DISPOSAL OF CASES INVOLVING GOVERNMENT DUES.

I am directed to say that Hon'ble the Chief Justice of this Court has been pleased to order that preference should be given to the cases involving recovery of Government Dues and their expeditious disposal be ensured in the interest of public work.

(PHC letter No. 2435–2504/Admn: Brh: Dated Pesh: the 6th May, 1990)

C.No. 5(4-4)

DISPOSAL OF CASES

I am directed to inform you that in many cases this Court has noticed that the District/Additional District and Sessions Judges while handing over the charge of their post on their transfer to other Districts leave behind a number of cases in which they have completed the evidence

and have even heard arguments. It has therefore been stressed by this Hon'ble Court that such a course of action invariably results in material prejudice to the accused in violation of the recognised judicial principle.

I am therefore, directed to inform you, that, it has been decided by the Administration Committee of this Hon'ble Court that in future all the District/Additional District and Sessions Judges serving in NWFP, would dispose of all such cases in which they have recorded evidence and have heard argument expeditiously before handing over the charge upon their transfer to another District.

In the context of the above, I am further directed to state that all the District/Additional District and Sessions Judges before handing over the charge will have to submit a certificate to the High Court that they have not left over any such undecided case at the time of the handing over the charge.

You are, requested to follow the above directions meticulously so that no cause is provided to this Court for initiating any disciplinary action against the defaulting Officer.

(PHC letter No.2577-2616/Admn.Brh.Dated Peshawar the 10th May, 1993)

C.No. 6(4-4)

RESEARCH FOR ADMINSTRATIVE-INSTITUTIONAL REFORMS TOWARDS EXPEDITIOUS DISPOSAL OF JUDICIAL MATTERS

I am directed to convey the anxiety of the Hon'ble Chief Justice and Judges of this Court on the present protracted process of disposal of judicial matters what is called 'Laws Delay'. It is under their able guidance that preliminary studies and steps towards administrative and institutional reforms have been undertaken. This is a humble endeavour to possibly sooth the obtaining system wrought with lengthy trials at the cost of the precious time and expenses of the Courts and litigants.

2) Such infrastructural steps so initiated include the acquisition of upto-date statistical information on the receipt and disposal, filing of monthly, quarterly and annual statements vide Vol: IV Chapter 23 of the High Court Rules and Orders, quick mechanical transmissions of the record and

processes to and fro the High Court and Subordinate Courts, further purchase of type-writers and photo-state machines for both these forums, increase of staff members including technical staff at all level, better residential and court room facilities all along and numerous other relevant contributory factors. Considerable spade work to obtain necessary finance have already been accomplished.

3) But in addition to the above steps, there are multiple sectors where due personal attention can yield tremendous positive results. Few such avenues are spotlighted below by way of a start. A possible practical implementation of all these issues can bring revolutionary changes to usher an era of expeditious disposals on merit.

A)- Certain institutional administrative measures.

- i. A Judicious distribution of work in the trial as well as in the appellate courts, also on each and every day, accommodating all kinds of cases of attendance, of evidence, of arguments, of judgments.
- ii. Indepth examination of complaints in the light of Order 7 Rule 11 C.P.C. as laid down in High Courts Rules and Orders Vol: No.1 Chapter I-C Order No. 1 to 9. This is an urgent legal requirement but altogether forgotten.
- iii. A balanced judicial adjournments by the Presiding Officer himself- maintaining system of 'Parcha yad Dasht Peshi'- Vide Rule 13 Chapter 1-C Vol: I of the High Court Rules and Order to be read with the relevant amended Law, conscious of its importance –Also avoiding unnecessary adjournments-burdening with costs such events of deliberate negligence.
- iv) - Possible avoidance / unplanned casual leave-advance arrangement of adjournment for the next working day per the amended provisions on the subject. Also alternative advance arrangements per section 23, 25 of the Civil Courts Ordinance 1962, further read with section 8 of the West Pakistan General Clauses Act, 1956.
- v)- A keen eye on the issuance of all processes, its receipt back and scrutiny of failure of service- in strict compliance of Order V CPC –as amended from time to time and interpreted in the superior courts- further elaborated in the High Court Rules and Orders- especially its effects on Exparte proceedings, exparte decrees, limitation, Revival and setting aside thereof.

- vi)- Possibly recording of the statements of parties before framing of issues so far legally permissible and practicable.
- vii)- Possible joint trial of linked or inter-connected cases.
- Viii)- Urgent disposal of interlocutory matters in accordance with Law- Also revisions, now governed by its own Law of Limitation.
- ix)- Writing of 'speaking' judgments/orders per requirements of the Law-as laid down by the superior courts from time to time.
- x)- Avoiding unnecessary remands- as the Law clothes the appellate court with all the power of the trial courts.
- xi)- Appreciation of the relevant provisions of Arbitration Act, 1940, especially sections 8, 20, also of the Reconciliation Courts Ordinance, 1961 as amended in 1981, small causes court cases, above all the issues of Resjudicata over lapping of jurisdiction in between Civil Courts, Rent Controller, Family Courts and distinction of procedure-interse.
- xii)- Appreciation of precedent Law in the light of the Constitutional dictates, also the requirements of these Law itself (ratio decedendi) – further an 'abstract proposition of Law' in criminal matters-as laid down in the superior courts.
- xiii)- Continuance advancement of knowledge of all the new legislations, precedent law, above all the relevant Quran – Sunna provisions. The law has now made it compulsory for the trial as well as appellate courts. Section 33 of the NWFP Pre-emption Act, 1987, section 338 (f) of PPC, Article 227 (1) of the Constitution are all such messages of the Legislature.

B)- Studies in Law subjects.

And in order to start studies and exchange of mutual knowledge on Law subjects directly applying to the filed work in important sectors down from Civil Judges/Magistrates to the District and Sessions Courts, some enlightened articles are enlisted here. These are subjects purely of field operations. These are published in PLD/PLJ available with all. These may please be studied. In turn if some other such relevant articles are known to you, it may please be communicated to us so these may be transmitted to all. Your own contribution to such journals shall also be appreciated. The articles are :-

<u>Sr.No.</u>	<u>Subject</u>	<u>Reference.</u>
1.	Hardships to litigants and miscarriage of Justice caused by Delays in Courts.	PLD 1991 Journal -103
2.	Speedy Justice how.	PLD 1988 Journal – 228
3.	Laws delays – A study-Diagnosis and cure.	PLD 1976 Journal – 64-87
4.	Precedent Law- Ratio Decidendi and Obiter Dicta.	PLJ 1988 Magazine- 182
5.	Development of Precedent Doctrine and Islamic System.	PLJ 1984 Magazine- 64
6.	Court lays the Law.	PLD 1993 Journal – 41-45
7.	Discrimination of rights and Tort Law.	PLD 1986 Journal – 275
8.	Customary law died by Inches in Pakistan .	PLD 1984 Journal – 172
9.	Some aspect of the Islamic Law of evidence.	PLD 1983 Journal – 199
10.	Women Evidence in Shariah.	PLD 1987 Magazine – 48
11.	Tazkia Al-Shuhood.	PLJ 1985 Magazine – 54
12.	Crime, its origin and nature.	PLJ 1988 Magazine – 114
13.	Crime and Punishment in Islam.	PLD 1980 Journal – 124
14.	Crime and Punishment.	PLD 1985 Journal – 145
15.	The doctrine of Reasonable doubt in criminal offence, its application and scope.	PLJ 1987 Magazine – 5
16.	Ingredients Essential for Fixation of Criminal Liabilities.	PLJ 1990 Magazine – 77
17.	Law of Qisas and Diyat, its application.	PLD 1991 Journal – 87
18.	Provision of Divorced women under Islamic Law.	PLD 1986 Journal – 234
19.	Divorced Muslim Women and maintenance.	PLD 1986 Journal – 1
20.	Origin and Dev: of ‘Bazu Dawa’.	PLD 1986 Magazine – 31

C) The filing of Statements.

Necessary improvements in this respect are also initiated to bring it in line in High Court Rules and Orders Vol: IV Chapter 23-B x(c).

These are some important issues for consideration. Hon’ble the Chief Justice and Judges wish that studies and steps suggested above may

be initiated and followed in proper spirit of Law. Experience and knowledge so gained be utilized in the field, also transmitted to this Court for further research and circulation. Your comments/views and steps taken may please be communicated to the undersigned at the earliest.

(PHC letter No. 3829-3928/Admn Brh Dated 23-5-1993)

C.No. 7(4-4)

CRIMINAL TRIAL

I am directed to say that it has come to notice of this Court that challans in criminal cases are kept pending without trial indefinitely in Sessions Courts as well as in the Court of the Judicial Magistrates. This tendency has not only created difficulties for the parties in general and accused in custody in particular but also shattered the public confidence on Judiciary as it amounts to refusal of Justice in time.

2- Therefore, it has been decided to advise criminal Courts to commence trial at the earliest without any delay particularly in cases in which the accused are in custody. It has further been decided that to curb this unjustified practice the Inspection Team of this Court shall inspect the record and take action accordingly under the Government of NWFP(Efficiency and Discipline) Rules,1973.

3- It is hoped that the instruction shall be obeyed in letter and spirit.

(PHC letter No. 369-468/Admn.Brch:Dated Pesh:, the 8th January 1998)

C.No. 8(4-4)

DISPOSAL OF CASES OF JUVENILE OFFENDERS

I am directed to say that it has come to the notice of this Court that the cases of Juvenile Offenders pending in the concerned courts are not decided in time.

2. Therefore, I am to request that concerned courts of competent jurisdiction be advised that the said cases of the Juvenile Offenders may kindly be decided on 'Priority Basis' and without delay.

(PHC letter No. 9140-9161 Dated Peshawar the 23.11.1998)

C.No. 9(4-4)

DISPOSAL OF OLD CASES AND CASES UNDER SUPPRESSION OF TERRORIST ACTIVITIES ON PRIORITY BASIS

I am directed to say that during recent visit to southern districts of the Province, the Hon'ble Chief Justice has observed that despite directions issued from time to time, old cases and cases under Suppression of Terrorist Activities (Special Court) Act, 1975 are not receiving attention of the courts they deserve.

2)- You are well aware that delay in the disposal of cases, for what ever reason, is causing serious concern both at public and Government level. It is, therefore, high time to demonstrate the will to dispense Justice at a time when it has not yet lost its value for the parties, for 'Justice delayed is Justice denied'.

3)- In view of importance and urgency of the matter, the Hon'ble Chief Justice has issued on the spot directions to all the Judicial Officers in southern districts to pay special attention to the expeditious disposal of old cases and cases under Suppression of Terrorist Activities (Special Court) Act, 1975, and has further directed issuance of instructions in this behalf to rest of the Judicial Officers on the Province.

4)- I am, therefore, to request for your personal interest in the early disposal of old and STA cases which will not only contribute to the restoration of confidence of the general public in the judiciary as an institution but also earn you appreciation of this court. Needless to say that delay on the part of a Judicial Officer will badly reflect on his performance and may find place in his annual report.

(PHC letter No- 1249-1398 Dated Peshawar the 2-3-1999)

C.No. 10(4-4)

DISPOSAL OF THE SUIT AT THE FIRST HEARING

I am directed to invite your attention to the almost forgotten provision of Order 15 of the Code of Civil Procedure, which envisages disposal of the suit at the first hearing. The provisions are self-contained and spell out a mechanism for expeditious disposal of civil suits without sacrificing justice. The Presiding Officers thus should not hesitate to invoke the said provision in appropriate cases.

(PHC letter No. 9857- 10006 Admn. Dated Peshawar the 25.10.1999)

C.No. 11(4-4)

DISPOSAL OF RENT AND FAMILY COURT CASES ON PRIORITY BASIS

1. I am directed by the Hon'ble Chief Justice to invite your attention to all the previous circular letters, issued from time to time, for expeditious disposal of rent and family Court cases.

2. I am further to say that despite such circular letters and instructions on the subject, instances are being brought to the notice of the Hon'ble Chief Justice showing that rent and family Court cases are being dealt with in the courts like ordinary civil suits. Needless to say that this tendency militates against the very spirit of the law and constant directions of this Court, resulting in inordinate delay in the disposal of such like cases and untold hardships to the litigant public.

3. I am, therefore, to urge for compliance by the Presiding Officers with the legal provisions and instructions issued by the High Court in this regard, and to further request you to keep yourself abreast with progress of proceedings in the mentioned cases by requiring the trial courts to furnish a daily report which shall then be passed on to this Court in consolidated form, for information of the Hon'ble Chief Justice.

(PHC letter No.2059-2080/ Admn: Dated Peshawar the 25th April, 2001.)

C.No. 12(4-4)

EFFICIENT ADMINISTRATION OF JUSTICE/SHORTENING THE DURATION OF TRIAL/NARROWING DOWN THE AMBIT OF ISSUES

In continuation of this Court's Circular letter No.9857-10006/Admn:, dated 25.10.1999, I am directed to say that it is as much the responsibility of the Court as of the litigant to see that the trial is shortened as far as possible by the elimination of all un-necessary formalities.

2. The Presiding Officer of the Court, by dint of his personality and intelligence, ought to be able to persuade the parties and their lawyers to make proper use of the provisions relating to discovery, admission, interrogatories and inspection. Moreover, by an intelligent and judicious use of his own powers U/S 30, Order XI, Rules 21 and Order XIII, Rule 2 of the C.P.C., it should be possible for the Presiding Officer to introduce a more systematic practice for the observance of those Rules for the preparation of the suit or trial.

3. It would be seen that all steps, which are required to be taken under Order X to XIII are essential preliminaries to the trial of a suit designed for shortening its duration and narrowing down the issues. Unfortunately, it has been found on investigation that provisions of these Orders are neither understood nor followed.

4. Likewise, the provisions contained in Order XIX of the C.P.C. which empowers Courts to Order any point to be proved by affidavit, tend to curb to some extent laws delays.

5. I am, therefore, to request that the provisions contained in Order XIX of the C.P.C. should be fully exploited and the provisions of the interrogatories and discoveries provided in the C.P.C. should also be fully used. The Courts should take intelligent interest in these matters and see that the provisions of the Code are complied with. If a party does not admit a fact, subsequently proved, the Court should apportion the costs to be awarded in the suit in such a way that the party unnecessarily insisting upon the proof of such a fact or document should be made liable for the costs incurred in that behalf as provided by the Code. The Courts should not grudge making such apportionment even though it might entail extra-labour.

(No. 5635-5785/ Admn: (DA-260-A) Dated Peshawar the 14th July, 2000)

C.No. 13(4-4)

CASE FIXATION-EXPEDITIOUS DISPOSAL ON PRIORITY BASIS

I am directed to refer to the subject noted above and to draw your attention to the following instructions pertaining to case fixation-expeditious disposal of cases:

1. The family/rent cases/appeals shall be decided as early as possible and in no case later than four months of the date of institution;
2. That no adjournment shall be granted without any plausible cause;
3. A very easy way of getting rid of the old cases is adopted in that through administrative orders such cases are frequently transferred from one Court to the other. This tantamount to defeating the very object of disposal of old cases on priority basis. It shall be the responsibility of the District Judge to see that no old case is transferred from one Court to the other;
4. The inexperienced and fresh ministerial recruits are posted at very responsible seats like Court Moharrirs which mainly accounts for defective maintenance of the records of the Court. It is the duty of the District and Sessions Judge to see the worth of responsible seat. It shall also be ensured that the transferee possesses sufficient experience of the new assignments.
5. In many cases the Judicial Officers pass ad-interim orders both in civil and criminal cases particularly in pre-arrest bail applications and temporary injunction matters, and thereafter grant frequent adjournments on minor pretexts before passing final orders/judgments which undermines the image and functioning of the Subordinate Judiciary in the eyes of litigants as well as the general public.
6. The executing courts in Rent Cases issue fresh notices to the tenant for delivery of premises to the Land Lord inspite of expiry of the reasonable time, not exceeding four months in aggregate, given by the rent controller or the appellate court to the tenant for putting the land lord in possession of the premises in dispute. This practice is most irregular and shall be stopped forthwith.

7. The early disposal of old cases will not only contribute to the restoration of confidence of the general public in the judiciary as an institution but also earn you appreciation of this court. Needless to say that delay on the part of a Judicial Officer will badly reflect on his performance and may find place in his annual report.
8. Attention is invited to the almost forgotten provisions of Order 15 of the Code of Civil Procedure which envisage disposal of the suit at the first hearing. The provisions are self-contained and spell out a mechanism for expeditious disposal without sacrificing justice. The Presiding Officers should not hesitate to invoke the said provisions in appropriate cases.
9. Cases pending for more than 4-years shall be classified as old cases. Such old cases shall be decided as per “Time-bound delay reduction plan” already communicated to all the judicial officers;
10. Cases restored after dismissal in default/setting aside of exparte decisions shall not be treated as fresh and be considered as a pending cases from the date of its original institution and is to be disposed of accordingly.

You are, therefore, required to ensure compliance as six- monthly assessment about case management for the purposes of Incentive and Reward would also be viewed on these lines.

(PHC letter No DR/(ADMN)/HC/43-A-16/2002 Dated 2-10-2002)

C.No. 14(4-4)

DISPOSAL OF RENT AND FAMILY CASE/ APPEALS WITHIN THE STATUTORY PERIOD

I am directed to say that the observance of Time Standard in disposal of cases in of the essence of dispensation of justice, particularly when fixed under the statute. The rent and family matters i.e. cases, review, appeal, and revision rest at the top of such categories of cases. The National Judicial Policy, 2009 has further stressed this aspect. Despite this emphasis cases of these categories remain subjudice for longer time. Many instances have come to notice of this court that cases/appeals are still not decided within stipulated time fixed under the law.

You are, therefore, requested to keep an eye on the courts under your control and ensure that such cases/appeals are decided within stipulated period.

(PHC letter No. 172-95/Admn Dated Peshawar, 04th January, 2010)

C.No. 15(4-4)

**DISPOSAL OF CASES IN REVENUE COURTS IN KHYBER
PAKHTUNKHWA**

I am directed to refer to the subject noted above and to say that the reports so far received by the Hon'ble Chief Justice regarding the proceedings/progress in revenue courts are not encouraging. It is once again reiterated that let there be noticeable progress on every date of hearing than mere adjournments so that the confidence of the public is restored in the courts.

The Hon'ble Chief Justice has further expressed his desire to pay surprise visits to revenue courts personally and also through Inspection Team of the High Court.

(PHC letter No.11711-34/Admn Dated Peshawar, 03rd July, 2010)

SECTION-5
(CORRESPONDENCE AND COMMUNICATION)

C.No. 1(4-5)

MODE OF CORRESPONDANCE WITH THE HIGH COURT

I am directed to say that it has been come to notice that some of the subordinate Judicial Officers are in the habit of addressing letters etc. direct to the undersigned over and above the heads of their immediate officers. This practice is contrary to the office discipline and the established principles. All type of correspondence should therefore reach this office through proper channel, except cases in which direct reference has been made, even in such cases a copy of the reply be forwarded to the superior authority or authorities.

I am also to say that all routine correspondence be addressed to the Registrar by designation and not by name.

It is expected that, in future, the instructions are to be strictly followed in letter and spirit.

(PHC letter No.10546-10606/Admn:Brh: Dated Pesh: the 14th Oct, 1980)

C.No. 2(4-5)**MODE OF CORRESPONDENCE WITH THE HIGH COURT**

I am directed to refer to the subject noted above and to say that it has been noticed with grave concern that the members of the District Judiciary make direct correspondence with this Court without using proper channel of communication in total violation of this Court's instructions contained in letter No.10546-10606/Admn: dated 14.10.1980 (copy enclosed). Needless to say that making direct correspondence with this Court is culpable as it is pre-judicial to the service discipline and tantamount to misconduct.

His Lordship, the Chief Justice has taken a very serious view of the situation and has directed that the Judicial Officers be made conscious of

the consequences of the non-compliance of the Standing Instructions of this Court in this regard.

I am, therefore, to reiterate upon causing compliance of the aforementioned instructions by the Judicial Officers of your District as it would adversely affect the management of the District & Sessions Judge concerned.

(PHC letter No.13277-13300/Admn: Dated Peshawar the 8.11.03)

C.No. 3(4-5)

**PROMPT RESPONSE TO THE COMMUNICATIONS BY THE
HIGH COURT**

I am directed to refer to the subject noted above and to convey the concern of his lordship the Chief Justice at the pace of response to the communications by the High Court. The information sought to be supplied to this Court **by return fax**, in view of its urgency, is even delayed for days.

I am, therefore, to ask to ensure immediate response to such communication of this Court through fax the same day in future, please.

(PHC letter No. 4920-4943/Admn: Dated 18.06.2005)

SECTION-6 (PROCESSES)

C.No. 1(4-6)

SUBSTITUTED SERVICE

I am desired to address you on the subject cited above and to say that order-V Rule 10 Sub-rule (1) Code of the Civil Procedure 1908, no doubt empowers courts to affect substituted service of process on a defendant.

- i) When the court is satisfied that the defendant is avoiding service of the summons; or
- ii) for any other sufficient reason the summons cannot be served on him in the ordinary way, nevertheless, this provision of Law needs to be used as a last resort for the obvious reasons that substituted service as compared with actual service of a party to a suit or other proceeding:-
 - (a) is the weakest service;
 - (b) it impairs the principle of natural justice which further requires that no one shall be condemned unheard especially in matters involving valuable properties rights and huge financial implications;
 - (c) thirdly the superior courts with few exceptions here and there usually set aside exparte decrees passed by subordinate courts on the basis of substituted service, and as such it assumes utmost importance.

2. The idea in issuing these instructions is to stress upon the Presiding officers of courts the importance of:

- 1. actual service and
- 2. substituted service by
 - (a) tuning up the process serving agency;
 - (b) scrutinizing thoroughly reports of the process servers by the Presiding Officer personally and
 - (c) taking corrective measures including disciplinary action against defaulters where necessary for quick disposal of suit and prompt dispensation of justice.

3. This Court has further reasons to believe that substituted service is not made in accordance with the procedure as laid down in rules 4 and 8 Chapter 7-B of the High Court Rules and Orders Vol: IV which are reproduced below for your ready reference and guidance:

Rule-4

“The discretionary power alluded to above is frequently exercised by courts by publication in one or more newspaper of a notice calling upon the defendant to appear, But in many cases this method is quite unsuitable. When , for example, the defendant is illiterate or belongs to a class which cannot be expected to read newspaper such notice is obviously useless. In the case of Europeans or educated Indians likely to read newspapers it may be proper to resort to this method, but even in such cases, the practice should only be adopted as a last resort,”

Rule-8

“In sending a judicial notice for publication in a newspaper, the court should, in the covering letter, require the manager of the newspaper to send, under postal certificate, the copy of the paper containing the notice to the party for whose perusal it is intended at the address given in the notice, marking the notice in question with red ink, he should also be required, as proof of compliance with this order, to attach the postal certificate to his bill when submitting the letter to the court for payment.”

In view of the above, I am further desired to request you to please strictly adhere, in the ends of justice, to the provisions of the law and rules on the subject referred to above.

(PHC letter No.5045-6056/ Dated Peshawar the 27th March, 1983)

C.No. 2(4-6)

SERVICE OF THE PARTIES IN CIVIL CASES

I am directed to say that Civil Appeals, Civil Revision, Petitions etc. fixed before this Court are often adjourned on the dates of hearing for want of service of the parties by the Process Serving Agencies. The reports of the Process Serving Agencies in this connection invariably are that the male petitioners/respondents were not present on the spot and the female petitioners/respondents being Parda Nashin ladies could not be served. Hon’ble the Chief Justice considers a report of this nature not only wholly unsatisfactory but has observed that it reflects adversely on the integrity of

the Process Server to make such a report. His honour has further observed that if the address of a male person is correct, there is no reason why he should not be served. The Process Server must visit his residence time and again in an attempt to serve him. As regards the female litigant she can be served through her father, brother, husband, son or her other nearest relative, as the case may be, in the manner that in the presence of a responsible person of the locality, any of her said relatives may enter the premises of the lady by taking the notice to obtain her signature or thumb impression.

It may be stated that the procedure laid down in the matter of service of the parties in civil cases is simple and practicable and ensures service of the parties. In this connection, reference may be made to Order V, rule 17 of the Civil Procedure Code, which would, inter alia, show that if the defendant refuses to accept service or cannot be found or that in his absence, there is no agent to accept service on his behalf, nor any other person on whom service can be made, a copy of the summons shall be affixed on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain.

A look at the cited provision of the Civil Procedure Code would show, that it is very clear and hardly leaves any chance of non-service of the parties provided their addresses are correct and they do not deliberately avoid service.

I have, therefore, been directed by the Hon'ble Chief Justice to ask you to administer a warning to the Process Serving Agency under your control, that the provisions of Order V, rule 17 of the Civil Procedure Code must be complied with in letter and spirit in the matter of service of the parties in Civil cases. If in future Process Server is found to have reported that the male and female respondents could not be served, as the former was not present on the spot while the latter a Parda Nashin lady, his report will not be accepted unless he shall positively furnish a convincing proof that despite his very earnest efforts he was unable to serve the processes. In case of an unsatisfactory report, action under the Efficiency and Disciplinary Rules may be invoked against the defaulter.

I am to request that the contents of this letter may please be got noted from the staff of the Process Serving Agency under your control for strict compliance and an acknowledgement certificates furnished to this Court for record.

(PHC letter No. 344-356 Dated 13.1.1988)

C.No. 3(4-6)

ISSUE OF SUMMONSES IN CASES TO GOVERNMENT DEPARTMENT

I am directed to say that inconvenience is caused to the Government Departments as well as the Courts when either summons issued by the Courts to the Government Departments are received late or un-accompanied by a copy of the plaint.

2. I am , therefore, to inform you that the summons may please be issued by the Courts in your District to the Government Department well in time and accompanied by a copy of the plaint in future without fail.

(PHC letter No. 3848–73 Admn: Brh: Dated. Pesh: the 28th August, 1989)

C.No. 4(4-6)

SERVICE OF SUMMONS/NOTICES ISSUED BY THE HIGH COURT

I have been directed by His Lordship Mr. Justice Sardar Jawaid Nawaz Khan Gandapur, to address you on the subject noted above and to say that as and when the summons/notices issued by this Court are sent to you for service on the petitioner(S)/respondent(s), the same are either not received back in time or are received back without affidavit of the process server who serves the respondent (s)/petitioner(s) etc.

2. The callous attitude of the District and Sessions Judges/Senior Civil Judges sufficiently demonstrates their lack of respect for the orders of the August High Court. I am, therefore, to direct you to take personal interest in the matter of service of summons/notices issued by this Court. You are also to ensure that the processes issued by this Court are returned, served or unserved, well with in time and positively before the date fixed. It should also be ensured that the summons/notices so served invariably bear the affidavits of the process server, which are duly attested by the Civil Nazir/Naib Nazir.

3. I have also been directed to inform you that these instructions should be followed in letter and spirit. Non-compliance with the above instructions

shall be reported to His Lordship, the Hon'ble Chief Justice for appropriate action against the defaulting officers.

(PHC letter No. 1812-1855 Dated Peshawar the 13.6.1998)

C.No. 5(4-6)

PROCESS SERVING AGENCY

I am directed to say that of late complaints in regard to inefficiency and corrupt practices in the process serving agencies have increased manifold. These complaints speak volumes about the lack of supervision and effective control. There are also reports suggesting that some process servers are performing duties other than service of processes, which is one of the major factors responsible for their poor performance.

2) You are, therefore, required to keep a vigilant eye on the performance and conduct of the process serving agency under your control and impress upon the process servers and bailiffs that if service of processes entrusted to them is less than 70% for four consecutive months they will expose themselves to disciplinary proceedings under the N.W.F.P. Government servants (Efficiency and Discipline) Rules, 1973. A quarterly report about the performance of the process serving agency, showing the number of summons/ notices served and un-served shall also be furnished to this court without fail.

(PHC letter No.9659-9680 Admn. Dated Peshawar the 9th October, 1999)

C.No. 6(4-6)

IMPLEMENTATION OF THE DECISIONS TAKEN IN THE MEETING OF THE CHIEF JUSTICES COMMITTEE AT ISLAMABAD ON 24TH MARCH, 2000.

I am directed to address you on the subject noted above and to say that in the meeting of the Chief justice's committee held on 24.3.2000, the following decision was taken by the Committee:-

“Monitoring the Performance of Process Servers”

One of the patent snags in the execution of processes to the parties in criminal litigation in general and civil litigation in particular is the delinquency of the process Serving Agency for various reasons. It has a direct nexus with the 'laws delays'. Since we have embarked upon a campaign to cut short the 'laws delays' and deliver justice expeditiously at all levels, it is, therefore, expedient that the Process Serving Agency whether on civil or criminal side should be revamped. The problem can be tackled, as in every such exercise, by immediate and emergent measures and long drawn out program.

Immediate measures should be taken by the District and Sessions judges throughout Pakistan, in consultation with the learned Chief justices of the respective High Courts to the effect that:

- 1) The performance of each and every Process server/Bailiff should be monitored under the direct supervision and control of Senior Civil Judge/Administrative Civil Judge who has the charge of the such Agencies.
- 2) If the Process server is found delinquent in performance, he should be stripped off the powers of execution of processes and made to sit on a job on which there is no public dealing and is not worth while, a-part from initiating disciplinary proceedings against him.
- 3) As a temporary measure the other officials of the equal grade be involved to perform such duties, if they deliver then they may continue temporarily for some reasonable time frame in order to institutionalize the system. In the meantime, the Process Server who had been side-lined and had been deprived of duty, involving public dealing, would himself come to terms and would promise to perform. In early 1970 the learned senior judge of the Supreme Court Mr. Justice Mohammad Bashir Jehangiri, in his capacity as Senior Civil Judge (as he then was) followed the above process, in consequence where of, the process used to be successfully executed almost 80 per cent. The same procedure should be strictly followed.

In this connection, attention is also invited to this Court's letter No.9659-9680, dated 9.10.1999. (copy enclosed) whereby instructions were issued to all the Senior Civil Judges in the Province.

I am further directed to request that action taken on the above decision may please be intimated to this Court within shortest possible time, but in no case later than 10 days.

(PHC letter No.3011-32 Dated Peshawar the 19.4.2000)

C.No. 7(4-6)

INCORPORATION OF NATIONAL IDENTITY CARD NO, ON PROCESSES

I am directed to invite your attention to the provisions of CPC regarding service of summons, notices etc and to say that in future, all the officers entrusted with service of processes shall invariably incorporate the National Identity Card No of the persons served as well as the witnesses of the service. Failure on the part of the concerned officer, without reasonable cause, shall render him liable to appropriate disciplinary action.

I am further to ask you to please circulate these instructions among all the Judicial Officers of your district with the direction to communicate the same to all the members of process serving establishment under their control.

(PHC letter No. 13503-13526/ Admn: Dated Peshawar the 17.11.03)

C.No. 8(4-6)

TRAINING PROGRAM FOR THE PROCESS SERVING AGENCY

I am directed to refer to the subject noted above and to say that it has come to the notice of this Court that training programs / workshops for Process Serving Agency are being held in the Province without prior permission of this Court.

I am, therefore, directed to ask you not to hold such trainings /workshops in future, without prior permission of this Court.

(PHC letter No. 5390-5437/Admn Dated Peshawar, 04th May, 2007)

C.No. 9(4-6)

**MONITORING THE PERFORMANCE OF PROCESS
SERVING AGENCY**

I am directed to refer to the subject cited above and to say that the performance of Process Serving Agency is not up to the mark both in quality and quantity which is one of the reasons for delay in dispensation of justice. You are, therefore, required to direct the Senior Civil Judge to keep a vigilant eye on the performance and conduct of the Process Service Agency and to ensure the compliance of this court directive No. PHC 9659-9680/Admn dated 09.10.1999.

I am further directed to say that in order to improve the quality of processes a training program at local level for the bailiffs/process servers be chalked out. The training should be initiated on priority basis and the schedule be sent this court for information.

(PHC letter No.14354-77/Admn Dated Peshawar, 19th November, 2009)

SECTION-7
(RECORD AND COPIES)

C.No. 1(4-7)

SUBMISSION OF RECORD

I am directed to say that in Civil Revision Petitions pending in motion before this court, the record as ordered by the Court to be sent for from the subordinate courts are often not received in time despite many letters and reminders. The Civil Revisions Petitions thus lay pending in this Court for long due to the non-availability of the records from the subordinate Courts. Hon'ble the Chief Justice has viewed this situation with concern.

In order to ensure that the records in the Civil Revision Petitions pending before this Court for consideration in motion are received in time and no delay is caused in this behalf, the following procedure has been laid down:-

1. That Civil Revision Petitions, in which this Court has ordered that the records of the subordinate Courts be sent for, be fixed before the Court and should not be kept in motion until the records are received.

2. If a Civil Revision Petition is fixed in motion for a date after a month, the record shall reach this Court within a month and if such revision petition is fixed in motion for a date after 15-days but not beyond a month, the record shall reach this Court within 15-days.

3. If a date has been fixed by the Court in a Civil Revision in motion, the record shall reach this Court in time before that date.

Hon'ble the Chief Justice has further directed that if the records in the above cases are not received within the stipulated period, the concerned official or officials shall appear before this court on the date of hearing in order to explain his/their position for not sending the record within the specified period.

I am to request that the contents of this letter may please be got noted from the staff under your control for strict compliance and an acknowledgement certificate may be furnished to this Court for record.

(PHC letter No. 1-80 / Admn Dated 3rd. January, 1988)

C.No. 2(4-7)

**CIRCULAR LETTER – INSTRUCTIONS REGARDING
SPEEDY DISPOSAL OF CASES, FILING OF DOCUMENTS ---
NON-OBSERVANCE OF HIGH COURT RULES AND
ORDERS.**

I am directed to say that during the recent inspection of various Courts, in D.I. Khan Division, by Judge-XI (Mr. Justice Muhammad Bashir Khan Jehangiri) it has been observed:-

- i. That in flagrant violation of Rule 1 of Order XIII C.P.C, the Courts have developed the practice of admitting documentary evidence produced much after striking the issues between the parties. Under the rule *ibid* as amended by this Court, subject to the general provisions of order VII C.P.C., after the settlement of the issues the Court may fix a date not being more than 30 days after such settlement within which the parties may present supplementary lists of documents on which they rely. The bare reading of the Order (as amended) would convey that while permission to file documents other than those required by Order VII is within the discretion of the court, the production thereof has been limited within the stipulated period of 30 days of the settlement of the issues. On the other hand order VII Rules 14 C.P.C makes it obligatory upon the plaintiff to produce alongwith the plaint the document(s) upon which he sues and which is / are in his possession while the document upon which he relies as evidence, whether these are or not in his possession, shall be entered in the list annexed to such plaint. Failure to follow this procedure makes the document inadmissible under rule 18 of Order –VII C.P.C.
- ii. That the Courts are least perturbed in granting adjournments in the cases on flimsy and in many cases on no grounds, for instance, that counsel for a party requests for adjournment, without showing any plausible cause, or that counsel for both the parties request for adjournment. Some times a case is adjourned because both the counsel for the rival parties agree to the adjournment. This practice of putting the litigants to undue expense and delay must be deprecated because the Courts of law are not under any obligation to please the duly paid representatives of the parties who are supposed to

- advocate the case of the parties whom they represent, and not to add in by asking for adjournment for no valid reason.
- iii. The record of the Courts is not maintained in accordance with the High Court Rules & Orders in that the cases are not indexed in accordance with the instructions contained in Chapter 16-F of the High Court Rules & Orders Vol: IV causing inconvenience to the appellate and revisional Courts. Similarly the registers are not kept on the prescribed forms. The attention of all the Presiding Officers of the Courts is invited to part A-IV of High Court Rules & Order Vol: VI which provides the forms for various registers in various Courts on Civil side and Part B-IV of High Court Rules & Orders Vol: VI which prescribes the forms for registers in various Criminal Courts. The Presiding Officers are duty bound to see that the files are properly indexed and consigned and that the registers are properly and accurately maintained.
 - iv. It has been generally noticed that a very easy way of getting rid of the old cases is adopted in that through administrative orders such cases are frequently transferred from one Court to the other. This is tantamount to defeating the very object of disposal of old cases on priority basis. It shall be the responsibility of the District Judge to see that no old case is transferred from one Court to the other Court by way of an administrative adjustment.
 - v. The cases are transferred from one Court to the other just on the application of one party on the ground that the court in which the case is pending has no objection to such transfer. Obviously when an application for transfer of a case pending in a particular Court is made the Presiding Officer of that Court would naturally not object to its transfer. It is for the transferring authority to look into the propriety and bonafides of the grounds for transfer and should use the discretion strictly judiciously because discretion is always restricted by judicial conscience and not that where there is a discretion it should be exercised irrespective of realization if it is judicious or arbitrary.
 - vi. The inexperienced and fresh recruits are posted at responsible seats like Court Moharrirs, which mainly accounts for defective maintenance of the record of the Court. It shall be duty of the District & Sessions Judge to see to the worth of the employee proposed to be on such post/

responsible seat. It shall also be ensured that before posting on responsible seat, the incumbent so proposed is given some sorts of training by attaching him with an experience hand.

I am accordingly directed to impress upon you to strictly follow the above instructions.

(PHC letter No. 2947 – 3034 / Dated Peshawar 2nd June, 1990)

C.No. 3(4-7)

MAINTENANCE OF JUDICIAL RECORD

I am directed to convey the following decision taken in the Chief Justice Conference, held in Quetta recently, in regard to the maintenance of Judicial Record of subordinate courts, for strict compliance:-

“It was decided that after decision of a case a responsible official should inspect the file, damaged papers should be repaired and binding of the record should be done. The clerk of court should give the certificate that the record has been prepared in accordance with the rules and is in good condition. This certificate should be counter signed by the Presiding Officer.”

(PHC letter No. 6399-6498/Adm:Brh: Dated Pesh: the 9th September, 1991)

C.No. 4(4-7)

RECORD OF DECIDED SESSIONS CASES

I am directed to invite your attention to the High Court Rules and Orders Volume- III Rule 5 Chapter- 25-G providing for the transmission of written copies of the entire proceedings in murder cases (Penalty of death and life imprisonment) in the form of paper book, to the High Court. It is on the receipt of such printing papers that the printing Branch of the High court prepares printing books for further disposal of these matters in the High Court.

It has been noticed that Sessions Courts do not submit clear and legible copies of the required record in time, despite the fact that their attention have been invited to this problem through various letters and circulars issued by this Court from time to time. This in-attention on the part of some of the Sessions Judges have at times occasioned an abnormal delay in the disposal of such matters in the High Court. Normally this is required to be submitted within fortnight without fail. But instances have been noticed that the record is received in the High Court after 4/5 months of delay.

I am, therefore, directed to request you that such record may in future be submitted well within time. Any advertant omission in this respect would seriously be taken note of in the light of the direction of the Hon'ble Chief Justice.

(PHC letter No. 3569-3584 Admn. Brh. Dated Peshawar the 23/5/1993)

C.No. 5(4-7)

COPY OF BAIL ORDER

I am directed to invite your attention to the fact that in bail matters when the Judicial/ Police files are received in this court the same do not contain the copies of orders passed by the Judicial Magistrates/Addl: Sessions Judges.

2) I am, therefore, to direct you to see that in future the requisite copies of the bail orders are invariably attached with the files i.e, police file/ Judicial file.

3) I am to further inform you that any deviation from these instructions will be viewed seriously and the official responsible would be proceeded against in accordance with law.

4) The receipt of this letter be kindly acknowledged at an early date.

(PHC letter No. 1958-1980 Admn. Dated Peshawar the 17th March, 1999)

C.No. 6(4-7)

**CERTIFIED COPIES IN PENDING CASES OF CIVIL JUDGES
AND JUDICIAL MAGISTRATES / COPYING AGENCY OF
DISTRICT & SESSIONS JUDGE**

Hon'ble the Chief Justice of this Court, in order to facilitate the procurement of the certified copies of Judgment/Orders and decrees etc and to lesson the financial and other difficulties of the litigant public, has been pleased to authorise all the District and Sessions Judges/Zilla Qazis in NWFP to constitute a Copying Agency with the existing staff for issuing certified copies of Judgments/Orders and decrees in all pending cases and of decided cases pertaining to the Courts of Civil Judges/Judicial Magistrates, till further orders. They are further authorised to constitute such agencies in sub divisional Headquarters for attested copies in pending cases, if so required.

(PHC Endst: No. 10869-10892 / Admn: Dated Peshawar, the 07-9-2004)

C.No. 7(4-7)

**PROPER ARRANGEMENT/PERPARATION OF RECORD OF
TRIAL CASES**

It has been noticed in a number of criminal cases, coming up for hearing before this Court, that the files are not properly prepared/arranged in accordance with the provisions of High Court Rules & Orders. This practice, on one hand, amounts to violation of rules and on the other causes inconvenience to the Hon'ble Judges during hearing of the cases. Attention is invited to Chapter 16-A and Chapter 16-F, Vol-IV of the High Court Rules & Orders, requiring the record in criminal cases to be prepared / arranged in two parts with proper paging and indexation.

I am, therefore, directed to ask all the Courts that henceforth record in the subject cases shall be prepared and arranged as per the rules *ibid*, before sending the same to this Court.

The above instructions may please be circulated amongst all the Courts of your District for compliance.

(PHC letter No. 10499-10522/Admn: Dated 29.11.2005)

C.No. 8(4-7)

SUPPLY OF COPIES FREE OF CHARGE TO THE CENTRAL AND PROVINCIAL GOVERNMENTS.

It has been brought to the notice of Hon'ble the Chief Justice that some of the copying agencies under your control do not follow the provisions of Chapter I, part 3, Rule 1.7, sub rule ix (2) of the Revenue Circular Punjab No. 45 for the grant of copies of record. The relevant rule is reproduced below for ready reference:

“Copies required for public purposes by Public Officers of the Central or Provincial Governments as defined in section 2(17) of the Code of Civil Procedure, shall be supplied free of charge on reciprocal basis provided the application for copy is endorsed by the head of the Department concerned”. (Copy enclosed).

I am, therefore, directed to ask for following the provision as laid down, please.

(PHC letter No. 3274-3297/Admn: Dated 4th April 2006)

C.No. 9(4-7)

ISSUANCE OF ILLEGIBLE ATTESTED COPIES OF ORDERS AND JUDICIAL RECORD BY COPYING BRANCH OF DISTRICT COURTS.

I am directed to say that it has come to notice of this Court that instructions issued on the subject by this Court from time to time are not being complied with in letter and spirit. The Copying Branches of various district Courts are issuing illegible attested copies of orders and judicial record which, at times create problems in proper scanning of record by this Court.

I am , therefore, to request to ask the concerned to issue clear and legible attested copies of orders and judicial record in future.

(PHC letter No.2564-87/Admn Dated Peshawar, 03rd March, 2010)

C.No. 10(4-7)

**CERTIFIED COPIES IN PENDING CASES AT
SUBDIVISIONAL HEADQUARTERS**

I am directed to refer to this Court letter Endst: No. 10869-10892/Admn dated Peshawar, the 07.09.2004 (Judicial Estacode C. No. 6(4-7) (page 349) on the subject and to say that attested copies are to be provided at subdivisional headquarters in pending cases only. Any directive issued by any authority other than High Court in this regard has no legal force.

It may also be added that any circular concerning judicial matters issued by your office to the judicial officers of your district must be got approved by this Court as envisaged in High Court Rules and Orders (Rule 6, Chapter 2 of Volum-IV).

This directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.5388-5447/Admn Dated Peshawar, 25th March, 2010)

C.No. 11(4-7)

COPYING BRANCH AT SUBDIVISIONAL HEADQUARTERS

In supersession of this Court order Endst: No. 7069-73/Admn: Dated 28.06.2002 and letter No. 10869-10892/Admn: dated 07.09.2004 and in view of sub-Rule (2) of Rule 6 of Chapter-I of Revenue Circular No. 45 (for the grant of copies of records), exercising the powers of superintendence and control under Article 203 of the Constitution of the Islamic Republic of Pakistan, Hon'ble the Chief Justice, is pleased to order that henceforth senior most Civil Judge at a station other than district headquarter shall act as Officer Incharge of the Copying Agency while Reader of his Court shall act as Copying Agent and Examiner and the Moharrir of his Court as Copyist respectively. The Civil Judge designated as Officer Incharge shall act as Head of the Copying Agency while Reader of his Court acting as Copying Agent and Examiner should be responsible for the maintenance of the accounts and the conduct of business to revise and attest copies of records. The Moharrir performing duty of Copyist shall be responsible for the preparation of copies of records.

Hon'ble the Chief Justice has further been pleased to order that applications for certified copies of the records still pending in the Court at

Sub-Division and not yet consigned to record Room at District Headquarter, shall be submitted to the designated Copying Agent for providing certified copy of the record applied for to the applicant strictly in accordance with the rules governing supply of copies of records and shall maintain proper accounts under the physical verification of the Officer Incharge.

(PHC Endst. No.7270-7293 Dated Peshawar, 21st April, 2010)

C.No. 12(4-7)

INSTRUCTIONS FOR COPYING AGENCY

I am directed to refer to the subject noted above and to enclose instructions in Urdu for affixing the same in some conspicuous place outside the copying branch in large size, preferably in shape of banners, signboards etc, so that the litigant public should know the cost of copies and all illegal, unjustified and exorbitant charging be checked and discouraged. The compliance may be intimated to this court immediately.

ہدایات برائے شعبہ نقولات

- ۱) فوری درکار نقول، درخواست دائر کرنے کے ترجیحاً ایک دن کے اندر یا دوسرے دن فراہم کی جائیں گی۔
- ۲) باقاعدہ نقول درخواست کے تین (3) دن کے اندر فراہم کی جائیں گی۔
- ۳) باقاعدہ نقول کی شرح فیس مبلغ (2) دو روپے فی صفحہ ہو گی۔
- ۴) فوری درکار مسدقہ نقول کی شرح فیس مبلغ (2) دو روپے فی صفحہ بمع (1) ایک روپیہ اضافی فی دستاویز ہو گی۔

یاد دہانی

- ۱) متذکرہ بالا فیس تمام فوجداری مقدمات میں وصول نہیں کی جائیگی۔
- ۲) ان دیوانی مقدمات میں بھی فیس وصول نہیں کی جائے گی جس میں مالیت مقدمہ بغرض کورٹ فیس مبلغ (25000) پچیس ہزار روپے سے کم ہو۔
- ۳) فیس کی رقم نقد وصول نہیں کی جائے گی بلکہ عدالتی فیس ٹکٹ کی صورت میں باخترسید وصول ہو گی۔

ڈسٹرکٹ اینڈ سیشن جج

(PHC letter No.18800-23/Admn Dated Peshawar, 03rd November, 2010)

SECTION-8 (INTERIM INJUNCTIONS AND BAILS)

C.No. 1(4-8)

ISSUANCE OF STAY ORDER

It has been brought to the notice of the Chief Justice that at time's Civil Courts issue stay orders/ ad-interim injunctions to the Government Departments as respects transfers to Civil Servants from one station to another. This, in the view of his Lordship the Chief Justice, is highly indiscreet. Transfer is one of the incidents of service and discretion of the Departmental Authorities shall have to be conceded in the public interest.

(PHC letter No. 1223-73/ Dated Peshawar, the 3rd February, 1979)

C.No. 2(4-8)

ISSUANCE OF STAY/STATUS QUO ORDERS

In continuation of this Court's letter No. 12261-2331, dated 19.11.1979 and No.4950-5019, dated 18.05.81, I am directed to say that it has come to the notice of this Court that Stay/Status quo orders are frequently issued by the Civil Courts in matters relating to terms and conditions of civil servants. The civil Courts sometime ago had the jurisdiction to deal with service matters of the civil servants but after the promulgation of the N.W.F.P Civil Servants Act 1973 and the N.W.F.P. Service Tribunals Act, 1974, the jurisdiction of the civil courts is absolutely barred. Sub-Section 2 of Section 3 of the N.W.F.P. Service Tribunals Act 1974 reads as under:

“A Service Tribunal shall have exclusive jurisdiction in respect of matters relating to the terms and conditions of Service of Civil Servants including disciplinary matter.”

I am, therefore, directed to stress upon all the subordinates courts to be careful and refrain to deal with the case relating to the terms and conditions of Civil Servants in future. Moreover, the instructions contained in the above referred letters being self-explanatory and detailed in nature shall also be strictly followed in letter and spirit. In future serious notice

would be taken in cases of wrong assumption and illegal exercise of jurisdiction.

(PHC letter No. 10507-10576Admn: Brh: Dated Pesh: the 30 April, 1983)

C.No. 3(4-8)

DISPOSAL OF BAIL PETITIONS

Instances have come to the notice of the High Court that Subordinate Judicial Officers have allowed bails in heinous crimes, like murders, dacoity, terrorist activities, arms smuggling and allied matters in utter disregard of the factual and statutory provisions regulating the subject of bails. Section 497 of the Criminal Procedure Code and other laws in matters of bail dealing with terrorist activities do not allow un-fettered exercise of discretion in favour of the accused involved in heinous offences. Rather the Law on the subject is that grant of bail in non-bailable offences should be an exception and its refusal a Rule.

2- Instances are also not lacking where the Judicial officers have been found hesitant in awarding sentences commensurate with the gravity of the offences. They even avoid awarding maximum punishment to those hardened criminals whom they found guilty of the offences and no mitigating circumstances exist to award less than maximum punishment to the accused which he/they rightly deserved. Also the Presiding Officer invariably fail to discuss the mitigating circumstances persuading them not to award due punishment to the accused guilty of the offences.

3- The Hon'ble Chief Justice has taken serious view of this situation and has directed me to emphasis upon the Judicial Officers that bail applications should be decided strictly on their merits according to law and not according to unfettered judicial discretion. Identically in criminal cases the punishment awarded to an accused, who is found guilty, should adequately reflect the gravity of the offence of which he is found guilty and shall not exercise their discretion unlawfully. A guilty person, judicially found so, shall be punished according to law to meet the ends of justice. Any deviation from the above guilty lines are bound to be properly reflected in the ACRs of the Officers.

(PHC letter No.4737-4796/Admn:Brh: Dated Peshawar , the 8th May, 1995)

C.No. 4(4-8)

INTERIM INJUNCTION/STATUS QUO

I am directed to address you on the subject and to say that it has come to the notice of Hon'ble the Chief Justice that Orders of interim injunction/status quo are passed by the Civil Courts in fiscal matters, involving Government revenues, admission in educational institutions, transfer of public servants and other developmental activities in a mechanical fashion without first application of mind to the question of jurisdiction. Needless to say that determination of the question of jurisdiction precedes all other questions in a Civil matter. The Order of interim injunction/status quo, without determining the point of jurisdiction, are not only exposing the judiciary to ridicule but is also tarnishing its image in the general public.

2. You are well aware that of late judicial activism is in sharp focus at all levels, which simultaneously places heavy responsibility on the judicial officers to behave in a responsible and judicious manner. It is indeed in the interest of the institution that judicial officers resist the temptation of passing the orders at random and in favor of a party on considerations other than merit.

3. I am further directed to say that whenever an interim injunction/status quo is granted in the aforementioned matters, it shall be the duty of the presiding officer to expeditiously dispose of the matter and curb unnecessary adjournments. Any deviation henceforth will be seriously viewed.

(PHC letter No. 9898-4997/ Admn:Brh: Dated Peshawar the 17th June,1997)

C.No. 5(4-8)

GRANT OF TRANSITORY BAIL

I am directed to address you on the subject and to say that it has come to the notice of this Court that while submitting transitory bail application by the applicants/petitioners before a Sessions Judge, they do not mention the fact in their applications that such like concession has not been obtained previously from any other court nor support their application by such an affidavit.

I am, therefore, impress upon you that in future an affidavit on such like applications should be obtained from the applicants/petitioners to the effect that they have not obtained any transitory bail from any other court previously and also ensure that similar para given in the body of the application.

(PHC letter No.7852-73 / Dated the Peshawar, 19/10-1998)

C.No. 6(4-8)

DISPOSAL OF BAIL APPLICATIONS BY OR ON BEHALF OF JUVENILE OFFENDERS.

I am directed to say that in a recent meeting held at Islamabad on 14th March,1999, the Pakistan Law Commission, while considering the Juvenile Justice System, recommended that the courts while dealing with bail applications of Juvenile offenders, should promptly decide the case and keep in mind the best interest of the child. The Commission further approved the idea that custodial sentences should be minimized and disposal of Juvenile cases by means other than trial, such as restitution, financial compensation child placed in care/guidance/supervision of family/probation officer or child put to community service, etc examined. This will be in public good and constructive utilization of their potential energies.

2)- I am, therefore, to direct for issuance of necessary instructions to the subordinate courts in the district on the above lines, under intimation to this Court.

(PHC letter No. 2267-2288 Dated Peshawar the 25/3/1999)

C.No. 7(4-8)

INTERIM INJUNCTION/STATUS QUO

I am directed to invite your attention to this Court's letter No. 9898-4997 Admn. Brh. Dated 17th June, 1997 on the subject noted above and to say that complaints are still pouring in showing mechanical grant and unnecessary continuation of interim injunction/ status quo Orders in cases involving fiscal matters, Government revenue, admissions in educational institutions, transfer of public servants and other developmental activities in

total disregard of the legal provisions on the subject. It may be emphasized once again that grant and continuation of stay Orders in the above matters in a thoughtless fashion is exposing judiciary to unsavory criticism.

2)- Hon'ble the Chief Justice has taken a serious view of this unwarranted practice and has been pleased to direct that it should be reiterated that whenever an interim relief is granted in regard to the aforementioned matters, it shall be the duty of the Presiding Officer to dispose of the case on priority basis, failing which he will make himself liable to appropriate disciplinary action.

(PHC letter No. 10221-10370 Admn Dated Pesh: the 27th October, 1999)

C.No. 8(4-8)

INDISCRIMINATE GRANT OF INJUNCTION AND STAY ORDERS BY THE SUBORDINATE COURTS

I am directed to say that indiscriminate grant of injunctions and stay orders by the subordinate Courts is not only causing delay in the disposal of cases but also hardships to the litigant parties.

2. It may be observed that Order 39 Rule 3 of the Code of Civil Procedure enjoins that the Court shall, in all cases, before granting injunction, direct notice of the stay application to be given to the opposite party and this Rule further provides the period of notice in the case of Government. Rule 4-A of the aforesaid order also limits the effect of injunction in matters connected with public revenues to a period of six months.

3. Consequently, the above provision of law must be strictly adhered to so as to alleviate the sufferings of the litigant parties and effort should be made to dispose of such cases as early as possible by giving short dates.

4. I am accordingly to urge the Judicial Officers in the Province to implement the above directive in letter and spirit as any deviation from the relevant provisions of law, judgments of the superior Courts and instructions of this Court will be seriously viewed, and the defaulting officers may expose themselves to appropriate disciplinary action under the relevant rules.

(PHC letter No.3647-3846/ Admn: Dated Peshawar the 4th July, /2001)

C.No. 9(4-8)

UN-NECESSARY ADJOURNMENTS IN STAY MATTERS

I am directed by the Hon'ble Chief Justice to say that in spite of repeated directions to curb the tendency of granting unnecessary adjournments in those cases in which stay has been granted in favor of a party, complaints are still pouring in from different quarters suggesting mechanical adjournments and extension of the stay orders even beyond the period permissible under the law. This practice on the part of some Judicial Officer is not only exposing the judiciary to unsavoury criticism but also eroding its credibility in the eyes of general public.

2. In order to check the uncalled for tendency and taking necessary action against those Judicial Officers who are responsible for flouting clear legal provisions, the following information be supplied to this Court at an early date:

- i- How many adjournments in cases in which stay has been granted have been given in the last six months?
- ii- How much cost is imposed in such like cases, particularly for the second adjournment and what are the reasons for not imposing heavy costs?
- iii- In how many cases stay orders have been extended beyond six months and what reasons have been recorded in writing for such extension?

3. I am further directed to say that in future copies of stay Orders extended beyond six months be invariably sent by Civil Courts in the District, through District and Sessions Judge to this Court for further necessary action.

(PHC letter No.6295-6316 / Admn: Dated Pesh: the 19th September, 2001)

C.No. 10(4-8)

**CHIEF JUSTICE DIRECTIVE # 9
(BAIL BONDS IN QUADRUPLICATE)**

I am directed to communicate the following directive issued by the Hon'ble Chief Justice.

“Instructions be issued to all the Criminal Courts to receive the bail bonds in quadruplicate and to invariably place a copy of bail order and bail bond on the Judicial file before returning it to the Police Station. Similarly, a copy of bail bond be also retained by the Criminal Muharrir besides placing it on the Court file. Proper record of the bail bonds, so retained, be maintained”.

I am further directed to request you to please circulate the above directive to all the Criminal Courts of your respective Districts for compliance.

(PHC letter No. 631-54/MIT Dated Peshawar, the 24/04/2004)

C.No. 10A(4-8)

FIXATION OF DATES IN TRANSITORY BAIL MATTERS

Hon’ble the Chief Justice has noticed with concern that in transitory bail matters some time unnecessary long dates are given which give the impression of favour to the accused party and this trend cannot be viewed with appreciation.

I am, therefore, directed to ask that in future copy of the order in transitory bail matter where date is fixed beyond 7 days shall be sent to this Court. I am further directed to ask that the date should be fixed by the Presiding Officer himself instead of leaving the job to the ministerial staff.

(PHC letter No.682-705/Admn Dated Peshawar, 02nd August, 2005)

C.No. 11(4-8)

DISPOSAL OF APPLICATIONS FOR TEMPORARY INJUNCTION

Complaints are pouring in regarding delay in disposal of applications for temporary injunction and mechanical extension of status quo orders by Courts. Needless to say that such practice defeats the ends of justice and erodes public confidence in the Courts. Hon'ble the Chief Justice has been pleased to direct that, while granting status quo, spirit of the law

be strictly adhered to and, if granted, the application for temporary injunction be disposed of promptly, on merits and according to law.

I am further directed to ask that details of all the cases, wherein status-quo has been granted but the application has not finally been decided, in all the Courts of your district, be furnished on the attached Proforma within a week.

The above instructions may please be circulated amongst all the Civil Courts of your District.

(PHC letter No. 8655-8678/Admn: Dated 15.09.2005)

C.No. **12**(4-8)

HEARING/DISPOSAL OF BAIL APPLICATIONS

Complaints have been received by the Hon'ble Chief Justice of this Court that some of the judicial officers do not observe the decades old practice of hearing bail applications in the beginning of the Court proceedings of the day, which causes unnecessary delay in the release of prisoners who are ultimately allowed bail.

I am, therefore, directed to ask that bail applications shall be heard in the morning and copies of orders, when announced, shall be made available to the parties the same day on application.

The above instructions may please be circulated among all the Criminal courts of your respective District for compliance.

Receipt may please be acknowledged by all.

(PHC letter No. 10170-10193/Admn Dated Peshawar, 09th December, 2006)

C.No. **13**(4-8)

NON ACCEPTANCE OF WOMEN AS SURETY IN BAIL MATTERS / DECISION OF NJPMC

I am directed to refer to the subject noted above and to say that the National Judicial Policy Making Committee (NJPMC) in its meeting, held on 23rd June 2007, at Islamabad, has decided that the subordinate courts be

asked not to discriminate on the basis of gender and accept women as sureties, when they execute bonds to the satisfaction of the Court.

I am, therefore, to ask you to circulate the above decision of the Committee amongst all the Judicial Officers of your district for compliance.

(PHC letter No. 7282-7304/Admn Dated Peshawar, 11th July, 2007)

C.No. 14(4-8)

INTERIM ORDER IN CASES OF ADMISSION TO THE PROFESSIONAL COLLEGES

I am directed to refer to the subject noted above and to say that instances have come to the notice of this Court regarding grant of interim relief/ injunction in cases of admission to the Professional Colleges in a reckless manner, without application of mind, verification of facts alleged in the suit and the application; and without adverting to the legal provisions on the subject, at such a stage when it is not only a source of trouble for the College Administration but also tends to tarnish image of the institution in the eyes of general public.

I am, therefore, to direct that in a suit pertaining to admission in Professional College no interim relief be granted without notice, but in case, interim relief is warranted under the law and urgency demands, the order of interim relief shall invariably be communicated to this office for follow up action.

This letter be accordingly circulated amongst the concerned Civil Judges, and acknowledgement sent to this office, at the earliest.

(PHC letter No.2507-2530/Admn Dated Peshawar, 05th March, 2009)

C.No. 15(4-8)

INTERIM INJUNCTION / STATUS QUO

I am directed to refer to this Court directives C.No. 4(4-8), 7(4-8), 8(4-8) and 9(4-8) of Judicial Estacode at pages No. 353, 354, 355 & 356 and to say that the courts are expected to follow the said directives in letter and spirit while dealing with applications for temporary injunctions,

especially in the matter involving public revenue, public developmental schemes etc. This directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.5129-83/Admn Dated Peshawar, 17th March, 2010)

C.No. 16(4-8)

ATTESTATION OF BAIL BONDS IN BAIL BEFORE ARREST

I am directed to refer to the subject noted above and to say that in applications for bail before arrest, the procedure of attestation of bail bonds to the satisfaction of magistrate results in involvement of so many desks before it is finalized. This practice causes inconvenience to the accused seeking bail before arrest as he is constantly under danger of being arrested by police any time even within the premises of the Courts and his movement within and outside the Court before attestation of bail bonds is not safe for him. During the process the Magistrate or the Judge granting bail before arrest may, at times, leave the Courts due to closure of office timings etc and the whole exercise then becomes redundant.

It is, therefore, desired that, in future, the Court granting bail before arrest should itself attest the bail bonds. This directive may be circulated amongst all the Additional Sessions Judges under your control.

(PHC letter No.5468-5527/Admn Dated Peshawar, 25th March, 2010)

**SECTION-9
(JAILS)**

C.No. 1(4-9)

INSPECTION OF JAILS

I am directed to say that in order to improve the quality and quantity of work entrusted to the Civil and Criminal Courts in the Province; Hon'ble the Chief Justice of this Court has been pleased to order that all the District & Sessions Judges in the NWFP., shall conduct surprise visits to the subordinate Civil and Criminal Courts and their reports about delinquent officers shall be forwarded to this Court for necessary action.

2. Hon'ble the Chief Justice has further been pleased to order that all the District & Sessions Judges shall also inspect Jails within their respective areas at least once in a month and submit reports to the authorities concerned for necessary action and compliance under intimation to this office.

(PHC letter No. 15128-40/Admn.Brh/ Dated Peshawar the 30th December, 1987)

C.No. 2(4-9)

INSPECTION OF JAILS

In continuation of this Courts letter No. 15128-40/ Admn.Brh., dated 30.12.1987, I am directed to say that District and Sessions Judges besides themselves paying regular visits to Jails for inspection, may in addition and liaison with them, assign the task of Jail inspection to the Additional District and Sessions Judges posted in the same District who shall inspect the Jails falling within their jurisdiction at least once in a month and submit reports in the like manner.

(PHC letter No. 9447-9468/Admn.Brh/N(a) 239-B, Part-II, Dated Peshawar the 13th November, 1997)

C.No. 3(4-9)

ILLEGAL RELEASE OF PRISONERS FROM JAIL

I am directed to say that as a result of enquiry into the illegal release of Nigerian Prisoners from Central prison Peshawar, it has been observed that release of the prisoners from jail was illegally secured on the basis of fake/forged orders of the superior courts only because the Judicial Officer who was required to prepare the release order failed to detect forgery through careful scrutiny of the relevant documents.

2) Needless to say that such omissions on the part of the judicial officers are glaring instances of inefficiency and negligence making them liable to strict disciplinary action.

3) Taking serious view of this situation, the Hon'ble Chief Justice has directed to emphasise upon all the Judicial officers that release orders of the prisoners be issued after carefully scrutinizing the relevant documents

4) I am, therefore, to request that these instructions be brought to the notice of all concerned for strict compliance, as non observance of these directions can lead to disciplinary action against the defaulting officers.

(PHC letter No. 333-54 Admn Dated Peshawar the 14-1-1999)

C.No. 4(4-9)

CASES OF ESCAPE FROM JAILS

I am directed to address you on the subject noted above and to say that it has been observed that in recent past cases of escape of prisoners from jails have increased tremendously. The non observance of security measures has been cited as one of the major reasons for such escapes. It has therefore been decided to observe the following measures:-

1) All the persons attending Courts in the jail premises need to stamp their passes;

2) Only the Hon'ble Judges should be allowed to visit different areas and barracks of the prisons and no other official of the court should be allowed to visit the said places;

3) A separate room, preferably the office of the Superintendent Jail, may be designated as temporary Court premises, there by restricting the free movement of unauthorized persons to other places in the jail premises.

4) Hon'ble the Chief justice of this Court has been pleased to order that the afore- said security measures be strictly followed

(PHC letter No. 448-547 Dated Peshawar the 28.1.1999)

C.No. 5(4-9)

INSPECTION OF JAILS-DISPOSAL OF PETTY CASES

I am directed to say that Hon'ble the Chief justice of this court has been pleased to order that the District and Sessions Judges, who have already been directed to carry out inspection of Jails at least once in a month, should prepare during their jail visits at list of disposable petty cases and direct the Civil Judges-cum-Judicial Magistrate concerned to dispose of the same in jail premises in such a systematic manner that their normal court work is not adversely affected.

(PHC letter No. 6084-6106 Dated Peshawar the 19.7.1999)

C.No. 6(4-9)

UNDER-TRIAL PRISONERS INVOLVED IN PETTY OFFENCES.

I am directed to refer to this Court's Endst. No. 2403-2602 Admn. (DA-260-A), dated 30.3.2000 addressed to the Inspector-General of Prisons, N.W.F.P., Peshawar and copies thereof endorsed to all the Presiding officers in the Province, whereby all the Presiding Officers were authorized to hold trial of under-trial prisoners in petty offences in jails with the directions that if they plead guilty, their cases should be decided forthwith and in case they desire to contest, the same be fixed for hearing without any delay in the Court houses and heard on day-to day basis. The Presiding Officers were further directed to pay particular attention to the cases of women and Children.

2) I am to reiterate the above directions with the request to arrange jail visits of the Judicial Officers in the district for the disposal of petty nature cases on regular basis and furnish progress report of such visits and disposal of petty nature cases inside jail premises to this Court on weekly basis. The Judicial Officers visiting the jails may also be directed to see the living conditions of the prisoners and also to hear their general complaints.

(PHC letter No.9554-75 / Dated: Peshawar the 26.12.2000)

C.No. 7(4-9)

JAIL VISIT

I am directed to refer to the subject noted above and to ask that henceforth Jail Visit reports by the concerned D&SJ and disposal of petty nature cases by concerned Judicial Officers during such visits shall be sent to this Court on the attached proformas on regular basis. I am further to request that these instructions may be circulated amongst all concerned for compliance.

Acknowledgement receipt from all concerned be sent to this Office

(PHC letter No. 1342-1365/MIT Dated Peshawar, 08th September, 2006)

MONTHLY JAIL VISIT, GENERAL INFORMATION

Name of the D&SJ			
Date and time of visit			
Name of Jail / Judicial Lock-up			
Jail Staff	Sanctioned	Existing	Required
Authorized Accommodation	Male		Female
NUMBER OF PRISONERS			

	Under Trial	Convicted	Waiting for trial due to non-submission of Challan (Detail to be given separately)	Total
<i>Male (Adult)</i>				
<i>Female (Adult)</i>				
<i>Male (Juvenile)</i>				
<i>Female (Juvenile)</i>				
Total				
No. of under trial Prisoners for more than	1-Year	2-Years	3-Years	5-years
Hygienic condition of Barracks and Wash Rooms/ Toilets of Male Section	Satisfactory		Un-satisfactory	
Hygienic condition of Barracks and Wash Rooms/ Toilets of Female Section				
KITCHEN				
	Satisfactory		Un-satisfactory	
<i>Hygienic condition of the Kitchen</i>				
<i>Bread (Qualitative & Quantitative)</i>				
<i>Other food items (Qualitative & Quantitative)</i>				
HOSPITAL / DISPENSARY				
Condition	Satisfactory		Un-satisfactory	
Availability of Medical staff	Yes		No	
Availability of Essential Medicine				

No. and Names of Prisoners interviewed and the gist of complaints received (Detail to be attached separately)		
Whether all the jail warrants personally checked	Yes	No
Observations, if any, made on such checking of Jail warrants (Detail to be given separately)		
No. of Prisoners who died after the last Jail Visit and reason thereof (Give detail separately)	Natural death	Un-natural death
No of Prisoners who escaped after the last Jail Visit and action taken by Jail Authority		
GENERAL		
<i>Availability of Borstal House</i>	Yes	No
<i>Availability of Library</i>		
<i>Availability of separate Barrack for Juveniles</i>		
<i>Availability of Interview Room</i>		
<i>Availability of Visitors Shed</i>		
<i>Sanitation Conditions</i>	Satisfactory	Un-satisfactory
<i>Reformation & Rehabilitation steps, if any, taken by Jail Authority (Detail be given on separate sheet)</i>		
<i>Problems of Jail (Give detail separately)</i>		
Whether provisions of	Yes	No

Prison Laws / Instructions are observed		
Order passed by D&SJ and action proposed		
Extent of Follow-up by Jail Authority on the previous Jail Visit Reports	Satisfactory	Un-Satisfactory
General Remarks / Observations and Suggestions		

It is certified that I have checked the record of the Prison and the above information is correct to the best of my knowledge and belief.

Signature of District & Sessions Judge

Endst: No. _____ / dated _____

Copy forwarded to: -

1. Member Inspection Team, Peshawar High Court, Peshawar
2. Inspector General (Prisons), NWFP

Signature of District & Sessions Judge

**SECTION-10
(INSTITUTION
AND
DISTRIBUTION OF BUSINESS)**

C.No. 1(4-10)

DELEGATION OF POWERS

I am directed to address you on the subject cited above and to say that the District and Sessions Judges leaving the Districts on leave, while delegating their powers under section 17(4) of the Code of Criminal Procedure 1898, do not simultaneously delegate their powers for disposal of Civil business as required under Sections 21 and 22 of the West Pakistan Civil Courts Ordinance, 1962. This omission in violation of the Law on the subject adversely affects the Civil business and smooth running of Administrative matters on the one hand and creates additional work for the High Court on the other.

2. Pursuant to the above, Hon'ble Chief Justice has been pleased to order that Provisions of Sections 21 and 22 of the West Pakistan Civil Courts Ordinance, 1962 shall be complied with in letter and spirit and copy be always sent to this High Court for information.

(PHC letter No. 6458-69 Dated: August 30, 1986)

C.No. 2(4-10)

MULTIPLICITY OF SUITS / APPEALS CURBING OF

I am directed to address you on the subject and to say that due to low institution of suits and pendency thereof in the past justice was used to administer by the Courts quickly and promptly and there was no chance of multiplicity of suits but the population explosion and the technological advancement necessitated the establishment of new divisions / districts and the ultimate creation of courts of law. Now at present many courts both Civil & Criminal are functioning in each district and experience has shown that due to multitude of courts the chronic litigants have taken and do take undue advantage of it by adopting the usual delaying tactics. They also never hesitate in institution of false, vexatious and frivolous suits and

raising baseless objections regarding the same subject matter already adjudicated upon once by a court of competent jurisdiction. This is all done by suppressing the material facts and not disclosing the factum of previous litigation on the same subject matter with the sole object to deprive the opposite party from the fruit of a valid decree. The importance of prompt litigation needs no emphasis. Litigation at the present judicial set-up has assumed a somewhat lengthy course to which a chronic litigant also contributes a major share and, therefore, no further delay on a subject already delayed is desirable in the ends of justice. Justice delayed is justice denied. This state of affairs not only spoils the notions of quick justice on the one hand but also brings discredit to the fair name of judiciary on the other besides ultimate loss of public confidence in the judiciary and the Government and as such Hon'ble the Chief Justice and Judges of this Court have seriously viewed it.

2. In view of the above, Hon'ble Chief Justice and Judges have been pleased to decide that distribution of Civil suits / appeals by the Senior Civil Judge / District Judge, as the case may be, shall be made police station-wise amongst rest of the judicial officers in each district and a better statement / certificate regarding pendency or otherwise of a suit / appeal in another court shall always be recorded in the pleadings on affidavit as required under the law. Hon'ble the Chief Justice and Judges further hope and trust that all courts would comply with these instructions in letter and spirit and cases of default, in this respect if any, shall be reported to this Court for necessary action.

(PHC letter No. 10708-777 Dated: 29th December, 1986)

C.No. 3(4-10)

DISTRIBUTION OF CASES

It has come to the notice of the Hon'ble Chief Justice of this Court, that the distribution of judicial work in the Subordinate Courts is not equitable with the result that pendency of cases in some courts in the District is very high. This causes delay in the disposal of cases and also affects the quality of work done by the Subordinate Judges.

In view of the above, the Hon'ble Chief Justice has been pleased to order, that all the District and Sessions Judges/Senior Civil Judges in the Province shall make equal distribution of cases amongst the subordinate

Courts in their respective Jurisdiction. These Instructions shall be strictly followed in letter and spirit.

(PHC letter No. 13971-14050./Admn. Dated 22.12.1987)

C.No. 4(4-10)

CAUSE DIARY

I am directed to say that it has been observed that some Senior Civil Judges/Civil Judges fix a large number of cases for a particular day and then postpone some of them for want of time. This practice not only offends against the High Court Rules and Orders but also entails delay in disposal of the cases and inconvenience to the litigant public.

It is, therefore, requested that you should pay personal attention to the cause diary and fix an adequate cause list, which could be conveniently got through during the court hours.

(PHC letter No. 7-56, Dated 31.7. 1988)

C.No. 5(4-10)

PREPARATION OF DAILY CAUSE LIST

I am directed to address you on the subject noted above and to say that Hon'ble the Chief Justice of this Court has been pleased to order that all the Judicial Officers in the Province should pay personal attention to the cause diary and should not leave the fixing of dates to the ministerial staff and that the daily cause list should be adequate by all standards and should be prepared with application of mind and fore-thought so that it could be got through without difficulty and adjournments, during the court hours.

(PHC letter No. 1014 – 93 / Admn: Brh: Dated. Pesh: the 7th March, 1990)

C.No. 6(4-10)**COMPLIANCE OF SECTION 23(1), 25 OF THE CIVIL COURTS ORDINANCE, 1962 (ALTERNATIVE ARRANGEMENTS)**

I am directed to invite your attention to the above provisions of Law. Hon'ble the Chief Justice and Judges of this Court have desired for the strict compliance thereof.

Alternative arrangements for the receipt of judicial matters on the eve of the absence of the Presiding Officers all over as contemplated by the Law are a legal requirement. A minor omission at times results in protracted and expensive litigations. Two such cases have recently been noticed by the Supreme Court and relevant Law has been laid down on the subject. Other relevant provisions such as are contained in General Clauses Acts, High Court Rules and Orders were also discussed. The reported judgments are :-
1)- PLD 1991SC 47 = PLJ 1992 SC 101
2)- PLD 1991 SC 884.

I am, therefore, directed to convey the anxiety of the Hon'ble Chief Justice that the entire Law on the subject read with the above judgments of the Supreme Court be gone through and the desired arrangements made at all level in accordance with such provisions.

(PHC letter No. 3585-3664/Admn.Brh.Dated Peshawar the 23rd May, 1993)

C.No. 7(4-10)**MAINTENANCE OF ATTENDANCE / PESHI REGISTERS.**

I am directed to ask you that Honourable the Chief Justice has been pleased to introduce a system of maintaining attendance/Peshi Register in such a manner that the same may be kept blank for first seven days of the month by the Presiding Officer so that he may be in a position to fix old cases of his court coming before him for disposal during the said days of the month.

(PHC letter No.7123-7222/ Admn. Brh. Dated Pesh: the 19th Sep: 1993)

C.No. 8(4-10)

DISTRIBUTION OF POLICE STATION AT A SESSIONS DIVISION.

During recent visit to some Districts, the Hon'ble Chief Justice has observed that Sessions Judges have distributed police stations among the Additional Sessions Judges working at a station, despite the fact that this practice militates against the spirit of law which invests the Sessions Judges with the power of supervision and control and at the same time responsibility with respect to criminal cases in a session division.

I am, therefore, to ask for discontinuance of this practice forthwith with the direction that henceforth all the criminal cases including bail and other applications pertaining to sessions Court in a district shall initially be received by the Sessions judge who shall further make over the same to the Additional Sessions Judges performing their duties in the Sessions Division.

(PHC letter No. 2339-60 Dated Peshawar the 21st March, 1998)

C.No. 9(4-10)

DISTRIBUTION OF POLICE STATIONS AT A SESSIONS DIVISION.

In continuation of this Court's circular letter No.2339-60 dated: 21.3.1998, I am directed to say that Hon'ble the Chief Justice of this Court has been pleased to order that distribution of the Police Stations amongst the Addl: Sessions Judges may be continued for the purpose of grant of Remand and legal custody only.

(PHC letter No.2954-3002/ Dated Peshawar the 14/4/98)

C.No. 10(4-10)

DISPOSAL OF SUITS AGAINST THE GOVERNMENT

I am directed to say that it has been observed that suits against the Government are entrusted to those Civil Judge who have not yet acquired sufficient experience to efficiently dispose of the said suits or other

interlocutory matters in such suits. Needless to mention that suits against Government involve important issues concerning general public and delay in the disposal of such cases not only results in inconvenience to the public at large but also exposes the judiciary to unnecessary criticism besides causing heavy loss to the national exchequer.

2)- I am, therefore, to request for issuance of necessary directions to the Senior Civil Judges to follow the provisions in this regard contained in Section 24 of the Civil Courts Ordinance, 1962, and either entertain suits against Government themselves or entrust the same to senior most 1st Class Civil judges at the station in order to ensure efficient and proper handling of these cases.

(PHC letter No. 1790-1811 Dated Peshawar the 9.3.1999)

C.No. 11(4-10)

**INSTITUTION OF PROCEEDINGS UNDER SUB SECTION (3)
OF SECTION 190 OF THE CODE OF CRIMINAL
PROCEDURE, 1898**

I am directed to say that under section 190(3) of the Code of Criminal Procedure, 1898, a Magistrate taking cognizance under sub-section (1) of an offence triable exclusively by a Court of Sessions shall, without recording any evidence, send the case to the Court of Sessions for trial.

2) - Before separation, the Magistrates used to send cases, which were triable exclusively by a Court of Session, on a proforma resembling the one enclosed herewith.

3) - The enclosed proforma has been modified in order to conform to the requirement in the post separation period.

4)- I am to direct all the Judicial Magistrates in the Province that henceforth the cases triable exclusively by a Court of Sessions shall be sent for trial to the Court of Sessions on the proforma, specimen of which has been enclosed.

(PHC letter No. 5129-5278 Dated Peshawar the 6.7.2000)

C.No. 12(4-10)

WORK LOAD MANAGEMENT IN CIVIL AND CRIMINAL COURTS

I am directed to refer to the subject noted above and to say that while reviewing pendency in the Courts of Civil Judges-cum-Judicial Magistrates in different District, his lordship the Chief Justice was pleased to observe that the work load needs to be equally distributed among the Courts, so far as practicable, in order to get optimum results.

I am, therefore, to request for distributing the work load accordingly. Statements showing pendency in all Courts before and after such distribution may please be intimated to this Court within three days.

(PHC letter No. 4714-4737/Admn: Dated Peshawar the 08.06.2005)

C.No. 13(4-10)

GRANT OF GUARDIANSHIP CERTIFICATE AT SUB-DIVISIONAL HEADQUARTERS

I am directed to refer to the subject noted above and to say that it has come to the notice of Hon'ble the Chief Justice that the Courts at sub-divisional Headquarters do not issue guardianship certificates which result in hardships to the litigant public who had to come to courts at district headquarters for the purpose.

Attention is invited to this Court letter No. 3046-66/Admn dated 11.03.2003 (C. No. 4(4-1), pg No. 296 Judicial Estacode) which clarifies the legal position vis-à-vis the jurisdiction of Family Courts in the subject issue.

You are, therefore, once again asked to follow the aforesaid instructions and necessary measures be taken to ensure that one family court at tehsil headquarters be entrusted with the business of issuing guardianship certificate.

(PHC letter No.10293-10317/Admn Dated Peshawar, 19th October, 2007)

C.No. **14**(4-10)**TRAFFIC MAGISTRATES**

I am directed to refer to the subject noted above and to say that it has come to the notice of this court that in some districts no magistrate has been designated to deal with traffic offences.

You are, therefore, requested to check the position in your district and get it ensured that a magistrate is designated for the purpose under intimation to this court. The court house of such magistrate should also bear the plate with such designation in order to make it known to the public.

(PHC letter No.1640-63/Admn Dated Peshawar, 03rd February, 2010)

C.No. **15**(4-10)**EQUALIZATION OF PENDENCY**

I am directed to refer to the subject noted above and to say that equalization of pendency and equal distribution of cases amongst different courts at a station is the prime responsibility of District & Sessions Judge and Senior Civil Judge. Disparity of number of cases amongst different courts causes multiple hardships for concerned presiding officers as well as the litigant public. Such distribution is also a requirement of recently launched DPEP.

You are, therefore, required to evolve a mechanism to ensure that cases are distributed amongst different courts and timely steps are taken whenever balance is disturbed.

(PHC letter No.2646-95/Admn Dated Peshawar, 20th February, 2010)

C.No. **16**(4-10)**DETERMINATION OF SUCCESSOR COURTS**

I am directed to refer to the subject noted above and to say that the determination of successor courts, both Civil and Criminal, becomes a maze, both for litigants as well as the Courts, when the original Court is abolished due to administrative expediencies. This problem has multifaceted complications like the allocation of cases when remanded back, execution of orders, maintenance of record of the abolished Court,

review proceedings, proceedings u/s 12(2) C.P.C and the like. The law has an in built mechanism for overcoming the problem which is rarely resorted to. Section 559 of Criminal Procedure Code, 1898 clearly lays down that Sessions Judge of a sessions division shall determine by order in writing the Court that shall be deemed to be successor in office in such situation. Similarly section 15 of West Pakistan Civil Courts Ordinance, 1962 fully empowers a District Judge to distribute cases amongst the Civil Courts which power does encompass the determination of successor Civil Court for the above mentioned purposes. Such determination of successor courts shall alleviate the agonies of litigants public and shall also be helpful in smooth administration of the Courts. It is, therefore, desired that whenever a Court (Civil or Criminal) is abolished, the District & Sessions Judge should invariably determine the successor Court in writing.

This directive may be circulated amongst all the Judicial Officers under your control.

(PHC letter No.3257-3281/Admn Dated Peshawar, 02nd March, 2010)

SECTION-11
(JUDGMENTS, ORDERS AND DECREES)

C.No. 1(4-11)

**INDICATION OF CIVIL POWERS BY JUDICIAL OFFICER
WHILE DECIDING A SUIT, APPEAL OR OTHER
PROCEEDING**

I am directed to address you on the subject and to say that some Judicial Officers especially Civil Judges invested with third class powers do not indicate and disclose the powers with which they are invested. This practice, being most irregular and against the letter and spirit of Rule 14 Chapter 11-A of the High Court Rules and Orders Vol: I, must be stopped forthwith. Rule 14, as aforesaid, is reproduced below for ready reference:-

“14- Every Judicial officer hearing or deciding a civil suit, proceeding or appeal is responsible that the record and the final order of judgment and the decree in civil suit, proceeding or appeal shall disclose the civil powers which such officer exercised in hearing or deciding such suit, proceeding or appeal”.

(PHC letter No. 5845-5914/Admn: Brh: dated Pesh: the 27th March, 1983)

C.No. 2(4-11)**CITATION OF LAW AND REASONS IN SUPPORT OF
JUDICIAL DECISIONS.**

I am desired to address you on the subject and to say that in our legal system judgments/orders are required to be recorded and pronounced strictly in accordance with law and the facts on file.

Every such order, judgment and decision in order to be speaking one must further contain reasons, therefore, duly supported by statutory provisions and judicial pronouncements with which your libraries are replete.

The Hon’ble Chief Justice and Judges have been pleased to observe that some Presiding Officers of subordinate courts do not cite any authority

in support of their decisions which creates an impression that they ignore the law and follow their own subjective opinion in deciding cases besides exposing their decisions to serious criticism of the bar and the litigant public. Citation of law/authority, on the contrary, not only inculcates habit of study, capacity for understanding and exposition of the legal and factual points but it also instils confidence in members of the bar and litigants that the decision has been made strictly legally, purely judicially and not arbitrarily.

In view of the above, I am to request you that in future every judicial order, judgment and decision shall be supported by citation of the law/authority besides the reasons therefor.

(PHC letter No.5915-5984 / Admn: Brh: Dated Pesh: the 27th March, 1983)

C.No. 3(4-11)

DECREE IN PREEMPTION SUIT

I am directed to address you on the subject cited above and to say that the Hon'ble Chief Justice of this Court while disposing of revision petitions found regretfully that both the trial and appellate courts did not draw up decrees in preemption suits in accordance with the mandatory provisions of Order XX Rule 14 Code of Civil Procedure 1908 which being detailed in a nature and unambiguous, calls for no further elaboration, Rule 6 of the aforesaid order goes on to say, inter alia, that, "the decree shall agree with the judgment" but in preemption suits it seldom agrees with the judgment. Likewise rule 3 part-C Chapter 11 of the High Court rules and order Vol:IV, reproduced below for ready reference and guidance, requires the courts to study order XX rule 14. referred to above, very carefully:-

"3- The provisions of Order XX rule 14, Code of Civil Procedure; relating to the contents of the decree in preemption suit should be carefully studied. Sub-rule (2) relating to the adjudication of rival claims to preemption is new and requires special attention" In view of the above I am, therefore, desired to advise and direct you that:-

- (1)- the aforesaid provisions of law shall be carefully studied;
- (2)- the decree in a preemption suit shall agree with the judgment;

- (3)- and shall further be drawn up strictly in according with rule 14 order XX. Code of Civil Procedure, 1908.

Note:- The contents of this communication shall also be brought in notice of all officials of your court especially the Muharrirs preparing decree sheets for compliance. The decree sheets in no case shall be signed mechanically. The Presiding Officer of the court before signing it shall satisfy himself that it agrees with the Judgment and drawn up rightly and correctly.

(PHC letter No.10825-10884/ Admn:Brh: Dated Pesh: the 8th May, 1983)

C.No. 4(4-11)

**MENTION OF THE NAME OF PRESIDING OFFICER IN THE
HEADING OF THE BAIL ORDER PASSED BY HIM**

I am directed to say that it has come to the notice of Hon'ble the Chief Justice that almost, all the Sessions Judges/ Additional Sessions Judges, while recording orders in bail matters, do not mention their names in the headings of the orders. This practice is exceptionable, as the name of the Sessions Judge / Additional Sessions Judge cannot be ascertained at the time of hearing of the bail application by this Court.

I am, therefore, to request that while recording order in a bail matter, you should mention your name invariably in the heading of the order.

(PHC letter No. 62 – 90 / Admn: Brh: Dated. Pesh:, the 10th January, 1990)

C.No. 5(4-11)

**MENTION OF THE NAME OF THE PRESIDING OFFICER IN
THE HEADING OF THE ORDER / JUDGEMENT PASSED BY
HIM**

I am directed to say that it has come to the notice of the Honorable Chief Justice, that, almost all the Judicial Officers, while recording orders/ judgments, do not mention their names in the heading of the

orders/judgments. Resultantly, it becomes difficult to ascertain the name of the judicial officer at the time of the hearing of the cases by this court. I am therefore, to request that while recording orders/judgments in cases, you should mention your name in the heading of the orders / judgments without fail.

(PHC letter No.7165-7255/ Admn: Brh: Dated Pesh: the 11th Nov: 1992)

C.No. 6(4-11)

COURT PROCEEDINGS

I am directed to inform you that while inspecting the civil Courts at Mansehra, Hon'ble the Chief Justice noted that in some cases Orders are written in the hand of the Readers of the court and are then signed by the Presiding Officers. This practice on the part of the presiding Officers has not been approved and the Hon'ble Chief Justice has taken a serious note of the matter.

I am, therefore, directed to state that in future all the Orders where necessary shall be written, in the hand writing of the Presiding Officers. Similarly in case of evidence it shall be recorded to the dictation of the Presiding Officers. Moreover, if a Presiding Officer has to record the evidence in vernacular then such evidence shall be recorded in their own hand. Further, I am also directed to emphasize that no Order or Judgment in the hand of the Reader shall be accepted. All the Judicial Officers are, therefore, warned to be careful in the conduct of the Judicial Proceedings.

(PHC letter No. 5171-5270 Admn. Brh.Dated Peshawar the 3rd July, 1993)

C.No. 7(4-11)

WRITING NAME UNDER SIGNATURE

I am directed to say that it has been noticed that Presiding Officers of Courts avoid to mention their names under their signatures as well as in the heading of judgment/Order. This results into inconvenience in ascertaining the name of the scribe.

Accordingly, it is directed that the name of a Presiding Officer should invariably appear under his signature where-ever it occurs while recording evidence, judgment or final order.

(PHC letter No.4733-4832/Admn.Brh.Dated Peshawar the 14th June, 1997)

C.No. 8(4-11)

WRITING NAME UNDER SIGNATURE

I am directed to invite your attention to this Court's letter No.4733-4832/Admn: Brh: dated 14.6.1997 and to say that instances have come to the notice of this Court indicating non compliance of the directions contained in the aforesaid letter.

You are, therefore, reminded for strict compliance of these directions in future.

(PHC letter No.9604-9703/Admn: Brh: Dated Peshawar, the 19-11/1997)

C.No. 9(4-11)

WRITING NAME UNDER SIGNATURE.

I am directed to refer to this Court's circular letter No. 4733-4832/Dated 14.6.1997 and to say that instances have come into the notice of the Hon'ble Judges of this Court that the subordinate Courts have not complied with the instructions contained therein. This practice has not been viewed with appreciation.

In view of the above, I am directed to insist upon you to write your name on the Heading of every judgment or Order and under your signature. In case of non-compliance strict action will be taken.

(PHC letter No. 7235-7385 Dated Peshawar the 30th September, 1998)

C.No. 10(4-11)

WRITING NAME UNDER SIGNATURES

I am directed to invite your attention to this Court letter No. 4733-4832. dated 14.6.1997, on the subject noted above, and to say that in spite of clear directions, instances are still coming to the notice of this Court that quite a number of Judicial Officers omit to mention their names under their signature. Needless to say that the omission is causing difficulty in ascertaining the name of Presiding Officer(s).

I am therefore, to direct that all the judicial officers should invariably specify their names at the conclusion of the Judgment under their signature.

(PHC letter No. 4733-4883 Admn Dated Peshawar the 27th May 1999)

C.No. 11(4-11)

TYPING OF JUDGMENTS

I am directed to say that in a recent judgment delivered by a Division Bench of this Court in Criminal Misc. No. 1269/98, the Hon'ble Judges have been pleased to make the following observations:-

“We may observe with regret that the learned Sessions Judge without applying his mind and looking into the legal aspect of the case dismissed the bail cancellation application through order dated 24.8.1999 written in his own hand-writing which is hardly legible. The Registrar of this Court is directed to issue a memo to the learned Judges of the subordinate courts to have their judgments typed as the type-writers are available with almost all the judges.”

2. I am accordingly to ask for rigid compliance of the above directive.

(PHC letter No. 11-110 Dated Peshawar the 4.1.2000)

C.No. 12(4-11)

COURT PROCEEDINGS

I am directed to refer to this Court letters # 5171-5270/Admn. Branch, dated 3rd July, 1993, 4733-4832/Admn. Branch, dated 14th June, 1997 and 9604-9703/Admn Branch, dated 19th November, 1997 and to state that during inspection of Courts it has been noticed that the instructions contained in the above mentioned letters are not being strictly followed. I am, therefore, to direct that

- i. Henceforth, order sheets in all the cases shall be recorded in the hand-writing of the Presiding Officer and the order so recorded shall bear the seal of the Court and name of Presiding Officer under his initial/signature.
- ii. The evidence and judgment, if not type-written, shall be written in the hand writing of the Presiding Officer and his name, seal and signature shall follow as above.
- iii. In no case shall the recording of the evidence be left to the Reader or Steno of the Court and it must be recorded in the presence and hearing of the Presiding Officer.

The above instructions may please be communicated for strict compliance to all the Judicial Officer of the District under your administrative control, and their acknowledgement of receipt may also please be forwarded to this Court at the earliest.

(PHC letter No.7148-7171/. Dated Peshawar, the 04/07/2002)

C.No. 13(4-11)

CHIEF JUSTICE DIRECTIVE # 8
(PROPER REGISTRATION OF APPLICATIONS/PETITIONS)

I am directed to communicate the following directive issued by the Hon'ble Chief Justice:-

“Instructions be issued to all the Judicial Officers not to record any order on applications, requiring judicial disposal. They be required to

register each and every such application/petition, to maintain proper order sheet and to dispose it of through a Judicial Order”.

(No. 681-704/MIT Dated 24th April, 2004)

C.No. 14(4-11)

TIMELY SIGNING OF THE JUDGEMENTS

I am directed to say that during His Lordship’s visits to various Courts, in the Province, Hon’ble the Chief Justice has noticed with concern that most of the Judicial Officers do not write/sign judgments while announcing the same. Section 367 of the Code of Criminal Procedure 1898, Order 20, Rule 3 of the Code of Civil Procedure, 1908 and Rule 14 of the West Pakistan Family Courts Rules, 1965, provide that the judgment shall be dated and signed by the Presiding Officer in open Court at the time of pronouncing it. Similarly, section 32, Sub-section 4 of the Small Claims and Minor Offences Courts Ordinance, 2002 (Ordinance # XXIV of 2002), provides that the Court shall deliver to the parties the copies of judgment and decree on the date of pronouncement of judgment. Non-compliance of the aforesaid provisions may entail serious legal implications, resulting in miscarriage of justice.

Hon’ble the Chief Justice has, therefore, been pleased to direct that the aforesaid provisions shall henceforth be complied with in letter and spirit and any negligence/delinquency, found on the part of the Judicial Officers in this behalf shall be dealt with sternly in future.

I am further directed to request you to circulate the above instructions amongst all the Judicial Officers of your district for compliance.

(PHC letter No. 9527-50/Admn: Dated 17.08.2005)

C.No. 15(4-11)

TIMELY SIGNING OF THE JUDGMENTS

During recent inspections by the Members of the Inspection Team of this Court, it has been noticed that most of the courts do not follow the directions issued by this Court on the subject, the last one vide letter #

9527-50/Admn dated 17th August, 2005. Hon'ble Chief Justice has taken a serious view of non-observance of directions of this court.

I am, therefore, directed to convey **final warning** that, as required under judgment shall invariably be written before announcement and any Judicial Officer henceforth found, on inspection or otherwise, to have not done so, shall expose himself/herself disciplinary proceedings, besides immediate transfer to some far flung area and subsequent reflection as to his/her efficiency in the PER.

The above warning may please be circulated among all the Judicial Officers of your respective Districts for information and compliance.

Receipt may please be acknowledged by all.

(PHC letter No. 10146-10169/Admn Dated Peshawar, 09th December, 2006)

C.No. 16(4-11)

JUDGMENT – ORDER ASSESSMENT FORM

One of the effective ways of supervision and control over courts is the judicial scrutiny of the work of Courts by Courts of appellate, revisional and constitutional jurisdiction is to examine the judgments of the former by the later and point out the errors, excesses or infirmities therein and judge the level of efficiency and integrity. But unfortunately this important tool is not being utilized since long which has resulted in free hand to judicial officers who dare decide cases on considerations other than judicial.

In order to curb this ever expanding phenomenon and to improve supervision and control over courts, his lordship the Chief Justice has desired to make use of judicial scrutiny of judgments for this purpose as well. An assessment Form has been devised to this effect which is sent herewith for circulating it amongst all the appellate / revisional courts under your control. Such courts are expected to fill in the Form whenever any negative attribute as listed in the Form is noticed while disposing of an appeal, revision or any other petition.

DISTRICT COURTS, KHYBER PAKHTUNKHWA

JUDGMENT-ORDER ASSESSMENT FORM

(Reference: rule 4, Chapter-1-A, Vol IV of the High Court Rules and Orders)

Court of Appellate or Revisional jurisdiction examines every judgment before it to see whether to maintain, reverse or modify it. To make this exercise two-fold, it is desired that the said judgment be also examined for assessing integrity of the judge delivering it. If in view of a judge, exercising Appellate or Revisional jurisdiction, the judgment examined is found to indicate any of the negative attributes listed below, it, after being marked accordingly, is to be sent to the Registrar of the High Court together with the judgment examined and the one delivered by such judge for further necessary action, and communication to the concerned Judicial Officer.

Judgment/Order written by:

Mr. _____ Senior Civil Judge/Civil
Judge/Judicial Magistrate

Station _____

In the matter of:

.....Versus.....
.....

Case NoInstitution Decision
.....

Assessed in:

Appeal/Revision/Petition/_____ No. _____ Date of Decision

Assessment

Application of Law	Proper	Improper
Writing Skill	Upto the mark	Below Mark
Appreciation of Evidence	Natural	Laboured
Judgement/Order	Balanced	Biased
Whether consistent with his previous judgment/order, if any.	Yes	No

Assessed by:

Mr. _____ **Court** _____

Signature _____ **Date** _____

(PHC letter No.9557-81/Admn Dated Peshawar, 24th May, 2010)

C.No. 17(4-11)

JUDGMENT – ORDER ASSESSMENT FORM

I am directed to refer to this court letter No. 9557-81/Admn dated 24-05-2010 on the subject noted above and to say that so far not a single Assessment Form has been received from District Judiciary exercising appellate or revisional powers regarding the performance of judges in terms of the negative attributes. Either everything has become alright or the learned judicial officers deliberately sweep the dirt under the heavy carpet of expediency. The latter appears to be closer to the truth because still

complaints are pouring in as to the performance of certain judges in terms of integrity.

I am, therefore, directed to remind you of the importance of the Assessment Form and that any failure on the part of appellate/revisional court in this regard may reflect adversely and call for unfavorable entry in PER of the defaulting officer whenever noticed by this Court on judicial or administrative side. This directive may be circulated amongst all the appellate/revisional courts of your district.

(PHC letter No.19412-35/Admn Dated Peshawar, 26th November, 2010)

SECTION-12 (FINES AND FEES)

C.No. 1(4-12)

MAL-PRACTICE IN THE SALE AND PURCHASE TRANSACTIONS OF IMMOVABLE PROPERTIES

I am directed to say that it has been complained that generally the people got into agreement with each other, and obtain consent decrees from the Civil Court, which causes great loss to Government in the shape of saving of court fee stamp, by them. The Law on the point is clear, and in order to curb the evil, I am to request that all the Civil Courts should take into consideration the provision of Rule 3 of order XXIII of the Civil Procedure Code, and take themselves sure, and satisfied that the agreement, and compromise is legal, and is not effected to avoid provision of Law.

(PHC letter No.4606-18/ Dated Pesh: the 7th Oct; 1974)

C.No. 2(4-12)

JUDICIAL FINES

I am directed to invite the attention of all the Courts to Vol. IV, Chapter II, Rule 5 and 19 of the High Court Rules & Orders (Criminal) for strict compliance in future.

Under Rule 5 all the Presiding Officers are obliged to check at the close of each day the amount of aggregate realization of fines entered in the register of Judicial Fine against the aggregate of the various receipts of payment of fine issued on that day with the following endorsement in the fine register in his own hand.

“Checked with the aggregate of receipt issued during the day and found correct”

Under Rule 19 the fine realized in a day is to be deposited in the Government Treasury on the same day except the Courts situated at a distance from a Government Treasury. The Courts situated at a distance from Government Treasury will deposit the fines on the 25th day of each

month and oftener if the amount received since the last payment exceed Rs. 100. In all the fine so realized will be taken charge by the Nazir, Assistant Nazir or other officer performing the duties of Nazir depositing in the Government Treasury.

If certain amounts of fines realized on the previous day were not deposited on that day the closing balance of the previous day shall be brought forward in the summary.

I am, further directed to ask you to circulate these instructions among all the Judicial officers of your district.

(PHC letter No. 7391-7414/ Admn: Dated Peshawar the 28/6/2003)

C.No. 3(4-12)

PROCESS FEE

I am directed to refer to the subject noted above and to say that it has come to the notice of this Court that the courts do not charge process fee in all the civil cases irrespective of the value of the subject matter or relief claimed therein.

The actual legal position is that the process fee is very much part of court fee as charged under the Court Fees Act, 1870 and a fortiori does fall within the ambit of NWFP Court Fees (Abolition) Ordinance, 1978, as interpreted by this Court in a case entitled “Shahzullah v/s Syed Shahabuddin” reported in PLD 1979 Pesh: 33. The ratio of this case was further approved by august Supreme Court of Pakistan in a case entitled “Ajab Khan v/s Messers Karim Industries Ltd” reported in 1988 SCMR 1660. After the promulgation of NWFP Court Fees (Abolition) Ordinance, 1978, only those civil cases have been exempted from the court fee (including process fee), the value of subject matter whereof, or relief claimed wherein does not exceed twenty five thousand rupees and no blanket exemption is accorded by the said law.

You are, therefore, asked to ensure the compliance of the said law in letter and spirit by getting the process fee charged on civil cases, the value of subject matter whereof or relief claimed wherein exceed twenty five thousand rupees. This directive may be circulated amongst all the judicial officers of your district for compliance.

(PHC letter No.508-528/Admn Dated Peshawar, 11th January, 2010)

C.No. 4(4-12)

COURT FEE STAMPS ON ATTESTED COPIES

I am directed to refer to the subject noted above and to say that after the promulgation of NWFP Court Fees (Abolition) Ordinance, 1978, no court fee, in any form, can be charged in all criminal cases and in cases of civil nature, the value of the subject matter whereof, or relief claimed wherein, does not exceed twenty five thousand rupees.

The affixation of court fee stamps for the purpose of obtaining attested copies verily fall within the ambit of Court Fees Act, 1870, and pari ratione, the said Ordinance as further interpreted by a Single Bench of this Court in a case entitled “Shahzullah v/s Syed Shahabuddin” reported in PLD 1979 Pesh: 33. The ratio of this case was further approved by august Supreme Court of Pakistan in a case entitled “Ajab Khan v/s Messers Karim Industries Ltd” reported in 1988 SCMR 1660.

During the recent inspections of some copying agencies of the Province by this Court, it has been observed that the court fee in the form of court fee stamps is still being charged for providing attested copies in all criminal as well as civil cases and the applications for permission to get attested copies are also being stamped with court fee. It has also been observed that applicants are also being burdened with charges of photo copying in addition to court fee stamps. This practice is not in accordance with legal position as explained above.

After the promulgation of the Ordinance *ibid*, such fee cannot be charged in all criminal cases and those civil cases, the value of the subject matter whereof, or relief claimed wherein, does not exceed twenty five thousand rupees.

The inspections so conducted also reveal that the procedure as laid down by rules for copying agency is also not strictly adhered to which results in multiple irregularities such as delayed supply of copies, delayed receipt of court files, and so on & so forth. Needless to mention that such irregularities have far reaching legal repercussions such as filing of cases, appeals etc within time or otherwise at the mercy of copying agency.

You are, therefore, asked to ensure the compliance of the legal position as discussed above, so that the benefit of the laws, *pro bono publico*, may be extended to the public in general and litigants in particular.

(PHC letter No.482-505/Admn Dated Peshawar, 11th January, 2010)

C.No. 5(4-12)

SHERIFFS' PETTY ACCOUNT – NEWSPAPERS CHARGES AND COMMISSION FEE

I am directed to refer to the subject noted above and to say that during inspection of various courts by this Court, it has been observed that certain sums required to be deposited in Sheriffs' Petty Account are not deposited in the account rather kept with the staff of the court which is unauthorized by rules on the subject. The attention of all concerned is drawn to Schedule 'A' of Sheriffs' Petty Accounts Rules as contained in chapter 8-D of volume-II of High Rules and Orders. The Schedule includes, inter alia, the advertisement charges of newspapers and commission fee. This practice also shows the lack of supervision by officer in charge of the agency.

You are, therefore, requested to ensure that the subject rules are complied with so that any possible financial defalcation is checked and curbed which is the true spirit of the rules on the subject. The officer in charge of the agency and District & Sessions Judge as inspecting authority are expected to make periodical checking & inspection as provided by the rules. The directive may be circulated amongst all the Judicial Officers under your control.

(PHC letter No.2098-2121/Admn Dated Peshawar, 11th February, 2010)

C.No. 6(4-12)

LIMIT OF SENTENCE IN DEFAULT OF PAYMENT OF FINE OR COMPENSATION

I am directed to refer to the subject noted above and to say that during his lordship's, the Chief Justice, visits to various jails in NWFP, it has been noticed that the law on the subject is not properly applied by some Courts, while awarding punishment in default of payment of fine or compensation. The relevant provisions of law on the subject are section 66 & 67 of Pakistan Penal Code, 1860 and section 544-A Criminal Procedure Code, 1898. Under section 65 of PPC, the maximum term of imprisonment in default of payment of fine is one fourth of the term of imprisonment which is maximum fixed for the offence. Under section 67 of PPC the scale of two, four and maximum six months is fixed in offences punishable for fine only, having regard to the quantum of fine. Under section 544-A

Cr.P.C, the maximum term of imprisonment to be awarded is six months in case of default of payment of compensation.

All the courts awarding sentence in default of payment of fine or compensation are directed to strictly follow the relevant provisions of law as they are. This directive be circulated amongst all the Judicial Officers under your control.

(PHC letter No.5528-87/Admn Dated Peshawar, 25th March, 2010)

SECTION-13 (ADJOURNMENTS)

C.No. 1(4-13)

SINE DIE ADJOURNMENTS

I am directed to say that it has come to the notice of the Chief Justice and Judges that certain subordinate Judges are in the habit of adjourning certain cases sine die, with the result that most of the old and difficult cases are shifted to a cold-storage, and the poor litigants have to wait for justice, so delayed indefinitely.

The Chief Justice and the Judges further direct that this practice, which is nothing short of dilatory and exceptional, should be put to an end once for all.

(PHC letter No. 11714-84 / Admn: Brh: Dated Pesh: the 10th Nov: 1980)

C.No. 2(4-13)

INSTRUCTIONS (PARCHA PESHI)

In supersession of this court's letter No. 10789-10818, Admn: Brh: Dated 29-11-1981, I am directed to say that the Hon'ble chief Justice has been pleased to order that in future the purcha peshi should be in the following printed forms:-

S.No.....,	S.No.....,
Suit No.....,	Suit No.....,
Dated.....,	..... Vs.....,
	Adj to.....for.....,
	Dated.....,

Signature of Presiding Officer

I am further directed to say that each purcha peshi should be numbered serially and the same should be entered in a printed register prepared for the purpose.

These instructions should be communicated to subordinate Courts under your control with the directions that the above method may please be adopted, under intimation to this Court at an early date.

(PHC letter No.8329-8398/Admn: Brh.Dated Pesh: the 19th March, 1983)

C.No. 3(4-13)

INSTRUCTIONS REGARDING “PARCHA PSHI”

I am directed to address you on the subject and to say that it has been brought to the notice of this Court that the instructions contained in this Court letters No. 8329-8398 / Admn: Brh: Dated: Peshawar, the 19 March, 1983 , No. 9112-9182 / Admn: Brh: Dated Peshawar, the 7th April, 1983 and No, 1656-85 / Admn: Brh: Dated Peshawar, the 6th February, 1984 respectively are not being complied with. The idea in issuing these instructions was that Readers of the courts should be ordered to give parcha peshi to the litigants appearing both in Civil and Criminal cases on the prescribed form as referred to above but despite it they are not complying with the same. Hon’ble the Chief Justice has seriously viewed it.

2. In view of the above, I am directed to request that all the Readers shall be made to issue Parcha Peshis to the litigants on the prescribed printed forms and a certificate to the effect that the ‘Parcha Peshis’ are issued on the printed prescribed forms be sent to this Court at your earliest convenience.

3. The Superintendent General of this Court may ensure that a copy of this communication is sent to the Presiding Officer of each Court by name.

(PHC letter No. 36-105. Dated 5.1.1986)

C.No. 4(4-13)

DETAILS ABOUT ADJOURNMENT OF CIVIL / CRIMINAL CASES FIXED FOR ARGUMENTS

It has come to the notice of this Court that normally adjournments in cases, fixed for arguments and order are granted on very flimsy grounds in disregard of the High Court Rules and Orders on the subject. I am therefore, to say that whenever a case fixed for arguments or Order has to be adjourned it should be adjourned to the next day, or, if not possible, to a very near date.

Further, you are also requested to note that while submitting your monthly statements, in future, you should submit a separate detailed statement regarding all the cases both Civil and Criminal , fixed for arguments and order in a month, and adjourned on account of any reasons recorded for the purpose.

I am directed to stress the importance of the above instructions, which requires the earnest attention of every Judicial Officer.

(PHC letter No. 811-910 / Admn: Brh: Dated Pesh: the 26th January, 1992)

C.No. 5(4-13)

UNNECESSARY ADJOURNMENTS IN CASES OF URGENT NATURE.

I am directed to say that the Hon'ble Chief Justice has noted with great concern that in many cases the subordinate Judicial Officers pass ad-interim orders both in civil and criminal cases particularly in pre-arrest bail applications and temporary injunction matters, and thereafter grant frequent adjournments on minor pretexts before passing final orders / judgments.

The above practice has been disapproved time and again by this Court because it undermines the image and functioning of the Subordinate Judiciary in the eyes of litigants in particular, as well as the general public.

I am , therefore, to emphasise that the unnecessary adjournments pointed out above are to be avoided at all costs unless compelling circumstances in rare cases so warrant.

It is hoped and expected that the above instruction would be followed by all concerned in letter and spirit so that this Court is not constrained to take action against any defaulters.

(PHC letter No. 5578-5699 / Admn: Brh: Dated Pesh: the 16th Sep: 1992)

C.No. 6(4-13)

UNREASONABLE LONG ADJOURNMENT IN CASES OF UNDER-TRIAL PRISONERS

The Hon'ble Chief Justice, while deciding B.A No. 1606/2008 titled "Jawad Vs the State and another" has taken serious notice of unreasonable long dates of around three months in the case of an under-trial prisoner by the Judicial Magistrate, apparently due to lack of information that the accused facing trial was in custody, besides proving the fact that diary is not maintained by the Judicial magistrates but by their Readers, which is, indeed, a source of unnecessary delay in the disposal of cases.

I am, therefore, directed to issue instructions to all the Judicial Magistrates functioning in the Province, through their District & Sessions Judges/Zilla Qazis, that, henceforth, if any of the magistrate is found giving a long date, which is unreasonable, he may be proceeded against for misconduct under the NWFP Government Servants (Efficiency & Disciplinary) Rules, 1973.

These instructions be accordingly circulated and acknowledgement thereof be sent to this Court, at the earliest.

(PHC letter No. 1230-1253/Admn Dated Peshawar, 02nd February, 2009)

SECTION-14
(DISTRICT COMMITTEES)

C.No. 1(4-14)

DISTRICT BENCH-BAR LIAISON COMMITTEE

I am directed to refer to the subject noted above and to state that the Honourable Chief Justice has been pleased to direct that the subject committee comprising the following members is to be formed and functional, **under intimation to the undersigned**, by 2nd week of June, 2002, to hold meetings at least once in three months:

1. One Additional District & Sessions Judge;
2. Senior Civil Judge;
3. One Civil Judge;
4. Three advocates.

2. The committee shall work formally for the achievement of growth and development under the supervision of the Provincial Steering Committee with the following amongst other, objects, to:

- Promote awareness in the litigant public;
- To observe discipline and decorum in courts;
- Persuade the lawyers to accept that much cases as they can conveniently handle within a reasonably short period;
- Advise the lawyers to regularly attend the courts and instruct their clients to avoid dilatory tactics in order to ensure inexpensive and expeditious justice as envisaged by the principles of policy enshrined in Article 37(d) of the constitution;
- Determine the location of judicial complex to be constructed on the availability of funds;
- To study the subject of Rule of Law, needs of the Bar and Bench, etc.

(PHC letter No.DR:/(ADMN/HC/43-A-3/2002 Pesh: the 5TH June, 2002)

C.No. 2(4-14)

DISTRICT BENCH BAR LIAISON COMMITTEE

I am directed to refer to the subject noted above and to the state that Hon'ble Chief Justice of this Court has been pleased to direct in partial modification of this Court's letter No. **D.R/(ADMN)/HC/43-A-3/2002** dated : **5th June, 2002**, that the subject Committees be re-constituted in the following manner:

- | | | |
|----|---|----------|
| 1. | District & Sessions Judge | Chairman |
| 2. | One Addl: District & Sessions Judge | Member |
| 3. | Senior Civil Judge | Member |
| 4. | One Civil Judge cum Judicial Magistrate | Member |
| 5. | President, District Bar Association | Member |
| 6. | General Secretary, District Bar Association | Member |
| 7. | President, Sub-Divisional Bar Association | Member |

The committee shall work for the achievement of the following objectives under the supervision of this Court:

1. to promote awareness in litigant public;
2. to promote observance of discipline and decorum in Court;
3. to persuade Lawyers to accept that much cases as they can conveniently handle within a reasonably short period.
4. to advise the Lawyers to regularly attend the courts and instruct their clients to avoid dilatory tactics in order to ensure inexpensive and expeditious justice as envisaged by the principles of policy enshrined in Article 37 (d) of the Constitution;
5. to promote the study of the subject of law; and
6. to further the cause of creation of healthy and friendly working relation between Bench and Bar.

The committee shall meet at least once in three months.

(PHC letter No AJP/HC/43-A-3/2003/D-1 dated 18-8-2004)

C.No. 3(4-14)

CITIZENS COURTS LIAISON COMMITTEE

I am directed to refer to the letter No. F 2 (12)/2002-AJP. Government of Pakistan Ministry of Law, Justice and Human Rights (Project Management Unit) Islamabad, the 27th June, 2002 on the subject noted above and to state that as a means of establishing an institutionalized interface between the citizens and the formal judicial systems, it is proposed to create Citizen –Courts Liaison Committee (CCLC) at each district headquarter. This intuitional mechanism is designed to facilitate the public in accessing the judicial system in a friendly and service-oriented environment.

2. The Hon'ble Chief Justice has, therefore, been pleased to direct that District & Sessions Judge is to be the Chairperson of the Committee at the District level and also the appointing authority of its non official members. You are, therefore, required to constitute the subject committee, comprising of the following members, under intimation to this office.

1.	District and Sessions Judge	Chairperson
2.	President, District Bar Association	Member
3.	Speaker Zilla Assembly / Naib Nazim	Member
4.	EDO (Law)	Member
5.	Zilla Mohtasib	Member
6.	Representative of women community	Member
7.	Community Liaison Facilitator.	Secretary

The tenure of office of non-official member of the committee may be fixed at two years.

To be appointed by the District and Sessions Judge from a panel of three lady councilors to be submitted by the office of the Zilla Nazim.

3. The following core functions are entrusted to district CCLC:

- To setup and maintain an Information Kiosk in district court premises for the guidance of the public regarding all matters pertaining to different courts;
- To promote legal literacy;

- To guide people regarding dispute prevention measures, alternate dispute resolution (ADR) and other such like avenues:
- To register, report and address citizen's grievances regarding the functioning of the judicial system in the District:
- To provide a channel for the citizens and other stakeholders to send suggestions for reform and improvement:
Provision of specific legal advice to litigants will not be the functional responsibility of the District CCLC.

4. The Committee would, however, **be made functional only on the availability of infrastructure** (for staff SNE has been submitted to the Finance Department and for accommodation Works and Services Department has been asked to prepare Umbrella (PC-I for the same) so that the desired results may be achieved.

(PHC letter No. DR: (ADMN/HC/43-A-3/2002 Pesh: the 20TH Sep: 2002)

C.No. 4(4-14)

MONTHLY MEETING OF JUDICIAL OFFICERS

I am directed to circulate the following directive of Hon'ble the Chief Justice for strict compliance.

“The District & Sessions Judges are required to convene meeting of all the Judicial Officers of the District at least once a month, preferably before the meetings of District Criminal Justice Co-ordination Committee and Bench Bar Liaison Committee, so as to develop interaction and discuss local issues concerning Courts”.

Copy of the minutes of such meetings be regularly sent to this office.

(PHC letter No.AJP/HC/43-A-37/2004 Peshawar, the 21st April, 2004)

**SECTION-15
(ADVOCATES)**

C.No. 1(4-15)

FEE CERTIFICATE

It has come to the notice of the learned Judges that the fee certificates filed by the counsel in civil appeals, civil revisions and writ petitions etc, are not on the form prescribed by Rules 17 & 18, Chapter 6-1, High Court Rules and orders, Vol. V, which form is given in Rule 18 of the same book, and as such, these certificates do not fulfill the requirement of the rules. The learned Judges have, therefore, been pleased to order that if the fee certificates filed by the counsel in future are not on the prescribed form, they will not be allowed any counsel fee.

Copy of the prescribed form is attached for ready reference.

(PHC letter No.4450-56 / Judl: Dated Peshawar the 6-5-1969)

C.No. 2(4-15)

SECTION OF LAW TO BE GIVEN

Honorable the Chief Justice Peshawar High Court, Peshawar, has been pleased to Order that in the future all the advocates should invariably give the sections of Law under which relief is sought in the heading of the applications for bail OR cancellation thereof which are to be filed by the learned counsel on behalf of their clients in Courts.

(PHC letter End: # 13457-506/Admn: Brh: Dated Pesh: the 16th Dec: 82)

C.No. 3(4-15)

ENGAGEMENT OF JUNIOR ADVOCATES

I am directed to address you on the subject and to say that Hon'ble the Chief Justice of this Court has been pleased to direct that all Senior Advocates engaged for conducting murder cases/appeals etc shall also engage one or two junior Advocates for their assistance. Similarly junior

Advocates shall also be engaged by the Senior Advocates in important civil suits / appeals etc. These directions on compliance would not only result in enabling the junior Advocates to follow correctly the law & practice on the one hand but would also enable the Courts in early disposal of the cases and providing prompt justice to the litigants on the other.

2. Hon'ble the Chief Justice has further desired that these directions will be implemented in letter & spirit.

(PHC letter No. 5591-604 Dated: May 30, 1985)

C.No. 4(4-15)

USE OF SEAL BY ADVOCATES

I am directed to bring it to your kind notice that some of the learned members of the Bar are using Seals, which have resemblance with the official seal of the High Court / Sessions Courts.

It may be pointed out that the official seal can only be used by the Courts under Section 26 of the West Pakistan Civil Courts Ordinance, 1962 (Ordinance II of 1962). In other words, use of official seal by the Advocates is not at all permissible under the law and as such the said practice must be stopped forthwith.

You are, therefore, required to direct all the learned members of the Bar to refrain from using such seals in future so as to avoid any confusion.

(PHC letter No. 2789-90 Dated Peshawar the 19.4.1999)

C.No. 5(4-15)

STREAMLINING THE AFFAIRS OF CLERKS OF LEGAL PRACTITIONERS

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, during his recent visits to various districts, has been pleased to observe that the affairs of the Clerks of Legal Practitioners are not properly dealt with by the District Judges in accordance with the

Rules applicable to them, resulting in mismanagement, the ultimate sufferers whereof being the litigant public.

It is, therefore, desired by Hon'ble the Chief Justice to get the matter streamlined by taking appropriate steps in accordance with Chapter 6-J of Vol-V of the High Court Rules & Orders. These steps, interalia, include the exercise of powers by the District Judge under Rule 11 thereof. The observance of these Rules on the part of Bar Associations should be ensured by the District Judges and Bench Bar Liaison Committee can be a useful Forum for the purpose.

(PHC letter No. 4706-4729/Admn Dated 28.04.2004)

SECTION-16
(DISTRICT COURTS ESTABLISHMENT)

C.No. 1(4-16)

TRANSFER OF CLERKS OF COURTS FROM ONE STATION TO ANOTHER

I am directed to address you on the subject noted above and to say that Hon'ble the Chief Justice of this Court has been pleased to observe that the Clerks of Court attached to the District and Sessions Judges would be responsible for all the lapses on their part, and they would also be amenable to transfer from one station to another in case their performance is found below the required standard.

These instructions should be brought to the notice of all concerned officials for strict compliance.

(PHC letter No. 4520-4535/Admn.Brh.Dated Peshawar the 13th June. /1993)

C.No. 2(4-16)

COMPLAINTS AGAINST READERS / STENOS

I am directed to say that complaints have been received suggesting tendency of corrupt practices in the staff of the subordinate Courts. This unsavoury trend indicates lack of supervision and control on the part of Presiding Officers. Needless to say, that the instances of corruption are bringing bad name to the Judiciary as an institution. Therefore, Hon'ble the Chief Justice has been pleased to direct that vigilant eye should be kept on the activities of subordinate staff and appropriate disciplinary action be initiated against those found indulging in such like tactics.

(PHC letter No. 1546- 1696 Dated Peshawar the 29th February,2000)

C.No. 3(4-16)

MAINTAINING OF ATTENDANCE REGISTER

It has come to the notice of the Hon'ble Chief Justice that some of the staff members of the subordinate Courts do not sign the Attendance Register even for the whole month. In such a situation most of the employees are presumed to be either absent from duty or on leave. The dominant impression nevertheless would be that the employees were not on duty. The Hon'ble Chief Justice has seriously viewed this unbecoming attitude and desired that corrective measures be taken immediately.

2)- I am, therefore, to request that the Clerk of Court who is responsible for maintaining/supervising attendance be directed to maintain a proper attendance register, complete in all respects, which shall be produced before the Presiding Officer daily for physical checking. It should also be impressed upon all concerned that violation of these instructions would make the defaulting official liable to disciplinary action under the N.W.F.P. Government Servants (Efficiency and Discipline) Rules, 1973.

(PHC letter No. 7971-8014 Dated Peshawar the 30.10.2000)

C.No. 4(4-16)

CHIEF JUSTICE DIRECTIVE # 15 (CLOSE WATCH ON SUBORDINATE STAFF)

I am directed to communicate the following directive issued by the Hon'ble chief Justice.

“Instructions be issued to all the District and Sessions Judges in particular and all the Judicial Officers in general to have a close watch on the subordinate staff in their day to day business. The Authorities may be required to initiate stern disciplinary actions against the delinquent officials, under intimation to this Court”.

I am further directed to request you to circulate the above directive to all the Judicial Officers of your respective Districts for compliance.

(PHC letter No. 656-79/MIT Dated Peshawar, the 24/04/2004)

C.No. 5(4-16)

PART TIME JOB BY COURT EMPLOYEES

It has been brought into the notice of His Lordship the Chief Justice that some of the employees of the District Judiciary have been working part time with the lawyers, resulting in their unwanted interaction and contacts with the litigants, which in turn affects impartial performance of their official duties as such.

I am, therefore, to ask for preventing all the employees of the District Judiciary from such jobs and, in case any one is found so doing, he may be dealt with according to law/rules.

(PHC letter No. 9300-9323/Admn Dated 01.08.2005)

SECTION-17
(INVESTIGATION AND JUDICIAL REMAND)

C.No. 1(4-17)

**AMENDMENT IN SECTION 173(1) CR.P.C. COMPLIANCE
THEROF**

I have been directed to invite the attention of the Provincial Government to the recent amendments incorporated in Section.173 (1) Cr.P.C. through Act No. XXV of 1992, Copy of the said amendment is enclosed.

2)- The amendments in question have its sacred objectives, particularly, that they have met the long standing demand of the public in relation to the expeditious disposal of criminal cases both at the stages of investigation as well as during the trial. The newly added proviso provides a stipulation that in the event of the non-completion of investigation within a period of 14 days from the date of recording of the FIR, the Officer Incharge of the Police Station shall, within three days of the expiry of such period forward to the Magistrate through the public Prosecutor, an interim report stating therein the result of the investigation made until then and the court shall commence the trial on the basis of such interim report, unless for the reasons to be recorded, the court decides that the trial should not so commence. It has further been provided in the said amendment that while forwarding a report, the SHO shall produce the witnesses in the case, except the public servant, and the Magistrates shall bind such witnesses for appearance before him or some other court on the date fixed for trial. Besides a new provision for the quick disposal of petty cases has been provided in the newly added section 250-A.

3)- Needless to mention that the disposal of a criminal case from the start till its conclusion required meaningful coordination on the part of the investigation /prosecuting agencies as well as the trial and the Sessions Courts. The law has also provided for an effective role for the public prosecutor as against the earlier role of the prosecuting Inspector/Sub-Inspector.

4)- The Hon'ble Chief Justice has therefore emphasized for a strict compliance of the Law referred to above, by all concerned in the public interest. The Hon'ble Chief Justice has further directed that necessary instructions be also issued to the concerned police agencies in the Province,

to the effect that they should strictly adhere to the newly added provision in section 173(1) Cr.P.C. In the context of the above, according to the instructions of the Hon'ble Chief Justice, a Senior Judicial Officer would soon visit some of the Police Stations at Peshawar to check and report about the pendency of the investigation of cases and about the cases in which strict compliance to section 173(1) Cr.P.C. has not been made.

(PHC letter No.2628/ Admn.Br. Dated Peshawar the 10th May, 1993)

C.No. 2(4-17)

INSTRUCTIONS (PRODUCTION OF PRISONERS AT THE TIME OF JUDICIAL REMAND)

I am directed to say that it has come to the notice of this Court that the Prisoners waiting trial are not produced before Courts at the time of obtaining Judicial remand. Such state of affairs on one hand deprived prisoners of their right of audience before Courts authorizing detention and on the other hand, complete freedom to police to defer investigation for indefinite period is allowed. I am, therefore, to request that all the concerned Criminal Courts may be directed to:-

- (i)- ensure presence of accused at the time of remand for affording them an opportunity of hearing.
- (ii)- observe progress in investigation, and
- (iii)- authorize further detention of accused only if considered necessary for completion of investigation.

(PHC letter No. 5374-5395 Dated Peshawar the 23rd July, 1998)

C.No. 3(4-17)

IMPLEMENTATION OF THE DECISIONS OF THE CHIEF JUSTICES' COMMITTEE (TIMELY SUBMISSION OF CHALLAN)

I am directed to say that in the meeting of the Chief justices Committee held at Islamabad on 24th March, 2000, Hon'ble the Chief justice of Pakistan informed the Committee that during hearing of a

criminal case in the Supreme Court it was noted that the challan had not been put in Court even after the lapse of more than months by the prosecution agency which is under the control of Deputy Commissioner concerned to the complete indifference of the Presiding Officer of the Court who had been granting jail remand mechanically all along without having any regard to the plight of the accused who was behind the bars. It was, therefore, decided that the Chief justices of the respective High Courts shall require the following information from the subordinate Courts:-

- 1) The date of registration of the FIR,
- 2) The date of arrest of the accused,
- 3) The date of submission of supplementary challan in the Court, and.
- 4) The date of submission of complete challan in the trial Court, to enable the High Court to see as to whether the statutory provision of putting in challan within 14 days is or is not being complied with. In case of defiance of the statutory provision aforesaid, the High Court should take appropriate action in accordance with law against the delinquent investigating/prosecuting officials/officers, who are found, by and large, instrumental in delaying the cases.

I am, therefore, to request that the requisite information may be obtained and furnished to the liaison Officer (Member Inspection Team) at the earliest.

(PHC letter No. 3011-32 Dated Peshawar the 19.4.2000)

C.No. 4(4-17)

CHIEF JUSTICE DIRECTIVE NO. 22

(TIMELY SUBMISSION OF POLICE CHALLAN / INTERIM REPORT
... FOLLOW UP)

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice, during his recent visits to various Districts, has been pleased to observe that the provisions regarding submission of police report within 14 days & in case of failure of submission of such report within the prescribed period, submission of interim reports are not properly

followed. In order to keep a vigilant watch in this regard, the Magistrates are required to evolve a systemized mechanism for the purpose.

I am, therefore, to ask all the Magistrates to keep chronological record of all the FIRs of their respective police stations and to regularly check the same as a follow up towards the timely submission of Police Reports. Needless to mention that police is required to send the copies of all the FIRs to concerned Magistrates under Section 157 Cr.P.C read with Rule 24.1 and 24.5 of Chapter XXIV of the Police Rules, 1934.

I am further to request you to please circulate the above directive amongst all the Magistrates of your District.

(PHC letter No. 876-99/MIT Dated 21st May 2004)

C.No. 5(4-17)

**CHIEF JUSTICE DIRECTIVE NO. 24
(POSTMORTEM EXAMINATION)**

I am directed to refer to the subject Directive and to state that Hon'ble the Chief Justice, during his recent visits to various districts, has been pleased to observe that provisions regarding *postmortem examination* of dead body are not adhered to properly and that a clarification is required regarding the powers of Magistrates in dispensing with the *postmortem* examination. I am, therefore, to clarify the legal position in this respect as under:-

- (i) Postmortem Examinations are conducted during the investigation made under Chapter XIV Part V of Criminal Procedure Code, 1898. The relevant provisions dealing with the subject are Section 174 and 176 of the Code read with Rules 25.31 to Rule 25.40 of the Police Rules, 1934. The concerned Magistrate of the first class is empowered to hold inquests there under.
- (ii) Under Rule 25.36 of Police Rules, 1934 an Investigating Officer is bound to send the dead body to the nearest authorized medical officer to conduct *postmortem* examination in every case where the death appears to have been due to suicidal, homicidal, accidental or suspicious causes and where any doubt exists as to the exact cause of

death **or** if it appears to such investigating officer expedient to do so.

The investigating officer has to decide whether a body is to be sent for *postmortem* examination, of course, guided by the aforesaid provisions.

- (iii) Nevertheless, the role of a Magistrate in dispensing with the postmortem examination cannot be excluded. The Magistrate, being the incharge of investigation, has to monitor the exercise of power by the investigating officer, especially, when an application is made to the Magistrate for dispensing with the *postmortem* examination. The Magistrate will, however, not act mechanically but will exercise the powers judiciously, taking into account all the provisions as mentioned in para (ii) above. While doing so, he may also record such evidence as he deems necessary. Reference PLJ 1978 Cr.C (Lahore) 576.

I am further directed to ask you to circulate this Directive amongst all the Judicial Officers of your district for their guidance. Receipt may please be acknowledged by all.

(PHC letter No. 6366-6389/Admn: Dated 8th June, 2004)

C.No. 6(4-17)

NON-PRODUCTION OF ACCUSED IN COURT WHILE SEEKING JUDICIAL REMAND

I am directed to refer to the subject and to say that it has been observed with concern that some of the Courts, at times, extend judicial remand of accused without being physically produced before the Court.

Needless to say that Courts are required to strictly adhere to the relevant provisions of code of Criminal Procedure, violation whereof may result in legal complications, besides hampering justice.

I am, therefore, to reiterate that the relevant provisions on the subject may be followed in letter and spirit.

(PHC letter No. 1395-1418/Admn: Dated 17.02.2005)

C.No. 7(4-17)

CONFESSION U/S 164 CR.P.C

I am directed to refer to the subject noted above and to say that during inspections it has come to the notice of this Court that the Magistrates after recording confession u/s 164 Criminal Procedure Code, 1898, keep the original in their own custody. This practice is in clear violation of the law on the subject. Section 164(2) of the Code, lays down that any such confession shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried. Since the magistrate recording confession cannot enter into trial of the case, therefore, the proper course is that whenever such confession is recorded the same should be sent to the Sessions Judge of concerned Sessions Division alongwith complete challan who shall then mark the same for trial to the concerned Court.

This circular may be circulated amongst all the judicial officers under your control.

(PHC letter No.3282-3307/Admn Dated Peshawar, 03rd November, 2010)

SECTION-18 (EVIDENCE AND WITNESSES)

C.No. 1(4-18)

INSTRUCTIONS (OFFICIALS OF THE CANTONMENT BOARD AS WITNESSES)

It has been brought to the notice of this court that in certain cases summons are issued by the courts to certain officials of the Cantonment Board requiring them to give evidence in cases between private individual, in which the Cantonment Board is not a party. In this connection, attention is invited to the provision of Sections 289 & 290 of the Cantonment Board Act, 1924 which as ordered by the Honorable Chief Justice should be observed strictly and no officer or servant of the Cantonment Board shall, in any legal proceedings to which the Board is not a party, be required to produce any register or document, the contents of which can be provided under section 289 of the Act by a certified copy or to appear as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause.

These provisions of law should also be brought to the notice of all the subordinate courts.

(PHC letter No. 10078-87/Admn: Brh: Dated Pesh: the 18th Sep: 1982)

C.No. 2(4-18)

ATTENDANCE OF MEDICAL OFFICER IN COURT FOR EVIDENCE

I am directed to address you on the subject noted above and to say that when the medical officer are required for court evidence, they are not summoned by the Courts well in time due to which the medical officers remain absent from the courts on due date.

2. In view of the above Honorable the Chief Justice of this Court has been pleased to order that all the Sessions / Additional Sessions Judges should send summons to the medical officers through the Divisional Deputy

Directors Health Services of the concerned Division well in time i.e 15 days before the actual date of hearing in the court unless he is already in attendance and bound for some date.

(PHC letter No. 9507-537 Date:- November 26, 1986)

C.No. 3(4-18)

NON APPEARANCE OF INVESTIGATING OFFICERS IN SESSIONS TRIALS

It has come to the notice of Hon'ble the Chief Justice of this Court that delay in the disposal of criminal cases is quite often caused by the failure of the investigating Officers to turn up when summoned for recording their evidence. Hon'ble the Chief Justice has taken a serious view of the matter and desired that the District and Sessions Judges / Addl: District & Sessions Judges should pay personal attention to it. Coercive measures should be used for procuring the attendance of the Investigating Officers and cases of willful non-compliance and utter indifference and apathy should be reported to this Court as well as the Inspector General of Police, NWFP, for appropriate action.

(PHC letter No. 3516 – 46 Admn: Brh: Dated Peshawar the 18th July, 1989)

C.No. 4(4-18)

EXAMINATION OF WITNESSES IN COURTS

It has been brought to the notice of this Court that in certain cases the witnesses, particularly, the female witnesses are not examined properly as is required by the Law. It has been further reported that unnecessary, irrelevant, and embarrassing questions are allowed to be put to the witnesses which are at times wholly irrelevant to the issues involved. Resultantly, therefore, the witnesses who are mostly illiterate are put in an awkward position, which normally results in the mis-carriage of Justice.

I am, therefore, directed to emphasise that it is crucially important that this tendency should be curbed forthwith so that in the public interest, the court proceedings are free from the slightest blemish.

Your are therefore, requested to kindly follow the instructions on the subject in letter and spirit so that no complaint on the subject is made against the conduct of Presiding Officer in future.

(PHC letter No. 6103-6141 / Admn: Brh: Dated Pesh: the 1st Oct: 1992)

C.No. 5(4-18)

APPOINTMENT OF COMMISSIONERS FOR RECORDING EVIDENCE.

Under Part-B of Chapter-10 of the High Court Rules and Orders Volume-I the District Judges are required to appoint a panel of not more than four men in each District as commissioners for recording evidence. It is further provided that each Commissioner should ordinarily be the advocate, of not large practice, and retired Civil Judicial Officer. The District Judges are further required to send a copy of the list of Commissioners appointed by them to the Registrar of this Court so as to enable him to issue a consolidated list to all the Courts for necessary action.

It has, however, been noticed that this practice has ceased to exist and all the Courts have developed the practice of appointing Commissioners of their own choice for recording evidence which amounts to violation of the Rules on the subject.

Hon'ble the Chief Justice has, therefore, been pleased to direct that all the District and Sessions Judges should immediately appoint the required panel of the Commissioners for recoding evidence and should forward the list to this Court by not later than 15th of June, 1994 so as to enable the Registrar of this Court to circulate a consolidated list amongst all the Courts for strict observance.

(PHC letter No. 6026-6045/Admn.Brh.Dated Peshawar the 31st May, 1994)

C.No. 6(4-18)

**COMPLIANCE WITH THE PROVISIO TO RULE 1 ORDER 16
C.P.C.**

I am directed to invite your attention to Order 1 Rule 16 of the Code of Civil Procedure so provided through an amendment in N.W.F.P. The Proviso reads as under:-

“Not later than seven days after the settlement of issues, the parties shall present in Court a certificate of readiness to produce evidence, alongwith a list of witnesses whom they propose to call either to give evidence or to produce documents” .

2. While going through the inspection note recorded by Hon’ble Judge-VIII on the inspection of the Court of Civil Judge-II Bannu, Hon’ble the Chief Justice of this Court has been pleased to order that attention of all the Subordinate Courts should be invited to the above provision which should be followed in letter and spirit.

3. I am, therefore, directed to request you that the aforesaid provision be brought to the notice of all Civil Courts for compliance.

(PHC letter No.4105-4154/Admn: (DA-260-A),Dated Pesh: the 31.05.2000)

C.No. 7(4-18)

**ISSUANCE OF NON BAILABLE WARRANTS AGAINST
WITNESSES**

I am directed to refer to the subject and to state that there are complaints that the Subordinate Courts issue non-bailable warrants of arrest against the witnesses, particularly Government officials, mechanically, without ascertaining whether summons in the first instance have been served upon them or not. Hon’ble the Chief Justice has been pleased to direct that care should be taken in this regard and such warrants be issued only after making sure that the witness has been properly served through summons.

You are, therefore, requested to communicate the aforesaid directions to all the subordinate Criminal Courts of your respective districts for compliance.

(PHC letter No. 9324/ Dated Peshawar the 21.9.2002)

C.No. 8(4-18)

RECORDING AGE OF THE ACCUSED

I am directed to forward herewith an extract from the Judgment (reproduce below) passed by the Hon'ble Division Bench on 26.09.2002 in Criminal Appeal No.153/2000, murder reference No. 36/2000, titled Salim Khan etc: Vs The State, for strict compliance.

“Before parting with this Judgment, we have observed not only in this case but in number of other cases that the learned trial courts invariably do not record the age of the accused when they are examined under Section 342 Cr.P.C Age of an accused person is always relevant by virtue of promulgation of Juvenile Justice System Ordinance, 2000 (Ordinance XXII of 2000) and also because of Section 299 PPC read with Section 306 PPC. We, therefore, direct the Registrar of this Court that he shall issue a circular which shall be sent to all the learned Sessions Judges of the Province who shall further pass on the instructions to their subordinate Judges that in future they shall all record age of the accused when examining them under Section 342 Cr.P.C.”

(PHC letter No. 9961-84/ADMN: Dated Peshawar the 7/10/2002)

C.No. 9(4-18)

SUMMONING OF JUDICIAL OFFICERS FOR COURT EVIDENCE

I am directed to refer to the subject noted above and to say that, while reviewing the daily casual leave statement of Judicial Officers, his lordship the Chief Justice was pleased to observe that judicial work in

different Courts is being suffered due to proceeding of Judicial Officers for evidence. His lordship has, therefore, been pleased to direct that;

- a) The District & Sessions Judges shall maintain list of cases, pending in all the Courts of their respective Districts, wherein the Judicial Officers are witnesses and shall coordinate fixation, on the same day, of all those cases in which evidence of the same Judicial Officer is required.
- b) The date and particulars of cases, so fixed, in different Courts shall officially be communicated to the witness concerned through respective District & Sessions Judge, with a copy to this Court.
- c) The Judicial Officer proceeding as such shall avail minimum transit leave, for the purpose.

The above instructions may please be circulated to all the Judicial Officers of your respective District for information and compliance.

(PHC Endst. 4013-4019/Admn Dated Peshawar the 25th May, 2005)

C.No. 10(4-18)

SUMMONS TO MEDICAL EXPERTS

I am directed to refer to the subject noted above and to say that it has been brought to the notice of Hon'ble the Chief Justice that in some cases where the Medical Experts are transferred to other districts, the Courts issue the summons without giving sufficient time to the witnesses to appear for date fixed. The proper course in such eventuality would be to send the summons through Director General, Health N-WFP well in time so as to give time to the Directorate to serve the notices & the witnesses to appear before the Court.

(PHC letter No. 192-215/Admn: Dated Pesh: the 09/01/2006)

C.No. 11(4-18)

ATTENDANCE OF PATWARIS IN CIVIL COURTS

I am directed to refer to the subject noted above and to invite your kind attention to part B, Chapter 5, volume I of the High Court Rules &

Orders which lays down detailed rules for the attendance of Patwaris in civil cases. It has come to the notice of Hon'ble the Chief Justice that these rules are not complied with properly and patwaris are summoned mechanically, causing unnecessary hindrance in their official duties on the one hand and delay in disposal of cases on the other. Needless to emphasize that such summoning of Patwaris during Girdawari season is also prohibited save in cases of great urgency.

I am, therefore, directed to ask that the above Rules may be observed by all the Civil Courts in letter and spirit. The instructions may please be circulated among all the Civil Courts of your respective Districts for compliance.

Receipt may be acknowledged by all, please

(PHC letter No. 10369-10392-10169/Admn Dated Peshawar, 16th
December, 2006)

C.No. 12(4-18)

APPOINTMENT OF LOCAL COMMISSION

I am directed to refer to the subject noted above and to say that Hon'ble the Chief Justice has been pleased to observe that all the District and Sessions Judges/Zilla Qazis shall prepare a list of Advocates in consultation with the President of respective bar for appointment as Local Commission by the Civil Courts. Moreover, the Civil Courts are also directed to appoint Local Commission from the said list one by one by fixing reasonable fee keeping in view the facts and circumstances of each case.

(PHC letter No. 9179-9203/Admn Dated Peshawar, 19th May, 2010)

SECTION-19 (STANDARD SEALS)

C.No. 1(4-19)

USE OF STANDARD SEALS

I am directed to say that a tendency has been developed among the Judicial Officers for using Courts seals/stamps of their own choice. It results into different types and dimension of seals, which are uncalled for.

2) The relevant law is contained in this regard in section 26 of the West Pakistan Civil Courts Ordinance 1962 as follows.

“26. Every Court shall have and use, as the occasion may arise, a circular seal two inches in diameter bearing round its circumference the title of the Court in English and Urdu script and in the centre a device and impression of a crescent moon with the horns pointing upward, surmounted by a star, and the said seal shall be delivered to and kept in the custody of the presiding officer of the Court

3) The seal of the court must, therefore, be in accordance with the standard specification. The improper seals/stamps be collected from all the courts and destroyed forthwith A certificate of having done so, be furnished to this court at an early date. A rough sketch of specimen in enclosed.

(PHC letter No 6181-6202 Admn Brh. Dated Peshawar the 17th July 1997)

C.No. 2(4-19)

USE OF STANDARD SEALS

I am directed to invite your attention to this Court's letter No. 6181-6202 Admn: Brh: Dated 17.7.1997 (Copy attached for ready reference) and to say that the directions issued by this Court are not being complied with in letter and spirit.

You are therefore, directed once again to do the needful at an early date and report compliance.

(No. 7404-7553 Dated Peshawar the 3rd October, 1998)

C.No. 3(4-19)

**USE OF STANDRED SEAL IN QAZI COURTS AT
MALAKAND DIVISION AND KOHISTAN DISTRICT**

In continuation of this Court's letter No. 6181-6202 dated 17.7.1997, I am directed to say that all the Qazi courts in Malakand Division and Kohistan District in Hazara Division shall use official seal as prescribed in Section 26 of the Civil Court's Ordinance, 1962 bearing the title of the Court in circumference in Urdu and English script as Illaqa Qazi, Aala Illaqa Qazi, Izafi Zilla Qazi and Zilla Qazi for use in cases under the Shar'i Nizam-e-Adl Regulation, 1999.

I am, therefore, to request that the prescribed seal be prepared for use in addition to the already available seals for the aforementioned purpose and certificate for having done so be furnished to this court at an early date

Four specimens are enclosed for further necessary action-

(PHC letter No. 5688-740 Dated Peshawar the 5.7.1999)

SECTION-20
(COSTS AND COMPENSATION)

C.No. 1(4-20)

**AWARD OF COMPENSATION UNDER SECTION 544-A
CODE OF THE CRIMINAL PROCEDURE, 1898**

Hon'ble the Chief Justice and Judges of this Court have reasons to believe in light of scrutiny of the case files that provisions of Section 544-A Criminal Procedure Code are not being complied with and thereby it results in miscarriage of justice. The contents of this section are crystal clear leaving no scope for ambiguity and doubt and according to it the trial court is competent to award compensation, not exceeding the amount of fine which it is empowered to impose for the offence, to legal heirs of the deceased or to the person hurt or injured etc: as the case may be, in addition to any sentence including fine which the court may impose upon the accused. The compensation so awarded, keeping in view circumstances of each case, is recoverable as arrears of land revenue and the court is further competent to order, in default of payment or of recovery as aforesaid, that the person ordered to pay such compensation shall suffer imprisonment for a period specified in the section.

Pursuant to the above, I am desired to direct that before awarding compensation the provisions of section 544-A Cr.P.C. may kindly be carefully perused for arriving at correct decisions. All the District Magistrates are requested to bring these instructions in notice of the Magistrates working under their administrative control for strict compliance.

(PHC letter No.3853-3902/Admn:Brh:Dated Pesh:, the 3rd April, 1984)

C.No. 2(4-20)

PAYMENT OF COSTS IN CIVIL CASES

I am directed to address you on the subject noted above and to say that pursuant to a decision taken in the meeting of the Chief Justices held at Islamabad on 13th April, 1991, Hon'ble the Chief Justice of this Court has been pleased to order that the costs in civil cases should invariably be paid

to the party concerned and not to its Advocate. The costs should be paid to the party concerned in presence of the Presiding Officer and a proper receipt should be obtained and placed on record. In case of failure of the party to receive the costs in court, it should be sent to him by money order after deducting money order fees. These instructions are desire to be followed strictly.

(PHC letter No. 4652 – 4731 / Admn: Brh: Dated. Peshawar 4th May, 1991)

C.No. 3(4-20)

IMPOSITION OF HEAVY COSTS

I am directed to say that in a meeting of the Hon'ble Chief Justices held at Islamabad on (Saturday) 10th October, 1998, it has been decided that heavy costs should be imposed to discourage institution of frivolous cases

2)- I am further directed to request you to comply with the above decision.

(PHC letter No. 8494-8543 Admn.Dated Peshawar the 5th November, 1998)

C.No. 4(4-20)

CAUSES OF DELAY IN THE DISPOSAL OF CASES-NON-IMPOSITION OF APPROPRIATE COSTS.

I am directed by the Hon'ble Chief justice to address you on the subject noted above and say that besides others, liberal grant of adjournments by the Presiding Officers without imposition of heavy costs on the party seeking unjustified adjournment and failure on the part of Judges to burden the unsuccessful party in a case of frivolous and vexatious action or defense with appropriate compensatory costs are the factors mainly responsible for accumulation of pendency in the courts and resultant delay in the disposal of cases.

2)- In order to accelerate the disposal of cases at all levels and in order to mitigating the sufferings of litigant public, you are to impress upon all the judicial Officers in the District not to hesitate in imposing heavy

costs in cases of unjustified adjournments primarily aimed at delaying the disposal of the case and compensatory costs in appropriate cases in order to curb the tendency of filing frivolous and vexatious suits/causes.

(PHC letter No. 3962-3983 Dated Peshawar the 22nd May, 2000)

C.No. 5(4-20)

HEAVY COST ON FRIVOLOUS LITIGATION

1. I am directed by the Hon'ble Chief Justice to address you on the subject noted above and to say that one of the main reasons for accumulation of cases in the courts and inordinate delay in the disposal of civil matters is the non imposition of heavy costs even when the litigation is finally adjudged as frivolous and vexatious. Same is the case with pending matters wherein mechanical adjournments are granted without imposition of costs, resultantly the pace of trial is left at the mercy of the party which is interested in the prolongation of the case. This omission on the part of the Presiding Officers, whether wilful or un-intentional, serves to encourage unscrupulous litigants.

2. I am, therefore, to request that relevant provisions of law including section 35-A CPC, which is indeed applicable in the province, may be invoked in appropriate cases/suits for imposition of exemplary costs when the courts bonafidely believe the litigation to be frivolous and aimed at vexing the opposite party. Moreover, Courts should also curb the tendency of delaying proceedings in pending cases by resorting to imposition of heavy costs.

(PHC letter No. 1199-1298. / Admn: Dated Peshawar 9th March, 2001)

SECTION-21
LEAVE (JUDICIAL OFFICERS AND ESTABLISHMENT
OF DISTRICT COURTS)

C.No. 1(4-21)

SUBMISSION OF CASUAL LEAVE APPLICATIONS

I am directed to say that it has come to the notice of the Hon'ble Chief Justice that while forwarding casual leave applications of civil Judges etc the prescribed forms as mentioned in rule 9 of the casual leave rules are not attached.

I am, therefore, directed to say that in future such like applications must invariably be accompanied by the aforesaid forms duly filled in and signed by the District and Sessions Judge concerned.

In case of non-compliance of the order, the casual leave applications will not be entertained.

(PHC letter No: 3522-51 Dated: 02/04/1985)

C.No. 2(4-21)

ACCUMULATION OF EARNED LEAVE STAFF

I am directed to refer to your letter No.9633, dated 17.10.1984 on the subject and to say that only the Civil Judges belong to Vacation Department. The District/Additional District and Sessions Judges do not belong to Vacation Department as they do not figure amongst the Departments defined in Appendix 18 C.S.R (Punjab), Volume I Part I; however they are allowed by the High Court a spell of three/two weeks vacation under Annexure 1 to Rule 8.60 C.S.R. (Punjab), Volume I part, subject to the conditions laid down in this Court's Circular letter No.7969-JOB.3/3, dated 19.06.1984.

(PHC letter No.4703/A/XXII-2, Dated Lahore, the 20th April, 1985)

Note- The letter is addressed to Registrar Peshawar High Court from the Registrar, Lahore High Court.

C.No. 3(4-21)

**CASUAL LEAVE– ABSENCE OF JUDICIAL OFFICERS
FROM DUTY ON SHORT NOTICE**

I am directed to address you on the subject and to say that some judicial officers absent themselves from the court duties at a very short notice. This sort of availing the casual leave is not only irregular but also causes great hardships to the litigant public, their witness and counsel. In this respect rule-5 chapter-2 of the High Court Rules and orders Vol: IV enjoins that:-

“All subordinate judges should submit their application for casual leave well in advance of the time at which they intend to proceed on causal leave and in doing so they should arrange, when-ever this is practicable, and no cases are fixed for hearing the period for which they intend to be absent”.

2. Pursuant to the above , Hon’ble the Chief Justice has been pleased to direct that all judicial officers shall see that no unnecessary hardship is caused to the litigants , their witnesses and counsel in case of availing the casual leave by them.

3. Hon’ble the Chief Justice further hopes that these order will be complied with in letter and spirit. In the event of non compliances of these instructions the casual leave application will not be entertained.

(PHC letter No. 9312-391 Dated: 12.10.1985)

C.No. 4(4-21)

**FUNCTION OF SUBORDINATE JUDICIARY DURING
SUMMER VACATION.**

I am directed to say that in summer vacations in a civil matter, the honorable Judge of this Court has been pleased to make the following observations:-

“The learned Judge of District Court is the Principal Civil Court of the District and it is his duty under the procedure to nominate Presiding

Officer of a civil court for hearing of such like applications during summer vacations of the civil courts for the month of August each year. I will go to the extent that one of the Civil Judge be allocated the duty of deciding such like applications or entertaining suits, applications etc of urgent nature during the said summer vacations”.

The matter was put up before the Administration Committee of this Court and a proposal for amendment of rule 3. chapter 3-B, High Courts Rules and Orders Volume V was placed on 24.09.1992. The honorable members of the Committee after considering the proposal and the amended rule 3 chapter 3-B, High Court Rules and Orders Volume V made that the following observations:-

“In the light of the legal position already existing on the subject and being followed since long, it is felt that otherwise no cogent grounds or any other difficulty exists to disturb the prevalent system which is being followed without any legal hindrance, nor the rule is in any manner adverse to public interest. Such being the position, the Committee directs that all the subordinate courts be informed accordingly”.

The above observation made by the Hon’ble members of the Administration Committee of this Court is being communicated to you for your guidance and compliance.

(PHC letter No. 6463-6500/Admn: Brh: Dated Pesh: the 20th Oct: 1992)

C.No. 5(4-21)

STATION LEAVE/STAY AT THE PLACE OF POSTING

I am directed to address you on the subject noted above and to say that it has come to the notice of Hon’ble the Chief justice and judges of this Court that some judicial Officers commute between their residences located elsewhere, and the station of their posting, and some judicial Officers leave their stations of posting without obtaining station leave. These practices not only offend against the rules but also affect the performance and efficiency of the defaulting officers.

You are, therefore, directed to ensure that no Judicial Officer leave the Station of his posting without obtaining station leave. Besides, a

certificate be furnished within a week that Judicial Officer residing outside the limits of their station have shifted to their place of posting.

(PHC letter No. 9349-9370:- Dated Peshawar the 10/11/1997)

C.No. 6(4-21)

PRESENCE AT THE STATION OF DUTY

I am directed to forward herewith a copy of Provincial Government letter No. SOI (S&GAD) 1-1/98 dated 8th November, 1999, containing instructions on the subject noted above for compliance. Attention is also invited to this Court's circular letter No. 9349-9370, sated 10.11.1997 whereby all the District and sessions Judges in the Province were directed to ensure that no judicial Officer shall leave the station of his posting without station leave. Moreover, they shall furnish a certificate within a week that Judicial Officers residing out side the limits of their stations have shifted to their place of posting.

The instructions contained in the above referred circular letter are once again reiterated with the direction that all the judicial Officers in the province shall furnish a certificate afresh that he/she is residing within the limits of his/her station of posting Violation of these instructions would make the defaulting officers liable to disciplinary action under the NWFP, Government Servants (Efficiency and Discipline) Rules, 1973.

(PHC letter No.10933-11032 Admn. Dated Pesh: the 23rd Nov: 1999)

C.No. 7(4-21)

CHIEF JUSTICE DIRECTIVE # 17 (NON AVAILING OF REGULAR VACATIONS)

I am directed to refer to the subject noted above and to say that Hon'ble Chief Justice, during his recent visits to various districts has been pleased to observe that the Civil Judges / Judicial Magistrates sometimes do not avail the regular vacations due to official duty and they are not given the leave credit by the Accounts Office concerned. In order to protect the rights

of the subordinate Judges and their ministerial establishment, Hon'ble the Chief Justice has desired to issue the following instructions.

“Under the Rules the subordinate Judges (i.e. Civil Judges, Senior Civil Judges and their establishment) are vacation department (SR 264). In the event of non availing of full or part vacation by these judges & establishment the concerned Account Office is bound to credit proportionate earned leave to their leave Account (Rule 2(ii) of the N.W.F.P Civil Servants Revised Leave Rules, 1981). All such Judges & Ministerial Staff should send certificate of official duty during vacation to concerned Account office for the purpose.”

You are, therefore, directed to please circulate these instructions amongst all the concerned Judicial Officers of your district.

(PHC letter No. 5340-5363/Admn: Dated 21st May, 2004)

C.No. 8(4-21)

STATION LEAVE / STAY AT THE PLACE OF POSTING

I am directed to invite your attention to this Court's letters # 9349-9370/Admn dated 10th November, 1997 and 10933-11032/Admn dated 23rd November, 1999, (copies enclosed) and to say that it has been noticed by His Lordship the Chief Justice with concern that the instructions contained in the letters mentioned above are not complied with by some of the Judicial Officers and they leave their station of posting without obtaining permission.

I am, therefore, to request you to ensure that henceforth no Judicial Officer leaves the station of his posting, even on holiday, without prior permission in this regard.

The above instructions may please be circulated amongst all the Judicial Officer of your District for compliance.

(PHC letter No.9650-9673 /Admn Dated 24-10-2005)

C.No. 9(4-21)

**CASUAL LEAVE --- CURTAILMENT / CLUBBING
TOGETHER WITH HOLIDAYS**

I am directed to refer to the subject noted above and to say that in the recent postings and transfers, most of the Judicial Officers have been posted near their home districts, keeping in view the hardships faced by them while travelling to their home towns in exigencies. Such Judicial Officers are now expected to curtail casual leaves and avoid clubbing these together with holidays, as earlier allowed by this Court, vide letter # 87-117/Admn dated 4th January, 2005.

I am, therefore, to request that care may please be taken while sanctioning casual leaves so that these are curtailed and the practice of clubbing of casual leave together with holiday is avoided.

(PHC letter No. 1790-1813/Admn Dated 03.03.2006)

C.No. 10(4-21)

CASUAL LEAVE BY THE JUDICIAL OFFICERS

I am directed to refer to the earlier correspondence of this Court on the subject noted above, and to say that the Hon'ble Chief Justice has seriously viewed prefixing and suffixing of causal leave with public and gazetted holidays, especially Sunday, on vague and stereotype grounds like "**Urgent work**" and "**Domestic problem**".

I am, therefore, to reiterate the earlier instructions of this Court to the effect that the aforesaid practice of clubbing casual leave with Sundays be avoided and the purpose for which the leave is applied for be clearly and vividly mentioned in the application.

I am further to say that repetition of such uncalled for practice may have serious reflection on the conduct of the Judicial Officers, and can lead to formation of adverse opinion about his overall performance.

(PHC letter No.14842-14872/Admn Dated Peshawar, 22nd October, 2008)

C.No. 11(4-21)

LATE SUBMISSION OF APPLICATION FOR EARNED LEAVE

I am directed to refer to the subject noted above and to say that the Hon'ble Chief Justice has taken serious notice of late submission of applications for earned leave either in the midst of leave applied for, or when the leave has already been availed. This practice clearly militates against service discipline.

It has, therefore, been decided not to entertain applications for earned leave submitted late, unless such applications are received in the High Court well before the commencement date and the concerned officer receives confirmation of sanction of leave from this office, otherwise, leaving the station before sanction is conveyed will be treated absence from duty and dealt with accordingly under the relevant Rules.

(PHC letter No.2338-2361/Admn Dated Peshawar, 28th February, 2009)

C.No. 12(4-21)

EARNED / MEDICAL LEAVE

I am directed to refer to the subject noted above and to say that it has come to notice of this Court that Judicial Officers seek casual leave in the districts while their applications for earned leave/medical leave are under process in this Court for consideration.

I am, therefore, to ask you that sanction of casual leave in similar cases may not be allowed, please.

(PHC letter No.11848-71/Admn Dated Peshawar, 06th October, 2009)

C.No. 13(4-21)

CASUAL LEAVE BY JUDICIAL OFFICERS

I am directed to refer to the subject noted above and to invite the attention of all the judicial officers to the subject rules where under it has been clearly laid down that government servants are not entitled to casual leave as of right. It is entirely within the discretion of the sanctioning authority either to refuse or sanction leave. But the trend of Judicial Officers

qua the availing of causal leave speaks otherwise. It appears that Judicial Officers consider the casual leave as their right and not only exhaust the balance of 25 days of causal leave in a year but also then start availing earned leave in the manner as if they are availing causal leave without relinquishing the charge of their post. The actual legal position is that a civil servant shall have to relinquish the charge while availing the earned leave. (Rule 27 of NWFP Civil Servants Revised Leave Rules, 1981).

It is, therefore, requested to make it sure that the rules on the subject are not only comprehended in true spirit but are also being acted upon. These instructions may be circulated amongst all the Judicial Officer under your control.

(PHC letter No.2122-45/Admn Dated Peshawar, 11th February, 2010)

SECTION-22**(NATIONAL JUDICIAL POLICY MAKING COMMITTEE
... RELATED INSTRUCTIONS)**

C.No. 1(4-22)

**PERIODICAL ROTATION/TRANSFER OF THE
MINISTERIAL STAFF OF DISTRICT COURTS**

I am directed to refer to the decision made by the National Judicial Policy Making Committee (NJPMC) in its meeting, held on 19th November, 2005, to the effect that the Ministerial Staff of the Courts be kept under watch, that they should be periodically rotated/transferred and that inefficient and dishonest should be considered for transfer to the unattractive stations and to ask that report regarding members of the ministerial staff of your District on fixed seat for more than three years may be sent to this Court within seven days.

(PHC letter No. 10877-10900/Admn: Dated 12.12.2005)

C.No. 2(4-22)**SLIP OF DEFECTS IN JUDGMENTS/ORDERS OF LOWER
FORUMS AS NOTED BY THE HIGH COURT (FOR
INFORMATION OF JUDICIAL OFFICERS)**

I am directed to refer to the decision made by the National Judicial Policy Making Committee (NJPMC) in its meeting, dated 20th August, 2005 regarding the issuance of subject slip by the High Court and to say that the following recommendations of this Court were subsequently approved by the Committee in its meeting, held on 19th November, 2005:-

“Whenever the High Court is of the view that certain remarks regarding quality of judgment, reflecting on the integrity of the Judicial Officer should be passed or where it appears that the lower forum has proceeded to decide the case not legally but for any other consideration, the prescribed slip shall be issued to such Judicial Officer”.

It has further been decided by the said Committee that in case 75% judgments of a judicial officer are set aside/reversed, he shall be considered as inefficient and disciplinary proceedings be initiated against him, and that a judicial officer shall also be proceeded against for giving a stinking judgment.

I am, therefore, to ask you to circulate the above decisions amongst all the judicial officers of your district for their information.

PROFORMA

SLIP OF DEFECTS IN JUDGEMENTS/ORDERS OF LOWER FORUMS AS NOTED BY THE HIGH COURT.

Appeal/Revision/Writ/Application/Case No. _____ Decided on _____

Title of the case.....

Name of Judicial Officer passing order.....

In Case No.....of.....decided on.....

Name of the Court.

Remarks by the High Court

.....

Signatures of Hon'ble Judge/Judges.

Date

Note:- Original to be placed on the judicial file of the High Court, and copies on CR dossier and personal file of the concerned Judicial Officer, besides the judicial file of the Court to which slip is issued, with proper paging and indexation.

(PHC letter No. 10817-10840/Admn: Dated 12 December, 2005)

C.No. 3(4-22)**ELIMINATION OF PERJURY / DECISION OF NJPMC**

I am directed to refer to the subject noted above and to say that the National Judicial Policy Making Committee (NJPMC) in its meeting, held on 23rd June 2007, at Islamabad, has decided that the subordinate courts be asked for taking strict action against the perjurers, who give false statements or preset forged documents or false affidavits in the court.

I am, therefore, to ask you to circulate the above decision of the Committee amongst all the Judicial Officers of your district for compliance.

(PHC letter No. 7313-7336/Admn Dated Peshawar, 11th July, 2007)

C.No. 4(4-22)

NATIONAL CORRUPTION PERCEPTION SURVEY 2006

I am directed to refer to the subject noted above and to say that a meeting of the National Judicial (Policy Making) Committee (NJPMC) was held under the Chairmanship of the Hon'ble Acting Chief Justice of Pakistan to consider the National Corruption Perception Survey Report 2006 conducted by Transparency International, Pakistan. The committee viewed seriously the complaints of corruption in the judiciary, particularly amongst the Judicial Officers and courts staff at the level of subordinate

courts. The Committee reiterated its resolution that corruption in any form or manifestation is unacceptable and has to be eradicated. The Committee directed that the said report be forwarded to the High Courts for taking necessary measures to check corruption amongst the Judicial Officers, court staff and personnel of related institutions like Investigation and Prosecution Branches.

In view, thereof, Hon'ble the Chief Justice has desired that all the District & Sessions Judges be asked and reminded of their earnest duty towards elimination of corruption, without whom no effort can bear fruit, as they hold a pivotal position in the District Judiciary being the immediate head of Judiciary in the district on one hand and representative of the High Court on the other. Some of the instructions already issued by this Court, laying stress on the role of the District & Sessions Judge / Zilla Qazi qua the issue in hand can be gone through as follows:

1. Instruction C.No. 6(4-3) of Judicial Estacode 2006, pg No. 316
2. Instruction C.No. 7(4-3) of Judicial Estacode 2006, pg No. 317
3. Instruction C.No. 8(4-3) of Judicial Estacode 2006, pg No. 318
4. Instruction C.No. 1(4-16) of Judicial Estacode 2006, pg No. 389
5. Instruction C.No. 4(4-16) of Judicial Estacode 2006, pg No. 390

The District & Sessions Judges are required to play a more proactive and positive role in curbing the menace of corruption which has threatened the very basis of institutional fabric. Their this role can also be extended to other allied institutions like Investigation, Prosecution etc.

The individual efforts of a superior officer, at times, fail to deliver to the optimum level for the reason that no institutional mechanism is in place to check the corruption. The result in that with the change of a superior, the history of subordinate is not transferred to successor.

The best strategy, therefore, can be to keep a permanent record of every subordinate encompassing all the complaints, both verbal & written, regarding corruption, which record can be taken into consideration at the time of action against a civil servant in line with Katcha register maintained for recording Performance Evaluation Report.

All the District & Sessions Judges are, therefore, required to keep such memorandum of all the courts staff. Such record of Judicial Officers shall also be maintained at the High Court level. In the matter of allied Institutions, the matters can be referred to the superiors of the concerned institutions with a copy of record to be maintained by the District & Sessions Judge.

All the District & Sessions Judges / Zilla Qazis are required to actively pursue the exercise and the report of the actions taken may be

communicated to this court for its own record and for onward transmission to NJPMC.

(PHC letter No. 7800-7823/Admn Dated Peshawar, 01st August, 2007)

C.No. 5(4-22)

SUMMONSES/NOTICES

I am directed to refer to the subject noted above and to say that National Judicial (Policy Making) Committee in its meeting, held on 23.06.2007, has taken notice of the publication of summonses/notices in periodicals/magazines having limited circulation. The Committee observed that publication of summonses only in the magazines instead of daily newspapers is contrary to the rules contained in the Code of Civil Procedure, 1908. Therefore, it was decided that the Code of Civil Procedure, 1908 and Rules and Orders of the High Court should be strictly followed and summonses and notices must be published in the daily newspapers having sufficient circulation in the area where the defendant resides.

The Administration Committee of this Court has, therefore, revised the list of newspapers/magazines, approved under rule 5, Chapter 7-B of Volume IV of the High Court Rules & Orders. The revised list is circulated herewith for strict compliance. Each Court is required to get the summonses/notices published in that daily from the list having sufficient circulation in the area where the defendant resides.

You are also requested to circulate these instructions amongst all the Judicial Officers of your respective district for strict compliance.

LIST OF NEWSPAPERS ON PROVINCIAL MEDIA LIST

S. No.	Name of Newspapers
	PESHAWAR
1.	Daily, Mashriq
2.	Daily, Aaj
3.	Daily, Express
4.	Daily, Khabrain
5.	Daily, Surkhab
6.	Daily, Subha
7.	Daily, Pakistan
8.	Daily, Akhbar-e-Sheri

9.	Daily, Al Akhbar
10.	Daily, Wahdat
11.	Daily, Akhbar
12.	Daily, Islam
13.	Daily, Illhaq
14.	Daily, Awam Un Nas
15.	Daily, Jihad
16.	Daily, Jiddat
17.	Daily Quaid
18.	Daily, Sarhad
19.	Daily, Watan
20.	Daily, City mail
21.	Daily, Siyaq
22.	Daily Today Muslim
23.	Daily, Statesman
24.	Daily, Hewad
25.	Daily, Frontier Post
26.	Daily, Frontier Times
27.	Daily, Frontier Star
28.	Daily, Khabroona, Peshawar
29.	Daily, The Province, Peshawar
30.	Daily, Sach Peshawar
31.	Daily, Riyasat Peshawar
32.	Daily, Aina Jehan Peshawar
33.	Daily, Paighamat Peshawar
	KOHAT
1.	Daily, Awami Inqilab, Kohat.
2.	Daily, Taseer, Kohat
	CHARSADDA
1.	Daily Hashtnagar Times
	MARDAN
1.	Daily, Janbaz Mardan
	ABBOTTABAD
1.	Daily, Shamal, Abbottabad
2.	Daily, Aaj, Abbottabad
3.	Daily, Shimla, Abbottabad
4.	Daily, Muhasib, Abbottabad
5.	Daily, Sarhad News, Abbottabad
6.	Daily, Ittehad, Abbottabad
7.	Daily, Akhbar Abbottabad
8.	Daily, Nawa-e-Hazara Abbottabad

9.	Daily, Foothill, Abbottabad
10.	Daily, Pine, Abbottabad
11.	Daily, Chitta, Abbotabad
12.	Daily, Nida e Khalq Haripur
	SWAT
1.	Daily, Azadi Swat
2.	Daily, Chand, Swat
3.	Daily, Khabarkar, Swat
4.	Daily, Salam, Swat
5.	Daily, Shamal, Swat
6.	Daily, Bhasha News Bisham at Shangla
	D.I. KHAN
1.	Daily, Sada I Haq, D.I. Khan
2.	Daily, Inkishaf, D.I. Khan
3.	Daily, Apna Akhbar
	OUTSIDE NEWSPAPERS
1.	Daily Jang, Pindi, Lahore, Karachi, Quetta
2.	Daily, Nawa e Waqt, Pindi, Lahore, Multan, Karachi
3.	Daily, Asas, Rawalpindi
4.	Daily, Ausaf, Rawalpindi
5.	Daily, Azkar, Islamabad
6.	Daily, Pakistan, Islamabad
7.	Daily, Jurrat Islamabad
8.	Daily, Din Islamabad
9.	Daily, Kianat, Islamabad
10.	Daily, Khyber News, Islamabad
11.	Daily, Tribune, Islamabad
12.	Daily, News, Islamabad, Lahore, Karachi
13.	Daily, Nation, Lahore, Islamabad
14.	Daily, Pakistan Observer, Islamabad
15.	Daily, Dawn, Karachi, Islamabad, Lahore
16.	Daily, Business Recorder, Islamabad
17.	Daily, News Mart, Islamabad
18.	Daily, Al-Sharq, Rawalpindi
19.	Daily, Ummat, Karachi.

(PHC letter No.7980-8003/Admn Dated Peshawar, 08th August, 2007)

C.No. 6(4-22)

**RECOMMENDATIONS OF THE NATIONAL JUDICIAL
POLICY MAKING COMMITTEE REGARDING
IMPLEMENTATION OF JUVENILE JUSTICE SYSTEM
ORDINANCE, 2000**

I am directed to refer to the subject noted above and to say that the National Judicial Policy Making Committee in its meeting dated 08.09.2007, while appreciating the checklist system introduced by Peshawar High Court in every case, has suggested the adoption of similar system by other High Courts (Copy of the minutes enclosed).

It is, therefore, once again reiterated that all the courts should strictly follow the guidelines already issued regarding the checklists in Consolidated Inspection Note of Inspections of Subordinate Courts conducted in January 2003 for the period October – December, 2002. This circular may be circulated amongst all the courts in your district for compliance.

(PHC letter No.10259-10282/Admn Dated Peshawar, 19th October, 2007)

C.No. 7(4-22)

**RECOMMENDATIONS OF NJPMC REGARDING
EXPEDITIOUS DISPOSAL OF CASES**

I am directed to refer to the subject noted above and to say that the National Judicial (Policy) Making Committee (NJPMC) in its meeting held on 10.11.2007, under the Chairmanship of the Hon'ble Chief Justice of Pakistan, considered the increase in backlog of cases in the Courts which has swollen resulting in adding the miseries of the litigants. The committee has, therefore, emphasized and called upon the Judges to concentrate on expeditious disposal of cases so as to restore the confidence of the people.

It is further to inform you that High Court shall review the progress of disposal of cases on periodical basis.

I am further directed to ask you to circulate these instructions amongst all the Judicial Officers of your district for strict compliance. Receipt may please be acknowledged by all.

(PHC letter No.376-399/Admn Dated Peshawar, 10th January, 2008)

C.No. 8(4-22)

BENEFITS TO GOOD CONDUCT OFFENDERS

I am directed to refer to the subject matter and to say that the National Judicial (Policy Making) Committee, in its special meeting held at Islamabad on 06.06.2009, has asked the High Courts to issue directions to the Judges for invoking provisions of Probation of Offenders Ordinance, 1960 and to extend the benefits to offenders and asking the District & Sessions Judge to discuss the issues relating to parole/probation in the meetings of the District Criminal Justice Coordination Committee.

Henceforth a fortnightly report containing list of offenders who have been given the benefits of the said law will be furnished to the Secretary, NJPMC for placing it before the Hon'ble Chief Justice of Pakistan/Chairman, NJPMC for further directions.

It is, therefore, requested that compliance of the directions be ensured in letter & spirit, please.

(PHC letter No. 5308-5331/Admn Dated Peshawar, 17th June, 2009)

C.No. 9(4-22)

**IMPLEMENTATION OF NJP; GUIDELINES FOR
RECORDING OF EVIDENCE THROUGH COMMISSION**

I am directed to invite your attention to the above noted subject and to state that the National Judicial Policy Making Committee has issued guidelines for recording of evidence, with in the court, through local commission. The same are reproduced as under:

1. the appointment of commission should be streamlined and in each district a list of lawyers should be maintained for appointment as a Commission in consultation with the representatives of Bar. The Commission should be appointed out of agreed list/ panel in rotation, ensuring that there is no favoritism/ nepotism and no repetition of names as favour to some;
2. the appointment for commission should be made on merit by considering the qualification and standing at Bar;

3. the Commission should be appointed with free consent of the parties;
4. the Commission should record evidence in the court room in physical presence/ control of the judicial official;
5. on closure of proceedings, the Presiding Officer should give a certificate to the effect that the evidence was recorded by the Commission in his physical presence;
6. to narrow down the controversies in civil cases the Presiding Officer should ascertain from each party whether he admits such allegation of facts as are made in the plaint or in written statement, if any. The issue be narrowed down to the essential ones. This practice will help the court to restrict its proceeding to the actual controversies;
7. if the work load is manageable then the recording of evidence through Commission should be avoided and the judicial officer should record evidence under his hand.

All the courts under your administrative control should be informed accordingly to follow these guiding principles

(PHC letter No. 11805-31/Admn Dated Peshawar, 05th July, 2010)

C.No. 10(4-22)

IMPLEMENTATION OF NJP; REALIZATION OF GOALS THROUGH MULTI-PRONGED APPROACH

I am directed to refer to the above noted subject and to state that in recent meeting of Sub-Committee of NJPMC at Islamabad it has been held that goals of NJP be realized through multi-pronged approach. As one of the steps, the functioning of Bench Bar Liaison Committee and Criminal Justice Coordination Committee should be expanded for enhanced coordination to encompass the requirement of NJP; the meeting of former may be convened at least once a month, while that of later according to statutory interval. The agenda of meeting of a committee, each time, should include issues related with NJP. For better result oriented approach, guests' participants may be invited.

The Oldest, Older and Old cases should be given due attention. The period allowed for disposal of oldest cases, as already communicated, is current month, to be followed progressively by older and old cases till end of the current calendar year. The requisite district-wise data on prescribed proforma may be sent to this court prior to July 29, 2010 for ascertaining the progress in such cases.

(PHC letter No.12141-67/Admn Dated Peshawar, 13th July, 2010)

SECTION-23
(MISCELLANEOUS INSTRUCTIONS)

C.No. 1(4-23)

**CAREFUL EXERCISE OF REVISIONAL POWERS UNDER
SECTIONS 115 CPC 1908 & 439- CR.P.C. 1898**

I am desired to address you on the subject cited above and to say that prior to Law Reforms Ordinance 1972, the High Court alone used to exercise revisional powers under section 115 Civil Procedure Code, 1908 in civil matters and under section 439 Criminal Procedure Code, 1898 in respect of criminal matters but such revisional powers have also since been conferred upon all the District/ Additional District Judges and Sessions/Additional Sessions Judges under Sub-Section (2) of section 115 of the Civil Procedure Code and section 439-4 of the Code of Criminal Procedure in respect of civil and criminal matters respectively.

Every Presiding Officer of court is under obligation to work strictly in accordance with law and utmost care and diligence. Honorable the Chief Justice and Judges of this Court have been pleased to observe that some judicial officers while exercising revisional powers, as aforesaid, do not give, in this respect, as much attention as is required on their part with the result that this not only expose their judgments/ decisions to serious criticism of the bar and the litigant public but also creates an impression that the Judgment/ decision has been given not in accordance with law but according to their own subjective opinion. Besides, this state of affairs also creates an additional unnecessary work for this High Court for the obvious reason that no legal remedy is available under the law against a judgment/decision passed in exercise of the revisional powers and in the event of improper disposal of a matter under the revisional powers the adversely affected party usually comes to this Court in a writ petition. The Hon'ble Judges of this Court have further reasons to believe that had the Presiding Officer of the Court, exercising revisional powers, been vigilant and careful in the exercise of such powers none could have a chance for resorting to and invoking unnecessarily the writ jurisdiction of this Court.

In view of the above, I am, therefore, directed to request you that in future while exercising revisional powers under the Codes of Civil Procedure 1908 and Criminal Procedure 1898, utmost care should be taken in delivering judgments and further ensure that your decision should be

based strictly on law, the facts on file and not on subjective opinion. It must also be elaborate and self explanatory.

(PHC letter No. 8903-8935/ Admn: Brh: Dated Pesh., the 3rd April, 1983)

C.No. 2(4-23)

UNDESIREABILITY OF HASTY DISMISSAL OR EXPARTE DECREE OF SUITS

I am directed to address you on the subject cited above and to state that Court, no doubt, is competent to dismiss a suit under rule 3 Order IX Code of the Civil Procedure, 1908 when neither party appears when the suit is called on for hearing and that it can pass exparte decree under rule 6 (1) (a) of the said Order without recording evidence subject to the conditions mentioned therein and likewise can dismiss it under rule 8 of the Order, yet it is a discretionary matter on account of use of the words “may” & “be dismissed” in rules 3 & 6 (1) (a) and 8 respectively.

2) The primary object of the administration of the justice is the dispensation of real justice which alone can be ensured by following the principle of tolerance, sobriety and perseverance by Presiding Officers of courts. Extremes are dangerous and hasty decision, more than often fraught with wrongs, are not advisable in the ends of justice.

3) This Court has reasons to believe that some Presiding Officers of trial Courts not only treat this aspect of the matter very lightly but it has become a fashion with them either to dismiss or decree exparte suits hastily and without observance of the law and procedure on the subject. This practice is most irregular and shall be stopped forthwith. The relevant provisions, in this respect, contained in rules 5 & 6 part-J Chapter-I of the High Court Rules and Orders Vol. I, are reproduced below for your ready reference and guidance:-

5. “The above rules must be worked in a reasonable manner, otherwise they will result in a number of applications for setting aside orders passed in the absence of the one or both parties. A litigant may have gone away for a few minutes to call his pleader, or to refresh himself. It is impossible to expect a man to remain in constant attendance for the whole of the time

which the Court is sitting. A convenient method is to lay aside a case when it is found that both the parties are not present, and to call it a second time later on in the day, when all other cases have been called and those in which parties are present have been disposed of, and though it is not desirable to lay down any hard and fast rule as applicable to all cases, the above course should ordinarily be followed. Occasionally, when it is brought to the notice of the Court that both the parties to a case which has been held over are in attendance, it may be found convenient to call up the case before all other cases have been disposed of”.

6. “Some Judicial officers are inclined to dismiss cases in default hastily in order to show an increased outturn. This tendency must be strongly deprecated. No case should be dismissed without giving a party reasonable opportunity to appear as indicated above and if this is done, the number of successful applications for setting aside dismissals in default will be appreciably reduced. The same remarks apply to proceedings taken exparte and applications to set aside the exparte orders. When a suit or application is dismissed in default, exact time of dismissal should be noted in the order by the Presiding Officer in his own hand.”

4) In view of the above I am, therefore, desired to request you to ensure compliance with the aforesaid provisions of law in letter and spirit. All the appellate courts should further see that the trial courts are strictly adhering to these instructions and the law on the subject.

(PHC letter No.0205-9274/ Admn: Brh: Dated Pesh:, the 10th April, 1983)

C.No. 3(4-23)

DEPOSITION OF OATH

In continuation of this Court’s letter No. 18547-626 / Admn: Brh: Dated: 11.12.1983, I am directed to say that the prevailing form of oath stands substituted by the following form:-

“I swear by Almighty Allah that I shall state the truth.”

Henceforth the witnesses and interpreters in judicial proceedings shall take the above Oath before recording their evidence.

(PHC letter No. 6546-6625 Dated: 22nd October, 1988)

C.No. 4(4-23)

RECITATION OF THE HOLY QURAN AT THE COMMENCEMENT OF THE JUDICIAL WORK BEFORE THE HIGH COURT AND THE SUBORDINATE COURTS.

A Special meeting under the Chairmanship of the Hon'ble the Chief Justice was convened on 03.04.1993 at 11:00 A.M, which was attended by the Hon'ble Judges of this Court. In the meeting, it was unanimously resolved that as the preamble of the Constitution and the Objective Resolution direct our lives to be conducted in conformity with the injunctions of Quran and Sunnah, therefore, it was decided that the court proceedings in the Province shall commence with recitation from Holy Quran in the morning and that the act of recitation from the Holy Quran shall be performed by a senior Muslim Advocate appearing in the case or by the readers of the respective Courts.

I have, therefore, been directed by the Hon'ble Chief Justice and Judges of this Court to emphasise that the proceedings in the High Court as well as in the subordinate Judicial Courts should commence with the recitation from the Holy Quran. The recitation should be performed by a Senior Muslim practicing lawyer appearing in the first case or by the Readers of the respective Courts.

It is, therefore, desired that all the Courts through out the NWFP are to follow the suit.

(PHC letter No. 1963-2062 / Admn: Brh: Dated Pesh: the 3rd April, 1993)

C.No. 5(4-23)**CIVIL REVISION NO. 420 OF 1987 PROTECTION OF THE RIGHTS OF MINORS IN SUITS ACCORDING TO LAW**

I am directed to inform you that it was detected during the proceedings in Civil Revision No.420 of 1987, that the service of minors arrayed as a party therein had not been conducted in accordance with the requirements of law, right from the time when the proceedings in the case

commenced before the Civil Judge. The result was that unnecessary defective legal proceedings to the detriment of the rights of the minor continued till the case was remanded back to the lower court by the Peshawar High Court at revisional stage. This lapse on the part of all concerned Judicial Officers obviously resulted in gross mis-carriage of justice and waste of time.

2. I am, therefore, directed to emphasise on all the judicial Officers serving in the NWFP, to exercise great caution in cases where minor/minors are involved and to ensure that all the proceedings, particularly, in matters relating to service of the minors are meticulously observed according to the requirements of law so that the rights of the minors are fully protected.

3. I am, further directed to stress upon the concerned that any laxity in respect of any right of the minors, if detected, by the High Court would be seriously dealt and action against all the defaulting officers would be taken according to law.

(PHC letter No. Admn. 2996-3095 Brh. Dated Peshawar the 13th May, 1993)

C.No. 6(4-23)

AWARDING OF ADEQUATE SENTENCE IN MURDER CASES.

I am directed to say that of late it has been observed that Courts are hesitant in awarding normal penalty in murder cases, though accused are found guilty of the charge. Needless to stress that once the prosecution is able to bring home charge against an accused person, it is not the duty of the trial Court to seek even far-fetched extenuating and mitigating circumstances for awarding lesser punishment than the normal one. You are well aware that reluctance on the part of Judicial Officer in awarding normal death penalty in murder cases is significantly contributing to rise in the heinous crimes particularly murder; and the courts, in such circumstances, cannot escape their share of responsibility. There can be no two opinions that this unwarranted situation can only be checked through award of deterrent punishment.

The Hon'ble Chief Justice and Judges have taken serious view of this situation which is amply reflected in the judgment of Hon'ble Division Bench comprising Hon'ble the Chief Justice and Justice Tariq Parvez Khan in case Muhammad Israr ...Versus State- Jail Criminal Appeal No. 200 of 1994 (Copy of the Judgment enclosed).

I am, therefore, to direct that the punishment awarded to an accused, which is found guilty of the charge of murder, should adequately reflect the gravity of the offence in order to meet the end of justice. Any deviation of the above is bound to be recorded in the Character roll of the Officers.

(PHC letter No.2682-2731 Dated Peshawar the 27th March, 1998)

C.No. 7(4-23)

BENEFIT OF SECTION 382-B Cr.P.C 1898

I am directed to refer to the provision of Section 382-B Cr.P.C. and to request that the provision of the said Law be followed in letter and spirit at the time of convicting an accused.

(PHC letter No. 8344-8493 Admn: Dated Peshawar the 5th November,1998)

C.No. 8(4-23)

DECISIONS OF THE SUPERIOR COURTS

I am directed to address you on the subject noted above and to say that instances have come to the notice of this Court that decisions of the superior courts are not followed in their letter and spirit. Needless to emphasise that it is incumbent on all the judicial Officers to follow the decisions of superior courts in the matters before them if the same are applicable to the facts obtaining in the matters before them.

2. I am, therefore, to issue instructions to follow the decisions announced by the superior courts in letter and spirit. However, if the facts of the cases referred before the Courts are different from the cases under

consideration then in that case, cases referred at the bar should invariably be distinguished by giving valid/detailed reasons.

(PHC letter No. 19-118 Admn: Brh: Dated Peshawar, the 4th January, 1999)

C.No. 9(4-23)

PRETRIAL HEARING / CONFERENCE

I am directed to address you on the subject and to say that pretrial hearing/conference has always been considered as an integral part of recommendations for introducing reforms in civil trial with a view to curb undue delay and reduce workload. At the same time there has been growing realization that sufficient enabling provisions exist in law, which empower the judge to carry out pretrial hearing. The problem has, however, been identified as lack of will, if not lack of knowledge, to make use of this invaluable opportunity at the pretrial stage. It may not be out of place to point out that some countries in the Asian region and West are experimenting with this concept fairly successfully.

2)- Needless to say that besides bringing about improvements in the service of parties, their pleadings, framing of issues and other allied matters at the pretrial stage, it is equally important that concerted efforts are made for amicable settlement of the disputes through the system of alternative dispute resolution as it is in line with the injunctions of Islam, which lays stress on resolution of disputes through conciliation, mediation etc.

3)- I am, therefore, to stress on the need of paying sufficient attention to pretrial hearing so that all the pretrial formalities are timely completed and the case is ripened for early trial. Similarly you should, both at the pretrial as well as subsequent stages, make an effort for amicable settlement of the dispute, of course without compromising impartiality.

(PHC letter No.187-286 Admn. Dated Peshawar the 11th January, 1999)

C.No. 10(4-23)

COLLECTION OF RENT FROM THE CABINS IN THE PREMISES OF SESSIONS COURTS.

I am directed to address you on the subject noted above and to say that the matter was placed before the Administration Committee of this Court on 4.12.2000 for consideration and it was decided that:-

“Henceforth the District and Sessions judges shall collect rent from the cabins in the premises of Sessions Courts in the Province by entering into proper rent agreement with the occupants of such cabins. The rent so collected will be deposited in a distinct account, which will be opened, by respective District and Sessions judges under the “Miscellaneous Head”. The deposits will be available for spending on Misc: needs of the courts of District and Sessions judges and the Courts subordinate thereto. The receipts and expenditures/under the above head of account will be subject to internal audit by the budget and Accounts Branch of the Peshawar High Court”.

(PHC letter No. 9150-71 Dated Peshawar the 11th December, 2000)

C.No. 11(4-23)

POLICY OF OFFICIAL VEHICLES OF DISTRICT & SESSIONS JUDGES

NOTIFICATION

No.24/81-B(Admn)/- In order to ensure more serviceability and utility of official vehicles, Hon’ble the Chief Justice of this Court has been pleased to lay down the following policy with regard to the official vehicles allocated to District and Sessions Judges in N-W.F.P. and officers of this Court with immediate effect, till further orders.

1. The vehicle allocated to a District and Sessions Judge by name would be taken along by him on transfer to another District.
2. In case of transfer of a District and Sessions Judge to an Ex-cadre post in or out side the Province, retirement, long leave etc, the vehicle

would be surrendered to this Court for re-allocation as may be deemed appropriate.

3. The provisions of para-1 above shall also apply to a District and Sessions Judge transferred from the field to this Court and vice versa.

4. The expenditure to be incurred on utilization of POL shall be met out of the sanctioned grant allocated to the District, where the Officer concerned is posted or this Court, as the case may be.

(PHC letter No.24/81-B(Admn) Dated 12.05.2003)

C.No. 12(4-23)

CEILING OF THE OFFICIAL TELEPHONE

I am directed to refer to the subject noted above and to say that the Competent Authority has observed a tremendous increase in the expenditure on account of official telephone connections resulting in huge financial liabilities. Keeping in view limited resources of this Court, the trend needs to be arrested at once.

The Competent Authority has, therefore, been pleased to fix Rs.1500/- per month as maximum ceiling (including line rent) for the official telephones, installed for Additional District & Sessions Judge, Senior Civil Judge; and Civil Judges throughout the Province, I am further directed to require you to cause the record of the out going calls maintained, for the above mentioned official telephones, besides taking other necessary steps for the control of expenditure under this head.

(PHC letter No.10207-29/ Dated Peshawar the 19/12/2003)

C.No. 13(4-23)

CHIEF JUSTICE DIRECTIVE NO. 5 (LOCAL TRAININGS)

I am directed to reproduce herewith the subject directive issued by his Lordship the Chief Justice for immediate compliance.

“The District & Sessions Judges be required to lay emphasis on local training of ministerial staff and to arrange local training activities (Workshops, Seminars & Study Circles) for the Judicial Officers from within their own resources so that maximum output is ensured”.

(PHC letter No.4536-4550/Admn. Dated Peshawar the 23-4-2004)

C.No. 14(4-23)

PREPARATION OF ANNUAL WORK PLAN

I am directed to refer to the subject noted above and to say that in order to streamline the work procedure in a scientific manner and to enable the Judicial Officers to better manage their Court & Cases, it will be proper to plan Court work. This will also enable the Presiding Officers to manage their time so as to use it more efficaciously. With this aim in mind, the idea of Work Planning was also discussed in the recently held quarterly conference of District & Sessions Judges and it was decided that this Court will communicate a model Annual Work Plan to all the Judicial Officers, who after preparing their individual work plans will submit it to their respective District & Sessions Judges. The District & Sessions Judges will in turn prepare a consolidated work plan and send it to this Court for approval. This Court has prepared a model Annual Work Plan separately for Civil, Criminal and Administrative Business. A model work plan has been filled with presumptive figures for convenience. While fixing a month for disposal of case, current stage of the case is to be taken into consideration.

To further improve the proforma, any suggestion will be appreciated.

(PHC letter No.AJP/HC/43-A-8-A/2003/KP-4 Dated Peshawar the 5th March, 2005)

Annual Work Plan for the Disposal of Civil Cases
pending in the Court of _____

[illegible]

Annual Work Plan for the Disposal of Criminal Cases
pending in the Court of _____

[illegible]

IV-Instructions issued by the High Court 23-Miscellaneous Instructions

Annual Work Plan for the Administrative Functions of the Court of _____

S No	Activity	Ministerial Officer responsibl e for the Activity	Time Schedule (March 2005 to December 2005)															
			March				April				May				June and so on			
			*W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4
1	Monthly Inspections																	
2	Quarterly Inspections																	
3	Periodical Inspection of Accounts																	
4	Periodical Statements																	
5	Budgetary Statements																	
6	Writing of PERs																	
7	Local training for Process Serving Establishment																	
8	Workshop for Presiding Officers																	
9	DSCs																	
10	DPCs																	
11	Circulation of Seniority List																	
12	Destruction of Record																	
13	Jail Visit																	

C.No. 15(4-23)

CONTROLLING PRICE HIKE AND HOARDING OF FOODSTUFFS

I am directed to refer to the subject noted above and to say that complaints are pouring in regarding price hike and hoarding of foodstuff by the traders and that no inspections are carried out for the purpose under the N-W.F.P Foodstuffs (Control) Order, 1975.

The Hon'ble Chief Justice, therefore, has desired that some of the Magistrates in your district may be deputed to exercise the powers of "Inspector" as defined in the aforesaid Order. The Inspector may then make reports in writing under section 10 of the West Pakistan Foodstuffs (Control) Act, 1958 (Act XX of 1958) to the Court having jurisdiction in the matter.

In addition thereto the Sessions Judges, in exercise of his powers as Justice of the Peace, in order to prevent the crimes, may call upon the police to carry out inspections and also to assist the Magistrate under the Order aforesaid.

(PHC letter No. 9892-9915/Admn Dated 29-10-05)

C.No. 16(4-23)

RECEIPT OF HONORARIUM BY MAGISTRATES

I am directed to refer to the subject noted above and to say that the issue of payment of honorarium by different Departments, Authorities, Corporations, Local Governments, autonomous or semi autonomous bodies to Magistrates trying criminal cases pertaining thereto came up before Hon'ble the Chief Justice, who was pleased to observe that no honorarium could be received without the sanction of the Competent Authority and other than from General Revenue.

All the Judicial Officers are paid Civil Servants of the Provincial Government and the disposal of criminal cases as Magistrates under the Code of Criminal Procedure or any other law falls within the orbit of their normal duties. Receipt of honorarium for such work would, therefore, involve contravention of F.R. 9(9) and as such is not permissible. Moreover,

the Departments, Authorities, Corporations and other Bodies granting honorarium being party to the cases sent to Magistrates for proceedings; receipt of honorarium from them would cause serious impact on the integrity of the Court and the Institution, besides hampering safe administration of justice.

I am, therefore, directed to ask that such practice be stopped forthwith. The aforesaid directions may please be circulated amongst all the Magistrates of your respective Districts for immediate/strict compliance.

(PHC letter No. 4089-4112/Admn: Dated Peshawar the 29.04.2006)

C.No. 17(4-23)

DISCIPLINARY PROCEEDINGS

I am directed to refer to the subject noted above and to say that a number of cases have come to the notice of Hon'ble the Chief Justice wherein the disciplinary proceedings against the members of ministerial establishment of District Courts are not carried out strictly in accordance with the laid down procedure, resulting in reversal of the orders passed by the Authority / Authorised Officer in such proceedings. Such reversal of orders causes serious repercussions on the administrative hold over discipline and adversely affects institutional stability. The respective Authorities, Authorised Officers and Enquiry Officers are thus required to adhere to upto date rules on the subject in such proceedings. The Judicial Estacode, 2006 [C.No. 4(5-2)] contains upto date rules so far.

I am, therefore, to ask for circulating these instructions amongst all the Judicial Officers of your district for compliance in future, please.

(PHC letter No. 4180-4203/Admn Dated Peshawar, 05th April, 2007)

C.No. 18(4-23)

ESTABLISHMENT OF PROVINCIAL JUDICIAL TRAINING CENTRE*PESHAWAR HIGH COURT****NOTIFICATION****Dated Peshawar the 11th March 2008*

No. H(a)/Trg-I-II-III-IV-V/ J. Whereas the proper training of Judicial Officers and Court personnel is necessary, in order to improve the professional competence of Judges and Court staff, and to enhance the quality of Justice administered in the Courts;

And whereas the provincial government shall be asked to establish a full fledged Provincial Judicial Academy at Peshawar in due course of time;

Now, therefore, the Chief Justice is pleased to notify a Provincial Judicial Training Centre at Peshawar with a Director for making arrangements towards the end of capacity building of the Judges and staff of the Courts.

C.No. 19(4-23)

PROBATION OF OFFENDERS ORDINANCE 1960 / OVER CROWDING IN JAILS

I am directed to forward herewith copy of letter No. 2311/Dir R&P(0-2) dated 23.10.2008, on the subject cited above received from the Director, Reclamation & Probation NWFP Peshawar with the request to circulate the letter to all the courts exercising criminal jurisdiction and to ask the concerned courts to consider the relevant provisions of the Ordinance while deciding criminal cases, please.

(PHC letter No.15615-38/Admn Dated Peshawar, 24th November, 2008)

C.No. 20(4-23)

**CONSTITUTION OF DISTRICT LEGAL EMPOWERMENT
COMMITTEE FOR AJDF**

GOVERNMENT OF PAKISTAN

LAW & JUSTICE COMMISSION OF PAKISTAN

NOTIFICATION

Dated Islamabad the 12th May, 2009

File No. 14(198)/05/LJCP-A1-Peshawar:-

Pursuant to clause (b) of Rule 10 of the Access to Justice Development Rules 2002, the Law and Justice Commission of Pakistan with concurrence of the Peshawar High Court, Peshawar and the Government of NWFP has been pleased to constitute the District Legal Empowerment Committee each for the following selected Districts.

Name of the District

- i. Lower Dir.
- ii. Haripur.
- iii. Charsadda.
- iv. Bannu

2. District and Session Judge shall be the head of the District Legal Empowerment Committee, comprising with the following members.

- i. President, District Bar Association.
- ii. Superintendent, District Jail.
- iii. One Representative of the Civil Society to be co-opted by the Committee.

3. Each Committee shall open separate account in the National Bank of Pakistan to be managed and operated by its head.

4. The funds shall be utilized by the committee for the purpose of legal aid as per criteria laid down by the Governing Body of the AJDF.

C.No. 21(4-23)

CELL FOR ERADICATION OF CORRUPTION*PESHAWAR HIGH COURT***NOTIFICATION**

In pursuance of the decision of the National Judicial (Policy Making) Committee and in order to improve the present mechanism for eradication of corruption from Judiciary, the Hon'ble Chief Justice has been pleased to order the establishment of "Cell for Eradication of Corruption from Judiciary" in the office of Registrar, Peshawar High Court, Peshawar under the supervision of the Hon'ble Chief Justice and an Hon'ble Judge to be nominated for the purpose by the Hon'ble Chief Justice.

(PHC Endst: No. 4361-4460/Admn Dated Peshawar, 13th May, 2009)

C.No. 22(4-23)

**ALLOTMENT OF RESIDENTIAL ACCOMMODATION
CONSTRUCTED UNDER ACCESS TO JUSTICE PROGRAM /
GOVERNMENT ACCOMMODATION**

With reference to the subject matter and in modification of this Court instructions on the subject given vide letter # 349-J/dated 06.06.2007, enclosed are the revised instructions for the management and allotment of residential units constructed out of Access to Justice fund including other Government accommodation in your control for guidance and compliance, please.

With the construction of new buildings for the use of district judiciary in the province, it has become necessary to issue amended guidelines for the better management and maintenance.

For this purpose the buildings include the residences & bachelor hostels built exclusively for the judiciary or otherwise in the control of District Judiciary or for that matter Peshawar High Court.

For the purpose of management the District & Sessions Judge shall be the Incharge / authority of the buildings within the District. However, for allotment purposes in district Peshawar, this Court shall be the authority.

The following instructions are, therefore, issued in addition to the Rules and Instructions of the Provincial Government so far applicable on the subject:

1. The maintenance of all the buildings shall be carried out by the Works & Service Department, under the supervision of the officer Incharge.
2. The occupants of the residence and bachelor hostels shall be liable to deduction of rent and allied charges payable under the rules/instructions.
3. The concerned Incharge shall ensure that the deduction as mentioned above are regularly made in accordance with the rules/instructions.
4. The residence and rooms in bachelor hostels shall be allotted to Judicial Officers posted in the District.
5. The utility bills/charges/dues other than rent mentioned in clause 2, is to be paid by occupant directly to the concerned authorities.
6. At the time of handing and taking over the possession of residences an inventory of all the fixtures, fittings, equipments and official furniture shall be got prepared by the concerned incharge or his nominee in a properly maintained register kept for the purpose.
7. Except for normal wear and tear the allottee shall be liable to pay the cost of fixtures, fittings & equipment found missing damaged or destroyed.
8. The concerned authority shall be responsible for the overall maintenance and upkeep of accounts concerning the premises.
9. The allotment shall be cancelled if an allottee:-
 - (i) Fails to pay utility bills.
 - (ii) Sublets, wholly or partly, the residential accommodation, or
 - (iii) Becomes a source of nuisance for the neighbors, or
 - (iv) Does not reside in the allotted accommodation for a period of two months following allotment.
 - (v) Has a house at the place of posting either in his own name or in the name of his spouse or a dependent child.
10. Priority, Seniority, need and gender will be considered for the purpose of allotment.
11. Till such time a proper care-taker / attendant is recruited, the concerned incharge shall arrange for an attendant at Bachelor Hostel out of the available strength of ministerial staff of the District.
12. The rent of the bachelor hostel shall be fixed by this court.

The revised schedule of rent is as under:-

S. NO.	NATURE OF ACCOMMODATION	ENTITLEMENT	RENT
1.	Residence	Judicial Officers posted at a station	As prescribed by the Government
2.	Bachelor Hostel	Judicial Officers posted at a station, for more than 15 days stay	Rs. 1500/- for a room (exclusive of utility charge)
3.	Bachelor Hostel	Judicial Officers posted at a station, for less than 15 days stay	Rs. 300/- per night for a room
4.	Bachelor Hostel	Out station Judicial Officers, retired Judicial Officer, for a less than 15 days stay	Rs. 400/- per night*

* The allotment is subject to availability.

No. 241-J & 242-J / Dated Peshawar the 13th October, 2009

(PHC letter No.608-632/Admn Dated Peshawar, 14th October, 2009)

C.No. **23**(4-23)

PRICE CONTROL MAGISTRATES

I am directed to refer to the subject noted above and to say that after the insertion of section 14-A in Criminal Procedure Code, 1898 through Finance Act 2006, the trial of offences relating to price control under any Provincial or Federal law, for the time being in force, is the exclusive domain of special magistrates appointed for the purpose by the Provincial Government. Nevertheless these special magistrates have been placed under the subordination of the Sessions Judge and he may from time to time, make rules or give special orders as to the distribution of business among such magistrates (section 17 (1) of the Code as amended through Finance Act, 2006). But it has been observed that Sessions Judges do not exercise

their powers and discharge their responsibilities as aforesaid and the objective of the law is thereby defeated.

Effective control over price magistrates would certainly yield fruitful results in stabilizing the prices of essential commodities including the foodstuffs and the ultimate beneficiary would be consumer for whose benefit the law is made.

You are, therefore, asked to make use of this important legal provision effectively so that the legal desire is accomplished. The Sessions Judges are further asked to ensure price control by deputing such magistrates twice a month.

(PHC letter No.3183-3206/Admn Dated Peshawar, 02nd March, 2010)

C.No. **24**(4-23)

HOUSE RENT DEDUCTION

I am directed to refer to the subject noted above and to say that there are certain complaints regarding unauthorized occupation of government accommodations by judicial officers and non payment of house rent and other utility bills in some cases. The officers who are posted out of a station need not retain the house beyond prescribed period. It has also been observed that some judicial officers are occupying two government owned accommodations and paying rent of only one. Such practices are clearly in violation of rules and violation of rules militates against the code of conduct of judicial officers. All the judicial officers are, therefore, impressed upon to desist from such violations in future.

This directive may be circulated amongst all the judicial officers under your control.

(PHC letter No.6521-80/Admn Dated Peshawar, 07th April, 2010)

C.No. **25**(4-23)

ALLOCATION OF FUNDS FOR STATIONARY ITEMS

I am directed to refer to the subject noted above and to say that Hon'ble Chief Justice has taken a strong notice of the fact that stationary items are, at times, provided by litigants to the courts. The reason put forth for justification by the courts is shortage of fund in the relevant head. The Hon'ble Chief Justice has therefore, allocated sufficient amount in the

relevant head for the next two months keeping in view the actual demand of each court in the district. The Hon'ble Chief Justice has further issued directions that periodical allocation in the relevant head shall be made without fail so that the need of each court is met out in time. The concerned DDOs are impressed upon to get the requisite supply of stationary items ensured to each and every court. For the purpose each DDO is required to constitute a purchase committee which shall be responsible not only for the purchase of stationary items but for timely supply of the same to the concerned court against the proper signatures of the concerned judicial officer as a token of the receipt of stationary items. The purchase and disbursement record is to be kept by each DDO for audit and inspection purpose.

In future no stationary item shall be accepted from litigants as the same militates against the dignity of judiciary. The amount so allocated shall not be reappropriated to any other head. The District and Sessions Judges is to distribute this letter amongst all the judicial officers in the district except the Senior Civil Judge.

(PHC letter No.2731-79/Admn Dated Peshawar, 24th April, 2010)

C.No. 26(4-23)

پشاور ہائی کورٹ پشاور

نوٹس

ہر عام و خاص کو مطلع کیا جاتا ہے کہ کسی بھی عدالت یا اسکے ذیلی دفاتر میں کسی بھی قسم کا کوئی بھی لین دین یا طلبی اجرت بالواسطہ یا بلاواسطہ کسی بھی سرکاری کام کو غیر سرکاری طور پر کرانا قانوناً حرام اور قابل سزا ہے جس کیلئے متاثرہ یا دلچسپی رکھنے والا کوئی بھی شخص دوران اوقات کار متعلقہ سیشن جج کو یا فون نمبرات 091-9210159 (ممبر انسپکشن ٹیم) یا 091-9210135 (رجسٹرار) کو اطلاع کرے تو اس کا نام صغیر راز میں رکھا جا کر بدعنوانی کے ماسور کو ختم کرنے کیلئے تمام اقدامات کئے جائیں گے۔

رجسٹرار

No.13716-13764/Admn Dated Peshawar the 3rd August, 2010

C.No. 27(4-23)

CONTACT INFORMATION OF PARTIES

I am directed to refer to the subject noted above and to say that under Order VII rule 1 of the Code of Civil Procedure, 1908 the plaintiff is required to give the particulars regarding name, description and place of residence of plaintiff as well as defendant. The description, in this era of Information Technology, encompass the following, which should, invariably be provided, to the extent possible, by the plaintiff, appellant, petitioner etc in all judicial proceedings, whether criminal or civil. The said details should also be provided in list of witnesses, at the time of filing of F.I.R, complaint etc.

- a. NIC number and copy of NIC.
- b. Present address of parties if different from permanent address.
- c. E-mail address.
- d. Cellular/Mobile phone number.
- e. Fax number.
- f. Telephone number

These descriptions of contacts must be updated by the parties or other concerned in case of any change. This directive may be circulated amongst all the judicial officers, police officers and other concerned in the district.

(PHC letter No.18627-80/Admn Dated Peshawar, 03rd November, 2010)

C.No. 28(4-23)

ERADICATION OF CORRUPTION

I am directed to refer to the subject noted above and to enclose herewith a specimen of notice in Urdu for information of general public. The same may be written on large signboards and be affixed on conspicuous places in the court premises both at District, Sub Divisional and Tehsil level within a week time. After doing the needful, please intimate this court about the completion of the task. The expenditure involved may be met out of contingency.

اطلاع عام

کوئی بھی حکومتی اہلکار بشمول عدالتی عملہ ، عملہ محکمہ
مال و پولیس اگر کسی سے کوئی رقم تحفہ وغیرہ بطور رشوت وصول کرے
تو آپ بغیر خوف و خطر اپنی عرضی جناب چیف جسٹس پشاور ہائی کورٹ
یا زیر دستخطی کے نام بھیجیں جس میں مکمل تفصیل معہ نام و پتہ
شکایت کنندہ درج ہونا ضروری ہے۔
رشوت ختم کرنے میں ہماری مدد کیجئے اسی میں آپ کا، ملک
کا اور قوم کا بھلا ہے۔

بحکم چیف جسٹس پشاور ہائی کورٹ

(رجسٹرار پشاور ہائی کورٹ)

(PHC letter No.19976-99/Admn Dated Peshawar, 06th December, 2010)

C.No. 29(4-23)

CURTAILMENT OF DURATION OF JOURNEYS ON TOURS/TRANSIT DAY

I am directed to refer to the subject noted above and to say that it has been noticed by Hon'ble the Chief Justice that Judicial Officers spend long durations of journeys on official tours than required in ordinary course resulting in undue and prolonged absence from duty. It is, therefore, decided that duration of journeys on tours be curtailed to the maximum and transit day shall not be claimed henceforth if it is all the more convenient for the Judicial Officer/Official to come back to the place of his duty/headquarters. In no case such transit day shall be claimed if the distance between his place of duty/headquarters and place of tour is less than 200 KM save in unavoidable circumstances which shall be noted down and communicated to this court.

These instructions may be circulated amongst all concerned under your control.

(PHC letter No.16773-96/Admn Dated Peshawar, 06th December, 2010)

C.No. 30(4-23)

**ESTABLISHMENT OF KHYBER PAKHTUNKHWA
JUDICIAL ACADEMY**

*Government of the Khyber Pakhtunkhwa
Law, Parliamentary Affairs and Human Rights Department*

ORDER

Dated Peshawar the 05th March 2011

No. E&A/LD/8-100/2008:- The Competent Authority has been pleased to order the establishment of the Khyber Pakhtunkhwa Judicial Academy, with immediate effect as an interim arrangement, till the enactment of the draft law for the establishment of the Khyber Pakhtunkhwa Judicial Academy. Faculty and other staff will be provided by the Peshawar High Court, Peshawar.

C.No. 31(4-23)

QUALITY OF ADMINISTRATION & COURT

I am directed to refer to the subject noted above and to say that it has been noticed by this Court that the office management of many courts in the province is not upto the mark and the important administrative steps like preparation of seniority list, maintenance of service books, PERs etc of staff be improved and compliance of different directions and rules be ensured in letter & spirit, please.

(PHC letter No. 4562-85/Admn Dated Peshawar, 09th April, 2011)

CHAPTER-V

(PROVINCIAL SERVICES LAWS)

SECTION- 1

(THE NWFP CIVIL SERVANTS ACT, 1973)

C.No. 1(5-1)

APPLICABILITY OF GENERAL LAWS REGARDING NWFP GOVERNMENT SERVANTS TO JUDICIAL AND MINISTERIAL SERVICES

Section 26 of the NWFP Civil Servants Act, 1973.

Rules:- (1) The Governor or any person authorised by the Governor in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out the purpose of this Act.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made under this Act.

Rule 13 of the NWFP Judicial Service Rules 2001.

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.

Rule 12 of the Peshawar High Court Ministerial Establishment (appointment and conditions of Service) Rules 1989.

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 North West Frontier Province Civil Servants Act, 1973 (N.W.F.P Act XVIII of 1973), shall mutatis mutandis apply to the holders of posts under these rules.

C.No. 2(5-1)

**THE NWFP CIVIL SERVANTS ACTS,1973 (N.W.F.P. ACT
NO.XVIII OF 1973)**

An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North-West Frontier Province.

Preamble- **WHEREAS** it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North-West Frontier Province, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, application and commencement:- (1)** This Act may be called the North West Frontier Province Civil Servants Act, 1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

(3) It shall come into force at once.

**CHAPTER-I
PERLIMINARY**

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

- (a) **“adhoc appointment”** means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method,
- (b) **“civil servant”** means a person who is member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include-

- (i) a person who is on deputation to the Province from the Federation or any other Province or other authority;
 - (ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or
 - (iii) a person who is a “worker” or “workman” as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workmen’s Compensation Act, 1923 (Act VIII of 1923);
- (c) **“Government”** means the Government of the North-West Frontier Province.
- (d) **“initial appointment”** means appointment made otherwise than by promotion or transfer;
- (e) **“pay”** means the amount drawn monthly by a civil servant as pay, and includes special pay, personal pay and any other emoluments declared by the prescribed authority to be paid;
- (f) **“permanent post”** means a post sanctioned without limit of time;
- (g) **“prescribed”** means prescribed by rules;
- (h) **“province”** means the North-West Frontier Province;
- (i) **“rules”** means rules made or deemed to have been made under this Act;
- (j) **“selection authority”** means the North West Frontier Province Public Service Commission, a departmental selection board, departmental selection committee or other authority or body on the recommendations of, or in consultation with which any appointment or promotion, as may be prescribed, is made;
- (k) **“temporary post”** means a post other than a permanent post.

(2) For the purpose of this Act, an appointment, whether by promotion or otherwise, shall be deemed to have been made on regular basis if it is made in the prescribed manner.

CHAPTER-II

TERMS AND CONDITIONS OF SERVICE OF CIVIL SERVANTS

3. Terms and Conditions:- The terms and conditions of service of a civil servant shall be as provided in this Act and the rules.

4. Tenure of office of civil servants:- Every civil servant shall hold office during the pleasure of the Governor.

5. Appointment:- Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in the prescribed manner by the Governor or by a person authorized by the Governor in that behalf.

6. Probation:- (1) An initial appointment to a service or post referred to in section 5, not being an adhoc appointment, shall be on probation as may be prescribed.

(2) Any appointment of a civil servant by promotion or transfer to a service or post may also be made on probation as may be prescribed.

(3) Where, in respect of any service or post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or successful completion of any training, a person appointed on probation to such service or post who, before the expiry of the original or extended period of his probation, has failed to pass such examination or test or to successfully complete course or the training shall, except as may be prescribed otherwise-

- (a) if he was appointed to such service or post by initial recruitment, be discharged; or
- (b) if he was appointed to such service or post by promotion or transfer, be reverted to the service or post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged:

Provided that in the case of initial appointment to a service or post, a civil servant shall not be deemed to have completed his period of probation satisfactorily until his character and antecedents have been verified as satisfactory in the opinion of the appointing authority.

7. Confirmation:- (1) A person appointed on probation shall, on satisfactory completion of his probation, be eligible for confirmation in a service or, as the case may be, a post as may be prescribed.

(2) A civil servant promoted to a post ¹[...] on regular basis shall be eligible for confirmation after rendering satisfactory service for the period prescribed for confirmation therein.

(3) There shall be no confirmation against any temporary post.

(4) A civil servant who, during the period of his service, was eligible to be confirmed in any service or against any post retires from service before being confirmed shall not, merely by reason of such retirement, be refused confirmation in such service or post or any benefits accruing therefrom.

(5) Confirmation of a civil servant in a service or post shall take effect from the date of occurrence of permanent vacancy in that service or post or from the date of continuous officiation, in such service or post, whichever is later.

8. Seniority:- (1) For proper administration of a service, cadre or ²{post}, the appointing authority shall cause a seniority list of the members for the time being of such service, cadre or ³{post} to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such service, cadre or ⁴{post} as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of a civil servant shall be reckoned in relation to other civil servants belonging to the same service or ⁵[cadre] whether serving the same department or office or not, as may be prescribed.

¹ Omitted by NWFP Ord. No.IV of 1985.

² Substituted by NWFP Ord. No.IV of 1985.

³ Substituted by NWFP Ord. No.IV of 1985.

⁴ Substituted by NWFP Ord. No.IV of 1985

⁵ Substituted by NWFP Ord. No.IV of 1985

(3) Seniority on initial appointment to a service, ¹[cadre] or post shall be determined as may be prescribed.

² [(4) 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 higher post, retain their inter-se-seniority as in the lower post.”]

³ [(5) The Seniority lists prepared under sub-section (1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January”].

9. Promotion:- (1) A civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a ⁴[higher] post for the time being reserved under the rule for departmental promotion in ⁵[...]the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non selection post to which promotion shall be made as may be prescribed-

- (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-cum-fitness.

10. Posting and Transfer:- Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Government, or any Provincial Government or Local authority, or a corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

¹ Substituted by NWFP Ord. No.IV of 1985

² Substituted by NWFP Ordinance No.IV of 1985

³ Added by NWFP Act No.1 of 1989

⁴ Inserted by NWFP Ord. No.IV of 1985

⁵ Omitted by NWFP Ord. No.IV of 1985

Provided further that, where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

11. Termination of service:- (1) The service of a civil servant may be terminated without notice-

(i) during the initial or extended period of his probation:

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one ¹[service], cadre or post to another ²[service], cadre or post, his service shall not be so terminated so long as he holds a lien against his former post in such ³[service] or cadre, but he shall be reverted to his former ⁴[service], cadre or post, as the case may be;

(ii) on the expiry of the initial or extended period of his employment; or

(iii) if the appointment is made adhoc terminable on the appointment of a person on the recommendation of the selection authority, on the appointment of such person.

(2) Where, on the abolition of a post or reduction in the number of post in a cadre or grade, the services of a civil servant are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such cadre or grade.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub section (2), the service of a civil servant in temporary employment or appointed adhoc shall be liable to termination on fourteen days notice or pay in lieu thereof.

⁵[11-A Absorption of civil servants rendered surplus:- Notwithstanding anything contained in this Act, the rules made thereunder, any agreement,

¹ Substituted by NWFP Ordinance No.IV of 1985

² Substituted by NWFP Ordinance No.IV of 1985

³ Substituted by NWFP Ordinance No.IV of 1985

⁴ Substituted by NWFP Ordinance No.IV of 1985

⁵ Inserted by NWFP Ordinance No. VI of 2001

contract or the terms and conditions of service, a civil servant who is rendered surplus as a result of re-organisation or abolition of a department, office or abolition of a post in pursuance of any Government decision may be appointed to a post, carrying basic pay scale equal to the post held by him before such appointment, if he possesses the qualifications and fulfils other conditions applicable to that post:

Provided that where no equivalent post is available, he may be offered a lower post in such manner and subject to such conditions as may be prescribed, and where such civil servant is appointed to a lower post, the pay being drawn by him in the higher post immediately preceding his appointment to a lower post shall remain protected.]

12. Reversion to a lower ¹(post):- A civil servant appointed to a higher post or ²[before the commencement of the North-West Frontier Province Civil Servants amendment) Ordinance, 1985 to a higher] grade on adhoc or on temporary or officiating basis, shall be liable to reversion to his lower post ³[...] without notice.

⁴ **[12A. Certain persons to be liable to removal or reversion:-** Notwithstanding anything contained in his terms and conditions of service, a civil servant appointed or promoted during the period from first day of January, 1972 to the fifth day of July, 1977 may be removed from service or reverted to his lower post ⁵[] as the case may be, without notice, by the Governor or a person authorized by him in this behalf, on such date as the Governor or, as the case may be, the person so authorized may, in the public interest, direct].

⁶ **[13. Retirement from service.- (1)** A civil servant shall retire from service-

- (a) on such date after he has completed ⁷{twenty} years of service qualifying for pension or other retirement benefits as the competent authority may, in public interest, direct; or

¹ Substituted by NWFP Ord. No.IV of 1985.

² Inserted by NWFP Ord. No.IV of 1985.

³ Omitted by NWFP Ord. No.IV of 1985.

⁴ Inserted by the NWFP Ord. No.IX of 1978

⁵ Omitted by NWFP Ord No. IV of 1985

⁶ Substituted vide the North-West Frontier Province Civil Servants (Second Amendment) ordinance, 2001. Ord. No. XXVIII of 2001

⁷ Substituted by NWFP Ord. No XXVIII of 2001

- (b) where no direction is given under clause (a), on the completion of sixtieth year of his age.

(2) No direction under clause (a) of sub-section (1) shall be made until the civil servant has been informed in writing of the grounds on which it is proposed to make the direction, and has been given a reasonable opportunity of showing cause against the said direction.

Explanation.- In this section, the expression “competent authority” means the appointing authority prescribed in rule 4 of the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989].

14. Employment after retirement:-(1) A retired civil servant shall not ordinarily be re-employed under Government, unless such re-employment is necessary in the public interest and is made with the prior approval of the authority next above the appointing authority:

Provided that, where the appointing authority is the Governor, such re-employment may be ordered with the approval of the Governor.

(2) Subject to the provision of sub-section (1) of section 3 of the Ex-Government Servants (Employment with Foreign Governments) (Prohibition) Act, 1966 (Act XII of 1966), a civil servant may, during leave preparatory to retirement, or after retirement from Government service, seek any private employment:

Provided that, where employment is sought by a civil servant while on leave preparatory to retirement or within two years of the date of his retirement, he shall obtain the prior approval of the prescribed authority.

15. Conduct:- The conduct of a civil servant shall be regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

16. Disciplinary action:- A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

17. Pay:- A civil servant appointed to a post ¹[....] shall be entitled, in accordance with the rules, to the pay sanctioned for such post ²[....]:

Provided that, when the appointment is made on a current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

Provided further that where a civil servant has, under an order which is later set aside, been dismissed or removed from service or reduced in rank, he shall, on the setting aside of such order, be entitled to such arrears of pay as the authority setting aside such order may determine.

18. Leave:- A civil servant shall be allowed leave in accordance with the leave rules applicable to him; provided that the grant of leave will depend on the exigencies of service and be at the discretion of the competent authority.

³**19. Pension and gratuity.-(1)** On retirement from service, a civil servant appointed on regular basis in the prescribed manner before the commencement of the North-West Frontier Province Civil Servants (Amendment) Act, 2005 (hereinafter referred to as the said Act), shall be entitled to receive such pension or gratuity as are admissible to him under the West Pakistan Civil Servants Pension Rules:

Provided that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive such pension, or gratuity, or both, as admissible under the said rules.

(2) A person though selected for appointment in the prescribed manner to a service or post on or after the 1st day of July, 2001, till the commencement of the said Act, but appointed on contract basis, shall, with effect from the commencement of the said Act, be deemed to have been appointed on regular basis. All such persons and the persons appointed on regular basis to a service or post in the prescribed manner after the commencement of the said Act shall, for all intents and purposes be civil servant except for the purpose of pension or gratuity. Such a civil servant shall in lieu of pension and gratuity, be entitled to receive such amount contributed by him towards the Contributory Provident Fund, along with the contributions made by Government to his account in the said Fund, in the prescribed manner:

¹ Omitted by NWFP Ord. No.IV of 1985

² Omitted by NWFP Ord. No.IV of 1985

³ Substituted by NWFP Act No. IX of 2005

¹[Provided that where a civil servant appointed to a pensionable post on regular basis before the 1st day of July, 2001, is appointed to another post after the 1st day of July, 2001, without any service break, he shall be given an option either to retain the benefit of pension and gratuity as allowed to him under his previous terms of appointment or to avail the benefit of Contributory Provident Fund allowed to him under his new appointment].

Provided ²[further] that in the event of death of such a civil servant, whether before or after retirement, his family shall be entitled to receive the said amount, if it has already not been received by such deceased civil servant.

(3) No pension to a civil servant, who is otherwise entitled to it, shall be admissible to him, if he is dismissed or removed from service for reasons of discipline, but Government may sanction compassionate allowance to such civil servants, not exceeding two-third of the pension or gratuity which would have been admissible to him had he been invalided from service on the date of such dismissal or removal:

Provided that a civil servant referred to in sub-section(2), in case of such dismissal or removal, may, in addition to his own contributions to the Contributory Provident Fund, be allowed, on account of such compassionate allowance, a sum not exceeding two-third of Government contributions in his account.

(4) If the determination of the amount of pension or gratuity admissible to a civil servant is delayed beyond one month of the date of his retirement or death, he or his family, as the case may be, shall be paid provisionally such anticipatory pension or gratuity as may be determined by the prescribed authority, according to the length of service of the civil servant which qualified for pension or gratuity and any over payment on such provisional payment shall be adjusted against the amount of pension or gratuity finally determined as payable to such civil servant or his family.]

20. Provided Fund:- (1) Before the expiry of the third month of every financial year, the Accounts Officer or other officer required to maintain provident fund accounts shall furnish to every civil servant subscribing to a provident fund the account of which he is required to maintain a statement under his hand showing the subscriptions to including the interest accruing

¹ Added vide the NWFP Civil Servants (Amendment) Act, 2009 (NWFP Act No. VIII of 2009)

² Added vide the NWFP Civil Servants (Amendment) Act, 2009 (NWFP Act No. VIII of 2009)

thereon, if any, and withdrawals or advances from his provident fund during the preceding financial year.

(2) Where any subscription made by a civil servant to his provident fund has not been shown or credited in the account by the Accounts Officer or other officer required to maintain such account, such subscription shall be credited to the account of the civil servant on the basis of such evidence as may be prescribed.

21. Benevolent Fund and Group Insurance:- All civil servants and their families shall be entitled to the benefits admissible under the West Pakistan Government Employees Welfare Fund Ordinance, 1969. (W.P Ord. I of 1969), or the North-West Frontier Province Government Servants Benevolent Fund Ordinance, 1972 (NWFP Ord. VII of 1972.), and the rules made thereunder.

22. Right of Appeal or Representation:-(1) Where a right to prefer an appeal or apply for review in respect of any order relating to the terms and conditions of his service is provided to a civil servant under any rules applicable to him, such appeal or application shall, except as may be otherwise prescribed, be made within thirty days of the date of such order.

(2) Where no provision for appeal or review exists under the rules in respect of any order or class of orders, a civil servant aggrieved by any such order may, within thirty days of the communication to him of such order, make a representation against it to the authority next above the authority which made the order:

Provided that no representation shall lie on matters relating to the determination of fitness of a person to hold a particular post or to be promoted to a higher post or grade.

CHAPTER-III (MISCELLANEOUS)

23. Saving:- Nothing in this Act or in any rule shall be construed to limit or abridge the power of the Governor to deal with the case of any civil servant in such manner as may appear to him to be just and equitable:

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favourable to him than that provided by this Act or such rules.

¹**[23-A-Idemnity ---** No suit, prosecution or other legal proceedings shall lie against a civil servant for anything done or intended to be done in good faith in his official capacity under this Act or the rules, instructions or direction made or issued thereunder.

23-B. Jurisdiction barred --- Save as provided under this Act and the Service Tribunal Act, 1974 (N.-W.F.P Act No. 1 of 1974), or the rules made thereunder, no order made or proceedings taken under this Act, or the rules made thereunder by the Governor or any officer authorised by him shall be called in question in any court and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance of any power conferred by or under Act or the rules made thereunder]

24. Removal of difficulties:- If any difficulty arises in giving effect to any of the provisions of this Act, the Governor may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the coming into force of this Act.

25. Appointment of persons on contract, etc:- The Governor or any person authorized by the Governor in that behalf may, on such terms and conditions as he may specify in each case, appoint persons on contract basis, or on work-charged basis, or who are paid out of contingencies:

Provided that all such employees who were working in any such capacity immediately before the commencement of this Act shall continue to be so employed on the same terms and conditions on which they were appointed.

¹ Inserted by NWFP Ord. No. XIV of 2002

***26. Rules:-** (1) The Governor or any person authorized by the Governor in this behalf, may make such rules as appear to him to be necessary or expedient for carrying out of the purposes of this Act.

(2) Any rules, orders or instructions in respect of any terms and conditions of service of civil servants duly made or issued by an authority competent to make them and in force immediately before the commencement of this Act shall, in so far as such rules, orders or instructions are not inconsistent with the provisions of this Act, be deemed to be rules made this Act.

27. Repeal:- The North-West Frontier Province Civil Servants Ordinance, 1973 (NWFP Ordinance No.VI of 1973), is hereby repealed.

* The Governor has authorized the Chief Minister NWFP to make rules vide Notification No.SORI(S&GAD)1-206/74/Vol.V dated 18.4.1989 which reads as under:-
“In exercise of the powers conferred by sub-section (1) of Section 26 of the NWFP Civil Servants Act, 1973 (NWFP Act XVIII of 1973), the Governor North West Frontier Province is pleased to authorize the Chief Minister, North West Frontier Province to make rules for carrying out of the purposes of the said Act”

SECTION-2 (SERVICES RULES)

C.No. 1(5-2)

STATUTORY PROVISION REGARDING APPOINTMENT

Section 5 of Civil Servants Act, 1973 – Appointment to a civil service of the Province or to a civil post in connection with the affairs of the Province shall be made in prescribed manner by the Governor or by a person authorized by the Governor in that behalf.

C.No. 2(5-2)

THE NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPOINTMENT, PROMOTION & TRANSFER) RULES, 1989.

PART-I GENERAL

1. Short title and commencement:- (1) These rules may be called the North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

(2) They shall come into force at once.

2. Definitions:- (1) In these rules, unless the context otherwise requires:-

- (a) **“Appointing Authority”** in relation to a post, means the person authorized under rule 4 to make appointment to that post;
- (b) **“Basic Pay Scale”** means the Basic Pay Scale for the time being sanctioned by Government, in which a post or a group of posts is placed;
- (c) **“Commission”** means the North-West Frontier Province Public Service Commission.

¹ [(d) **Departmental Promotion Committee:** means a committee constituted for making selection for promotion or transfer to such posts under a Department, or offices of Government which do not fall within the purview of the Provincial Selection Board].

² [(dd) **“Departmental Selection Board”** means a Board constituted for the purpose of making selection for initial recruitment / appointment to posts under a Department or office of Government in Basic Pay Scale 17 not falling within the purview of the Commission].

Provided that more than one such committee may be constituted for civil servants holding different scales of pay”.

(e) **“Departmental Selection Committee”** means a committee constituted for the purpose of making selection for initial appointment to post under a department, or office of Government ³[in Basic Pay Scale 17 and below not falling within the purview of the Commission]:

(f) **“Post”** means a post sanctioned in connection with the affairs of the Province, but not allocated to all Pakistan Unified Grades; and

⁴ [(g) **“Provincial Selection Board”** means the Board constituted by Government for the purpose of selection of civil servants for promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister and shall consist of such persons as may be appointed to it by Government from time to time].

(2) Words and expressions used but not defined in these rules shall have the same meanings as are assigned to them in the North- West Frontier Province Civil Servants Act, 1973(N.W.F.P Act XVIII of 1973) or any other statutory order or rules of Government for the time being in force.

3. Method of Appointment:- (1) Appointment to posts shall be made by any of the following methods, namely:-

(a) by promotion or transfer in accordance with the provisions contained in Part-II of these rules; and

¹ Substituted by vide Notification No.SOR.I(S&GAD)4-1/80(Vol.II), dated 14.1.1992

² Added and substituted by Notification No. SOR.III(S&GAD)2-7/86, dated 8.12.1994

³ Added and substituted by Notification No. SOR.III(S&GAD)2-7/86, dated 8.12.1994

⁴ Substituted by Notification No. SOR.I(S&GAD)4-1/80/Vol.II dated 14.1.1992

(b) by initial recruitment in accordance with the provisions contained in Part-III of these rules.

(2) The method of appointment, qualifications and other conditions applicable to a post shall be such as laid down by the Department concerned in consultation with the Services and General Administration Department and the Finance Department.

4. Appointing Authority:- The authorities competent to make appointment to posts in various basic pay scales shall be as follows:-

S.No	Posts	Appointing Authority
¹ 1. (a)	Posts in Basic Pay Scale 18 and above including posts in Basic Pay Scale 17 borne on any of the following services; (i) Former Provincial Civil Service (Executive Branch) (ii) Former Provincial Civil Service (Judicial Branch); and (iii) Provincial Civil Secretariat Service.	Chief Minister
² [(b)	Posts in Basic Pay Scale 17 other than those covered by (a) above and the post of Deputy Superintendent of police; and	
(c)	Posts of Deputy Superintendent of Police]	
2.	Posts in Basic Pay Scale 16.	Chief Secretary
	(a) In the case of Secretariat of the Government of NWFP, the Chief Secretary.	
	(b) In case of High Court, the Chief Justice; and	
	(c) In the case of Attached Department:	

1. Substituted by Notification No, SORDI(S&GAD)4-1/75 (Vol.I) dated 22.8.1991.

2. Added by SORIII-(E&AD)2(144)03 dated 22.09.2003

3. Posts in Basic Pay Scale 3 to 15.
- (i) the Head of Attached Department concerned; and
 - (ii) In any other case the Secretary of the Department concerned.
- (a) In the case of civil Servants borne on ministerial establishment of Civil Courts subordinate to High Court, the officer authorized as such by the Chief justice; and
- (b) In other cases
- (i) an officer declared under the relevant Delegation of Powers Rules, which shall to this extent be deemed as operative; or
 - (ii) Where no such appointing authority has been declared, the Secretary to Government or the Head of an Attached Department /Office as the case may be.
4. Posts in Basic Pay Scale 1 and 2.
- Deputy Secretary incharge of Administration or office, as the case may be.
5. ¹ [Departmental Promotion & selection Committee/Board] – (1)
In each Department or office of Government there shall be one or more Departmental Promotion Committee and Departmental Selection Committee ²(or, as the case may be, Departmental Selection Board), the composition of which shall be determined by the Services and General Administration Department or the Department in consultation with the Services and General Administration Department.

¹ Substituted by Notification No.SORI(S&GAD)2-7/86, dated 8.12.1994

² Inserted by Notification No.SORIII(S&GAD)2-7/86, dated 8.12.1994

(2) Each such Committee ¹(“or the Board, as the case may be), shall consist of at least three members, one of whom shall be appointed as Chairman.

²[6. **Procedure when recommendation is not accepted:-** When an appointing authority for Basic Pay Scale 17 or below does not accept the recommendation of a Departmental Promotion or Selection Committee, or the Departmental Selection Board, as the case may be, it shall record its reasons and obtain order of the next higher authority].

PART-II

APPOINTMENT BY PROMOTION OR TRANSFER

7. **Appointment by Promotion or Transfer.** ³[(1) Except as otherwise provided in any service rules for the time being in force, appointment by promotion or transfer to posts in respect whereof the appointing authority under rule 4 is the Chief Minister shall ordinarily be made on the recommendation of the Provincial Selection Board and promotion and transfer to posts other than those falling within the purview of the Provincial Selection Board shall ordinarily be made on the recommendation of appropriate Departmental Promotion Committee].

(2) Appointment by transfer shall be made from amongst the persons holding appointment on regular basis in the same basic pay scale, in which the posts to be filled, exists.

(3) Persons possessing such qualifications and fulfilling such conditions as laid down for the purpose of promotion or transfer to a post shall be considered by the Departmental Promotion Committee or the Provincial Selection Board for promotion or transfer, as the case may be.

⁴[(4) No promotion on regular basis shall be made to posts in Basic Pay Scale 18 to 21 unless the officer concerned has completed such minimum length of service as may be specified from time to time, or, in case of posts in Basic Pay Scale 19 to 21, the officer, besides having the minimum length of service for the time being required for promotion has also attended such training and passed such departmental examination as may be prescribed from time to time.]

8. Inter-Provincial Transfer:- (1) Persons holding appointment in BPS 1 to 15 under Federal Government and other Provincial Government

¹ Inserted by Notification No.SORIII(S&GAD)2-7/86, dated 8.12.1994

² Substituted by Notification No.SORIII(S&GAD)2-7/86, dated 8.12.1994

³ Substituted by Notification No. SORI(S&GAD)4-1/80 (Vo.II) dt:14.1.1992

⁴ Substituted by Notification No. SORI(S&GAD)4-1/80(Vol-III) dated 30.12.1999

may, in deserving cases, be transferred to equivalent posts under these rules:-

Provided that:-

- (i) the Federal Government or the Government of the Province concerned, as the case may be, has no objection to such a transfer;
- (ii) the person seeking transfer possesses the requisite qualification and experience and the post to which his transfer is intended can, under the rules, be filled by transfer;
- (iii) the person concerned holds appointment to the post in his parent Department on regular basis;
- (iv) the person concerned is a bonafide resident of the North-West Frontier Province.
- (v) a vacancy exists to accommodate the request of such a transfer; and
- (vi) provided further that in most deserving cases, the merit of which shall be determined on case to case basis and the decision of the Competent Authority in that behalf shall be final, Government may allow transfer of a civil servant in BPS-16 and above, subject to the aforesaid conditions.

(2) A person so transferred shall be placed at the bottom of the cadre strength which he joins for the purposes of determining his seniority vis-à-vis other members borne on the cadre.

(3) It will be the sole discretion of the appointing authority to accept or refuse a request of transfer under this rule and any decision made in this behalf shall be final and shall not be quoted as precedence in any other case.

9. Appointment on Acting Charge or current Charge Basis. (1) Where the appointing authority considers it to be in the public interest to fill a post reserved under the rules for departmental promotion and the most senior civil servant belonging to the cadre or service concerned, who is otherwise eligible for promotion, does not possess the specified length of service the authority may appoint him to that post on acting charge basis;

¹Provided that no such appointment shall be made, if the prescribed length of service is short by more than ²{three years}.

(2) So long as a civil servant holds the acting charge appointment, a civil servant junior to him shall not be considered for regular promotion but may be appointed on acting charge basis to a higher post.

(3) In the case of a post in Basic Pay Scale 17 and above, reserved under the rules to be filled in by initial recruitment, where the appointing authority is satisfied that no suitable officer drawing pay in the basic scale in which the post exists is available in that category to fill the post and it is expedient to fill the post, it may appoint to that post on acting charge basis the most senior officer otherwise eligible for promotion in the organization, cadre or service, as the case may be, in excess of the promotion quota.

(4) Acting charge appointment shall be made against posts which are likely to fall vacant for period of six months or more. Against vacancies occurring for less than six months, current charge appointment may be made according to the orders issued from time to time.

(5) Appointment on acting charge basis shall be made on the recommendations of the Departmental Promotion Committee or the Provincial Selection Board, as the case may be.

(6) Acting charge appointment shall not confer any vested right for regular promotion to the post held on acting charge basis.

PART-III INITIAL APPOINTMENT

10. Appointment by Initial Recruitment: - (1) Initial appointment to posts ³{in various pay scales} shall be made-

- (a) if the post falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or

¹ Added by Notification No. SOR(S&GAD) 4-1/80(V.II), Dated 20.10.1993

² Substituted by Notification SOR(S&GAD) 4-1/80(V.III), Dated 14.03.1996

³ Substituted by Notification No.SORI(S&GAD)1-117/91 (c), Dated 12.10.1993.

- (b) if the post does not fall within the purview of the Commission, in the manner as may be determined by Government.

¹[(2) Initial recruitment to posts which does not fall within the purview of the Commission shall be made on the recommendation of the Departmental Selection Committee, after vacancies have been advertised in newspapers].

²[Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister's House Peshawar, Frontier House Islamabad, Frontier Rest Houses Bannu, Swat and Abbottabad, Frontier House Nathiagali and Shahi Mehman Khana, Peshawar and any other House to be established by the Government].

³ [Provided further that the appointment in Grade 1 to 4 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned], ⁴{or, where in a District, the office of the Employment Exchange does not exist, after advertising the pots in the leading newspapers}. ⁵[]

(3) A candidate for initial appointment to a post must possess the educational qualification or technical qualifications and experience and except as provided in the rules framed for the purpose of relaxation of age limit, must be within the age limit as laid down for the post, provided that-

⁶ [(i) where recruitment is to be made on the basis of written examination, then, notwithstanding anything to the contrary contained in any other rules for the time being in force, age shall be reckoned on 1st January of the year in which the examination is proposed to be held];

(ii) in other cases as on the last date fixed for submission of applications for appointment.

⁷ [(4) Where a civil servant dies during service, then notwithstanding the procedure provided for in sub-rule (2), the appointing

¹ Substituted by Noti: No. SORI(S&GAD)1-117/91(C), Dated: 12.10.1993

² Added by Notification No. SOR-VI (E&AD)1-3/2003 (Vol.V) Dated 03.07.2003.

³ Added by Notification No. SOR-VI (E&AD) 1-3/2003/ Vol. VI Dated. 16.03.2004

⁴ Inserted by Notification No. SOR-VI (E&AD) 1-3/2003/ Vol. VI Dated. 23.01.2006

⁵ Second proviso in sub rule (2) was deleted vide Notification No. SOR-VI(E&AD)1-3/2008 on 09-05-2008 and added again vide Notification No. SOR-VI(E&AD)1-3/2008 dated 03-11-2008.

⁶ Substituted by Noti: No. SORI(S&GAD)4-1/80, Dated: 17.05.1980

⁷ Substituted vide Notification No. SOR-VI (E&AD)1-3//03/11, Dated: 05.09.2006

authority may appoint one of the children of such civil servant, or if the child has not attained the age prescribed for appointment in Government service, the widow of such civil servant, to a post in any of the Basic Pay Scales No. 1 to 15.

Provided that the child or the widow, as the case may be, possesses the minimum qualification prescribed for appointment to the post:

Provided further that if there are two widows of the deceased civil servant, preference shall be given to the elder widow:

Provided also that the appointment under this sub rule is subject to availability of a vacancy and if more than one vacancies in different pay scales is available at a time, and the child or the widow, as the case may be, possess the qualifications making him or her eligible for appointment in more than one post, he/she shall ordinarily be appointed to the post carrying higher pay scale.]

¹ [(5) Notwithstanding anything contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation-I:- For the purposes of reservation under this sub-rule “disability” does not include such disability which hampers in the smooth performance of duties required of a disabled candidate].

Explanation-II:- Ten percent quota reserved above shall be in addition to the posts exclusively reserved for female candidates.

²[(6) Notwithstanding anything contained in any rule for the time being in force, five percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for candidates hailing from earthquake affected areas of District Mansehra, Batagram, Shangla, Kohistan and Abbottabad (Calamity hit area) for a period of three years commencing from 1st February, 2006]

³(7) Notwithstanding anything contained in any rule for the time being in force, 0.5 percent of all posts in each basic pay scale to be filled in

¹ Substituted by Notification No.SOR-VII(E&AD)1-10/03 (VI), Dated: 04.12.2007

² Inserted by Notification No. SOR-VI (E&AD) 1-3/2003/ Vol. VI Dated. 1.2.2006

³ Added vide Notification No. SOR-VI(E&AD)1-3/08 , Dated: 06.01.2009

by initial recruitment shall be reserved for candidates belonging to minorities in addition to their participation in the open merit:

Provided that, the reservation shall not apply to-

- i. the percentage of vacancies reserved for recruitment on merit;
- ii. short term vacancies likely to last for less than one year; and
- iii. isolated posts in which vacancies occur only occasionally.]

11. Eligibility. (1) A candidate for appointment shall be a citizen of Pakistan and bonafide resident of the North-West Frontier Province.

Provided that for reasons to be recorded in writing, Government may, in a particular case, relax this restriction.

¹[(2)]

Provided that this restriction may be relaxed by Government in the case a person who has married a citizen of India ⁴[(or Bangladesh.)

Provided further that a person already in Government Service shall not marry a foreign national without prior permission of Government obtained in that behalf.

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

(4) Notwithstanding anything contained in sub-rule (3), an appointment by initial recruitment shall be subject to the verification of character and antecedents of the candidate or the person appointed, to the satisfaction of appointing authority.

(5) No candidate shall be appointed to a post unless he is found, after such medical examination as Government may prescribe, to be

¹ Deleted vide Notification No. SOR-VI(E&AD)1-3/08 , dated 17-06-2008.

in good mental and bodily health and free from physical defect likely to interfere in the efficient discharge of his duties.

12. Zonal and Divisional representation:- (1) Except as otherwise specifically provided in any rule for the time being in force, initial recruitment to posts in Basic Pay Scales 16 and 17 and other posts in Basic Pay Scales 3 to 15 borne on Provincial cadre shall be made in accordance with the Zonal quota specified by Government from time to time.

¹[Provided that initial recruitment to the post of Civil Judge/Judicial Magistrate/Allaqa Qazi (BPS-18) shall also be made in accordance with the zonal quota specified by the Government from time to time.]

(2) Initial recruitment to posts in Basic Pay Scales 3 to 15 borne on divisional or district cadre shall be made from amongst bonafide residents of the division or district concerned, as the case may be.

(3) Initial recruitment to posts in Basic Pay Scales 1 and 2 or equivalent shall ordinarily be made on local basis.

PART-IV

ADHOC APPOINTMENT

13. Requisition to Commission: - When under any rule for the time being in force, a post is required to be filled in through the Commission, the appointing authority shall forward a requisition on the prescribed form to the Commission immediately after it is decided to fill in the post, or if that is not practicable and the post is filled on adhoc basis as provided in rule 14, within two months of the filling of the post.

14. Adhoc Appointment:- (1) When the appointing authority considers it to be in the public interest to fill in a post falling within the purview of the Commission urgently, it may, pending nomination of a candidate by the Commission, proceed to fill in such post on adhoc basis for a period not exceeding six months by advertising the same in accordance with the procedure laid down for initial appointment in Part-III of these rules.

(2) Short term vacancies in the posts falling within the purview of the Commission and vacancies occurring as a result of creation of temporary posts for a period not exceeding six months, may be filled in by

¹ Added vide Notification No. SOR-VI(E&AD)1-27/08, dated 03-07-2008

appointing authority otherwise than through the Commission on a purely temporary basis after advertising the vacancy.

PART-V

PROBATION AND CONFIRMATION

¹**[15. Probation:- (1)** Persons appointed to posts by initial recruitment, promotion or transfer shall be on probation for a period of one year.

(2) The appointing authority, if considers necessary, may extend the probation period for one year as may be specified at the time of appointment.

(3) On the successful completion of probation period, the appointing authority shall, by specific order, terminate the probation:

Provided that if no specific order is issued on the expiry of the first year of probation period, the period of probation shall be deemed to have been extended under sub-rule (2):

Provided further that if no specific order is issued on the expiry of the extended period of probation, the period of probation shall be deemed to have been successfully completed.]

16. Confirmation:- After satisfactory completion of the probationary period, a civil servant shall be confirmed; provided that he holds a

¹ Added vide Notification No. SOR-VI(E&AD)1-3/2009/Vol-VIII, dated 16-02-2010

substantive post, provided further that a civil servant shall not be deemed to have satisfactorily completed his period of probation, if he has failed to pass an examination, test or course or has failed to complete successfully a training prescribed within the meaning of sub-section(3) of Section 6 of the North-West Frontier Province Civil Servants Act, 1973.

PART-VI SENIORITY

17. Seniority :- (1) The seniority inter se of civil servants¹ (appointed to a service, cadre or post) shall be determined:-

- (a) in the case of persons appointed by initial recruitment, in accordance with the order of merit assigned by the Commission² {or as the case may be, the Department Selection Committee;} 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 civil servants appointed otherwise, with reference to the date of their continuous regular appointment in the post; provided that civil servants 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 junior person in a lower post is promoted to a higher post temporarily in the public interest, even though continuing later permanently in the higher post, it would not adversely effect the interest of his seniors in fixation of his seniority in the higher post.

Explanation-II:- 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; provided that junior person shall not be deemed to have superseded a senior person if the case of the senior person is deferred for the time being for want of certain information or for incompleteness of record or for any other reason not attributing to his fault or demerit.

Explanation-III:- A junior person shall be deemed to have superseded a senior person only if both the junior and the senior persons were considered

¹ Substituted by Notification No.SOR-I(S&GAD) 4-1/80, dated 17.5.1989

² Inserted by Notification No.SORI(S&GAD)4-1/80(V.II), dated 4.2.1996

for the higher post and the junior person was appointed in preference to the senior person.

(2) Seniority in various cadres of civil servants appointed by initial recruitment vis-a-viz those appointed otherwise shall be determined with reference to the dates of their regular appointment to a post in that cadre; provided that if two dates are the same, the person appointed otherwise shall rank senior to the person appointed by initial recruitment.

¹[(3) In the event of merger / restructuring of the departments, attached departments or subordinate offices, the inter se seniority of Civil Servants affected by the merger / restructuring as aforesaid shall be determined in accordance with the date of their regular appointment to a cadre or post]

²[(4) The inter-se-seniority of civil servants in a certain cadre to which promotion is made from different lower posts, carrying the same pay scale shall be determined from the date of regular appointment/promotion of the civil servants in the lower post.

Provided that if the date of regular appointment of two or more civil servants in the lower post is same, the civil servants older in age, shall be treated senior.]

18. General Rules:- In all matters not expressly provided for in these rules, civil servants shall be governed by such rules as have been or may hereafter be prescribed by Government and made applicable to them.

19. Repeal:- The North-West Frontier Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1975, are hereby repealed.

C.No. 3(5-2)

EFFICIENCY & DISCIPLINE (STATUTORY PROVISION)

Section 16 of Civil Servants Act, 1973:- Disciplinary Action. A civil servant shall be liable to prescribed disciplinary action and penalties in accordance with the prescribed procedure.

¹ Added by Notification No. SOR-I(E&AD)4-1/80(Vol-IV), Dated 28.05.2002.

² Added vide Notification No. SOR-VI(E&AD)1-3/2008, dated 19-11-2009

C.No. 4(5-2)

NWFP GOVERNMENT SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 1973.

1. **Short title, commencement and application:- (1).** These rules may be called the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973.

2. They shall come into force at once and 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.

2. **Definition:- (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 Government servant against whom action is taken under these rules.
- (b). “authority” means the Governor or an officer or authority designated by him to exercise the powers of the authority under these rules;
- (c). “authorized officer” means an officer authorized by the authority to perform functions of an authorized officer under these rules;
- (d). “Government” means the Government of North-West Frontier Province;
- (e). “misconduct” means conduct prejudicial to good order or service discipline or contrary to the¹[N.W.F.P Government Servants (Conduct) Rules, 1987] or unbecoming of an officer and a gentleman and includes any act on the part of Government servant to bring or attempt to bring political or other outside influence directly or indirectly to bear on Government or any Government Officer in respect of any matter relating to the appointment, promotion,

¹ Substituted by Notification No. SORII(S&GAD)5-29/86, dated 26.11.1987

transfer, punishment, retirement or other conditions of service of a Government servant;

- (f). “penalty” means a penalty which may be imposed under these rules; and
- (g). “Province” means the North-West Frontier Province.

¹ [(2). In case two or more Government servants are to be proceeded against jointly under these rules, the authority or, as the case may be, the authorized officer, designated or authorized, for the Government Servant senior most in rank shall be the authority or, as the case may be, the authorized officer in respect of all such accused].

² [(3) The inquiry officer or Members of Enquiry Committee, as the case may be, shall be the officer (s) senior in rank to the accused officer].

3. **Grounds of Penalty:-** Where a Government servant, in the opinion of the authority;

- (a) is inefficient or has ceased to be efficient; or
- (b) is guilty of misconduct; or
- (c) is corrupt, or may reasonably be considered corrupt because:-
 - (i). he 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). he has assumed a style of living beyond his ostensible means; or
 - (iii) he has a persistent reputation of being corrupt; or
- (d) is 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 disclosures of official secrets to any un-authorized person, and his (retention) in service is, therefore, prejudicial to

¹ Inserted vide S& GAD Notification No.SOR.II(S&GAD) 3(4)/78 (Vol-II), dated 20.5.1980

² Substituted by Notification No. SORII (S&GAD)5(29)/95 Vol-II,dt: 14.9.99

national security, the authority may impose on him one or more penalties.

4. **Penalties:- (1).** The following are the minor and major penalties, namely:-

(a). Minor penalties:-

- (i) Censure;
- (ii) withholding, for a specific period, promotion or increment, otherwise than for unfitness for promotion or financial advancement, in accordance with the rules or orders pertaining to the service or post;

¹ [(iii). recovery from pay of the whole or any part of any pecuniary loss caused to Government by negligence or breach of order].

(b). Major penalties:-

- (i). Reduction to a lower post, grade or time scale, or to a lower stage in a time scale;
- (ii). compulsory retirement;
- (iii) removal from service; and
- (iv) dismissal from service.

(2). Removal from service does not, but dismissal from service does, disqualify for future employment.

(3). In this rule, removal or dismissal from service does not include the discharge of person:-

- (a). appointed on probation, during the period of probation, or in accordance with the probation or training rules applicable to him; or
- (b). appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
- (c). engaged under a contract, in accordance with the terms of the contract.

¹ Sub-Class (iii) of clause (a) of sub-rule (1) of rule 4 deleted and sub clause (iv) renumbered as (iii) by Notification No.SORII (S&GAD)5(29)/95 Vol-II,dt: 14.9.99

5. Inquiry procedure:- The following procedure shall be observed when a Government servant is proceeded against under these rules:-

(1) In case where a Government servant is accused of subversion, corruption or misconduct, the authorized officer may require him to proceed on leave or, with the approval of the authority, suspend him provided that any continuation of such leave or suspension shall require approval of the authority after every three months.

(2) The authorized officer shall decide whether in the light of facts of the case or interests of justice an inquiry should be conducted through an inquiry officer or inquiry committee. If he so decides, the procedure indicated in rule 6 shall apply.

(3) If the authorized officer decides that it is not necessary to have an inquiry conducted through an inquiry officer or inquiry committee, he shall:-

- (a) by order in writing, inform the accused of the action proposed to be taken in regard to him and the grounds of the action; and
- (b) give him a reasonable opportunity of showing cause against that action;

Provided that no such opportunity shall be given where the authority is satisfied that in the interest of the security of Pakistan or any part thereof it is not expedient to give such opportunity.

¹[Provided further that if the authorized officer is satisfied in view of the preliminary inquiry report of Provincial Inspection Team, Governor Inspection Team or any other Inquiry Committee or Inquiry Officer, that responsibility has been fixed on the specified Government servant (s) involved in the case and quantum of loss incurred by the Govt: is also indicated therein, the authorized Officer may dispense with formal inquiry under Efficiency and Discipline Rules, 1973 and serve a show cause notice upon the accused officer (s)/official (s), stating therein the grounds of action to be taken and giving to the accused a reasonable opportunity of written defence and personal hearing].

¹ Inserted by Notification No. SOR-II(S&GAD5(29)/95 Vol-II, dated 14.9. 99

¹[(4) On receipt of the report of the inquiry officer or inquiry committees, or where no inquiry officer or committee is appointed, on receipt of written defence or explanation of the accused to the show cause notice, the authorized officer shall determine whether the charge has been proved, and if so, shall also tentatively decide the imposition of major or minor penalty in relation to the accused in the light of the inquiry report or the defence/explanation of the accused, as the case may be, and serve him with a final show cause notice, communicating him the penalty to be imposed, alongwith a copy of the inquiry report, if any, giving him a reasonable opportunity, which shall not be less than seven days or more than fourteen days, to defend himself against the proposed action.

(5) If on receipt of the final show cause notice, and after hearing the accused if he so desired, it is proposed to imposed a minor penalty, the authorized officer shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority alongwith the charges and statement of allegation served on the accused, the explanation of the accused to the show cause notice, the findings of the inquiry officer or inquiry committee, if appointed, and his own recommendations regarding the penalty to be imposed. The authority shall pass such orders as it may deem proper.

(6) While imposing a penalty under these rules, the authorized officer, or the authority, as the case may be shall ensure that the penalty corresponds to the degree of involvement of the accused officer/official with particular reference to the nature of guilt, i.e. corruption, negligence, inefficiency or misconduct and shall make a judicious decision, according to the facts, of the case and extent of the officer's involvement in it.

Provided that if the authorized officer or the authority is not in agreement with the findings of the Enquiry Officer/Committee, he may order a fresh enquiry through another Enquiry Officer/Committee as deemed appropriate].

6. Procedure to be observed by the Inquiry Officer and Inquiry Committee:(1) Where an Inquiry Officer or Inquiry committee is appointed, the authorized officer shall:-

- (a) frame a charge and communicate it to the accused together with statement of the allegations explaining

¹ Substituted by Noti: No.SOR-II (S&GAD)5(29)/95 Vol-II Dated: 14.90. 99

- the charge and of any other relevant circumstances which are proposed to be taken into consideration;
- (b) require the accused within a reasonable time, which shall not be less than seven days or more than fourteen days from the day the charge has been communicated to him, to put in written defence and to state at the same time whether he desires to be heard in person.

(2). The Inquiry Officer or the Committee, as the case may be, shall enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defence of the accused as may be considered necessary and the accused shall be entitled to cross-examine the witnesses against him.

(3). The Inquiry Officer or the Committee, as the case may be, shall hear the case from day to day and no adjournment shall be given except for reasons to be recorded in writing. However, every adjournment, with reasons therefore shall be reported forthwith to the authorized officer. Normally no adjournment shall be for more than a week.

¹[Provided that the Inquiry Committee or officer, as the case may be, shall submit its/his report within the shortest possible time which shall not be more than one month, after receipt of reply to the charge sheet/statement of allegation].

(4). Where the Inquiry Officer or the Committee, as the case may be, is satisfied that the accused is hampering, or attempting to hamper, the progress of the enquiry, he or it shall administer a warning, and if thereafter he or it is satisfied that the accused is acting in disregard of the warning he or it shall record a finding to that effect and proceed to complete the enquiry in such manner as he or it thinks best suited to do substantial justice.

(5). The Inquiry Officer or the Committee, as the case may be, shall within ten days of the conclusion of the proceedings or such longer period as may be allowed by the authorized officer, submit his or its findings and the grounds thereof to the authorized officer.

7. Powers of Inquiry Officer and Inquiry Committee:- (1) For the purpose of an inquiry under these rules, the Inquiry Officer and the Inquiry Committee shall have the powers of a Civil Court trying a suit under the

¹ Substituted by Notification No.SOR-II(S&GAD)5(29)/95 Vol-II, dated 14.9.99

Code of Civil Procedure, 1908 (Act 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;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses or documents.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of the Pakistan Penal Code (Act XLV of 1860).

¹[7A. **Revision:-** The authority may, in the case of any order passed by the authorized officer, call for and examine the record of any case and may, after making such further inquiry or investigation, if necessary, either personally or through an officer, pass such order as he may deem appropriate;

Provided that in cases where the authorized officer has exonerated an accused and the authority decides to impose a penalty on him or where the penalty imposed by the authorized officer is decided to be increased, the authority shall not impose any penalty or increase the penalty, unless an opportunity is given to the person concerned to show cause as to why such a penalty should not be imposed or, as the case may be, be increased].

8. **Rule 5 not to apply in certain cases:-** Nothing in rule 5 shall apply to a case:-

- (a). where the accused is dismissed or removed from service or reduced in rank, on the grounds of conduct which has led to a sentence of fine or of imprisonment; or
- (b). where the authority competent to dismiss or remove a person from service, or to reduce a person in rank, is satisfied that, for reasons to be recorded in writing by that authority, it is not reasonably practicable to give the accused an opportunity of showing cause.

¹ Inserted vide S&GAD Notification No. SOR-II (S&GAD)3-4/78, dated 4.5.1983

¹ [8.A **A 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, a notice shall be issued by the authorized officer through registered acknowledgement due cover on his home address directing him to resume duty forthwith. If the same is received back as undelivered or no response is received from the absentee within the stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an ex-parte decision will be taken against him. On expiry of the stipulated period given in the notice, the authorized officer shall recommend his case to the authority for imposition of major penalty of removal from service].

9. **Procedure of inquiry against Officers lent to other Provincial Government or the Federation:-** (1) Where the services of Government servants to whom these rules apply are lent to the Federation or to any other Provincial Government or to a local or other authority, in this rule referred to as the borrowing authority, the borrowing authority shall have the powers of the authority for the purpose of placing him under suspension or requiring him to proceed on leave and of initiating proceedings against him under these rules;

Provided that the borrowing authority shall forthwith inform the authority which has lent his services, hereinafter in this rule referred to as lending authority, of the circumstances leading to the order of his suspension or the commencement of the proceedings, as the case may be.

Provided further that the borrowing authority shall obtain prior approval of the ²{Chief Minister} before taking any action under these rules against a member of such Civil service of the Province or the holder of such civil post as Government may by notification ³(specify).

(2). If, in the light of the findings in the proceedings taken against the Government servant in terms of sub-rule (a), the borrowing authority is of the opinion that any penalty should be imposed on him, it shall transmit to the lending authority the record of the proceedings and thereupon the lending authority shall take action prescribed in these rules.

¹ Inserted by Notification No. SOR-II(S&GAD)5(29)/95 Vol.II, dated 14.9.1999

² Substituted vide Notification No.SORII (S&GAD)5(29)/86, dated 22.9.1988

³ See Notification No. SORII(S&GAD) 3(4)/78, dated 9.8.1982

¹[(3). Notwithstanding anything contained in these rules, Government may, by order in writing, authorize the borrowing authority or any subordinate officer to such authority to exercise all or any of the powers of “authorized officer”, “authority” and “appellate authority” in respect of civil servants whose services have been lent to the borrowing authority].

²[10. “**Appeal:-** A person on whom a penalty is imposed shall have such right of appeal as prescribed in the North-West Frontier Province Civil Servants (Appeal) Rules, 1986].

³ [10 A. **Appearance of Counsel:-** No party to any proceedings under these rules before the authority, the authorized officer, an Inquiry Officer or an Inquiry Committee shall be represented by an Advocate].

⁴ [10 B. **Exception:-** Notwithstanding anything to the contrary contained in these rules, in cases where Government servants collectively strike work, willfully absent themselves from duty or abandon their official work, the Government or the authority may serve upon them, through the newspapers or any other mean, such notice as deemed appropriate to resume duty and in 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].

11. **Repeal:-** The West Pakistan Government servants (Efficiency and Discipline) Rules, 1960, in their application to the Government servants to whom these rules apply are repealed, but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

C.No. 5(5-2)

STATUTORY PROVISION REGARDING CONDUCT

Section.15 OF NWFP Civil Servants Act, 1973. Conduct -The conduct of a civil servant shall be regulated by rules made, or instructions issued, by Government or a prescribed authority, whether generally or in respect of a specified group or class of civil servants.

¹ Inserted by Notification No.SORI(S&GAD)1-5/80,dated 21.9.1983

² Substituted by S&GAD Notification No. SORII(S&GAD)3(4)/78, dated 23.4.1986

³ Added by S&GAD Notification No. SOSIII(S&GAD)1-80/73,dated 19.4.1986

⁴ Added by Notification No. SOR II(S&GAD)3(4)/78, dated 29.5.1998

C.No. 6(5-2)

THE NWFP GOVERNMENT SERVANTS (CONDUCT) RULES, 1987.

1. **Short title and commencement.** (1) These rules may be called the North-West Frontier Province Government Servants (Conduct) Rules, 1987.

(2). They shall come into force at once.

2. **Extent of application;-** These rules apply to every person, whether on duty or on leave within or without the North-West Frontier Province serving in connection with the affairs of the North-West Frontier Province, including the employees of the Provincial Government deputed to serve under the Federal Government or with a statutory Corporation or with a non-Government employer, but excluding:-

- (a) members of an All-Pakistan Service serving in connection with the affairs of the Province;
- (b) employees of the Federal Government or other authority deputed temporarily to serve under the Provincial Government; and
- (c) holders of such posts in connection with the affairs of the Province of North-West Frontier as the Provincial Government may, by a notification in the official Gazette, specify in this behalf.

3. **Definitions: -** (1). In these rules, unless there is anything repugnant in the subject or context;

- (a) “Government” or “Provincial Government” means the Government of the North-West Frontier Province;
- (b) “Government Servant” means a person to whom these rules apply;
- (c) “member of a Government Servant’s family” includes:-
 - (ii) his wife, children and step children, parents, sisters and minor brothers, residing with and wholly dependent upon the Government Servant; and
 - (iii) any other relative of the Government servant or his wife when residing with and wholly dependent upon him; but does not include a wife legally separated from the Government servant or a child or step-child who is not

longer in anyway dependent upon him, of whose custody the Government servant has been deprived by law;

(d). “Province” means the North-West Frontier Province.

(2). Reference to a wife in clause (c) of sub-rule (i) shall be construed as reference to the husband where the Government servant is a woman.

4. **Repeal:** - The West Pakistan Government Servants (Conduct) Rules, 1966, are hereby repealed, but such repeal shall not affect anything duly done or suffered under those rules.

¹ [4A No Government Servant shall-

- (a). accept or obtain or agree to accept or attempt to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Pakistan Penal Code; or
- (b) do or forbear to do any official act or show or forbear to show, in the exercise of his official functions, favour or disfavour to any person or render or attempt to render any service or disservice to any person, in violation or contravention of any provision of any law for the time being in force, or of rules made under Article 119 or 139 of the Constitution of the Islamic Republic of Pakistan, or the NWFP Civil Servants Act, 1973 or any other law for the time being in force, including the North-West Frontier Province Government Rules of Business, 1985 in a manner which may appear to facilitate acceptance or obtaining or agreeing to accept or attempting to obtain from any person for himself or for any other person any gratification, whatsoever, other than the legal remuneration, as a motive or reward; or
- (c) accept or obtain or agree to accept or attempt to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be likely to be, concerned in any proceedings or business transacted or about to be transacted by him, or

¹ Inserted by Notification No. SOR.II(S&GAD)5(2)/79(C), dated 27.1.1997

- having any connection with the official functions of himself or of any Government servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or
- (d) misappropriate, dishonestly or fraudulently, or otherwise convert for his own use or for the use of any other person any property entrusted to him or under his control as a Government servant or willfully allow any other person to do so; or
 - (e). obtain, by corrupt, dishonest, improper or illegal means, or seek for himself or for any other person, any property, valuable thing, pecuniary advantage or undue favour; or
 - (f) possess, directly or through his dependents or benamidars, any movable or immovable property or pecuniary resources, disproportionate to his known sources of income, which he cannot reasonably account for];
 - ¹ [(g) attend such functions and meetings in which Islamic moral values are not regarded or which are in violation of such values like functions of music and dancing by women etc.]

5 **Gift:** - (1). Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of Government, accept or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without causing undue offence, it may be accepted and delivered to Government for decision as to its disposal.

(2) If any question arises whether receipt of a gift places a Government servant under any form of official obligation to the donor, the decision of Government thereon shall be final.

(3). If any gift is offered by the head of representative of a foreign State, the Government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without offending the donor. If, however, he cannot do so, he shall accept the gift and shall report its receipt to Government for orders as to its disposal.

(4). Government servants are prohibited from receiving gift of any kind for their persons or for members of their families from diplomats, consulars and other foreign Government representatives or their employees

¹ Added by S.O OR V-I(E&AD)2-16/2003 dated 28.06.2004

who are stationed in Pakistan. If, however, due to very exceptional reasons, a gift cannot be refused, it should invariably be deposited in the S & GAD.

(5). Government servants, except those drawing pay in basic pay scale 1 to 4, are prohibited from accepting cash awards offered by the visiting foreign dignitaries. In case, however, if it becomes impossible to refuse without causing offence to the visiting dignitary, the amount may be accepted and immediately deposited in the Treasury under the proper head of account.

(6). A Government servant may accept gifts offered abroad or within Pakistan by institutions or official dignitaries of foreign Government of comparable or high level;

Provided that the value of the gift in each case does not exceed one thousand rupees. A government servant desirous of retaining a gift worth more than one thousand rupees, can retain it on payment of the difference as evaluated under sub-rule (7). In any other case, the gift may be offered for sale.

(7). For the purpose of sub-rule(6), the value of the gift shall be assessed by the S&GAD in consultation with the Finance Department and shall be allowed to be retained by the recipient, if it does not exceed one thousand rupees. Where the value of the gift exceeds one thousand rupees, the recipient may be allowed to retain the gift, if he so desires, on payment of a sum worked out in the following manner:-

- (a) Where the value of the gift exceeds one thousand rupees but does not exceed five thousand rupees, twenty-five percent of the value of the gift in excess of one thousand rupees; or
- (b) Where the value of the gift exceeds five thousand rupees, twenty five percent of so much of the value as exceeds one thousand rupees but does not exceed five thousands rupees plus fifteen percent of so much of the value as exceeds five thousands rupees.

(8). The responsibility for reporting the receipt of a gift shall devolve on the individual recipient. All gifts received by a Government servant, irrespective of their prices or value, must be reported to the S&GAD. However, the responsibility for reporting to the S&GAD the receipt of gifts, including the names of recipients, from foreign dignitaries

or delegations, either during their visits to Pakistan or during the visits of Pakistani dignitaries or delegations abroad, shall lie with the Chief of Protocol or his representative in the former case, and with the Ambassador concerned in the latter case. In the case of foreign delegations or visiting dignitaries with whom the Chief of Protocol is not associated, the Ministry/Department sponsoring the visit shall be responsible to supply the details of gifts, if received, and the list of recipients to the S&GAD.

6. Acceptance of foreign awards;- No Government servant shall, except with the approval of the Governor of NWFP, accept a foreign award, title or decoration.

Explanation:- For the purpose of this rule, the expression “approval of the Governor” means prior approval in ordinary cases and ex-post facto approval in special cases where sufficient time is not available for obtaining prior approval.

7 Public demonstration in honour of Government servants or raising of funds by them:-(1). No Government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main purpose is to praise him;

Provided that the Head of Pakistan Mission Abroad, while so posted, may attend a public meeting or entertainment held in his honour.

- (2). No Government servant shall take part in raising funds, except:-
- (a) for any public or charitable purposes, with the previous permission of his next higher officer; or
 - (b). for a charitable object connected with the name of a Government servant or person recently quitted Government service with the previous permission of the Government;

Provided that Government servants belonging to the Provincial Police Service or Excise and Taxation Service shall not be granted any such permission.

8. Gifts to Medical Officer:- Subject to the departmental rules in this behalf, a medical officer may accept any gift of moderate value offered in good faith by any person or body of persons in recognition of his professional services.

9. **Subscriptions:-** No Government servant shall, except with the previous sanction of Government, ask for or accept or in any way participate in the raising of any subscription or other pecuniary assistance in pursuance of any object whatsoever.

10. **Lending and Borrowing:-**(1). No Government servant shall lend money to, or borrow money from, or place himself under any pecuniary obligation to, any person within the local limits of his authority or any person with whom he has any official dealings:

Provided that a Government servant may:-

- (i) deal in the ordinary course of business with a joint stock company, bank or a firm of standing or the House Building Finance Corporation; and
- (ii) accept a purely temporary loan of small amount, free of interest, from a personal friend or the operation of a credit account with a bonafide tradesman.

(2). When a Government servant is appointed or transferred to a post of such a nature that a person from whom he has borrowed money or to whom he has otherwise placed himself under pecuniary obligation will be subject to his official authority, or will reside, possess immovable property, or carry on business, within the local limits of such authority, the Government servant shall forth-with declare the circumstances, when he is a Gazetted Officer, to Government through the usual channel, and where he is a Non-Gazetted Government Servant, to the head of his office.

(3). This rule, in so far as it may be construed to relate to loans given to or taken from Co-operative Societies registered under the Cooperative Societies Act, 1927, or under any law for the time being in force relating to the registration of Cooperative Societies, by the Government servants shall be subject to any general or special restrictions or relaxation made or permitted by Government.

¹[11 Omitted]

12. **Declaration of property:- (1).** Every Government servant shall, at the time of entering Government service, make a declaration to Government, through the usual channel, of all immovable and movable properties including shares, certificates, securities, insurance policies, cash and jewelry having a total value of Rs. 50,000/- (Fifty thousand rupees) or

¹.Omitted by Notification No.SOR-VI/E&AD/2-16/2003 dated 07.03.2005

more belonging to or held by him or a member of his family and such declaration shall.-

- (a) state the district within which the property is situated;
- (b) show separately individual items of jewelry exceeding Rs.50,000/-(Fifty thousand rupees) in value; and
- (c) give such further information as Government may, by general or special order, require.

¹[(2) Every Government servants shall submit to the Government, through the usual channel an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule (1) or the last annual return, as the case may be.

(3) Declaration of Assets Proforma shall be opened in the concerned section each year and entered into the relevant database]

13. ² **[Disclosures of assets, immovable and liquid:-** A Government servant shall disclose all his assets, immovable as well as liquid and expenses during any period in the specified form, when required to do so by Government].

14. **Speculation and Investment:-** 1. No Government servant shall speculate in investments. For the purpose of this sub-rule the habitual purchase and sale of security of notoriously fluctuating value shall be deemed to be speculation in investments.

(2). No Government servant shall make, or permit any member of his family to make, any investment likely to embarrass or influence him in the discharge of his official duties.

(3). No Government servant shall make any investment the value of which is likely to be affected by some event of which information is available to him as a Government servant and is not equally available to the general public.

(4). If any question arises whether a security or an investment is of the nature referred to in any of the foregoing sub-rules, the decision of Government thereon shall be final.

¹ Substituted and added vide notification No.SOR-VI/E&AD/2-16/2003 dated 7-3-2005

² Substituted by Notification No. SORIII(S&GAD)5(2) 79, dated 9.6.1996

15. **Promotion and management of companies, etc:** - No Government servant shall, except with the previous sanction of Government take part in the promotion, registration or management of any bank or company:

Provided that a Government servant may, subject to the provisions of any general or special order of Government, take part in the promotion, registration or management of a Co-operative Society registered under any law for the time being in force for the purpose.

16. **Private trade, employment or work:-(1).** No Government servant shall, except with the previous sanction of the Government, engage in any trade or undertake any employment or work, other than his official duties:

Provided that he may, without such sanction, undertake honorary work of a religious, social or charitable nature or occasional work of a literary or artistic character, subject to the condition that his official duties do not thereby suffer and that the occupation or undertaking does not conflict or is not inconsistent with his position or obligations as a Government servant but he shall not undertake or shall discontinue such work if so directed by Government. A Government servant who has any doubt about the propriety of undertaking any particular work should refer the matter for the orders of Government:

Provided further that non-gazetted Government servant may, without such sanction, undertake a small enterprise which absorbs family labour and where he does so shall file details of the enterprise alongwith the declaration of assets.

(2). Notwithstanding anything contained in sub-rule (1), no Government servant shall associate himself with any private trust, foundation or similar other institution which is not sponsored by Government.

(3). This rule does not apply to sports activities and memberships of recreation clubs.

17. **No Government servant shall live beyond his means, etc:-** No Government servant shall live beyond his means or indulge in ostentation on occasions of marriage or other ceremonies.

18. Subletting of residential accommodation allotted by Government:- No Government servant shall, except with the prior permission of the Head of the Department, sublet residential accommodation or any portion thereof let to him by Government.

19. Insolvency and habitual indebtedness- (1). A Government servant shall avoid habitual indebtedness. If a Government servant is adjudged or declared insolvent or if the whole of that portion of his salary which is liable to attachment is frequently attached for debt has been continuously so attached for a period of two years, or is attached for a sum which in ordinary circumstances, he cannot repay within a period of two years, he shall be presumed to have contravened these rules unless he proves that the insolvency or indebtedness is the result of circumstances which, with the exercise of ordinary diligence, he could not have foreseen or over which he had no control and was not due to extravagant or dissipated habits.

(2). A Government servant who applied to be or is adjudged or declared insolvent shall forthwith report his insolvency to the Head of the Office or Department or to the Secretary to the Administrative Department, as the case may be, in which he is employed.

20. Report by Government servant in case of his involvement in a criminal case:- If a Government servant is involved as an accused in a criminal case, he shall bring the fact of such involvement or conviction, as the case may be, to the notice of the Head of the Office or Department immediately or, if he is arrested and released on bail, soon after such release.

21. Unauthorized communication of official documents or information:- No Government servant shall, except in accordance with any special or general order of Government, communicate directly or indirectly any official information or the contents of any official document to a Government servant not authorized to receive it, or to a non-official person, or to the press.

22. Approach to Members of the Assemblies:- No Government servant shall, directly or indirectly approach any member of the National Assembly or a Provincial Assembly or any other non-official person to intervene on his behalf in any matter.

23. Management, etc. of Newspaper or Periodicals:- No Government servant shall except with the previous sanction of Government, own wholly

or in part, or conduct or participate in the editing or management of any newspaper or other periodical publication.

24. Radio-Broadcast and communications to the Press:- No Government servant shall, except with the previous sanction of Government, or any other authority empowered by it in this behalf, or in bonafide discharge of his duties, participate in a radio broadcast or television programme or contribute any article or write any letter, either anonymously or in his own name or in the name of any other person to any newspaper or periodical:

Provided that such sanction shall generally be granted if such broadcast or television programme or such contribution or letter is not, or may not be considered likely to jeopardize the integrity of the Government servant, the security of Pakistan or friendly relations with foreign states or to fend public order, decency or morality, or tantamount to contempt of court, defamation or incitement to an offence:

Provided further that no such sanction shall be required if such broadcast or television programme or such contribution or letter is of a purely literary, artistic or scientific character.

25. Publication of information and public speeches capable of embarrassing Government:- (1). No Government servant shall, in any document, published or any public utterance, radio broadcast or television programme, or in any other manner make any statement of fact or opinion which is capable of embarrassing the Federal or any Provincial Government.

Provided that technical staff may publish research papers on technical subjects, if such papers do not express views on political issues or on Government Policy and do not include any information of a classified nature.

(2). Where a Government servant submits the draft of a literary, artistic or scientific article or book for obtaining previous sanction for its publication, he shall be informed within three months of his doing so whether he has or has not such sanction: and if no communication is issued to him within that period, he shall be entitled to presume that the sanction asked for has been granted.

26. **Evidence before Committees:- (1).** No Government servant shall give evidence before a public committee except with the previous sanction of Government.

(2) No Government servant giving such evidence shall criticize the policy nor decision of the Federal or any Provincial Government.

(3) This rule shall not apply to evidence given before statutory committees which has powers to compel attendance and the giving of answers, nor to evidence given in judicial inquiries.

27. **Taking part in politics and elections:- (1).** No Government servant shall take part in, subscribe in aid of, or assist in any way, any political movement in Pakistan or relating to the affairs of Pakistan.

(2). No Government servant shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement directly or indirectly, to be subversive to Government as by law established in Pakistan.

(3). No Government servant shall canvass or otherwise interfere or use his influence in connection with or take part in any election to a legislative body, whether in Pakistan or elsewhere:

Provided that a Government servant who is qualified to vote at such election may exercise his right to vote; but if he does so, he shall give no indication of the manner in which he proposes to vote or has voted.

(4). No Government servant shall allow any member of his family dependent on him to indulge in any political activity, including forming a political association and being its member, or to act in a manner in which he himself is not permitted by sub-rule 3 to act.

(5). A Government servant who issues an address to electors or in any other manner publicly announces himself or allows himself to be publicly announced as a candidate or prospective candidate for election to a legislative body shall be deemed for the purpose of sub-rule 3 to have taken part in an election to such body.

(6). The provisions of sub-rule 3 and 5 shall, so far as may be, apply to elections to local authorities or bodies, save in respect of

Government servants required or permitted by or under any law or order of Government, for the time being in force, to be candidates at such election.

(7). If any question arises whether any movement or activity falls within the scope of this rule, the decision of Government thereon shall be final.

28. Propagation of Sectarian Creeds, etc:- No Government servant shall propagate such sectarian creeds or take part in such sectarian controversies or indulge in such sectarian partiality and favoritism as are likely to affect his integrity in the discharge of his duties or to embarrass the administration or create feelings of discontent or displeasure amongst the Government servants in particular and amongst the people in general.

29 Government servants not to express views against the ideology of Pakistan:- No Government servant shall express views detrimental to the ideology or integrity of Pakistan.

30. Nepotism, favouritism and victimization, etc:- No Government servant shall indulge in provincialism, parochialism, nepotism, favouritism, victimization or willful abuse of office.

31. Vindication by Government servants of their public acts or character:- (1). A Government servant shall not, without the previous sanction of Government have recourse to any Court or to the press for the vindication of his public acts or character from defamatory attacks, when Government grants sanction to a Government servant to have recourse to a Court, Government will ordinarily bear the cost of the proceedings, but may leave the Government servant to institute them at his own expense. In the latter case, if he obtains a decision in his favour, Government may reimburse him to the extent of the whole or any part of the cost.

(2). Nothing in this rule limits or otherwise affects the right of a Government servant to vindicate his private acts or character.

32. Membership of service Association:- (1). No Government servant shall be a member, representative or office bearer of any association representing or purporting to represent Government servants, unless such association satisfies the following conditions, namely:-

(a). Membership of the Association and its office bearers shall consist of persons in one and the same “functional unit” and

- if there is no such functional unit, it may be formed by persons borne on a specific single cadre in or under a Department;
- (b). Office-bearers of the Association shall be elected from amongst members of the Association actually serving. Persons who have retired or have been dismissed or removed from service shall cease to be members of such Association;
 - (c). The Association shall neither affiliate nor associate with any other body or Association belonging to any other cadre;
 - (d). The Association shall confine its representations to matters of general interest of Government servants whom it represents and shall not involve itself in individual cases of its members. Also the office bearers and members of the Association shall not participate in the activities of the Association at the cost of their official duties;
 - (e). The Association shall not engage in any activity or pursue a course of action which its members are individually prohibited to engage in or pursue under these rules or the instructions issued by Government, from time to time, concerning conduct of Government servant and service discipline;
 - (f). The Association shall not, in respect of any election to legislative body, or to a local authority or body, whether in Pakistan or elsewhere-
 - (i) pay or contribute towards any expenses incurred in connection with the candidature for such election.
 - (ii) support in any manner the candidature of any person for such election; or
 - (iv) undertake or assist in the registration of a candidate for such election;
 - (g). The Association, shall not-
 - (i). issue or maintain any periodical publication except in accordance with any general or special order of Government; and
 - (ii). publish, except with the previous sanction of Government, any representation on behalf of its members, whether in the press or otherwise;

- (h) The Association shall get its bye-laws or rules approved by the Appointing Authority, who may at any time require any modification therein or propose rules or bye-laws, in a particular manner; and
 - (i) the Association shall submit annual statement of its accounts and lists of its members and office bearers to the Appointing Authority. Such statement and lists shall be submitted before 1st September every year;
 - (ii) the Association shall not represent or purport to represent Government servants unless it is recognized by the competent authority;
 - (iii) the appointing authority in respect of a cadre shall be the authority competent to recognize the Association of that cadre;
Provided that where the cadre consists of higher and lower grades, the authority competent to recognise the Association shall be the appointing authority in respect of the highest post in the cadre;
 - (iv) a Government servant who deals with the Association of a particular cadre and is also member of that cadre shall not become office bearer of such Association nor shall he take part in any activity of the Association ;
 - (v) Government in its discretion may withdraw recognition of an Association, if in its opinion, such Association has violated any of the conditions of recognition.

33. Restriction on acceptance of membership of certain association:- No Government servant shall accept membership of any association or organization whose aims and objects, nature of activities and memberships are not publicly known.

34. Use of political or other influence:- No Government servant shall bring or attempt to bring political or other outside influence directly or indirectly, to bear on Government or any Government servant in support of any claim arising in connection with his employment as such.

35. Approaching Foreign Mission and Aid-Giving Agencies:- (1). No Government servant shall approach, directly or indirectly a Foreign Mission in Pakistan or any foreign aid-giving agency in Pakistan or abroad

to secure for himself invitations to visit a foreign country or to elicit offers of training facilities abroad.

(2). Government servant should exercise great caution and restraint in the matter of social contacts with members of foreign missions working in Pakistan. They should also avoid casual remarks and observations on official matters in social gathering where foreigners are present.

(3). Official of the level of Additional Secretary and below should not receive officials of foreign missions, except with the express permission of the Secretary.

(4). Government servants are prohibited from contacting or making direct approaches to foreign missions in Pakistan in connection with their private business. All such approaches should be made through proper channel i.e through Chief of Protocol of the Ministry of Foreign Affairs.

(5). Invitations extended by Foreign Missions on the occasions of their National days to officers below the status of Secretaries may be accepted after obtaining permission from the Chief Secretary.

(6). The participation of officers below the status of Secretary in private functions arranged by foreign diplomats should generally be discouraged. Secretaries and officers of equivalent status, will, however, do so with prior approval of the Chief Secretary.

(7). Repeated and frequent attendance by officers at private functions held by the same foreign diplomat must be avoided.

(8). As a general rule, only those officers who come into official contact with the foreign diplomat concerned should accept invitations.

36. **Delegation of powers:-** Government may, by general or special order, delegate to any officer or authority subordinate to it all or any of its powers under these rules and may, by such order, prescribe the channel through which reports shall be made to Government and the officers the receipt by whom such reports shall be regarded as receipts of the reports by Government within the meaning of these rules.

37. **Rules not to be in derogation of any law, etc:-** Nothing in these rules shall derogate from the provisions of any law, or of any order of any

competent authority, for the time being in force, relating to the conduct of Government servants.

C.No. 7(5-2)

**THE WEST PAKISTAN GOVERNMENT SERVANTS
(MEDICAL ATTENDANCE) RULES, 1959**

No. 4/III. S.O. (V)-57, 24th July, 1959, (Gazette, 31st July 1959). In pursuance of the Presidential Proclamation of the 7th day of October, 1958 and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following rules;

1.(1) These rules may be called the West Pakistan Government Servants (Medical Attendance) Rules, 1959.

(2) They shall apply to all Government servants other than those in Class IV Service, and rule 12 shall apply to Class IV Government servants, under the rule-making control of the West Pakistan Government, when they are on duty or leave or under suspension in Pakistan, provided that they-

- (a) entered the service of the Government of West Pakistan on or after the 14th October, 1955; or
- (b) elect to be governed by them under sub-rule (3) and when so applicable, these rules shall be in substitution of the corresponding provisions of the rules under which they were governed before the issue of these rules. Rule 13 shall be applicable to such Govt. servants during the period they are on duty abroad.

(3) Government servants who entered service before the 14th October, 1955, may elect to continue to be governed by the existing Medical Attendance Rules applicable to them or to accept these rules. The option given by this sub-rule shall be exercised within a period of 6 months from the date of publication of these rules in the West Pakistan Gazette and shall be communicated in writing to the Accounts Officer/Controlling Office concerned in the case of Gazetted Officers and to the appointing authority in the case of non-gazetted staff, and once so exercised shall be final. Government servants who do not exercise the option within the aforesaid period shall be deemed to have finally opted for the existing rules.

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

- (a) “Authorized Medical Attendant” means;-
 - (i) in respect of a Gazetted Govt. servants; or whose pay is not less than Rs. 500/- per mensem, the Principal/Medical Officer of the district appointed by Govt. to attend officers in the district,
 - (ii) in respect of a non-gazetted Govt. servant whose pay is less than Rs. 500 but more than Rs. 150 per mensem a Medical Officer appointed by Govt. to attend its Officers in the station.
 - (iii) in respect of any other Govt. servant an Assistant Medical Officer similarly appointed.
- (b) ‘District’ means the district in which the Govt. servant falls ill.
- (c) ‘Family’ means wife/husband, legitimate sons and daughters and step-children of a Govt. servant, residing with and wholly dependent upon him.
- (d) ‘Government’ means the Government of West Pakistan.
- (e) ‘Hospital’ means a Government Hospital, a Govt. dispensary, a Govt. Dental Hospital, a hospital maintained by a local authority and any other hospital with which arrangements have been made by Govt. for the treatment of its employees.
- (f) ‘Medical Attendance’ means:-
 - (i) in respect of a Govt. servant specified in sub-clause (i) to clause (a), an attendance in hospital or at the residence of the Govt. servant, including such pathological, bacteriological, radiological or other methods of examination for the purposes of diagnosis as are available in any Govt. hospital in the district, and are considered necessary by the authorized medical attendant, and such consultation with a specialist or other medical officer in the service of Govt. stationed in the Province as the authorized medical attendant may determine;
 - (ii) in respect of any other Government servant, attendance at a hospital or in case of illness which compels the patient to be confined to his residence, at the residence of the Govt. servant including such methods of examination for purposes of diagnosis as are available in the nearest Govt. hospital and such consultation with a specialist or other medical officer of Govt. stationed in the district as the authorized medical

attendant certifies to be necessary to such extent and in such manner as the specialist or medical officer may in consultation with the authorized medical attendant determine.

- (g) 'Patient' means a Govt. servant to whom these rules apply and who has fallen ill.
- (h) 'Treatment' means the use of all medical and surgical facilities available at the Govt. hospital in which a Govt. servant is treated, and includes:-
 - (i) the employment of such pathological, bacteriological, radiological or other methods as are considered necessary by the authorized medical attendant;
 - (ii) the supply of such medicines, vaccines, sera or other therapeutic substances as are ordinarily available in the hospital;
 - (iii) the supply of such medicines, vaccines, sera or other therapeutic substances not ordinarily so available as the authorized medical attendant may certify in writing to be essential for the recovery or for the prevention of serious deterioration in the condition of the Govt. servant;
 - (iv) such accommodation as is ordinarily provided to in patients by the hospital;
 - (v) such nursing as is ordinarily provided to in patients by the hospital; and
 - (vi) the specialist consultation described in clause (f); but does not include diet, or provision at the request of the Government servant of accommodation superior to that described in sub-clause (iv).

3.(1) A Govt. servant shall be entitled, free of charge to medical attendance by the authorized medical attendant.

(2) Where a Govt. servant is entitled under sub-rule (1) free of charge, to receive medical attendance, any amount paid by him on account of such medical attendance shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by Govt.

4.(1) When the place at which a patient falls ill is not the headquarters of the authorized medical attendant;

- (a) the patient shall be entitled to travelling allowance at tour rates for the journey to and from such headquarters; or
- (b) if the patient is too ill to travel, the authorized medical attendant shall be entitled to travelling allowance at tour rates for the journey to and from the place where the patient is.

(2) Application for travelling allowance under sub-rule (1) shall be accompanied by a certificate in writing by the authorized medical attendant stating that medical attendance was necessary, and, if the application is under clause (b) of that sub-rule, that the patient was too ill to travel.

5.(1) If the authorized medical attendant is of opinion that case of a patient is of such a serious or the special nature as to require medical attendance by some person other than himself or that the patient requires anti-rabic treatment, he may , with the approval of the Regional Deputy Director of Health Services;-

- (a) send the patient to the nearest specialist or other medical officer as provided in clause (f) of rule 2 by whom, in his opinion medical attendance is required for the patient, or in the case of anti-rabic treatment to the place in the Province where such treatment is available;
- (b) if the patient is too ill to travel, summon such specialist or other medical officer to attend upon the patient.

(2) A patient sent under clause (a) of sub-rule (1) shall on production of a certificate in writing by the authorized medical attendant in this behalf, be entitled to travelling allowance at tour rates for the journeys to and from the headquarters of the specialist or other medical officer or the place where he is sent for anti-rabic treatment.

(3) A specialist or other medical officer summoned under clause (b) of sub-rule (1) shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be entitled to travelling allowance at tour rates for the journey to and from the place where the patient is.

6.(1) A Government servant shall be entitled free of charge, (i) to treatment;

- (a) in such Government hospital at or near place where he falls ill as can, in the opinion of the authorized medical attendant, provide the necessary and suitable treatment; or
- (b) if there is no such hospital as is referred to in sub-clause (a), in such hospital other than a Government hospital at or near that place as can, in the opinion of the authorized medical attendant, provide the necessary and suitable treatment;
- (ii) to anti-rabic treatment at the nearest Government hospital in the province providing such treatment.

(2) Where a Government servant is entitled under sub-rule (1) free of charge, to treatment or anti-rabic treatment in a hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by Govt. The charges for diet, if levied in a Govt. hospital from patients, shall be borne by the Govt. servant himself.

(3) The head of the Department/Attached Department or such officers to whom he may delegate his powers in this behalf, shall be competent to order re-imbursement under the last preceding sub-rule and sub-rule (2) of rule 3 (not exceeding Rs. 200 in each case)

(4) If a Govt. servant is treated in a hospital maintained by Govt., the free treatment will constitute an ordinary function of the hospital and the Health Services Department will bear the charge which will be debited to the primary unit of appropriation "Other Allowance and Honoraria" under head "38-A Health Service".

(5) If a Govt. servant is treated in a hospital maintained by a local body or in any other hospital where he is to pay for his treatment, he shall himself make the payment in the first instance and recover the amount from Govt. afterwards. Before claiming re-imbursement, he should obtain from the hospital authority a copy, if possible of the printed tariff of the hospital, a bill in full detail and also a duly signed receipt in token of having made the payment, and present them to the head of his office. The head of the office shall check the bill with the tariff and after obtaining the sanction

of the competent authority, if necessary draw the amount payable on a contingent bill form for which the hospital bill and the receipt will form the vouchers. The amount shall then be disbursed to the Govt. servant. Such charges are debitable to the primary unit of appropriation "Other Allowances and Honoraria" of the account head appertaining to the Department to which the Govt. servant belongs.

7.(1) If the authorized medical attendant is of opinion that owing to the absence or remoteness of a suitable hospital or to the nature of the illness, a Govt. servant cannot be given treatment as provided in clause (i) of sub-Rule (1) of rule 6, the Govt. servant may receive treatment at his residence.

(2) A Govt. servant receiving treatment at his residence under sub-rule (1) shall be entitled to receive towards the cost of such treatment incurred by him a sum equivalent to the cost of such treatment he would have been entitled, free of charge, to receive under these rules if he had not been treated at his residence.

(3) Claims for sums admissible under sub-rule (2) shall be accompanied by a certificate in writing by the authorized medical attendant stating:-

- (a) his reasons for the opinion referred to in sub-rule (1)
- (b) the cost of similar treatment referred to in sub-rule (2).

8.(1) Charges for services rendered in connection with, but not included in, medical attendance on or treatment of a patient entitled free of charge, to medical attendance or treatment under these rules, shall be determined by the authorized medical attendant and paid by the patient.

(2) If any question arises as to whether any service is included in medical attendance or treatment, it shall be referred to Govt. and the decision of Govt. shall be final.

9. The controlling Officer of a patient may require that any certificate required by these rules to be given by the authorized medical attendant for travelling allowance purposes shall be countersigned:-

- (a) in the case of a certificate given by the principal medical officer of a district, by the Regional Deputy Director of Health Services; and

- (b) in the case of a certificate given by any other medical officer, by the principal medical officer of the district.

10. The family of a Govt. servant shall be entitled, free of charge, to medical attendance and treatment, on the scale and under the conditions allowed to the Govt. servant himself, at a hospital at which the Govt. servant is entitled to receive treatment free of charge or at hospitals specially recognized for the treatment of families of Govt. servants. This shall include confinement of a Govt. servant's wife in a hospital, but not pre-natal or post-natal treatment at a Government servant's residence.

11. These rules shall apply also to the retired Government servants, their families and families of deceased Govt. servants who shall be entitled to all such benefits and facilities as are admissible under these rules to serving Govt. Servants.

12. Class IV Government servants and their families are entitled free of charge to medical, surgical and nursing treatment as in-patients in the general wards of a Govt. hospital and they are entitled to re-imbursement of medical expenses incurred by them on their treatment in the general wards in a Government hospital, provided they produce a certificate to this effect given in writing by the authorized medical attendant. The Assistant Medical Officer appointed by Government to attend its Class IV Govt. servants in the station will be the authorized medical attendant in the case of the Class IV Govt. servants.

13. Govt. servants who are sent abroad on duty by Govt. shall be allowed the following facilities for purposes of medical treatment during the period they are on duty abroad:-

- (i) Reasonable costs of treatment will be met by Government, if a Govt. servant actually falls ill while he is on duty abroad. The treatment will be on the scale laid down in the above rules.
- (ii) No routine check-up will be permitted at Government expense nor would Govt. accept liability for treatment of any disease from which a Govt. servant may have been suffering while in Pakistan and for which he may take the opportunity of his visit to a foreign country to receive treatment. Cases in which a disease from which a Government servant

may have been suffering while in Pakistan, takes a turn for the worse and requires urgent treatment, may be considered on merits.

- (iii) The treatment would be limited to the country and the place to which the Government servant has been sent on duty.

14. Government may relax provisions of these rules in cases of special hardships.

C.No. 8(5-2)

THE NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPEAL) RULES, 1986

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE SERVICE
AND GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION 23RD APRIL, 1986

No.SORII(S&GAD)3(4)/78.(Vol.II).__In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (NWFP Act XVIII of 1973), read with section 22 thereof, the Governor of the North-West Frontier Province is pleased to make the following rules, namely:-

THE NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS (APPEAL) RULES, 1986

1. Short title, commencement and application.__ (1) These rules may be called the North-West Frontier Province Civil Servants (Appeal) Rules, 1986.

(2) They shall come into force at once and 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 the affairs of the Province.

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

- (a) “Appellate Authority” means the officer or authority next above the competent authority;
- (b) “Competent Authority” means the authority or authorized officer, as the case may be, as defined in the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973, or the authority competent to appoint a civil servant under the rules applicable to him; and
- (c) “Penalty” means any of the penalties specified in rule 4 of the North-West Frontier Province Government Servants (Efficiency and Discipline) Rules, 1973.

3. **Right of appeal.** __ (1) A civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms and conditions of his service may, within thirty days from the date of communication of the order to him, prefer an appeal to the appellate authority:

Provided that where the order is made by the Government, there shall be no appeal but the civil servant may submit a review petition:

¹*[Provided that where the order is made or penalty imposed by the High Court or the Chief Justice, as the case may be, there shall be no appeal but the member of the Service may, prefer a review petition before the authority passing the order or imposing the penalty.]*

**[Provided further that the appellate or the reviewing authority, as the case may be, may condone the delay in preferring the appeal or the review petition, if it is satisfied that the delay was for the reasons beyond the control of the appellant or that the earlier appeal or review petition was not addressed to the correct authority].*

Explanation. __ For the purpose of the first proviso, the expression “appeal”, where the context so requires, shall mean the “review petition” as well.

¹ First proviso modified by PHC in its applicability to members of “Service” (judicial service) vide Notification No. 159-J, dated 19-05-2008

* Substituted by Notification No.SORII(S&GAD)3(4)/78/Vol.II dated 3.12.1989.

(2) Where the order of the competent authority affects more than one civil servant, every affected civil servant shall prefer the appeal separately.

(3) Where the aggrieved civil servant has died, the appeal may be filed, or if already filed by such civil servant before his death, may be pursued, by his legal heir or heirs; provided that the benefit likely to accrue on the acceptance of such appeal is admissible to such legal heir or heirs under any rules for the time being applicable to civil servants.

4. **Form of Memorandum.** (1) Every memorandum of appeal shall:-

- (a) contain full name and address, official designation and place of posting of the appellant;
- (b) state in brief the facts leading to the appeal;
- (c) be accompanied by a certified copy of the order appealed against and copies of all other documents on which the appellant wishes to rely.

Explanation. __ Where an aggrieved civil servant has died, his legal heir or heirs, while filing the appeal or applying for review, as the case may be, shall also add documents in support of his or their relationship with the deceased civil servant.

(2) The appeal shall be submitted through the head of the office in which the appellant is posted at the time of filing the appeal, or in the case of a deceased civil servant, where he was last posted before his death. The head of the office shall forward the appeal to the competent authority, if he himself is not such authority and the competent authority shall after adding his own comments, if any, transmit the appeal to the appellate authority for necessary orders. The purpose of the first proviso, the expression “appeal”, where the context so requires, shall mean the “review petition” as well.

(3) No appeal shall be entertained if it contains abusive, disrespectful or improper language.

5. **Action by the appellate authority.** (1) The appellate authority, after making such further inquiry or calling for such information or record or giving the appellant an opportunity of being heard, as it may consider necessary, shall determine __

- (a) whether the facts on which the order appealed against was based have been established;
- (b) whether the facts established afford sufficient ground for taking action; and
- (c) whether the penalty is excessive, adequate or inadequate and after such determination, shall confirm, set aside or pass such order as it thinks proper; provided that no order increasing the penalty shall be passed without giving the appellant an opportunity of showing cause as to why such penalty should not be increased.

(2) The competent authority against whose order an appeal is preferred under these rules shall give effect to any order made by the appellate authority and shall cause the order so passed to be communicated to the appellant without undue delay.

6. Withholding of appeal in certain cases.— (1) An appeal may be withheld by the competent authority if—

- (a) it is an appeal in a case in which no appeal lies under these rules; or
- (b) it does not comply with the requirements of rule 4; or
- (c) it is not preferred within the time limit specified in sub-rule (1) of rule 3 and no reason is given for the delay; or
- (d) it is addressed to an authority or officer to whom no appeal lies under these rules;

Provided that in every case in which an appeal is withheld, the appellant shall be informed of the fact and reasons for it.

Provided further that an appeal withheld for failure to comply with the requirements of rule 4 or clause (d) of this sub-rule may be resubmitted within thirty days of the date on which the appellant is informed of the withholding of the appeal and, if resubmitted properly in accordance with the requirements of these rules, shall be deemed to be an appeal under rule 3 and shall be dealt with in accordance with the provisions of these rules.

(2) No appeal shall lie against the withholding of an appeal under this rule.

7. Disposal of appeal:— (1) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority alongwith the

comments by the competent authority from whose order the appeal is preferred.

(2) A list of appeals withheld under rule 6, with reasons for withholding them, shall be forwarded quarterly by the withholding authority to the appellate authority.

(3) The appellate authority may call for any appeal admissible under these rules which has been withheld by the competent authority and may pass such order thereon as it considers fit.

8. Savings:- Nothing in these rules shall operate to deprive any person of any right of appeal which he would have had if these rules had not been made, in respect of any orders passed before they came into force.

9. Pending appeals:- All appeals pending immediately before the coming into force of these rules shall be deemed to be appeals under these rules.

10. Repeal. The North-West Frontier Province Civil Services (Punishment and Appeal) Rules, 1943, are hereby repealed.

C.No. 9(5-2)

NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS REVISED LEAVE RULES, 1981

GOVERNMENT OF N.W.F.P. FINANCE DEPARTMENT (SR-IV
SECTION)

NOTIFICATION
17TH December, 1981

No.FD.SO(SR-IV)5-54/80(Vol:II). In exercise of the powers conferred by section 26 of the North-West Frontier Province Civil Servants Act, 1973 (N.W.F.P. Act XVIII of 1973) and in supersession of this Department's Notification No.FD.SO(SR-IV)1-17/78, dated the 20th November, 1979, the Governor of the North-West Frontier Province is pleased to make the following rules namely:-

NORTH-WEST FRONTIER PROVINCE CIVIL SERVANTS REVISED
LEAVE RULES, 1981

1. Short title, commencement and application.__ (1) These rules may be called the North-West Frontier Province Civil Servants Revised Leave Rules, 1981.

(2) They shall come into force at once

(3) They shall apply to all Civil Servants under the rule making authority of the Governor except those who opted not to be governed by the North-West Frontier Province Civil Servants Leave Rules, 1979.

2. Admissibility of Leave to Civil Servant.__ Leave shall be applied for, expressed and sanctioned in terms of days and shall be admissible to a civil servant at the following rate and scale: __

(i) A civil servant shall earn leave only on full pay. It shall be calculated at the rate of four days for every calendar months of the period of duty rendered and credited to the leave account as “leave on fully pay” duty period of 15 days or less in a calendar month being ignored and those of more than 15 days being treated as a full calendar month, for the purpose. If a civil servant proceeds on leave during a calendar month and returns from it during another calendar month and the period of duty in either month is more than 15 days, the leave to be credited for both the incomplete months will be restricted to that admissible for one full calendar month only.

(ii) The provisions of clause (i) will not apply to vacation departments. A civil servant of a vacation department may earn leave on full pay as under: _

- | | | |
|-----|--|--|
| (a) | When he avails himself of vacation in a calendar year | At the rate of one day for every calendar month of duty rendered; |
| (b) | When during any year he is prevented from availing himself of the full vacation. | As for a civil servant in non-vacation Department for that year; and |

- (c) When he avails himself of only a part of the vacation As in (a) above plus such proportion of thirty days as the number of days of vacation not taken bears to the full vacation.

- (iii) There shall be no maximum limit on the accumulation of such leave.

Note ____¹ (deleted).

3. When leave earned. (a) All service rendered by a civil servant qualifies him to earn leave in accordance with these rules but shall not be earned during the period of leave.

- (b) Any period spent by a civil servant in foreign service qualifies him to earn leave provided that a contribution towards leave salary is paid to the Government on account of such period.

4. Grant of Leave on Full Pay. (1) The maximum period of leave on full pay that may be granted at one time by the competent authority shall be as follows:-

- | | | |
|-------------|---|----------|
| (i) | Without medical certificate | 120 days |
| (ii) | With medical certificate | 180 days |
| PLUS | | |
| (iii) | On medical certificate from leave account in entire service | 365 days |

(2) The maxima prescribed at (i) and (ii) of sub-rule (1) are independent of each other. In other words a civil servant may be granted, at a time, total leave on full pay on medical certificate upto the permissible extent in continuation of leave upto 120 days without medical certificate, subject to given conditions.

5. Grant of Leave on Half Pay. (1) Leave on full pay may be converted into leave on half pay, at the option of the civil servant.

¹ Deleted by Notification No. FD.50 (SR-IV) 5-54/80 (Vol.II), dated 1.6.1982

(2) Debits to the leave account will be at the rate of one day of the former for every two days of the latter, fraction of one-half counting as one full day's leave on full pay.

(3) The request for such conversion shall be specified by the civil servant in his application for the grant of leave.

(4) There shall be no limit on the grant of leave on half pay so long as it is available by conversion in the leave account.

6. Conversion of Leave Account.__ (1) All leave at credit in the account of a civil servant who was in service on the 1st day of July, 1978, shall be carried forward and expressed in terms of leave on full pay. The leave account in such cases shall, with effect from 1st July, 1978 or in the case of a civil servant who was on leave on that date with effect from the date of his return from leave, be recast as under, ignoring the fraction if any:-

(i)	Leave on full pay__	
	(a) 1 month	30 days
	(b) 1 day	1 day
(ii)	Leave on half pay__	
	(a) 1 month	15 days
	(b) 2 days	1 day

(2) In carrying forward the leave, the leave at credit of a civil servant in columns 7 and 8 and half of the leave at credit in column 9 of the existing leave account shall be carried forward to the new leave account of the civil servant.

(3) The leave availed under the existing rules from column 13 (a) of the leave account shall be debited against the maximum limit of three hundred and sixty five days fixed under rule 4(1) (iii).

7. Leave not due.__ (1) Leave not due may be granted on full pay, to be offset against leave to be earned in future, for a maximum period of three hundred and sixty five days in the entire period of service, subject to the condition that during the first five years of service it shall not exceed ninety days in all.

(2) Such leave may be converted into leave on half pay.

(3) Such leave shall be granted only when there are reasonable chances of the Civil Servant resuming duty on the expiry of the leave.

(4) Such leave shall be granted sparingly and to the satisfaction of the sanctioning authority but it shall not be admissible to the temporary civil servants.

8. Leave Salary.__ (1) leave pay admissible during leave on full pay shall be the greater of-

(a) the average monthly pay earned during the twelve complete months immediately preceding the month in which the leave begins; and

(b) the rate equal to the rate of pay drawn on the day immediately before the beginning of the leave.

(2) When leave on half pay is taken, the amount calculated under clause (a) and (b) of sub-rule (1) shall be halved to determine the greater of the two rates.

¹ [(3) A civil servant shall be entitled to the leave pay at the revised rate of pay if a general revision in pay of civil servants takes place or an annual increment occurs during the period of leave of the civil servant].

9. Special Leave to Female Civil Servants.__ A female civil servant may, on the death of her husband, be granted special leave on full pay not exceeding 130 days. This leave shall not be debited to her leave account and will commence from the date of death of her husband. For this purpose she will have to produce death certificate issued by competent authority either alongwith her application for special leave or, if that is not possible, the said certificate may be furnished to the leave sanctioning authority separately.

10. Maternity Leave.__ (1) Maternity leave may be granted on full pay, outside the leave account, to a female civil servant to the extent of ninety days in all from the date of its commencement or forty five days from the date of her confinement, whichever be earlier.

(2) Such leave may not be granted for more than three times in the entire service of a female civil servant except in the case of a female civil

¹ Added by Notification No. FD.SO(SR-IV)5-54/80-Vol.III, dated 26.10.1994

servant employed in a vacation department who may be granted maternity leave without this restriction.

(3) For confinement beyond the third one, the female civil servant would have to take leave from her normal leave account.

(4) The spells of maternity leave availed of prior to the coming into force of these rules shall be deemed to have been taken under these rules.

(5) Maternity leave may be granted in continuation of, or in combination with, any other kind of leave including extraordinary leave as may be due and admissible to a female civil servant.

(6) Leave salary to be paid during maternity leave shall be regulated as for other leave, in accordance with the formula provided in rule 8.

(7) The leave salary to be paid during maternity leave will, therefore, remain unaffected even if any increment accrues during such leave and the effect of such an increment will be given after the expiry of maternity leave.

11. Disability Leave. (1) Disability leave may be granted outside leave account on each occasion upto a maximum of seven hundred and twenty days on such medical advice as the head of office may consider necessary, to a civil servant, other than civil servant in part time service, disabled by injury, ailment or disease contracted in course or in consequence of duty or official position.

(2) The leave salary during disability leave shall be equal to full pay for the first one hundred and eighty days and on half pay for the remaining period.

12. Extraordinary Leave. (Leave without pay). (1) Extraordinary leave may be granted on any ground upto a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, extraordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. This leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.

(2) The maximum period of extraordinary leave without pay combined with leave on full pay and leave on half pay shall be subject to

the limit of 5 years prescribed in FR-18, i.e. the maximum period of extraordinary leave without pay that would be admissible to a civil servant who has rendered continuous service for a period of not less than 10 years shall be 5 years less the period of leave on full pay and leave on half pay so combined.

¹[(3) Extraordinary leave may be granted retrospectively in lieu of absence without leave].

13. Leave on Medical Certificate.__ Leave applied for on medical certificate shall not be refused. The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or the Medical Board to have the applicant medically examined. The existing provisions contained in Supplementary Rules 212,213 and Rule 220 to 231 for the grant of leave on medical grounds will continue to apply.

14. Leave Preparatory to Retirement.__ The maximum period upto which a Civil Servant may be granted leave preparatory to retirement shall be 365 days only. It may be taken subject to availability in the leave account, either on full pay or partly on full pay and partly on half pay, or entirely on half pay, at the discretion of the Civil Servant and it will not extend beyond the age of superannuation.

15. Recreation Leave.__ Recreation leave may be granted for fifteen days once in a calendar year, the debit to the leave account may, however, be for ten days leave on full pay:

Provided that such leave shall not be admissible to a Civil servant in a vacation department.

Note: Casual Leave (as Recreation Leave) shall, however, continue to be granted for 10 days only subject to other conditions under Government instructions.

16. Leave Ex-Pakistan.__ (1) Leave Ex-Pakistan may be granted on full pay to a civil servant who applied for such leave or who proceeds abroad during leave, or takes leave while posted abroad or is otherwise on duty abroad and makes a specific request to that effect.

¹ Added by Notification No. FD-SO(SR-IV)5-54/80(Vol-II) dated 1.6.1982

(2) The leave pay to be drawn abroad shall be restricted to a maximum of three thousand rupees per month.

(3) The leave pay shall be payable in sterling, if such leave is spent in Asia other than Pakistan and India.

(4) Such leave pay shall be payable for the actual period of leave spent abroad subject to maximum of one hundred and twenty days at a time.

(5) The civil servants appointed after 17th May, 1958 shall draw their leave salary in rupees in Pakistan irrespective of the country where they spent their leave.

(6) Leave Ex-Pakistan will be regulated and be subject to the same limits and conditions as prescribed in rule 4,5 and 12.

17. Assigning reasons for leave.___ It shall not be necessary to specify the reasons for which leave has been applied, so long as that leave is due and admissible to a civil servant.

18. Commencement and end of leave.___ Instead of indicating whether leave starts/ends in the forenoon or after-noon, leave shall commence from the day following that on which a civil servant hands over the charge of his post. It shall end on the day preceding that on which he resumes duty.

19. Absence after the expiry of leave.___ Unless his leave is extended by the leave sanctioning authority, a civil servant who remains absent (except for circumstances beyond his control) after the end of his leave shall not be entitled to any remuneration for the period of such absence and double period of such absence shall be debited against his leave account. Such debit shall if there is insufficient credit in the leave account, be adjusted against future accumulations. Such double debit shall not preclude any disciplinary action that may be considered necessary under any rule for the time being in force after affording a reasonable opportunity to the civil servant concerned to indicate his position.

¹**[20. Encashment of Leave Preparatory to Retirement.**___ Where a civil servant opts not to avail the leave preparatory to retirement admissible to him under rule 14, he shall be allowed leave salary for the period for which leave preparatory to retirement is admissible, subject to a maximum of 180 days. For the purpose of lump sum payment in lieu of leave preparatory to

¹ Substituted by Notification No. FD.SO (SR-IV) 5-54/80(Vol:II), dated 24th August, 1983.

retirement only the senior post allowance will be included in the leave pay so admissible. The payment of leave pay in lieu of leave preparatory to retirement may be made to the civil servant either in lump sum at the time of retirement or may at his option, be drawn by him monthwise, in arrears, for and during the period of leave preparatory to retirement. This amendment shall take effect from 1.7.1983].

¹ [21. **In Service Death, etc.**__ (1) In case a civil servant dies, or is declared permanently incapacitated for further service by a Medical Board, while in service, a lump sum payment equal to leave pay upto one hundred and eighty days out of the leave at his credit shall be made to his family as defined for the purposes of family pension or, as the case may be, to the civil servant].

(2) For the purpose of lump sum payment under sub rule (1), only the “senior post allowance” will be included in the “leave pay” so admissible.

22. Recall from Leave.__ If a civil servant is recalled to duty compulsorily with the approval of the leave sanctioning authority, from leave of any kind, which he is spending away from his headquarters, he may be granted single return fare plus daily allowance as admissible on tour from the station where he is spending his leave to the place where he is required to report for duty. In case he is recalled to duty at headquarters and his remaining leave is cancelled, the fare then admissible shall be for one way journey only. If the order of recall to the civil servant is optional then the concession above mentioned will not be admissible.

23. Any type of leave may be applied.__ A civil servant may apply for the type of leave which is due and admissible to him and it shall not be refused on the ground that another type of leave should be taken in the particular circumstances for example, a civil servant may apply for extraordinary leave or leave on half pay even if leave on full pay is otherwise due and admissible to him, or he may proceed on extraordinary leave followed by leave on half pay and full pay rather than on full pay, half pay and without pay.

24. Combination of different types of leave etc.__ One type of leave may be combined with joining time or with any other type of leave otherwise admissible to the civil servant:

¹ Substituted by Notification No. FD.SO (SR-IV) 5-54/80 (Vol: III), dated 3.5.1988.

Provided that leave preparatory to retirement shall not be combined with any other kind of leave.

25. Civil Servants on leave not to join duty without permission before its expiry. Unless he is permitted to do so by the authority which sanctioned his leave a civil servant on leave may not return to duty before the expiry of the period of leave granted to him.

26. Leave due may be granted on abolition of post, etc. (1) When a post is abolished, leave due to the civil servant, whose services are terminated in consequence thereof, shall be granted without regard to the availability of a post for the period of leave.

(2) The grant of leave in such cases shall, so long as he does not attain the age of superannuation be deemed automatically to have also extended the duration of the post and the tenure of its incumbent.

27. Manner of handing over charge when proceeding on leave, etc. (1) A civil servant proceeding on leave shall hand over the charge of his post, and if he is in Grade-16 and above, he shall, while handing over charge of the post, sign the charge relinquishment report.

(2) If leave ex-Pakistan has been sanctioned on medical grounds, the civil servant shall take abroad with him copy of the medical statement of his case.

28. Assumption of charge on return from leave, etc. (1) A civil servant, on return from leave, shall report for duty to the authority that sanctioned his leave and assume charge of the post of which he is directed by that authority unless such direction has been given to him in advance.

(2) In case he is directed to take charge of a post at a station other than that from where he proceeded on leave, travel expenses as on transfer shall be payable to him.

29. Account Office to maintain leave account. (1) Leave account in respect of a civil servant shall be maintained as part of his Service Book.

(2) The Account Offices shall maintain the leave accounts of civil servants of whom they were maintaining the accounts immediately before the coming into force of these rules.

30. Leave to lapse when civil servant quits service._ All leave at the credit of a civil servant shall lapse when he quits service.

31. Leave application, its sanction, etc._ (1) Except where otherwise stated, an application for leave or for an extension of leave must be made to the head of office where a civil servant is employed and, in the case of the head of office to the next-above administrative authority and the extent of leave due and admissible shall be stated in the application.

(2) An audit report shall not be necessary before the leave is sanctioned.

(3) When a civil servant submits a medical certificate for the grant of leave, it shall be by an authorized medical attendant in the form attached to these rules.

(4) Leave as admissible to a civil servant under these rules may be sanctioned by the head of a Department, Attached Department, Office or any other officer authorized by him to do so and, when so required, leave shall be notified in the official Gazette.

(5) In cases where all the applications for leave cannot, in the interest of public service, be sanctioned to run simultaneously, the authority competent to sanction leave shall, in deciding the priority of the applications consider:

- (i) whether, and how many applicants can, for the time, best be spared;
- (ii) whether any applicants were last recalled compulsorily from leave ;and
- (iii) whether any applicants were required to make adjustment in the timing of their leave on the last occasion.

**FORM OF MEDICAL CERTIFICATE
FROM-1**

Signature of applicant _____

**MEDICAL CERTIFICATE FOR CIVIL SERVANTS RECOMMENDED
FOR LEAVE OR EXTENSION**

I _____
after careful _____ personal examination of the case, hereby
certify that, _____ whose signature is given above, is
suffering from _____ and I consider that a period of absence
from duty of _____ more with effect
from _____ is absolutely necessary for the
restoration of his/her health.

Dated, the _____ Government Medical Attendant _____

APPLICATION FOR LEAVE FROM-II

Notes:- Item 1 to 9 must be filled in by all applicants. Item 12 applies only in the case of Government servants of Grade 16 and above.

1. Name of applicant.
2. Leave Rules applicable.
3. Post held
4. Department or office
5. Pay
6. House rent allowance/conveyance allowance or other compensatory allowances drawn in the present post.
7. Nature of leave applied for.
 - (a) Nature of leave applied for.
 - (b) Period of leave in days.
 - (c) Date of commencement.
8. Particular Rule /Rules under which leave is admissible.
9.
 - (a) Date of return from last leave.
 - (b) Nature of leave.
 - (c) Period of leave in days.

Signature of applicant

10. Remarks and recommendation of the Controlling Officer.
11. Certified that leave applied for is admissible under Rule and necessary conditions are fulfilled.

Signature
Designation

12. Report of Audit office.

Signature
Designation

13. Orders of the sanctioning authority certifying that on the expiry of leave the application is likely to return to the same post carrying the compensatory allowances being drawn by him.

Signature
Designation

Dated

FORM III

FORM OF LEAVE ACCOUNT UNDER THE REVISED LEAVE RULES, 1981

Leave Account of
 Mr./Miss/Mrs.....
 Date of commencement of
 service.....
 Date of attaining age of
 superannuation.....

(N.B---Instruction for filling in the form are printed on the
 succeeding pages.

Government/Department served under	PERIOD OF DUTY				Leave earned on full Pay 4 days for each calendar month.	Leave at Credit(column 21+6)	LEAVE TAKEN (From Column 8 to 20)																			
							PERIOD		Leave on Full pay without medical certificate subject to maximum of 120 days & 365 days in case of L.P.R.	Leave on full pay on medical certificate subject to maximum of 180 days.	Leave on full pay on medical certificate subject to maximum of 365 days in entire service.	LEAVE ON HALF PAY		Recreation leave of 15 days in a year but 10 days to be debited.	LEAVE NOT DUE		ABSENCE		Total Leave (Columns 10+11+12+14+15+17+19)					Balance on 1.7.1978/return from leave (Columns 7-20)	Re-marks	ATTESTATION
												In terms of half pay	In terms of full pay		In terms of half pay	In terms of full pay	Actual No. of days	No. of days debitable (double the actual number)								
	From	To	Y.M.D.	Full Calendar months	Days	Days	From	To	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days	Days				

C.No. 10(5-2)

THE WEST PAKISTAN CASUAL LEAVE RULES 1956

Government has decided to issue the following orders in supersession of all previous orders on the subject of the grant of casual leave to Government servants. These orders will also supersede all orders issued by the integrating units in respect of Summer Spell or Hot Weather Leave which can now be taken only in the form of casual leave.

2. (a) Casual leave should not ordinarily exceed 10 days at a time and 25 days during any one calendar year. The sanctioning authority may, however, grant casual leave upto 15 days at a time in special circumstances.
 - (b) It may be granted in conjunction with Sundays or public holidays, but not with any other kind of leave or joining time. In case casual leave is combined with holidays the total period should not exceed 15 days at a time.
3. No Government servant may leave his headquarters during casual leave or holidays except with the permission of the sanctioning authority. Subject to the delegation of powers which has been or may be made by Government from time to time in this behalf, casual leave may be sanctioned to a Government servant by his immediate superior of Gazetted status.

CHAPTER-VI SOME FEDERAL LAWS

SECTION-1 (LAW AND JUSTICE COMMISSION OF PAKISTAN)

C.No. 1(6-1)

LAW ¹[AND JUSTICE] COMMISSION ORDINANCE 1979 ORDINANCE XIV OF 1979

An Ordinance to establish a law ²[and justice] commission

[Gazette of Pakistan Extraordinary part-I, 24th February 1979]

No. F.17(1)/79-Pub.- The following Ordinance made by the President is hereby published for general information:-

Whereas it is expedient to establish a Law ³[and Justice] Commission for a systematic development and reform of the laws and to provide for matters connected therewith or incidental thereto;

And whereas the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in pursuance of the Proclamation of the fifth day of July 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement.-** (1) This ordinance may be called the Law ⁴[and Justice] Commission Ordinance, 1979 .
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.

¹ Added vide Ordinance No. LXX of 2002

² Added vide Ordinance No. LXX of 2002

³ Added vide Ordinance No. LXX of 2002.

⁴ Added vide Ordinance No. LXX of 2002.

2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,-
- (a) “Chairman” means Chairman of the Commission;
 - (b) “Commission” means the Commission established under section 3; ¹[]
 - (c) ² [“Fund” means Access to Justice Development Fund established under section 6-A; and]
 - ³ [d] “member” means member of the Commission.
3. **Composition of Commission.-** ⁴[(1) There shall be a Law and Justice Commission of Pakistan, consisting of:-
- (a) the Chief Justice of Pakistan who shall be the Chairman, ex-officio;
 - (b) the Chief Justice of the Federal Shariat Court, Member, ex-officio;
 - (c) the Chief Justices of the High Court of Balochistan, High Court of Sindh, Lahore High Court and Peshawar High Court, Members, ex-officio;
 - (d) Attorney General for Pakistan, Member, ex-officio;
 - (e) the Secretary, Ministry of Law, Justice and Human Rights, Member, ex-officio;
 - (f) Chairperson for Commission on Women Status, Member, ex-officio;
 - (g) four members, one from each Province, to be appointed by the Federal Government, on the recommendation of the Chairman, from amongst eminent lawyers and persons of repute and integrity from civil society.

(1A) In addition to the members referred to in sub-section (1), the Chairman may, in his discretion, appoint a suitable person or persons as member or members for a specified period to perform specified functions]

(2) The members of the Commission shall be appointed from amongst persons who are or have been holders of a judicial or administrative office, eminent lawyers or jurists, members of the Council of Islamic Ideology or Teacher of Law in a university or college.

¹ Omitted vide Ordinance No. LXX of 2002

² Inserted vide Ordinance No. LXX of 2002

³ Renumbered vide Ordinance No. LXX of 2002

⁴ Substituted vide Ordinance No. LXX of 2002

(3) A member, other than an ex-officio member, shall hold office for a term of three years but shall be eligible for re-appointment for another term.

(4) A member, other than an ex-officio member, may resign his office by writing under his hand addressed to the President.

4. **Head Office.-** The head office of the Commission shall be situated in Islamabad or at such other place as the Federal Government may specify.

5. **Secretariat.-** (1) The Commission shall have a separate Secretariat to be headed by a Secretary, who shall be an officer of the Federal Government not inferior in rank to a joint Secretary to the Federal Government.

(2) The Secretary and other officers and employees of the Commission shall be appointed by the Chairman on such terms and conditions as the Commission may determine.

(3) The Commission may, for the purpose of research, engage, for a specified period, as many persons as it considers necessary.

6. **Functions of the Commission.-** (1) The Commission shall study and keep under review on a continuing systematic basis the statutes and other laws with a view to making recommendations to the Federal Government and the Provincial Governments for the improvements, modernization and reform thereof and, in particular, for-

- (i) making or bringing the laws into accord with the changing needs of the society, consistent with the ideology of Pakistan and the concept of Islamic social justice;
- (ii) adopting of simple and effective procedure for the administration of laws to ensure substantial, inexpensive and speedy justice;
- (iii) arranging the codification and unification of laws in order to eliminate multiplicity of laws on the same subject;
- (iv) removing anomalies in the laws;
- (v) repealing obsolete or unnecessary provisions in the laws;
- (vi) simplifying laws for easy comprehension and devising steps to make the society law-conscious;

- (vii) introduction of reforms in the administration of justice; and
- (viii) removing inconsistencies between the laws within the legislative competence of Parliament and those within the legislative competence of a Provincial Assembly.

- ¹ [(2) The Commission shall take appropriate measures for.-
- (a) developing and augmenting human resources for efficient court administration and case management;
 - (b) coordination of judiciary and executive; and
 - (c) preparing schemes for access to justice, legal aid and protection of human rights;

(3) The Commission shall administer and manage the Access to Justice Development Fund]

² [(4)] The Commission shall study the present system of legal education and make recommendations to the Federal Government for improving the standard of legal education.

³ [(5)] The Federal Government, or a Provincial Government may refer to the Commission any matter relevant to its functions for opinion and advise.

⁴ [6-A. **Fund.**- (1) There shall be established for the purposes of this Ordinance a fund to be called the Access to Justice Development Fund.

(2) The Fund shall consist of.-

- (a) an endowment grant of initial amount equivalent to US \$24 million by the Federal Government in installments;
- (b) other grants and donations made by the Federal Government, Provincial Governments or a Local Government;
- (c) donations and contributions made by the individuals or institutions; and
- (d) sums raised by the Commission.

¹ Inserted vide Ordinance No. LXX of 2002

² Renumbered vide Ordinance No. LXX of 2002

³ Renumbered vide Ordinance No. LXX of 2002

⁴ Inserted vide Ordinance No. LXX of 2002

6.B Expenditure to be charged on the Fund.- The annual income generated by investment of endowment grant under clause (a) of sub-section (2) of section 6-A shall be utilized for the purposes and to the extent provided as hereunder:

- (a) 60.3% shall be allocated to the provinces on population basis to be called Provincial Judicial Development Fund for improving the capacity and performance of the subordinate courts and providing amenities and facilities to courts and litigants, as may be determined by the respective High Court(s);
- (b) 10% shall be set aside for special projects in the under-developed Provinces and regions;
- (c) not more than 4.5% on Legal and Judicial Research;
- (d) not more than 4.5% on the activities of the Federal Judicial Academy not covered by its budgetary allocation;
- (e) not more than minimum of 13.5% with a cap of 20% for the legal empowerment of the poor and underprivileged persons for provision of legal aid or assistance to have access to justice, in accordance with the criteria to be laid by the Commission;
- (f) not more than minimum of 4.5% with a cap of 10% to be spent on innovations in or promotion of legal education;
- (g) 2.7% shall be charged by the Commission for management of the Fund;

Provided that an amount allocated under clauses (a) to (g) if not spent for any category shall be carried forward for the same purposes for the next two years;

- (h) all other fund other than provided in clause (a) of sub-section (2) of section 6-A and the proceeds thereof, shall be utilized by the Commission for discharging its duties and functions under this Ordinance.

6-C Constitution of Committees.- The Commission may constitute committees consisting of one or more of its members, as it thinks fit, and may refer to them any matter relevant to the functions of the Commission for consideration and report.

- 6-D **Reports.-** The Commission shall publish an annual report of its activities and such other periodic or special reports requiring legislative or implementation effect as it may consider necessary. The Commission shall submit the reports to the President of Pakistan.]
7. **Application of Act VI of 1956.-** The provisions of the Pakistan Commissions of Inquiry Act, 1956 (VI of 1956), shall apply to the Commission as if the Commission were a Commission appointed under that Act to which all the provisions of section 5 thereof applied.
8. **Assistance to Commission.-** All executive authorities in Pakistan shall assist the Commission in the performance of its functions.
9. **Power to make rules.-** (1) The Commission may make rules for carrying out the purposes of this Ordinance.
(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for payment to the members of a travelling allowance and daily allowance in respect of journeys performed in connection with the functions of the Commission.

C.No. 2(6-1)

THE ACCESS TO JUSTICE DEVELOPMENT FUND, RULES 2002

THE GAZETTE OF PAKISTAN EXTRAORDINARY PUBLISHED BY
AUTHORITY ISLAMABAD, TUESDAY, DECEMBER 31, 2002

Part II Statutory Notifications (S.R.O) Government of Pakistan Law and Justice Commission of Pakistan Notification Islamabad, the 31st December, 2002

S.R.O 980 (I)/2002... In exercise of powers conferred by sub-section (1) of section 9 of the Law and Justice Commission of Pakistan Ordinance, 1979 (XIV of 1979) the Law and Justice Commission of Pakistan is pleased to

make the following rules for administering and managing the Access to Justice Development Fund :-

1. **Short title and commencement.** --- (i) These Rules may be called the Access to Justice Development Fund Rules, 2002.

(ii) They shall come into force at once.

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

- (a) 'Advisor' means an investment advisor or an investment company registered as such and includes an investment consultant;
- (b) 'Chairman' means the Chairman of the Commission;
- (c) 'Commission' means Law and Justice Commission of Pakistan;
- (d) ¹['Fund' means Access to Justice Development Fund;]
- (e) ²['Deputy Secretary' means Deputy Secretary of the Fund;]
- (f) 'Secretary' means Secretary of the Commission;
- (g) 'Governing Body' means a Committee of the Commission to administer and manage the Fund;
- (h) 'Government' means the Federal or a Provincial Government as the case may be;
- (i) 'Member' means Member of the Commission;
- (j) 'Ordinance' means the Law and Justice Commission of Pakistan Ordinance;
- (k) 'Organization' means a bar council, a bar association, an educational institution or any other organization formed with the permission or authority of the Government and includes a non-governmental organization; and
- (l) 'rules' means rules made under the Law and Justice Commission of Pakistan Ordinance, 1979.

3. (I) The Commission shall have the possession, management and control of the Fund, its undertakings, properties and assets.

¹ Substituted vide Notification date 4th April, 2005

² Substituted vide Notification date 4th April, 2005

(2) The Fund shall be administered and managed by the Governing Body consisting of the Chairman, the Chief Justices of the four Provincial High Courts, the Secretary, Ministry of Finance, the Secretary, Ministry of Law, Justice and Human Rights and the Secretary, Law and Justice Commission of Pakistan, members.

(3) The Governing Body shall regulate its own procedures and co-opt any member of civil society as may deem appropriate in discharge of its functions.

(4) Any defect in constitution of the Governing Body shall not invalidate anything done or any act performed by the Governing Body.

(5) The Governing Body shall hold its meeting at least once in three months.

(6) During the interval between meetings of the Governing Body the Chairman shall act in the best interest of the Fund.

¹[(7) The Governing Body may delegate any of its powers and functions to any of its members.]

4. The Governing Body shall:-

- (a) invest the Fund for generating income;
- (b) allocate the income earned on investment of Fund to the Fund windows specified under rule 9;
- (c) ²[verify the annual and half yearly accounts of the Fund];
- (d) ³[approve investment policy and schemes for investment in the Government approved securities, term finance certificates (TFCs), shares or in any other form of investment in accordance with the approved policy of the Government];
- (e) nominate director in a company in which an investment is made out of the Fund or there involves other special interest of Fund by virtue of contractual arrangement as provided by Section 182 of the Companies Ordinance 1984;
- (f) file petition for winding up of an indebted company under sections 305, 306 and 309 Companies Ordinance.

¹ Added vide Notification dated 4th April, 2005

² The existing clause "c" of rule 4 read as "draw or authorize to draw Fund from the bank accounts" is omitted vide Notification dated 4th April, 2005.

³ Renumbered clause (d) of rule 4 is substituted vide Notification dated 4th April, 2005.

5.(1) The Fund shall be operated through an account to be opened in a bank as authorized by the Governing Body;

(2) The Fund account shall be operated jointly by two Members of the Governing Body or by the Secretary and the ¹[Deputy Secretary] authorized by it.

6. The Chairman shall appoint a ²[Deputy Secretary] and other investment advisor, consultants, accountants, auditors and other employees of the Fund management on such terms and conditions as may be prescribed.

7. The ³[Deputy Secretary] shall:-

- (a) prepare schemes for investment of the Fund for generating income;
- (b) purchase, sell, endorse, transfer, negotiate or otherwise deal in securities of the Federal Government or any other securities of a legal description;
- (c) raise loans for various projects and undertakings and for this purpose may pledge or otherwise charge the corpus of the capital and properties of the Fund;
- (d) enter into contracts, agreements and arrangements, and execute necessary documents;
- (e) open current, fixed, overdraft, loan, cash, credit or other accounts in local or foreign currency, with any bank as may be necessary and deposit into or draw money from such accounts.
- (f) cause the preparation and submission of annual and half yearly accounts of the Fund within the prescribed period;
- (g) discharge any other function as authorized by the Governing Body;

8.(1) The Fund shall be invested with sound investment objectives with the advice of one or more professional investment managers, or advisors.

¹ Substituted vide Notification dated 4th April, 2005

² Substituted vide Notification dated 4th April, 2005

³ Substituted vide Notification dated 4th April, 2005

(2) The Governing Body may consider any investment criteria specified by a donor at the time of making donations to the Fund, but shall not follow such criteria if it is considered an imprudent investment of Fund by the advisor.

9.(1) There shall be maintained seven windows for allocation of income of the Fund in the ratio given as under:-

- (i) Provincial Subordinate Courts (60.3%);
- (ii) legal empowerment (13.5%);
- (iii) Federal Judicial Academy where its activities are not covered by its budgetary provisions (4.5%);
- (iv) innovations in or promotion of legal education (4.5%);
- (v) legal and judicial research (4.5%);
- (vi) fund management (2.7%); and
- (vii) special projects in the under developed provinces / areas (10%).

(2) Any amount allocated if not utilized for any category, shall be carried forward for the same purposes for the next two years.

(3) The allocative ceilings of various Fund windows shall be determined on a tri-annual basis in the light of actual experience and review.

10. The eligible expenditures of amount allocated to each Fund window under rule 9 shall be.-

(a) **Subordinate Courts window.-**

- (i) automation of the courts;
- (ii) ¹[court infrastructure];
- (iii) information kiosks;
- (iv) provision of court related conveniences and amenities to the litigants ; and
- (v) performance reward for the subordinate judiciary on the basis of supervision reports and recommendations submitted by the inspection team of the High Courts.

¹ Substituted vide Notification dated 4th April, 2005

(b) **Legal empowerment window.-**

- (i) clinical legal aid to clients affected by violation of their fundamental rights by the executive, especially on matters concerned with criminal justice;
- (ii) representation in public interest litigation;
- (iii) public awareness and legal literacy campaigns; and
- (iv) awareness on environmental laws.

(c) **Legal innovations window.-**

- (i) innovations in teaching of legal education and development of curriculum, including funding of pilot projects;
- (ii) improving standard of legal education;
- (iii) efforts directed at improvements in professional standards of the legal professionals;

(d) **Federal Judicial Academy window.-**

- (i) training programs for the judiciary including mobile training arrangements and facilities;
- (ii) development of new courses especially attempts at innovations;
- (iii) training and education for non-judicial personnel, e.g. administrators, registrars and other support staff dealing in policy development and Implementation, case flow management, budget, planning, information system and record management.

(e) **Judicial and legal research window.-**

- (i) legal and judicial research aimed at improving the delivery of judicial and legal services and the quality of the judgments;
- (ii) initiatives to reform law and advocacy related endeavours.

(f) **Fund management window.-**

- (i) salaries of auditors, consultants, investment advisors and officers and staff of Fund management;
- (ii) purchase of equipment, vehicles and stationary etc;
- (iii) preparation of accounts and balance sheets of the Fund; and

- (iv) payment of fees, salaries, travelling, daily and other allowances and any other payment to be charged on the Fund.

(g) **Under developed area window.-**

The eligible expenditure under this window shall be as provided at clauses (a to c) or for any other special project.

11. A request for funding from legal empowerment, legal innovations and Judicial and legal research windows shall be assessed in accordance with the criteria laid down by the Governing Body for each fund window and evaluated on the quality of the proposal, its technical soundness, the clarity with which estimates are set out and the extent to which its targets are realistic.

12. The financial year of the Fund shall commence from the first day of July each year, and end on the last day of June of the following year.

13. (1) The books of accounts of the Fund shall be prepared and kept in accordance with ¹[the procedures as may be prescribed].

(2) The books of accounts shall be kept at Head Office of the Commission at Islamabad or at such other place as the Governing Body deems appropriate, and shall always be open for inspection by the Members.

14. ²[On the close of the financial year, the accounts of the Fund shall be balanced, the income and expenditure statement and the balance sheet shall be prepared, in accordance with the accounting procedures laid by the Governing Body].

15. The name and logo of the Fund shall be inscribed on the seal of the Fund and shall be affixed on all agreements made by the Fund.

³[15A. The provisions of these rules except rules 9 and 10, shall, mutatis mutandis apply to any amount of AJDF; received to the

¹ Substituted vide Notification dated 4th April, 2005

² Substituted vide Notification dated 4th April, 2005

³ Added vide Notification dated 4th April, 2005

Commission under clauses (b) to (d) of sub-section (2) of section 6A of the Ordinance].

16. The Chairman, Members and other officers of the Commission, its auditors and legal advisors, and their heirs, executor and administrator respectively, shall be indemnified out the assets of the Fund, from and against all suits, proceedings, costs, charges, issues, damages and expenses which they or any of them shall or may incur or sustain, by reason of any act or omission in or about the execution of their duty in their respective office or in discharge of their duties, except such, if any as they incur or sustain by or through their own wilful neglect or wilful default respectively, and no such reason or officer or the auditor or the legal advisor, shall be answerable for the act, neglect or default of any other such person, officer or legal advisor or for joining in any receipt of the sake of conformity, or for the solvency or honesty of any bankers or a corporate entity with whom any money or effects belonging to the Fund are be invested or for any other loss or damage due to any such causes aforesaid, or which may happen in or about the execution of their duties or discharge of their responsibilities, unless the same happens through their own willful neglect or wilful default.

C.No. 3(6-1)

**ACCOUNTING PROCEDURES OF THE ACCESS TO JUSTICE
DEVELOPMENT FUND 2005.**

LAW AND JUSTICE COMMISSION OF PAKISTAN

NOTIFICATION

Islamabad, the 4th April, 2005

S.R.O (I)/2005.- In pursuance of sub rule (3) of rule 3 of the Access to Justice Development Fund Rules 2002, the Governing Body of the Access to Justice Development Fund has laid the following Accounting Procedure of the Access to Justice Development Fund.

1. Short title, commencement and introduction.- (1) These procedures may be called the Accounting Procedures of the Access to Justice Development Fund, 2005.

(2) They shall come into force at once and shall deem to have taken effect with effect from 11-12-2004.

(3). Introduction Under section 6-A of the Law and Justice Commission of Pakistan Ordinance 1979 (XIV of 1979), the Access to Justice Development Fund hereinafter referred to as Fund, has been established in the Public Accounts as a Reserve Fund Account which shall comprise of an endowment grant of the Federal Government amounting to rupees one thousand four hundred twenty one million and other grants of the Federal Government or a Provincial Government and donations or contributions by individuals, institutions and sums raised by the Commission. A Governing Body to regulate the investment and management of the fund has been constituted under the Access to Justice Development Fund Rules, 2002 hereinafter referred to as AJDF Rules 2002.

2. Establishment of the Fund

2.1 The Federal Government has provided an initial grant of rupees one thousand four hundred twenty one million as a principal amount to establish the Fund in the Public Accounts of the Chart of Classification for Federal, Provincial and Local Government accounts. The Head of Account allocated by the Controller General of Accounts for this purpose is as under:

‘Major Head 3000000 Deposits & Reserve (B-not bearing interest)

Minor Head 3300000 Reserve Funds

Detailed Head 3312000 Other Funds

Sub-Detailed Head (Old) 3312050 Access to Justice Development Fund (248-B)’ in new ‘Chart of Account-G12764 Access to Justice Development Fund’

2.2 The principal amount is non-consumable and shall remain intact. The income earned from investment of the Fund shall be used for the purposes specified in clauses (a) to (g) of Section 6-B of the Ordinance, and rules 9 and 10 of the AJDF Rules as per criteria laid down from time to time by the Governing Body.

2.3 The Federal Government has also provided another initial grant of rupees fifty eight million to the Commission credited to the reserve fund account which shall be expendable on carrying out the purposes of the Ordinance including other eligible expenditure under AJDF Rules 2002.

2.4 All grants, donations and contributions towards the principal amount from the Government and donors to the Fund as envisaged in sub-

section (2) of Section 6-A of Law & Justice Commission of Pakistan Ordinance, 1979 shall be credited to the 'Reserve Funds Accounts.'

- 2.5 The Governing Body shall draw the Principal amount of the Fund in full or in parts from the Reserve Fund Account as may be required for investment and other amount for expenditures on other purposes of the Ordinance by presenting a bill to the AGPR which shall be placed in the Commission's NIDA Account No. 44-0AJDF in the National Bank of Pakistan, Civic Center Islamabad for investment or other purposes of the Ordinance.
- 2.6 The Chairman shall approve to draw any amount of the Fund in full or in parts from the Reserve Fund Account for investment.
- 2.7 The Secretary shall convey the sanction to draw any amount out of the Fund and submit a bill as Drawing & Disbursing Officer to the Accountant General Pakistan Revenues.

3. Management of the Fund

- 3.1 The Commission shall have overall control of the Fund, its undertakings, properties and assets, which shall be administered and managed by the Governing Body of AJDF.
- 3.2 The Deputy Secretary of the fund (hereinafter referred to as Deputy Secretary) shall maintain all the records of the Fund including books of account, cashbooks, ledgers, assets and liabilities, the seal of the Fund, the cheque books, investments, expenditures, audit and other record of the Fund.
- 3.3 The Deputy Secretary shall cause the preparation and submission of accounts of the Fund in accordance with the manner and form prescribed by the Auditor General of Pakistan and shall lay a statement of income available for distribution to the Fund Windows.
- 3.4 The Deputy Secretary with the approval of the Chairman may delegate any of his functions relating to the management and administration of the Fund to his subordinate, as he may consider expedient from time to time.
- 3.5 The Deputy Secretary shall place annual budget or additional budget of the Fund Administration before the Governing Body.

- 3.6 The Deputy Secretary as may be authorized by the Chairman may sanction the expenditures from the amount allocated to the Fund Administration Window maintained in the Bank and shall keep cash as imprest money to meet petty expenses in discharge of day-to-day functions with regard to administration and management of the Fund.
- 3.7 The Deputy Secretary shall perform his duties and functions under the supervision of the Secretary.

4. Investment and Income of the Fund

- 4.1 The Fund shall be invested in the Government approved securities, term finance certificates (TFCs), shares or in any other form of investment in accordance with the approved policy of the Government.
- 4.2 The income generated by investment of the fund or drawn from reserve fund account shall be credited to the fund account of the commission with the National Bank of Pakistan, Islamabad for allocation for the purposes specified in clauses (a) to (g) of section 6-B of the Ordinance.
- 4.3 All investments made, properties acquired, undertakings taken, agreements reached, bank accounts opened, shall be in the name of the Commission.
- 4.4 The Secretary with the approval of the Governing Body shall transfer the specified percentage of the income to each of the Fund Windows in terms of clauses (a) to (g) of Section 6-B of the Ordinance.
- 4.5 All transactions into or from accounts of the Fund shall be made through the banking channel.
- 4.6 The Fund account in the Bank shall be operated jointly by two Members of the Governing Body or by the Secretary and Deputy Secretary of the Fund as authorized by the Governing Body.

5. Allocation of Income to the Fund Windows**(a) Provincial Judicial Development Fund Window**

The Governing Body shall allocate 60.3% share of the income generated on the Fund to the Provincial Judicial Development Fund for the purposes specified in clause (a) of rule 10 of the AJDF Rules.

1. A Provincial Judicial Development Fund hereinafter called PJDF shall be established by the High Court of each Province. The amount allocated to the PJDF Window shall be transferred to an account of High Court opened in the Bank to meet the needs of the subordinate courts as may be determined by the High Court as specified in clause (a) of rule 10 of the AJDF Rules.
2. The High Court shall send half yearly and annual verified expenditures to the Commission.

(b) Special Projects Fund in the Under-developed Provinces and Regions

1. The Governing Body shall allocate 10% share of income generated on the Fund to the special projects fund window for funding a project as specified in clause (g) of rule 10 of the AJDF Rules.
2. The Governing Body shall evaluate the proposals received and the funding shall be made available for the projects as approved by the Governing Body.
3. The concerned agency of the Province or region administering the project shall ensure proper utilization of the fund made available.
4. The concerned agency shall maintain and send annual and half yearly verified accounts of the project to the Governing Body.
5. The Governing Body may constitute a committee to evaluate the project for funding and monitor execution of its work if deemed necessary.

(c) Legal Empowerment Fund

1. The Governing Body shall allocate 13.5% share of income generated on the Fund to the Legal Empowerment Fund Window, which shall be expended for the purposes specified in clause (b) of rule 10 of the AJDF Rules.
2. The Commission shall expend the 70% out of the total 13.5% share of Legal Empowerment Fund Window as per criteria laid down by the Governing Body.
3. The 30 % amount out of the total 13.5 % shall be transferred to the District Legal Empowerment Committee hereinafter referred as DLEC.
4. The DLEC shall be constituted by the Law and Justice Commission of Pakistan with the concurrence of the concerned High Court and the Provincial Government.
5. The DLEC shall comprise of District & Session Judge as its head, the District Coordination Officer, President District Bar Association, District Superintendent Jail of such District shall be the members. The DLEC shall co-opt one representative from the civil society as member for a period of three years.
6. The DLEC shall open a separate account in the Bank to be managed and operated by its head.
7. The DLEC shall utilize fund for the purpose of legal aid as per criteria laid down by the Governing Body.
8. The DLEC shall send the half yearly and annual verified and audited accounts to the Commission.

(d) Federal Judicial Academy Fund

1. The Governing Body shall allocate 4.5% share of income generated on the Fund to the Federal Judicial Academy Fund, which shall be expended for the purposes as specified in clause (d) of rule 10 of the AJDF Rules.

2. The Federal Judicial Academy hereinafter referred to as FJA shall submit proposal of its activities for funding to the Governing Body to meet its functions, which are not covered by regular budget.
3. The Governing Body shall evaluate the proposals of the FJA and approve funding by allocating the required amount to the FJA or making payment of bills submitted to the Governing Body.
4. The FJA shall be responsible to ensure utilization of the amount in accordance with the approved proposal and furnish half yearly and annual accounts to the Governing Body.
5. The FJA shall submit a result-oriented report to the Governing Body regarding the activity undertaken with the amount made available under this window.

(e) Legal Innovations Fund

1. The Governing Body shall allocate 4.5% share of income generated on the Fund to Legal Innovations Fund, which shall be expended for the purposes specified in clause (c) of rule 10 of the AJDF Rules.
2. The Governing Body shall invite proposals from educational, research and other institutions or individual researchers or scholars in the manner as may be approved by the Governing Body.
3. The Governing Body shall constitute a committee to scrutinize the proposals, approve funding, monitor progress of work undertaken and approve the final report.

(f) Legal and Judicial Research Fund

1. The Governing Body shall allocate 4.5% share of the income generated on the Fund to the Legal and Judicial Research Fund Window, which shall be expended for the purposes specified in clause (e) of rule 10 of the AJDF Rules.
2. The Governing Body shall approve areas and projects requiring research by the institutions or eminent scholars, researchers, experts. It shall invite research proposals from the institutions, eminent scholars, researchers and experts in a manner as may be approved by the Governing Body.

3. The Governing Body shall constitute a committee to scrutinize the proposals, evaluate the credentials of the researchers, approve funding, monitor the progress of work undertaken by the concerned individual or agency and approve the final report.

(g) Fund Management Window

1. The Governing Body shall allocate 2.7% share of income generated on the Fund to the Fund Management Window, which shall be expended for the purposes specified in clause (f) of rule 10 of the AJDF Rules.
2. The amount of the Fund shall be expended as per budget of the Fund Administration or otherwise approved by the Governing Body.
3. The amount allocated to this Window shall be kept in a separate Bank account to be operated jointly by the Secretary and the Deputy Secretary of the Fund.

6. Utilization of Initial Grant

1. The initial grant of rupees fifty eight million provided to the Commission by the Federal Government and income generated from the investment of the principal amount of the Fund thereby shall be utilized for carrying out the functions and duties of the Commission as per given in the schedule.
2. Any future grant, donation or contribution to be made under clauses (b) to (c) of Section 6-A of the Ordinance and the income generated therefrom shall be expended as may be approved by the Commission for purposes as specified under clause (h) of section 6□B of the Ordinance.
3. The accounts of the aforesaid amount shall be maintained by the Deputy Secretary in accordance with the procedure prescribed under the AJDF Rules.

7. Accounts and Audit of the Fund Windows

1. A separate receipt and expenditure account shall be maintained for each category of the Fund Windows by the concerned agency along

with itemized statements on a monthly basis accompanied by receipted invoices, vouchers and other appropriate supporting materials.

2. Within 60 days of close of the first half of each financial year, the accounts of Fund containing copies of income/expenditure statements of that year shall be submitted to the Commission.
3. Within 50 days of the close of the Financial Year, the annual accounts of Fund shall be prepared. The accounts, income and expenditure statements, balance sheet and reports prepared in accordance with the relevant law, rules shall be place before the Commission. The Commission shall consider the accounts of the fund in its meeting and approve them.
4. The internal audit of the Fund shall be conducted annually in accordance with the relevant law, rules or by-laws of the Federal Government.
5. The Secretary or the Deputy Secretary with the approval of the Secretary may inspect the account of the Fund Windows maintained by the agencies concerned.
6. The accounts of the Fund including the income and expenditure statement and the balance sheet shall be audited by the Auditor General of Pakistan.

Schedule (see para 6)

S/n	LJC Functions under section 6 of the Ordinance	AJDF Windows/ Objects	% Share from \$ 1 million
1.	<ul style="list-style-type: none"> • Carrying out a regular and systematic review of the statutes and other laws of the land, with a view to improving/modernizing laws for bringing them in accord with the changing needs of the society. • Removing inconsistencies 	<i>Judicial and Legal Research Fund</i>	4.5 %
		<i>Projects in the Underdeveloped Provinces &</i>	3 % of total 10%

	between Federal and provincial laws; • Arranging the codification and unification of laws, so as to eliminate multiplicity of laws on the same subject;	<i>Regions</i>	
2.	• Simplifying laws for easy comprehension and suggesting measures to make the society law-conscious; • Preparing an operating schemes for access to justice, legal aid and protection of human rights	<i>Legal Empowerment Fund</i>	13.5%
		<i>Projects in the Underdeveloped Provinces & Regions</i>	3 % of total 10%
3.	• Introducing reforms in the administration of justice; • Adopting simple and effective procedure for the administration of laws to ensure substantial, inexpensive and speedy justice;	<i>Judicial Development Fund</i>	60.3%
		<i>Projects in the Underdeveloped Provinces & Regions</i>	4 % of total 10%
4.	• Recommending improvements in the quality/standard of legal education	<i>Fund for Innovation in Legal Education</i>	4.5%
5.	• Taking measures for developing human resources for efficient court administration and management of case flow;	<i>Federal Judicial Academy window</i>	4.5%
6.	• Managing the access to justice development fund	<i>Fund Management window</i>	2.7%

[F.14/198/2003-LJCP-(A-I)]

SECTION-2
(NATIONAL JUDICIAL [POLICY MAKING]
COMMITTEE)

C.No. 1(6-2)

THE NATIONAL JUDICIAL (POLICY MAKING)
COMMITTEE ORDINANCE, 2002

ISLAMABAD THE 9TH OCTOBER, 2002

F.No. 2(1)/2002- Pub.- The following Ordinance promulgated
by the President is hereby published
for general information :-

ORDINANCE NO. LXXI OF 2002

AN

ORDINANCE

To provide for National Judicial (Policy Making) Committee

WHEREAS it is expedient to provide for National Judicial (Policy Making) Committee for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement:-** (1) This ordinance may be called the National Judicial (Policy Making) Committee Ordinance, 2002.

- (2) It extends to whole of Pakistan.
- (3) It shall come into force at once.

2. **Definitions:-** In this Ordinance, unless there is anything repugnant to the subject or context,

- (a) “Commission” means the Law and Justice Commission of Pakistan established under the Law and Justice Commission of Pakistan Ordinance 1979 as amended;
- (b) “Committee” means the National Judicial (Policy Making) Committee established under section 3;
- (c) “Chairman” means the Chairman of the Committee; and
- (d) “Fund” means the fund established under the Law and Justice Commission of Pakistan Ordinance, 1979, as amended.

3. **Establishment of National Judicial (Policy Making) Committee:-** There shall be a National Judicial (Policy Making) Committee headed by Chief Justice of Pakistan, who shall be the Chairman of the Committee, and comprising the Chief Justice, Federal Shariat Court and Chief Justices of four Provincial High Courts as its Members.

4. **Functions of the Committee:-** The Committee shall coordinate and harmonize judicial policy within the court system, and in coordination with the Commission, ensure its implementation. The Committee shall also perform the following functions, namely:-

- (a) improving the capacity and performance of the administration of justice;
- (b) setting performance standards for judicial officers and persons associated with performance of judicial and quasi judicial functions;
- (c) improvement in the terms and conditions of service of judicial officers and court staff, to ensure skilled and efficient judiciary; and
- (d) publication of the annual or periodic reports of the Supreme Court, Federal Shariat Court, High Courts and courts subordinate to High Courts and Administrative Courts and Tribunals.

5. **Finances:-** The Commission shall, from its Fund, provide finances to the Committee for the discharge of its functions under this Ordinance.

6. **Constitution of sub-committee:-** The Committee may constitute sub-committees consisting of its one or more Members, as it deems fit, and may assign them any matter relevant to the functions of the Committee.
7. **Reports:-** The committee shall publish annual report of its activities and such other periodic or special reports relating to its functioning as it deems fit. The reports shall be submitted to the President of Pakistan.
8. **Secretariat assistance:-** Secretariat assistance to the Committee shall be provided by the Secretariat of the Commission and Secretary of the Commission shall act as the Secretary of the Committee.
9. **Power to make rules:-** The Committee may make rules of procedure for conduct of its business and discharge of its functions.

SECTION-3
(FEDERAL JUDICIAL ACADEMY)

C.No. 1(6-3)

THE FEDERAL JUDICIAL ACADEMY ACT, 1997

EXTRAORDINARY PUBLISHED BY AUTHORITY ISLAMABAD,
THURSDAY, AUGUST 28, 1997

PART I

Acts, Ordinances, President's Orders and Regulations
Senate Secretariat

Islamabad the 28th August, 1997

No. F 9 (22)/97 Legis.- The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 22nd August, 1997, is hereby published for general information:-

ACT NO. XXVIII OF 1997

An Act to provide for the establishment of the Federal Judicial Academy

WHEREAS it is necessary to provide for the proper training of judicial officers and Court personnel in order to improve the professional competence of judges and the quality of justice administered in the Courts;

It is hereby enacted as follows:-

1. **Short title and commencement.-** (1) This Act may be called the Federal Judicial Academy Act, 1997.
(2) It shall come into force at once.
2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context:-
 - (a) "Academy" means the Federal Judicial Academy;
 - (b) "Board" means the Board of Governors of the Academy;
 - (c) "Chairman" means the Chairman of the Board;

- (d) “Director-General” means the Director-General of the Academy;
- (e) “prescribed” means prescribed by rules made under this Act; and
- (f) “staff” means members of the staff of the academy, including contract employee, part time employee and deputationists.

3. **Name and location.-** (1) The Academy shall be called the Federal Judicial Academy.

(2) The Academy shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property both moveable and immovable and shall by the said name sue and be sued.

(3) The headquarters of the academy shall be at Islamabad.

4. **Aims and Objects:-** The aims and objects of the Academy shall be.-

- (a) orientation and training of new Judges, Magistrates, law officers and Court personnel.
- (b) in service training and education of judges, Magistrates, law officers and Court personnel;
- (c) holding of conferences, seminars, workshops and symposia for improvement of the judicial system and quality of judicial work; and
- (d) publishing of journals, memoirs , research papers and reports.

5. **The Board.-** (1) The Board shall consist of .-

- | | | |
|--------|--|----------------------|
| (i) | The Chief Justice of Pakistan. | Chairman |
| (ii) | The Minister for Law, Justice and Parliamentary Affairs. | Vice-Chairman |
| (iii) | The Attorney-General for Pakistan. | Member |
| (iv) | The Chief Justice of Lahore High Court | Member |
| (v) | The Chief Justice of High Court of Sindh | Member |
| (vi) | The Chief Justice of Peshawar High Court. | Member |
| (vii) | The Chief Justice of Balochistan High Court | Member |
| (viii) | The Secretary, Ministry of Law, Justice and Parliamentary Affairs. | Member |
| (ix) | The Director-General of the Academy | Member/
Secretary |

6. **Powers and functions of the Board.-** For carrying out the aims and objects of the Academy, the Board shall, *inter alia*:-

- (a) exercise general supervision over the affairs of the Academy;
- (b) lay down the policy and programme for training and approve courses of training;
- (c) evaluate and examine the activities of the Academy;
- (d) approve and consider the annual budget and revised budget estimates;
- (e) receive grants-in-aid from the Federal Government, Provincial Governments and aid giving agencies;
- (f) cause proper books of account to be maintained for all sums of money received and expended by the Academy and arrange for audit by the Auditor-General of Pakistan;
- (g) prescribe the terms and conditions of service of the Director-General and members of the staff;
- (h) create, abolish, suspend and upgrade posts;
- (i) prescribe duties of the members of the staff;
- (j) appoint, suspend, punish, dismiss or remove from service any member of the staff;
- (k) purchase, hire, construct or alter any building for the Academy;
- (l) hold, control and administer the moveable and immovable property, assets and funds of the Academy;
- (m) regulate, determine and administer all matters concerning the Academy;
- (n) affiliate with provincial judicial academies and other training and educational institutions; and
- (o) decide any other matter ancillary and incidental to the aims and objects of the Academy.

7. **Delegation of powers.-** (1) The Board may delegate all or any of its powers and functions to the Chairman, Vice-Chairman, any member of the Board, the Director-General or any Member of the Staff.-

(2) The Director-General may, in any emergency which in his opinion requires immediate action, exercise such powers as he may consider necessary in the circumstances, and shall report the action taken by him for approval of the Board at its next meeting.

8. **Appointment of advisers, consultants and experts.-** The Board may appoint advisers, consultant and experts for assisting the Board in fulfillment of its aims and objects.

9. **Meetings of the Board.-** (1) The meetings of the Board shall be called by the Chairman on such date and at such time and place as he may specify.

(2) Subject to sub-section (1) the intervening period between two meetings of the Board shall not exceed six months.

(3) The Chairman or, in his absence, the Vice-Chairman, or if the Vice-Chairman is also absent, the member elected by the members for the purpose, shall preside at a meeting of the Board.

(4) The Quorum for the meetings of the Board shall be four members.

(5) The Board may from time to time, appoint such committees and working groups, from amongst its members or otherwise, as it may consider necessary.

10. **Director-General.-**(1) The Director-General shall be appointed by the Chairman on such terms and conditions as may be approved by the Board.

(2) The management of the Academy shall be carried on by the Director-General under the general directions of the Board.

(3) The Director-General shall be the academic and administrative head of the Academy and shall be responsible for the maintenance of good order and discipline.

(4) The Director-General shall be the Principal Accounting Officer of the Academy.

11. **Appointment of officers and members of staff of the Academy.-** (1) The members of the staff of the Academy shall be appointed by direct recruitment or transfer, or deputation or on contract basis or otherwise in such manner and on such terms and conditions as may be approved by the Board.

(2) All appointments of the members of the staff to posts in Basic Pay Scales 1 to 16 shall be made by the Director-General with the approval of the Chairman.

(3) Appointment of the members of the staff to posts in Basic Pay Scale 17 and above shall be made by the Chairman.

(4) Notwithstanding anything contained in any contract or agreement or in the conditions of service, all persons serving in connection with the affairs of the Academy immediately before the commencement of this Act, other than persons so serving on deputation, shall stand transferred to the Academy and become the employees of the Academy on the same terms and conditions to which they were entitled immediately before such commencement and shall, on such transfer, cease to be persons in the service of Pakistan.

12. **Funds of the Academy.**-(1) There shall be a Fund of the Academy to be known as the "Academy Fund" to which all its income shall be credited and from which all its expenditure shall be met.

(2) The Following shall be the sources of income for the Academy Fund.-

- (i) grants from the Federal Government;
- (ii) grants from the Provincial Governments;
- (iii) sale and other proceeds of the Academy's publications;
- (iv) aid from national and international agencies; and
- (v) fees, charges and donations.

(3) The Academy Funds shall vest in the Board and the moneys to the credit of the Fund shall be kept in a personal ledger account in the Government Treasury or, with the approval of the Board, in a scheduled bank.

13. **Budget .-** (1) The Director-General shall, in respect of each financial year, submit for approval of the Board, by such date and in such form as may be prescribed, a statement showing the estimated receipts the current and development expenditures and the sums required as grant in aid from the Federal Government.

(2) The Director-General shall not incur any expenditure from the Fund which is not provided in the Budget approved by the Board.

14. **Annual Reports etc.-** (1) Within two months of the conclusion of each financial year, the Director-General shall submit the annual report to the Board in respect of various activities carried out by the Academy during the previous year.

(2) The Board shall submit an annual report to the Federal Government relating to the Academy Fund and the Academy's Programmes.

15. **Power to make rules.-** The Board may with the approval of the Federal Government make rules for carrying out the purposes of this Act.

SECTION-4
(SOME PROVISIONS OF POLICE ORDER, 2002)

C.No. 1(6-4)

CRIMINAL JUSTICE COORDINATION COMMITTEE

109 Establishment. - There shall be a Criminal Justice Coordination Committee in a district.

110 Composition.- The Criminal Justice Coordination Committee shall consist of-

- (a) District and Sessions Judge (Chairperson)
- (b) Head of District Police
- (c) District Public Prosecutor
- (d) District Superintendent Jail
- (e) District Probation Officer
- (f) District Parole Officer
- (g) Head of Investigation (Secretary)

111 Functions of the Criminal Justice Coordination Committee.-(1) The Criminal Justice Coordination Committee shall-

- (a) keep under review the operation of the criminal justice system and work towards the improvement of the system as a whole;
- (b) promote understanding, co-operation and coordination in the administration of the criminal justice system;
- (c) exchange information and give advance notice of local developments, which may affect other parts of the system ;
- (d) formulate co-ordinated priorities and plans to give effect to locally agreed policies;
- (e) raise relevant issues with the appropriate authorities;
- (f) promote the spread of good practices; and
- (g) review the implementation of any decisions taken by the Criminal Justice Coordination Committee..

(2) The meeting of the Criminal Justice coordination Committee shall be held at least once a month. The secretary of the committee shall record the minutes of the meetings.

C.No. 2(6-4)**PROVISIONS CONCERNING SELECTION PANELS FOR DISTRICT AND PROVINCIAL PUBLIC SAFETY COMMISSIONS (ARTICLES - 38, 41, 77)**

¹[38. **Composition.**-(1) The composition of the District Public Safety and Police Complaints Commission shall be as follows:-

- (a) one-third members shall be appointed by the Government from amongst the Members of the Provincial Assembly and National Assembly of the District concerned as ex-officio members, including a woman member:

Provided that where in a District, members of the Provincial Assembly or National Assembly fall short of the required number of such members, the vacant seat shall be allocated to independent members:

Provided further that in case of non-availability of a woman member of the Provincial Assembly or National Assembly in a District, the seat shall be allocated to a woman independent member;

- (b) one-third members, of whom one shall be a woman, shall be appointed as independent members by the Government from a list of names recommended by the Selection Panel; and
- (c) the remaining one-third members, out of whom one shall be a woman, shall be elected by the Zila Council from amongst its members on the basis of each member casting only one vote in favour of any contesting candidate through secret ballot.

Explanation.- For the purpose of this Article, the “District concerned” for women members of the Provincial Assembly and National Assembly shall, as far as possible, be on the basis of the District where they are registered as voters.

(2) In place of the members referred to in paragraphs (b) and (c) of clause (1), the elected or appointed members of the erstwhile District

¹ Substituted vide Ordinance No. XLI of 2006

Public Safety Commission in the respective numbers holding office on the commencement of the Police Order (Amendment) Ordinance, 2004, shall continue to hold their offices till completion of their term of office as member of the District Public Safety and Police Complaints Commission.

(3) The Chairperson of the District Selection Panel shall conduct the election of the Chairman and members of the District Public Safety and Police Complaints Commission referred to in clause (1) of Article 39 and paragraph (c) of clause (1) of this Article.

(4) The names of the members of the Commission shall be notified in the Official Gazette.]

41. Selection of independent members.– (1) There shall be a Selection Panel for independent members consisting of District and Sessions Judge who shall be its Chairperson and one nominee each of the Provincial Government and the ¹[Provincial Public Safety and Police Complaints Commission:]

Provided that such nominee shall not be elected representative or public servant.

(2) The selection of independent members shall be by ²[majority vote, one of whom shall be the Chairperson of the Selection Panel].

(3) The selection process shall be completed within thirty days from the ³[occurrence of the vacancy].

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc

77. Selection of independent members ⁴[(1) There shall be a Selection Panel for independent members consisting of the Provincial Ombudsman who shall be its Chairperson and the Chairman of the Provincial Public Service Commission and a nominee of the Chief Minister as its members:

¹ Substituted vide Ordinance No. XLI of 2006

² Substituted vide Ordinance No. XLI of 2006

³ Substituted vide Ordinance No. XLI of 2006

⁴ Substituted vide Ordinance No. XLI of 2006

Provided that, where in a Province, the Provincial Ombudsman has not been appointed, a retired Judge of the High Court nominated by the Chief Justice of the High Court shall act as Chairperson of the Selection Panel:

Provided further that the nominee of the Chief Minister shall not be an elected representative or a person in the service of Pakistan.”;]

(2) The selection of independent members shall be by consensus.

(3) The selection process shall be completed within thirty days from the ¹[occurrence of a vacancy].

(4) Independent members shall be of impeccable integrity and proven professional competence in such fields as social work, law, administration, education, corporate sector, etc.

¹ Substituted vide Ordinance No. XLI of 2006

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