

## KHYBER MEDICAL UNIVERSITY EMPLOYEES (EFFICIENCY AND DISCIPLINE) RULES, 2008

1. Short title, commencement and application:- (1) These rules may be called the Khyber Medical University Employees (Efficiency and Discipline) Rules, 2008.
  - (2) They shall come into force at once and shall apply to each and every employee of the University, either permanent or temporary.
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 University Employee against whom action is taken under these rules.
  - b) "Appellate Authority" means the officer or authority next above the competent authority;
  - c) "Authority" means the Chancellor or an officer or authority designated by him to exercise.
  - d) "Authorized Officer" means an officer authorised by the authority to perform functions of an authorized officer under these rules;
  - e) "Employee" means the Employee of the University Section 2(l) of Khyber Medical University Act 2006 (N.-W.F.P. Act No. I of 2007)
  - f) "Misconduct" means conduct prejudicial to good order or service discipline or contrary to the Khyber Medical University Employees(Conduct) Rules, 2008 or unbecoming of an officer and a gentleman and includes any act on the part of university employee to bring or attempt to bring political or other outside influence directly or indirectly to bear on University or any university employee in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service of a University Service;
  - g) "Penalty" means a penalty which may be imposed under these rules; and
  - h) "University" means the Khyber Medical University;
3. Grounds of Penalty:- Where a University Employee, 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
    - (a) 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 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;
    - (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
  - (a) appointed, otherwise than under a contract, to hold a temporary appointment, on the expiration of the period of appointment; or
  - (b) engaged under a contract, in accordance with the terms of the contract.
5. Inquiry procedure:- The following procedure shall be observed when a University Employee is proceeded against under these rules:-
  - (1) In case where a University Employee 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.

Provided further that if the authorized officer is satisfied in view of the preliminary inquiry report of an Inquiry Committee or Inquiry Officer, that responsibility has been fixed on the specified University Employee (s) involved in the case and quantum of loss incurred by the University is also indicated therein, the authorized Officer may dispense with formal inquiry under these rules and serve a show cause notice upon the accused officer(s) / official(s), stating therein the grounds of action(s) to be taken and giving to the accused a reasonable opportunity of written defence and personal hearing.

- (4) On receipt of the report of the inquiry officer or inquiry committee, 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 authorised 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, along with 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 authorised officer shall pass orders accordingly. If it is proposed to impose a major penalty, he shall forward the case to the authority along with 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, it 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 authorised 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 authorised 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 the charge and if 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 a written defense 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 authorised officer. Normally no adjournment shall be for more than a week.

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 authorised officer.

(6) In case two or more University Employees are to be proceeded against jointly under these rules, the authority or, as the case may be, the authorised officer, designated or authorised, for the University Employee senior most in rank shall be the authority or, as the case may be, the authorised officer in respect of all such accused.

(7) 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.

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 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;
- (c) 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 1850).

8. Revision:- The authority may, in the case of any order passed by the authorised 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 authorised officer has exonerated an accused and the authority decides to impose a penalty on him or where the penalty imposed by the authorised

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.

9. 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.

10. Procedure in case of Wilful Absence:- Notwithstanding anything to the contrary contained in these rules, in case of wilful absence from duty by a University Employee, a notice shall be issued by the authorised 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 authorised officer shall recommend his case to the authority for imposition of major penalty of removal from service."

11. Procedure of inquiry against University Employee Lent to Provincial Government or other Authority:- (1) Where the services of University Employees to whom these rules apply are lent to 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 to 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 Chancellor before taking any action under these rules against such a University Employee.

- (2) If, in the light of the findings in the proceedings taken against the University Employee 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.
- (3) Notwithstanding anything contained in these rules, the Chancellor may, by order in writing, authorise the borrowing authority or any subordinate officer to such authority to exercise all or any of the powers of "authorised officer", "authority" and "appellate authority" in respect of University Employees whose services have been lent to the borrowing authority".

12. Right of Appeal:- (1) A University employee aggrieved by a penalty imposed under the proceedings of these rules or by an order passed by the competent authority relating to the terms and conditions of 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 university, there shall be no appeal but the employee may submit a review petition:

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 purposes of the first proviso, the expression "appeal", where the context so requires, shall mean the "review petition" as well.

- (2) Where the order of the competent authority affects more than one University employee, every affected employee shall prefer the appeal separately.
- (3) Where the aggrieved University Employee has died, the appeal may be filed, or if already filed by such University Employee 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 University Employees.

13. 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 University Employee 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 University Employee.

- (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 University Employee, 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.
- (3) No appeal shall be entertained if it contains abusive, disrespectful or improper language.

14. 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.

15. Withholding of appeal in certain cases:- An appeal be withheld by the competent authority if -

(a) It is an appeal in which no appeal lies under these rules;

or

(b) it does not comply with the requirements of Rule 13;

or

(b) it is not preferred within the time limit specified in sub-rule(1) of Rule 12 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 13 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 12 and shall be dealt with in accordance with the provisions of these rules.

(2) No appeal shall be against the withholding of an appeal under this rule.

16. Disposal of Appeal:- (1) Every appeal which is not withheld under these rules shall be forwarded to the appellate authority along with the comments by the competent authority from whose order the appeal is preferred.

(2) A list of appeals withheld under Rule 15, 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.

17. Savings:- Nothing in these rules shall operate to deprive any person of any right of appeal which he would have if these rules had not been made, in respect of any orders passed before they came into force.

18. Pending appeals:- All appeals pending immediately before the coming into force of these rules shall be deemed to be appeals under these rules.

19. Appearance of Counsel:- No party to any proceedings under these rules before the authority, the authorised officer, an Inquiry Officer or an Inquiry committee shall be represented by an Advocate.

20. Exception:- Notwithstanding any thing to the contrary contained in these rules, in cases where University Employees collectively strike work, wilfully absent themselves from duty or abandon their official work, the University 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 University Employees any of the major penalties prescribed in these rules.

21. Membership of Service Association:- No University employee shall be a member, representative of office bearer of any association representing or purporting to represent University employees, 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 University employees 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 University employee 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
  - (iii) 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 1<sup>st</sup> September every year;

(ii) The Association shall not represent or purport to represent University employees 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 recognize the Association shall be the appointing authority in respect of the highest post in the cadre;

(iv) A University employee 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) The Vice Chancellor in its discretion may withdraw recognition of an Association, if in its opinion; such Association has violated any of the conditions of recognition.