KARACHI PORT TRUST OFFICERS & SERVANTS (EFFICIENCY AND DISCIPLINE) RULES, 2020

1. **Short title, commencement and application** — (1) These rules shall be called the Karachi Port Trust Officers & Servants (Efficiency and Discipline) Rules, 2020.

(2) These shall come into force at once and shall apply to every KPT Officers and Servants.

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

(a) "Act" means Karachi Port Trust Act, 1886

(b) "accused" means a KPT Officer or Servant against whom action is initiated under these rules;

(c) "authority" means the Government of Pakistan / Board / Chairman or any Committee of the Trustees of the Board or any officer to whom powers are delegated by the Competent Authority;

Provided that where proceedings under these rules are to be initiated against two or more officers or servants jointly, the authority in relation to senior most officer in rank shall be the authority in respect of all the accused:

Provided further that in all such cases where the President or the Prime Minister is the authority, all functions of the authority under these rules, except approval of initiating the disciplinary proceedings, appointment of a hearing officer and final decision on the report of inquiry officer or the inquiry committee, shall be performed by the respective cadre administrator.

(d) "appellate authority" means the authority as defined under Sections 23 & 24 of KPT Act 1886;

(e) "charges" means allegations framed against the accused relating to the acts of omission or commission cognizable under these rules;

(f) "Government" means the Federal Government, Provincial Governments, Government of Azad Jammu and Kashmir or Government of Gilgit-Baltistan, as the case may be.

(g) "hearing officer" means an officer, as far as possible senior in rank to the accused, appointed by the authority to afford an opportunity of personal hearing to the accused on behalf of the authority concerned;

(h) "inefficiency" in relation to the discharge of duties of a KPT Officers and Servants means the failure to efficiently perform functions assigned to him;

(i) "inquiry committee" means a committee consisting of two or more officers, headed by a convener, as may be appointed by the authority to inquire into charges of the accused under these rules;

(j) "inquiry officer" means an officer appointed by the authority to inquire into charges of the accused under these rules;

(k) "misconduct" means conduct prejudicial to good order or service discipline or contrary to the rules of conduct contain in Appendix 'B" to the Digest of Pay, Allowances and Leave Rules or unbecoming of an officer and a gentlemen and includes any act on the part of an officer or servant to assert or attempt to assert political or other exterior influence directly or indirectly to bear on the Government or any Government officer in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions

of service of a KPT Officers and Servants, or having entered into plea bargain under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices, voluntarily;

(1) "penalty" means a penalty as prescribed under these rules.

(2) Words and expressions used but not defined herein shall have the same meanings as are assigned thereto in the KPT Officers and Servants (Efficiency and Discipline) Rules 1973 and rules made thereunder or any other legal instrument, statutory order for the time being in force.

3. **Grounds for proceedings and penalty** — an officer or servant shall be liable to be proceeded under these rules by the authority, if he is

(a) considered or reported to be inefficient or has ceased to be efficient;

OR

(b) considered or reported to be guilty of misconduct; or

(c) considered or reported to be corrupt because—

(i) he 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;

(d) engaged, or is reasonably suspected of being engaged, in subversive activities or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any un-authorized person.

4. **Penalties.—(1)** The authority may, by an order, in writing showing reasons, impose one or more of the penalties, in accordance with these rules.

(2) The following shall be various minor penalties, namely:—

(a) censure;

(b) withholding of increment or increments for a specific period, subject to a maximum of three years without cumulative effect:

Provided that the penalty of withholding of increment shall not be imposed upon a KPT Officers and Servants who has reached the maximum of his pay scale or will superannuate within the period of penalty;

(c) reduction to a lower stage or stages, in pay scale, for a specific period, subject to a maximum of three stages without cumulative effect; and

(d) withholding of promotion for a specific period, subject to a maximum of three years, otherwise than for unfitness for promotion in accordance with the rules or orders pertaining to the service or post:

Provided that this period shall be counted from the date when a person junior to the accused is considered for promotion on regular basis for the first time:

Provided further that penalty under this clause shall not be imposed upon a KPT Officers and Servants who has no further prospects of promotion or will superannuate during the period of the said penalty.

(3) The following shall be various major penalties, namely:—

(a) recovery of embezzled money from KPT Officers and Servants convicted of embezzlement, recovery as provided under financial rules, from pay or any other amount payable to the accused, the whole or a part of any pecuniary loss caused to the Government or the organization in which he was employed or posted. If the amount due from any such KPT Officers and Servants cannot be wholly recovered from the pay or any other amount payable to him, such amount shall be recovered under the law for the time being in force;

(b) reduction to a lower post and pay scale from the substantive or regular post, for a specific period, subject to a maximum of three years:

Provided that this penalty shall not be imposed upon the accused who is likely to be superannuated within the period of the penalty;

(c) compulsory retirement

(d) removal from service; and

(e) dismissal from service

(4) The penalty of removal from service shall not but dismissal from service, under these rules, shall disqualify the KPT Officers and Servants for future employment of any kind under the Government.

(5) Subject to any restraining orders, passed by any court of competent jurisdiction, any proceedings under these rules shall not be discontinued merely on the grounds of the matter being sub-judice:

Provided that where the holding of departmental inquiry during judicial custody is not possible or side by side with the criminal proceedings may have the effect of impeding the course of justice or of prejudicing the trial, the inquiry may be deferred by the authority till release on bail or termination of criminal proceedings as the case may be.

5. **Suspension and leave.**—(1) The authority may place any KPT Officer and Servant under suspension or send him on leave, against whom proceedings are proposed to be initiated for an initial period not exceeding one hundred and twenty days at one time extendable in writing, by the authority for such period as it may deem appropriate or till conclusion of the proceedings, if in the opinion of the authority, suspension or sending KPT Officer and Servant on leave is necessary or expedient. If the period of suspension is not extended before the expiry of initial period of suspension, the suspension of such KPT Officer and Servant shall cease to have effect:

Provided that a KPT Officer and Servant who has been charged for a criminal offence and is committed to prison shall be considered as under suspension from the date of his arrest without the formal approval of Authority. In case such a KPT Officers and Servants is not arrested or is released on bail the Authority may suspend him by specific order.

(2) During suspension period the KPT Officer and Servant shall be entitled to his pay, allowance and other benefits in accordance with Fundamental Rule-53.

(3) If a KPT Officer and Servant is sent on leave in pursuance of an order under sub rule (I), such period shall be treated as on duty.

(4) In case a KPT Officer and Servant is absent from official duty during the proceedings, such period shall be treated as extra ordinary leave without pay.

6. **Initiation of proceedings.**—Proceedings against the KPT Officers and Servants, in case where the authority decides that it is not necessary to hold an inquiry, shall be initiated

from the date the accused is informed by an order in writing of the grounds of proceedings against him and where the authority decides to hold an inquiry against the accused, from the date of such order.

7. **Procedure where inquiry is dispensed with.**—If the authority decides that it is not necessary to hold an inquiry against the accused, it shall

(a) inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;

(b) give him a reasonable opportunity of showing cause against the proposed action, which should not be less than ten days and more than fourteen days, from the receipt of the order or within such extended period, as the authority may allow;

(c) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record or facts of the case, as the case may be, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused or in case where no reply is received the authority shall, except in such cases where the President or the Prime Minister is the authority, decide the case within a period of thirty days;

(d) afford an opportunity of persona' hearing, before passing any order of penalty under clause (f), if the charge or charges have been proved against him;

(e) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him; and

(f) impose any one or more penalties, mentioned in rule 4, by an order in writing, if the charge or charges have been proved against the accused.

8. **Provision of record.**—After initiation of order of inquiry the authority shall ensure that relevant record of the case and other related documents should be supplied to the inquiry officer or the inquiry committee, as the case may be, within seven days or within such an extended period which the authority may allow.

9. Procedure to be followed by authority where inquiry is necessary.—(I) If the authority decides that it is necessary to hold an inquiry against the accused, it shall pass an order of inquiry, in writing. An inquiry order shall include—

(a) subject to sub-rule (2) the appointment of an inquiry officer or inquiry committee, provided that the inquiry officer or the convener of the inquiry committee, as the case may, shall as far as possible, be of a rank senior to the accused and where two or more accused are proceeded against jointly, the inquiry officer or the convener of the inquiry committee shall, as far as possible, be of a rank senior to the senior most accused;

(b) the grounds for proceedings, clearly specifying the charges along with apportionment of responsibility which shall be communicated to accused within fourteen days, from the date of initiation of proceedings;

(c) appointment of the departmental representative by designation; and

(d) direction to the accused to submit his written defense to the inquiry officer or convener of the inquiry committee, as the case may be, within reasonable time which shall not be less than ten and more than fourteen days from the date of

receipt of orders under clause (b) or within such an extended period as the authority may allow.

(2) In cases where more than one KPT Officers and Servantss are accused in one case, a single inquiry officer or an inquiry committee shall be appointed and the inquiry officer or convener of the inquiry committee so appointed shall, as far as possible, be of a rank senior to the senior most KPT Officers and Servants accused in the particular case.

(3) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.

(4) In case where the inquiry officer or any of the members of the inquiry committee is required to be replaced for one reason or the other, the authority shall appoint another inquiry officer or the inquiry committee, as the case may be.

10. **Procedure to be followed by inquiry officer or inquiry committee.—(1)** On receipt of reply of the accused or on expiry of the stipulated period, if no reply is received from the accused, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charge or charges and may examine such oral or documentary evidence in support of the charge or charges or in defense of the accused, as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.

(2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry *ex- pane.*

(3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day basis and no adjournment shall be given except for reasons to be recorded, in which case the adjournment shall not be of more than seven days.

(4) Statements of witnesses shall be recorded in the presence of accused and departmental representative.

(5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if thereafter he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such a manner as may be deemed expedient in the interest of justice.

(6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned by the authority on the recommendations of a registered authorized medical officer.

(7) The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within sixty days or. within such an extended period which the authority may allow on the request of inquiry officer or Inquiry Committee, as the case may be, for reasons to be recorded and shall submit his or its report to the authority within seven days of the date of completion of inquiry. The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused:

Provided that the inquiry shall not be vitiated merely on the grounds of nonobservance of the time schedule for completion of the inquiry.

11. **Revision.—(1)** Subject to sub-rule **(2),** the authority may call for the record of any case pending before the inquiry officer or inquiry committee, as the case may be, and pass such order in relation thereto as it may deem fit.

(2) No order under sub-rule (1) shall be passed in respo of an accused unless the authority has informed him in writing of the grounds on which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise necessary in the interest of justice, in particular, when the authority contemplates to pass an order adverse to the interest of the accused:

Provided that no such opportunity shall be given where the authority, for reasons to be recorded, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity.

(3) In case, the authority decides to call for a case pending before an inquiry officer or inquiry committee or pending before or disposed of by the authorized officer in terms of the Government Servants (Efficiency and Discipline) Rules, 1973, the authority may do so in exercise of powers conferred under rule 6A of the said rules:

Provided that this power shall in no case be exercised after one year of disposal of such a case by the Authorized Officer.

12. **Powers of the inquiry officer or inquiry committee.—(1**) For the purpose of an inquiry under these rules, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act No. 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 and receiving evidence on affidavits; and

(c) issuing commissions for the examination of witnesses or document's.

(2) The proceedings under these rules shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. **Rules 7 and 9 not to apply in certain cases**.—Nothing in rule 7 or 9 shall apply to a case—

(a) where the accused is dismissed or removed from service, on the ground 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 lower post and pay scale, 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.

14. **Proceedings before or during training, scholarship and leave.— (1)** In case where a KPT Officers and Servants who has been nominated for training or scholarship, is required to be proceeded against and he has not yet joined the training institute or institution, his nomination shall be withdrawn forthwith by the nominating authority under intimation to the training institute or institution concerned.

(2) In case where a KPT Officers and Servants has already joined the training or institution he shall be allowed to complete his training or scholarship, and the proceedings against him may be deferred till completion of the training or scholarship.

(3) No KPT Officers and Servants shall be denied training on account of ongoing proceedings for a period of more than one year.

(4) In case where a KPT Officers and Servants on leave, is required to be proceeded against, his leave shall be cancelled by the authority and shall be called back from the leave to join the proceedings.

15. **Duties of the departmental representative..---(1)** The departmental representative shall perform the following duties, namely:—

(a) render full assistance to the inquiry officer or the inquiry committee, as the case may be, during the proceedings where he shall be personally present and fully prepared with all the relevant record relating to the case, on each date of hearing;

(b) cross-examine the witnesses produced by the accused and with the permission of the inquiry officer or the inquiry committee, as the case may be, may also cross-examine the prosecution witnesses; and

(c) rebut the grounds of defense offered by the accused before the inquiry officer or the inquiry committee, as the case may be.

(2) In case of failure to perform the assigned duties, the departmental representative shall be liable to departmental proceedings.

16. **Order to be passed on receipt of report from the inquiry officer or inquiry committee.—(**1) On receipt of report from the inquiry officer or the inquiry committee, as the case may be, the authority shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these rules.

(2) If the authority is satisfied under sub-rule (1) that the inquiry has been conducted in accordance with the provisions of these rules, it shall further determine whether the charge or charges have been proved against the accused or not.

(3) Where the authority is satisfied under sub-rule (2) that the inquiry proceedings have not been conducted in accordance with the provisions of these rules or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the authority may like to give, or may order a *de novo* inquiry through different inquiry officer or inquiry committee.

(4) The authority may in such case specified under sub-rule (3) also require the inquiry officer or the inquiry committee, as the case may be, to explain as to why the inquiry has not been conducted in accordance with these rules, or as to why the facts or merits of the case have been ignored and on the receipt of reply, may determine that the omission or commission by the inquiry officer or the inquiry committee, as the case may be, was not in good faith and there are grounds to proceed against the inquiry officer or inquiry committee, as the case may be, under these rules. •

(5) Where the charge or charges are determined not to have been proved, the authority shall exonerate the accused by an order in writing.

(6) Where the charge or charges are determined to have been proved against the accused, the authority shall issue a show cause notice to the accused providing him therewith a copy of inquiry report by which it shall—

(a) inform him of the charge or charges proved against him and the penalty or penalties proposed to be imposed upon him;

(b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in rule 4 including the penalty of dismissal from service may not be imposed upon him and to submit additional defense in writing, if any, within a period which shall not be less than ten days .and more than fourteen days from the day the charge or charges have been communicated to him by affording him an opportunity of personal hearing:

Provided that the accused shall in his reply to show cause notice, indicate as to whether he wants to be heard in person or not; and

(c) direct the departmental representative to appear with all the relevant record on the date of personal hearing, if any.

(7) After duly considering the reply of the accused to the show cause notice and affording personal hearing to the accused, as appropriate, the authority shall, keeping in view the findings and recommendations of the inquiry officer or the inquiry committee, as the case may be, facts of the case and defense offered by the accused if requested, by an order in writing—

(a) exonerate the accused if charge or charges are not proved; or

(b) impose any one or more of the penalties specified in rule 4 if charges are proved:

Provided that—

(i) where charge or charges of grave corruption are proved against an accused the penalty of dismissal from service shall be imposed, in addition to the penalty of recovery, if any; and
(ii) where charge of absence from duty for a period of more than one year is proved against the accused, the penalty of compulsory retirement or removal or dismissal from service shall be imposed upon the accused.

(8) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the authority, except where the Prime Minister himself is the authority, shall decide the case within a period of thirty days, excluding the time during which the post held by the authority remained vacant due to certain reasons.

17. **Personal hearing.**—Notwithstanding the proviso to clause (b) of sub-rule (6) of rule 16, the authority may, by an order in writing, call the accused and the departmental representative, along with relevant record of the case, to appear before him, or before a hearing officer, who shall as far as possible be senior in rank to the accused, appointed by the authority for personal hearing on the fixed date and time.

18. **Procedure of inquiry against KPT Officers and Servants on deputation or working in other Governments or organizations etc.—(1)** Where an authority determines to proceed against a KPT Officers and Servants who is on deputation to any other Government, department, corporation, body corporate, autonomous or semiautonomous body, statutory body or any other organization or institution, hereinafter referred to as the borrowing organization, the authority of such KPT Officers and Servants in his parent department may—

(a) ask the relevant Government or borrowing organization, to frame charges against the KPT Officers and Servants and forward the same to his parent department; or

(b) initiate proceedings against him on its own under these rules.

(2) In case of members of All Pakistan Service posted in a Province, Establishment Division may refer a case to the Chief Secretary concerned for probe or

fact finding inquiry and may initiate proceedings on the findings of that probe or fact finding inquiry, or on its own if no findings are received within two months:

Provided that in case of proceedings against any Chief Secretary of a Province, the Establishment Division shall frame the charges and initiate the disciplinary proceedings with approval of the Prime Minister.

19. **Appeal**.—.-A person on whom a penalty is imposed shall have such right of appeal as prescribed under the provision of the KPT Act 1886 provided the appeal shall be submitted within a period of thirty days of the communication of the order appealed against. KPT Officers and Servants on whom a penalty is imposed shall have such right of appeal provided for as under the KPT Officer and Servants (Appeal) Rules, 1977:

Provided that, where the penalty is imposed by order of the President, there shall be no appeal but the KPT Officers and Servants concerned may apply for review of the order.

20. **Appearance of counsel**.—No party to any proceedings under these rules at any stage of the proceedings before the appellate authority, authority, inquiry officer or any inquiry committee as the case may be, shall be represented by an advocate or counsel.

21. **Repeal.--(1)** The KPT Officers and Servants (Efficiency and Discipline) Rules, 1973, in their application to the KPT Officers and Servants to whom these rules apply, are hereby repealed but the repeal thereof shall not affect any action taken or anything done or suffered thereunder.

(2) Notwithstanding the repeal of the aforesaid rules, all proceedings pending immediately before the commencement of these rules against any KPT Officers and Servants under repealed rules shall continue under the repealed rules.