

THE KHYBER PAKHTUNKHWA ABSORPTION OF CERTAIN
EMPLOYEES ACT, 2021.

(KHYBER PAKHTUNKHWA ACT NO. XXXVII OF 2021)

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(KHYBER PAKHTUNKHWA ACT NO. XXXVII OF 2021)

(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 10th December, 2021).

AN
ACT

to provide for absorption of employees of Degree Colleges of the Khyber
Pakhtunkhwa Education Foundation.

WHEREAS it is expedient to provide for absorption of employees,
appointed on regular basis in Degree Colleges of the Khyber Pakhtunkhwa
Education Foundation, in the Directorate of Higher Education, Khyber
Pakhtunkhwa against the permanent posts, for the purposes hereinafter
appearing;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa
as follows:

1. Short title, application and commencement.--- (1) This Act may be
called the Khyber Pakhtunkhwa Absorption of Certain Employees Bill, 2021.

(2) _ It shall apply to the employees as defined in clause (c) of section 2
of this Act.

(3) — It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, -

(a) "Department" means the Higher Education, Archives
and Libraries Department of Government;

(b) "Directorate" means the Directorate of Higher Education,
Khyber Pakhtunkhwa;

(c) "employees" mean employees of the Foundation, who are
holding various posts, on regular basis, in Degree
Colleges of the Foundation till the commencement of this
Act;

(d) "Foundation" means the Khyber Pakhtunkhwa Education Foundation, established under section 3 of the Khyber Pakhtunkhwa Education Foundation Act, 1992 (Khyber Pakhtunkhwa Act No. III of 1992);

(ec) "Government" means the Government of Khyber Pakhtunkhwa;

(f) "law or rules" mean the law or rules, for the time being in force, governing the selection and appointment of civil servants; and

(g) "post" means a permanent post as defined in clause (f) of sub-section (1) of section 2 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVII of 1973).

3. Absorption of employees.--- Notwithstanding anything contained in any law or rules for the time being in force, the employees shall be deemed to have been validly absorbed against the equivalent posts in the Directorate, from the date of commencement of this Act, subject to verification of their qualifications and other credentials by a committee to be notified by the Department.

4. General conditions for absorption.--- (1) For the purpose of absorption of the employees under this Act, the following general conditions shall be observed, namely:

the service promotion quota of the existing incumbents of the Directorate shall not be affected;

(b) the employees shall possess the same qualification and experience as prescribed for the post against which they are being absorbed;

(c) the employees have not resigned, removed or dismissed from their service on account of misconduct, inefficiency or any other ground before the commencement of this Act;

(d) the employees were appointed through due process by the Foundation; and

(e) the employees shall be deemed to have been absorbed only on the publication of their names in the official Gazette.

(2) The employees, who are absorbed under this Act, shall be governed under the provisions of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and the rules made thereunder.

5. Determination of seniority.--- (1) The employees, who are absorbed under this Act, shall rank junior to all civil servants belonging to the same service or cadre of the Directorate, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Khyber Pakhtunkhwa Public Service Commission or Departmental Selection Committee, as the case may be, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) _ The inter-se-seniority of the employees who are absorbed under this Act, shall be determined on the basis of their continuous officiation in service in the Foundation:

Provided that if the date of continuous officiation in the case of two or more employees is the same, the employees older in age shall be rank senior to the younger one.

6. Removal of difficulties.--- If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister of Khyber Pakhtunkhwa 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 such difficulty:

Provided that no such powers shall be exercised after the expiry of one year from the date of commencement of this Act.

7. Overriding effect.--- Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act, shall have an overriding effect and the provisions of any such law or rules to the extent of inconsistency to this Act shall cease to have effect.