JUDICIAL PERFORMANCE EVALUATION IN THE CONTEXT OF PAKISTAN ESPECIALLY KP DISTRICT JUDICIARY BY GROUP C---PRESENTED BY NIAZ MUHAMMAD KHAN

**CHALLENGES.**

1. Exiting Instructions on PER are not being followed by reporting and countersigning authorities which include;

* Timely writing of PERs.
* Timely communication of Remarks.
* No clarity as to whether the remarks are adverse or advisory.
* No counseling.
* Considering material of period not under report.
* Reporting by Authority not in position of overseeing the work in relevant period.
* Mechanical approach.
* Unknown officer reported upon is graded good.
* No right of representation to higher authority.
* No time frame for deciding representation.
* No time frame for deciding appeal before tribunal.

1. No consequences/culpability for non compliance of the instructions
2. The format does not depict the requirements of evaluation of judicial officer as it is meant for all civil servants.
3. The terms used as indicators of traits are too vague.
4. No source of reliable information is in place.
5. The general assessment should be converted to quantified system in order to give a clear picture of evaluation.
6. The promotion policy should also be quantified in line with Federal & Provincial Governments.
7. Being civil servants we are also to fulfill the requirements of code of conduct for civil servants.(1981 SCMR 392).This judgment says that judicial officers being civil servants are bound to follow the instructions of Government under PERs as these instructions are rules within the meanings of section 23(2) of Civil Servants Act-In KP section 26(2).

**SUGGESTED KEYS.**

1. Honoring time frame at all stages of PERs .
2. Consequences for not honoring the same should be provided in the rules/instructions, at least to the benefit of aggrieved.
3. Red Ink procedure should be followed for adverse and advisory remarks.
4. Only such Judges should sit in countersigning body who has actually supervised the reporting officer for the period.
5. Reliable data be made basis of reports with reference.
6. In order to be more objective sub-components of traits be evaluated.
7. A Division bench of Judges be constituted to hear representation in line with The High Court of WP Delegation of Powers Rules 1960.
8. Time frame should be fixed for deciding appeals before SJST.
9. Counseling should be made must before Adverse entry.
10. Quantification policy in line with those applicable in governments with necessary modification should be adopted.

**THE INDICATORS / STANDARDS.**

1. The indicators should be one already determined by KP Government (Conduct) Rules 1987 and Code of Conduct laid down by Peshawar High Court in 2005. The following table shall give a model scheme.

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| S.NO | | | TRAITS | | | | | | | Reference to rules | | | | | | | | **A** | | | B | | | | | C | Whether the evaluation is based on material pertaining to period under report | Source of Informati-on |
| 1 | | | Integrity | | | | | | | Rule 4A-CR 1987-Para I & II CC | | | | | | | |  | | |  | | | | |  |  |  |
|  | | | 1. Accepted gratification(see detail in rules) 2. Favored/Disfavored-( same) 3. Accepted valuable thing-(same) 4. Misappropriated property(same) 5. Obtained undue favor (same) 6. Ownership of disproportionate property(same) 7. Attended prohibited functions(same) | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | | | Pecuniary Transaction-s | | | | | | | | | | | | | Rule 10 to 19 CR-Para  XVII of CC | | | | | | | | |  | | | |
|  | | | 1. He lent money 2. He borrowed money 3. He engaged in business with 4. Any private trade, employment 5. Promotion and Management of companies 6. Subletting residence 7. Insolvency and habitual indebtedness. | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | Declaration of property | | | | | | | | | | | | Rule 17 CR | | | |  | | | | | | | | | | | |
|  | 1. He made declaration in time 2. Truth in declaration-compare with IT Return | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | Unauthorized activities | | | | | | | | | Rule 21 to 35 CR | | | | | | | | |  | | | | | | | | | |
|  | 1. Involvement in criminal case.(see Rules) 2. Unauthorized communication 3. Radio broadcast and press 4. Publication of speeches etc., embarrassing government. 5. Taking parts in politics 6. Propagation of sectarian creed. 7. Expressing views against ideology of Pakistan. 8. Nepotism, favoritism and victimization. 9. Membership of service Association. 10. Use of political and other influence. 11. Approaching foreign mission and donors. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Sociability | | | | | | | | | | Para III CC | | | | | | | | | | |  | | | | | | |
|  | 1. Mixing up with people. 2. Roaming in hotels, markets and street except in dire need | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | | Temperament | | | | | | Para IV,VII CC | | | | | | | | | | | |  | | | | | | | | |
|  | | 1. Decides in rage 2. Courteous and polite—rude or rough 3. Not weak | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | | Decorum | | | | | | | Para VII,IX | | | | | | | | | | | | | |  | | | | | |
|  | | 1. Can maintain decorum(see rule) 2. Control over staff 3. Undue leniency towards lawyers/litigants 4. Meeting guests in retiring rooms 5. Frequent use of retiring room | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | | Discipline | | | | Para X,XI CC | | | | | |  | | | | | | | | | | |  | | | | | |
|  | | 1. Punctuality 2. Dress | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | | knowledge | | | | Para v | | | | | | | |  | | | | | | | | | |  | | | | |
|  | | 1. Learned in law 2. Control over the proceedings | | | | | | | | | | | | 1. Reasoning 2. Analytical ability 3. Substantive &procedural law 4. Keeping current 5. Communication skill 6. Difficult decision | | | | | | | | | | | | | | |
| 10 | | Dispo-sal | | ParaVIII CC | | | | | | | | | |  | | | | | | | | | | |  | | | |
|  | | 1. Rate of diposal | | | | | | | | | | | |  | | | | | | | | | | | | | | |
| 11 | | Justice | | | Para XIII,XIV,XV,XVI | | | | | | | | |  | | | | | | | | | | | | | | |
|  | | 1. Avoid hearing one party if no ex parte(see rule) 2. Not hear a case in which he or his relation or friend has any interest. 3. No advice to any party 4. Discussion of a case between judicial officers is prohibited | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | | Positive qualities | | | | | Para I CC | | | | | | | |  | | | | | | | | | | | | | |
|  | | 1. God fearing 2. Law abiding 3. Abstemious 4. Truthful of tongue. 5. Wise in opinion. 6. Cautious. 7. Forbearing. 8. Patient. 9. Calm. 10. Blameless. 11. Untouched by greed. 12. Detached 13. Balanced. 14. Faithful to his words. 15. Meticulous. | | | | | | | | | | | | | References may be given | | | | | | | | | | | | | |

* Explain bottlenecks.(CPC-Recruitment)
* What cannot be achieved within the existing system
* Channel of reporting-(SOPs)
* Commission
* Third party evaluation
* Self assessment.