

Raipur, the 7th April 2006

NOTIFICATION

F. No. 2985/943/21-B/C.G. - In exercise of powers conferred by Article 233 read with the proviso to Article 309 of the Constitution of India, to regulate the Recruitment and Service Condition of Members of Higher Judicial Service, in supersession of the existing Rules in force, the Governor of Chhattisgarh, in consultation with the High Court hereby makes the following Rules:-

RULES

1. Short Title and Commencement -

- (1) These Rules shall be called the Chhattisgarh Higher Judicial Service (Recruitment and Conditions of Service) Rules, 2006.
- (2) It shall come into force on the date of their publication in the Official Gazette.
- (3) It shall apply to all the members of the Chhattisgarh Higher Judicial Service.

2. Definitions. – In these Rules, unless the context otherwise requires --

- (a) “Advocate means” defined in Advocate Act 1961;
- (b) “Chief Justice” means the Chief Justice of the High Court of Chhattisgarh;
- (c) “Direct Recruitment” means direct recruitment to the post in category (a) of sub-rule (1) of rule 3 in the manner prescribed in sub-rule (1) of Rule 5;
- (d) “District Judge” includes Additional Judge to the Court of District Judge, Additional District Judge, Sessions Judge and additional Sessions Judge;
- (e) “Foreign Service” means the service as defined in sub-rule (7) of Rule 9 of Chhattisgarh Fundamental Rules.
- (f) “Governor” means the Governor of Chhattisgarh
- (g) “Government” means Government of Chhattisgarh
- (h) “High Court” means the High Court of Chhattisgarh.

- (i) “Other Backward Classes” means Other Backward Classes declared by the State Government from to time by Notification;
- (j) “Service” means the Chhattisgarh Higher Judicial Service.
- (k) “State” means the State of Chhattisgarh;
- (l) “Scheduled Caste” means the Scheduled Caste specified in relation to this state under Article 341 of the Constitution of India;
- (m) “Scheduled Tribe” means the Scheduled Tribe specified in relation to this state under Article 342 of the Constitution of India.

3. Constitution of Service. – (1) The Service shall consist of the following categories namely :

- (a) District Judge (entry level) (in pay scale Rs.16,750-400-19,150-450-20,500);
- (b) District Judge (selection grade) (in pay scale Rs.18,750-400-19,150-450-21,850-500-22,850);
- (c) District Judge (super time scale) (in pay scale Rs.22,850-500-24,850);

The pay scale provided in clause (a), (b) and (c) shall be revisable from time to time subject to revision of salary of High Court Judges, by maintaining the present ratio.

- (2) The Service shall consist of following persons: -
 - (a) Persons who, at the time of commencement of these Rules are holding substantive or officiating post of District Judge.
 - (b) Persons recruited directly or promoted to the service in accordance with the provisions of these Rules.

4. Strength of Service - The strength of Service shall be as determined by the Governor from time to time in consultation with the High Court:

Provided that the number of posts in categories (b) and (c) of sub-rule (1) of rule 3 shall be 25% and 10% respectively of the total number of the Cadre Posts of District Judge:

Provided further that whenever any member of the service appointed in categories (a), (b) or (c) of sub-rule (1) of rule 3 is posted on deputation in any department or undertaking of the State or Central Government or Public Undertaking or to foreign service, or is required by the Chief Justice or the High Court to serve on any post other than the cadre post, his post shall be treated Ex-cadre Post causing vacancy in the Cadre-Strength of the Service.

5. Method of Recruitment and Appointment (1) All appointments to category (a) of sub-rule (1) of rule 3 shall be made as under: -

- (a) 50% by promotion from amongst Civil Judges (Senior Division) on the basis of merit-cum-seniority and passing suitability test to be conducted by the High Court;

¹The number of vacancies and the officers to be brought under the zone of consideration for promotion shall be in the ratio 1:3 and the suitability of the officers shall be tested with reference to norms prescribed in Schedule-I.

- (b) 25% by promotion from amongst Civil Judges (Senior Division) having completed minimum 5 years of service, strictly on the basis of merit, though limited competitive examination to be held by the High Court *as per Schedule-II¹*; and

²Provided that in the event of non-availability of candidates under clause (b), the vacancy shall be deemed as a vacancy under clause (a) and the same shall be filled in accordance with clause (a).

- (c) 25% by direct recruitment from amongst the eligible Advocate on the basis of written and viva-voce test conducted by the High Court *as per Schedule-III¹*;

²Provided that successful candidates in written examination securing 60% marks in case of General Category and 50% marks in case of Reserved Category, shall be eligible for viva-voce test in the ratio of 1:3 in order of merit.

Provided *further²* that the procedure of selection for promotion to categories (a) and (b) and direct recruitment to category (c) shall be such as may be prescribed by the High Court.

(2) Appointments to categories (b) and (c) sub-rule (1) of Rule 3 shall be made on the basis of merit-cum-seniority:-

1 - inserted vide notification no.2508//D-246/XXI-B/C.G./07 dated 15-03-2007.

2 – inserted vide notification no. 4278/D-1228/21-B/C.G./08 dated 21-04-2008.

Provided that no member of service shall be appointed to the category specified in clause (b) of sub-rule (1) of rule (3) unless he has served minimum 5 years in the Cadre of District Judge, and no Member of the service shall be appointed to the category specified in clause (c) of sub-rule (1) of rule (3) unless he has served minimum 3 years on the cadre of Selection Grade District Judge.

6. Reservation of posts for Scheduled Castes, Scheduled Tribes and Other Backward Classes.

(1) 15%, 18% and 14% of Posts for direct recruitment under clause (c) of sub-rule (1) of rule 5 shall be reserved for the candidates of Scheduled Cast, Scheduled Tribe and Other Backward Classes respectively;

Provided that if sufficient number of suitable candidates belonging to Scheduled Caste, Scheduled Tribe and Other Backward Classes are not available, such posts shall be re-advertised before the expiry of one year and if again suitable candidates belonging to above classes are not available, such posts shall be treated as “Unreserved”

(2) 30% of the posts shall be reserved for the woman candidates at the stage of direct recruitment under category (c) of sub-rule (1) of rule 5 and the reservation shall be horizontal and compartmentwise.

Explanation. – “Horizontal and compartment-wise reservation” means reservation in each category, namely, Scheduled Castes, Scheduled Tribes, Other Backward Classes and General.

¹6 (A) Time Schedule for filling up vacancies –

The projected vacancies and the time schedule for filling up the vacancies shall be in accordance with the order dated 04-01-2007 passed by Hon’ble the Supreme Court in Civil Appeal No. 1867 of 2006 (Malik Mazhar Sultan And Anr. Versus U.P. Public Service Commission & Ors.).

7. Qualification for direct recruitment under clause (c) of sub-rule 1 of rule 5 -

- (i) No person shall be eligible for appointment by direct recruitment unless, he or she –
 - (a) is a citizen of India,

- (b) has attained the age of 35 years and has not attained the age of 45 years on the first day of January in the year in which applications for appointment are invited, provided that upper age limit shall be relaxed upto a maximum limit of 3 years for the candidates belonging to Scheduled Caste, Scheduled Tribe and Other Backward Classes;
- (c) has for atleast seven years been an advocate on the first day of January of the year in which applications for appointment are invited;

¹Provided further that where a candidate who was eligible in age to apply for appointment in any calendar year in which vacancies were notified as per Rule 6 (A) and if for some reason recruitment proceeding could not be initiated, such candidate shall be eligible in age to appear in the following recruitment proceedings.

- (d) has good character and is of sound mind and body and free from any bodily and mental disability which renders him unfit for such appointment.
- (ii) A person shall be disqualified for appointment by direct recruitment, if, he or she -
- (a) has more than one spouse living,
 - (b) has been dismissed or removed from service by any High Court, Government, Statutory Authority or Local Authority.
 - (c) has been convicted of an offence involving moral turpitude or has been permanently debarred or disqualified by any High Court or Union Public Service Commission or any State Public Service Commission or any Services Selection Board or Staff Selection Commission constituted under statutory provisions by the Government;
 - (d) has been found guilty of professional misconduct under the provisions of the Advocates Act, 1961 or any other law for the time being in force.

8 **Appointing Authority-**

- (1) All appointment to category (a) of sub-rule (1) of rule (3) shall be made by the Governor in accordance with the recommendations of the High Court.
- (2) All appointment to categories (b) and (c) of sub-rule (1) of rule (3) shall be made by the High Court.

9. Probation. –

- (1) A person selected to a post in category (a) of sub-rule (1) of Rule 3 by direct recruitment under the provision of clause (c) of sub-rule (1) of rule 5 shall be appointed on probation for a period of two years and a person promoted to a post in category (a) of sub-rule (1) of rule 3 under the provision of clause (a) and (b) of sub-rule (1) of rule 5 shall be appointed in officiating capacity for a period of two years.
- (2) A person appointed to a post in category (a) of sub-rule (1) of rule 3 by direct recruitment under the provision of clause (c) of sub-rule 1 of rule 5 shall undergo a judicial training for one year in accordance with the scheme prepared by the High Court which shall include training in the State Judicial Officers Training Institute and /or such other Training Institute / Academy as may be directed by the High Court.
- (3) The High Court may at any time extend the period of probation or officiation, as the case may be, but the total period of such probation or officiation, shall not ordinarily exceed four years.
- (4) The High Court may, at any time, before the completion of probation or officiation, as the case may be, recommend termination of the service of a direct recruit or recommend reversion of a promotee member of the Service to his substantive post from which he was promoted.
- (5) On successful completion of probation or officiation, as the case may be, the probationer or the promotee shall be confirmed in the Service and if no permanent post is available, a certificate shall be issued by the High Court to the effect that he would have been confirmed, but for the non-availability of the permanent post, he has not been so confirmed and as soon as a permanent post becomes available, he shall be confirmed.
- (6) A person appointed on probation, or promoted in the officiating capacity, to the service, shall continue as such until confirmed or terminated or reverted, as the case may be.

10. Posting and Transfer. – All postings and transfers of members of the service shall be made by High Court except in the registry or Institution associated with the Registry, which shall be made by the Chief Justice.

11. Seniority – (1) The relative seniority of the members of service holding substantive or officiating post at the time of commencement of these rules shall continue to be the same as it exist at the commencement of these rules.

(2) After the commencement of these rule, the cadre post in category (a) of sub-rule (1) of rule 3 shall be filled – up by rotation based on the quota fixed in clauses (a), (b) and (c) of sub-rule (1) of rule 5, Thus, in the roster point, first two posts shall be reserved for the promotees from the lower Cadre, one post shall be reserved for a Member promoted through limited competitive examination of Civil Judges (Senior Division) and one post shall be reserved for a direct recruit. The same rotation shall be followed to filled-up the post according to quota so fixed;

Provided that the above roster shall be implemented in the form of running account from year to year till the quota so fixed is achieved. Vacancies arising thereafter in the Cadre posts belonging to aforementioned slots of quota shall be filled-up by promotion or direct recruitment as the case may be.

(3) Seniority of persons appointed under clause (a), (b) and (c) of sub-rule (1) of rule 5 to the Service in category (a) of rule (1) of rule 3 shall be determined in following manner: -

- (i) The Seniority, inter se, of persons appointed by promotion, shall be determined by their inter se seniority in lower cadre;
- (ii) The Seniority, inter se, of person promoted on the basis of merit through limited competitive examination of Civil Judges (Senior Division), shall be determined in the order of merit in which they are placed in the select list, those promoted on the basis of earlier examination being ranked senior to those promoted on the basis of later examination;
- (iii) Persons appointed to the Service by direct recruitment shall be ranked inter se in the order of merit they are placed in the select list, those recruited earlier shall be ranked senior to those recruited later;
- (iv) The relative seniority of promotees and direct recruits shall be determined according to, roster points. In the event of non-availability of suitable candidates of the reserved quota specified in clause (c) of sub-rule (1) of rule 5 at the roster point, such roster point shall be carried forward with the condition that the relative seniority of promotees and direct recruits under clause (a) of sub-rule 1 of rule 5 shall be

determined on the basis of the date of issue of appointment order.

12. Pay, Allowances, facilities and other conditions of Service, –

- (1) The members of the Service shall be paid pay, allowances and be provided facility as recommended by the First National Judicial Pay Commission popularly known as Shetty Pay Commission and accepted by the Supreme Court of India in its judgment dated 21-3-2002 in the case of All India Judges Association Vs. Union of India, (2002 AIR SCW 1706).
- (2) Fixation of pay of the members of Service shall be made in accordance with the Chhattisgarh Lower and Higher Judicial Service (Revision of pay of Rules, 2003).
- (3) The members of the Service shall also be paid such other allowances and provided with the facilities which are payable and available to the members of Indian Administrative Service and have not been expressly provided in the Shetty Pay Commission's report and the judgment of the Supreme Court or not contrary to such report or judgment.
- (4) The other rules relating to conditions of service of Government Servant of the corresponding grade in general not inconsistent with these rules shall be applicable to the Members of the service.

13. Superannuation Age. – (1) The retirement age of a Member of the Service shall be 60 years without prejudice to the provisions contained in sub rule (3) of Rule 56 of the Fundamental Rules and clause (b) of sub-rule (1) of rule 42 of the Chhattisgarh Civil Services (Pension) Rules, 1976.

Provided that well within time before the attainment of the age of 58 years by a Member of the Service, the High Court after assessment and evaluating the record if not found fit and eligible to continue in Service, recommend the retirement of such Member of the Service on completion of the age of 58 years.

(2) For finding out whether a Member of the Service should be retired prematurely under sub-rule (3) of rule 56 of the Fundamental Rules and clause (b) of sub-rule (1) of Rule 42 of the Chhattisgarh Civil Services (Pension) Rules, 1976 or compulsorily retired under the first proviso of sub-rule (1), the Chief justice may constitute a Screening Committee [¹] for the scrutiny and assessment of such Member of the Service based on his past record of service, character rolls, quality of judgments/orders and other relevant matters like his integrity, reputation and utility.

¹ the words "headed by himself" omitted vide notification no.1719/D-658/21-B/08 dated 23-02-2008

14. Oath. Every person, appointed to the Service by direct recruitment before he joins, shall make and subscribe before such person as may be specified by the Chief Justice, oath or affirmation in the following form: -
 “I.....having been appointed as a member of the Chhattisgarh Higher Judicial Service, do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment, perform the duties of my office without fear or favour, affection or ill will, and that I will uphold the Constitution and the laws”.

15. Deputation. – A member of the Service may be appointed in deputation to perform the duties of any post under Central Government of the State Government or to serve in an organization, which is wholly or partly owned or controlled by such Government or in foreign service or in the High Court.

16. Interpretation. – If any question arises as to the interpretation of these rules, the decision of the High Court shall be final.

¹16-A In consultation with the High Court, State Government shall be competent to make any further amendment in these rules as may be necessary from time to time.

17. Power to Relax. – Where the High Court is satisfied that the operation of any of these rules causes undue hardship in any particular case or class it may for reasons to be recorded in writing dispense with or relax the particular Rule to such extent and subject to such exceptions and conditions as may be deemed necessary:

Provided that as and when any such relaxation is granted by the High Court, the Governor shall be informed of the same.

1 - inserted vide notification no.1719/D-658/21-B/08 dated 23-02-2008

18. Repeal & Saving. – Chhattisgarh Uchchar Nayaik Seva (Bharti Tatha Seva Sharten) Niyam, 1994 and Orders, resolutions, if any, in force immediately before the commencement of these rules, are hereby repealed or rescinded as the case may be in respect of matters covered by these rules;

Provided that any order made or action taken under the Rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these Rules.

1. ¹*Schedule-I*

{See Rule 5 (1) (a)}

<i>(1) Evaluation of their judgments -</i>	<i>40 marks</i>
<i>(2) Evaluation of Annual Confidential Reports for the last five years²</i>	<i>10 marks</i>
<i>(3) Vigilance Report</i>	<i>10 marks</i>
<i>(4) Viva Voce test</i>	<i>40 marks</i>

Total	- 100 marks

2. ¹*Schedule-II*
(See rule 5(1) (b))

Competitive departmental examination for the examination of 3 papers of 2 hours each.

Competitive Examination:-

I Paper – I. Law (Maximum marks – 100)

*(a) The Code of Civil Procedure, 1908
(Maximum marks – 25)*

*(b) The Code of Criminal Procedure, 1973
(Maximum marks – 25)*

*(c) The Indian Evidence Act, 1872
(Maximum marks – 25)*

*(d) Principles of pleading and the
Constitution of India.
(Maximum marks – 25)*

1 - Schedule-I & Schedule-II inserted vide notification no.2508//D-246/XXI-B/C.G./07 dated 15-3- 2007
2 - inserted vide notification no.1719/D-658/21-B/08 dated 23-02-2008

II Paper – II Law (Maximum Marks – 100)

- (a) *Framing of Issues and writing of Judgment in Civil Cases.*
(Maximum Marks – 40)
- (b) *Framing of charges and writing of Judgment in Criminal Cases.*
(Maximum Marks – 40)
- (c) *Translation:- (Maximum Marks – 20)*
- (i) *English to Hindi – 10 marks*
(ii) *Hindi to English – 10 Marks*

III Performance appraisal – 50 marks.

IV- Viva voce – 50 marks.

**3. Schedule-III
{See rule 5(I) (c)}**

The competitive examination for recruitment of District Judges shall consist of: -

Competitive Examination:-

(I) Paper – I - Law (Maximum marks – 100)

- (a) *The Code of Civil Procedure, 1908*
(Maximum marks – 25)
- (b) *The Code of Criminal Procedure, 1973*
(Maximum marks – 25)
- (c) *The Indian Evidence Act, 1872*
(Maximum marks – 25)
- (d) *Principles of pleading and the Constitution of India.*
(Maximum marks – 25)

(II) Paper – II - Law (Maximum Marks – 100)

- (a) *Framing of Issues and writing of Judgment in Civil Cases.*
(Maximum Marks – 40)

(b) *Framing of charges and writing of Judgment in Criminal Cases.*

(Maximum Marks – 40)

(c) *Translation: - (Maximum Marks – 20)*

(a) English to Hindi – 10 marks

(b) Hindi to English – 10 Marks

(III) - [Viva voce – 30 marks]¹

By order and in the name of the Governor of Chhattisgarh,
A.K.Goyal, Deputy Secretary

1 - “50” marks for viva-voce substituted by “30” vide notification no.4690/D-1449/21-B/C.G./08 dated 07-05-2008.