

Jharkhand Judicial Service (Recruitment) Rules, 2004

Gazette Extraordinary No. 145 dated 4th April, 2005.—Whereas the posts of Civil Judge, Senior Division (Subordinate Judges) and Civil Judge, Junior Division (Munsifs) are required to be filled urgently, there being a dire and emergent need of doing so;

Whereas these appointments are continuously required to be made on the vacancies occurring every now and then; and

Whereas the Supreme Court of India in the case of All India Judges Association and others v. Union of India and others, (writ petition (c) No. 1022 of 1989 vide judgment dated 21st March, 2002 has issued directions and passed orders for immediate and urgent appointment of additional number of Judicial Officers.

Now therefore in exercise of the powers conferred by Article 234 read with Article 309 of the Constitution of India and all provisions of law enabling him in that behalf, and in supersession of all earlier Rules on the subject, the Governor of Jharkhand, after consultation with the High Court of Jharkhand and Jharkhand State Public Service Commission, is pleased to make the following Rules so as to select, recruit and appoint Members of the Jharkhand Judicial Service and regulate terms and conditions of their service—

1. Short title and commencement.—These Rules may be called the Jharkhand Judicial Service (Recruitment) Rules, 2004 which shall take effect from the date of publication in the Official Gazette.

2. Definitions.—In these Rules, unless there is/are anything repugnant to the subject or context,—

(i) “Board” means the Board constituted for Viva Voce test consisting of three members, two of whom being sitting judges of the High Court nominated by the Chief Justice of the said High Court and, the Chairman of the Commission or any one member of the Commission as may be nominated by the Chairman.

(ii) “Chief Justice” means the Chief Justice of the High Court of Jharkhand;

(iii) “Chairman” means the Chairman of the Jharkhand Public Service Commission;

(iv) “Commission” means the Jharkhand Public Service Commission;

(v) “Government” means the Government of Jharkhand;

(vi) “Governor” means the Governor of Jharkhand;

(vii) “High Court” means the High Court of Jharkhand;

(viii) “Prescribed” means as prescribed by the High Court in the Regulations or otherwise;

(ix) “Scheduled Castes” means the castes specified in Part II of the Constitution (Scheduled Castes) Order, 1950 and as amended by the Fifth Schedule of the Bihar Reorganization Act, 2000;

(x) “Scheduled Tribes” means the tribes specified in Part II of the Constitution (Scheduled Tribes) Order, 1950 and as amended by the Sixth Schedule to the Bihar Reorganization Act, 2000;

(xi) “Other Backward Classes” means the castes/communities enlisted in Bihar Reservation of Vacancies in Posts and Services (for SC, ST and Backward Classes) Act, 1991, as adopted and as amended from time to time by the Government of Jharkhand;

(xii) “Service” means the Jharkhand Judicial Service which includes the posts of Civil Judge, Senior Division (Subordinate Judges) and Civil Judge, Junior Division (Munsifs);

(xiii) “Judicial Academy” means Jharkhand Judicial Academy.

3. (a) Recruitment to the posts of Civil Judge, Junior Division (Munsif) shall be made in accordance with these Rules.

(b) Recruitment to the posts of Civil Judge, Senior Division (Subordinate Judges) shall be made on merit-cum-seniority basis by the High Court by promotion from Civil Judge, Junior Division (Munsifs) having 5 (five) year’s of continuous experience as Civil Judge, Junior Division (Munsifs) provided that in case of exigencies and non-availability of suitable Civil Judge, Junior Division (Munsifs), the High Court may fill up the posts upto 25% of the vacancies of a calendar year by direct recruitment from amongst Advocates having a minimum 5 (five) year’s of experience at the Bar.

Explanation.—“Direct Recruitment” to the post of Civil Judge, Senior Division (Subordinate Judges) will be made in the same manner in which the posts of Civil Judge, Junior Division (Munsifs) are made.

4. From time to time, the Commission, in consultation with the High Court, may decide and notify the

number of vacancies of Civil Judge, Junior Division (Munsifs) as are required to be filled up by appointment to be made on substantive or ad hoc basis, in accordance with these rules and shall then proceed to initiate the process of direct recruitment and invite applications from intending candidates eligible for appointment under these Rules.

However, while deciding and notifying the vacancies, the Commission shall make it subject to the Act, rules and Regulations in force regarding the reservation of vacancies in posts and services under the State so that vacancies category wise, reserved for Scheduled Castes, Scheduled Tribes and Other Backward Classes, are included in the prescribed number in the notification issued by the High Court for this purpose.

5. Eligibility.—A candidate shall be eligible to be appointed as Civil Judges, Junior Division (Munsifs) under these Rules, provided :—

(a) He is above the age of 22 years and below the age of 35 years as on the last day of January of the year in which applications for examination are invited;

Provided that in the case of a female candidate, or candidates belonging to Scheduled Caste or Scheduled Tribe there shall be relaxation of the upper age limit by 3 years.

(b) He is a graduate in law from a recognized University and enrolled as an advocate under the Advocates Act, 1961, and

(c) He possesses sound health, bears good moral character and is not involved in, or related to any criminal case involving moral turpitude.

5-A. Eligibility.—A candidate shall be eligible to be appointed as Civil Judge, Senior Division (Subordinate Judge) under these Rules, provided :

(a) He is above the age of 27 years and below the age of 40 years as on the last day of January of the year in which applications for examination are invited;

Provided that in the case of a female candidate, or candidates belonging to Scheduled Caste or Scheduled Tribe, there shall be a relaxation of the upper age limit by 3 years.

(b) He is a graduate in law from a recognized University and enrolled as an advocate under the Advocates Act, 1961, and

(c) He possesses sound health, bears good moral character and is not involved in, or related to any criminal case involving moral turpitude.

6. The Commission shall, in consultation with the High Court, undertake the entire selection process.

7. If in any particular year the number of candidates is very large and in the opinion of the High Court, it is desirable to have a Preliminary Written Entrance Test in order to limit the candidates for the Main Written Examination, the Commission may conduct a Preliminary Written Entrance Test. The High Court may make Regulations from time to time prescribing the syllabi for the Preliminary Written Entrance Test and also for the Main Written Examination and copies of such syllabi may be made available to the intending candidates along with the Forms.

8. The Commission shall invite applications from the intending candidates. The Application may either be in the prescribed form as published in the advertisement/ notification or may be in a printed form as may be obtained from the Commission. Similarly, at the commencement of each selection process, the Commission may also decide that each candidate along with the application/application form may submit one or more of the following :—

(i) Certificates or copies thereof with respect to the educational qualifications and experience if any required or prescribed by the High Court in the Regulations.

(ii) Names of at least two persons as referees along with the reference testimonials certifying that they know the candidate personally; that he bears a good moral character, is not involved in any criminal case or an offence relating to moral turpitude and that in the opinion of such referees, the Candidate has an aptitude for judicial service. None of the referees should be related to the candidate either directly or indirectly.

(iii) Certificate of age as issued by the Board for School Education Examination or a University as duly recognized by law.

(iv) A Bank Draft or a Postal Order of prescribed amount towards payment of examination fee as may be fixed or prescribed by the Commission from time to time.

Explanation.—If a candidate submits copies of the certificate and not the originals, the copies should be certified as true copies of the original, by a Gazetted Government Officer. Such candidate shall, however, be under obligation to produce the originals before the Commission as and when so required.

9. On receipt of the application/application form submitted by the candidates, the Commission shall process the same and on being satisfied that the application/ application forms are in order and that the candidate is eligible to appear in the examination, shall issue Admit Card to the candidate. No candidate shall be admitted to any examination unless he holds such an admit card.

Explanation.—It is, therefore, in the interest of the candidates that before they apply they satisfy themselves that they are eligible and that the application/application forms are duly filled in by them and are complete in all respects and that the documents enclosed relating to payment of examination fee etc.

10. Notwithstanding anything contained in the foregoing Rule, it shall be open to the Commission to require the candidate at any stage of the selection process or thereafter, to furnish any such additional proof or to produce any document with respect to any matter relating to his suitability and/or eligibility as the commission may deem necessary.

11. If any candidate at any time, either during the selection process, before or after the examinations are conducted, or at any time thereafter is found to have furnished any false information or made any misrepresentation relating to his age, academic qualifications, experience at the Bar, enrollment as an Advocate, eligibility, suitability or otherwise, the Commission may, at its sole discretion, cancel the candidature of such candidate and may debar him from appearing in the examination at any stage of the selection process. Similarly if a candidate obtains appointment under these Rules based on any of the aforesaid, such appointment shall be liable to immediate termination.

12. Subject to the provisions of these Rules, the decision of the Commission as to eligibility or otherwise of the candidate for admission to the examination and for his recruitment shall be final.

13. If during the conduct of examination any candidate is found :

- (i) Resorting to any irregular or improper means for obtaining admission to examination;
- (ii) Impersonating another candidate or being impersonated by any person at the written or viva voce examination;
- (iii) Submitting fabricated or forged documents or documents which have been tampered with or interpolated;
- (iv) Making statements which are false or incorrect or suppressing material information;
- (v) Communicating with any other person for the purpose of getting help or trying to influence the candidature;
- (vi) Using any unfair means in the examination hall;
- (vii) Behaving unruly, rudely or in an uncivilized manner in the examination hall or violating any instruction(s) issued by the Commission in this behalf or disobeying any order(s) of the official(s) entrusted with the conduct of the examination.

Such candidate shall be expelled forthwith from the examination hall under authority of the Commission or by any person authorized by the Commission in this behalf. In such a case, the Commission may invalidate the answer books or deal in such other manner with the candidate as it considers fit and proper, including his expulsion from any future examination for any period as may be decided.

14. The Commission in consultation with the High Court may fix the minimum qualifying marks for the Preliminary Written Entrance Test and also the minimum qualifying marks for the Main Examination. Based on such minimum qualifying marks, the Commission may decide to call for such number of candidates in order of

merit in the main written examination, depending upon the number of vacancies available as it may appropriately decide :

Provide that in the case of candidates belonging to scheduled castes and scheduled tribes such minimum qualifying marks shall not be more than 45% of the total aggregate marks.

Provided also that in determining the suitability of a particular candidate based both on the minimum qualifying marks as well as in order of merit, the total marks obtained in the examination as a whole and the marks obtained in any individual paper, both shall also be taken into consideration, depending upon any guidelines that the High Court may issue in this behalf in the Regulations to be framed for this purpose.

15. The Commission shall get the question papers set for the Preliminary/Main Examination and also select the examiners for evaluation of the answer books in consultation with the Chief Justice of the High Court.

16. (a) The Viva Voce Test shall be conducted by the Board consisting of three members, two of whom shall be sitting judges of the High Court nominated by the Chief Justice and the Chairman of the Commission or any one member of the commission as may be nominated by the Chairman.

(b) The Viva Voce Test shall be conducted by the board in such a manner so as to assess the merit, suitability and fitness of the candidate; shall be as objective as is possible and shall endeavour to elicit such answer from the candidate as would convey the candidate's aptitude towards judicial service; his understanding of law; sharpness of mind; his intellect, knowledge and potential for becoming a good Judicial Officer. In this regard the decision of the majority members of the Board shall be final.

(c) All members of the Board shall be assigned equal marks for assessing the fitness and suitability of the candidate. At the end of the Viva Voce Test each day the Board shall not disperse unless it has recorded the marks allocated to each candidate in that day's Viva Voce Test in the manner as prescribed under the Regulation and in a sealed cover hand it over to the Official of the Commission as may be nominated for this purpose by the Chairman. Each such sealed cover shall be in turn deposited by such nominated Official of the Commission in safe custody in such manner as may be prescribed by the Chairman.

(d) Any candidate who obtains less than qualifying marks as may be fixed by the Board for Viva Voce Test shall be ineligible to be appointed, irrespective of the marks obtained by him in the written examination.

17. (a) The marks obtained in the Viva Voce Test shall be added to the marks obtained by the candidates in the Main Written Examination. The names of the candidates will then be tabulated and arranged in order of merit. If two or more candidates obtain equal marks in the aggregate, the order shall be determined in accordance with the marks secured in the Main Written Examination. If the marks secured in the Main Written Examination of the candidates are also found equal, then the candidate who is older shall be placed above the other(s). From the list of candidates so arranged in order of merit, the Commission in consultation with the High Court, shall prepare a Select List and have it duly notified in a manner as prescribed in the Regulations. Such Select List shall be valid for a period of one year from the date of publication of the lists.

(b) The Commission shall, while forwarding its recommendation under these Rules consider the claims of qualified candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes. If the list of nominees does not contain an adequate number of candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes, who may be entitled for appointment to the vacancies reserved for them, the Commission shall submit a Supplementary List some time later nominating a sufficient number of such candidates as in the opinion of the High Court attain the required standards of qualifications and are in all respects suitable for appointment to the service.

(c) Notwithstanding anything contained in these Rules, the Government may when satisfied that the members of the SC, ST and other Backward Classes are not adequately represented in the service, request the High Court to make special recruitment to such number of posts as are required to make up the deficiency or part thereof and candidates so recruited may be appointed on any of the existing vacancies. Such appointments may be made notwithstanding the fact that the vacancies are not to be filled up by candidates belonging to the SC, ST and Backward Classes under the rules relating to the rotation of appointments.

The procedure for the special recruitment of SC, ST and other Backward Classes shall, subject to the provisions of this rule, be the same as the one prescribed for regular recruitment.

18. From out of the aforesaid Select List, depending upon the number of vacancies available or those required to be filled up, the Commission, after consultation with the High Court, shall recommend to the Government the names for appointment as Civil Judges, Junior Division (Munsifs)/Civil Judges, Senior Division (Subordinate Judges).

19. After the Government receives the aforesaid recommendation from the Commission, it may make such enquiry and undertake such investigation as is considered necessary to find out and determine that the candidates are suitable in all respects for appointment to Judicial Service only insofar as such suitability relates to the credentials of the candidates with respect to their involvement in criminal case or anti-social or anti-national activities. Such investigation/enquiry, however, shall be completed as soon as possible from the time of receipt of recommendation from the commission, but not later than eight weeks from the date of such receipt.

20. After completion of the investigation/enquiry as undertaken as aforesaid, the appointment orders may be issued.

21. (a) The appointee in the first instance shall be called as a Civil Judge, Junior Division (Munsif)-trainee/Civil Judge, Senior Division (Subordinate Judge)-trainee. The appointment order issued by the Government shall accordingly also refer him as a Civil Judge, Junior Division (Munsif)- trainee/Civil Judge, Senior Division (Subordinate Judge)-trainee.

(b) For a period of one year from the date of appointment, or from such other date as the High Court may prescribe, that the Civil Judge, Junior Division (Munsif)/Civil Judge, Senior Division (Subordinate Judge) shall be admitted in the one year training course at the Judicial Academy of Jharkhand at Ranchi or such other place as the High Court may prescribe. After completion of one year training course, the Civil Judge, Junior Division (Munsif)-trainee/Civil Judge, Senior Division (Subordinate Judge)-trainee shall appear in the examination to be conducted by the Judicial Academy under the directions and guidance of the High Court and the successful passing of this Examination shall alone be the condition precedent for confirmation of the trainees as Civil Judges, Junior Division (Munsifs)/Civil Judges, Senior Division (Subordinate Judges).

(c) The Judicial Academy, in consultation with the High Court, shall evolve and prescribe the syllabus for the one year training course including the field-training and also decide about the nature of examination, the papers and subjects and the duration as also the aggregate marks and the qualifying marks in the said examination for the success of the trainees therein.

(d) The High Court may in its discretion, extend the duration of the training course for more than one year, but not more than two years, or may issue such other directions as may be in conformity with the spirit of training and the need for the same.

(e) The cases of such trainees who have not qualified in the Examination as required in clause (b) and who make appropriate representations, may be considered by the High Court with a view to suitably dispose of such representations and decide whether to afford them another chance of taking the Examination or not, and if so on what terms.

22. A person appointed as Civil Judge, Junior Division (Munsif)/Civil Judge, Senior Division (Subordinate Judge) under these Rules shall be on probation for a period of three years, the probation period starting from the date of his appointment as a trainee Civil Judge, Junior Division (Munsif)/Civil Judge, Senior Division (Subordinate Judge). The probation period may be extended by the High Court in individual cases, depending upon the performance and other parameters as may be fixed by the High Court from time to time, or depending upon the passing of such examination during service as may be prescribed for this purpose by the High Court.

23. Discharge of a probation during the period of probationer :—

(i) Notwithstanding anything contained in the preceding rule the appointing authority may in consultation with the High Court at any time during the period of probation, discharge from service a probationer on account of his unsuitability for the service.

(ii) An order under sub-rule (i) shall indicate the ground for discharge but no disciplinary enquiry shall be necessary.

24. No recommendation except those received in accordance with these Rules shall be entertained or taken into consideration. Any attempt on the part of any candidate to enlist support for his appointment through any person or exert any influence in any other manner, will disqualify him for appointment.

25. The record of each examination as held under these rules, both with respect to the written examinations at both the levels and the Viva Voce Test shall be maintained and preserved by the Commission for two years from the date of Notification of the Select List.

26. Power to make Regulations.—The High Court may make Regulations for carrying out the purposes of these Rules and of giving effect to the objectives contained therein.

27. Repeal and Savings.—(i) Jharkhand Judicial Service (Recruitment) Rules, 2001 issued vide Notification No. 185 dated the 20th August, 2001 are hereby repealed.

(ii) Notwithstanding such repeal, anything done or any action taken under the 2001 Rules shall be deemed to have been taken under these Rules and any selection process initiated or appointments made pursuant to 2001 Rules shall be deemed to have been done under these Rules.