

Himachal Pradesh Judicial Service Rules, 2004

[16 March 2004]

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SCHEDULE 1 :- SCHEDULE

Himachal Pradesh Judicial Service Rules, 2004

[16 March 2004]

No. Home-B (B) 2-4/2002.- In exercise of the powers conferred by Articles 233, 234 & Proviso to Article 309 of the Constitution of India read with sub-section (1) of Section 4 of the H.P. Judicial Officers (Pay and Condition of Service) Act, 2003 (Act No. 10 of 2003) and all other powers enabling him in this behalf, the Governor of Himachal Pradesh, in consultation with the High Court of Himachal Pradesh & the State Public Service Commission, is pleased to make the following rules regulating the recruitment &

conditions of service of members of different cadres of H.P. Judicial Service:-

1. Short title and commencement :-

(1) These rules may be called the Himachal Pradesh Judicial Service Rules, 2004.

(2) These Rules shall come into force from the date of publication in the official Gazette.

2. Definitions :-

(1) In these rules, unless the context requires otherwise,-

(a) "Act" means the Himachal Pradesh Judicial Officers (Pay and Conditions of Service) Act, 2003;

(b) "appointing Authority" Means the Governor of Himachal Pradesh;

(c) "Government" means the Government of Himachal Pradesh;

(d) "Governor" means the Governor of Himachal Pradesh;

(e) "High Court" means the High Court of Himachal Pradesh;

(f) "Official Gazette" means Himachal Pradesh Rajpatra or the Gazette of Government of Himachal Pradesh by whatever other name it may be called;

(g) "Regulations" means the regulations framed by the High Court. under these rules for the following purposes :-

(i) to prescribe the syllabus for the competitive examination and the suitability test to be conducted by the High court for the cadre of District Judges/ Addl. District Judges and the cadre of Civil Judges (Jr. Division),

(ii) allocation of the marks for written examination as well as oral (viva voce) test for the cadre of District Judges/Adl. District Judges and the cadre of Civil Judges (Jr. Division),

(iii) to send panel of experts to the H. P. Public Service Commission to conduct oral (viva voce) test for the cadre of Civil Judges (Jr. Division),

(iv) to prescribe the syllabus for and to conduct the departmental examinations for the different cadres of the H.P. Judicial Service,

(v) to prescribe the syllabus for and to conduct the special examination or tests, if any, required to be passed during the period of probation or officiation in relation to all the appointments to the service by direct recruitment or by promotion,

(vi) to evaluate the performance of the Officers and assign marks for the competitive examination to be conducted by the High Court

for the cadre of District Judges/Addl. District Judges,
(vii) to prescribe the format of application to apply for appointment to the service,
(viii) to evaluate the performance of the Officers (appointed to the service) in relation to departmental and special examination or tests,
(ix) to prescribe the training schedule from time to time for the Officers appointed to the service through direct recruitment,
(h) "Schedule" means schedule appended to these rules;
(i) "Service" or "State Service" means the Himachal Pradesh Judicial Service; and
(j) "State means the State of Himachal Pradesh.
(2) Words and expression used in these rules but not defined herein shall have the same meanings respectively as assigned to them in the Act.

3. Constitution of the Services :-

(1) On and from the date of commencement of these rules there shall be constituted State Service to be known as Himachal Pradesh Judicial Service consisting of the cadres of District Judges, Civil Judges(Senior Division) and Civil Judges (Junior Division).

(2) The service shall consist of the cadres specified in column (2) of the Schedule and the character and number of posts in each of these cadres shall be as specified in the corresponding entries in columns (3) to (5) thereof. The Schedule shall stand automatically amended on the basis of and in accordance with, the notification issued by the Government of Himachal Pradesh in consultation with the High Court, from time to time varying or modifying the character or number of posts in the cadres or passing other orders to such effect.

(3) With effect from the date of commencement of these rules, the existing cadres specified in column(2) below shall stand designated as the cadres specified in the corresponding entries in column (1) below and they shall accordingly constitute the service:-

(a) District Judges/Addl. District Judges

(i) District and Session Judges

(ii) Addl. District & Sessions Judges

(b) Civil Judges (Sr.Divn.)

(i) Senior Sub Judge-Cum-Chief Judicial Magistrates

(ii) Addl Chief Judicial Magistrates

(c) Civil Judges (Jr. Divn.) (i) Sub-Judge-Cum- J.M.

(4) Holders of 25% of the total number of posts in the cadre of District Judges and who have put in not less than five years of service in the cadre shall be granted selection grade and they shall be selected for inclusion/placement in this grade on the basis of merit-cum-seniority from the cadre of District Judges by the High Court & such District Judges who have been placed in the Selection Grade shall be called "Selection Grade District Judges". Holders of 10% of the total number of posts in the cadre of District Judges, who have put in not less than three years of service as "Selection Grade District Judges" in the cadre, shall be granted "Super Time Scale" of pay. They shall be selected in this scale of pay on merit-cum-seniority basis by the High Court and shall be called as "Super Time Scale District Judges".

4. Appointing Authority :-

(1) The District Judges shall be appointed by the Governor in consultation with the High Court.

(2) The Civil Judges (Senior Division) shall be promoted by the High Court, Himachal Pradesh on the basis of merit-cum-seniority. Civil Judges (Junior Division) shall be appointed by the Governor in consultation with the Himachal Pradesh Public Service Commission and High Court of Himachal Pradesh.

5. Method of recruitment, qualification and age limit :-

In respect of each category of posts specified in column (2) of the Table below, the method of recruitment and minimum qualification, age limit etc. shall be specified in the corresponding entries in column (3) and (4) thereof.

TABLE UNDER RULE-5

Sl.No	Cadre	Method of recruitment	Qualification Age limit & experience etc.
1	2	3	4
1	District judges/Additional District Judges.	(a) 50% by promotion from amongst the Civil Judges (Sr. Division.) on the basis of principal of merit-cum-seniority and passing a suitability test as may be prescribed &	Must have been in the cadre of Civil Judges (Sr.Division.) for a period of not less than two years.

		conducted by the High Court in accordance with the regulations.	
		(b) 25% by promotion from amongst Civil Judges (Sr. Division.) on the basis of merit through limited competitive examination as may be conducted by the High Court in accordance with the regulations.	Maximum service of five years including the service rendered in the cadre of Civil Judges (Junior Division).
		(c) 25% by direct recruitment, from amongst eligible Advocates, on the basis of examination, written as well as oral (viva voce) test as may be prescribed and conducted by the High Court in accordance with the regulations.	The following shall be the eligibility criteria including qualifications, age limit and experience etc.-(i) Citizen of India.
			(ii) Holder of a degree in Law as recognized by the Council of India.
			(iii) Practising Advocate at the Bar for a minimum period of seven years as on the last date fixed for receipt of the applications
			Note.- For the purpose of this clause, in computing the period during which a person has been an Advocate there shall be included any period during which has held a judicial office.
			Explanation I.- Judicial Officer includes any other Office as may be prescribed being equivalent to a Judicial Office, by the High Court in the regulations made for this purpose.
			(iv) Must have attained the

			age of thirty five years and must not attained the age of forty five years as on the last date prescribed for receipt of applications.
			Explanation-II.- Applications to the cadre of the Distt. Judges from categories (a), (b), & (c) shall be in accordance with 40 points roster to be maintained by the High Court in this behalf.
2.	Civil Judges (Sr. Division)	By promotion from the cadre of Civil judges (Jr. division) on the basis of meritcum-seniority	Minimum experience of five years in the cadre of Civil Judges (Jr. Division).
			Note.- The appointing authority, may in situations where Civil Judges (Jr. Division) with the aforesaid requisite experience are not available, relax the aforesaid minimum experience criteria but in no case shall such relaxation go below three years.
3.	Civil Judges (Jr. Divn.)	By direct recruitment on the basis of merit obtained in the competitive examination, written as well as oral (viva voce) tests to be conducted by the H.P. Public Service Commission.	The following shall be the eligibility criteria including the qualifications and age etc.
			(1) Citizen of India.
			(2) Holder of degree in Law as recognized by the Bar Council of India.
			(3) Age limit, minimum 22 years and Maximum 30 years (33) years in case of candidates belonging to Scheduled Caste/Scheduled Tribe/other prescribed reserved categories as on the last date prescribed for receipt of applications.
			Provided that the direct

			appointments to the service shall be subject to the orders regarding reservation in the service for Scheduled castes/Scheduled Tribes/Backward Classes issued by the Himachal Pradesh Government, from time to time, and made applicable to such appointments, in consultation with the High Court.
			Note.- Every candidate applying for direct recruitment, either for the post mentioned in 1(c), or post mentioned at 3 above shall submit along with the application, certificates furnished by two respectable persons unconnected with him, testifying to his character and good behavior as well as antecedents.

6. Disqualification for appointment and format of application :-

(1) No person shall be eligible for appointment to the service:-

(a) If he has been dismissed from any previous service;

(b) If he has been convicted of any offence involving moral turpitude or has been bound down for good conduct under the provisions contained in Chapter VIII of the Code of Criminal Procedure, or has been permanently debarred/disqualified from appearing in any examination or selection ;

(c) If he is found either directly or indirectly influencing the selection process in any manner;

(d) If he is a man, has more than one wife living and if a woman, has married a man already having another wife; or

(e) If he is an undercharged insolvent.

(2) Every person applying for appointment to the service, at the bottom of the application in the format to be prescribed in the regulations, shall give a declaration that he does not suffer from

any of the aforesaid disqualifications and also that he conforms to all the eligibility criteria. The declaration shall also contain his undertaking that if the same is found false or incorrect, his candidature shall be liable to be cancelled or if appointed, his candidature shall be liable to be cancelled or if appointed, his appointment shall also be annulled.

7. Pay and allowances :-

(1) The Judicial Officers shall be paid the pay scales, as specified in column No. 6 of the schedule Dearness allowance and other allowances, as notified from time to time by the State Government shall also be admissible:

Provided that, no member of the service shall be entitled to draw his subsequent annual increments, unless he passes, by the prescribed standard, the departmental examination.

Explanation.- (i) The stoppage of increment for failure to pass departmental examination shall not be considered to be a penalty.

(ii) The increment or increments shall be released from the due date retro respectively to a judicial officer if he passes the departmental examination within the probation period.

(iii) The increment or increments shall be released to member of the service after he/she has passed the departmental examination

(2) The Pay of the member of the service shall be fixed where necessary under the provision of the rules in force in Himachal Pradesh, from time to time, provided that where the increment of a member is withheld for his failure to pass the departmental examination, he shall not be entitled before he passes the departmental examination by the prescribed standard, to the re-fixation of pay on the basis of enhancement in his substantive or officiating pay the time scale of the post held by him prior to his appointment to the service. However, during this period he may be allowed his substantive pay, from time to time, if the same happens to be more than his officiating pay in the service.

8. Direct appointment to the posts of Direct Judges and Civil Judges (Junior Division) :-

The High Court shall, after completing the process of competitive examination, as may be prescribed and conducted by it in accordance with the regulation for the cadre of the District Judges/ Additional District Judges, forward its recommendation to the Government for appointment of the candidates selected by it, as

included in the select list and on receipt of such recommendations from the High Court, the Government shall subject to the provisions of Rule 9 issue notification appointing such persons as judicial Officers in the said cadre : Provided further that the Himachal Pradesh Public Service Commission shall after completing the process of the competitive examination written as well as oral (viva voce)test to be conducted by it for the cadre of Civil Judges (Jr. Division) forward its recommendations to the State Government for appointment of candidates selected by it, as included in the select list and on the receipt of such recommendations from the Himachal Pradesh Public Service Commission, the Government in consultation with High Court subject to provisions of Rule 9 may issue notification appointing such persons as Civil Judges (Jr. Division).

9. Condition relating to suitability, fitness character :-

No person selected for appointment by direct recruitment shall be appointed:-

- (i) unless the appointing authority is satisfied that the is of good character and is in all respects suitable for appointment to the service : and
- (ii) unless he is certified by the medical authority specified by the High Court for the purpose that he is medically fit to discharge the duties of the post to which he is selected for appointment.

10. Probation and officiation :-

- (1) All appointment to the service by direct recruitment shall be on probation for a period of two years.
- (2) All appointment by promotion shall be on officiating basis for a period of two years.
- (3) The period of probation or officiation, as the case may be for reasons to be recorded, in writing may be extended by the appointing authority by such period not exceeding the initial period of probation or officiation as specified in sub-rule (1) or (2).
- (4) At the end of the period of probation or officiation or the extended period of probation or officiation as the case may be, the appointing authority shall consider the suitability of the person so appointed or promoted to hold the post to which he was appointed or promoted and-
 - (i) If it decides that he is suitable to hold the post to which he was appointed and has passed the special examination or tests, if any,

required to be passed during the period of probation of officiation, as the case may be, it shall as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation or officiation, and such an order shall have effect from the date of expiry of the period of probation or officiation including extended period, if any.

(ii) If the appointing authority considers that the person is not suitable to hold the post to which he was appointed or promoted, as the case may be, it shall by order :-

(a) If he is a promoter, revert him to the post which he held prior to his promotion : or

(b) If he is a probationer, discharge him from service.

11. Discharge of a probationer during the period of probation :-

Notwithstanding anything contained in rule 10, the appointing authority may, at any time during the period of probation, discharge from services, a probationer on account of his unsuitability for the service.

12. Confirmation :-

A probationer who has been declared to have satisfactorily completed his probation and a promotee who has been declared to have satisfactorily completed his period of officiation shall be confirmed as a member of the service in the category of post to which he was appointed or promoted, as the case may be, at the earliest opportunity, in a substantive vacancy which may exist or arise.

13. Seniority :-

(1) Where officers are recruited to a cadre by promotion and direct recruitment: seniority shall be regulated by the roster maintained for such recruitment. Officer appointed against higher point of roster shall rank senior to the Officer appointed against a lower point: Provided that no person appointed to a cadre by direct recruitment shall, for the purpose of fixation of his seniority claim any particular place in seniority unconnected with the date of his actual appointment.

(2) Where more than one Officers are promoted to cadre at the same time inter-se seniority of persons so appointed shall be

determined by their interse seniority in the lower cadre.

(3) Where direct recruitment is made to a cadre, the inter-se seniority of person so recruited shall be in the order in which their names are arranged in the select list.

(4) Every year in the month of January seniority list of Officers in all cadres shall be prepared and published by the High Court and the lists so published shall be issued for the purpose of making promotions to the next higher cadres.

14. Age of superannuation :-

The age of superannuation of a member of the service shall be sixty years:

Provided that before the completion of fifty eight years of service, the High Court, with reference to the record of the Officer, quality of his judgments and his potential of utility in service, shall decide either to retire the Officer on completion of fifty eight years of service or grant him extension upto sixty years.

15. Retirement in public interest :-

(1) Notwithstanding anything contained in these rules, the Governor shall, on the recommendations of the High Court, if he is of the opinion that it is in the public interest so to do, have the absolute right to retire any member of the service who has attained their age of fifty years, by giving him notice of not less than three months, in writing, or three months pay and allowance in lieu of such notice.

(2) Where a member of the service should be retired in public interest under sub-rule (1) shall be considered at least three times that is, when he is about to attain the age of 50 years, 55 years and 58 years : Provided that nothing in sub-rule (2) shall be construed as preventing the consideration of question of retirement of a member of the service in the public interest at any time other than those mentioned therein.

(3) A member of the service, by serving a notice, in writing of not less than three months to the competent authority, may seek premature retirement from service:

Provided that no member of the service shall be eligible to seek premature retirement under this sub-rule unless he has completed a minimum of 30 years service or has attained the age of 50 years.

(4) The competent authority on receipt of notice in writing, of not less than three months, may allow an officer whose record is found

satisfactory by the said authority to retire on completion of 20 years of service or attaining the age of 50 years or thereafter. Any member of the service, who is allowed to retire from service under this provision, shall be given the benefit of five years additional service in the form of qualifying service of the purpose of pension subject to the condition that the total qualifying service of the officer does not in any case exceed 33 years and does not take him beyond the date of superannuation:

Provided that no member of the service who is under suspension or against whom any departmental proceeding is pending or contemplated or against whom any vigilance matter/departmental enquiry is going on, shall be permitted to retire either under sub-rule (3) or sub-rule (4) of this rule.

16. Residuary provision :-

For the matters not specified in these rules, the rules as are applicable to Class-I Officers of the State Government, shall mutatis mutandis be applicable to the members of the service.

17. Training :-

With respect to appointments made through direct recruitment, it shall be open to the High Court, by regulations made in this behalf, from time to time, to prescribe training schedules for the Officers appointed to the service and only on completion of such training as prescribed in such regulations, shall the officers be eligible for regular appointment.

18. Departmental Examination :-

Every person appointed by direct recruitment to the service after the commencement of these rules shall pass the departmental examination by the prescribed standard within two years from the date of his appointment and if any candidate fails to pass the departmental examination, he may be discharged from service/reverted to the post from which he was promoted. The departmental examination shall be conducted by the High Court in accordance with the regulations to be framed in this behalf, by the High Court :

Provided that the High Court may, for good and sufficient reasons, extend the period within which the person shall so pass the examination.

19. Conduct :-

The members of the service shall uphold the integrity and independence of Judiciary and shall also observe strict Judicial ethics, which have been or may be communicated by the High Court, from time to time.

20. Power to relax :-

Where, for reasons to be recorded in writing, the State Government in consideration with the High Court and Himachal Pradesh Public Service Commission is satisfied that operation of any particular provisions of these rules with respect to conditions of service, causes or is likely to cause undue hardship in any particular case or class of cases, the State Government may by order in writing in consultation with the High Court and Public Service Commission dispense with or relax such provisions of the rules or any such requirement as originating from such provisions to such extent and in such a manner as the State Government may deem proper, just or equitable.

21. Interpretation :-

If any question arises as to the interpretation of these rules, the same shall be decided by the State Government, in consultation with the High Court.

22. Repeal and Savings :-

(i) On the coming into force of these Rules, the Himachal Pradesh Higher Judicial Service Rules, 1973 and the Himachal Pradesh Judicial Service Rules, 1973, shall stand repealed.

(ii) Notwithstanding such repeal anything done or any action taken under the above rules be deemed to have been validly done or taken under these rules.

SCHEDULE 1

SCHEDULE

SCHEDULE

[See rule 3 (2)]

Sl. No.	Cadres	No of posts Permanent	Temporary	Total	Pay scale

1	2	3	4	5	6
					Masdter pay Scale Rs. 9000-250-10750-300 15950-400-19150-450-21850-500-24850.
1.	District Judges/Addl. Distt. Judges	24	6+1 (Leave Reserve cum Deputation).	31	(a) Initial Scale Rs. 16750-400-19150-450-20500.
					(b) Selection Grade (25% of the cadre strength) Rs. 18750-400-19150-450-21850-500-22850.
					(c) Super Time Scale (10% of the cadre strength): Rs. 22850-300-24850
2.	Civil Judges (Sr. Divn.)	34	-----	34	(a) Initial Scale Rs. 12850-300-13150-350-15950 400-17550
					(b) 1st Stage Assured Career Progression Scale after five years service as Civil Judge (Senior Division): Rs. 14200-350-15950-400-18350.
					(c) 2nd Stage Assured Career

					Progression Scale (on completion of five years service in Assured Career Progression 1st Stage Scale): Rs. 16750-400-19150-450-20500
3.	Civil Judges (Jr. divn.)Divn.).	54	----	54	(a)Initial Pay Scale Rs. 9000-250-10750-300 13150-350-14550.-
					(b) 1st Stage Assured Career Progression Scale (after five years service): (Rs. 10750-300-13150-350-14900.
					(c) 2nd Stage Assured Career Progression Scale (after 5 years service in the 1st stage Assured Career Progression Scale): Rs. 12850-300-13150-350-15950-400-17550