

## **Maharashtra Judicial Service Rules, 2008**

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#### **SCHEDULE 1 :- SCHEDULE I**

## **Maharashtra Judicial Service Rules, 2008**

(As amended up to 31.12.2010) No. HCT/3004/49/C.R. No.9/III. In exercise of the powers conferred by Articles 233, 234 and the proviso to Article 309 of the Constitution of India read with Article 235 and in supersession of all the existing rules, orders or instruments made in this behalf, the Governor of Maharashtra after consultation with the Maharashtra Public Service Commission and the High Court of Bombay, is hereby pleased to make the following rules regulating the recruitment to the Maharashtra Judicial Service, namely:-

## **1. Short Title :-**

These rules may be called the Maharashtra Judicial Service Rules, 2008.

## **2. Definitions :-**

In these Rules, unless the context requires otherwise,

- (a) "Commission" means the Maharashtra Public Service Commission;
- (b) "Degree in Law" means a degree qualifying the holder for enrollment as an Advocate under the Advocates Act, 1961;
- (c) "Government" means the Government of Maharashtra;
- (d) "Government Advocate" includes 1 Government Pleader, Additional Government Pleader, Assistant Government Pleader, SubGovernment Pleader and also Advocate appointed by local bodies;
- (e) "Governor" means the Governor of Maharashtra;
- (f) "High Court" means the High Court of Judicature at Bombay;
- (g) "Official Gazette" means the Maharashtra Government Gazette;
- (h) "Public Prosecutor" 2means Additional and Assistant PublicProsecutors, but does not include the full time and salaried Public Prosecutor;"
- (i) "Recruiting Authority" means the High Court or the Commission, as the case may be;
- (j) "Service" means the Maharashtra Judicial Service;
- (k) "State" means the State of Maharashtra. The Rules were published by Law and Judiciary Department, Mantralaya, Mumbai vide Notification dated 25 th August, 2008 in the Gazette of Government of Maharashtra, Part IVA dated 27 th August, 2008. 1. Inserted vide notification dated 31.12.2010. 2. Substituted vide notification dated 31.12.2010 for the words "includes Additional and Assistant Public Prosecutor".

### CHAPTER 2

#### CONSTITUTION OF SERVICE

## **3. Constitution Of The Service :-**

- (1) There shall be constituted a State Service known as the Maharashtra State Judicial Service and such service shall be deemed to have been constituted with effect from the 1 st day of July 1996.
- (2) The service shall consist of the cadres specified in column (2) of the Schedule appended herewith and the character and number of posts in each of those cadres shall be as specified in the corresponding entries in column (3) thereof.
- (3) With effect from the date of commencement of these Rules, the existing cadres specified in column (2) of the TABLE A below, shall stand designated as the cadres specified in the corresponding entries in column (1) thereof and initially they shall constitute the service, namely TABLE A

	(1)	(2)
(a)	District Judges	(i) District Judges;
		(ii) Additional District Judges;
		(iii) Principal Judge, Additional Principal Judge and Judges

		of City Civil and Sessions Court, Mumbai
(b)	Senior Civil Judges	(i) Chief Metropolitan Magistrate;
		(ii) Additional Chief Metropolitan Magistrates;
		(iii) Judges of Court of Small Causes and Metropolitan Magistrates;
		(iv) Civil Judges, Senior Division.
(c)	Civil Judge, Junior Division	(i) Civil Judge, Junior Division.

(c) Civil Judge, Junior Division

(i) Civil Judge, Junior Division.

(4) Selection Grade District Judges and Super Time Scale District Judges. The High Court shall confer Selection Grade and Super Time Scale on meritcum seniority basis to the officers in the cadre of District Judges as indicated in the TABLE B below, namely : TABLE B

<b>Cadre</b>	<b>Eligibility</b>	<b>Total Number of Officers eligible</b>
(1)	(2)	(3)
Selection Grade	Five years of service as District Judges.	25% of the cadre strength of District Judges.
Super Time Scale	Three years of service as Selection Grade District Judges.	10% of the cadre strength of District Judges.

Upon conferment of such Selection Grade or Super Time Scale, such District Judges shall be called "Selection Grade District Judges" or "Super Time Scale District Judges", as the case may be.

(5) Assured Career Progression Scales :

(i) A Civil Judge, Junior Division or a Senior Civil Judge shall be entitled to be considered for conferment of the First Assured Career Progression Scale on completion of five years of service as Civil Judge, Junior Division or a Senior Civil Judge, as the case may be, if,

(a) he has not been promoted;

(b) the High Court finds him fit to be conferred with Assured Career Progression Scale and his performance as reflected in annual confidential reports is not less than average;

(ii) A Civil Judge, Junior Division or Senior Civil Judge shall be entitled to be considered for Second Assured Career Progression Scale on completion of ten years of service as Civil Judge, Junior Division or Senior Civil Judge, as the case may be, if,

(a) he has not been promoted;

(b) the High Court finds him fit to be conferred with 3 Second Assured Career Progression Scale and his performance as reflected in annual confidential reports is not less than "Good" 4 for a continuous period of five years commencing from any year after he gets the First Assured Career Progression Scale: Provided that no Judicial Officer shall be entitled to get the benefit of Assured Career Progression Scale-I or Assured Career Progression Scale-II, if i) his integrity is doubtful; ii) more than once warning or caution is issued against him; Note: Mere "advice" would not amount to "warning" or "caution"; iii) any of the minor penalties as mentioned in Rule 5(1)(i) to

(iv) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 is inflicted against him even on one occasion; iv) his average disposal for more than one year within the span of five years is found to be "inadequate"; v) he is retired compulsorily or gets retirement voluntarily, even after the relevant span of five years and if his case is pending for consideration for such benefit; vi) for any other reason the High Court finds him unfit to be conferred with Assured Career Progression Scale-I or Assured Career Progression Scale-II: 3. Inserted vide notification dated 31.12.2010. 4. Inserted vide notification dated 31.12.2010. Provided further that if the probation period of the Judicial Officer is extended, the grant of Assured Career Progression Scale-I or Assured Career Progression Scale-II shall be deferred proportionately to commensurate with the extended probation period.

### CHAPTER 3

### RECRUITMENT

#### **4. Appointing Authority :-**

The Appointing Authority for the cadre of District Judges and Civil Judge, Junior Division shall be the Governor and for promotion to the cadre of Senior Civil Judges shall be the High Court.

#### **5. Method Of Recruitment, Qualification And Age Limit :-**

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

TABLE C

S.N.	Cadre	Method of Recruitment	Qualifications, age limit, etc.
(1)	(2)	(3)	(4)
1.	District Judges	(a) 5 65% of the posts by promotion from the cadre of Senior Civil Judges on the basis of the principal of merit cum seniority and passing a suitability test.	Must have been in the cadre of Senior Civil Judges after successful completion of officiating period. Must have been officiating as a Senior Civil Judge for at least five years.
		(b) 6 10% of the posts by promotion strictly on the basis of merit through limited competitive examination from amongst the Senior Civil Judges. 7 Provided that if any of the posts could not be filled up from this 10% quota for want of eligible Judicial Officers, the same shall be filled up by regular promotion.	
		(c) 25% of the posts shall be filled by nomination from amongst the eligible persons practising as Advocates on the basis of a written and vivavoce test conducted by the High Court.	(a) Educational qualification Must hold a degree in Law. (b) Experience - Must be practising as an Advocate in the High Court or Courts subordinate thereto for not less than 7 years on the date of publication of the advertisement 8 and while computing the period for practising as an Advocate, the period during which he has held the post of Public Prosecutor or Government Advocate or Judicial Officer shall be included; OR Must be working or must have worked as Public Prosecutor or Government Advocate for not less than 7 years in the post or posts 8 on the date of publication of the advertisement and while computing the period of 7 years, the period during which the candidate has practised as an Advocate shall be included: Provided that a full time salaried Public Prosecutor, Assistant / Additional Public Prosecutor, Law Officer of the Central Government or State Government or of any Public Corporation or Body constituted by Statute, shall not be eligible for the post of District Judge.
<p>8. Substituted vide notification dated 31.12.2010. Prior to that it was as under: (b) Experience – Must be practicing as an Advocate in the High Court or Courts subordinate thereto for not less than 7 years on the date of publication of advertisement.</p> <p>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 he has held the post of a Public Prosecutor or Government Pleader or Judicial Officer. Or</p> <p>Must be working or must have worked as Public Prosecutor or Government Advocate for not less than 7 years in the post or posts. In computing the period of 7 years, the period during which the candidate has worked as an Advocate shall also be included.</p>			
			(c) Age Must have attained the age

			<p>of thirtyfive years and must not have attained the age of Forty-eight years in the case of candidates belonging to communities recognised as backward by the Government for the purpose of recruitment and forty-five years in the case of others, as on the date of publication of Advertisement. (d) Knowledge of Marathi Must be certified by the Principal Judge of the District, where the candidate practises, or within whose jurisdiction he ordinarily resides, to have sufficient knowledge of Marathi to enable him to speak, read, write and translate with facility from Marathi into English and viceversa.</p>
2.	Senior Civil Judges	By Promotion from the cadre of Civil Judge, Junior Division selected by the High Court on the basis of meritcum seniority.	<p>Must have been in the cadre of Civil Judge, Junior Division for a period not less than three years after successful completion of probationary period.</p>
3.	Civil Judge, Junior Division	(A) By nomination on the basis of aggregate marks obtained in a competitive examination conducted by the Commission in terms of the Examination Scheme as may be framed by the High Court.	<p>(a) Educational qualification Must hold a degree in Law. (b) Experience – Must have practised as an Advocate in the High Court or Courts subordinate thereto for not less than three years on the date of publication of Advertisement; or Must be a fresh Law Graduate who, (i) has secured the degree in law by passing all the examinations leading to the degree in the first attempt; (ii) has secured in the final year examination of the degree in Law or in the case of candidates holding Master's Degree in Law in final year exam, not less than fifty five percent marks; or Must be working or must have worked as Public Prosecutor or Government Advocate for not less than three years in the post or posts. In computing the period of three years, the period during which the candidate has worked as an Advocate shall also be included; or Must be a member of Ministerial Staff (i) of High Court or Courts subordinate thereto; or (ii) of Offices of the Government Pleaders attached to those Courts; or (iii) working as Legal Assistant and above in the Legal Section of Law and Judiciary Department in Mantralaya provided such employee has put in minimum three years of service after obtaining Degree in Law. (c) Age – Not less than twenty one years and not more than,</p>
			<p>(i) thirty five years in the case of Advocates with three years practice, (ii) twenty five years in the case of fresh</p>

		<p>law graduates, (iii) forty five years in the case of ministerial staff.</p> <p>Provided that upper age limit in each of the above categories may be relaxed by five years in respect of candidates belonging to communities recognised as backward by the Government</p>
		<p>for the purpose of recruitment;</p> <p>(d) Knowledge of Marathi Candidate must have sufficient knowledge of Marathi so as to enable him to speak, read and write in Marathi and to translate with facility from Marathi into English and vice versa. Such knowledge must be certified, (i) in case of an Advocate, by the Principal District Judge of the District where he practises;</p> <p>(ii) in case of a fresh law graduate, by Principal or Head of the College or University department where the candidate was enrolled for LL.B. or LL.M. Degree;</p> <p>(iii) in case of members of Staff, by the Head of the Office under whom such candidate is working; (iv) in special circumstances, by re employment of retired Civil Judges (Junior Division);</p> <p>(e) the candidates must pass Marathi language test within six months as per Government Rules.</p>

## **6. Recruitment By Nomination :-**

(1)(a) On or before the 15 th January of every year in case of the Civil Judge, Junior Division and in case of District Judges the 31 st March of every year, the Recruiting Authority shall be informed of the number of existing vacancies and the vacancies that are likely to occur within one year for the post of Civil Judge, Junior Division and District Judge.

(b) Every year the Recruiting Authority shall, by advertisement in the Official Gazette and in at least two newspapers, invite applications in such form as it may determine, for intending candidates, who possess the qualifications for filling in the vacancies. 9

(c) For the purpose of shortlisting the candidates, the Recruiting Authority may, if necessary, hold preliminary written examination comprising of multiple choice objective type questions, which can be scrutinized by computers and call upon the candidates obtaining the cutoff marks, as may be fixed by the Recruiting Authority, to appear for final written examination, maintaining the ratio of 1:10 of the available vacancies to the successful candidates: Provided that if there are more than one candidates who have secured identical cutoff marks as fixed by the Recruiting Authority for maintaining ratio of 1:10, all such candidates shall be called upon to appear for final written examination. 10

(d) (i) The Recruiting Authority shall hold written examinations in Civil Law and Criminal Law, carrying 100 marks each, having duration of 3 hours each, respectively, for the post of Civil Judge, Junior Division and for the post of District Judge to be filled up by nomination;

(ii) The medium of written examination for the post of Civil Judge, Junior

Division shall be either Marathi or English. The candidate shall specifically mention in his application form about his choice of medium. Choice once given shall not be allowed to be changed subsequently in any case;

(iii) The medium of written examination for the post of District Judge shall be English.

(e) The candidate applying for being appointed by nomination who secures not less than 50 marks in each paper and not less than 60% of marks in aggregate shall be eligible for vivavoce carrying 50 marks: Provided that the Scheduled Castes and Scheduled Tribes candidates who secure not less than 45% marks in each paper and not less than 50% of marks in aggregate shall be eligible for the vivavoce: Provided further that, the Recruiting Authority shall call the candidates for vivavoce in the ratio of 1:3 of the available vacancies to the successful candidates: Provided also that if there are more than one candidates who have secured identical cutoff marks as fixed by the the Recruiting Authority for maintaining the ratio of 1:3, all such candidates shall be called upon to appear for vivavoce: 9. Substituted vide notification dated 31.12.2010. Prior to that it was as under:

(c) The Recruiting Authority shall hold the final examination of two hundred marks for the category of District Judges referred to in subrule (1) of rule 12 of these rules. 10. Substituted vide notification dated 31.12.2010. Prior to that it was as under:

(d) The Recruiting Authority shall hold a written examination of one hundred marks each in Civil Law and Criminal Law, respectively, for the category of Civil Judge, Junior Division referred in subrule (2) of rule 12 of these rules. 11. Substituted vide notification dated 31.12.2010. Prior to that it was as under:

(e) The Recruiting Authority shall hold viva voce examination carrying fifty marks.. Provided also that only such candidate who obtains at least 40% of marks in vivavoce test shall be eligible for selection.

(f) The object of the vivavoce examination under these Rules is to assess the suitability of the candidate for the cadre by judging the mental alertness, knowledge of law, clear and logical exposition, balance of judgment, skills, attitude, ethics, power of assimilation, power of communication, character, intellectual depth and the like of the candidate.

(2)(a) 13 The mode of evaluating the performance shall be specified in numerical marks obtained in written and vivavoce examination. The scheme of examination of the candidates including written and vivavoce shall be framed by the High Court in consultation with the Commission.

(b) A candidate who could not successfully pass the competitive written examination in three attempts, consecutively, shall be debarred from appearing for such examination.

(c) A candidate who has committed any copying or misconduct during course of written examination, or has been convicted in criminal case or is compulsorily retired, removed or dismissed from judicial service or could not successfully complete probation period of any post in judicial service shall not be eligible to appear for the Competitive Examination.

(3)(a) The Recruiting Authority, on the basis of cumulative marks secured by a candidate, shall prepare in the order of merit, a list of candidates eligible for appointment. The number of candidates to be included in the list shall be equal to the number of vacancies as on the date of examination.

(b) Besides the above list, the Recruiting Authority shall prepare wait list, equal to ten percent of the number of vacancies notified for recruitment or one, whichever is higher. 12. Inserted vide notification dated 31.12.2010. [Earlier it was Rule 12(3)] 13. Substituted vide notification dated 31.12.2010. Prior to that it was as under: Candidates who secure not less than fifty percent of marks in each paper in written examination shall be eligible for the vivavoce examination for appointment to the post of District Judge under 1(b) and 1(c) and Civil Judge, Junior division under 3(A) of the table c under Rule 4 and by nomination. Provided that Scheduled Caste or Scheduled Tribe candidates who obtain fortyfive percent or more marks in the written examination shall be eligible for the vivavoce examination: Provided further that the candidate who obtains 40% marks in vivavoce examination shall be eligible for selection.

(4)(a) The Recruiting Authority shall recommend the names of selected candidates by completing the selection process.

(b) The Government within two months of the names of the selected candidates being forwarded to it shall complete the process of verification of antecedents and medical examination and issue appointment orders.

(c) The lists so prepared under clause (a) of subrule (3) above shall be published within one month of preparation in the Official Gazette and cease to be operative on the expiry of one year from the date of such publication.

(d) The High Court may issue the posting orders after appointments are notified by the Government.

(5) Every candidate applying for appointment by nomination shall furnish such certificates, from two respectable persons unconnected with his College or University and not related to him, testifying to his character, on declarations as to educational qualification, experience, age, caste, etc. as may be required by the Recruiting Authority, besides certificates.

(6) The decision of the Recruiting Authority as to the eligibility or otherwise of a candidate for admission to the written and vivavoce examination shall be final.

(7) Candidates whose names are included in the list prepared under clause (a) of sub rule (6) above shall be considered for appointment in the order in which their names appear in the list and subject to rule 8, they may be appointed by the appointing authority in the vacancies notified under clause (a) of subrule 1 above. Candidates whose names are included in the wait list shall be considered for appointment after the candidates whose names are included in the list published under subclause (a) of sub rule (3) above have been appointed and have not joined or have not been appointed for any reason. Inclusion of the name of a candidate in any list prepared under clause (3) shall not confer any right of appointment on such candidate.

## **7. Disqualification For Appointment :-**

No person shall be eligible for appointment to the service:

(a) if he is not a citizen of India;

(b) if he is compulsorily retired, removed or dismissed from judicial service or from service in Government or Statutory or Local Authority or failed to complete probation period in judicial service on any post, or in Government or Statutory or Local Authority; or

(c) if he has been convicted of an offence involving moral turpitude or he is or has been permanently debarred or disqualified by the High Court or the Union



Public Service Commission or any State Public Service Commission from appearing for examinations or selections conducted by it; or

(d) if he directly or indirectly influences the Recruiting Authority by any means for his candidature; or

(e) if he is a man, has more than one wife living and if a woman has married a man already having another wife; or (f) if he has more than two children.

Explanation : For the purposes of this clause, where a couple has only one child, any number of children born out of a single subsequent delivery shall be deemed to be one child. 14 Provided that, a person having more than two children on the date of commencement of the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 (i.e. Government Notification General Administration Department, No. SRV. 2000/C.R.17/2000/12, dated the 28th March 2005) shall, not be disqualified for appointment under this clause so long as the number of children he had on the date of commencement of these Rules does not increase: Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause.

#### **8. Conditions Relating To Suitability, Fitness And Character :-**

(1) No person selected for nomination shall be appointed,

(i) unless the Appointing Authority is satisfied that he is of good character and is in all respects suitable for appointment to the service;

(ii) unless he is certified by the medical authority specified by the High Court that he is medically fit to discharge the duties of the post for which he is selected.

#### **9. Fees :-**

Every candidate for nomination may be required to pay such fees as may be specified in the notification inviting applications. 14. Inserted vide notification dated 31.12.2010.

#### **10. Joining Time For Appointment :-**

(1) A candidate selected for nomination shall report for duty before the Authority on the date specified in the order of posting.

(2) Notwithstanding anything contained in subrule (1), the High Court may, on the application of the candidate, if satisfied that there are good and sufficient reasons for doing so, by order in writing, grant such further time as deemed necessary.

(3) The name of the candidate who fails to assume charge of the post within the time specified in the subrule (1) or within the further time granted under subrule (2) shall stand deleted from the list of selected candidates and he shall cease to be eligible for appointment.

#### **11. Appointment By Promotion :-**

(1) to fill a vacancy required to be filled by promotion, the Recruiting Authority shall take all necessary steps well in advance so as to finalise the list of persons considered eligible for promotion at least fifteen days before the occurrence of

the vacancy. For this purpose, the Authority may follow an Annual Programme similar to the one prescribed in subrule (1) of rule 6 above.

(2) (a) Promotion of Civil Judges Junior Division to the post of Senior Civil Judges shall be made on the basis of evaluation of their Judgements carrying 50 marks, evaluation of Annual Confidential Reports carrying 20 marks, Vigilance Reports carrying 15 10 marks, 16 Disposal Remarks carrying 10 marks and Special Reports of the Heads of the Departments under whom the candidate has worked during three years preceding the year of selection carrying 10 marks. 17

(b) The Recruiting Authority shall draw up a list of officers from the zone of consideration out of those Civil Judges, Junior Division, who have obtained at least 60% marks in the evaluation referred to in the preceding clause, provided the selection committee does not entertain any doubt about the integrity of the concerned officer. If the number of officers who have obtained at least 60% marks is more than the number of vacancies to be filled in the next one year, they shall be picked up in the order of their seniority in the cadre of Civil Judges, Junior Division and their names in the select list shall be arranged in accordance with their seniority in the cadre of Civil Judges, Junior Division. Appointments shall be made from the list so prepared.

(c) An additional list of Officers equal to ten percent of the expected number of vacancies may also be similarly prepared.

(3)(i) Promotion to 18 65 percent of the posts under rule 5(1)(a) shall be made by suitability test to examine the legal knowledge, continued efficiency and adequate knowledge of the Case Law. 15. Substituted vide notification dated 31.12.2010 for the figure "20". 16. Inserted vide notification dated 31.12.2010. 17. Substituted vide notification dated 31.12.2010. Prior to that it was as under:

(b) The Recruiting Authority shall draw up a list of Officers from the zone of consideration in accordance with the marks obtained by the officers in the evaluation referred in the preceding clause. Officers equal to the number of vacancies to be filled in the next one year shall be picked up in order of marks obtained by them. The names of such Officers shall be rearranged in accordance with their seniority in the cadre of Civil Judges, Junior Division. Appointments shall be made from the list so prepared in the succeeding year. 18. Substituted vide notification dated 31.12.2010 for 50. 19 For promotion of Senior Civil Judges to the cadre of District Judges under Rule 5(1)(a), the Recruiting Authority shall call upon the eligible Judicial Officers in the ratio of 1:3 of the available vacancies to submit their judgments for evaluation. The suitability for promotion of Senior Civil Judges to the cadre of District Judges under this Rule shall be considered on the basis of evaluation of their judgments carrying 50 marks, evaluation of Annual Confidential Reports carrying 20 marks, Vigilance reports carrying 10 marks, disposal remarks carrying 10 marks and special reports of the heads of the departments under whom the Judicial Officer has worked during three years preceding the year of selection carrying 10 marks and viva voce examination carrying 50 marks. Subject to clause (iii) of subrule (3), the Recruiting Authority shall draw up a list of officers from the zone of consideration out of those Senior Civil Judges, who have obtained at least 60% marks in the evaluation referred to in the preceding clause, provided the selection committee does not entertain any doubt about the integrity of the concerned Judicial Officer. If the number of officers who have obtained 60% marks or more is more than the number of vacancies to be filled up in the next

one year, they shall be picked up in the order of their seniority in the cadre of Senior Civil Judges and their names in the select list shall be arranged in accordance with their seniority in the cadre of Senior Civil Judges. Appointments shall be made from the list so prepared. 20 (ii) (a) For accelerated promotion of Senior Civil Judges to the posts of District Judges under Rule 5(1)(b), the Recruiting Authority shall hold a limited Departmental Competitive Examination carrying 200 marks having duration of 90 minutes, comprising of 100 multiple choice objective type questions, which can be scrutinised by computers and call upon the candidates obtaining the cutoff marks, as may be fixed by the Recruiting Authority, to appear for vivavoce in the ratio of 1:3 of the available vacancies: 19. Inserted vide notification dated 31.12.2010. 20. Substituted vide notification dated 31.12.2010. Prior to that it was as under:

(ii) Promotion of Senior Civil Judges to the post of District Judges under rule 5(1)(b) shall be made on the basis of their performance at a Written Competitive Examination of 200 marks, evaluation of their Judgments carrying 50 marks, evaluation of Annual Confidential Reports carrying 20 marks, Vigilance Reports carrying 20 marks, Special Reports of the Heads of the Departments under whom the candidate has worked during three years preceding the year of selection carrying 10 marks and viva voce examination carrying 50 marks. Provided that if there are more than one Judicial Officers who have secured identical cutoff marks as fixed by the Recruiting Authority for maintaining the ratio of 1:3, all such candidates shall be called upon to appear for vivavoce.

(b) The Recruiting Authority shall call upon those Judicial Officers only to submit their judgments for evaluation, who would come in the zone of consideration for vivavoce.

(c) The final selection of such Senior Civil Judges for the accelerated promotion under Rule 5(1)(b) shall be made on the basis of their performance at the above referred examination carrying 200 marks, evaluation of their judgments carrying 50 marks, Annual Confidential Reports carrying 20 marks, Vigilance Reports carrying 10 marks, Disposal Remarks carrying 10 marks, Special Reports of the Heads of the Departments under whom the Judicial Officer has worked during three years preceding the year of selection carrying 10 marks and vivavoce carrying 50 marks.

(iii) Only such Judicial Officer, who obtains at least 40% of marks in vivavoce test shall be eligible for being promoted under Rule 5(1)(a) or 5(1)(b).

## **12. Competitive Examinations :-**

21 (Deleted) 21. Deleted vide notification dated 31.12.2010. Prior to that, it was as under: 12. Competitive Examination.

(1) The Competitive Examination or Written Examination for recruitment to the posts of District Judges whether by nomination or promotion shall be of two hours duration carrying maximum 200 marks.

(2) The Competitive Examination for recruitment of Civil Judge, Junior Division shall consist of a Written Examination of two papers having duration of two hours each carrying 100 marks each in Civil Law and Criminal Law respectively.

(3) The object of the vivavoce examination under these Rules is to assess the suitability of the candidate for the cadre by judging the mental alertness, knowledge of law, clear and logical exposition, balance of Judgment, skills, attitude, ethics, power of assimilation, power of communication, character,

intellectual depth and the like of the candidate.

(4) The mode of evaluating the performance shall be specified in numerical marks obtained in written and oral examination. The scheme of examination of the candidates including written and viva voce shall be framed by the High Court in consultation with the Commission.

#### CHAPTER 4

#### PROBATION AND OFFICIATION

### **13. Probation And Officiation :-**

(1) All appointments to the service by nomination shall be on probation for a period of two years.

(2) All appointments 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 two years.

(4) Six months before the end of the period or 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 found suitable, issue an Order declaring him to have satisfactorily completed the period of Probation or Officiation, as the case may be, and such an Order shall have effect from the date of expiry of the period of Probation or Officiation, including extended period, if any, as the case may be;

(ii) if the Appointing Authority finds 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 promotee, revert him to the post which he held prior to his promotion;

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

(5) No person shall be deemed to have satisfactorily completed the period of Probation or Officiation, as the case may be, unless so declared by a specific Order to that effect.

### **14. Discharge Of A Probationer During The Period Of Probation :-**

Notwithstanding anything contained in rule 13, 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.

### **15. 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, in any substantive vacancy which may exist or arise.

### **16. Increment During The Period Of Probation Or Officiation :-**

(1) A probationer or promotee may draw the increments that fall due during the

period of probation or officiation: Provided that, he shall not, draw any increment after the expiry of the period of probation or officiation unless and until he is declared to have satisfactorily completed his probation or officiation, as the case may be.

(2) When a probationer or promotee is declared to have satisfactorily completed his probation or officiation, as the case may be, he shall draw, as from the date such order takes effect, the pay he would have drawn had he been allowed the increments for the whole of his service from the date of his appointment on probation or officiation, as the case may be.

#### CHAPTER 5 MISCELLANEOUS

#### **17. Age Of Superannuation :-**

Every member of the Judicial Service shall retire by Superannuation on attaining the age of 60 years, subject to clearance by Special Review Committee constituted by the Chief Justice of the High Court for the purpose which Committee shall review the cases of all Judicial Officers by following the procedure prescribed for compulsory retirement under the Maharashtra Civil Service Rules applicable to them, on their attaining the age of 58 years: Provided that, the High Court may in suitable cases reemploy District Judges, subject to their physical fitness, upto the age of sixtytwo years, according to exigencies of situation.

#### **18. Addition Of Certain Service For Purpose Of Pension :-**

An Advocate appointed as a Civil Judge, Junior Division or a District Judge shall be entitled to reckon as service qualifying for Superannuation Pension, the actual period of practice put in by him at the Bar not exceeding three years or seven years respectively.

#### **19. Retirement In Public Interest :-**

Notwithstanding anything contained in these Rules the Governor shall, on the recommendation 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 when he attains the age of 50 years, 55 years or 58 years by giving him notice of not less than three months in writing or three months pay and allowances in lieu of such notice.

#### **20. Residuary Provision :-**

The Conditions of Service of the Members for which no express provision is made in these Rules shall be determined by the Rules and Orders for the time being applicable to officers of Indian Administrative Service in the State and if those Rules be silent then by the provisions of the Maharashtra Civil Services Rules shall apply Mutatis Mutandis.

#### **21. Training :-**

(1)(a) Every person appointed by nomination to the service shall, undergo such training as may be prescribed by the High Court from time to time.

(b) A person may be deemed unsuitable for the purpose of rule 15 if his performance during the training is found to be unsatisfactory.

(2) Every Member of the Services shall be given such periodical training as the

High Court may, from time to time, prescribe.

**22. Repeal And Savings :-**

On and from the date of commencement of these rules or mentioned in rule 1, the Bombay Judicial Service Recruitment Rules, 1956 shall stand repealed: Provided that such repeal shall not affect the previous operation of the Rules so repealed and anything done or any action taken shall, in so far as it is not inconsistent with the provisions of these Rules may be deemed to have been done or taken under the corresponding provisions of these Rules and shall continue in force unless and until specifically invalidated under the present rules.

SCHEDULE 1

SCHEDULE I

[See rule 3(2)]

<b>Sr. No.</b>	<b>Cadre</b>	<b>No. of Posts as on 31.10.2010</b>
(1)	(2)	(3)
1.	District Judges	313
2.	Senior Civil Judges	337
3.	Civil Judge, Junior Division	1118
<b>Total</b>		<b>1768</b>