

Rajasthan Higher Judicial Service Rules, 1969

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Rajasthan Higher Judicial Service Rules, 1969

In exercise of the powers conferred by Article 233 and the proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Governor of Rajasthan hereby makes the following rules in consultation with the High Court of Judicature for Rajasthan in respect of the Rajasthan Higher Judicial Service for the purpose of giving effect to the principles formulated by the High Court for making appointments, postings and promotions to the cadre of District Judges, and to provide for other ancillary matters, namely:-

PART 1 General

1. Short Title, Commencement And Application :-

(1) These Rules may be called the Rajasthan Higher Judicial Service Rules, 1969.

(2) They shall come into force at once.

(3) They shall apply to the members of the Rajasthan Higher Judicial Service.

2. Supersession Of Existing Rules :-

All existing rules relating to the matters covered by these rules are hereby superseded. Explanation.-For the purpose of application of the Rajasthan General Clauses Act, 1955 (Rajasthan Act 8 of 1955) to these rules, the supersession of the existing rules shall be construed as repeal of those rules.

3. Definitions :-

In these rules, unless there is anything repugnant in the subject or context:-

- (a) "Constitution" means the Constitution of India;
- (b) "Court" means the High Court of Judicature for Rajasthan;
- (c) "Direct recruitment" means recruitment in the matter prescribed by clause (ii) of rule 8;
- (d) "District Judge" includes Additional District Judge, Sessions Judge and Additional Sessions Judge;
- (e) "Government" "Governor" and "State" means, respectively, the Government, the Governor and the State of Rajasthan;
- (F) "Member of the Service" means a person appointed in 21 substantive capacity to a post in the service;
- (g) "Schedule" means a Schedule to these rules;
- (li) "Service" means the Rajasthan Higher Judicial Service.

4. Status Of The Service :-

The Rajasthan Higher Judicial Service is a State Service.

5. Constitution Of The Service :-

The service shall consist of District Judges.

PART 2 Cadre

6. Strength Of The Service :-

- (1) The strength of the Service shall, until orders varying the same have been passed under sub-rule (2), be as specified in Schedule I.
- (2) The strength of the service may be varied by the Governor, from time to time, in consultation with the Court.
- (3) Notwithstanding anything contained in sub-rule (1) and (2), the Governor may, in consultation with the Court, hold any appointment to the service in abeyance for such time as he deems fit, without thereby entitling any person to compensation.

PART 3 Principles and Procedure of Recruitment and Promotion

7. Principles And Procedure To Be Followed :-

For the purpose of recruitment to the service, the following principles and procedure of recruitment and promotion laid down by the Court shall be followed.

8. Sources Of Recruitment :-

Recruitment to the service shall be made-

(i) by promotion from amongst the members of the Rajasthan Judicial Service; or

(ii) by direct recruitment from persons who have been advocates for a period of not less than seven years.

9. Appointment To The Service :-

(1) Subject to the provisions of these rules, appointment of persons to the serviceshall be made by the Governor on the recommendation of the Court made from time to time: Provided that the number of persons appointed to the service by direct recruitment shall at no time exceed one thirdof the total strength of the service. I

(2) Subject to the provisions of sub-rule (1), after every three persons appointed by promotion, the fourth personshall, as far as possible, be appointed by direct recruitment. If a suitable person is not available for appointment bydirect recruitment, the post may be filled by promotion from amongst the members of the Rajasthan Judicial Service.

10. Reservation For Scheduled Caste, Scheduled Tribes, Other Backward Classes And Women Candidates :-

(1) Reservation for Scheduled Castes and Scheduled Tribes Candidates shall be at the time of initial recruitment only in the proportion of 16% and 12% respectively of the vacancies advertised. In the event of non-availability ofeligible candidates amongst the Scheduled Castes and Scheduled Tribes, as the case may be, in a particular year, the vacancies so reserved for them shall be filled in accordance with the normal procedure and equivalent number of vacancies which remain so unfilled shall be carried forward to the subsequent three years in total and thereafter suchreservation would lapse.

(2) Reservation for other Backward Classes shall be at the time of initial recruitment only in the proportion of 21%of the vacancies advertised. In the event of non-availability of eligible and suitable candidates amongst Other BackwardClasses in particular year, the vacancies so reserved for them shall be filled in accordance with the normal procedure.

(3) Reservation for Women Candidates shall be 20% category wise in direct recruitment. In the event of non-availability of the eligible and suitable women candidates in a particular year, the vacancies so reserved for themshall be filled in accordance with the normal procedure and such vacancies shall not be carried forward to

the subsequent year, and. the reservation shall be treated as horizontal reservation i.e. the reservation of Women Candidates shall be adjusted proportionately in the respective category to which the Women Candidates belong.

Recruitment By Promotion

11. Eligibility :-

No member of the Rajasthan Judicial Service shall be eligible for promotion to the service unless he. has served for seven years in that service.

12. Criterion For Selection :-

For the purpose of recruitment to the service by promotion under clause (i) of rule 8, the selection shall be made on the basis of seniority-cum-merit from amongst the members of the Rajasthan Judicial Service who are eligible for such promotion under rule 11.

13. Procedure For Selection :-

(1) After a decision is taken by the Court as to the number of persons to be recruited by promotion, the selection shall be made by the Court from amongst the members of the Rajasthan Judicial Service who satisfy the criterion laid down in rule 12.

(2) A list of the selected officers shall be made in the order the Court may determine, and the names of the officers shall be recommended for appointment to the service in the order given in that list having regard to the provisions of rule 9.

(3) At the time when a fresh list has to be drawn up the cases of all the eligible officers shall again be considered by the Court on merits.

1. /Amended by N.O. F 19

(2) JutU2003 dt. 17.04.2003 2. Notr?ctmoit N.O. F 19(14) Jud]-90 Part-I dt 25.10.99 Raj. Griz. Ext) Pt. IV-CU) dz. 25.10.99 P. 133(3).

14. Age :-

A candidate for direct recruitment to the service must have attained the age of 35 years and must not have attained the age of 45 years on the first day of January preceding the last date fixed for submission of the application: Provided that for direct recruitment in the years, 1968, 1969, 1970, "1971 and 1972 the upper age limit shall not apply to any candidate who is a Released Commissioned Officer as defined in clause (e) of sub-rule (i) of rule 3 of the Rajasthan Civil Services (Recruitment of Released Emergency Commissioned and

Short Services Commissioned Officers) Rules. 1968, if he fulfills the qualifications laid down in rule 15.

15. Qualifications :-

A candidate for direct recruitment to the service-

- (i) must be a citizen of India, and
- (ii) who has been an advocate for a period of not less than seven years.

16. Character And Physical Fitness :-

(1) The character of a candidate must be such as to render him suitable in the opinion of the Court in all respects for appointment to the service. He must produce a certificate of good character from the District Judge of the District in which he has been practicing as a lawyer and two such certificates, written not more than six months prior to the date of submission of application to the Court, from two responsible persons not related to him.

(2) A person dismissed by the Central Government or by a State Government or convicted of an offence involving moral turpitude shall not be eligible for appointment.

(3) No person shall be appointed as a member of the service by direct recruitment unless he is in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his duties as a member of the service. Before a candidate is finally approved for appointment by direct recruitment, he shall be required to appear before a medical board which will examine him and certify if he is fit for appointment to the service.

17. Notice Of Recruitment :-

Applications for direct recruitment to the service shall be invited by the Court by publishing a notice to that effect in the Rajasthan Rajpatra and in such other manner as it may deem fit.

18. Form Of Application :-

Applications shall be made in the form prescribed by the Court and obtainable from the Registrar of the Court on payment of a fee of Rs. 5/-.

19. Channel Of Submission Of Application :-

An application shall be submitted through the District Judge of the district in which the candidate is practising as an advocate, who

shall send to the Court in respect of each applicant, his own estimate of the applicant's character and fitness for appointment to the service. Each application must be accompanied by the Matriculation or equivalent certificate, certificate stating the period for which he has practised as an advocate, certificate of character and such other documents as may be prescribed by the Court.

20. Scrutiny Of Application And Interview :-

(1) The Court shall scrutinise the applications received in accordance with the provisions of rule 19 and thereafter call for interview only those who, in its opinion, are fit to be called for that purpose.

(2) Such candidates shall be interviewed by a Committee constituted by the Court consisting of the Chief Justice, the Administrative Judge and two other Judges.

(3) The recommendation of the Committee shall be placed before the Full Court with the relevant record and the Court shall make the final selection of the candidate or candidates suitable for appointment to the service in order of merit. 1. Amended by N0. Ff 19(2) Jud/2003 dr. 17.04.2003. -

(4) Notwithstanding anything hereinbefore contained; if the number of persons selected in accordance with the above mentioned provisions is less than the number of posts required to be filled, by direct recruitment, the Court may select persons to fill the remaining vacancies even from amongst those advocates who have not applied under rule 19 but fulfil the qualifications laid down in clause (ii) of rule 5 and are considered to be fit for appointment to the service.

21. List Of Candidates Selected By Direct Recruitment :-

The Court shall prepare a list of all the Candidates whom it considers suitable for appointment to the service arranging their names in the order in which they are to be appointed and shall recommend their names to the Governor for appointment to the service having regard to the provisions of rule 9.

TEMPORARY OR OFFICIATING APPOINTMENT

22. Temporary Or Officiating Appointment :-

On the occurrence of temporary [or permanent] vacancies the Court shall recommend to the Governor the names of the candidates from amongst the persons who are eligible for appointment to the service by promotion under clause (i) of rule 8, [for temporary or officiating appointment]

APPOINTMENT TO SELECTION GRADE

23. Appointments To Posts In The Selection Grade :-

Appointments to the posts in the selection grade of the services shall be made by the Governor in consultation with the Court on the basis of merit.

PART 4 Seniority, Probation and Confirmation

24. Seniority :-

Subject to the other provisions of these rules, seniority in the service shall be determined by the date of the order of substantive appointment in a permanent vacancy including appointment on probation under rule 25: Provided that a promoted officer who may have been allowed to officiate continuously against a permanent vacancy in the cadre from a date, prior to the date of appointment of a direct recruit, shall, if he is subsequently selected and substantively appointed in the service, take his seniority in the cadre over such direct recruit: Provided further that the seniority of candidates appointed to the service shall in the case of the appointment of more persons than one to service by an order of the same date, follow the order in which their names have been recommended by the Court.

25. Probation :-

All persons appointed to the service by direct recruitment under clause (ii) of rule 8 shall be placed on probation for a period of two years.

26. Service When Dispensed With Or Period Of Probation Extended :-

(1) If it appears at any time during or at the end of the period of probation that an officer has not made sufficient use of his opportunities or if he has otherwise failed to give satisfaction, the Governor may in consultation with the Court dispense with his services: Provided that the Governor may, in special cases in consultation with the Court, extend the period of probation of such officer by a specified period not exceeding one year.

(2) An officer whose services are dispensed with during or at the end of the original or extended period of his probation under sub-rule (1) shall not be entitled to any compensation.

27. Confirmation :-

A probationer shall be confirmed in his appointment at the end of the original or extended period of his probation if the Governor, after consultation with the Court, is satisfied that he is fit for confirmation.

PART 5 Other Provisions

28. Scale Of Pay :-

(1) The scale of monthly pay admissible to the members of the service shall be as follows:- Rs.2000-100-2500 Rs.900-50-1000-60-1600-50-1800 Selection Scale - Ordinary time-scale - -

(2) In addition to the pay which may be drawn under sub-rule(I), a member of the service who is appointed to any of the posts specified in column 2 of Schedule II, shall receive the amount specified, in column 3 thereof as special pay.

29. Initial Pay :-

(1) The initial pay of a person appointed to the service shall be fixed in the ordinary time scale:-

(a) if such appointment has been made by promotion under clause (1) or rule 8, at the stage equal to the officers actual pay on the lower post plus Rs. 200/-, and in case there is no stage equal to the officers actual pay, at the stage next above the officers actual pay plus Rs. 200/-. The date of increment shall remain unchanged in both the cases provided that when the pay is fixed at the minimum of the time-scale and the pay so fixed and the pay drawn in lower post results in a benefit of an amount exceeding Rs. 200/- the next increment shall be admissible after completion of service for full incremental period counting for increment under rule 31 of the Rajasthan Service Rules.

(b) if such appointment has been made by direct recruitment under clause (ii) of rule 8, at Rs. 900 in case such person has practised for seven years- at Rs. 950 in case such person has practised for eight years. at Rs. 1000 in case such person has practised for nine years- at Rs. 1060 in case such person has practised for ten years. at Rs. 1120 in case such person has practised for eleven years. at Rs. 1180 in case such person has practised for twelve years or more.

(2) An officer appointed by direct recruitment shall be eligible to draw increments as they fall due during the period of probation, provided that if the period of probation is extended, such extension shall not count for increment unless the governor on the recommendation of the court otherwise directs.

(3) The officiating pay of a person appointed temporarily under rule 22, shall be fixed in accordance with clause (a), sub-rule (1), and if such officer without any break is later on appointed substantively, he

shall continue to draw the same pay as he was drawing in officiating capacity.

29A. Initial Pay Of Persons Appointed As District Judges Prior To The Coming Into Force Of These Rules :-

The initial pay of the persons appointed as District Judges prior to the coming into force of these rules shall be fixed in accordance with the principles laid down in Schedule IV: Provided that the pay of an officer belonging to the defunct cadre of Civil and Additional Sessions Judges, who consequent upon the abolition of the cadre of Civil and Additional Sessions Judges, was appointed as Additional District and Sessions Judge on the 15th June, 1968, shall be fixed at the stage equal to the officers actual pay drawn as Civil and Additional Sessions Judge in substantive or officiating capacity on the 14th June, 1968 plus 200:1 and in case there is no equal stage, at the stage next above the officers actual pay drawn as Civil and Additional Sessions Judge in substantive or officiating capacity plus Rs. 200/-. The date of increment shall remain unchanged in both the cases provided that when the pay is fixed at the minimum of the time-scale and the pay so fixed and the pay drawn in lower post results in a benefit of an amount exceeding Rs. 200/-, the next increment shall be admissible after completion of service for full incremental period counting for increment under rule 31 of the Rajasthan Service Rules.

29B. Stepping Up Of Pay Of The Senior Officer If The Junior Officer Draws Higher Pay :-

(1) As a result of fixation of pay under rule 29 or 29A, if the pay of an officer appointed as District and Sessions Judge or Additional District and Sessions Judge by promotion or abolition of the cadre of Civil and Additional Sessions Judges respectively becomes less than the pay of the Junior Officer appointed as District and Sessions Judge or Additional District and Sessions Judge, pay of the Senior Officer shall be fixed at the stage equal to the pay of Junior Officer provided that the following conditions are fulfilled:-

- (i) the junior officer was not already getting more pay than the senior officer at the time of his promotion to the ordinary time-scale of the Rajasthan Higher Judicial Service;
- (ii) the junior officer had always been drawing less or equal pay to that of senior officer and even on the date when the senior officer was promoted from the lower cadre to the ordinary time-scale of the Rajasthan Higher Judicial Service;
- (iii) the increase in pay of the junior officer is directly on account of application of the methods of pay fixation as laid down in these rules;

and

(iv) the junior officer has not been granted higher initial pay under Rajasthan Higher Judicial Service Rules or advance increments under Rajasthan Service Rules or Rajasthan Civil Service (New Pay Scales) Rules, 1.969.

(2) The next date of increment will be after completion of full incremental period under rule 31 of Rajasthan Service Rules.

30. Leave, Allowance, Pension Etc :-

Except as otherwise provided in these rules, the pay, allowances, pension, leave and other conditions of service of the member of the service shall be regulated by-

(1) the Rajasthan Service Rules,

(2) the Rajasthan Service (Medical Attendance) Rules,

(3) the Rajasthan Travelling Allowance Rules,

(4) any other rules made under the proviso to Article 309 of the Constitution and made applicable to the members of the Service in consultation with the Court.

31. Canvassing :-

No recommendation for recruitment either written or oral other than that required under the rules shall be taken into consideration. Any attempt on the part of a candidate to enlist support directly or indirectly for his candidature by other means, shall make him liable to disqualification for appointment.

32. Oath :-

Every person appointed to the service shall be required to take an oath or make a solemn affirmation that he will bear true faith and allegiance to the Constitution of India as by law established, that he will uphold the sovereignty and integrity of India and that he will duly and faithfully discharge the duties of his office unless, in the case of a person appointed by promotion, it is established that he has already taken such an oath or made such an affirmation.

PART 6 Miscellaneous

33. Deputation :-

(1) Any member of the service may be deputed by the Governor, in consultation with the Court to perform the duties of any post in the Central Government or a State Government or to serve in a body

incorporated or not, which is wholly or substantially owned or controlled by the Government.

(2) A member of the service appointed under sub-rule (1) to any of the posts specified in column 2 of Schedule III shall receive, in addition to the pay drawn by him, the amount specified in column 3 thereof, as special pay.

34. Civil Judge Not To Become A Member Of The Service By Conferment Of Powers Of Assistant Sessions Judge on Him :-

The Governor may, in consultation with the Court, confer, by a special or general order, the powers of an Assistant Sessions Judge on a Civil Judge, but such Civil Judge shall not on that account become a member of the service.

SCHEDULE 1

Schedule I

Strength of Service (See rule 6) Total posts 150*

(a) In Selection Scale 44**

(b) In Ordinary Scale 106** This number includes three posts held by Judicial Officers as members of Board of Revenue & Rajasthan Tax Board, Ajmer 1. Ins. Vide Non? No. F 19 (14) Jud/90, Dated 24.2.98.

This number includes the following posts:-

Designation of post Strength I. ix) . Addl. Registrar, Rajasthan High Court, Jaipur/Jodhpur . Judges, Labour Courts (Bikaner/Jaipur/Jodhpur/Kota/Udaipur) . Judge, Industrial Tribunal, Jaipur . Presiding Officer, Rajasthan State Co-operative Tribunal, Jaipur. Member, State Transport Appellate Tribunal, Jaipur . Deputation Reserve (25%) . Leave Reserve, training & others (20%) District & Sessions Judges 33Ajmer/Alwar/Bharatpur/Bikaner/Bhilwara/Bundi/Churu/Dausa/Dholpur/Dungarpur/Ganganagar/Jaipur/Jaisalmer/Jalore/Jhalawar/Jodhpur/Jyoti/Jyoti/Karauli/Kota/Kota Merta/Pali/Pratapgarh/Raj sam and! Sawai Madhopur/Sikar/Sirohi/Took/Udaipur. Additional District & Sessions Judge No.1 Ajmer/No. 2 Ajmer/Beawar/Kishanganagar/No.1 Alwar/No.2 Alwar/Behror/Kishanganagar/Barmer/No.1 Bharatpur/Bikaner/Deeg/Banswara/Baran/Chabara/No.1 Bhilwara/No.1 Bikaner/No.1 Bikaner/Churu/Ratangarh/Dholpur/No.1 Ganganagar/Raichur Nagar/No.1 Hanumanganagar/Nohar/No.1 Jaipur City/No.2 Jaipur City/No.3 Jaipur City/No.4 Jaipur City/No.5 Jaipur City/No.6 Jaipur City/No.7 Jaipur City/No.1 Jaipur District/Kotputli/Sambhar/Jhalawar/No.1 Jodhpur/No.2 Jodhpur/No.3 Jodhpur/No.1 Kota/No.2 Kota/No.3 Kota/Nagaur/Bali/Sojani/No.1 Chittorgarh/Nimbahera/Ganganagar City/Hindaun/Bikaner/Neemrana-No.2 Udaipur. Law Secretary-cum-Legal Remembrancer Joint Legal Remembrancer-I Joint Legal Remembrancer (Vidhi Rachana Sangathan) Joint Legal Remembrancer (Drafting) Joint Legal Remembrancer (Legislation) Registrar-General, Rajasthan High Court Registrar (Vigilance) Rajasthan High Court 54 Total 150

SCHEDULE 2

Schedule II

Special pays admissible to the members of the Rajasthan Higher Judicial Service under Rule 28(2) S.No. Name of the Post Amount per mensem 1. Secretary to the Government, Rs. 250/- Provided Law & Judicial Department-cum-Legal Remembrancer. that pay 2. Judge, Labour Court. Rs. 250/- plus special 3. Joint Legal

Remembrancer to the Government. Rs. 200/- pay shall not exceed Rs. 200/-
4. Registrar, Rajasthan High Court. Rs. 2001/-
5. Deputy Legal Remembrancer. Rs. 150/-
6. Deputy Legal Draftsman. Rs. 150/-

SCHEDULE 3

Schedule III

Special pays admissible to the members of the Rajasthan Higher Judicial Service Rule 33 (2) S.No. Name of the Post Amount per mensem
1. Chairman, Rajasthan State Co-operative Tribunal Rs. 250/-
2. Secretary, Legislative Assembly Rs. 250/-
3. Provided that pay plus special shall not exceed Rs. 2500/-.

SCHEDULE 4

Schedule IV

Principles of pay fixation of officers promoted as District Judges (See Rule 29A) 1. In this Schedule:-

(i) "actual pay" means the pay to which a member of the service is entitled by virtue of his substantive position in the grade of Civil and Additional Sessions Judges; and

(ii) "assumed pay" means the pay which an officer would be drawing in the ordinary time scale of Civil Judges, had he not been appointed as Civil and Additional Sessions Judge in an officiating or substantive capacity. Explanation.-actual pay and assumed pay shall be construed as pay admissible to an officer according to the sanctioned pay scales prevailing at the time of promotion or other pay scales namely, Unit Pay Scales, Unified Pay Scales, Rationalized Pay Scales, Ajmer Pay Scales, Bombay Pay Scales, Madhya Bharat Pay Scales or any other scale for which option had been retained by the officer, under the respective rules or under rule 28 of the Rajasthan Service Rules till the date of promotion. 2. The initial pay of an officer who was initially appointed as a substantive Civil and Additional Sessions Judge under order No. F. I (357) appts.A/51, dated the 23rd April, 1951 shall be fixed at the stage in the scale of District and Sessions Judges next above the amount equal to the officers actual pay plus increase at the rate of one increment in the time scale of District and Sessions Judges for every three years of service in the Rajasthan Judicial Service and the Rajasthan Higher Judicial Service (Civil and Additional Sessions Judges) subject to a minimum increase of Rs. 200/- and a maximum increase of Rs. 300/-: Provided that:-

(i) where, on the prescribed increase being calculated as aforesaid, the figure arrived at corresponds to a stage in the time scale of District and Sessions Judge, the pay shall be fixed at that stage and not at the next higher stage;

(ii) where the actual increase calculated as above is less than Rs. 200/- and addition of the minimum increase of Rs. 200/- to the assumed pay results in an amount equal to or less than the minimum of the grade, the initial pay shall be fixed at the minimum of the grade. 3. The initial pay of an officer, other than the officers referred to in para 2, appointed substantively or in an officiating capacity to the post of Civil and Additional Sessions Judge, shall be fixed at the stage in the scale for District and Sessions Judges next above the amount equal to the officers assumed pay in the ordinary time-scale of Civil Judges plus increase at the rate of one increment in the time scale for District and Sessions Judges for every three years of service in the Rajasthan Judicial Service and the Rajasthan Higher Judicial Service.

(Civil and Additional Sessions Judges) subject to a minimum increase of Rs. 200/- and a maximum increase of Rs. 300/-:

Provided that:-

(i) where the amount arrived at after the addition of such minimum or maximum corresponds to a stage in the time scale for District and Sessions Judges, the initial pay shall be fixed at that Stage;

(ii) where the actual increase calculated as above is less than Rs. 200/- and addition of the minimum increase of Rs. 200/- to the assumed pay results in an amount equal to or less than the minimum of the grade, the initial pay shall be fixed at the minimum of

the grade. 4. For purposes of paragraphs 2 and 3, service in the Rajasthan Judicial Service and Service as Civil and Additional Sessions Judge shall, in the case of Judicial Officers of the former State, the former Bombay State and the pre-reorganisation State of Rajasthan as also of the re-organised State of Rajasthan include the total gazetted service rendered by an officer before 1st November, 1956.

(1) "Gazetted Service" in this paragraph shall mean service on gazetted post certified by the High Court as equivalent in responsibility to those encadred in the Rajasthan Judicial Service or the Rajasthan Higher Judicial Service, subject to the condition that any service on a post carrying a pay of less than Rs. 100/- per mensem shall not be treated as gazetted service.

(2) In the case of Judicial Officers of the pre-reorganisation State of Rajasthan, any gazetted service rendered by them in the convenanting States shall also count.