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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 157]

भोपाल, मंगलवार, दिनांक 13 मार्च 2018—फाल्गुन 22, शक 1939

विधि और विधायी कार्य विभाग

क्र. 1315-2018-इक्कीस-ब (एक)

भोपाल, दिनांक 13 मार्च 2018

In exercise of the powers conferred by Article 233 read with the proviso to Article 309 of the Constitution of India and in supersession of the Rules on the subject in force, the Governor of Madhya Pradesh, in consultation with the High

Court, hereby, makes the following rules, in respect of Madhya Pradesh Higher Judicial Service, namely:-

RULES

1. Short title, Extent and Commencement:-

- (1) These Rules may be called the "Madhya Pradesh Higher Judicial Service (Recruitment and Conditions of Service) Rules, 2017".
- (2) They shall apply to all the members of the Madhya Pradesh Higher Judicial Service.
- (3) These Rules shall come into force on the date of their publication in the Official Gazette.

2. Definitions:-

In these Rules, unless the context otherwise requires --

- (a) "Advocate" means an advocate as defined in the Advocate Act 1961;
- (b) "Cadre" means the posts as defined in rule 4 and specified in Schedule-I as may be altered and modified from time to time by the State Government in consultation with the High Court;
- (c) "Chief Justice" includes the Acting Chief Justice of the High Court of Madhya Pradesh;
- (d) "Direct Recruitment" means direct recruitment to the post made under clause (a) of sub-rule (1) of Rule 3 in the manner prescribed under clause (c) of sub-rule (1) of Rule 5;
- (e) "District Judge" includes Principal District Judge, Additional District Judge, Sessions Judge and Additional Sessions Judge;
- (f) "Foreign Service" means the service as defined in sub-rule (7) of Rule 9 of the Madhya Pradesh Fundamental Rules;
- (g) "Service" means the Madhya Pradesh Higher Judicial Service;

- (h) "Recruitment Year" means year commencing from 1st Day of January of the year in which the recruitment process is initiated;
- (i) "Other Backward Classes" means Other Backward Classes as declared by the State Government from time to time by Notification;
- (j) "Scheduled Caste" means the Scheduled Caste as notified in relation to the State of Madhya Pradesh under Article 341 of the Constitution of India;
- (k) "Scheduled Tribe" means the Scheduled Tribe as notified in relation to the State of Madhya Pradesh under Article 342 of the Constitution of India.

3. Constitution of Service:-

- (1) The Service shall consist of the following categories, namely:
 - (a) District Judge (Entry Level) (in pay scale Rs. 51550-1230-58930-1380- 63070);
 - (b) District Judge (Selection Grade) (in pay scale Rs. 57700-1230-58930-1380- 67210-1540-70290);
 - (c) Principal District Judge (Super Time Scale) (in pay scale Rs.70290-1540- 76450);The pay scales provided in clause (a), (b) and (c) shall be revisable from time to time.
- (2) The Service shall consist of following persons:-
 - (a) Persons who, at the time of commencement of these Rules, are holding substantive post of District Judge;
 - (b) Persons recruited directly or promoted to the service in accordance with the provisions of these Rules;
 - (c) Persons officiating and/or promoted against the post of District Judge.

4. Strength of Cadre:-

The strength of Cadre shall be as determined by the Governor from time to time in consultation with the High Court:

Provided that the number of posts in categories (a), (b) and (c) of sub-rule (1) of Rule 3 shall be 65%, 25% and 10% respectively of the total number of cadre posts:

Provided further that for the purpose of determining aforesaid percentage, the number of posts mentioned in column No. (4) of Schedule-I shall stand excluded.

5. Method of Recruitment and Appointment:-

(1) Recruitment and appointment to the posts in category (a) of sub-rule (1) of Rule 3 shall be made in every recruitment year as under:-

(a) 65% (sixty five percent) by promotion from amongst Civil Judges (Senior Division) on the basis of merit-cum-seniority and passing suitability test to be conducted by the High Court;

The number of vacancies and the officers to be brought under the zone of consideration for promotion shall be in the ratio 1:3 and the suitability of the officers shall be tested with reference to norms prescribed by the High Court;

The qualifying of the suitability test by a candidate shall be valid for a maximum period of 2 (two) recruitment years.

(b) 10% (ten percent) by promotion from amongst Civil Judges (Senior Division) having completed minimum 5 (five) years of service, strictly on the basis of merit, through limited competitive examination to be held by the High Court as per norms prescribed by the High Court:

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

(c) 25% (twenty five percent) by direct recruitment from amongst the eligible Advocates on the basis of written examination and viva-voce test to be conducted by the High Court as per norms prescribed by the High Court, which shall include prescribing cut-off marks for the written examination and/or viva-voce:

Provided that if for any reason, the posts meant for direct recruitment remain vacant even after two consecutive recruitment

years, the same shall be filled up by promotion from amongst the Civil Judges (Senior Division), in accordance with clause (a).

- (2) The procedure of selection for promotion to categories under clause (a) and (b) and for direct recruitment under clause (c) of sub-rule (1) shall be such as may be prescribed by the High Court from time to time before the start of the selection process.
- (3) The Selection Grade and Super time Scale in terms of clause (b) and (c) of sub-rule (1) of Rule 3 shall be granted on the basis of merit-cum-seniority in accordance with norms prescribed by the High Court.

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

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

Provided that if such reserved posts or any of them are not filled in a given recruitment year due to non-availability of suitable candidates, they shall be re-advertised for respective categories once more. If any such posts remain vacant due to the same reason, they shall be treated as un-reserved posts.

- (2) 2% (two percent) posts shall be horizontally reserved, only at the time of initial recruitment under clause (c) of sub-rule (1) of Rule 5, for persons suffering from locomotor disabilities excluding those suffering from cerebral palsy, under clause (c) of sub-section (1) of Section 34 of The Rights of Persons with Disabilities Act, 2016.
- (3) Any Candidate, who is not a bonafide resident (domicile) of the State of Madhya Pradesh, shall be treated as Unreserved Category (UR) in all respects.

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

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

- (b) has attained the age of 35 (thirty five) years and has not attained the age of 45 (forty five) years on the first day of January in the year in which applications for recruitment are invited;
 - (c) has for at least 7 (seven) years been an advocate on the first day of January of the recruitment year in which applications for recruitment are invited;
 - (d) has good character and is of sound mind and body and free from any physical and mental disability which renders him unfit for such appointment;
- (2) A person shall be disqualified for appointment by direct recruitment, if he or she –
- (a) has more than one spouse living ;
 - (b) has been dismissed or removed from service by any High Court, Central or State Government, Statutory Body or Local Authority ;
 - (c) has been convicted of an offence involving moral turpitude or has been permanently debarred or disqualified by any High Court or Union Public Service Commission or any State Public Service Commission or any Services Selection Board or Staff Selection Commission constituted under statutory provisions by the Government;
 - (d) has been involved in such other criminal case which in the opinion of the Appointing Authority is not suitable to discharge the functions as Judicial Officer ;
 - (e) has been found guilty of professional misconduct under the provisions of the Advocates Act, 1961 or any other law for the time being in force ;
 - (f) has more than two living children one of whom is born on or after 26-01-2001 in terms of sub-rule (6) of Rule 6 of The Madhya Pradesh Civil Services (General Conditions of Services) Rules, 1961 ;

Explanation:- For the purpose of this Sub Rule, child born within 280 days from the date of 26/01/2001 shall not constitute disqualification ;

(g) if he has accepted or accepts dowry at the time of his marriage ;

Explanation:- In this clause, the word "dowry" shall have the same meaning as assigned to it in Dowry Prohibition Act, 1961 (No.26 of 1961).

8. Appointing Authority:-

- (1) All appointments to category under clause (a) of sub-rule (1) of Rule 3 shall be made by the Governor in accordance with the recommendations of the High Court.
- (2) The Selection Grade and Super Time Grade to the officers falling in categories under clause (b) and (c) of sub-rule (1) of Rule 3 shall be granted by the High Court.

9. Probation:-

- (1) A person appointed to a post in category (a) of sub-rule (1) of Rule 3 shall be on probation for a period of 2 (two) years from the date on which he /she joins duty.
- (2) The High Court may, at any time, extend the period of probation but the total period of probation, shall not exceed 4 (four) years.
- (3) The High Court may at any time during or at the end of the period of probation revert a promotee member of the Service to his/her substantive post from which he/she was promoted and in case of a direct recruit recommend termination of his/her service.
- (4) On the successful completion of probation, the probationer shall, if there is a permanent post available, be confirmed in the service or post to which he has been appointed, or a certificate shall be issued in his favour by the appointing authority to the effect that the probationer would have been confirmed but for the non-availability of the permanent post and that as soon as a permanent post becomes available he shall be confirmed.
- (5) A probationer shall continue as such until confirmed or reverted or terminated, as the case may be.

10. Postings and Transfers:-

All postings and transfers of members of the service shall be made by the High Court except the postings in the Office of the High Court which shall be made by the Chief Justice.

11. Seniority:-

- (1) The relative seniority of the members of service holding substantive post within their respective quota at the time of commencement of these rules shall be as it exists before the commencement of these rules.
- (2) After the commencement of these rules, the cadre posts in category (a) of sub-rule (1) of Rule 3 shall be filled up by rotation based on the quota fixed in clauses (a), (b) and (c) of sub-rule (1) of Rule 5 in every recruitment year.
- (3) For the purpose of proper maintenance and determination of seniority of persons appointed through the aforesaid sources, a roster for filling of vacancies based on quota of vacancies reserved here-in-above, as given in Schedule-II shall be maintained for each recruitment year. This roster would operate on yearly basis in which applications for appointment were invited in the recruitment year.
- (4) Seniority of persons appointed under clause (a), (b) and (c) of sub-rule (1) of Rule 5 to the Service in category (a) of rule (1) of Rule 3 shall be determined in following manner:-
 - (a) The Seniority, *inter se*, of persons appointed by promotion under clause (a) of sub-rule (1) of Rule 5 shall be determined by their *inter se* seniority in the lower cadre;
 - (b) The Seniority, of person promoted through limited competitive examination of Civil Judges (Senior Division) under clause (b) of sub-rule (1) of Rule 5 shall be determined in accordance with the *inter se* Seniority in the lower cadre;
 - (c) The *inter se* seniority of Persons appointed to the Service by direct recruitment under clause (c) of sub-rule (1) of Rule 5 shall be fixed in the order of merit they are placed in the selection list, those recruited earlier shall rank senior to those recruited later;

- (5) The seniority of the members of the service promoted under clause (a) of sub-rule (1) of Rule 5 and under proviso to clause (c) of sub-rule (1) of Rule 5 of the HJS Rules, 1994, (amended vide L.D. No.F.17(E)40/88/21-B(one) dated 13-08-2015) shall be as per the seniority in the lower cadre.

12. Pay, Allowances, Facilities and other Conditions of Service:-

- (1) The members of the Service shall be entitled to such pay, allowances and facilities as recommended by the National Judicial Pay Commissions from time to time;
- (2) In addition to and apart from the above, the payment of dearness allowance to the members of the Higher Judicial Service shall also be governed by the Madhya Pradesh Judicial Service Revision of Pay Rules, 2003 and the Madhya Pradesh Judicial Services (Revision of Pay, Pension and other Retirement Benefits) Rules, 2010 and as applicable to Class-I employees of the Central Government.
- (3) In addition to the benefits which are granted under clause sub-rule (1) and (2) the Members of Higher Judicial Service shall also be entitled to other benefits that are given by the State to its Class-I Officers; and under any other rule, regulation, notifications, instructions that are issued by the State Government from time to time as applicable to its Class-I employees and any other benefit adopted by the High Court.

13. Applicability of other Rules/Circulars etc. :- Except as otherwise provided in these Rules, the members of the Service shall be regulated by the following Rules, as amended from time to time, namely:-

- (1) The Madhya Pradesh Civil Services (General Conditions of Services) Rules, 1961.
- (2) The Madhya Pradesh Civil Services (Conduct) Rules, 1965;
- (3) The Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966;
- (4) The Madhya Pradesh Civil Services (Pension) Rules, 1976;
- (5) The Madhya Pradesh Civil Services (Commutation of Pension) Rules, 1996;
- (6) The Madhya Pradesh Civil Services (Extraordinary Pension) Rules, 1963.
- (7) The Madhya Pradesh Civil Services (Joining Time) Rules, 1982.

- (8) The Madhya Pradesh Civil Services (Leave) Rules, 1977.
- (9) The Madhya Pradesh Civil Services (Medical Attendance) Rules, 1958.
- (10) The Madhya Pradesh Civil Services (Medical Examination) Rules, 1972.
- (11) The District and Sessions Judge (Death-cum-Retirement Benefits) Rules, 1964.
- (12) The Madhya Pradesh Civil Services (Travelling Allowances) Rules.
- (13) The Madhya Pradesh Government Servants (Temporary and Quasi-Permanent Service) Rules, 1960.
- (14) The Madhya Pradesh Judicial Service Revision of Pay Rules 2003.
- (15) The Madhya Pradesh Judicial Services (Revision of Pay, Pension and other Retirement Benefits) Rules, 2010.
- (16) Madhya Pradesh Fundamental Rules.
- (17) Madhya Pradesh Treasury Rules.
- (18) The Madhya Pradesh General Provident Fund Rules.
- (19) Central Civil Services (Leave, Travel and Concession) Rules, 1988.
- (20) The Rules and instructions issued by the Central Government relating to Leave Travel Concession; Home Travel Concession and Dearness Allowance as applicable to its Class-I employees.
- (21) Any other Rule / Regulation / Notifications / Instructions as issued by the State Government as may adopted by the High Court.

14. Superannuation Age:-

- (1) Subject to the provisions of sub-rule (2) and (3), every member of the service shall retire from the service on the afternoon of the last day of the month, in which he attains the age of 60 (sixty) years provided he is found fit and suitable to continue after 58 (fifty eight) years in service by the High Court :

Provided that a member of service whose date of birth is the first day of a month shall retire from service on the afternoon of the last day of the preceding month on attaining the age of 60 (sixty) years:

Provided further that an officer of the service, who has retired on superannuation at the age of 60 (sixty) years, may be re-employed on the recommendation of the High Court up to the age of 62 (sixty two) years to act as Presiding Officers of the Family Court.

- (2) Notwithstanding anything to the contrary contained in these Rules or any other Rules for the time being in force, a member of the Service may, in public interest, be retired at any time after he has completed 10 (ten) years of service, or on attaining the age of 50 (fifty) years, whichever is earlier.
- (3) For the purpose of the sub-rule (1) and (2), the Chief Justice may constitute a Screening Committee for the scrutiny and assessment of such member of the service, based on his past record of service, character rolls, quality of judgments/ orders and other relevant matters like his integrity, reputation and utility to the Service etc.
- 15. Oath:-** Every person, appointed to the Service by direct recruitment, shall, before he joins, make and subscribe before such person as may be specified by the Chief Justice, an oath or affirmation in the following form:-
- “I.....having been appointed as a member of the Madhya Pradesh Higher Judicial Service, do swear in the name of God/solemnly affirm, that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment, perform the duties of my office without fear or favour, affection or ill will, and that I will uphold the Constitution and the laws”.
- 16. Deputation:-**
- A member of the Service may be sent on deputation to perform the duties of any post under the Central Government or the State Government or to serve in an organization, which is wholly or partly owned or controlled by such Government or in Foreign Service.
- 17. Interpretation:-**
- If any question arises as to the interpretation of these rules, the decision of the Chief Justice shall be final.
- 18. Power to Relax:-**
- Where the High Court is satisfied that the operation of any of these rules causes undue hardship to any particular class or categories of class of members of service, it may for reasons to be recorded in writing dispense with

or relax the particular Rule to such extent and subject to such exceptions and conditions as may be deemed necessary:

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

19. Repeal and Saving:-

Madhya Pradesh Uchchatar Nyayik Seva (Bharti Tatha Seva Sharten) Niyam, 1994 and Orders, resolutions, if any, in force immediately before the commencement of these rules, are hereby repealed or rescinded as the case may be in respect of matters covered by these rules;

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

SCHEDULE- I
[See Rule 4]
STRENGTH OF CADRE

Sr. No.	Designation of Post	Sanctioned Strength in the Cadre	Additional Posts Sanctioned in the Cadre
(1)	(2)	(3)	(4)
1	Principal District Judge (Super Time Scale)	62	-
2	Principal Judge / Additional Principal Judge Family Court [Sanctioned in District Judge (Super Time Scale)]	-	58*
3	District Judge (Selection Grade Scale)	154	-
4	Posts specially sanctioned in District Judge (Selection Grade Scale) for CBI / MPSIDC	-	12**
5	Special Judges SC/ST (P.A.) Act. 1989 [Sanctioned in District Judge (Selection Grade Scale)]	-	43***
6	District Judge Entry Level	401	-
7	Special Judge under Electricity Act.	-	10****
Other Posts			
8	High Court Registry Including officers of Registry, DJ (Inspection) 03 posts and MPSJA 02 posts.	-	20
9	Legal Remembrancer / Principal Secretary and Additional Legal Remembrancer / Additional Secretary, Law Department	-	7
10	State Legal Service Authority (SLSA)	-	2
11	Chairman MP State Transport Tribunal	-	1
Total		617*****	153
GRAND TOTAL STRENGTH OF CADRE		770	

- * 58 Posts in Family Court specially sanctioned in District Judge (Super Time Scale), vide last LD O.No. I-1/2002/21-B(one)/2012 Dt. 30/31.07.2013.....
- ** 12 Posts specially sanctioned in District Judge (Selection Grade Scale).
[03 posts for CBI, vide last LD O.No. 2835/21-B(one)/2013 Dt. 12.07.2013....., 01 post for MPSIDC, vide LD O.No. 589/21-B(one) Dt. 10.02.2011, 08 posts for Special Courts under Corruption Act, vide LD O.No. 82-5-A/21-B(one)/2012 Dt. 06.03.2012]
- *** 43 Posts specially sanctioned in District Judge (Selection Grade Scale) under SC/ST (P.A.) Act, vide last LD O.No. F-23-48/2002/4/25 Dt. 24.04.2007.....
- **** 10 Posts specially sanctioned in District Judge (Entry Level) under Electricity Act, 2003, vide LD O.No. F 2-3/2007/13 Dt. 05.07.2008.
- ***** 235 new posts sanctioned in District Judge (Entry Level) vide LD O.No. 3(A) 3/2016/21-B(one)/2588 Dt. 25.07 / 08.08.2016, are included in the Cadre Strength.

SCHEDULE- II
[See Rule 11 (3)]

Roster for filling up vacancies in the District Judge cadre by direct recruitment
and by promotion

Sl. No. of vacancy	Category for which the vacancy should be earmarked
(1)	(2)
1.	By promotion-merit-cum-seniority
2.	By promotion-merit-cum-seniority
3.	By promotion-merit-cum-seniority
4.	By direct recruitment
5.	By promotion-merit-cum-seniority
6.	By promotion-merit-cum-seniority
7.	By promotion-merit-cum-seniority
8.	By direct recruitment
9.	By promotion-Limited Competitive Examination
10.	By promotion-merit-cum-seniority
11.	By promotion-merit-cum-seniority
12.	By direct recruitment
13.	By promotion-merit-cum-seniority
14.	By promotion-merit-cum-seniority
15.	By promotion-merit-cum-seniority
16.	By direct recruitment
17.	By promotion-merit-cum-seniority
18.	By promotion-merit-cum-seniority
19.	By promotion-Limited Competitive Examination
20.	By direct recruitment
21.	By promotion-merit-cum-seniority
22.	By promotion-merit-cum-seniority
23.	By promotion-merit-cum-seniority
24.	By direct recruitment
25.	By promotion-merit-cum-seniority
26.	By promotion-merit-cum-seniority
27.	By promotion-merit-cum-seniority
28.	By direct recruitment
29.	By promotion-Limited Competitive Examination
30.	By promotion-merit-cum-seniority
31.	By promotion-merit-cum-seniority
32.	By direct recruitment
33.	By promotion-merit-cum-seniority
34.	By promotion-merit-cum-seniority
35.	By promotion-merit-cum-seniority
36.	By direct recruitment
37.	By promotion-merit-cum-seniority

38. By promotion-merit-cum-seniority
39. By promotion-Limited Competitive Examination
40. By direct recruitment
41. By promotion-merit-cum-seniority
42. By promotion-merit-cum-seniority
43. By promotion-merit-cum-seniority
44. By direct recruitment
45. By promotion-merit-cum-seniority
46. By promotion-merit-cum-seniority
47. By promotion-merit-cum-seniority
48. By direct recruitment
49. By promotion-Limited Competitive Examination
50. By promotion-merit-cum-seniority
51. By promotion-merit-cum-seniority
52. By direct recruitment
53. By promotion-merit-cum-seniority
54. By promotion-merit-cum-seniority
55. By promotion-merit-cum-seniority
56. By direct recruitment
57. By promotion-merit-cum-seniority
58. By promotion-merit-cum-seniority
59. By promotion-Limited Competitive Examination
60. By direct recruitment
61. By promotion-merit-cum-seniority
62. By promotion-merit-cum-seniority
63. By promotion-merit-cum-seniority
64. By direct recruitment
65. By promotion-merit-cum-seniority
66. By promotion-merit-cum-seniority
67. By promotion-merit-cum-seniority
68. By direct recruitment
69. By promotion-Limited Competitive Examination
70. By promotion-merit-cum-seniority
71. By promotion-merit-cum-seniority
72. By direct recruitment
73. By promotion-merit-cum-seniority
74. By promotion-merit-cum-seniority
75. By promotion-merit-cum-seniority
76. By direct recruitment
77. By promotion-merit-cum-seniority
78. By promotion-merit-cum-seniority
79. By promotion-Limited Competitive Examination
80. By direct recruitment
81. By promotion-merit-cum-seniority
82. By promotion-merit-cum-seniority
83. By promotion-merit-cum-seniority
84. By direct recruitment
85. By promotion-merit-cum-seniority
86. By promotion-merit-cum-seniority
87. By promotion-merit-cum-seniority
88. By direct recruitment
89. By promotion-Limited Competitive Examination
90. By promotion-merit-cum-seniority
91. By promotion-merit-cum-seniority
92. By direct recruitment

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|------|--|
| 93. | By promotion-merit-cum-seniority |
| 94. | By promotion-merit-cum-seniority |
| 95. | By promotion-merit-cum-seniority |
| 96. | By direct recruitment |
| 97. | By promotion-merit-cum-seniority |
| 98. | By promotion-merit-cum-seniority |
| 99. | By promotion-Limited Competitive Examination |
| 100. | By direct recruitment |

By order and in the name of the Governor of Madhya Pradesh,
R. K. VANI, Secy.