

NOTIFICATION

In exercise of the powers conferred by Section 18(3) of the Himachal Pradesh Courts Act, 1976 (Act No.XXIII of 1976), read with Article 235 of the Constitution of India, the Hon'ble the Chief Justice and Judges of the High Court of Himachal Pradesh are pleased to make the following rules, relating to the appointment, promotion and conditions of service of Class-III and IV officials of the Subordinate Courts (other than the Superintendents of the District and Sessions Judges) in Himachal Pradesh:

PART-I GENERAL

Short title
and commence-
ment.

1.(a) These Rules may be called the Himachal Pradesh Subordinate Courts' Staff (Recruitment, Promotion and Conditions of Service) Rules, 1997.

(b) These shall come into force from the date of their publication in the Himachal Pradesh Rajpatra.

Definitions.

2. In these Rules, unless there is anything repugnant in the subject or context:

- (1) "Appointing Authority" means the District and Sessions Judge.
- (2) "Appellate Authority" means the Hon'ble Chief Justice or such other Hon'ble Judge of the High Court of Himachal Pradesh as may be nominated by the Hon'ble Chief Justice.
- (3) "Chief Justice" means the Chief Justice of the High Court of Himachal Pradesh.
- (4) "Cadre" means the total strength of posts sanctioned as a separate unit as shown in Schedule I attached to these rules.
- (5) "Civil and Sessions Division" means the 'District' as defined in Section 2(a) of the Himachal Pradesh Courts Act, 1976.
- (6) "District & Sessions Judge" means the

District & Sessions Judge of a District as Defined in Section 2(b) of the Himachal Pradesh Courts Act; 1976.

- (7) "Government" means the Government of Himachal Pradesh.
- (8) "High Court" means the High Court of Himachal Pradesh.
- (9) "O.B.Cs." means castes/communities declared as such by the State Government from time to time.
- (10) "Post" means any post described in Schedule-I.
- (11) "Promotion" means promotion to a post or class of posts based on seniority subject to rejection of unfit.
- (12) "Recognised University/Board" means any University, Board which is recognised by the Government of India or the Himachal Pradesh Government to be a recognised University/Board for the purpose of these rules, and approved by the High Court whenever necessary.
- (13) "Scheduled Castes" means the castes, races or tribes or parts of groups within castes, races or tribes specified in the Constitution (Schedule Castes) Order, 1950, as amended by Section 19(1) read with the First Schedule of the State of Himachal Pradesh, Act, 1970 (Act 53 of 1970) and as it may further be amended from time to time.
- (14) "Scheduled Tribes" means the tribes of tribal communities or parts of or groups within tribes or tribal communities specified in the Constitution (Scheduled Tribes) Order, 1950, as amended by Section 20(1) read with the third Schedule of the State of Himachal Pradesh, Act, 1970 (Act 53 of 1970) and as it may further be amended from time to time.

Pradesh Act, 1970 (53 of 1970) and as it may be further amended from time to time.

- (15) "Schedule" means the Schedules attached to these rules.
- (16) "Selection" means promotion to a post or class of posts by selection based on merit with due regard to seniority.
- (17) "Service" means service in Class III and Class IV posts in the courts subordinate to the High Court.

Application.

3. These Rules shall apply to all the employees of the subordinate courts in Himachal Pradesh except the Superintendents of the Courts of District and Sessions Judges..

PART-II

General.

4. (1) The establishment of the subordinate Courts shall consist of the posts specified in Schedule-I, of these rules carrying such pay scales as may be notified by the State Government from time to time.

(2) In case any permanent or temporary post is sanctioned by the State Government carrying duties or responsibilities of like manner to the cadre post, the High Court may modify the Schedule I to these rules accordingly.

Eligibility.

5. A candidate for appointment to any post on the establishment of the Subordinate Courts must be a citizen of India.

Polygamy.

6. No person shall be eligible for appointment to a post in a Subordinate Court:

- (a) who has entered into or contracted a marriage with a person having a spouse living; or

- (b) who having a spouse living, has entered into or contracted a marriage with any person.

Provided that the appointing authority may, with the approval of the Chief Justice, if satisfied that such marriage is permissible under personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this rule.

Method of recruitment.

7. Recruitment to a post or class of posts may be made by one or more of the following methods, namely:

- (a) By promotion/selection from amongst the members of the service, as provided in Schedule II to these rules.
- (b) By direct recruitment on the basis of a competitive examination as may be prescribed by the Appointing Authority.

Note: (For the purpose of appointment, promotion and selection, the appointing authority shall constitute a selection committee of Judicial Officers comprising a minimum number of two members posted in the District and the committee shall make its recommendations for the purpose of such appointment/selection.

- (c) By inter-district transfer from other courts in the State, including the High Court, on an application in writing by a willing candidate(s).

• Amended vide notification dt. 2-9-2002 (6th Amendment).

Provided that such transfer can be ordered only by the Chief Justice in accordance with the guidelines to be prescribed by the Hon'ble Chief Justice from time to time.

Note: For direct recruitment, in addition to notifying the vacancies to the District/Sub Divisional Employment exchange(s) within the local limits of the appointing authority, such authority may invite applications from the eligible persons posted in other courts of the State and/or from the open market by notifying the vacancies on the notice Boards of the courts within the jurisdiction of the Appointing Authority.

Representation to Scheduled Castes/ Scheduled Tribes/ Other Backward Classes.

8. To secure better representation of Scheduled Castes, Scheduled Tribes and Other Backward Classes, the reservation of posts to be filled up by direct recruitment shall be 15% for Scheduled Castes, 7-1/2 % for the Scheduled Tribes and 10% for other Backward Classes as notified by the High Court from time to time. For this purpose, a Roster shall be maintained by the appointing authority.

* 8-A

Note-1. Preference in selection to Ex-servicemen may be given against such posts as are specified in Schedule-II.

Note-2. The reserved vacancies for Schedule Castes/ Schedule Tribes/other Backward Classes shall be carried over for such period as may be prescribed by the State Government for its employees from time to time.

* 8-A. added vide notification dt. 2-9-2002 (5th amendment)

Qualifications.

9. The qualifications for recruitment to any post or class of posts shall be such as are specified in the Second Schedule.

Provided that Hon'ble the Chief Justice may, by general or special order, relax qualifications for a post or class of posts.

Appointments.

10. All appointments shall be made by the District and Sessions Judge of the Division in accordance with these rules.

Probation.

11. (a) Every person appointed to a permanent post shall be on probation for a period of two years.

Provided that the period of probation, may in the case of any person, be extended or reduced or dispensed with altogether by the Appointing Authority for reasons to be recorded.

(b) A person on probation shall be liable to be discharged from service without assigning any reason.

Provided that if he holds lien on any permanent post in any other service he shall be liable to be reverted to that post.

(c) A person on probation, who holds a lien on any permanent post, shall, if he so desires during the period of probation, have the option to revert to his permanent post after giving due notice.

Ad-hoc appointments.

12. (a) Where it is necessary to fill up a vacancy in any post and undue or administrative inconvenience is expected in appointing a person in accordance with these rules, the Appointing Authority may appoint/promote any suitable person on ad-hoc basis for a term not exceeding one year or until an appointment to the post is made in accordance with these rules, whichever is earlier. The High Court shall be informed about such adhoc appointment.

(b) A person appointed under sub-rule(a) above, shall not be regarded as a probationer holding the post nor shall he/she be entitled to claim such post by reason only of his/her ad-hoc appointment to that post.

(c) If such a person is subsequently appointed to that post in accordance with these rules, the period of his/her probation shall commence against that post from the date of such subsequent appointment.

Confirmation.

13. A person appointed on probation may be confirmed by the appointing Authority on satisfactory completion of his/her initial or extended period of probation. However, the confirmation of such person shall be subject to the availability of permanent posts.

Seniority.

14. (1) Persons appointed in a substantive or officiating capacity in a cadre in the civil and Sessions Division on the date immediately preceding the date on which these rules came into force, shall retain the relative seniority already assigned to them.

(2) Subject to provision of sub-rules(1) and (3) of this rule, permanent members in each cadre shall rank senior to persons who are officiating in that cadre.

(3) The seniority of the direct recruits shall be determined by the order of merit in which they are selected for appointment and persons appointed as a result of an earlier selection shall be senior to those appointed as a result of subsequent selection.

(4) The relative seniority-cum-merit to the various posts shall be determined on the basis of their length of service in the feeder cadre.

(5) Where the promotions are made on the basis of selection on merit only, the seniority of such promotees shall be in the order of merit determined by the Appointing Authority.

-X Age.

-X cX.

15. No person shall be eligible for direct recruitment to the service if he is below 18 years of age as on the first day of January of the recruitment year and not more than 35 years of age on that date. However, in the case of candidates belonging to Schedule Caste,

-X Amended vide notification dt. 3.9.98 (1st Amendment)

-X Amended vide notification dt. 23.6.2001 (4th Amendment)

Schedule Tribe, Backward Classes or who is an Ex-servicemen, upper age limit shall be the same as may, from time to time, be prescribed by the State Government for entry into service for such candidates.

Condition
of service:

16. In respect of all such matters regarding the conditions of service of the members of the service for which no provision or insufficient provision has been made in these rules, the rules and orders for the time being in force and are applicable to officials/servants holding corresponding posts in the High Court of Himachal Pradesh shall regulate the conditions of service of the members of the service subject to such modifications, variations or exceptions, if any, in the said rules and orders, as the High Court may, from time to time, specify.

Transfer

17. The Appointing Authority may transfer a member of the service within the Civil and Sessions Division carrying corresponding scales and grades of pay in the public interest.

PART III

CONTROL AND DISCIPLINE

18. All the members of the service shall be governed by the rules contained in the Central Services (Classifications, Control and Appeal) Rules, 1965 and other rules and provisions of law, as amended from time to time, as far as practicable in respect of suspension, discipline and punishment.

Appeal

19. (a) An appeal against the order of the Appointing Authority shall lie to the Chief Justice and the order passed by the appellate authority shall be final.

(b) The period of limitation for filing an appeal against the order of the Appointing Authority shall be 30 days from the date on which the order appealed against is served upon the employee, provided that, the delay may be condoned by the Hon'ble Chief Justice.

(c) A person filing an appeal under this rule shall do so by a petition which shall be filed through proper channel, that is, through the respective District and Sessions Judge with an advance copy to the Secretary to the Hon'ble the Chief Justice. The District & Sessions

Judge shall forward to the High Court the appeal alongwith his/her comments within 15 days from the date of the filing of such petition.

PART IV

Conduct.

20. (1) Every court official shall at all time maintain absolute integrity and devotion to duty.

(2) No court official shall act in a manner prejudicial to discipline and good order in the office.

(3) The Rules and Orders for the time being in force and applicable to officials holding corresponding post in the Government of Himachal Pradesh in regard to conduct shall apply, mutatis mutandis, to the official, subject, however to the modification, if any, made by the High Court.

PART-V

Interpretation.

21. All questions relating to the interpretation of these rules shall be referred to the Chief Justice whose decision thereon shall be final.

Removal of
difficulties.

22. If any difficulty arises in giving effect to any of the provisions of these rules, the Chief Justice may, by order in writing, direct what appears to him to be necessary for the purpose of removing the difficulty.

Relaxation.

23. The Hon'ble the Chief Justice, on being satisfied that the operation of any rule is causing undue hardship in any particular case, may relax the requirement of that rule to such an extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

Repeal and
Savings.

24. (A) The rules contained in Chapter 18-A, High Court Rules and Orders Vol.I, relating to the appointment and control of the officials of the courts subordinate to the High Court are hereby repealed.

(B) The appointments made and action, if any, taken under the repealed rules prior to the coming into force of the present rules shall be deemed to have been made or action taken under these rules.

Provided that any reference in any order to the provisions of the repealed rules shall, unless a different intention appears from the context, be construed as a reference to the corresponding provisions of these rules:

Provided further that the repeal of the aforesaid rules shall not except as expressly provided in these rules:-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any order or decision given under the rules so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred "under the Rules earlier in existence."

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability as aforesaid.

By order of Hon'ble the
Chief Justice and Judges.

(M.R.VERMA)
REGISTRAR

HIGH COURT OF HIMACHAL PRADESH

Encl. No. HHC(R&P) Rules//2/93-

Dated:

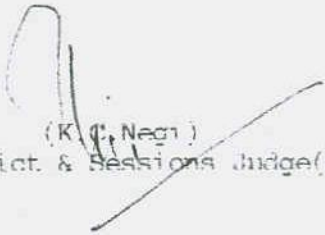
Copy forwarded to:-

The Chief Secretary to the Govt. of H.P., Shimla-2 for information.

All the District/Addl. District and Sessions Judges in Himachal Pradesh for information and necessary action.

All the Senior Sub Judges-cum-Chief Judicial Magistrates and Sub-Judges-cum-Judicial Magistrates in H.P. for information.

4. the Special Private Secretary to Hon'ble the Chief Justice.
5. The Secretaries to Hon'ble Judges of this High Court.
6. All the Addl.Registrars/Deputy Registrars/Assistant Registrars/Court Secretaries/Pvt. Secretaries/Readers/Superintendents/Chief Librarian of this Registry.
7. PAs to Registrar/Registrar(V)/District & Sessions Judge (Rules).
8. The Superintendent(Admn.)/Superintendent (Rules) of this Registry with 5 spare copies each.
9. The Controller, Printing and Stationery, Govt. of H.P., Shimla 5, for publication in the Himachal Pradesh Rajpatra (extra-ordinary). He is also requested to send a copy of the Gazette containing the publication, to this Registry, at the earliest.
10. Guard file.


 (K. Negi)
 District & Sessions Judge(Rules)

SCHEDULE-I

SANCTIONED STRENGTH OF THE EMPLOYEES
OF THE SUBORDINATE COURTS.

Sr. No.	Name of Posts	Classification	Pay Scale	No. of posts
1.	2.	3.	4.	5.
1.	Superintendents Gr. II	Class-III	2000-3500	75
2.	Personal Asstt.	-do-	-do-	11
3.	Readers	-do-	1800-3200	67
4.	Stenographers	-do-	-do-	19
5.	Record-Keeper	-do-	-do-	8
6.	English Clerk	-do-	-do-	8
7.	Civil Nazir	-do-	-do-	20
8.	Translator	-do-	-do-	10
9.	Assistant	-do-	-do-	5
10.	Junior Scale Steno graphers.	-do-	1200-2100	12
11.	Steno-Typist.	-do-	950-1800 plus Rs. 50/-S.P.	41
12.	Nazir	-do-	950-1800	7
13.	Ahlmed	-do-	-do-	125
14.	Naib Nazir	-do-	-do-	64
15.	Copyist	-do-	-do-	74
16.	Court Nazir	-do-	-do-	4
17.	Guardian Clerk	-do-	-do-	1

-X- Amended vide notification dt. 2.9.2002 (6th Amendment)