

অসম



ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR

JUDICIAL DEPARTMENT : : JUDICIAL BRANCH

NOTIFICATION

The 17th February, 2003

No. JDJ(E)110/80/137.--In exercise of the powers conferred by the proviso to Article 309 read with Article 234 of the Constitution of India, the Governor of Assam is pleased to make in consultation with the Gauhati High Court the following rules regulating the recruitment and conditions of service of persons appointed to the Assam Judicial Service, namely :-

1. (1) These rules may be called the Assam Judicial Service Rules, 2003.
(2) They shall come into force on the date of their publication in the official Gazette.
2. In these Rules, unless there is anything repugnant to the subject or context :-
 - (a) "Assured Career Progression" in short "ACP" means time bound scale as may be provided in the ROP Rules to be framed for the purpose,
 - (b) "Chief Justice" means the Chief Justice of the Gauhati High Court,
 - (c) "Constitution" means the Constitution of India,
 - (d) "Commission" means The Assam Public Service Commission,
 - (e) "Existing members of the Service" means the officers who have been holding the posts under the Assam Judicial Service Rules, 1967, as amended,
 - (f) "Government" means the Government of Assam,
 - (g) "High Court" means "The Gauhati High Court",
 - (h) "Members of the Service" means the officers appointed or deemed to have been appointed under the provisions of these Rules,
 - (i) "Service" means the Assam Judicial Service,
 - (j) "Year" means the English Calendar Year,
3. There shall be constituted a service to be known as the Assam Judicial Service, consisting of three grades of officers as shown in Schedule 'A' appended to the Rules.

4. CADRE. (1) The strength of the Service and cadre shall be determined by the Governor in consultation with the High Court, from time to time.

(2) On the commencement of these Rules, the strength of the service shall be as given in Schedule 'A' appended to these Rules.

(3) The Governor may, except in the case of the post of Registrar, from time to time, leave unfilled or hold in abeyance any post in the Cadre or may increase the Cadre by the creation of additional permanent or temporary posts as may be found necessary, in consultation with the High Court.

5. RECRUITMENT. (1) The Chief Justice shall fill up the post of Registrar, Deputy Registrar and Assistant Registrar by virtue of Article 229 (1) of the Constitution ordinarily from Grade -I, Grade - II, and Grade -III of the service respectively.

(2) Notwithstanding anything contained in sub-rule (1), vacancy, temporary or permanent, in the post of the Assistant Registrar may be filled up by promotion from amongst the Ministerial staff of the High Court by the Chief Justice.

(3) Notwithstanding anything contained in these Rules, the conditions of Service of the persons appointed to the post of Registrar, Deputy Registrar and Assistant Registrar, shall be regulated by the rules that may be made under Article 229 (2) of the Constitution.

6. APPOINTING AUTHORITY - (1) The appointing authority for the cadre of Grade -I and Grade -III shall be the Governor and for the category of posts of Grade-II shall be the High Court.

(2) Appointment to the posts of Super Time Scale/Selection Grade District & Sessions Judges shall be made by the High Court by promotion from Grade-I of the Service, as per criteria given in Schedule 'E'.

7. METHOD OF RECRUITMENT, QUALIFICATION, RESERVATION AND AGE LIMIT - In respect of each category of posts specified in column (2) of the table below, the method of recruitment and minimum qualification, age limit etc., are specified in the corresponding entries in columns (3) and (4) thereof.

Provided the High Court shall have the power to relax the qualifying period of Judicial Officer for the purpose of promotion in case the same is considered necessary in the interest of service.

Sl. No.	Cadre	Method of Recruitment	Qualification age limit etc.
1	2	3	4
1	Grade-I	<p>(i) Not exceeding 25% of the Posts in the cadre may be filled by direct recruitment on the basis of the aggregate marks / grade secured in a competitive examination conducted by the High Court, as specified in Schedule B of the Rules.</p> <p>(ii) 50% of the posts in the cadre shall be filled by promotion from the cadre of Grade II of the service on the basis of merit cum seniority by the High Court, following the criteria in Schedule-E.</p> <p>(iii) Remaining 25% of the cadre of the service shall be filled up by promotion strictly on the basis of merit through limited departmental competitive examination as conducted by the High Court in schedule B of the specified Rules.</p>	<p>By direct recruitment</p> <ol style="list-style-type: none"> 1. Must be holder of degree in law of a recognized University. 2. Must be practising as an Advocate in Courts of Civil and Criminal jurisdiction on the last date fixed for receipt of applications and must have so practising for a period of not less than seven years as on such date. 3. Must have attained the age of thirty-five years and must not have attained the age of forty-eight years in the case of candidates belonging to Scheduled Castes or Schedules Tribes and forty five years in the case of others, as on the last date fixed for receipt of applications. 4. Must have been in the cadre of Grade-II for a period of not less than 5 years.

2	Grade-II	By promotion from the cadre of Grade-III selected by the High Court on the basis of criteria indicated in Schedule E.	Must have been in the cadre of Grade-III for a period not less than five years.
3	Grade-III	By direct recruitment on the basis of aggregate marks obtained in a competitive examination conducted by the High Court as indicated in Schedule B of the Rules	<p>(1) Must be holder of a degree in law granted by a recognized University established by law in India.</p> <p>(2) Must not have attained the age of 35 years.</p> <p>(3) Must not have completed, as on the last date fixed for receipt of applications 38 years of age in the case of candidates belonging to Scheduled Castes or Scheduled Tribes and 35 years of age in the case of others.</p>

8. **RESERVATION. A.** (1) Of the vacancies to be filled up in Grade III of the Service, there shall be a reservation for candidates belonging to the Schedule Castes, Schedule Tribes (Plains) and Schedule Tribe (Hill) not exceeding 7% (seven percent), 10% (ten percent) and 5% (five percent) respectively.

(2). If sufficient number of suitable candidates belonging to the S.C., S.T (Plains) and S.T. (Hills) are not available for filling up the posts reserved for them these shall be filled from among other candidates, and an equivalent number of additional vacancies shall be reserved for the candidates belonging to S.C., S.T. (Plains) and S.T. (Hill) and would be carried forward till the quota is filled up subject, however, to the condition that in no calendar year shall the normal reserved vacancies taken together would exceed 50% of the total number of vacancies filled up.

B. A 40 (forty) point roster is to be maintained to depict the posts reserved for General Candidates, SC, ST and other Candidates, as provided under the Rules, in Grade-III of Service. As and when vacancy arises, whether permanent or temporary, in a particular post, the same is to be filled up from amongst the category to which the post belongs in the roster.

9. **DISQUALIFICATION FOR APPOINTMENT:** No person shall be eligible for appointment to the service:-

- (a) Unless he is a citizen of India;
- (b) If he is dismissed from service by any High Court, Government or statutory or local authority;
- (c) If he has been convicted of an offence involving moral turpitude or who is or has been permanently debarred or disqualified by the High Court or the Union Public Service Commission or any State Public Service Commission or any State Public Service Commission from appearing for examination or selections conducted by it;
- (d) If he directly or indirectly influences the recruiting authority by any means for his candidature;
- (e) If he is a man, has more than one wife living and if a woman, has married a man already having another wife.

10. RECRUITMENT.

- (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 10-15 days before the occurrence of the vacancy.
- (2) (i) Whenever two or more vacancies required to be filled by direct recruitment occur in a cadre in the service or once in two years, whichever is earlier, the recruiting authority shall, invite by advertisement in the official Gazette and in at least two news - papers, applications in such form as it may determine from intending candidates, who possess the prescribed qualifications. The advertisement shall indicate the number of vacancies reserved for Schedule Castes, Schedule Tribes and other backward classes, if any, and shall contain all necessary information relating to the recruitment. It shall also indicate that an additional list of selected candidates would be prepared as per clause (iv).
- (ii) The decision of the recruiting authority as to the eligibility or otherwise of a candidate for admission to the written and viva voce examination shall be final. No candidate to whom certificate of admission has not been issued by the recruiting authority shall be admitted for the examination.
- (iii) The recruiting authority shall on the basis of cumulative grade value secured by a candidate and taking into consideration the orders, if any, in force relating to reservation of posts for Schedule Tribes and other backward classes, prepare in the order of merit, assessed as provided in Schedule B, a list of candidates to be included in the list which shall be equal to the number of vacancies notified.

(iv) The recruiting authority shall in accordance with the provisions of clause (iii), also prepare an additional list of names of

candidates not included in the list of candidates prepared under clause (iii) above, in which the number of candidates to be included, shall, as far as possible, be ten percent of the number of vacancies notified for recruitment or one, whichever is higher.

(v) The lists so prepared under clauses (iii) and (iv) above shall be published and they shall cease to be operative on the expiry of one year from the date of such publication.

(vi) Candidates whose names are included in the list prepared under clause (iii) above shall be considered for appointment in the order in which their names appear in the list and subject to rule 9, they may be appointed by the appointing authority in the vacancies notified under clause (i) above. Candidates whose names are included in the additional list may be similarly appointed after the candidates whose names are included in the list published under clause (iii) above have been appointed.

(vii) Inclusion of the name of a candidate in any list prepared under clause (iii) or (iv) shall, not confer any right of appointment to such candidate.

11. CONDITIONS RELATING TO SUITABILITY, FITNESS AND CHARACTER-

(1) No person selected for appointment by direct recruitment 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 for the purpose that he is medically fit to discharge the duties of the post to which he is selected for appointment.

(2) Every candidate selected for appointment by direct recruitment shall furnish certificates, given not more than six months prior to the date of the application, from two respectable persons unconnected with his college or university and not related to him testifying to his character, in addition to the certificate which may be required to be furnished from the educational institution last attended by him.

12. FEES- Every candidate for direct recruitment may be required to pay such fees as may be specified in the notification inviting applications.

Provided that in the case of a candidate belonging to Schedule Caste or Scheduled Tribes, the fees payable shall be one half of the fees specified in the notification for other candidates.

13. JOINING TIME FOR APPOINTMENT.

- i. A candidate by direct recruitment shall report for duty before the authority on the date specified in the order of appointment.
- ii. Notwithstanding anything contained in sub-rule (1) the appointing authority 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 it may deem necessary.
- iii. The name of the candidate who fails to assume charge of the post within the time specified in the sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and he shall cease to be eligible for appointment.

14. TRAINING (1) There shall be a training Course for the Officers appointed in Grade III of the service and direct recruits in Grade-I of the service, as the High Court may deem fit and proper as per the Schedule-D.

(2) The High Court may arrange Refresher Course for officers of all cadres from time to time. The Judicial Officer may also be deputed for Training/Refresher outside the State or outside the country in consultation with the State Govt.

15. PROBATION AND OFFICIATION

(1) All appointments to the service by direct recruitment 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 the period of probation or officiation, as the case may be, specified in sub-rules(1) or (2).

(4) At the end of the period of probation or officiation or the extended period of probation or officiation, as the case may be, the appointing authority shall consider the suitability of the person so appointed or promoted to hold the post to which he was appointed or promoted, and -

- (i) if it decides that he is suitable to hold the post to which he was appointed and has passed the special examinations or tests, if any, required to be passed during the period of probation or officiation, as the case may be, it shall, as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation or officiation, 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 considers that the person is not suitable to hold the post to which he was appointed or promoted, as the case may be, 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) A person shall not be considered to have satisfactorily completed the period of probation or officiation, as the case may be, unless a specific order to that effect is passed. Any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of officiation or probation.
- 6) Discharge of a probationer during the period of probation-
 - i. Notwithstanding anything hereinabove, 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.
 - ii. An order under sub-rule (i) shall indicate the grounds for the discharge but no disciplinary enquiry shall be necessary.
- 7) Appeal –No appeal shall lie against an order discharging a probationer or an order reverting a promotee to the post held by him prior to his promotion.
- 8) Confirmation –A probationer who has been declared to have satisfactorily completed his period of officiation shall be confirmed as a full member of the service in the category of post to which he was appointed or promoted, as the case may be, at the earliest opportunity in any substantive vacancy which may exist or arise.