

MADHYA PRADESH HIGHER JUDICIAL SERVICE
[RECRUITMENT AND CONDITIONS OF SERVICE]
RULES, 1994

1. Short title, commencement and application-

- (1) These rules may be called **The Madhya Pradesh Higher Judicial Service (Recruitment and Conditions of Service) Rules 1994**
- (2) They shall come in to force on the date of their publication in the Madhya Pradesh Gazette.
- (3) They shall apply to all the members of the Madhya Pradesh Higher Judicial Service.

2. Definitions- In these rules, unless the context otherwise requires; -

- (a) **“High Court”** means the High court of Madhya Pradesh;
- (b) **“Direct Recruitment”** means direct recruitment to the post in Category (a) of Sub rule (1) of rule 3 in manner prescribed in sub rule (1) of rule 5;
- (c) **“District Judge”** includes additional judge to the court of District judge, Additional district judge, Sessions judge and Additional session judge;
- (d) **“Government”, “Governor” and “State”** means respectively the Government Of Madhya Pradesh, The Governor of Madhya Pradesh and the State of Madhya Pradesh;
- (e) **“Service”** means the Madhya Pradesh Higher Judicial Service;
- (f) **“Cadre”** means the strength of service or part of service sanctioned as a separate unit.

3. Constitution of service-

[1] The service shall consist of the following categories of District Judges, namely; -

- (a) District Judge [Entry Level] -
Rs.16750-400-19150-450-20500
Now revised as
51550-1230-58930-
- (b) District Judge [Selection Grade] –
Rs.18750-400-19150-450-21850- 500-22850
1380-63070
- (c) District Judge [Super Time Scale] -
Rs.22850-500-24850
Now revised as
57700-1230-58930-1380-

[2] The service shall consist of following person; -

- (a) Person who, at the time of commencement of these rules, are holding substantively or in officiating capacity post of District Judge.
- (b) Persons recruited directly or by promotion to the service in accordance with the provision of these rules.

4. Strength of service-

The strength of service 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 (b) and (c) of sub rule (1) of rule 3 shall be 25% and 10% respectively, of the total number of cadre posts in the service.

5. Method of appointment

(1) Appointment to the post in category (a) of sub rule (1) of rule 3 shall be made as follows: -

- (a) 50 percent by promotion from among the civil judges (senior division) on the basis of, merit cum seniority and passing suitability test;
- (b) 25 percent by promotion strictly on the basis of merit through limited competitive examination of civil judges (senior division) having not less than 5 years qualifying service;

Provided that notwithstanding that a person has passed such competitive examination, his suitability for promotion shall be considered by the High Court on the basis of his past performance and reputation;

*Provided further that recruitment to the posts shall be made on the basis of the vacancies available till the attainment of the required percentage;

[* **Note** - This provision has been declared Ultra-vires by Judgment dated 29.04.08 passed in W.P. No. 6511/07 "Y.D. Shukla Vs. High Court of M.P.]

- (c) 25 percent of the post shall be filled by the direct recruitment from among the eligible advocates on the basis of the written test and viva-voice conducted by the high court,

dated 13.08.2015

“Provided that if any post earmarked for direct recruitment remains vacant even after two consecutive selection processes held for that purpose, the same shall be filled by promotion from amongst the Civil Judges (Senior Division), having not less than 7 years of aggregate Judicial service and have attained the age of 35 years and have not attained the age of 48 years as on the 1st January of the year in which application for filling up such vacant posts are invited, strictly on the basis of merit through written examination and viva-voce conducted by the High Court keeping in mind suitability of the candidate on the basis of his past performance and reputation, on the assumption that quota for direct recruitment to the extent of vacant posts has broken down.”

- (2) Appointment to the categories (b) and (c) of sub-rule (1) of rule 3 shall be made by the High Court by selection of members of the service from categories (a) and (b) respectively on merit-cum-seniority basis;

Provided that no member of the service shall be appointed in the category (b) and (c) of sub-rule (1) of rule 3 unless he has completed five years and three years continuous service in the category (a) and (b) respectively.

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

15%, 18%, and 14% of post for direct recruitment shall respectively be reserved for the candidates, who are member of the Scheduled Castes/ Scheduled Tribes and Other Backward Classes respectively;

Provided that if sufficient number of candidates belonging to Scheduled Castes/ Scheduled Tribes and Other Backward Classes are not available, such posts shall be treated as “unreserved”.

7. Qualification for direct recruitment; -

No person shall be eligible for appointment by direct recruitment unless:-

- (a) he is citizen of India;
- (b) he has attained the age of 35 years and has not attained the age of 48 years on the first of January of the year in which applications for appointment are invited;

- (c) he has been for not less than seven years an advocate or a pleader;

“Explanation :

In-service Civil Judge in the State Judiciary who has already resigned by keeping lien on the post on which he was working as a Judge and fulfills other conditions specified in this Rule, shall also be eligible to appear in the selection process under this Clause.”

- (d) he has good character and is of sound health and free from any bodily defect, which renders him, unfit for such appointment.

The procedure of selection for direct recruitment and promotion shall be such, as may be specified by the high court from time to time.

8. Appointing authority: -

- (1) All appointments to category (a) of sub rule (1) of rule 3 shall be made by the Governor in accordance with the recommendation of the High Court.
- (2) All appointment to category (b) and (c) of sub rule (1) of rule 3 shall be made by the high court.

9. Probation: -

- (a) A person appointed to a post in category (a) of sub-rule (1) of Rule 3 shall from the date, on which he joins duty, be on probation for a period of two years.
- (b) The High court may, at any time, extend the period of probation but the total period of probation shall not ordinarily exceed four years.
- (c) The high court may at any time during or at the end of period of probation revert a promotes member of the service to his substantive post from which he was promoted and in the case of a direct recruit recommend termination of his service.
- (d) On successful completion of probation, the probationer shall, if there is permanent post available, be confirmed in the service and if no permanent post is available, a certificate shall be issue by the High court to the effect that he would have been confirmed, but for non availability of the permanent post, and as soon as a permanent post becomes available, he shall be confirmed.
- (e) A probationer shall continue as such until confirmed or reverted or terminated, as the case may be.

- 10.** All posting and transfers of persons appointed to the service shall be made by the High court.

11. Seniority -

- (1) The seniority of the person appointed to a post in categories (a), (b) and (c) of sub rule (1) of rule 3 shall, unless he has been reduced in rank on account of punishment, be determined in accordance with-
 - (a) The date of continuous officiation in the service in case of officers promoted to category (a);
 - (b) The date of order of appointment in the case of direct recruits to post in category (a); and
 - (c) The date of order of promotions to categories (b) and (c) respectively or such date, as may be specified in this regard by the High court:

Provided that where the date of continuous officiation in the case of a member promoted to a post in category (a) and the date of joining the service in the case of direct recruit to the post in the same category, be the same, the promoted officer shall be treated as senior:

Provided further that inter seniority among the persons promoted by an order of the same date or among direct recruits appointed by an order of the same date shall follow the order in which their names have been recommended by the High court.

- (2) The seniority of persons appointed or promoted to the various categories prior to the commencement of these rules, shall also be determined on the basis of above principles.

12. Pay and allowances-

- (1) The dearness allowance of the members of the Higher Judicial Service be governed by the Madhya Pradesh judicial service revision of pay rules 2003 and the same D.A. formula as being adopted at central government be followed.
- (2) The basic pay of District judges (Entry Level), District judges (Selection Grade) and district judges (Super Time Scale) shall be 71.6%, 80 %, and 91.7 % respectively of the salary of the High court judges.

13. Interpretation -

If any question arises as to the interpretation of these rules, the decision of the High court shall be final.

14. Superannuation age. -

- (1) The age of superannuation of a member of the service shall ordinarily be 60 years, provided he is found fit and suitable to continue after 58 years in service by the High court.

- (2) Without prejudice to the provisions contained in rule 56(2) of the Fundamental Rules and rule 42 (1) (b) of Madhya Pradesh civil services (Pension) Rules, 1976 a member of the service not found fit and suitable shall be compulsorily retired on his attaining the age of 58 years.

"Explanation - For the purpose of this rules, reference to the provisions contained in rule 56(2) of the Fundamental Rules and rule 42(1) (b) of the Madhya Pradesh Civil Services (Pension) Rules, 1976 shall be construed to mean that in addition to the powers under sub-rule (2), the High Court may also exercise powers contained in rule 56(2) of the Fundamental Rules and rule 42(1)(b) of the Madhya Pradesh Civil Services (Pension) Rules, 1976 as amended from time to time, for the purpose of compulsory retirement of a member of the service."

14-A. Resignation with lien –

"In-service Civil Judge, who is eligible for being appointed as direct recruit under Clause (C) of Rule 7, may resign with prior permission of the Competent Authority to keep lien for a period of one year on the post held by him."

Amended vide L.D. Order
No. F.17 (E) 40/88/21-B
(one) dated 13.08.2015

15. Oath. -

Every person appointed to the service by direct recruitment before he joins shall make and subscribe before such person as may be specified by the Chief Justice, Oath of 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 service may be deputed to perform the duties of any post under Central Government or the State Government or to serve in an organisation, which is wholly or partly owned or controlled by such Government.

17. Power to relax. –

Where the High court is satisfied that the operation of any of these rules causes undue hardship in any particular case, it may for reasons to be recorded in writing dispense with or relax the particular rule to such

extent and subject of such exceptions and conditions as may be deemed necessary:

Provided that as and when any such relaxation is granted by the High Court the Governor shall be informed of the same.

18. Repeal. -

All rules corresponding to these rules, Orders and Resolutions, if any, in force immediately before their commencement 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.

BY ORDER AND IN THE NAME OF THE GOVERNOR
OF MADHYA PRADESH
SECRETARY