

CHAPTER 18

Subordinate Services Attached to Civil Courts

(other than High Court)

Part A CONTROL

Rules framed by the High Court under Section 35(3) of the Punjab Courts Act for subordinate Services attached to Civil Courts other than the High Court.

I. Application. These rules shall apply to the following:

- (a) Ministerial and menial establishment of District and Sessions Judges, including establishment of Record Offices and Sessions Houses.
- (b) Ministerial and menial establishment of Sub-Judges stipendiary and honorary.
- (c) Ministerial and menial establishment of Courts of Small Causes.

Note—The term ‘menial’ used in this rule and the other rules in this chapter includes all inferior Government servants other than process-servers, who have been classed as ministerial officers for the purpose of these rules.

II. Classification—(a) The following officers, together with such others as the High Court may from time to time direct, shall be considered as ministerial officers, forming a joint cadre:

- (1) Clerks of Court to Senior Subordinate Judges and Judges of Courts of Small Causes;
- (2) Readers;
- (3) Record Keepers;
- (4) English and Vernacular Clerks (Ahlmads and Muharrirs, paid Candidates and Leave Reserve Clerks);
- (5) Stenographers;

- (6) Translators and Assistant Translators;
- (7) Copy Clerks, and Copyists, English and Vernacular;
- (8) District and Sessions Judges' Nazirs;
- (9) Civil Nazirs, Naib-Nazirs and Madad Naib-Nazirs;
- (10) European and Execution Bailiffs;
- (11) Process-servers.

Nos. (1) to (8) shall be classed as General Line; Nos. (9) to (11) shall be classed as Process-serving Establishment.

Posts of Clerks of Court to District and Sessions Judges shall be classed as selection posts and shall be on a provincial cadre.

(b) There shall be a separate cadre for each Revenue District and a separate cadre for each Court of Small Causes:

Proviso not applicable in Delhi because there is only one Revenue District.

Note—The term 'ministerial' used in this rule is not intended to over-rule the definition of a ministerial Government servant given in Fundamental Rule 9(17). Bailiffs and process-servers will, therefore, continue to be regarded as non-ministerial and inferior Government servants, respectively, for the purpose of the rules relating to retirement, as contained in Fundamental Rule 56 for Bailiffs and Articles 481 to 485 of the Civil Service Regulations for Process-servers. Bailiffs and other officials appointed to posts in the Punjab on pay not exceeding Rs. 25 per mensem on or after the 19th November, 1904, will be treated as inferior Government servants and their retirement governed by Articles 481 to 485 of the Civil Service Regulations.

III. Qualifications—(1) No person shall be accepted as a candidate for the clerical ministerial staff if he is over 25 years of age, or if there is no prospect of his getting a permanent Government post, or a post of paid candidate, or a post of section copyist, before attaining the age of 26 years.

(2) No person shall be appointed to, or accepted as a candidate for, any clerical ministerial post, unless he has passed the Matriculation Examination of the Punjab University or an equivalent examination:

Provided that the member of the non-clerical ministerial staff, who joined service before November, 1929, may be appointed to a post of Madad Naib-Nazir, Naib-Nazir or Civil Nazir, if he has shown special ability, has a working knowledge of English and is also to examine and keep accounts.

Provided further that a non-matriculate, who joined service before 17th July, 1926, may, if he was actually accepted as a candidate for a clerical post, be appointed to any of the posts enumerated in Schedules I, II and III to this part, if it is certified by the District and Sessions Judge, that he is efficient and fit for such appointment.

(3) Preference shall be given in the recruitment of new candidates to those who are competent stenographers, and such candidates should be freely employed as Court stenographers, while working as unpaid candidates.

(4) No person shall be appointed as Process-server as Execution Bailiff unless he has passed the Lower Middle School examination which is equivalent to 6th Class Promotion Examination provided that the High Court may relax this rule in the case of ex-soldiers and provided further that Process-server who joined service before 2nd June, 1934, may be appointed as Execution Bailiff if he is considered otherwise fit for promotion, although he may not have passed the lower Middle School Examination.

(5) No person shall be appointed Civil Nazir who is not able to keep and examine accounts both in English and in Urdu.

(6) No person who is sickly, old or incapable of much physical exertion, and has not a good knowledge both of Urdu and of the language current in the district of his employment shall be appointed as Execution Bailiff or Process-server.

(7) For posts of menials the officers empowered to make appointment shall appoint the best man, provided that preference be given to ex-soldiers competent to do the duties required.

(8) All appointments shall be subjected to a medical certificate of fitness.

IV. First appointment—First appointment shall be made as follows:

Note—This delegation has been made to the Senior Sub-Judge, 1st Class, in each district in regard to the process-serving establishment of all Courts in the district except that of the District Judges Court and the Court of the Judge, Small Causes, Lahore, Amritsar and Delhi.

V. Appointment—(1) Appointment to ministerial posts shall ordinarily be made either by open competition or by selection from a list of qualified candidates or apprentices accepted by the District Judge, Judge of a Small Cause Court, or Sub-Judge to whom powers of appointment have been delegated, as the case may be. Any departure from either of these methods should be reported to the High Court for confirmation.

(2) No person shall be admitted to work in any Court as an apprentice unless his name is entered on the register of candidates by the written order of the District and Sessions Judge, Senior Subordinate Judge or Judge, Small Cause Court, as the case may be, who shall in addition to the qualifications specified above satisfy himself by personal inspection that each candidate is otherwise qualified and suitable and has adequate means of subsistence. Each apprentice shall

have his place and duty distinctly assigned to him in the office and shall work under the supervision of a recognised superior clerk.

(3) When appointment to a permanent post is made from candidates, preference must be given to the senior candidate unless, he has shown himself unfit, provided that when candidates possessing higher educational qualifications for a post, for which an examination standard is fixed, such as graduates, are available they should be given preference over less well qualified candidates.

VI. In making promotions, preference may invariably be shown to officials who are known to be strictly honest. No promotion made in the case of an official who does not possess and maintain a reputation for strict integrity. Efficiency without honesty is not to be regarded as constituting a claim to promotion.

COMMENTS

Rules under this Chapter were framed under Section 35 (3) of Punjab Courts Act, 1918. The Act was extended to Delhi vide Notification No. 189/38 dated 30-5-1939. Act included Rules as well framed under the Act. Section 35 was repealed by A. O. 1937. Rules framed under Section 35(3) (Rule VI of Chapter 18-A, Volume I) continued to be in operation by virtue of Art. 9 of the A. O. 1937. *Suraj Bhan v. Rajinder Pal Singh Lamba*, 2001 (91) DLT 702.

VII. Security—All officers having any dealings with public money or holding posts of particular trust shall on appointment give such security as the High Court may from time to time prescribe.

VIII. Conditions of service—(1) The establishment other than Process-servers mentioned in Rule II in each district shall consist of so many posts as the High Court may fix from time to time by an order under this rule. The number of posts and the rates of pay of such posts as they stood on 1st April, 1934, are as enumerated in Schedules I to III annexed to these rules.

(2) The remuneration of Process-servers and the number of their appoints are governed by rules issued by the High Court under Section 20 and 22 of the Court-Fees Act, 1870.

(3) Members shall be governed by the provisions of the Fundamental and the Subsidiary Rules and framed from time to time.

IX. Punishment—(1) The following penalties may for good and sufficient reasons be imposed upon members of the ministerial staff:

(i) Censure,

(ii) Fine of an amount not exceeding one month's salary for misconduct or neglect in the performance of duties,

(iii) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders.

(iv) Withholding of increments of promotion including stopping at an efficiency bar,

(v) Reduction to a lower post or time scale or to a lower stage in a time scale,

(vi) Suspension,

(vii) Removal, and

(viii) Dismissal.

(2) (a) Any of the above penalties may be inflicted by the District Judge, on the ministerial officers of his own Court or any Court subordinate to him other than a Court of Small Causes, and on the menials of his own Court.

(b) The Judge of a Court of Small Causes may inflict any of the above penalties on the ministerial officers and menials of his own Court.

(c) The District Judge may, with the previous sanction of the High Court, delegate to any Subordinate Judge the power to inflict penalties given in clause (a) to be exercised by the Subordinate Judge in any specified portion of the district subject to the control of the District Court.

Note—This delegation has been made to the Senior Sub-Judge, 1st Class, in each district in regard to the process-serving establishment of all Courts in the district except that of the District Judge's Court and the Court of the Judge, Small Causes, Lahore, Amritsar and Delhi.

(d) Any Subordinate Judge may fine, in an amount not exceeding one month's salary, and ministerial officers of his own Court for misconduct or neglect in the performance of his duties.

(e) The Senior Subordinate Judge may inflict any of the above penalties on menials of his own Court or the Courts of other Subordinate Judges in the same district.

X. Appeals—(1) The District Judge may on appeal or otherwise reverse or modify any order made under Rule IX(2) by any Court under his control including a Court of Small Causes, and his order shall be final:

Provided that nothing in this rule shall preclude the High Court from altering where it deems fit any such appellate order of a District Judge on petition by an aggrieved person or otherwise:

Provided further that the District Judge shall not enhance any punishment but should, if he considers enhancement desirable, refer the case to the High Court for orders.

(2) Appeals against penalties inflicted by a District Judge shall lie to the High Court in the following cases only:

(a) Penalties mentioned in Rule IX(iii) to (viii) in respect of ministerial servants, holding permanent and pensionable posts;

(b) Orders of substantive appointment by promotion or otherwise to a permanent and pensionable post the maximum pay of which is Rs. 75 or more per mensem.

(c) Orders of temporary appointment which is to last more than three months or has in fact lasted more than three months in respect of posts the maximum pay of which is Rs. 75 or more per mensem.

(3) Persons appealing to the High Court under this rule shall do so by petition, such petition, accompanied by a copy of the order complained against, shall be presented to the District Judge who passed the order within one month of the date of such order (the period between the date of application for the copy and the date on which it is supplied being excluded). The District Judge will forward the petition to the Registrar of the High Court without unnecessary delay, and in forwarding the same he will be at liberty to record any remarks which he may wish to make concerning any matter stated in the petition.

After reading the petition, the High Court may either:

1. summarily reject it without hearing the petitioner;
2. refer it to the District Judge for report and on receipt of such report reject the petition without hearing the petitioner; or

(c) hear the petitioner, and in cases where other persons are held to be concerned in the subject of the petition, such other person in open Court.

Nothing in these rules debar order the High Court or a District Judge, from altering, if deemed fit, an order of punishment or appointment not provided for above which may be passed by a District Judge, Senior Subordinate Judge, or the Judge of a Small Cause Court in respect of ministerial or menial establishment when an aggrieved person petitions or otherwise. District and Sessions Judges should not, therefore, withhold any petition addressed to the High Court whether an appeal lies to it in the case or not under these rules. In a case in which no appeal lies the District and Sessions Judge should forward it without any comments and relevant documents unless he wishes to do so or is so required by the High Court.

(4) Petitioners are forbidden to attend personally at the High Court unless summoned to do so. Orders on their petitions will be communicated to them through the District Judge concerned.

(5) In order that a dismissed official may be able to exercise his right of appeal, the charge against him should be reduced to writing, his defence should either be taken in, or reduced to writing and the decision in such defence should also be in writing. The record of the charge, defence and decision should in all cases be such as to furnish sufficient information to the appellate authority to whom the dismissed official may prefer an appeal.

(6) Establishment orders, in which an appeal lies to the High Court as a matter of right, should state briefly the claims of the persons appointed as well as those of their seniors, if any, who are considered unfit for the appointments in question, and where the order of seniority has not been followed the reasons for departure from it should be stated.

COMMENTS

In deciding the appeal under Rule 10 the High Court exercises only a supervisory administrative control and does not act as a Tribunal disposing of an appeal involving a lis between the two rival parties and arriving at a judicial decision. Section 35(3) of Punjab Courts Act contains the rule making power. Section 35(4) stipulates that any order passed by the District Judge under this session shall be subject to the control of the High Court. The proceedings under this section and the decisions made thereunder are not judicial in nature. *Dev Singh and others v. The Registrar, Punjab and Haryana High Court*, AIR 1987 SC 1629.

XI. Appointment, transfers, etc., of Clerks of Courts—(1) All orders in regard to the appointments, suspension or removal of Clerks of Court attached to District and Sessions Judges Offices should be reported to the High Court for confirmation.

(2) A Clerk of Court to the District and Sessions Judge will not be regarded a fixture in a district, but will be liable to transfer under the orders of the High Court from one district to another within the same province.

XII. General orders, regarding discipline, etc.—Whenever any official (whether paid or unpaid) is personally interested in a case to be heard by the Court to which he is attached he must bring the fact to the notice of the presiding officer.

XIII. Conduct—(1) Members shall observe the Government Servants Conduct Rules and such other rules as may be framed by the Provincial Government from time to time.

(2) No candidate (whether paid or unpaid) shall undertake any business, trade or other employment without obtaining the previous permission in writing of the District Judge.

Part B CHARACTER ROLLS

With the previous sanction of the Punjab Government, the following instructions are issued for information and guidance:

(1) A separate file of annual reports shall be maintained for every member of the superior service (as defined by Article 396, Civil Service Regulations) in the Judicial Department, for whom a separate character roll has hitherto been maintained, and also for all bailiffs and process servers. The formal character rolls maintained for these officials shall be filed on this file along with annual reports made each year.

(2) The annual reports shall be submitted in Civil Form No. 278, as amended.

(3) In the first week, of January every year, blank forms should be submitted to Subordinate Judges by the Superintendents to the District and Sessions Judges and the Clerks of Court to Senior Subordinate Judges, for General line and Process-serving establishment respectively, for them to record remarks on the work of the official serving under them. The personal files of any officials against whom adverse remarks have been made in the previous year should accompany these forms to enable the Subordinate Judges to state expressly what steps, if any, have been taken by the persons concerned to remedy the defects communicated to them previously. The

Subordinate Judges should after getting page 1 of the form completed by the officials and recording their remarks, transmit the forms in a closed cover to the District Judge or the Senior Subordinate Judge, according as the official concerned is a member of the General line or Process-serving establishment. A Subordinate Judge on leaving a district should, if he has not already furnished a report, obtain copies of the prescribed form from the office of the Senior Subordinate Judge, record his remarks on the officials working under him, and transmit the forms to the District Judge or the Senior Subordinate Judge, as the case may be.

(4) The District and Sessions Judge and Senior Subordinate Judge of each district should take steps to see that annual reports on the work of all officials in the district are received by them not later than the 15th January each year. After they have recorded their own remarks these reports should be kept confidentially in their offices. Adverse remarks, if any, made on the work of any official, should be communicated to him. In deciding all questions affecting increments of pay and promotions, due regard should invariably be paid to the entries made in the file of annual reports.

Part C

Not relevant for Advocates of deals with the amount of security deposit to be taken from ministerial staff.