

(As amended upto 12.11.2010)

DELHI HIGHER JUDICIAL SERVICE RULES, 1970
NOTIFICATION
DELHI, THE 27TH AUGUST, 1970

No.F.1(1)/70-JUDICIAL (I):- In exercise of the power conferred by the proviso to Article 309 of the Constitution read with the Government of India, Ministry of Home Affairs Notification No.1/2/70/DH(S), dated the 29th May, 1970 as amended by Notification No.F.1/2/70-DH(S), dated the 25th July, 1970 and all other powers enabling him in this behalf, the Lieutenant Governor of Delhi in consultation with the High Court of Delhi is pleased to make the following rules, namely :-

PART I GENERAL

1. **SHORT TITLE AND COMMENCEMENT:** - These rules may be called the Delhi Higher Judicial Service Rules and they shall come into force from the date of publication in the Delhi Gazette.

*2. **Definition.-** In these rules, unless the context otherwise requires,-

- (a) "Administrator" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under Article 239 and designated as such under Article 239AA of the Constitution;
- (b) "cadre post" means any post specified in the Schedule and includes a temporary post carrying the same designation as that of any of the posts specified in the Schedule and any other temporary post declared as cadre post by the Administrator;
- (c) "direct recruit" means a person who is appointed to the Service from the Bar;
- (d) "High Court" means the High Court of Delhi;
- (e) "initial recruitment" means the first recruitment and appointment made to the Service after the commencement of these rules;
- (f) "Member of the Service" means a person appointed to the Service under the provisions of these rules;
- (g) "promoted officer" means a person who is appointed to the Service by promotion from the Delhi Judicial Service;
- (h) "Roster" means the Roster appended to these rules;
- (i) "Schedule" means the Schedule as amended from time to time and appended to these rules;
- (j) "Service" means the Delhi Higher Judicial Service."

3. **CONSTITUTION OF THE SERVICE:-** (a) On and from the date of commencement of these rules, there shall be constituted a Civil Service to be known as the Delhi Higher Judicial Service.

*(b) The posts included in the Service shall be Central Civil Posts, Group 'A', Gazetted.

PART II - AUTHORISED STRENGTH

*4. **Strength of the Service.-** (1) The authorized strength of the Service and the posts included therein shall be as specified in the Schedule which shall stand automatically amended simultaneously with the creation or abolition of cadre post.

(2) The Administrator may create from time to time on the recommendations of the High Court as many cadre posts as may be necessary.

* Substituted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

PART III- METHOD OF RECRUITMENT

5. **METHOD OF RECRUITMENT:-** (1) The recruitment of persons to the service from the Delhi Judicial Service shall be made by the Administrator in consultation with the High Court.

(2) In regard to the persons not already in the Delhi Judicial Service, appointment to service shall be made by the Administrator on the recommendation of the High Court.

6. (1) For initial recruitment to the service, the Administrator shall, in consultation with the High Court, appoint persons to the service substantively from amongst the following:-

(a) District Judges and Additional District Judges functioning as such in the Union Territory of Delhi on deputation from other States.

(b) District Judges and Additional District Judges whose names may be recommended by their respective States for appointment.

(2) The High Court may in its discretion examine the character rolls and hold such other tests as may be deemed fit.

(3) The seniority of the candidates appointed at the initial constitution shall be in accordance with the length of service rendered by them in the cadre to which they belong at the time of their initial recruitment to the service provided that the inter-se seniority as already fixed in such cadres shall not be altered.

(4) The number of officers to be appointed from the States of Punjab and Haryana shall not, subject to availability, be less than the number of posts borne on the cadre of such states for the purpose of Union Territory of Delhi.

***7. Regular recruitment.- (1) Recruitment to the posts in the cadre of District Judge at Entry Level shall be as under:-**

(a) 50 percent by promotion from amongst the Civil Judges (Senior Division), having a minimum ten years service in the cadre of Delhi Judicial Service, on the basis of principle of merit-cum-seniority and passing a 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 five years qualifying service; and

(c) 25 percent of the posts shall be filled by direct recruitment from amongst the persons eligible as per rule 7C on the basis of the written and viva voce test, conducted by the High Court.

(2) The first and second posts will go to category (a) (by promotion on the basis of seniority-cum-suitability), the third post will go to category (c) (direct recruitment from the Bar), and the fourth post will go to category (b) (by limited competitive examination) under this rule, and so on.

****7A. Selection for Promotion on the basis of merit and suitability.- Recruitment by promotion under clause (a) of sub-rule (1) of Rule 7 above shall be made by selection on the basis of merit-cum-seniority.**

* Substituted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

** Substituted vide Govt. of NCT of Delhi's Notification No. F.6/17/09-Judl./1922-25 dated 27.10.2009.

***7B. Selection for promotion by holding limited competitive examination:-** The High Court shall hold a limited written competitive examination for promotion of member of the Delhi Judicial Service as per clause (b) of sub-rule (1) of rule 7 in the following manner:-

- (i) Written Examination – 600 marks
- (ii) Assessment of Record – 150 marks
- (iii) Viva voce – 250 marks

Provided that the High Court may, in addition to the above competitive examination, take into consideration any of the materials as prescribed in rule 7A above:

Provided further that any officer having grading as 'C' (Integrity doubtful) in any year, shall not be eligible to appear in the limited competitive examination.

***7C. Selection for appointment by direct recruitment.-** The High Court shall before making recommendations to the Administrator invite applications by advertisement and may require the applicants to give such particulars as it may prescribe and may further hold written examination and viva voce test in the following manner:-

- (i) Written Test – 750 marks.
- (ii) Viva voce – 250 marks.

Provided that a candidate shall be eligible to appear in viva-voce only in case he secures 50% marks in the Written Examination in the case of candidate of general category and 45% in the case of candidates of reserved categories:

Provided further that a candidate of general category must secure a minimum of 50% marks and a candidate of reserved categories must secure a minimum of 45% marks in viva-voce to be eligible for being recommended for appointment to the service.

***8. Seniority.-** (1) The inter se seniority of members of the Delhi Judicial Service promoted under clause (a) of sub-rule (1) of rule 7 shall be the same as in the Delhi Judicial Service.

(2) The inter se seniority of the members of Delhi Judicial Service promoted under clause (b) of sub-rule (1) of rule 7 shall be the same as in the Delhi Judicial Service.

(3) The inter se seniority of the direct recruits to the Service under clause (c) of sub-rule (1) of rule 7 shall be the same as determined by the High Court at the time of recruitment.

(4) The inter se seniority position of the officers appointed to the Service under rule 7 shall be as given in the Roster.

(5) (a) A person recruited to the Service under clause (a), (b) and (c) of sub-rule (1) of rule 7 shall take his position in the seniority list as shown in the Roster irrespective of the date on which he actually joins the Service.

(b) A promoted officer who is promoted on an ad-hoc basis in the vacancy/position to be held by an officer in clause (b) or clause (c) of sub-rule (1) of rule 7 shall not have any right to the position held by him and his position in the seniority list shall be determined as per his position in clause (a) of sub-rule (1) of rule 7:

Provided that the existing rules applicable prior to the commencement of the Delhi Higher Judicial Service (Amendment) Rules, 2008 shall continue to govern the matters of seniority of the existing Members of the Service.”

* Substituted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

9. The qualifications for direct recruits shall be as follows:-

- (1) must be a citizen of India.
- (2) must have practised as an Advocate for not less than seven years.
- *(3) must have attained the age of 35 years and have not attained the age of 45 years on the 1st day of January of the year in which the applications for appointment are invited.

10. ****Omitted**

11. **DISQUALIFICATIONS:-**

- (1) No person who has more than one wife living shall be eligible for appointment to the service.

Provided that the Administrator may, if satisfied that there are special grounds for doing so, exempt any person from the operation of this sub-rule.

- (2) No woman who is married to any person who has a wife living shall be eligible for appointment to the Service.

Provided that the Administrator may, if satisfied that there are special grounds for doing so, exempt any such woman from the operation of this sub-rule.

PART IV – APPOINTMENT, PROBATION AND CONFIRMATION

12. (1) Persons appointed to the service at the initial recruitment shall stand confirmed with effect from the date of appointment.

*** (2) All other candidates on appointment to permanent post shall be on probation for a period of two years.

EXPLANATION: - The period during which an officer holds a temporary post will be counted towards probation but he will be confirmed only when a permanent post is available.

13. All persons appointed to the service on probation shall be confirmed at the end of the said period of two years.

Provided that the Administrator may, on the recommendation of the High Court, extend the period of probation, but in no case shall the period of probation extend beyond the period of three years.

14. The services of a person appointed on probation are liable to be terminated without assigning any reason.

15. After successful completion of the period of probation the officer shall be confirmed in the service by the Administrator in consultation with the High Court and the same shall be notified in the **Delhi****** Gazette.

* Sub-Rule (3) of Rule 9 substituted vide Delhi Admn notification No.F.6/10/87-Jul.,dt. 21.5.1990.

** Omitted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

*** Sub-rule (2) of Rule 12 substituted vide Delhi Administration's notification No.F6/10/87-Judl., dated 21.5.1990.

**** Added vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008

PART V – TEMPORARY APPOINTMENTS

16. (1) The Administrator may create temporary posts in the service.

* (2) Such posts shall be filled by Administrator, in consultation with the High Court, from amongst the members of Delhi Judicial Service and by direct recruitment from the Bar.

**** Explanation.- Rule 5,7, 7A, 7B, 7C, 8,9, and 11 shall apply to appointment made under this rule.**

*17. Notwithstanding anything contained in these rules, the Administrator may, in consultation with the High Court, fill substantive vacancies in the service by making temporary appointments thereto from persons appointed under rule 16.

PART VI – PAY AND ALLOWANCE

**** 18. The pay scales of the Service shall be as follows:-**

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|---|--|
| 1. District Judges Entry level Time Scale (Addl. District Judges) | Rs.16750-400-19150-450-20500 |
| 2. Selection Grade [limited to 25% of cadre posts of District Judges Entry level Time Scale (Additional District Judges) and will be given to those having not less than five years of continuous service in the cadre on assessment of merit-cum-seniority] | Rs.18750-400-19150-450-21850-500-22850 |
| 3. District Judges (Super time scale) (This scale would also be available to 10% of the cadre strength of District Judges, and would be given to those who have put in not less than three years of continuous service in selection grade on assessment of merit-cum-seniority) | Rs.22850-500-24850 |

19. The initial pay of a direct recruit shall be the initial pay in the time scale mentioned in rule 18.

Provided that the Administrator may, on the recommendation of the High Court, give advance increments to suitable candidates appointed to the service.

20. The pay of a promoted officer shall be fixed in the aforesaid time scale in accordance with the financial rules, regulations, orders, or directions, applicable from time to time, to members of the IAS.

21. The number of selection grade and super-time scale posts shall be as shown in the schedule.

* Sub-rule (2) of Rule 16 and Rule 17 substituted vide Delhi Administration notification No.F6/10/87-Judl., dated 17.3.1987.

** Explanation and Rule 18 substituted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

PART VII – OTHER PROVISIONS

22. The reservation of posts for the Schedule Castes and Schedule Tribes shall be in accordance with the orders issued by the Central Government from time to time.

23. The Administrator may make regulations not inconsistent with these rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect of these rules.

24. Every member of the service unless he has already done so, shall be required to take oath of allegiance to India and to the Constitution of India as established by law.

25. The initial recruitment shall be subject to the consent of the officer selected and consent of the parent Government.

26. Direct recruits will have to produce before appointment a certificate of physical fitness in accordance with the standards prescribed for the IAS.

***26A. Administrative control over Members of the Service.- The administrative control over the Members of the Service except their appointments, promotions and disciplinary matters involving major penalties, shall vest in the High Court but nothing in this rule shall be construed as taking away from such person any right of appeal which he may have under the law regulating the conditions of the service or as authorizing the High Court to deal with him otherwise than in accordance with the conditions of the service prescribed under such law.**

***26B. Age of superannuation.- A Member of the Service shall retire from service in the afternoon of the last day of the month in which he attains the age of sixty years:**

Provided that the High Court shall assess and evaluate the service record of a Member of the Service for his continued utility well within the time before he attains the age of 58 years by following the procedure for compulsory retirement under the service rules applicable to him before he is allowed to continue beyond the age of fifty eight years:

Provided further that an existing Member of the Service may exercise his option in writing before he attains the age of fifty seven years to retire at the age of fifty eight years:

Provided also that the Administrator may, in consultation with the High Court, re-employ retiring or retired judicial officers upto the age of sixty two years if there are vacancies in the cadre of District Judge.

****** Provided also that in the computation of the total period of service qualifying for pension and other benefits, a period of ten years or actual practice at the Bar, whichever is less, shall be added to the service of a member directly recruited from the Bar, subject to the condition that the weightage of practice at the Bar will be given only if the direct recruit actually works for minimum ten years in the service before retiring.

******* 26C. Omitted.

* Substituted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

** Added vide Govt. of NCT of Delhi's Notification No. F.6/14/05-Judl./1912-1914 dated 26.10.2009 (Corrigendum No. No. F.6/14/04-Judl./Pt.File/2012-2019 dated 6.11.2009 [Deemed to have come into force with effect from the 24th day of February, 2006]

*** Omitted vide Govt. of NCT of Delhi's Notification No.F.6/14/05-Judl./Pt.file/Suptlaw/1993-95 dated 22.10.2008.

27. **RESIDUARY MATTERS:-** In respect of all such matters regarding the conditions of service for which no provision or insufficient provision has been made in these rules, the rules, directions or orders for the time being in force, and applicable to officers of comparable status in the Indian Administrative Service and serving in connection with the affairs of the Union of India shall regulate the conditions of such service.

28. **INTERPRETATION :-** If any question arises as to the interpretation of these rules, the same shall be decided by the Administrator in consultation with the High Court.

29. On the recommencement of these rules and until persons are appointed to hold cadre posts in accordance with the provisions of these rules, such posts may continue to be held by officers appointed thereto on deputation either before or after the commencement of these rules as if these rules have not come into force.

*** SCHEDULE**
(See rule 4)

1. District and Sessions Judge, Delhi		1
2. District Judges		8
3. Additional District and Sessions Judges (including Special Courts/Industrial Tribunal/ MACT/Labour Courts)		160
4. Deputation and Leave Reserve @ 10% each		34
		<u># 203</u>
 Time Scale Posts		 123
Selection Grade Posts @ 25%		51
 Super Time Scale Posts		
District and Sessions Judge	- 01)	
District Judges	- 08)	29
@ 10% of the Cadre strength	- 20)	

* Substituted vide Govt. of NCT of Delhi's Notification No. F.6/25/04-Judl/Suptlaw/88-93 dated 29.1.2010.

With the sanction of three posts of Addl. District & Sessions Judges vide letter dated 12.11.2010 of the Govt. of NCT of Delhi, the sanction strength of DHJS is 206 posts.