

# The U.P. Higher Judicial Service Rules, 1975

UTTAR PRADESH

India

## The U.P. Higher Judicial Service Rules, 1975

### Rule THE-U-P-HIGHER-JUDICIAL-SERVICE-RULES-1975 of 1975

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The U.P. Higher Judicial Service Rules, 1975Published vide Notification No.

14-13/1966-A-Appointment-4, dated 21st March, 1975In exercise of the powers conferred by the proviso to Article 309, read with Article 233 of the Constitution of India, the Governor, in supersession of the existing rules, is pleased to make the following rules regulating the recruitment and appointment to the Uttar Pradesh Higher Judicial Service and conditions of service and of persons appointed thereto.

## Part I – General

### 1. Short title and commencement.

(1)These rules may be called the Uttar Pradesh Higher Judicial Service Rules, 1975.(2)They shall come into force with effect from the date of their notification in the Official Gazette.

### 2. Status of the service.

- The Uttar Pradesh Higher Judicial Service is a State Service comprising class I posts.

### 3. Definitions.

- In these rules unless the context otherwise requires-(a)"Constitution" means the Constitution of India;(b)"Governor" and "Government" means respectively the Governor and Government of Uttar Pradesh;(c)"The Service" means the Uttar Pradesh Higher Judicial Service;(d)"Court" means the High Court of Judicature at Allahabad.

## Part II – Cadre

### 4. Strength of the service.

(1)The Service shall consist of a single cadre comprising the posts of :(a)District and Sessions Judges, and(b)Additional District and Sessions Judges :Provided that against a post of Additional District and Sessions Judge a member of the Uttar Pradesh Judicial Officers Service may be appointed to exercise the powers of Additional Sessions Judge only as laid down in Notification No. 41-13/66-Appptt.-4, dated March 12, 1975 issued under Article 237 of the Constitution.(2)The strength of the Service shall be such as may be determined, from time to time, by the governor in consultation with the Court.(3)The permanent strength of the Service, shall, unless varied by orders passed in this behalf, be as specified in Appendix 'A'.(4)The Governor may, from time to time in consultation with the Court leave unfilled or hold in abeyance, any vacant post in the Service without entitling any person to compensation or create from time to time. Additional posts, temporary or permanent, as may be found necessary.

## Part III – Recruitment

### 5. Sources of recruitment.

- The recruitment to the Service shall be made-(a)by direct recruitment of pleaders and advocates of not less than seven years' standing on the first day of January next following year in which the notice inviting application is published;(b)by promotion of confirmed members of the Uttar Pradesh Nyayik Sewa (hereinafter referred to as the Nyayik Sewa), who have put in not less than seven years service to be computed on the first day of January next following the year in which the notice inviting application is published :Provided that for so long as suitable officers are available from out of the dying cadre of the Judicial Magistrates confirmed officers who have put in not less than seven years service to be computed as aforesaid shall be eligible for appointment as Additional Sessions Judges in the Service.Explanation.-When a person has been both a pleader and an advocate his total standing in both the capacities shall be taken into account in computing the period of seven years under clause (a).

### 6. Quota.

- Subject to the provisions of Rule 8, the quota for various sources of recruitment shall be-

- |  |       |                    |
|--|-------|--------------------|
| (i) direct recruits from the Bar                                     | 15% } | of the vacancies : |
| (ii) Uttar Pradesh Nyayik Sewa                                       | 70%   |                    |
| (iii) Uttar Pradesh Judicial Officers Service (Judicial Magistrates) | 15%   |                    |

Provided that where the number of vacancies to be filled in by any of these sources in accordance with the quota is in fraction, less than half shall be ignored and the fraction of half or more shall ordinarily be counted as one :Provided further that when the strength in the cadre of the Judicial

Magistrates gradually gets depleted or is completely exhausted and suitable candidates are not available in requisite numbers or no candidate remains available at all, the shortfall in the number of vacancies required to be filled from amongst Judicial Magistrates and in the long run all the vacancies, shall be filled by promotion from amongst the members of the Nyayik Sewa and their quota shall, in due course, become 85 per cent.

## **7. Reservation of posts for Scheduled Caste, etc.**

- Reservation to posts in the service for members of the Scheduled Castes, Scheduled Tribes and others shall be in accordance with the orders of the Government for reservation in force at the time of recruitment. Note-Copies of the orders of the Government in force at the commencement of these rules are given In Appendix 'B'

## **8. Number of appointments to be made.**

(1) The Court shall, from time to time, but not later than three years from the last recruitment, fix the number of officers to be taken at the recruitment keeping in view the vacancies then existing and likely to occur in the next two years. Note.-The limitation of three years mentioned in this sub-rule shall not apply to the first recruitment held after the enforcement of these rules. (2) [ If at any selection the number of selected direct recruits available for -appointment is less than the number of recruits decided by the Court to be taken from that source, the Court may increase correspondingly the number of recruits to be taken by promotion from the Nyayik Sewa :Provided that the number of vacancies filled in as aforesaid under this sub-rule shall be taken into consideration while fixing the number of vacancies to be allotted to the quota of direct recruits at the next recruitment, and the quota for direct recruits may be raised accordingly; so, however, that the percentage of direct recruits in the Service does not in any case exceed 15 per cent of the strength of the service :Provided further that all the permanent vacancies existing on May 10, 1974 plus 31 temporary posts existing on that date, if and when they are converted into permanent posts, shall be filled by promotion from amongst the members of the Piyayik Sewa; and only the remaining vacancies shall be shared between the three sources under these rules:Provided also that the number of vacancies equal to 15 per cent of the vacancies referred to in the last preceding proviso shall be worked out for being allocated in future to the Judicial Magistrates in addition to their quota of 15 per cent prescribed in Rule 6, and thereupon, future recruitment (after the promotion from amongst the members of the Nyayik Sewa against vacancies referred to in the last preceding proviso) shall be so arranged that for so long as the additional 15 per cent vacancies worked out as above have not been filled up from out of the Judicial Magistrates, the allocation of vacancies shall be as follows ;(i)15 per cent by direct recruitment;(ii)30 per cent from out of the Judicial Magistrate;(iii)55 per cent from out of the members of the Nyayik Sewa.]

## **9. Nationality.**

- A candidate for recruitment to the Service must be-(a) a citizen of India, or(b) a subject of Sikkim, or(c) a Tibetan refugee who came over to India before 1st January, 1962 with the intention of permanently settling in India, or(d) a person of Indian origin who has migrated from Pakistan,

Burma, Ceylon or any of the East African countries of Kenya, Uganda and United Republic of Tanzania (formerly Tanganyika and the Zanzibar) with the intention of permanently settling in India :Provided that a candidate belonging to category (c) or (d) above shall be a person in whose favour a certificate of eligibility has been issued by the State Government :Provided further that a candidate belonging to category (c) will also be required to obtain a certificate of eligibility granted by the Intelligence Department (Headquarters), Lucknow, Uttar Pradesh :Provided also that if a candidate belonging to category (d) above, no certificate of eligibility will be issued for a period of more than one year, and such a candidate may be retained in service after a period of one year, only if he has acquired Indian citizenship. Note-A candidate in whose case a certificate of eligibility is necessary but same has neither been issued nor refused, may be admitted to an examination or interview and he may also be provisionally appointed subject to the necessary certificate being obtained by him or issued in his favour subsequently.

## **10. Eligibility of women.**

- Women are also eligible for appointment to the service.

## **11. Knowledge of Hindi.**

- A candidate for recruitment to the service must possess a thorough knowledge of Hindi in Devnagari Script.

## **12. Age.**

- A candidate for direct recruitment must have attained the age of 35 years and must not have attained the age of [42] [Substituted by Notification No. 4935/11-4-56-5-78, dated 31st January, 1985. published in U. P. Gazette, Part I, (Ka), dated 5th October, 1985, (w.e.f. 5-10-1985).] years on the first day of January next following the year in which the notice inviting application is published :Provided that for the first recruitment held after the enforcement of these rules, the maximum age-limit shall be 48 years as on the first day of January next following the year in which the notice inviting application is published.

## **13. Character.**

(1)The character of a candidate for direct recruitment must be such as to render him suitable in the opinion of the governor, in all respects for appointment to the service. Note.-Persons dismissed by the Union Government or by a State Government or by a Corporation owned or controlled by the Union or a State Government shall not be eligible for recruitment.(2)The candidates for direct recruitment must produce a certificate of good character from the District Judge of the district in which they have been practising, and in the case of candidates normally practising in the High Court, from the Registrar of the High Court and also from two responsible persons of status (not related to candidates) who are well acquainted with them in private life and are connected with their University, College or School.

#### **14. Marital status.**

- A male candidate who has more than one wife living, or a female candidate who has married a man already having a wife living shall not be eligible for appointment to any post in the service :Provided that the governor may, if satisfied that there exist special grounds for doing so, exempt any person from the operation of this rule.

#### **15. Physical fitness.**

- No person shall be appointed to the service by direct recruitment unless he is in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his duties as a member of the service. Before a person is appointed he shall be required to appear before the Medical Board who will examine him and certify as fit or unfit for appointment to the service.

#### **16. Selection Committee.**

(1)The Chief Justice shall, for each recruitment to the Service, appoint a Selection Committee consisting of such number of Judges of the Court, not less than three, as he may decide.(2)No proceeding of the Selection Committee shall be invalid merely by reason of a vacancy occurring in it, or by a member or members being not present at one or more of its meetings, provided that a majority of the members of the Committee have been present at each meeting.

### **Part IV – Procedure for Direct Recruitment**

#### **17. Direct recruitment.**

(1)Applications for direct recruitment to the Service shall be invited by the Court by publishing a notice to that effect in the leading newspapers of State and shall be made in the form prescribed, from time to time, to be obtained from the Registrar of the Court on payment of the prescribed fee.(2)The application shall be submitted to the Court by the candidate through the District Judge within whose jurisdiction the candidate has been practising, and in the case of members of the Bar normally practising in the High Court, through the Registrar of the High Court. The application shall be accompanied by certificates of age, academic qualifications, character, standing as a legal practitioner and such other documents as may be required to be furnished.(3)The District Judge shall forward to the Court all applications received by him along with his own estimate of each candidate's character and fitness for appointment to the Service.

#### **18. Procedure of selection.**

(1)The Selection Committee referred to in Rule 16 shall scrutinize the applications received and may thereafter hold such examination, as it may consider necessary for judging the suitability of the candidates. The Committee may call for interview such of the applicants who in its opinion have

qualified for interview after scrutiny and examination.(2)In assessing the merits of a candidate the Selection Committee shall have due regard to his professional ability, character, personality and health.(3)The Selection Committee shall make a preliminary selection and submit the record of all candidates to the Chief Justice and recommend the names of the candidates in order of merit who, in its opinion, are suitable for appointment to the Service.(4)The Court shall examine the recommendations of the Selection Committee and having regard to the number of direct recruits to be taken, prepare a list of selected candidates in order of merit and forward the same to the Governor.

## **19. Fee.**

- Candidates for direct recruitment shall pay to the Registrar of the Court and the President of the Medical Board such fees as are specified in Appendix 'C'. No claim for the refund of such fees shall be entertained.

## **Part V – Procedure for Recruitment by Promotion**

### **20. Promotion of members of Nyayik Sewa.**

(1)Recruitment by promotion of the members of the Nyayik Sewa shall be made by selection on the basis of seniority-cum-merit.(2)The field of eligibility for recruitment by promotion shall be confined to four times the number of vacancies to be filled by promotion. The Selection Committee shall prepare a list in order of seniority of the officers eligible under Rule 5 (b) of these rules.(3)The Selection Committee shall, after examining the record of the officers included in the list prepared under sub-rule (2) of this rule make a preliminary selection of the officers who in its opinion are fit to be appointed on the basis of the seniority-cum-merit. In assessing the merits of a candidate, the Selection Committee have due regard to his service record, ability, character and seniority. The list shall contain the name of officers twice the number of vacancies required to be filled by promotion of the members of the Nyayik Sewa.(4)The Selection Committee shall forward the list of the candidates chosen at the preliminary selection to the Chief Justice along with the names of the officers who, if any, in the opinion of the Committee have been passed over for promotion to the service.(5)The Court shall examine the recommendations of the Selection Committee and make a final selection for promotion and prepare a list in order of seniority of the candidates who are considered fit for promotion and forward the same to the Governor. The list shall remain operative only till the next recruitment.

## **Part VI – Recruitment of Judicial Magistrates**

### **21. Temporary provisions for the cadre of the Judicial Magistrates.**

(1)For so long as suitable officers are available from out of the dying cadre of the Uttar Pradesh Judicial Officers Service, confirmed officers who have put in not less than seven years' service shall be eligible for appointment as Additional Sessions Judge in the service, as provided in Rules 4, 5, 6

and 8. Such officers may also be appointed as Additional Sessions Judge in officiating and temporary capacity upto the extent of 15 per cent of the vacancies in the cadre occurring during any one period of Selection.(2)The field of eligibility for appointment from out of the Judicial Magistrate shall be confirmed to four times the number of vacancies to be filled from this source. The Selection Committee shall prepare a list in order of seniority of the eligible officers.(3)Criterion for selection shall be seniority-cum-merit. In assessing the merits of a candidate the Selection Committee shall have due regard to his service record, ability, character and seniority. The preliminary selection shall be made by the Selection Committee referred to in Rule 6 and the list of the selected candidates shall be forwarded to the Chief Justice along with the names of the officers who, if any, in the opinion of the Committee are unfit for appointment to the Service.(4)The Court shall examine the recommendations of the Selection Committee and make a final selection and prepare a list of candidates considered fit for appointment in order of seniority and forward the names of the officers. The list shall remain operative only till the next recruitment.

## **Part VII – Appointment Probation and Confirmation**

### **22. [ Appointment. [Substituted by Noll. No. 3245/2-4-95-36(1)-95, dated 23rd February, 1996, published In U. P. Gazette, (Extra), Part 4, Section (Ka), dated 15th March, 1996]**

(1)Subject to the provisions of sub-rules (2) and (3), the governor shall on receipt from the court of the lists mentioned in Rules 18, 20 and 21 make appointments to the service on the occurrence of substantive vacancies by taking candidates from the lists in the order in which they stand in the respective lists.(2)Appointments to the service shall be made on the rotational system, the first vacancy shall be filled from the list of officers of the Nyayik Sewa. The second vacancy shall be filled from the list of direct recruits (and so on), the remaining vacancies, shall therefore be filled by promotion from the list of the officers of the Nyayik Sewa :Provided that for so long as suitable officers are available from the cadre of the Judicial Magistrates, appointments to the Service shall be made in such a way that the second, fifth and eighth (and so on), vacancy shall be filled from the list of Judicial Magistrates.(3)In the eventuality of delay in making appointment under sub-rule (1) and further if exigency of service so requires, the Governor may, in consultation with the Court, make short term appointment as a stop-gap arrangement from amongst the members of Nyayik Sewa in the vacancy in these services within the quota fixed by the Court till the appointments are made under sub-rules (1) and (2) :Provided that the period of service spent by the member of Nyayik Sewa on short term appointment to the service as a-stop-gap arrangement shall not be computed for seniority under Rule 26.] [Substituted by Notification No. 3245/11-4-95-36(1)-95, dated 23rd February, 1996, published in U. P. Gazette, (Extra) Part 4, Section (Ka), dated 15-3-1996.](4)The appointments shall be made on rotational system the first vacancy shall be filled from the list of officers of the Nyayik Sewa, the second vacancy shall be filled from the list of Judicial Magistrates (and so on).

**23. [ Probation. [Rules 23 and 24 substituted by Nod. No. 6214/11-36-77, dated 22-10-1977.]**

(1) All persons shall on appointment to the service in substantive vacancies be placed on probation. The period of probation shall, in each case, be two years, provided that the period for which an officer has been continuously officiating immediately prior to his appointment may be taken into account for the purpose of computing the period of probation. (2) (a) The court may, in special cases, extend the period of probation upto a specified date; (b) An order sanctioning such extension of probation shall specify whether or not such extension shall count for increment in the time scale. (3) If it appears to the court at any time during or at the end of the period of probation, or extended period of probation, as the case may be, that a probationer has not made sufficient use of his opportunities or has otherwise failed to give satisfaction, it may make recommendation to the appointing authority whereupon the appointing authority may revert the probationer to his substantive post, if any> or if he does not hold a lien on any post, his services may be dispensed with. (4) A person whose services are dispensed with or who is reverted under sub-rule (3) shall not be entitled to any compensation.

**24. Confirmation.**

- A probationer shall be confirmed in his appointment in the service at the end of the period of probation or at the end of the extended period of the probation if the court is satisfied that he is fit for confirmation and his integrity is unquestionable. Explanation.-Officers confirmed on the post of Civil and Sessions Judge (now designated as Additional District and Sessions Judge), or on the post of Additional District and Sessions Judge shall not be required to be confirmed on the post of District and Sessions Judge.]

**25. Appointment and confirmation to be notified in Gazette,.**

-All appointments and confirmations under these rules shall be notified in the State Gazette.

**26. Seniority.**

- [(1) Seniority of the officers appointed in the service shall be determined in accordance with the order of appointment in the Service under sub-rules (1) and (2) of Rule 22 of these rules.] [Substituted by Notification No. 3245/11-4-95-36(1 )-95, dated 23rd February, 1996, published in U. P. Gazette, (Extra), Part 4, Section (Ka), dated 15th March, 1996.] (2) Seniority of members of the service who have been confirmed in the service prior to the commencement of these rules shall be as has been determined by the order of the Government as amended, from time to time.

**Part VIII – Other Provisions**



## **27. Appointment in the selection grade.**

- Appointment to the Selection grade posts in the service shall be made by the Governor in consultation with the court from amongst the members of the service holding the post of District and Sessions Judge on the basis of merit.

## **28. Appointment of special posts.**

- Appointment to special posts (for example, the posts of Judicial Secretary-cum-Remembrancer Joint L. R., Deputy L.R., Registrar, Additional Registrar and Joint Registrar) shall be in temporary capacity and shall be made on the criteria of fitness of an officer for such appointment.

## **29. Scale of Pay.**

- The scale of pay admissible to the persons appointed to the service, whether in substantive or officiating capacity or as a temporary measure, shall be as decided by the Government, from time to time.

## **30. Efficiency Bar.**

(1) No member of the service shall be allowed to cross the first efficiency bar unless in the opinion of the court his judicial work is good and his integrity is beyond question. (2) No member of the Service shall be allowed to cross the second efficiency bar unless in the opinion of the court his judicial work and administrative ability are good and his integrity is beyond question.

## **31. Fixation of pay.**

(1)(a) The initial pay of an officer promoted to the Service from the Nyayik Sewa shall be fixed at the stage next above the amount equal to the officers' pay, or presumptive pay in the ordinary time-scale of the Uttar Pradesh Nyayik Sewa, plus an increase at the rate of one increment in the time-scale for the U.P. Higher Judicial Service for every three years of service in the Nyayik Sewa subject to a minimum increase of Rs. 200 and a maximum increase of Rs. 300 : Provided that when with the prescribed increase calculated as aforesaid, the figure arrived at corresponds to a stage in the time-scale for the Service, the pay shall be fixed at that stage and not at the next higher stage. Note.-The pay of an officer of the Nyayik Sewa who is appointed to officiate in the service shall be refixed on each occasion when he gets an increment in his pay in his permanent post as though he has been promoted to the Service on the date of such increment. (b) The initial pay of an officer appointed from the U.P. Judicial Officers' Service shall be fixed at the stage in the scale next above the amount equal to the officers' pay or presumptive pay in the time-scale of the selection grade of the U.P. Judicial Officers' Service prescribed for Judicial Magistrates plus an increase at the rate of one increment in the time-scale for the U.P. Higher Judicial Service for every three years of service in the U.P. Judicial Officers' Service subject to a minimum increase of Rs. 200 and the maximum increase of Rs. 300 : Provided that when with the prescribed increase calculated as aforesaid, the

figure arrived at corresponds to a stage in the time-scale for the Service the pay shall be fixed at that stage and not at the next higher stage :Provided further that where the pay of an officer who has been promoted to the post of Chief Judicial Magistrate or any other higher post is higher than the pay admissible to him on his appointment to the service as fixed under this sub-rule, the difference between his pay in that post and his pay in the service will be allowed as personal pay to be absorbed in future increments. Note.-The pay of an officer of the U.P. Judicial Officer's Service who is appointed to officiate in the Service, shall be refixed on each occasion when he gets an increment in his pay in his permanent post as though he had been promoted to the Service on the date of such increment. (2) In addition to the pay which may be drawn by a member of the Service under this rule, he shall while holding a special post, receive the special pay also as may be admissible for such post.

### 32. Canvassing.

- Any attempt on the part of any person applying for recruitment, to enlist support directly or indirectly for his candidature by an unfair means shall disqualify him for appointment.

### 33. Loyalty.

- Every person selected for appointment to the service shall, before taking over charge of office take an oath of allegiance or solemn affirmation that he shall be loyal to the Constitution of India and the laws.

### 34. Regulation of other matters.

- In regard to the matters not specifically covered by these rules or by special orders, persons appointed to the Service shall be governed by the rules, regulations and orders applicable generally to Government servants serving in connection with the affairs of Uttar Pradesh. Appendix 'A' (See Rule 4 (3)) The present permanent strength of the service which shall, on the commencement of these rules be as follows :

District and Sessions Judges, Additional District and Sessions Judge (Including the posts against which Judicial Magistrates are to be appointed as Additional Sessions Judges). } 150

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- vkils fuosnu gS fd lsokvksa esa vkj{k.k lEcU/kh uhfr dk rnkuqlkj vuqj{k.k fd;k tk,AAppendix 'C'[See Rule 19]Scales of fees to be paid by candidates for direct recruitment to the Uttar Pradesh Higher Judicial Service.A-To be paid to the Registrar, High Court, Allahabad.

	Rs.
(i) Price of Application Form	5
(ii) Application fee	10
(iii) Examination fee	50

(For members of the Scheduled Castes Rs. 25).

B-To be paid to the President of the Medical Board before examination by the Board ; (only in the case of candidates who are called to appear before the Board) as may be Fixed, from time to time.