

Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955

JHARKHAND

India

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Rule

BIHAR-CIVIL-SERVICE-JUDICIAL-BRANCH-RECRUITMENT-RULES-1955 of 1955

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Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955Published vide Notification No. 2 RI-402/55-A.-7569, dated the 22nd August, 1955No. II RI - 402/55 - A. - 7569, dated the 22nd August, 1955. - In exercise of the powers conferred by Article 234 of the Constitution of India, and in supersession of Rules 1 to 3 of the Rules published in Appointment Department Notification no. 261-A, dated the 22nd January 1938 as amended from time to time, and all the rules published in Appointment Department Notification no. 230-A, dated the 22nd January 1938, as amended from time to time the Governor of Bihar after consultation with the High Court of Judicature at Patna and the Bihar Public Service Commission, is pleased to make the following rules for regulating the recruitment to the Bihar Civil Service (Judicial Branch), namely:-

Part I – General

1.

(a)Short title and commencement. - These rules may be called the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955 and shall take effect from the date of this notification.[Note :- These rules are framed under Article 234 of the Constitution of India dated

22.8.1955.](b)Definitions. - In these rules, unless, there is anything repugnant in the subject or context.(i)'Commission' means the Bihar Public Service Commission;(ii)'Government' means the Government of Bihar;(iii)'Governor' means the Governor of Bihar;(iv)'High Court' means the High Court of Judicature at Patna;(v)'Scheduled Castes' means the castes specified in Part II of the Constitution (Scheduled Castes) Order, 1950;(vi)'Scheduled Tribes' means the tribes specified in Part II of the Constitution (Scheduled Tribes) Order, 1950; and(vii)'Service' means the Bihar Civil

Service (Judicial Branch), which includes posts of Sub-ordinate Judges and Munshifs.

2. [[Substituted by GSR. 110 dated, 29.9.1972 published in Bihar Gazette dated 29.9.1972.]

(a)Recruitment to the posts of Munshifs shall be made either in accordance with these rules in Part III or both.(b)Recruitment to the posts of Sub-ordinate Judges shall be made, by the High Court; by promotion of Munshif confirmed under rule 27.]

3. [[Substituted by GSR. 110 dated, 29.9.1972 published in Bihar Gazette dated 29.9.1972.]

The Governor shall decide in each year the number of vacancies in the posts of Munshifs to be filled in that year in accordance with the rules in Part II or in accordance with the rules in Part III, or both.]

Part II – Direct Recruitment

4.

The Commission shall announce in each year in such manner as they think fit, the number of vacancies to be filled in that year by direct recruitment on the results of a competitive examination and shall invite applications from candidates eligible for appointment under these rules. The competitive examination will be conducted by the Commission and will normally be held between the months of November and February.

5.

The Commission may fix a limit in any particular year as to the number of eligible candidates to be admitted to the examination and, if the number of candidates exceeds the limit fixed, the Commission may make a preliminary election of candidates to be admitted to the written examination, on the basis of their academic records:Provided that no candidate of the Scheduled Castes or the Scheduled Tribes who is eligible under these rules shall be excluded from appearing at the written examination.

6. [['Rule 6' substituted vide G.S.R. 110 dated 29.9.1972.]

A candidate may be of either sex, and must -(a)be under 29 years and over 25 years of age on the 1st day of August, last preceding the month in which the examination is held: Provided that a candidate belonging to a Scheduled Castes or a Scheduled Tribes must be under thirty-four years and over twenty-five years of age on the said date:Provided further that, in the case of candidates who are bona fide displaced person from Pakistan there shall be upper age limit.Provided also no candidate

who does not belong to a scheduled castes or a scheduled tribes shall be allowed to make more than four chances at the examination. Provided also that, for the first examination to be held after 1st August, 1959, a candidate belonging to Scheduled Castes or Scheduled Tribes must be under 36 years of age on that date and any other candidate must be under 31 years of age on that date. (b) be a graduate in Law of a University recognised by the Governor or a Barrister-at-law or a member of the Faculty of Advocates in Scotland, or an attorney on the rolls of a High Court, or possess other educational qualifications which the Governor may, after consultation with the the High Court and the Commission, decide to be equivalent to those prescribed above. (c) be a practitioner at Bar of atleast one year's continuous standing on the date of the advertisement. Note. - Persons who hold posts in Government service in a temporary or officiating capacity or on probation including temporary or officiating Munsifs are eligible to offer themselves for examination, provided they possess the educational and other qualifications prescribed in the rules, persons holding non-gazetted posts substantively, whether technical or non-technical, are also eligible to offer themselves for examination, provided they possess the requisite qualifications. This concession, will not, however, apply to such technical persons who have been trained at the expense of Government or those who are by contract bound to serve in a technical post for a specified period. Applications from Government servants who are eligible under the rules, should be submitted through the authority empowered to forward the application under the Bihar Government Servants applications for Post Rules 1956".]

7.

(a) A candidate must be of sound health, good physique and active habits and free from any physical defect likely to interfere with the efficient performance of the duties of a member of the Service. A candidate who is found after examination by a Medical Board not to satisfy these requirements will not be selected for appointment. (b) A candidate must satisfy the Commission that his character is such as to qualify him for appointment to the Service.

8.

A candidate shall apply to be admitted to the examination in his own handwriting in the prescribed form to the Secretary to the Commission, not later than such date as may be notified by the Commission in this behalf in each year. The prescribed form and a copy of these rules may be obtained from the Secretary to the Commission.

9.

With his application a candidate must submit - (i) evidence that he holds one of the educational qualifications referred to in clause (b) of rule 6 in the form of a certificate from the Registrar of the University in which he took his degree in law, or a certificate that he is a Barrister-at-law or a member of the Faculty of Advocates in Scotland, or an attorney on the rolls of a High Court or a certificate that he possesses any other educational qualification which the Governor may have decided under clause (b) of rule 6 to be equivalent to the above qualifications; (ii) certificates of character and conduct from the heads of all the colleges at which he has studied since he passed the

Matriculation examination or its equivalent;(iii)the names of two persons as references, who know him in private life and are not his near relatives;Note. - A candidate must not file written testimonials of such persons and the references furnished by him should not include College Professors or Principals unless they know the candidate at home.(iv)a certificate from any registered medical practitioner in the prescribed form which may be obtained from the Secretary to the Commission;(v)evidence of age which should ordinarily be a copy of the Matriculation Certificate or its equivalent;(vi)a certificate showing the duration of the candidate's practice at the bar and also suitability for appointment to the Service-(a)in the case of a candidate who has ordinarily practised in the High Court from the Registrar of that Court; or(b)in the case of a candidate who has ordinarily practised in Court subordinate to the High Court, from the District Judge of the district in which he ordinarily practises.Note - The certificates and other documents required should be true copies of the originals and each of them should be certified by a gazetted officer that he has seen its original and that the copy is a true copy. The candidates may be required to produce the originals before Commission at the time of the viva voce test.Supplementary InstructionsThe age of a candidate as recorded in his Matriculation Certificate or its equivalent will be regarded as correct unless there is proof of the contrary. If a candidate claims that his age is other than that recorded in his Matriculation Certificate or its equivalent, he must submit with his application the evidence on which he bases his claim. In such a case, he will be required to furnish, among other evidence, a satisfactory explanation of the circumstances in which a wrong age was recorded on his form of application for permission to appear at the Matriculation examination or its equivalent. He will also-be required to submit a statement of any attempts made by him to have the University records amended, and of the result of such attempts.

10. [[Substituted by Notification No. A 8856 dated 8.7.1957.]

Candidates must pay the following fees:-A - To the Commission.A consolidated examination fee of Rs. 55/- (Rs. 13.75 Paise in case of candidates belonging to Scheduled Castes and the Scheduled Tribes), when they first submit their application: Provided that the Commission may at their discretion, remit the prescribed fee in cases of bona fide displaced persons from Pakistan who are not in a position to pay the prescribed fee.B - To the Medical Board.Rs. 16/- (Rupees sixteen) only in each at the time of examination by a Medical Board.Note 1. - The examination fee shall be payable by means of a Treasury Chalan to be obtained only from any treasury in Bihar or crossed Indian Postal Order, payable to the Secretary, Bihar Public Service Commission. The fee paid by means of treasury Chalan should be credited to the Head "XXI-Miscellaneous-Miscellaneous Departments-Examination Fees-realised by the Bihar Public Service Commission." The fee must not be sent by cheque banks or in cash.]

11.

(1)No candidate will be admitted to the written examination unless he holds a certificate of admission from the Commission.(2)Candidates must see that they are eligible and must decide definitely to apply before depositing the fees. In order to prevent disappointment candidates are advised to have themselves examined by a Government Medi Officer of, or above, the rank of a Civil Assistant Surgeon before applying for admission to the examination. No claim for refund of any of

these fees will ordinarily be entertained, except to the extent stated in Appendix 'B' to these rules, nor can they be held in reserve for any other examination or selection.

12.

Notwithstanding anything contained in the foregoing rules, the Commission may require a candidate to furnish any such additional proof on any point as to his suitability as the Commission may deem necessary.

13.

Subject to the provisions of these rules, the decision of the Commission as to the eligibility or otherwise for the admission to the examination shall be final.

14.

The examination shall be held according to the syllabus specified in Appendix 'C' to these rules which are liable to alteration from time to time by Government after consultation with the High Court and the Commission.

14A. [[Inserted by Notification No. 111/R1-2035/51-A-11639 dated 16.9.1959.]

if any candidate is found guilty of-(i)resorting to any irregular or improper means for obtaining admission to the examination; or(ii)impersonating another candidate or being impersonated by any person at the written or viva voce examination; or(iii)submitting fabricated document or documents which have been tempered with; or(iv)making statements which are incorrect or false; or suppressing material information; or(v)communicating with any person for the purpose of getting help or for adding any other candidate; or(vi)using any other unfair means in the examination hall; or(vii)unruly behaviour in the examination hall or violating any instruction issued by the Commission; he may be expelled from the examination hall by the Commission or by any person authorised by them in this behalf. In such cases, the Commission may also invalidate his answer books or deduct such marks as they consider fit and in addition to rendering himself liable to criminal prosecution, the candidate may be debarred either permanently or for a specified period-(a)by the Commission from admission to any examination or appearance at any interview held by the Commission for selection of candidates; and(b)by the State Government from employment under Government.]

15.

(a)The Commission shall have discretion to fix the qualifying marks in any or all the subjects at the written examination, in consultation with the Patna High Court.(b)The minimum qualifying marks for candidates belonging to the Scheduled Castes and the Scheduled Tribes shall not be higher than 35 per cent unless the number of such candidates qualifying at the written test according to the

standards applied for other candidates is considerable in excess of the number of candidates required to fill all the vacancies reserved for the Scheduled Castes and the Scheduled Tribes: Provided that in determining the suitability of a particular candidate for appointment, the total marks obtained at the written examination and not the marks obtained in any particular subject or subjects, shall be taken into consideration. (c) There shall be no qualifying marks for the viva voce test.

16.

The Commission shall consult the Chief Justice of the Patna High Court confidentially in the matter of selection of examiners for the Law papers prescribed for the written examination.

17.

On the basis of the marks obtained at the written examination, the Commission shall arrange for viva voce test of the candidates who have qualified at the written examination according to rule 15: Provided that in exceptional circumstances and with the prior approval of Government, the Commission may, at their discretion, admit candidates of the Scheduled Castes and the Scheduled Tribes to the viva voce test even though they may not have obtained the minimum qualifying marks at the written test.

18.

The Chief Justice may appoint an officer to represent the High Court at the viva voce test. The officer so appointed shall be present at the viva voce test and shall advise the Commission on the fitness of the candidates from the point of view of special qualifications for the Service, but he will not be responsible for the selection of the candidates. The Commission in forwarding their recommendations shall draw the attention of Government to any matter in regard to which they differ from the officer so appointed.

19.

The marks obtained at the viva voce test shall be added to the marks obtained at the written examination. The names of candidates will then be arranged by the Commission in order of merit. If two or more candidates obtain equal marks in the aggregate, the order shall be determined in accordance with the marks secured at written examination. Should the marks secured at written examination of the candidates concerned be also equal, then the order shall be decided in accordance with the total number of marks obtained in the optional papers. From the list candidates so arranged, the Commission shall nominate such number of candidates as may be fixed by the Governor in order to their position in the list. The nomination so made shall be submitted to the Governor by such date in each year as the Governor may fix.

20.

The Commission shall, while submitting their recommendation under rule 19, consider the claims of qualified candidates belonging to the Scheduled Castes and the Scheduled Tribes. If the list of nominees submitted under rule 19 does not contain an adequate number of candidates belonging to the Scheduled castes and the Scheduled tribes who may be appointed to the vacancies reserved for them, the Commission shall submit a supplementary list nominating a sufficient number of such candidates as in their opinion attain the required standard of qualifications and are in all respects suitable for appointment to the Service.

21.

Success at the examination confers no right to appointment unless Government are satisfied, after such enquiry as may be considered necessary, that the candidate is suitable in all respects for appointment to the Service. The final selection of candidates shall be made by the Governor from amongst those nominated by the Commission.

22.

Candidates selected for written or viva voce test will present themselves at their own expense at a time and place of which they will be informed in due course.

23.

A consolidated result of the examination will be prepared by the Commission and a copy of the marks obtained both at the written and the viva voce tests, as well as copy of the printed table of/the consolidated results, shall be supplied individually to each candidate, soon after the results are compiled and the list referred to in rule 19 is submitted to the Governor.

Part III – Permanent appointment of temporary Munsifs already in Government service

24. [[Rules 24, 25, 26 substituted by Rules 24, 25, 26 & 27 and Rule 28 re-numbered as Rule 27 vide G.S.R. 110 dated 29.9.1972.]

A candidate appointed to the post of Munshif otherwise than on a temporary basis shall be appointed on probation in the first instance but will be eligible for confirmation as a Munshif subject to the conditions that-(i)he has completed two years of service from the date of his first appointment.(ii)he has passed such tests as may from time to time be prescribed in the Departmental Examination Rules, and(iii)he is recommended by the "High Court for such confirmation."

25. [[Rules 24, 25, 26 substituted by Rules 24, 25, 26 & 27 and Rule 28 re-numbered as Rule 27 vide G.S.R. 110 dated 29.9.1972.]

A candidate appointed on a temporary basis shall have to undergo all the training for the post as if he were appointed on a substantive basis.]

26. [[Rules 24, 25, 26 substituted by Rules 24, 25, 26 & 27 and Rule 28 re-numbered as Rule 27 vide G.S.R. 110 dated 29.9.1972.]

Notwithstanding anything to the contrary contained in these rules, a Munsif appointed on temporary basis shall be eligible for permanent appointment to the Service without there being any upper age limit subject to the conditions that-(i)he has completed two years of service from the date of his first appointment.(ii)he has passed such tests as may from time to time be prescribed in the Departmental Examination Rules, and(iii)he is recommended by the High Court for such permanent appointment.]General

27. [[Rules 24, 25, 26 substituted by Rules 24, 25, 26 & 27 and Rule 28 re-numbered as Rule 27 vide G.S.R. 110 dated 29.9.1972.]

No recommendations except those received in accordance with these rules shall be taken into consideration. Any attempt on the part of a candidate to enlist support for his appointment through persons of influence or in any other manner will disqualify him for appointment.]Appendix 'A'List of Scheduled Castes In Bihar

1. The castes, races or tribes, or parts of, groups within, castes or tribes, specified below shall be deemed to be Scheduled Castes in the State of Bihar in the localities specified in relation to them.

2. No person who professes a religion different from Hinduism shall be deemed to be a member of a Scheduled Caste.

3. Any reference to a district or other territorial division of the State shall be, construed as a reference to the district or other territorial division as existing on the 26th January, 1950.

I. Throughout the State of Bihar-

1. Bauri.

- 2. Bantar.**
- 3. Bhogta.**
- 4. Chamar.**
- 5. Chaupal.**
- 6. Dhobi.**
- 7. Dome.**
- 8. Dusadh, including Dhari.**
- 9. Ghasi.**
- 10. Halakhor.**
- 11. Hari, including Mehtar.**
- 12. Kanjar.**
- 13. Kurariar.**
- 14. Lalbegi.**
- 15. Mochi.**
- 16. Musahar.**
- 17. Nat.**
- 18. Pan.**
- 19. Pasi.**
- 20. Rajwar.**

21. Turk.

II. In Patna and Tirhut divisions and the District of Monghyr, Bhagalpur, Purnea and Palamau-Bhumij. III. In Patna, Shahabad, Gaya and Palamau districts-Bhuiya. IV. In Shahabad district-Dabgar. List of Scheduled Tribes in Bihar

1. Throughout the State of Bihar.

1. Asur.

2. Baiga.

3. Bathudi.

4. Bedia.

5. Binjhia.

6. Birhor.

7. Birjia.

8. Chero.

9. Chik Aaraik

10. Gond.

11. Gorait.

12. Ho.

13. Karmall.

14. Kharia.

15. Kharwar.

16. Khond.

17. Kisan.

18. Kora.

19. Korwa.

20. Lohara.

21. Mahli.

22. Mai Paharia.

23. Munda.

24. Oraon.

25. Parhaiya.

26. Santal.

27. Sauria Paharia.

28. Savar.

2. In the districts of Ranchi, Singhbhum, Hazaribagh, Santal Parganas, Manbhum-Bhumij.

Note. - Any reference to a district or other territorial division, of the State shall be construed as a reference to the district of other territorial division as existing on the 26th January, 1950. Appendix 'B' Instructions governing refund of admission and examination fees.

1. Application fee will not ordinarily be refunded. If however for any reason a candidate is unable to sit at the examination, half of the examination fee may be refunded on application to the Secretary to the Commission:

Provided that the Secretary to the Commission may sanction refund of-(i)50 per cent of the fees paid when candidate after paying the fees does not submit an application;(ii)whole of the application and/or examination fee paid, as the case may be, where an alteration is made in the terms of advertisement or in the conditions of recruitment so that the candidate, who would otherwise have

been eligible, becomes in-eligible due to such alteration; and(iii)whole of the application and/or examination fees paid, as the case may be, if the vacancies advertised are decided by Government to be abolished or kept in abeyance, before or after the candidates are interviewed. Appendix 'C'Syllabus for the competitive examination prescribed under Rule 14 of the Bihar Civil Service (Judicial Branch) (Recruitment) Rules, 1955[Questions in all non-language subjects may be answered either in English or in Hindi (in Devnagari script)]

Subjects		Marks	
1.Compulsory. -			
1.	General English	...	150
2.	General Knowledge (including current affairs)	...	150
3.	Elementary General Science	...	100
4.	General Hindi	...	50
2.Optional.- Candidates must appear in subject no. 5and select any three out of the remaining five subject.			
Subjects		Marks	
5.	Law of Evidence and Procedure.	...	150
6.	Constitutional Law of India and England	...	150
7.	Hindi Law and Muhummadan Law.	...	150
8.	Law of Transfer of Property and Principles of Equity includingLaw of Trusts and Specific Relief.	...	150
9.	Law of Contracts and Torts.	...	150
10.	Commercial Law.		
3.Viva vocetest.	...		200
Syllabus of the Examination			

1. General English. - Questions will be set to test the understanding of arc the power to write English. A passage or passages will usually be set for summan or precis. Questions will include letter writing on given subjects.

2. General Knowledge (including knowledge of current events). - The paper will also include question of Indian History, Culture and Geography of a nature which candidates should be able to answer without special study.

3. Elementary General Science. - A paper of questions to test such matter every-day observation and experience in their scientific aspects as may be expected of an educated person, who has not made a special study of any scientific subject.

4. General Hindi. - The paper will be of a general character to test a candidates ability to understand and write Hindi grammatically and correctly. Candidates will be asked to write an essay or to give a descriptive account of something. A passage will also be set for summary or precis with the object of testing comprehension.

5. Law of Evidence and Procedure. -

Indian Evidence Act (I of 1872). Civil Procedure Code (V of 1908). Arbitration Act of 1940. Criminal Procedure Code (II of 1974). Provincial Small Cause Courts Act of 1887.

6. Constitutional Law of India and England.-

(a) Government of India Act, 1935. Indian independence Act, 1947. Constitution of India. (b) Constitutional Law of England-Sovereignty of Parliament, Rule of Law, Prerogative, Parliamentary Privilege, Judicial Control of Public Authorities, Remedies against the Crown Administrative Law, Allegiance and Nationality, Acts of States, Martial Law, Freedom of Speech, Right of meeting. The "subject may be studied in (a) Dicey's Law of the Constitution and (b) Ridge's Constitutional Law.

7. Hindu Law and Muhammadan Law

A - Hindu Law Nature of Sources. - Different schools, Marriage, Sonship, Adoption, Joint Family and joint property, Impartible Estates, Debts, Alienation, Partition, Succession, Stridhan, Widow's Estate, Wills, Gifts, Religious and Charitable Endowments. B - Muhammadan Law Sources of Muslim Law, origin and development of the different schools. Extent of its application in India, Shariat Act of 1937, Effects of Conversion to Islamic religion, Succession and Administration, Wills, Heba, Heba Bil Ewaz, Wakfs, Maintenance, parentage-Legitimacy and Acknowledgement, Guardianship.

8. Law of Transfer of Property and Principles of Equity including Law of Trusts and Specific Relief -

A - Law of Transfer of Property. Act IV of 1882 (Transfer of Property Act). B - Principles of Equity including the Law of Trusts and Specific Relief. History of Court of Equity, Maxims, Origin of Use, Development of Trust from Use. Definition of Trust. Formalities for Creation of Trust, Classification

of Trust; Express; Implied; Resulting, Constructive; Private and Public. Benami Transaction, Doctrine of Advancement, Charitable Trust, Comparison with Oebottur. Rights and Duties of Trustees. Determination of Trust. Remedies for Breach of Trust. Specific Relief Act (1 of 1877) Indian Trusts Act (11 of 1882).

9. Law of Contract and Torts. -

A - Law of Contracts. Act IX of 1872 (Indian Contract Act). B - Law of Torts. The nature of a Tort. General Principles of Liability. Parties, Remedies, Nuisance. Injuries to person-Death, Assault, False Imprisonment, Injuries to Domestic and Contractual Relations, Wrongful Dismissal, Defamation, Negligence. Liability for Dangerous Property. The Rule in Rylands vs. Fletcher. Deceit. Conspiracy Malicious Prosecution.

10. Commercial Law. - The main principles of Law relating to (a) Sale of Goods, (b) Negotiable Instruments, (c) Company Law, and (d) Partnership.

Appendix 'D' Form of bond to be executed by Munsifs appointed to the service on probation.