

The Orissa State Prosecution Service Rules, 1997

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THE-ORISSA-STATE-PROSECUTION-SERVICE-RULES-1997 of 1997

- Published on 7 March 1998
- Commenced on 7 March 1998
- [This is the version of this document from 7 March 1998.]
- [Note: The original publication document is not available and this content could not be verified.]

The Orissa State Prosecution Service Rules, 1997Published vide Notification

No.11981-P.I.C./1-59/97-P.R., dated 7th March 1998, Orissa Gazette Extraordinary No. 285 dated 16.3.1998Home DepartmentNo.11981-P.I.C./1-59/97-P.R. - In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India read with Sections 24 and 25 of the Code of Criminal Procedure, 1973 (2 of 1974), the Governor of Orissa has been pleased to make the following rules to regulate the recruitment and conditions of service of, the Orissa State Prosecution Service, namely -

1. Short title and commencement.

- 1.1. These rules may be called the Orissa State Prosecution Service Rules, 1997.1.2They shall come into force on the date of their publication in the Orissa Gazette.

2. Definitions.

- 2.1. In these rules, unless the context otherwise requires -(a)'Commission' means the Orissa Public Service Commission.(b)'Government' means Government of Orissa;(c)'Appointing Authority' means the Government of Orissa in Home Department in respect of all the posts in Group 'A' and Group B' Service.(d)'Board' means the Selection Board constituted under Rule 9 and 10 of those rules.(e)'Direct recruit' means a person recruited and appointed to the Service from the open market.(f)'Department' means the Home Department.(g)'Head of the Department' means the Director of Public Prosecution.(h)'Service' means the Orissa State Prosecution Service.(i)'Scheduled Castes and Scheduled Tribes' means such Castes and Tribes as notified by the President of India under Article 341 and 342 of the Constitution of India, respectively.(j)'Socially and Educationally Backward Class' means such class as mentioned in the notifications issued by the Government in

Welfare Department for the purpose from time to time in Orissa Gazette.(k)'State' means the State of Orissa.(l)'Select list' means the list approved by the appointing authority containing the names of incumbent considered suitable for appointment/promotion, as the case may be.(m)'Year' means the Calendar Year.2.2All other words and expressions mentioned but not specifically defined in these rules, unless the context otherwise requires, shall have the same meaning as respectively assigned to them in the Orissa Service Code.

3. Constitution of Service.

- 3.1. The service shall consist of the following hierarchical cadres in that order :-(a)Assistant, Public Prosecutor in Group 'B' Service.(b)Additional Public Prosecutor in Group 'A' Service.(c)Public Prosecutor in Group 'A' Service.(d)Deputy Director of Public Prosecution in Group 'A' Service.(e)Joint Director of Public Prosecution in Group 'A' Service.(f)Director of Public Prosecution in Group 'A' Service.

4. Method of Recruitment.

- 4.1. Recruitment of Assistant Public Prosecutor in Group 'B' posts. - Recruitment to the cadre of Assistant Public Prosecutor in Group-'B' service shall be made by the Orissa Public Service Commission by way of direct recruitment from the open market.4.2Recruitment to Group 'A' posts. - Recruitment to the cadre of Additional Public Prosecutor in Group 'A' service shall be made by way of promotion from the cadre of eligible Assistant Public Prosecutors, who have put up not less than eight years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.4.3Recruitment to the cadre of Public Prosecutor shall be made in the following manner :-(a)75% of the vacancies arising in the cadre, every year shall be filled by way of promotion from the rank of Additional Public Prosecutors, who have put up not less than five years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.(b)25% of vacancies arising in the cadre every year shall be filled by way of direct recruitment from the open market through the competitive recruitment examination to be conducted by the Orissa Public Service Commission.4.4Recruitment to the cadre of Deputy Director of Public Prosecution shall be made by way of promotion from the rank of Public Prosecutors, who have put up at least five years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.4.5Recruitment to the cadre of Joint Director of Public Prosecution shall be made by way of Promotion from the cadre of Deputy Director of Public Prosecution, who have completed at least one year of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.4.6Recruitment to the cadre of Director of Public Prosecutions shall be made by way of deputation from the Orissa Superior Judicial Service (Senior Branch).

5. Eligibility criteria for direct recruits.

- 5.1. In order to be eligible for direct recruitment to Group 'B' and 'A' services under Rule 4.1 and 4.3 (ii) of these Rules candidates must fulfill the following general conditions -(i)He must be a citizen of India.(ii)He must be able to speak, read and write Oriya and must have passed either the

Middle School standard language test in Oriya conducted by the Director of Secondary Education, Orissa or the Matriculation (Class-X/10th standard) Examination with 'Oriya' as a subject.(iii)He must have good character and satisfactory antecedents as revealed by the Police Verification.(iv)He must have sound health/good physique, active habits and free from organic defects or bodily/mental infirmity.(v)He must not have more than one spouse living.(vi)He must possess a good character as certified by two responsible citizens of India, one of whom must be a Government Servant not below group 'B' service.(vii)He must possess a Bachelor's degree in law from a recognized university.5.2Additional eligibility criteria for direct recruitment to Group 'B' service under Rule 4.1 above -(i)He must not be above the age of 35 years on the 1st day of January in which the notification for recruitment is issued.(ii)He should have at least seven years of experience as practicing advocate.5.3Additional Eligibility criteria for direct recruitment of Group 'A' Service under Rule 4.3 (ii) above -(i)He must not have completed the age of 45 years on the first day of January in which the Notification for recruitment is issued.(ii)He should have at least 15 years of experience as practicing Advocate.5.4The upper age limit prescribed in sub-rules 5.2 and 5.3 above shall be relaxed in respect of S.C./S.T./Socially and Educationally backward classes/Women candidates/Sportsmen/Ex-servicemen as per the provisions made by the Government in this respect from time to time :Provided that in case of candidate falling in more than one of the categories mentioned in sub-rule 4 above, he/she will be eligible to claim only one of the age relaxation prescribed, whichever is more beneficial to him/her.

6. Notification of vacancies for direct recruitment.

- 6.1. Every year during the month of December, the Government in Home Department shall notify the available and anticipated vacancies for the next year (indicating the reservation for the various categories) to the Orissa Public Service Commission for direct recruitment to the cadres of Assistant Public Prosecutor in Group 'B' and Public Prosecutor in Group 'A' service.

6. 2. On receipt of such intimation as mentioned in sub-rule (i) above, the Commission shall take steps to conduct the concerned recruitment examinations by making advertisement as per the syllabus and plan of examination to be determined by them in consultation with the Government in Home Department.

6.3The names recommended for direct recruitment shall not exceed the number of vacancies notified as in sub-rule 1 above.

7. Method of recruitment by promotion.

- 7.1. The Appointing Authority shall determine the existing and anticipated vacancies during the course of the year and prepare a list of eligible officers coming within the zone of consideration and the said list will be placed before the Board along with their C.C. Rs. and service record for the last five years for consideration of their promotion to next higher cadre.7.2The respective Board for promotion to Group 'A' services may meet at least once in a year, preferably in the month of

January, and prepare the list of officers considered and found suitable for promotion.7.3The process of promotion, inter alia, shall be governed by the following rules and other instructions issued from time to time by the Government -(i)The Orissa Civil Services (Criteria for Promotion) Rules, 1992(ii)The Orissa Civil Services (Zone of Consideration) Rules, 1988(iii)The Orissa Reservation of Vacancies Act, 1975 the rules, orders and instructions issued by the Government in appropriate Department from time to time.(iv)General Administration Department Office Memorandum No.3928, dated 18.2.1994 and No.14640, dated 4.7.1995 dealing with the 'Sealed Cover' Procedure.7.4The list of the officers considered and found suitable for promotion to Grade 'A' service shall be sent along with the necessary Service records of the officers to the Orissa Public Service Commission in the prescribed manner for their recommendations.

8. The Select List.

- 8.1. The list of the officers considered and found suitable for promotion and recommended by the Orissa Public Service Commission and as approved finally by the Government in Home Department shall be treated as the select list for appointment to the service.8.2The names of the officers in the select list shall be arranged in order of merit. The select list shall not contain the names more than the existing and the anticipated vacancies as determined under Rule 7.1. above.8.3The select list will remain valid for a period of one year from the date of its approval by the Government.

9. Constitution of the Selection Board for Group 'A' Service.

- 9.1. Selection of candidates to the cadre of Additional Public Prosecutor by way of promotion shall be made by the Selection Board consisting of the following members namely -

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|--|-----------------------|
| (i) Secretary to Government, Home Department | .. Chairman |
| (ii) Director-General & Inspector General of Police, Orissa | .. Member |
| (iii) Legal Remembrancer and Additional Secretary to Government, Law Department | .. Member |
| (iv) Director of Public Prosecution, Orissa | .. Member |
| (v) Special Secretary/Additional Secretary/Joint Secretary to Government, Home Department dealing with the subject | Member
.. Convenor |

10. Constitution of the Selection Board for Group 'A' Service.

- Selection of candidates for appointment to the cadre of Public Prosecutor and Deputy Director of Public Prosecution and Joint Director of Public Prosecution shall be made by the Selection Board consisting of the following Members namely -

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|---|-------------|
| (i) Chief Secretary to Government of Orissa | .. Chairman |
| (ii) Secretary to Government, Home Department | .. Member |
| (iii) Secretary to Government, Law Department | .. Member |
| (iv) Director-General and Inspector-General of Police, Orissa | .. Member |

(v) Director of Public Prosecution, Orissa

.. Member Convenor

11. Probation and Confirmation in Service.

- 11.1. Every person on appointment to a cadre in the Service shall be on probation for a period of two years in case of direct recruitment and one year in case of promotion. 11.2 The probation period shall not include the following :-(a) Extraordinary leave. (b) Period of unauthorised absence. (c) Any other period for which the person concerned is held not to be on actual duty. 11.3 The appointing authority may extend the period of probation or terminate the service of a person appointed on probation in case of a direct recruit or revert him/her to his/her previous post in case of a person appointed by promotion, during the period of his/her probation, if the work and conduct of the person is found to be unsatisfactory. 11.4 A person appointed to a Post in the service may be confirmed against a substantive post, if available, on successful completion of the probation period and on passing of the Departmental Examination, if any, prescribed by the Government.

12. Determination of inter se seniority and preparation of Gradation List.

- 12.1. The appointing authority shall maintain the Gradation lists separately for each of cadres mentioned in Rule-3. 12.2 The Gradation list will contain the name, date of birth, academic qualifications, date of joining in the cadre and the date of confirmation, if any. 12.3 The inter se seniority of the direct recruits shall be determined as per the position assigned to them in the Merit list prepared by the Orissa Public Service Commission irrespective of the date of their joining. 12.4 The inter se seniority of the promotees in each cadre shall be determined as per the position assigned to them in the Select list basing on which they were promoted, irrespective of the date of their joining. 12.5 The seniority of the promotees and direct recruits will be determined as follows :- The promotees of a year (i.e., the year in which the Select list is approved) shall be placed above the direct recruits of that year (i.e., the year in which the merit list of the recommended candidates is received from the O.P.S.C.), irrespective of the date of their joining in the post.

13. Reservation.

- Notwithstanding anything contained in these rules, reservation of vacancies set apart for being filled up by direct recruitment and promotees in favour of candidates belonging to Scheduled Castes, Scheduled Tribes, for recruitment to the service, shall be made in the manner as prescribed in the Orissa Reservation of Vacancies in the posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 and the rules made thereunder. Similarly, the recruitment for the post reserved for Socially and Educationally Backward Classes, Women, Physically Handicapped persons, Sportsmen and ex-Servicemen shall be made as per rules, instructions etc., issued by the Government in the appropriate Department from time to time.

14. Allotment of Duties.

- 14.1. An Assistant Public Prosecutor may be attached to one or more Magisterial Courts. 14.2 An Additional Public Prosecutor or Public Prosecutor may be attached to one or more Courts of

Sessions.14.3The Public Prosecutor of the District may allot Courts to the Assistant Public Prosecutors and Additional Public Prosecutors posted in the District to conduct Cases in Criminal Courts.14.4Notwithstanding anything in the preceding sub-rules the Director of public Prosecution shall have the over all control/supervision in the matter of allotment of duties to the cadres.

15. Accountability.

- 15.1. For the Performance in the Courts-(a)The Assistant Public Prosecutors and Additional Public Prosecutors shall be answerable to the Public Prosecutors of the District.(b)The Public Prosecutor shall be answerable to the Deputy/Joint Director of Public Prosecution; and(c)The Director of Public Prosecution shall be answerable to the Government in Home Department.(d)Notwithstanding above, all the cadres shall also be directly answerable to the Director of Public Prosecution.15.2The Additional Public Prosecutor and the Public Prosecutor shall be under the administrative control of the Director of Public Prosecution.15.3The Assistant Public Prosecutors shall be under the administrative control of the Superintendent of Police of the District.

16. Transitional Provision.

- 16.1. Notwithstanding anything to the contrary in these rules, fifty per cent of the post of Additional Public Prosecutor and Public Prosecutor as required to be filled up by promotion under these rules, shall be filled up in the first instance by the direct recruitment, through the Commission, by the persons having at least a Bachelor's Degree in Law from a recognized University and continuous active practice as an Advocate at the Bar of not less than -(a)fifteen years in the case of Additional Public Prosecutor; and(b)twenty years in the case of public prosecutor;Provided that the person must not have exceeded the 50 years of age as on the first day of January of the year in which the vacancy is advertised :Provided further that the person concerned must fulfil the eligibility criterion prescribed in Rule, 5.1 above :Provided further that the rules for reservation of vacancies shall be followed while making the above direct recruitments.16.2Save as provided in sub-rule (1) in respect of posts required to be filled up by promotion under these rules, the existing, practice in the matter of appointment to any such post shall continue until such time as the posts in the service can be filled up in accordance with these rules.

17. Special engagement.

- Nothing contained in these rules shall debar the Government to appoint an Advocate on contract basis to conduct any particular case, where such appointment is considered expedient in the public interest :Provided that no public prosecutor, Additional Public Prosecutor, or Assistant Public Prosecutor shall be appointed on contract basis to conduct any particular case.

18. Departmental Examination and Training.

- 18.1. The officers may be called upon to undergo the course of training as directed by Government from time to time.18.2The Government may prescribe a course of training at any subsequent stage,

so as to develop the overall Competency of the officers.^{18.3}The Government may prescribe the Departmental Examinations, subject to which only the officers may be considered for promotion to the next higher grades.

19. Deputation.

- The person brought on deputation will work in the same scale of pay in which he was working in his parent cadre immediately preceding the date of deputation.

20. Special Provision.

- Notwithstanding anything contained in any other law for the time being in force, the provisions laid down in Orissa Civil Services (fixation of upper age limit) Rules, 1989 shall not be applicable to recruitments made under these rules.

21. Interpretation.

- If any question arises, relating to the interpretation of these rules, it shall be referred to the Government in Home Department, whose decision in the matter shall be final.

22. Relaxation.

- The Government may for reasons to be recorded in writing relax any provision of these rules in respect of any class of the employees in the public interest. Any such relaxation shall be a one time relaxation and will not form the precedence for any purpose.

23. Miscellaneous.

- The Government may issue such executive instructions, not inconsistent with the provisions of these rules, as they consider necessary to regulate matters not specifically covered by the provisions of these rules.