

Uttaranchal Judicial Service Rules, 2005

UTTARAKHAND

India

Uttaranchal Judicial Service Rules, 2005

Rule UTTARANCHAL-JUDICIAL-SERVICE-RULES-2005 of 2005

- Published on 1 January 2005
- Commenced on 1 January 2005
- [This is the version of this document from 1 January 2005.]
- [Note: The original publication document is not available and this content could not be verified.]

Uttaranchal Judicial Service Rules, 2005Last Updated 9th March, 2020Part-I General

1. Short title and commencement.

(1)These Rules may be called the Uttaranchal Judicial Service Rules, 2005.(2)It shall be deemed to have come into force w.e.f. 1.4.2004.

2. Status of the Service.

- The Uttaranchal Judicial Service is a State service comprising Group 'A' and 'B' posts.

3. Definitions.

- In these Rules unless there is anything repugnant in the subject or context,-(a)"Appointing Authority" means the Governor of Uttaranchal;(b)"Chief Justice" means the Chief Justice of Uttaranchal High Court at Nainital;(c)"Citizen of India" means a person who is or deemed to be the Citizen of India under Part II of the Constitution;(d)"Commission" means the Uttaranchal Public Service Commission;(e)"Constitution" means the Constitution of India;(f)"Court" means the Uttaranchal High Court at Nainital;(g)"Government" means the Government of Uttaranchal;(h)"Governor" means the Governor of Uttaranchal;(i)"Member of the Service" means a person appointed under the provisions of these rules or order in force prior to the commencement of these rules to the post in the cadre of the Service;(j)"Service" means Uttaranchal Judicial Service;(k)"Substantive Appointment" means an appointment, not being an Ad hoc appointment, on post in the cadre of the service and made after selection in accordance with the rules and, if there were no rules, in accordance with the procedure prescribed for the time being by executive instructions issued by the Government;(l)"Civil Judge (Junior Division)" includes Additional Civil Judge (Junior Division), First Class Judicial Magistrate and any other member of the service posted under any nomenclature;(m)"Civil Judge" (Senior Division) includes Judge Small Cause Courts,

Additional Chief Judicial Magistrate, Additional Chief Judicial Magistrate (Railway) and any other member of the Service posted under any other nomenclature.

Part II – Cadre

4. Strength of Service.

(1)The strength of the Service and of each category of posts therein shall be such as may be determined by the Government from time to time in consultation with the Court.(2)The strength of the Service and of each category of posts therein shall, until orders varying the same are passed under sub-rule (1) be as specified in Appendix-1 :Provided that :(i)The Governor may from time to time in consultation with the Court leave unfilled or hold in abeyance any vacant post without thereby entitling any person to compensation.(ii)The Governor may create such additional permanent or temporary posts as he may consider proper.

Part III – Recruitment

5. Source of recruitment.

- Recruitment to the Service shall be made on the post of Civil Judge (Junior Division) by direct recruitment on the basis of competitive examination conducted by the Commission.

6. Reservation.

- Reservation for the candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and other categories belonging to the State of Uttaranchal shall be in accordance with the orders of the Government in force at the time of recruitment.

Part IV – Qualification

7. Nationality.

- The candidate for direct recruitment to the post in the Service must be-(a)Citizen of India; or(b)A Tibetan refugee who came over to India before First January, 1962 with the intention of permanently settling in India;(c)A person of Indian origin who has migrated from Pakistan, Tanzania, Myanmar (formerly Burma), Sri Lanka (formerly Ceylon) or any of the East African countries of Kenya, Uganda and United Republic of Tanzania (formerly Tanganyika and Zanzibar) with the intention of permanently settling in India :Provided that a candidate belonging to category (b) or (c) above must 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 (b) will also be required to obtain a certificate of eligibility granted by the Deputy Inspector General of Police, Intelligence Branch, Uttaranchal :Provided also that if a candidate belongs to category (c) above, certificate of

eligibility will be issued for a period of more than one year and retention of such a candidate in Service beyond a period of one year, shall be subject to his acquiring Indian Citizenship. Explanation.-A candidate in whose case a certificate of eligibility is necessary but the 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.

8. Academic qualifications.

- A candidate for direct recruitment to the Service be-(a) a Bachelor of Law from a University established by law in Uttaranchal or by other University of India recognized for this purpose by the Governor; (b) must possess thorough knowledge of Hindi in Devnagri script; (c) Basic knowledge of Computer operation.

9. Age.

- A candidate for direct recruitment to the service must have attained the age of 22 years and must not have attained the age of more than 35 years on the first day of January of the year in which recruitment is to be made : Provided that the upper age limit in the case of candidate belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes and such other categories as may be notified by the Government from time to time shall be greater by such number of years as may be prescribed.

10. Character.

- The character of a candidate for direct recruitment for a post in the service must be such as to render him suitable in all respects for employment in Government service. The Appointing Authority shall certify itself on this point. Explanation.-Person dismissed from the service by the Union Government or a State Government or debarred from practice as an Advocate by the Bar Council of India or a Bar Council or convicted and sentenced for imprisonment for any offence under Indian Penal Code or any other law for the time being in force, involving moral turpitude shall not be eligible for appointment to the service.

11. 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 a post in the Service : Provided that the Government may, if satisfied that there exist special grounds for doing so exempt any person from the operation of this rule.

12. Medical fitness.

- No candidate shall be appointed to a post in the Service unless he is in good mental and enjoying good health and free from any physical defect likely to interfere with the efficient performance of his official duty. Before a candidate is finally approved for appointment he shall be required to submit medical certificate of fitness from a Medical Board.

Part V – Procedure for Recruitment to the Service

13. Determination of vacancies.

- The Governor shall, in consultation with the Court determine and intimate to the Commission the number of vacancies in the post of Civil Judge (Junior Division) to be filled during the year of recruitment and also the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes, Scheduled Tribes and Other categories.

14. Competitive examination.

(1)The examination may be conducted at such time and on such dates as may be notified by the Commission and shall consist of-(a)A written examination on such legal and allied subjects in the syllabus prescribed under Rule 17 unless the same is otherwise modified by the Governor in consultation with the Court and the Commission;(b)An examination to test the knowledge of the candidates in Hindi and English;(c)An interview for assessing the merit of the candidates giving due regard to his ability, character, personality, physique and general suitability for appointment to the Service.(2)All candidates who obtained 60% or more marks or corresponding grade, if any, in the written examination shall be eligible for viva-voce examination :Provided that Scheduled Castes and Scheduled Tribes candidates who obtained 50% or more marks or the corresponding grade, if any, in the written examination shall be eligible for viva-voce examination :Provided further that-(i)If in any particular year in the opinion of the Commission the number of applicants is excessively disproportionate to the vacancies notified in the advertisement, then in view of Rule 14 for selection of candidates for written examination the Commission may conduct the preliminary written entrance examination under intimation to High Court for which syllabus has been prescribed in Appendix-IV;(ii)The Commission may prescribe the minimum qualifying standards and also the number of candidates to be selected therein who shall thus be eligible to appear in the main written examination in view of Rule 14;(iii)The marks obtained in the preliminary examination will not be counted for determining the final order of merit;(iv)The preliminary examination shall be held at such places, dates as is fixed by the Commission.

15. Application Form.

- (i) Application for permission to appear at the competitive examination shall be called by the Commission in the prescribed form which may be obtained from the Secretary or the Commission.(ii)No candidates shall be admitted to the examination unless he holds a certificate of

admission issued by the Commission.

16. Fees.

- The candidate must pay to the Commission and to the President of Medical Board such fee as may from time to time be specified by the Government.

17. Syllabus.

- The syllabus and the rules relating to the competitive examination shall be such as given in Appendix-II :Provided that the syllabus and rules may be amended by the Governor in consultation with the Commission and the Court.

Part VI – Appointment, Promotion and Confirmation

18. List of the candidates approved by the Commission.

(1)After the result of the written examination has been received and tabulated, the Commission, shall, having regard to the need for securing due representation of the candidates belonging to the Scheduled Castes, Scheduled Tribes and others under Rule 14 (2), summon for interview such number of candidates as, on the result of the written examination, have come up to the standard fixed by the Commission in this respect. The marks awarded to each candidate at the interview shall be added to the marks obtained by him in the written examination.(2)Notwithstanding anything to the contrary contained in these rules or order, the Commission shall invite a sitting Judge of the Court to be nominated by the Chief Justice to participate in the interview of the candidates called under sub-rule (1) and the opinion given by him with regard to the suitability of the candidate shall not be disregarded by the Commission unless there are strong and cogent reasons for not accepting the opinion which reasons must be recorded in writing by the Commission.(3)The Commission then shall prepare a final list of selected candidates in order of their proficiency as disclosed by aggregate of marks finally awarded to such candidates in the written examination and interview :Provided that if two or more candidates having similar date of birth obtain equal marks in the aggregate, the name of the candidate who has obtained higher marks in the written examination, shall be placed higher.

19. Appointment to Service.

(1)Subject to the provision of sub-rule (2), the Governor shall, on receipt of the list of candidates submitted by the Commission under sub-rule (3) of Rule 20, make appointment on the post of Civil Judge (Junior Division) in the order in which their names are given in the list:Provided that the Governor is satisfied that the candidate is otherwise qualified and entitled for such appointment under these rules.(2)The select list prepared under sub-rule (3) of Rule 20 shall lapse after all the vacancies advertised or varied after due notification, are filled up.

20. Training.

(1) Every officer appointed to the Service as Civil Judge (Junior Division) shall be required to undergo legal training during the period of probation, for such period as may be prescribed by the Uttaranchal High Court. (2) The syllabus for the training shall be such as may from time to time be prescribed by the Director or the Head of the Institute where the training is to be undergone with the prior approval of the Court. (3) At the end of the period of training, the Director or the Head of the Institute shall send his report to the Court about the conduct and performance of the Probationer during the training where the Director or the Head of the Institute is of the opinion that any officer has not successfully completed the training, he shall forward his opinion to the Court along with the relevant material. (4) On receipt of the report referred to in sub-rule (3), the Court shall consider the same and may pass appropriate order including for extension of period of training and probation.

21. Refresher Course.

(1) The Court may require the members of the Service to undergo such refresher course for such duration and as such places as may be decided by the Chief Justice in consultation with the Director or the Head of the Institute. (2) After every course, the Director or the Head of the Institute shall send report about the conduct and performance of the officer during the course.

22. Probation.

(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. (2) The Court may in special cases extend the period of probation up to a specified date. (3) An order extending the period of probation shall specify whether or not such extension shall count for increment in the time scale. (4) If it appears to the Court any time during or at the end of the period of probation or extended period of probation, as the case may be, that the 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 he shall be discharged from the Service by the Appointing Authority. (5) A person whose services are dispensed with under sub-rule (4) shall not be entitled to any compensation and shall also not be eligible for reappointment to the Service.

23. Confirmation.

(1) The probationer may be confirmed in his appointment at the end of the period of probation or the extended period of probation by the Court. The Court while confirming shall take into consideration the following matters : (a) The probationer has satisfactorily undergone the prescribed training; (b) His work and conduct; (c) His integrity is certified; and (d) The Court is satisfied that he is otherwise fit for confirmation. (2) A probationer shall continue as such till an order of confirmation in the Service is passed in his favour by the Court.

24. Seniority.

(1)The seniority of the officers who are already members of the Service under the provisions of the Uttar Pradesh Nyaik Seva Niyamawali, 1951 (as applicable to the State of Uttaranchal) when these rules came into force, would be determined according to the said rules.(2)After coming into force of these rules, the inter-se seniority of the officers appointed under these rules, shall be determined in accordance with the year of recruitment and position of merit as shown in the list prepared and forwarded for appointment under sub-rule (20).(3)The candidate required to the Service may lose his seniority if he fails to join the Service without any valid reason when a vacancy is offered to him within the prescribed time or the extended period, as the case may be, the decision of the Appointing Authority shall be final in this regard.

25. Promotion.

(1)The promotion to the cadre of Civil Judge (Senior Division) shall be made by the Court from amongst the Civil Judge (Junior Division), keeping in view the existing vacancies in that cadre.(2)[The promotion to the post of Civil Judge (Senior Division) shall be made by the Court from amongst the officers of Civil Judge (Junior Division) having minimum 5 years of service as Civil Judge (Junior Division) on the basis of principle of seniority-cum-merit.Provided that, the Chief Justice may, in situations where Civil Judges (Junior Division) with the aforesaid requisite experience are not available, relax the aforesaid minimum experience criteria, but, in no case, shall such relaxation go beyond one year.] [Substituted by Notification No. 200/XXX(4)/2019-04(7)/2016, dated 18.07.2019.](3)The field of eligibility for promotion shall be confined to four times the number of vacancies to be filled by promotion.(4)[The Chief Justice or Committee constituted by the Chief Justice while assessing the merit of eligible candidates shall evaluate them on the basis of-(a)Judgment delivered by the eligible candidates - 25marks(b)Evaluation of the ACRs for the last 5 years - 75 marks The marking pattern for evaluation of ACRs shall be as follows-

Outstanding	15
Very Good	11
Good	8
Fair/satisfactory/average	6

Those who out of 100 marks have secured 50 marks or more, shall be considered for promotion to the post of Civil Judge (Senior Division) on the basis of their seniority: Provided that, in case ACRs of any year is not available, the assessment shall be made on the basis of the average of the available ACRs:Provided further that a Judicial Officer, who has been awarded penalty, shall not be considered for promotion and selection on the basis of seniority-cum-merit for three years from the date of award of penalty. However, such officer, who is facing disciplinary action, shall be considered but his result shall be kept in sealed cover for one year or subject to the final outcome of the disciplinary proceeding, whichever is earlier.(5)The Chief Justice or Committee constituted by the Chief Justice after evaluation of judgments and evaluation of ACRs for the last 5 years or such number of years as are available, of the officers shall prepare a list of the officers, who, in his or in their opinion, are fit to be promoted to the post of Civil Judge (Senior Division). The list shall

contain the names of the officers twice the numbers of vacancies required to be filled by promotion from the members of the Civil Judge (Junior Division).].

Part VII – Pay

26. Scales of pay.

(1)The scale of pay admissible to a person appointed to the Service whether in a substantive or officiating capacity or as a temporary measure, shall be such as may be fixed by the Government from time to time.(2)Scale of [pay] [See now Revised Pay Scale.] at the time of commencement of these rules are given in Appendix-III.

27. Appointment in senior and selection grade.

- The Court shall consider grant of two Assured Career Progression Scales (ACP) to Civil Judge (Junior Division) and Civil Judge (Senior Division) as and when he becomes eligible for such scale on the recommendation of Hon'ble Chief Justice or Hon'ble Judge nominated by Hon'ble Chief Justice.First ACP scale shall be given to the Civil Judge (Junior Division) after five years of continuous service from the date of entry in the Service.Second ACP scale shall be given to the Civil Judge (Junior Division) after completion of another five years of continuous service.First ACP scale shall be given to the Civil Judge (Senior Division) after completion of another five years of continuous service.Second ACP scale shall be given to the Civil Judge (Senior Division) after completion of another five years of continuous service.

28. Leave.

- The members of this Service shall not be treated as belonging to the Vacation Department and shall earn leave of every kind as such rate as admissible to Government servants belonging to Non-Vacation Department.

29. Deputation.

- No member of the Service shall be deputed to a post not borne on the cadre of the Service except with his consent and after approval of the Court to such term as may be fixed by the Court from time to time.

Part VIII – Other Provisions

30. Canvassing.

- No recommendation either written or oral, other than those required under the rules applicable to the post of the Service will be taken into consideration any attempt on the part of a candidate to

enlist support directly or indirectly for the candidature will disqualify him for appointment.

31. Relaxation from the conditions of Service.

- When the Governor is satisfied that the operation of any rule regulating the conditions of service of person appointed to the Service caused undue hardship in any particular case, he may, notwithstanding anything contained in these rules applicable to the case, by order dispense with or relax the requirements of the rule to such an extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner :Provided that the Court shall be consulted by the Governor before a rule is dispensed with or relaxed to meet the hardship in a particular case.

32. Age of superannuation.

- The age of superannuation of the member of the Service shall be 60 years.

33. Regulation of other matters.

- The regard to the matters not specifically covered by the rules or special orders, persons appointed to the service shall be governed by the rules, regulations and order applicable generally to Government servants serving in connection with the affairs of the State.

34. Option for not availing benefit of enhanced superannuation age.

- The officers who are not desirous of availing of the age benefit of the enhanced superannuation age, may give their option at least six months before they attain the age of 59 years. In the absence of such options being given by the officers they may be retired on completion of 60 years of their age.Nothing in these rules shall affect any order passed under the Uttar Pradesh Nyayik Seva Niyamawali, 1951 (as applicable to the State of Uttaranchal) or reservations and other concessions required to be provided for the candidates belonging to the Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the order of the Government.

35. Rescission.

- The Uttar Pradesh Nyayik Seva Niyamawali, 1951 (as applicable to the State of Uttaranchal) is hereby rescinded.Appendix I[See Rule 4 (2)]Number of Posts in Uttaranchal Judicial Service

1. Civil Judge (Senior Division)

2. Civil Judge (Senior Division)

For Deputation

3. Civil Judge (Junior Division)

Appendix II[See Rule 17]Syllabus for competitive examination for recruitment to the Uttaranchal

Nyayik SevaThe examination will include the following subjects; each subject will carry the number of marks shown against it:

Subject	Marks
1. The present day	150
2. Language	100
3. Law : Paper I - Substantive Law	200
4. Law : Paper II - Evidence & Procedure	200
5. Law : Paper III - Revenue & Criminal	200
6. Viva Voce	100

(1)The present day-This paper is designed to test the candidate's knowledge of the reactions to what is happening in India and the world generally at the present day, particularly in the legal sphere and also his power of expression in English. Questions, the answers to which should be in essay form will relate mainly to jurisprudence, international law, neutrality, recent legislation, particularly-Indian constitutional law and developments, especially on their legal aspect and so on but will not be confined to them. Credit will be given both for substance and expression, conversely deduction will be made for bad expression, including faults of grammer, misuse of words etc.

(2)Language-A passage in English will be set and the candidate will be required to translate it into the ordinary language spoken in the Courts, using the Devanagri script. Marks
30

Likewise a passage of Hindi will be required to be translated in ordinary English language. Marks
30

There will be English Precis writing also. Marks
40

(3)Law-Paper I-Substantive Law-The questions set will be restricted to the field covered by-The Law of Contracts; the Law of partnership; the Law concerning easements and torts; the Law relating to transfer of property, including the principles of equity specially applicable thereto; the principles of equity, with special reference to the Law of Trust and specific relief. Hindu Law and Mohammedan Law.(4)Law : Paper II-Evidence and Procedure-The field will be that covered by the Law of Evidence, the Criminal Procedure Code and Code of Civil Procedure, including the principles of pleading. The questions set will relate mainly to practical matters; such as the framing of charges and issues, the methods of dealing with the evidence of witness, the writing of judgment and the conduct of cases generally but will not be restricted to them.(5)Law : Paper III-Revenue & Criminal-U. P. Zamindari Abolition and Land Reforms Act (as applicable in Uttaranchal) and Indian Penal Code.(6)Viva Voce-The suitability of the candidate for employment in the Judicial Service will be tested with reference to his record at School, College and University and his personality, address and physique. The questions which may be put to him may be of a general nature and will not necessarily be of an academic or legal nature.Note.- (i) The marks obtained in viva voce will be added to the marks obtained in the written papers and the candidates place will depend on the aggregate of both.(ii)The Commission reserve the right to refuse to call for viva voce and candidate who has not obtained such marks in the Law Papers as to justify such refusal.Appendix III(See Rule 26)Pay Scales of Uttaranchal Judicial Service

Civil Judge (Junior Division)

Ordinary Scale	- Rs. 9,000-250-10,750-300-13,150-350-14,550
1st A.C.P. Scale	- Rs. 10,750-300-13/150-350-14,900
IIInd A.C.P. Scale	- Rs. 12,850-300-13,150-350-15,950-400-17,550
Civil Judge (Senior Division)	
Ordinary Scale	- Rs. 12,850-300-13,150-350-15,950-400-17,550
1st A.C.P. Scale	- Rs. 14,200-350-15,950-400-18,350
IIInd A.C.P. Scale	- Rs. 16,750-400-19,150-450-20,500a

Appendix IV The preliminary written entrance examination paper will be divided into two parts.

Part I – will contain 50 marks and Part II will contain 150 marks. There will be objective type test on the following subjects :

Part I – General Knowledge-It will include day today happenings around India and the World particularly in the legal spheres. The questions may relate mainly to international law, neutrality, recent legislation pronouncement particularly Indian Constitution, law and development and legal aspects but it will not be confined to this only.

Part II – It will cover the following Acts and Laws-Transfer of Property Act, Principle of Hindu Laws and Principle of Muslim Laws, Evidence Act, Code of Criminal Procedure, Indian Penal Code, Code of Civil Procedure.