

The Orissa Civil Service Judicial Branch (Absorption of Judicial Magistrates) Rules, 1963

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Rule

THE-ORISSA-CIVIL-SERVICE-JUDICIAL-BRANCH-ABSORPTION-OF-J of 1963

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The Orissa Civil Service Judicial Branch (Absorption of Judicial Magistrates) Rules, 1963Published vide Notification No. 1435-J-2nd March, 1963, Orissa Gazette Extraordinary No.

131/3.3.1963Notification No. 1435-J-2nd March, 1963. - Whereas consequent upon the implementation of the scheme for separation of Judiciary from the Executive certain Stipendiary Magistrates specially appointed for the purpose as also officers appointed to the Orissa Administrative Service and Orissa Subordinate Administrative Service are required to function as Judicial Magistrates;And whereas it is expedient that provision should be made for facilitating the absorption of such officers in the Orissa Civil Service (Judicial Branch);Now, therefore, in exercise of the powers conferred by the proviso to Article 309 read with Article 234 of the Constitution of India the Governor of Orissa, after consultation with the Orissa Public Service Commission and the High Court, hereby makes the following rules :

1. Short title.

(1)These rules may be called the Orissa Civil Service, Judicial Branch (Absorption of Judicial Magistrates) Rules, 1963.(2)They shall come into force at once.

2. Interpretation.

(1)Unless the subject or context otherwise requires-(a)"Deputy Magistrate" means a Judicial Magistrate borne on the cadre of the Orissa Administrative Service, Class II ;(b)"Judicial Magistrate" means an officer functioning as such in accordance with the scheme for the separation

of Judiciary from the Executive ;(c)"service" means the Orissa Judicial Service, Class II (Munsifs) constituted under the Orissa Civil Service (Judicial Branch);(d)"Stipendiary Magistrate" means a Judicial Magistrate ordinarily appointed as a Stipendiary Magistrate ;(e)"Sub-Deputy Magistrate" means a Judicial Magistrate borne on the cadre of the Orissa Subordinate Administrative Service;(f)"Court" and "High Court" whenever they occur in these rules shall mean the High Court of Orissa.(2)Save as otherwise provided in these rules the provisions herein contained shall have force and effect notwithstanding anything to the contrary in any rules or orders governing the members of the service.

3. Absorption in the service.

- Subject to the provisions of these rules hereinafter contained-(a)Deputy Magistrates, Sub-Deputy Magistrates and Stipendiary Magistrates holding a degree in Law of a University recognised by Government shall be absorbed in the service with effect from the date specified in that behalf in the notification under Rule 4 (4) ;(b)On and from the date of their absorption in the service such officers shall stand transferred to the service from the Orissa Administrative Service, Class II, the Orissa Subordinate Administrative Service and the Service of Stipendiary Magistrates, as the case may be; and(c)The cadre strength of the service shall be deemed to have stood augmented on and after the said date so far as may be necessary for giving effect to such absorption.

4. Exercise of option to be absorbed in the service.

- On or before such date as the High Court may specify in that behalf a Deputy Magistrate, Sub-Deputy Magistrate or Stipendiary Magistrate may exercise his option for being absorbed in the service by intimating the same to the Court in such form and manner as the Court may direct.(2)Where no such intimation is received the officer concerned shall be deemed to have exercised his option in favour of such absorption under Sub-rule (1).(3)As soon as may be after the said date the Court shall communicate to the State Government the names of such officers as have or are deemed to have exercised their option for such absorption.(4)The State Government after consulting the Orissa Public Service Commission may, by notification, direct the absorption in the service of all or any of such officers for the purposes of these rules.

5. Confirmation as Munsifs.

- On the issue of a notification under Sub-rule (4) of Rule 4-(a)Deputy Magistrates and Sub-Deputy Magistrates as are confirmed in one or other of the cadres relating to Orissa Administrative Service Class II or Orissa Subordinate Administrative Service shall stand confirmed, as Munsifs in the service with effect from the date of such notification.(b)The remaining Deputy Magistrates and Sub-Deputy Magistrates and the Stipendiary Magistrates shall, on passing the Departmental Examinations as hereinafter specified and on the recommendation of the High Court, be confirmed as Munsifs in the service by orders of the State Government made in that behalf.

6. Passing of Departmental Examinations.

- All Deputy Magistrates and Sub-Deputy Magistrates and all Stipendiary Magistrates in respect of whom notifications have been issued under Sub-rule (4) of Rule 4 shall be liable to pass the Departmental Examination held for the members of the service.

7. Fixation of pay.

(1) An officer absorbed in the service under these rules shall with effect from the date of his absorption in the service draw pay in the scale applicable to the members of the service which shall be fixed in accordance with the provisions of Rule 74 of the Orissa Service Code, Volume 1. (2) Subject to the provisions of Sub-rule (3)-(a) the next increment of the Deputy Magistrates absorbed in the service shall be granted in the aforesaid scale on the date they would have drawn an increment had they continued in their parent cadre ; and (b) the next increment of all other officers so absorbed shall be granted in the aforesaid scale on the date they complete one year of service, from the date of absorption under Rule 4. (3) The next increment in respect of the aforesaid officers shall be postponed until they shall pass the examination referred to in Rule 6 and on passing such examination they shall be entitled to incremental arrears relating to the period prior to the passing of the said examination : Provided that officers specified in Clause (b) of Rule 5 shall not be entitled to any such arrears.

8. Seniority.

- The seniority of the officers absorbed in the service shall be fixed in the following manner, namely : (i) Deputy Magistrates shall be deemed to have joined the service with effect from the date of their joining the Orissa Administrative Service, Class II and shall take their seniority accordingly : . Provided that a Deputy Magistrate appointed to the Orissa Administrative Service, Class II before he had completed the age of 26 years shall be deemed to have joined the service, only on the day he completes 26 years of age : Provided further that in case Deputy Magistrates absorbed in the service complete 26 years of age earlier than another Deputy Magistrate so absorbed who in his parent cadre was senior to the former, the former shall be deemed for purpose of seniority only to have joined the Orissa Judicial Service, Class II on the date following the day on which the latter completes the age of 26 years : Provided also that in no case shall the seniority inter se of the Deputy Magistrates absorbed in the service be different from what it was in their parent cadre immediately before the date of absorption. (ii) Sub-Deputy Magistrates appointed as such prior to 6th June, 1956 and absorbed in the service will take their seniority just above the temporary Munsifs appointed in October, 1961 : Provided that the seniority inter se amongst the Sub-Deputy Magistrates so absorbed shall on absorption be as it was in their parent cadre : Provided further that no such Sub-Deputy Magistrate shall in any event rank senior to Munsifs (Probationary and temporary) appointed during the year 1960 and prior thereto, notwithstanding that such Munsifs might not have been confirmed in the service. (iii) Sub-Deputy Magistrates appointed as such after the 6th June, 1959 and absorbed in the service will take their seniority just below the temporary Munsifs appointed in October, 1961, if they have completed not less than 3 years of service including service in their parent cadre on the 26th October, 1961 : Provided that the seniority inter se amongst the Sub-Deputy

Magistrates so absorbed shall be as it was in their parent cadre.(iv) Stipendiary Magistrates recruited in October, 1961 will take their seniority just below the Sub-Deputy Magistrates referred to in Clause (iii) and their inter se seniority shall be in order of merit in which the Orissa Public Service Commission has placed them : Provided that such inter se seniority shall be further refixed at the time of confirmation, on the recommendation of the High Court after taking into consideration the date of passing the Departmental Examination.(v) Sub-Deputy Magistrates other than those referred to in Clauses (ii) and (iii), absorbed in the service shall, for the purpose of fixation of seniority only, be deemed to have joined the service on the day on which they have completed 3 years of service including service in their parent cadre and they shall take their seniority accordingly.

9. Removal of hardship.

- Where the State Government is satisfied that the operation of any of the provisions of these rules causes or is likely to cause any undue hardship in any particular case, they may, with a view to remove such hardship and in particular to remove any anomaly or to set right an injustice in the matter of absorption on the recommendation of the High Court, dispense with or relax the requirements of the said provisions in respect of such case.