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LAW DEPARTMENT

NOTIFICATION

The 17th August 2007

S.R.O. No. 447/2007—In exercise of the powers conferred by the proviso to article 309 read with article 233, 234 and 235 of the Constitution of India, the Governor of Orissa after consultation with the Orissa Public Service Commission and the High Court of Orissa hereby makes the following rules regulating the recruitment and conditions of service of the persons appointed to the posts in the Orissa Superior Judicial Service and Orissa Judicial Service, namely : —

1. Short title and commencement.— (1) These rules may be called the Orissa Superior Judicial Service and Orissa Judicial Service Rules, 2007.

(2) They shall come into force on the date of their publication in the official Gazette.

PART-1

2. Definitions.—(1) In these rules, unless the context requires otherwise—

- (a) 'Appendix' means an Appendix appended to these rules;
- (b) 'Commission' means the Orissa Public Service Commission;
- (c) 'Government' means the Government of Orissa;
- (d) 'Governor' means the Governor of Orissa;
- (e) 'High Court' means the High Court of Orissa;
- (f) 'Official Gazette' means the Orissa Gazette;
- (g) 'Recruiting Authority' means the Orissa High Court or the Orissa Public Service Commission, as the case may be;
- (h) 'Scheduled Castes and Scheduled Tribes' shall have reference to the Scheduled Castes specified in the Constitution (Scheduled Castes) Order, 1950 and (Scheduled Tribes) Order 1950, made under articles 341 and 342, respectively, of the Constitution of India and as amended from time to time.

- (i) 'S.E.B.C.' means Socially and Educationally Backward Classes of the citizens other than the Scheduled Castes and Scheduled Tribes as may be specified by the Government from time to time;
- (j) 'Service' means the Orissa Superior Judicial Service and Orissa Judicial Service;
- (k) 'State' means the State of Orissa; and
- (l) 'year' means the calendar year.

(2) All other words and expressions used herein 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.

PART-II

3. Constitution of service.— (1) The service shall consist of three cadres namely:—

- (a) District Judges,
- (b) Senior Civil Judges; and
- (c) Civil Judges.

(2) The cadre of District Judges belonging to Orissa Superior Judicial Service shall comprise of the (i) District Judges (ii) Selection Grade District Judges, (iii) Super Time Scale District Judges and shall include Session Judges, Additional District Judges, Additional Session Judges and all other posts in the erstwhile cadre of the Orissa Superior Judicial Service (Sr. Branch) in the Registry of the High Court and on deputation to the Government and also any other post as shall be decided by the High Court from time to time.

(3) The cadre of Senior Civil Judges belonging to Orissa Judicial Service shall comprise of—

- (i) Senior Civil Judges (Entry Grade);
- (ii) Senior Civil Judges (Grade-II);
- (iii) Senior Civil Judges (Grade-I); and

shall include Chief Judicial Magistrates, Additional Chief Judicial Magistrates, Civil Judges (Senior Division), Additional Civil Judges (Sr. Division), Registrar of Civil Courts and all other posts in the erstwhile cadre of Orissa Superior Judicial Service (Junior Branch) and in the cadre of Orissa Judicial Service Class-I (Senior) in the Registry of High Court and on deputation to the Government, and also any other posts as shall be decided by the High Court from time to time.

(4) The cadre of Civil Judges belonging to Orissa Judicial Service shall comprise of—

- (i) Civil Judges (Entry Grade);
- (ii) Civil Judges (Grade-11);
- (iii) Civil Judges (Grade-1); and

shall include Civil Judges (Junior Division), Sub Divisional Judicial Magistrates, Judicial Magistrates and all other posts in the erstwhile cadres of Orissa Judicial Service, Class-1 (Junior) and Orissa Judicial Service Class-11 and officers in the Registry of High Court and on deputation to the Government and also any other posts as shall be decided by the High Court from time to time.

Explanation— For the purpose of sub rule (3) and (4), the entry grade refers to the normal scales of pay and Grade -II and Grade - I refer to the Assured Career progression scales of pay at the first stage and second stage, respectively, as prescribed in the Resolution No. 23598/F dated 3.6.2003 of the Finance Department of the Government and as may be modified from time to time.

4. Selection Grade District Judges .— Twenty-five per centum of the posts in the cadre of District Judges who have put in five years of service in the cadre shall be granted selection grade pay and they shall be selected on the basis of merit-cum-seniority from the cadre of District Judges by the High Court .

5. Super time scale District Judges .— Ten per centum of the posts in the cadre of District Judges who have put in three years .of service as Selection Grade District Judges in the cadre shall be granted Super Time Scale of Pay and they shall be selected on the basis of merit-cum-seniority from amongst the Selection Grade District Judges :

Provided that High Court may in appropriate case relax the requirement of three years of service as Selection Grade District Judge for selection of Super Time Scale District Judge.

Explanation.— For the purpose of rules 4 and 5, the expressions of "Selection grade pay" and "Super Time Scale of pay" shall, respectively, mean the scale of pay as prescribed in clause (4) of the Resolution No. 23598/F dated 3.6.2003 of the Finance Department of the Government and as may be modified from time to time.

PART - III

6 .Recruitment of District Judges.— (1) Recruitment to the cadre of District Judges shall be made by (a) usual promotion, (b) limited competitive examination and (c) direct recruitment

(2) Fifty per centum of the posts in the cadre of District Judges shall be filled up by promotion from the cadre of Senior Civil Judges having not less than three years of qualifying service as Senior Civil Judges on the basis of merit-cum-seniority and passing of suitability test to be decided by the High Court.

(3) Twenty-five per centum of the posts in the cadre of District Judges shall be filled up by promotion strictly on the basis of merit through limited competitive examination of Senior Civil Judges having not less than five years of qualifying services as Senior Civil Judge :

Provided that if sufficient number of officers are not available to be promoted through limited competitive examination, the vacancies shall be filled up by promotion as per provisions of sub-rule (2).

(4) Twenty-five per centum of the posts in the cadre of District Judges shall be filled up by direct recruitment made from the Bar on the basis of aggregate marks obtained in the competitive examination conducted by the High Court.

7. Promotion.—The appointment to the vacancies in the cadre of District Judge proposed to be filled up under sub-rules (2) and (3) of rule 6 shall be made by the Governor in consultation with the High Court of Orissa.

8. Limited competitive examination.—The limited competitive examination under sub-rule (3) of rule 6 shall consist of written examination, interview and evaluation of C.C.Rs/ P.A.Rs. to be conducted by the High Court in the manner provided in these rules and as per the syllabus contained in Appendix 'A'.

9. Eligibility for direct recruitment .— A candidate in order to be eligible for direct recruitment to the post of District Judge must:—

(a) be a graduate in Law of a recognized University or an institution recognized by the Government;

(b) be having at least seven years of practices as an advocate on the 1st day of August of the year in which the advertisement for receipt of application is published; and

(c) not be below thirty-five years of age and above forty-five years of age on the 1st day of August of the year in which the advertisement for receipt of application is published.

10. Method of direct recruitment :— Direct recruitment to the post of District Judge shall be made by the High Court through a competitive examination which shall consist of two parts viz:— written test and interview conducted in the manner provided in these rules and in accordance with the syllabus as specified in Appendix 'B'.

11. List of candidates :— (1) The High Court shall having regard to the number of direct recruits to be appointed, to the post of District Judge, furnish to the Governor a list of selected candidates 'in order of merit and the Governor shall appoint required number of candidates as per the vacancies .

(2) The selected candidates must be physically fit and shall be required to appear before the State Medical Board before final appointment.

12. Seniority of direct recruits :— The inter-se-seniority of the direct recruits to the cadre of District Judge in a particular year and in the same batch shall be determined in accordance with their position in the merit list prepared under rule 11.

13. Inter-se seniority :— The Inter-se-seniority of officers recruited under rule 6 shall be governed by the forty point roster as specified in Appendix 'C' and the seniority shall be fixed by the roster points irrespective of the fact as to when the person is recruited :

Provided that in case of non-availability of sufficient number of candidates for promotion through limited competitive examination in a year. in which direct recruitment is made under Rule-12, their quota in respect of unfilled posts shall lapse and such unfilled posts shall be filled up by usual promotion from the cadre of senior Civil Judges in accordance with Rule-6(2) :

Provided further that the inter-se seniority of the officers so promoted shall remain the same as it was in the cadre of Senior Civil Judges.

PART - IV

14. Appointment of officers in the rank of Senior Civil Judges. -Vacancies in the cadre of Senior Civil Judge shall be filled up by promotion of the officers in the cadre of Civil Judges on the basis of merit-cum-seniority by the High Court:

Provided that no officer shall be considered for promotion to the cadre of Senior Civil Judges unless he or she has been in the cadre of Civil Judge for a period of five years.

PART-V

15. Recruitment of Civil Judges .- Direct recruitment to the cadre of Civil judges shall be made by the Commission through a competitive examination which shall consist of two parts viz-written examination and interview conducted in the manner provided in these rules/and in accordance with the syllabus as specified in Appendix 'D'.

16. Determination of vacancies.- (1) The number of vacancies required to be filled up in the cadre of Civil Judges from time to time shall be decided by the Government in consultation with the High Court and requisition shall be sent to the Commission accordingly.

(2) The Commission shall, after receipt of requisition from the Government, notify the number of vacancies required to be filled up and invite applications from eligible candidates for recruitment, under rule 15.

(3) The process of recruitment shall be completed by the Commission, as far as possible, within a period of ten months from the date of issuance of advertisement.

17. Reservation .- (1) The percentage of vacancies to be reserved in favour of the following reserved categories in the post of Civil Judges which are to be filled up under rule 15, shall be as follows—

(a) Scheduled Tribes	..22.50%
(b) Scheduled Castes	..16.25%
(c) SEBC	..11.25%

(2) From out of the vacancies reserved for the categories mentioned in sub-rule (1) and for the unreserved categories, as nearly as 33.33% of the vacancies may be reserved for women belonging to each of such category and in the event of non-availability or availability of insufficient number of eligible women belonging to any particular category, the vacancies or, as the case may be, the remaining vacancies shall be filled up by male candidates of that category.

(3) In case of non-availability or availability, of insufficient number of candidates of any reserved category of SC, ST and SEBC the vacancy shall be filled up by the candidates of the un-reserved category.

(4) Appointment in respect of vacancies, reserved under sub-rules (1) and (2) shall be made in the order in which the names appear in the merit list.

(5) To the extent of one per centum of the vacancies in the cadre of Civil Judge which are required to be filled up under rule 15 shall be reserved for the Orthopaedically Handicapped candidates and in case of non-availability of such candidates, the vacancies shall be filled up in accordance with the merit list.

18. Eligibility of candidates for the post of Civil Judge .— (1) In order to be eligible for recruitment to the service as Civil Judge a candidate must be —

- (a) a graduate in law of a recognized University or institutions recognized by the Government;
- (b) *not below twenty one years of age and not above thirty two years of age on the 1st day of the month of the August of the year in which applications are invited:*

Provided that the maximum age limit shall be relaxed by five years in case of the Scheduled Castes, Scheduled Tribes, women and Orthopaedically Handicapped candidates and by three years in case of candidates belonging to SEBC;

- (c) *able to speak, read and write Oriya fluently and must have passed an examination in Oriya Language equivalent to that of Middle English School standard;*
- (d) *of good character;*
- (e) *of sound health and free from any organic defects and physical infirmity;*

Note : — clause (e) is not applicable in case of Orthopaedically Handicapped candidates.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1) but subject to other provisions of said sub-rule a person who is —

- (i) a Superintendent or a Ministerial Officer in the High Court or any Civil or Criminal Court sub-ordinate to the High Court, or
- (ii) an Assistant Law Officer or Translator of the Law Department of Government,

shall be eligible for appearing at the competitive examination under rule 15 for appointment as Civil Judge if he —

- (a) has approved service in the High Court or in any Civil or Criminal Court sub-ordinate to High Court or in the Law Department of not less than seven years on the last date fixed for receipt of application for the said competitive examination;
- (b) *has been recommended by the respective appointing authority; and*
- (c) is not more than thirty nine years of age on the 1st day of the month of August of the year in which applications are invited.

Explanation : — Approved service for the purpose of these rules means qualifying service as defined in the Orissa Civil Service (Pension) Rules, 1992.

19. Manner of submitting applications .— (1) Every candidate shall submit the application in his or her own handwriting in the form prescribed by the Commission along with certificates and other *documents as indicated in the advertisement notified by the Commission for a particular year of recruitment to the Secretary to the Commission so as to reach him by such date as may be notified by the Commission in this behalf ;*

Provided that in case of a person already in Government service, the application shall be submitted through the appointing authority.

(2) Every candidate shall submit two copies of his or her recent pass-port size photographs with his or her signature and one of which shall be affixed on the first page of the application form at the space provided therefor.

(3) Every application shall be accompanied with the following documents:—

- (i) Certificate showing the proof of age, which shall ordinarily be the High School Certificate or a Certificate of passing an equivalent examination;
- (ii) Certificate from the Board of Secondary Education of Orissa or in any other Board or Council of Secondary Education approved by Government in support of passing of Oriya language test equivalent to M.E. School standard;
- (iii) Certificate of Degree of Law from the concerned University or the institution from which the candidate has obtained the same.
- (iv) Certificate of good character from the Institution last attended.
- (v) Certificate from the competent authority indicating the category of the Caste or the Tribe or the class of the candidate in case he or she belongs to Scheduled Caste or Scheduled Tribe or SEBC ;
- (vi) Medical certificate or disability certificate from the competent Medical Board or Authority indicating orthopaedic disability in case of candidates belonging to orthopaedically handicapped category.

(4) No application shall be considered unless it is accompanied by a crossed Indian Postal Order payable to the Secretary, Orissa Public Service Commission or a Treasury Challan showing payment of such amount into a Government Treasury under the head of account "0051-Public Service Commission-105-State PSC, Examination Fees" as examination fee as may be determined by the Commission, from time to time :

Provided that candidates belonging to Scheduled Castes or Scheduled Tribes shall be exempted from payment of such examination fee.

(5) No claim for return of fee so paid shall in any circumstances be entertained.

Note. — (I) Copies of documents, duly attested by officer competent to attest shall be submitted with the application but the original shall be produced at the time of interview.

Note. —(II) The Commission may at their discretion require such additional proof on any of the above matters as they may think fit.

Note — (III) The application of a candidate may be rejected at the discretion of the Commission if it is not complete in all respect as specified by the Commission.

20. Consultation with the High Court. — The Commission shall consult the Chief Justice of the High Court confidentially in the matter of appointment of examiners for law papers prescribed for the written examination.

21. Penalty for misconduct in the examination.—A candidate who is or has been declared guilty of impersonation or of submitting fabricated document or documents specified in sub-rule (3) of rule 19 which has been tampered with or of making statements which are incorrect or false or of suppressing material information or of using or attempting support for his candidature may, in addition to the liability for criminal prosecution, be debarred either permanently or for a specified period—

(a) by the Commission from appearing at any written examination or any interview held by it for selection of candidates; and

(b) by the Government, from employment under them as may be directed by the Commission or the Government, as the case may be.

22. Consideration of application by the Commission.—The Commission shall scrutinize the applications received by it and after considering the eligibility of the applicant for admission to the examination to be held by it for the purpose of recruitment under rule 15 shall issue well in advance a certificate of admission to each eligible candidate to appear at the written examination or the interview, as the case may be.

23. Intimation for appearing at the written examination or interview.—The certificate of admission issued by the Commission under rule 22 shall specify the date, time and venue of the written examination or interview, as the case may be, and the candidates so intimated shall present themselves on the appointed date and at the time and place at their own expenses.

24. Determination of number of candidates for interview.—The Commission shall call the candidates for interview who have secured not less than forty-five per centum of marks in aggregate and a minimum of thirty three per centum of marks in each paper in the written examination.

25. Representation of the High Court in the interview.—(1) A sitting judge of the High Court being nominated by the Chief Justice shall represent the High Court and be present at the interview referred to in rule 24 along with the Chairman and another member of the Commission.

(2) The opinion given by the representative of the High Court with regard to the suitability of candidates shall not be disregarded unless there are strong and cogent reasons to be recorded in writing for not accepting the opinion.

26. Preparation of the lists by the Commission.—(1) For the purpose of recruitment under rule 15, the marks secured by the candidates in the interview shall be added to the marks obtained by him in the written test so as to arrive at the total marks secured by him and the names of the candidates shall be arranged in order of merit on the basis of such total marks :

Provided that the name of the candidates shall not be included in the merit list unless such candidates secure a minimum of forty per centum marks in the interview.

(2) If two or more candidates secure equal marks in the aggregate the order shall be determined in accordance with the marks secured at the written examination and if the marks

secured at the written examination of the candidates concerned be also equal, then the order shall be decided in accordance with the total marks obtained by them in the LLB Examination and if the marks obtained in the LLB Examination are also equal, the candidate who is older in age shall be placed above the other.

Explanation :— There shall be prepared a composite merit list of unreserved as well as reserved categories of Scheduled Caste and Scheduled Tribe and SEBC candidates, by the Commission which shall also prepare separate merit list for each category of such reserved candidate and appointment shall be made to the vacancies reserved for them if they can not be otherwise appointed on the basis of their position in the composite merit list.

27. Forwarding of the list to Government .— The commission shall then forward to the Government in the Law Department the list of candidates prepared by them under rule 26 which shall contain names of candidates found suitable, equal to the number of vacancies advertised by the commission along with the applications and attestation forms of the concerned candidates indicating therein whether any candidate belongs to Scheduled Caste or Scheduled Tribe or SEBC.

28. Formation of the select lists .— (1) The list so received from the Commission shall then be placed before the Government in Law Department for approval and after receiving the approval the same shall form the select list.

(2) Appointment to the cadre of Civil Judges shall be made from the select list in the order, the names appear therein.

(3) The select list, unless the Governor in consultation with the High Court otherwise decides, shall remain ordinarily in force for one year from the date of its approval by the Government under sub-rule (1).

(4) Mere inclusion of names in the select list shall confer no right of appointment unless the Governor is satisfied after making such inquiry as may be deemed necessary that the candidate is suitable in all respects for being appointed to the service.

29. Inter-se-seniority of Civil Judges :— The inter-se seniority of the candidates appointed as Civil Judges in a particular year and in the same batch shall be determined in accordance with the general merit list prepared by the Commission under rule 26.

PART-VI

30. Training of Civil Judge .— (1) Every candidate recruited as a Civil Judge shall be required to undergo a course of training as specified in Appendix - E which may be altered from time to time by the Government in consultation with the High Court and the Commission and the period of such training shall ordinarily be two years:

Provided that the Government on recommendation of High Court in any special case , may reduce the course of training to one year:

Provided further that the judicial work done by such officers who remain in direct charge of courts during the course of training shall be treated as work done in course of their training.

(2) Every person appointed to the service of Civil Judge shall be given such periodical training as the High Court may, from time to time, prescribe.

31. Departmental examination .— Every person appointed as a Civil Judge shall, subject to such exemption, if any, as may be granted by the Government, in consultation with the High Court have to pass the departmental examination in accordance with the rules specified in Appendix - F, subject to such alternations as may be made therein by Government from time to time in consultation with the High Court and the Commission.

PART-VII

32. Disqualification for appointment .— No person shall be eligible for appointment to the service —

- (a) unless he or she is a citizen of India;
- (b) if he or she is dismissed form service by any High Court; Government or Statutory or Local Authority;
- (c) if he or she has been convicted of an offence involving moral turpitude or has been permanently debarred or disqualified by the High Court or the Union Public Service Commission or any State Public Service Commission from appearing in any examination or selection conducted by it;
- (d) if he or she directly or indirectly influences the recruiting authority by any means , for his or her candidature;
- (e) if he is a man and has more than one wife living and if a women has more than one husband living or has married a man who has already another wife living;
- (f) unless he or she is able to speak, read and write Oriya; and
- (g) unless he or she has passed a test in Oriya equivalent to Middle School standard.

33. Probation.— (1) All appointments to the service by direct recruitment, promotion and promotion by limited competitive examination, shall be on probation for a period of two years.

(2) The period of probation may be extended by the appointing authority on the recommendation of the High Court by such period not exceeding a further period of two years.

(3) At the end of the period of probation or the extended period of probation, the appointing authority shall, in consultation with the High Court, consider the suitability of the person so appointed or promoted to hold the post to which he or she was appointed or promoted, and —

(i) if it decides that he or she is suitable to hold the post to which he or she was appointed it shall, as soon as possible, issue an order declaring him or her to have satisfactorily completed the period of probation and such an order shall have effect from the date of expiry of period of probation including the extended period, if any ; or

(ii) if it considers that the person is not suitable to hold the post to which he or she was appointed or promoted, as the case may be , it shall, by order,—

- (a) if he or she is a promotee. revert him or her to the post which he or she had held prior to his or her promotion and
- (b) if he or she is a direct recruit, discharge him or her from service.

(4) A person shall not be considered to have satisfactorily completed the period of probation, unless a specific order to that effect is passed and any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of probation.

(5) After satisfactory completion of period of probation a person shall be confirmed, by an order in writing, against available substantive vacancy.

Explanation :—Declaration of satisfactory completion of probation would not automatically entitle a person for confirmation.

34. Discharge or reversion during the period of probation .— (1) Notwithstanding anything contained in the preceding rules the appointing authority may, in consultation with the High Court, at any time during the period of probation, discharge a direct recruit or revert a promotee probationer from service on account of his or her unsuitably for the service.

(2) No disciplinary inquiry shall be necessary for discharge or reversion of a probationer under sub-rule (1).

35. Appeal .— No appeal shall lie against an order under rules 33 and 34 discharging a direct recruit probationer or reverting a promotee probationer to the post held by him or her prior to his or her promotion .

PART-VIII

36. Conduct .— (1) Conduct of a judge should uphold the integrity and independence of judiciary.

(2) An independent and impartial judiciary is indispensable for imparting justice in our society. A judge should ensure in establishing, maintaining, and enforcing justice and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A Judge shall always be aware that the judicial system is for the benefit of the litigant and the public, the provisions of this part shall be construed and applied in furtherance of these objectives.

(3) Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A Judge must avoid all impropriety and appearance of impropriety. A Judge must expect to be the subject of constant public scrutiny. A Judge must therefore accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

(4) A Judge shall respect and observe the law. At all time, the conduct and manner of a Judge should promote public confidence in the integrity and impartiality of the judiciary. Without regard to a person's race, gender, or other protected personal characteristic, a Judge should treat every person fairly, with courtesy and respect.

(5) A Judge shall not allow family, social or other relationship to influence his judicial conduct or judgement. A Judge shall not lend the prestige of judicial office to advance his private interests or those of others. A Judge shall not convey or permit others to convey the impression that they are in a special position to influence the Judge. A Judge shall not appear as a character witness in a Court proceeding unless summoned.

(6) A Judge shall not allow his or her activity as a member of an organization to cast doubt on the judge's ability to perform the function of the office in a manner consistent with the code of judicial conduct and the laws of the State. A Judge shall not hold membership of an organization activities of which discriminate or appear to discriminate on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a Judge's right to the free exercise of religion.

37. Duty. — (1) A Judge shall be faithful to the law and maintain professional competence in it. A Judge should be unswayed by partisan interest, public clamour or fear of criticism.

(2) A Judge may require lawyers, court personnel, and litigants to be appropriately attired for court and should enforce reasonable rules of conduct, order and decorum in the Court room.

(3) A Judge shall be patient, dignified, and courteous to litigants, witnesses, lawyers, and others with whom the judge deals in an official capacity . and would require similar conduct of lawyers and of staff, court officials, and others subject to the Judge's direction and control.

(4) A Judge shall not initiate, permit, or consider ex parte communications, or consider other communication made to the Judge outside the presence of the parties concerning a pending or impending proceedings.

(5) A Judge shall hear and decide matters assigned to the Judge except those which he is disqualified to appear under rule 40 of these rules.

(6) A Judge shall perform judicial duties without bias or prejudice. A Judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age , sexual orientation or socio economic status, and shall not permit staff, court officials and others subject to the Judge's direction and control to do so.

(7) A Judge shall dispose of all judicial matters speedily, effectively and fairly.

(8) A Judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any private comment that might substantially interfere with a fair trial or hearing. The Judge shall require similar abstention on the part of court personnel subject to the Judge's direction and control. This clause does not prohibit Judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This clause does not apply to proceedings in which the Judge is a litigant in a personal capacity.

(9) A Judge should prohibit broadcasting, televising, recording, or taking of photographs of the courtroom during session of Court or recesses between sessions except as authorized by the High Court.

38. Obligation :— (1) A Judge may properly intervene in a trial of a case to promote expedition and prevent unnecessary waste of time. or to clear up some obscurity, but the Judge should bear in mind that undue interference, impatience, or participation in the examination of witness, or a severe attitude on the Judges part towards witness, or especially

those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of truth in respect thereto.

(2) Conversation between the Judge and counsel in court is often necessary, but the Judge should be studious to avoid controversies that are apt to obscure the merits of the dispute between litigants and lead to its unjust disposition. In addressing counsel, litigants, or witness, the Judge should avoid a controversial manner or tone.

(3) A Judge shall avoid interruptions of counsel in their arguments except to clarify their positions, and should not be tempted to the unnecessary display of learning or a premature judgement.

(4) A Judge shall adopt the usual and accepted methods of doing justice, avoid the imposition of humiliating acts or discipline, not authorized by law in sentencing and endeavour to conform to a reasonable standard of punishment and not seek popularity or publicity either by exceptional severity or undue leniency.

(5) A Judge shall be punctual in attending court and do judicial work during court hours. He shall ensure punctuality of the staff and court officials.

(6) A Judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other Judges and court officials.

(7) A Judge should take or initiate appropriate measures as admissible under law against a Judge or lawyers for unprofessional conduct of which the Judge may become aware.

39. Extra-judicial and quasi-judicial activities—(1) (a) As a Judicial Officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration for justice, including revision of substantive and procedural law and improvement of *criminal and juvenile justice*. To the extent time permits, and without affecting his judicial work, a judge is encouraged to do so, either independently or through a Bar Association, Judicial Conference, or other organization dedicated to the improvement of the law.

(b) A Judge, subject the proper performance of judicial duties and to the extent time permits, may engage in the following quai-judicial activities, namely:—

- (i) A Judge may speak, write, lecture, teach and participate in activities concerning the law, the legal system, and the administration of justice; and
- (ii) A Judge may appear at a public hearing on matters concerning the law, the legal system, and the administration of justice.

Explanation :— A Judge may participate or involve himself in a literary, educational, cultural and scientific activities without compromising the dignity of the service.

(2) A Judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality or judicial office, interfere with the proper performance of judicial duties, exploit the judicial position, demean the judicial office or involve the Judge in transactions with lawyers or persons likely to come before the court on which the judge serves.

(3) A Judge should not serve as an executor, administrator, testamentary trustee, or guardian.

(4) A Judge should not act as an arbitrator or mediator, except in the performance of judicial duties.

(5) A Judge should not practise law for remuneration.

(6) A Judge should not accept appointment to a Governmental Committee, Commission, or other position except in performance of his duties with the permission of the High Court in writing.

(7) (i) A Judge or a candidate for judicial office should not be a member of or hold any office in a political party.

(ii) A Judge shall not make speeches on behalf of a political party or endorse a candidate for a political office.

(8) A Judge shall keep himself informed about his personal and fiduciary interests, and makes a reasonable effort to keep informed about the personal and economic interests of his spouse and children residing in his household.

(9) A Judge shall conduct all of the Judge's extra-judicial activities in such a way that they do not: —

(i) cast reasonable doubt on the Judge's capacity to act impartially as a Judge

(ii) demean the judicial officer as a Judge;

(iii) interfere with the proper performance of judicial duties.

(10) A Judge shall not serve as an officer, director, trustee or legal advisor of any organization except with prior permission of High Court.

(11) A Judge and members of the Judge's family residing in the Judge's household shall not accept, a gift, bequest, favour or loan from anyone except—

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complementary basis for official use or an invitation to the Judge and the Judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family members of a Judge residing in the Judge's household, including gifts, awards and benefits for the use of both the spouse or other family members and the Judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the Judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favour or loan from a relative or close personal friend whose appearance or interest- in a case would in any event require disqualification under rule 40;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not Judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favour or loan, only if the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the Judge.

40. Disqualification :— A Judge shall disqualify himself or herself in a proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to instances where :—

(a) the Judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge or disputed evidentiary facts concerning the proceeding ;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning to it;

(c) the Judge knows that he or she, individually or fiducially or the Judge's spouse, parent or child wherever residing, or any other member of the Judge's family residing in the Judge's house, has an economic interest in the subject matter in controversy or in a party to the proceeding or has any other interest that could be substantially affected by the proceeding;

(d) the Judge or the Judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person .—

(i) is a party to the proceeding, or an officer, director or trustee or a party; or

(ii) is acting as a lawyer in the proceeding; or

(iii) is known by the Judge to have interest that could be substantially affected by the proceeding .

41. Applicability of Orissa Civil Service (C.C.A) Rules 1962 and the Orissa Service Code—The provisions of rules 12,13,14,15,16,17,18,19 & 20 of the Orissa Civil Services (Classification, Control & Appeal) Rules. 1962 and the provisions of the Orissa Service Code shall mutatis and mutandis be applicable to members of the service and the powers under the said rules may be exercised by the High Court except the powers of dismissal, removal, reduction in rank or termination of service of officer of the service which may be exercised by the Governor on the recommendation of the High Court.

PART-IX

42. Age of superannuation :— The age of superannuation of an officer of the service shall be sixty years.

43. Reemployment :— An officer of the service who has retired at the age of 60 years on superannuation may be reemployed on the recommendation of the High Court for any period till the age of sixty two years if there is vacancy in the cadre of District Judge on such terms and conditions as would be decided by the Government in consultation with the High Court.

44. Retirement in public interest :—(1) Notwithstanding anything contained in these rules the Governor shall, in consultation with the High Court, if he is of the opinion that it is in the public interest so to do, have absolute right to retire any member of the service who has attained the age of fifty years, by giving him/her notice of not less than three months in writing or three months pay and allowances in lieu of such notice.

(2) Whether any officer of the service should be retired in public interest under sub-rule(1) shall be considered at least three times, that is, when he is about to attain the age of fifty years, fifty five years, and fifty eight years:

Provided that nothing in sub-rule (2) shall be construed in public interest as preventing the Governor to retire a member of the service at any time after he/she attains the age of fifty years on the recommendation of High Court under sub-rule (1)

45. Seniority list :— Every year, in the month of January seniority lists of officers in all cadres shall be prepared and published by the High Court and the lists so published shall be used for the purpose of making promotions to the next higher cadre.

46. Residuary provision :— The conditions of service of the members of the service for which no express provision is made in these rules shall be determined by the rules and orders for the time being applicable to officers of Indian Administrative Service in the State.

47. Relaxation :—Where the Government in consultation with the High Court is satisfied that it is necessary or expedient so to do, it may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons or posts in the service.

48. Repeal and savings :— (1)The Orissa Superior Judicial Service Rules, 1963 and the Orissa Judicial Service Rules, 1994 are hereby repealed:

Provided that any order passed, appointment made, action taken or things done under the above rules so repealed shall be deemed to have been passed, made, taken or done under the corresponding provisions of these rules.

(2) Provision of other Rules framed under Article 309 of the Constitution by the Government from time to time, if not inconsistent with these Rules, shall have application to the officers of the service.

APPENDIX-A

[See Rule 8]

(Promotion to the post of District Judges through
Limited Competitive Examination)

A. Written Examination :

The written examination shall be on the following two papers each carrying 75 marks with a duration of 2 hours for each papers as follows:—

Paper-1

(1) Code of Civil Procedure	..	25 Marks
(2) Personal law	..	25 marks
(3) Transfer of Property Act, Specific Relief Act, Limitation Act, Law of Contract, Orissa Consolidation of Holdings and Prevention of Fragmentation of Land Act, Orissa Estate Abolition Act, Orissa Land Reforms Act, Law of Motor Accident Claim.	..	25 marks
	TOTAL	75 marks

Paper-2

(1) Code of Criminal Procedure,	..	20 marks
(2) Indian Penal Code,	..	20 marks
(3) Indian Evidence Act	..	20 marks
(4) Narcotics Drugs and Psychotropic Substance Act, Prevention of Food Adulteration Act, Prevention of Corruption Act, Essential Commodities Act, Environment Protection Act, Water (Prevention and Control of Pollution) Act & Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	15 marks	
	TOTAL	75 marks

B. Interview

Interview shall carry 20 marks.

Candidates securing minimum of 50 of marks in aggregate in both the written papers but not less than 45 in individual written paper shall be called for interview.

C. Evaluation of CCR/PAR

Candidates' C.C.Rs./PARs for 5 years immediately preceding the year of examination shall be evaluated, which shall carry 30 marks in the following order:

CCRs/PARs Grading		Marks
Outstanding	..	6
Very Good	..	5
Good	..	4
Average	..	3
Poor	..	0

The final selection shall be made on the basis of total marks obtained in the written test, interview and evaluation of C.C.Rs/PARs:

Provided that a candidate shall not be selected unless he secures 40% of marks in interview.

APPENDIX-B

(See Rule 10)

(Direct recruitment to the post of District Judges)

A. Written Examination

The written examination shall be on the following two papers each carrying 100 marks with a duration of 2 hours for each paper as follows :—

Paper-1

(1) Code of Civil Procedure,	..	30 Marks
(2) Personal law	..	30 marks
(3) Transfer of Property Act, Specific Relief Act, Limitation Act, Law of Contract, Orissa Consolidation of Holdings and Prevention Fragmentation of Land Act, Orissa Estate Abolition Act, Orissa Land Reforms Act, Law of Motor Accident Claim.	..	40 marks
	Total	100 marks

Paper-2

(1) Code of Criminal Procedure,	..	30 marks
(2) Indian Penal Code,	..	30 marks
(3) Indian Evidence Act	..	30 marks
(4) Narcotics Drugs and Psychotropic Substance Act, Prevention of Food Adulteration Act, Prevention of Corruption Act, Essential Commodities Act, Environment Protection Act, Water (Prevention and Control of Pollution) Act & Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	..	10 marks
	Total	100 marks

B. Interview

Interview shall carry 30 marks.

Candidates shall be called for interview in the proportion of 1:10 provided that such candidates have obtained at least 50% of marks in each of the written papers.

C. The final merit list shall be prepared on the basis of the marks obtained in the written tests and interview :

Provided that a candidate shall not be included in the merit list unless he secures at least 50% of marks in each of the written papers and a minimum of 40% of marks in interview.

APPENDIX-C

(See Rule 13)

(40 Point Roster Governing inter-se seniority of District Judges)

- | | |
|---|---|
| 1. Promotion | 21. Promotion |
| 2. Promotion | 22. Promotion |
| 3. Direct Recruit | 23. Direct Recruit |
| 4. Promotion through limited competitive examination | 24. Promotion through limited competitive examination |
| 5. Promotion | 25. Promotion |
| 6. Promotion | 26. Promotion |
| 7. Direct Recruit | 27. Direct Recruit |
| 8. Promotion through limited competitive examination | 28. Promotion through limited competitive examination |
| 9. Promotion | 29. Promotion |
| 10. Promotion | 30. Promotion |
| 11. Direct Recruit | 31. Direct Recruit |
| 12. Promotion through limited competitive examination | 32. Promotion through limited competitive examination |
| 13. Promotion | 33. Promotion |
| 14. Promotion | 34. Promotion |
| 15. Direct Recruit | 35. Direct Recruit |
| 16. Promotion through limited competitive examination | 36. Promotion through limited competitive examination |
| 17. Promotion | 37. Promotion |
| 18. Promotion | 38. Promotion |
| 19. Direct Recruit | 39. Direct Recruit |
| 20. Promotion through limited competitive examination | 40. Promotion through limited competitive examination |

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APPENDIX-D

(See Rule 15)

(Recruitment of Civil Judges)

The written Examination shall be on the following two compulsory papers and three optional papers. Each of the compulsory subject shall carry 150 marks with a duration of two and half hours of examination and each of the optional subjects shall carry 150 marks with a duration of three hours.

A. Written examination :

1. Compulsory Papers.

Paper-1	}	150 Marks
General English —		
(a) Translation and retranslation of ten lines each.		
(b) A short Essay of about 150 words		
(c) Precis writing consisting of 300 words.	}	150 Marks
(d) 1 (one) passage of about 500 words with 5 questions.		
Paper-2		
Procedural Laws:-		
(a) The Code of Criminal Procedure, 1973	}	150 Marks
(b) The Code of Civil Procedure, 1908		
(c) The Indian Evidence Act. 1872		

2. Optional Papers

A candidate may choose any of the three subjects among the following:

(1) Law of Crime & Law of Torts	150 Marks	
(2) Personal Law:	}	150 marks
(a) Hindu Law		
(b) Mohammedan Law		

(3) Law of Property:

- (a) Transfer of property Act, 1882
- (b) Specific Relief Act, 1963.
- (c) Indian Limitation Act, 1963

} 150 marks

(4) Law of contract :

- (a) Indian Contract Act, 1872
- (b) Sales of Goods Act, 1930
- (c) Partnership Act. 1932
- (d) Negotiable Instrument Act, 1881

} 150 marks

(5) Jurisprudence and Constitution of India.

.. 150 marks

Note : (I) A candidate shall answer the papers in English unless otherwise directed.

(II) The standard of papers shall be that of L.L.B.. course and in respect of compulsory paper-1 it shall be of a degree course.

B. Interview:

Interview shall carry 100 (one hundred) marks. Questions to be asked in the interview may not ordinarily be outside the syllabus prescribed for the written examination. In the interview question covering broad national and International issues and matters of common interest in the field of Arts and Science may also be asked.

APPENDIX -E

(See Rule 30)

Training for Civil Judges

1. A Civil Judge should be given as much experience as possible of Judicial (Civil and Criminal) and Revenue work and also of the management and control of an office. They should also master the books which are prescribed for the departmental examination and should study closely the leading legal works, the codes and the authorised Law Reports.
2. It shall be the duty of the District Judge to arrange for the practical training of probationary Civil Judge placed under him.
3. The training shall ordinarily be divided into the following branches, namely :—
 - (i) One and half months training under the Registrar, Civil Courts of which one week each in Copying Department, Record Room, Nizarat, Accounts and Malkhana;
 - (ii) One month's training in Survey and Settlement in Major Settlement under a Settlement Officer;
 - (iii) One month's training in accounts;
 - (iv) Three months' training under a Civil Judge;
 - (v) Three months' training under a Sub-divisional Judicial Magistrate;
 - (vi) One month's training under a Senior Civil Judge; and
 - (vii) One and half months training under a Chief Judicial Magistrate. He shall then be invested with-Second Class Magisterial Powers and given charge of Court work for at least three months.
4. The details of training in the branches specified in paragraph 3 shall be as follows:—
 - (i) Training under the Registrar, Civil Court - The Civil Judge shall get practical experience of administrative work in the office of the Registrar, Civil Courts. They should thoroughly acquaint themselves with the work of different Departments namely — Nizarat, Accounts, Record Room and Copying Department, Maintenance of registers in these Departments, preparation of monthly, quarterly and annual statement, etc. They should make careful study of the High Court's General Rules and Circular Orders (civil and Criminal), the Accounts Rules, the Indian Evidence Act, 1872, the Code of Civil Procedure, 1908, the Transfer of Property Act, 1882 and Indian Contract Act, 1872.
 - (ii) Training in survey and settlement - The training in survey and settlement under a Settlement Officer shall be in traverse and Cadastral Survey and in attestation of recess work. The aim is to secure for the Civil Judge and insight into agrarian life and interest and acquaintance with the preparation of record-of-rights.

- (iii) Training in Accounts - The Civil Judge shall receive Accounts training in the Accounts Training School, Bhubaneswar so that he or she may be thoroughly acquainted in the Service Code, Travelling Allowance Rules, General Provident Fund Rules, etc.
 - (iv) Training in Civil Judge's Court and Senior Civil Judge's Court - The aim shall be to give the Civil Judge under training practical experience in handling trial of cases, dealing with interlocutory matters and in office work such as preparation of decree, classification and arrangement of papers and records of suits and cases, procedure in execution cases, etc. They should sit with the Presiding Officers of the concerned Courts and watch the examination of witnesses, hear arguments and prepare synopsis of judgments.
 - (v) Training in Sub-divisional Judicial Magistrate's Court—The Civil Judge should receive training in magisterial work, so that they may acquire sound insight into the law and procedure in criminal trials. During this period they should study the Code of Criminal Procedure and take special notes of procedure in respect of directing prosecution of offences under Chapters XIII and XVIII of the Indian Penal Code. They should also read the important provisions of Indian Penal Code, High Court's General Letter, etc. They should sit with the Presiding Officers of the concerned Courts and watch the examination of witnesses, hear arguments and prepare synopsis of judgments. They shall also be posted for training with the Circle Inspector of Police where they can get an opportunity to study the general working of the Police Department with special reference to the investigation and prosecution of cases. During this period opportunity may also be afforded to the Civil Judge to get himself acquainted with the investigation of offences under the Forest Act, the Excise Act and other local Acts.
 - (vi) Training in Chief Judicial Magistrate's Court- The Civil Judges should be given opportunities and become familiar with the practical working of the rules and procedure in the Administrative and Judicial Departments of the office of the Chief Judicial Magistrate. They should also sit in Court with the Chief magistrate in order to acquaint with the procedure of trial.
5. Thereafter the Civil Judges will be posted as Magistrates of Second Class for a period of at least three months.

APPENDIX -F

(See Rule 31)

Rules for the Departmental Examination for Civil Judges :—

1. All Civil Judges shall have to pass the Departmental Examination consisting of the following subjects and for the said examination there shall be one paper for each subject, namely:—
 - (i) High Court's General Rules and Circular Orders (Civil); and
 - (ii) High Court's General Rules and circular Orders (Criminal).
2. The Departmental Examination will be held twice every year by the Board of Examiners, Orissa.
3. The examination in the High Court's General Rules and Circular Orders (Civil and Criminal) will test in particular the extent to which an examinee has acquired facility in applying the said rules.
4. The minimum pass marks in each of the subjects, specified in Clauses (i) and (ii) of Rule-1, shall be sixty percent.

[No. 9555—VJ-6/2007-L.]

By order of the Governor

B. K. PATEL

Principal Secretary to Government