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# **THE ASSAM GAZETTE**

**EXTRAORDINARY PUBLISHED BY AUTHORITY**

**No.27 Dispur, Monday, 17th February, 2003, 28th Magha, 1924 (S.E.)**

**GOVERNMENT OF ASSAM ORDERS BY THE  
GOVERNOR JUDICIAL DEPARTMENT: : JUDICIAL  
BRANCH Assam Judicial Service Rules, 2003**

## **NOTIFICATION**

**The 17th February, 2003**

**No. JDJ(E) 110/80/137:** - In exercise of the powers conferred by the proviso to Article 309 read with Article 234 of the Constitution of India, the Governor of Assam is pleased to make in consultation with the Gauhati High Court the following rules regulating the recruitment and conditions of service of persons appointed to the Assam Judicial Service, Namely: -

1. (1) These rules may be called the Assam Judicial Service Rules, 2003.  
  
(2) They shall come into force on the date of their publication in the official Gazette.
2. In these Rules, unless there is anything repugnant to the subject or context: -
  - (a) "**Assured Career Progression**" in short "**ACP**" means time bound scale as may be provided in the ROP Rules to be framed for the purpose,
  - (b) "**Chief Justice**" means the Chief Justice of the Gauhati High Court,
  - (c) "**Constitution**" means the Constitution of India,

- (d) **"Commission"** means The Assam Public Service Commission,
- (e) **"Existing members of the Service"** means the officers who have been holding the posts under the Assam Judicial Service Rules, 1967, as amended,
- (f) **"Government"** means the Government of Assam.
- (g) **"High Court"** means "The Gauhati High Court".
- (h) **"Members of the Service"** means the officers appointed or deemed to have been appointed under the provisions of these Rules,
- (i) **"Service"** means the Assam-Judicial Service, (j) **"Year"**

means the English Calendar Year,

- 3. There shall be constituted a service to be known as the Assam Judicial Service, consisting of three grades of officers as shown in Schedule "A" appended to the Rules.

#### 4. **CADRE.**

- (1) The strength of the Service and cadre shall be determined by the Governor in consultation with the High Court, from time to time.

- (2) On the commencement of these Rules, the strength of the service shall be as given in Schedule "A" appended to these Rules.
- (3) The Governor may, except in the case of the post of Registrar, from time to time, leave unfilled or hold in abeyance any post in the Cadre or May increase the Cadre by the creation of additional, permanent or temporary posts as may be found necessary, in consultation with the High Court.

## **5. RECRUITMENT.**

- (1) The Chief Justice shall fill up the post of Registrar, Deputy Registrar and Assistant Registrar by virtue of Article 229 (1) of the Constitution ordinarily from Grade-1, Grade-II, and Grade-III of the service respectively.
- (2) Notwithstanding anything contained in sub-rule (1), vacancy, temporary or permanent, in the post of the Assistant Registrar may be filled up by promotion from amongst the Ministerial staff of the High Court by the Chief Justice.

Notwithstanding anything contained in these Rules, the conditions of Service of the Persons appointed to the post of Registrar, Deputy Registrar and Assistant

Registrar, shall be regulated by the rules that may be made under Article 229(2) of the Constitution.

**6. APPOINTING AUTHORITY: -**

- (1) The appointing authority for the cadre of Grade-I and Grade-III shall be the Governor and for the category of posts of Grade-II shall be the High Court.
- (2) Appointment to the posts of Super Time Scale/Selection Grade District & Sessions Judges shall be made by the High Court by promotion from Grade-I of the Service, as per criteria given in Schedule-'E'.

**7. METHOD OF RECRUITMENT, QUALIFICATION, RESERVATION AND AGE LIMIT: -**

In respect of each category of posts specified in column (2) of the table below, the method of recruitment and minimum qualification, age limit etc., are specified in the corresponding entries in column (3) and (4) thereof.

Provided the High Court shall have the power to relax the qualifying period of Judicial Officer for the purpose of promotion in case the same is considered necessary in the interest of service.

Sl.No.	Cadre Method of Recruitment Qualification age limit etc.		
1	2	3	4
1	<p>Grade-I (i) Not exceeding 25% of the posts in the cadre may be filled by direct recruitment on the basis of the aggregate marks / grade Secured in competitive examination conducted by the High Court, specified in Schedule B of Rules.</p>	<p>By direct recruitment. on the a the as in the</p>	<p>1. Must be holder of degree in law of a recognized University.</p> <p>2. Must be practising as an Advocate in Courts of Civil and Criminal jurisdiction on the last date fixed for receipt of applications and must have so practising for a period of not less than seven years as on such date.</p> <p>3. Must have attained the age of thirty-five years and must not have attained the age of forty-five years in the case of candidates belonging to Scheduled Castes or</p>

Schedules Tribes and

forty five years in the  
case of others, as on  
the last date fixed for

receipt of applications.

(ii) 50% of the posts  
in the cadre shall

be filled by

promotion from  
the cadre of

Grade II of the

service on the

basis of merit

cum seniority by

the High Court,

following the  
criteria in

Schedule-E.

(iii) Remaining 25%  
of the cadre of the

service shall be

filled up by  
promotion strictly

on the basis of

merit through  
limited

departmental  
competitive

4. Must have been in the  
cadre of Grade-II for a

period of not less than

5 years.

		examination as conducted by the High Court in schedule B of the specified Rules. By promotion from the cadre of Grade-III selected by the High Court on the basis of Criteria indicated in Schedule E.	Must have been in the cadre of Grade-III for a period not less than five years.
2	Grade-II		
3	Grade-III	By direct recruitment on the basis of aggregate marks obtained in a competitive examination conducted by the High Court as indicated in Schedule B of the Rules.	(1) Must be holder of a degree in law granted by a recognized University established by law in India.  (2) Must not have attained the age of 35 years.  (3) Must not have completed, as on the last date fixed for receipt of applications 38 years of age in the

case of candidates belonging to Scheduled Castes or Scheduled Tribes and 35 years of age in the case of others.

#### **8. RESERVATION. A.**

- (1) Of the vacancies to be filled up in Grade III of the Service, there shall be a reservation for candidates belonging to the Schedule Castes, Schedule Tribes (Plains) and Schedule Tribe (Hill) not exceeding 7% (seven percent), 10% (ten percent) and 5% (five percent) respectively.
- (2) If sufficient number of suitable candidates belonging to the S.C., S.T (Plains) and S.T. (Hills) are not available for filling up the posts reserved for them these shall be filled from among other candidates, and an equivalent number of additional vacancies shall be reserved for the candidates belonging to S.C., S.T.(Plains) and S.T.(Hill) and would be carried forward till the quota is filled up subject, however, to the condition that in no calendar year shall the normal reserved vacancies taken together would exceed 50% of the total number of vacancies filled up.

B. A 40 (forty) point roster is to be maintained to depict the posts reserved for General Candidates, SC, ST and other Candidates, as provided under the Rules, in Grade-III of Service, As and when vacancy arises, whether permanent or temporary, in a particular post, the same is to be filled up from amongst the category to which the post belongs in the roster.

**9. DISQUALIFICATION FOR APPOINTMENT: -**

No person shall be eligible for appointment to the service: -

- (a) Unless he is citizen of India;
- (b) If he is dismissed from service by any High Court, Government or statutory or local authority;
- (c) If he has been convicted of an offence involving moral turpitude or who is or has been permanently debarred or disqualified by the High Court or the Union Public Service Commission or any State Public Service Commission or any State Public Service Commission from appearing for examination or selections conducted by it,
- (d) If he directly or indirectly influences the recruiting authority by any means for his candidature;

- (e) If he is a man, has more than one wife living and if a woman, has married a man already having another wife.

**RECRUITMENT.**

- (1) To fill a vacancy required to be filled by promotion the recruiting authority shall take all necessary steps well in advance so as to finalise the list of persons considered eligible for promotion at least 10-15 days before the occurrence of the vacancy.
- (2) (i) Whenever two or more vacancies required to be filled by direct recruitment occur in a cadre in the service or once in two years, whichever is earlier, the recruiting authority shall, invite by advertisement in the official Gazette and in at least two news-papers, applications in such form as it may determine from intending candidates, who possess the prescribed qualifications. The advertisement shall indicate the number of vacancies reserved for Schedule Castes, Schedule Tribes and other backward classes, if any, and shall contain all necessary information relating to the recruitment. It shall also indicate that an additional list of selected candidates would be prepared as per clause (iv).

The decision of the recruiting authority as to the eligibility or otherwise of a candidate for admission to the written and viva voce examination shall be final. No candidate to whom certificate of admission has not been issued by the recruiting authority shall be admitted for the examination.

The recruiting authority shall on the basis of cumulative grade value secured by a candidate, and taking into consideration the orders, if any, in force relating to reservation of posts for Schedule Tribes and other backward classes, prepare in the order of merit, assessed as provided in Schedule B, a list of candidates to be included in the list which shall be equal to the number of vacancies notified.

The recruiting authority shall in accordance with the provisions of clause (iii), also prepare an additional list of names of candidates not included in the list of candidates prepared under clause (iii) above, in which the number of candidates to be included, shall, as far as possible, be ten percent of the number of vacancies notified for recruitment or one, whichever is higher.

- (v) The lists so prepared under clauses (iii) and (iv) above shall be published and they shall cease to be operative on the expiry of one year from the date of such publication.
  
- (vi) Candidates whose names are included in the list prepared under clauses (iii) above shall be considered for appointment in the order in which their names appear in the list and subject to rule 9, they may be appointed by the appointed by the appointing authority in the vacancies notified under clause (i) above. Candidates whose names are included in the additional list may be similarly appointed after the candidates whose names are included in the list published under clause (iii) above have been appointed.
  
- (vii) Inclusion of the name of a candidate in any list prepared under clause (iii) or (iv) shall not confer any right of appointment to such candidate.

#### **CONDITIONS RELATING TO SUITABILITY, FITNESS AND CHARACTER**

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(1) No person selected for appointment by direct recruitment shall be appointed, -

- (i) unless the appointing authority is satisfied that he is of good character and is in all respects suitable for appointment to the service;
- (ii) unless he is certified by the medical authority specified by the High Court for the purpose that he is medically fit to discharge the duties of the post to which he is selected for appointment.

(2) Every candidate selected for appointment by direct recruitment shall furnish certificates, given not more than six months prior to the date of the application, from two respectable persons unconnected with his college or university and not related to him testifying to his character, in addition to the certificate which may be required to be furnished from the educational institution last attended by him.

**FEES-**

Every candidate for direct recruitment may be required to pay such fees as may be specified in the notification inviting applications.

Provided that in the case of a candidate belonging to Schedule Caste or Scheduled Tribes, the fees payable shall be one half of the fees specified in the notification for other candidates.

### **13. JOINING TIME FOR APPOINTMENT-**

- i. A candidate by direct recruitment shall report for duty before the authority on the date specified in the order of appointment.
- ii. Notwithstanding anything contained in sub-rule (1) the appointing authority may, on the application of the candidate, if satisfied that there are good and sufficient reasons for doing so, by order in writing, grant such further time as it may deem necessary.
- iii. The name of the candidate who fails to assume charge of the post within the time specified who fails to assume charge of the post within the time specified in the sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and he shall cease to be eligible for appointment.

### **14. TRAINING**

- (1) There shall be training Course for the Officers appointed in Grade II of the service and direct recruits in Grade-I of the service, as the High Court may deem fit and proper as per the Schedule-D.
- (2) The High Court may arrange Refresher Course for officers of all cadres from time to time. The Judicial

Officer may also be deputed for Training/ Refresher outside the State or outside the country in consultation with the State Govt.

## **PROBATION AND OFFICIATION**

- (1) All appointments to the service by direct recruitment shall be on probation for a period of two years.
- (2) All appointments by promotion shall be officiating basis for a period of two years.
- (3) The period of probation or officiation, as the case may be, for reasons to be recorded in writing, may be extended by the appointing authority by such period not exceeding three period of probation or officiation, as the case may be, specified in sub-rules (1) or (2).
- (4) At the end of three period of probation or officiation or the extended period of probation or officiation, as the case may be, the appointing authority shall consider the suitability of the person so appointed or promoted to hold the post to which he was appointed or promoted, and-
  - (i) if it decides that he is suitable to hold the post to which he was appointed and has passed the special examinations or tests, if any, required to be passed during the period of probation or

officiation, as the case may be, it shall, as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation or officiation, as the case may be; and such an order shall have effect from the date of expiry of the period of probation or officiation, including extended period, if any, as the case may be.

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

fa) if he is a promotee, revert him to the post which he held prior to his promotion.

(b) if he is a probationer, discharge him from service;

A person shall not be considered to have satisfactorily completed the period of probation or officiation, as the case may be, unless a specific order to that effect is passed. Any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of officiation or probation.

**Discharge of a probationer during the period of probation -**

- i. Notwithstanding anything hereinabove, the appointing authority may, at any time during the period of probation, discharge from services, a probationer on account of his unsuitability for the service.
- ii. An order under sub-rule (1) shall indicate the grounds for the discharge but no disciplinary enquiry shall be necessary.

**Appeal-**

No appeal shall lie against an order discharging a probationer or an order reverting a promotee to the post held by him prior to his promotion.

**Confirmation -**

A probationer who has been declared to have satisfactorily completed his period of officiation shall be confirmed as a full member of the service in the category of post to which he was appointed or promoted, as the case may be, at the earliest opportunity in any substantive vacancy, which may exist or arise.

**Increment during the period of probation or officiation-**

- (a) A probationer or promotee may draw the increments that fall due during the period of probation or officiation. He shall not however, draw any increment after the expiry of the period of probation or officiation unless and until he is declared to have satisfactorily completed his probation or officiation, as the case may be.
- (b) When a probationer or promotee is declared to have satisfactorily completed his probation or officiation, as the case may be, he shall draw, as from the date such order takes effect, the pay he would have drawn had he been allowed the increments for the whole of his service from the date of his appointment on probation or officiation as the case may be.

**Notwithstanding anything contained in sub-rules (1) and (2) where validity of the appointment of any person-**

- fa) as probationer is questioned in any legal proceedings before a Court of law, the period of probation of such person shall continue until the final disposal of such proceedings.

(b) as a promotee on officiating basis is questioned in any legal proceeding, before a Court of law, the period of officiation of such promotee shall continue until the final disposal of such proceedings.

## **16. PAY.**

- (I) The pay of all the members of the various cadres of the services shall be as shown in Schedule-A appended to this Rule.
- (II) The Time Scale of Pay admissible to the members of the service shall be as shown in Column 3 of the Schedule C. This will be personal to the officer and not attached to the post
- (III) The Special Pay/Charge Allowance admissible to different post shall be such, as shown in Schedule-C appended to this Rule. The Special Pay and Charge Allowance shall be attached to the post and would be available to the person holding the post.
- (IV) The Registrar/Deputy Registrar and Asstt. Registrar shall be entitled to Special Pay, if any, as laid down in the Gauhati High Court Service (Appointment, Condition of Service and Conduct) Rules, 1967.

(V) The Selection Grade Pay and Super Time Scale Pay for members of the Grade-1 of the Service shall be such as shown in Schedule-C. This pay shall be personal to the officer and not attached to the post.

The existing members of the Service shall be absorbed in the respective posts they may be holding on the commencement of these Rules and shall be eligible for pay scales provided for such posts.

### **SENIORITY**

- (1) An Officer appointed or promoted in accordance with the Rules, on regular basis shall be senior to persons appointed ad-hoc or temporarily.
- (2) The seniority inter-se of the members of the service, appointed on the basis of result of Competitive Examination/Limited Departmental Examination shall be determined according to the Merit List prepared by the Concerned Authority.
- (3) Where officers are recruited to a Cadre by promotion or by direct recruitment on the same date, the officers recruited by promotion shall take precedence over the direct recruit officer(s).

Where two officers are placed at the same position of the Merit List, the person senior in age shall be senior to the other.

The inter-se seniority of persons appointed in Grade-1 by way of promotion/direct recruitment, shall be determined according to the dates in which they report for duty, subject to merit list.

Where more than one Officer is promoted to a cadre by the same order, the inter-se Seniority of persons so promoted shall be determined by their inter-se Seniority in the lower 'Cadre' unless directed otherwise.

A 40 (Forty) point roster is to be maintained for appointment/promotion to the post of Grade-1 in service. The posts at Serial Nos. 1 and 2 will go to the promotees under 50% quota. The post at Serial No. 3 shall go to the promotee under the limited departmental Competitive Examination and the post at Serial No.4 shall be available to Direct recruit. This process shall be repeated till all the posts in the cadre are filled up in the roster in the manner stated.

Provided that the above roster will not affect the existing members of the Service and this be implemented prospectively.

(8) The High Court shall prepare and publish a Seniority list of Officers in all Cadres from time to time and the list so published shall be used for the purpose of consideration for promotion to the next higher cadre.

**18. PROMOTION.**

- (i) The promotion of members of the service shall be inform one grade to another grade and not form one post to another post, except in cases of promotions to Selection Grade/Supertime Scale, which may be in same grade.
- (ii) The promotion of the officers under the various Grades in the Service shall be as per the criteria laid down in Schedule-E.

**19. RETIREMENT.**

A. Except as otherwise provided in this Rule, every Judicial Officer shall retire from service on the afternoon of the last date of the month in which he attains the age of 58 years. Provided that all Judicial Officer whose date of birth is the 1st day of a month shall retire from service on the afternoon of the last day of the preceeding month on attaining the age of 58 years.

B. Notwithstanding anything contained in Clause A above, a Judicial Officer belonging to the Assam Judicial Service, who in the opinion of the High Court, have the potential to continue with his/her service, shall be retained in service up to 60 years.

I. The potential for continued utility shall be assessed and evaluated by appropriate Committee of Judges of the High Court, constituted and headed by the Chief Justice and the evaluation shall be made on the basis of the officer's past record of service, character roll, quality of judgments and other relevant matters.

II. The High Court should undertake and complete the exercise well within time, before the Officer attains the age of 58 years and take a decision whether the benefit of extended service is to be given to the officer or not.

III. In case the officer concerned is found fit for being given the benefit of extended age of superannuation, the officer and the State Government be informed accordingly.

IV. In case the officer concerned is found not fit for retention beyond 58 years, the High Court may inform the officer that he would stand retired at the age of 58 years.

V. An officer shall be deemed to have been denied the benefit of extension unless a specific order to that effect is passed and communicated.

**20. RETIREMENT IN PUBLIC INTEREST-**

- (1) There shall be a committee consisting of three senior Judges, headed by Chief Justice of the High Court to review the career progress and other attributes of all Judicial Officers.
- (2) This review will be undertaken when the concerned officer(s) attain the age of 50 and 55 years. If the committee considers that in public interest the officers should be retired from service, he shall be compulsorily retired by giving him a notice of not less than 3 months in writing or 3 months pay and allowance in lieu thereof.

Provided that nothing in sub-rule (2) shall be considered as preventing consideration for compulsory retirement of a member of the service at any time other than those mentioned therein.

**21. RE-EMPLOYMENT AFTER RETIREMENT.**

- (1) Judicial Officers of Grade-I retired at the age of 60 years may be re-employed till the age of 62 years, if the

High Court so desires, provided there are vacancies in Grade-1 and they satisfy the following conditions:

- (i) There is no adverse comment in the ACR's so far disposal/integrity and character are concerned.
  - (ii) The Officer was not dismissed or removed or compulsorily retired or made to seek retirement.
  - (iii) The Officer had sought voluntary retirement after initiation of departmental proceedings / inquiry.
- (2) Judicial Officers will have to be found fit and eligible to continue in service by the High Court after assessing and evaluating the record form his continued utility.
- (3) The order of re-employment shall be made by the Governor in consultation with the High Court.

## **22. ADDITION OF CERTAIN SERVICE FOR THE PURPOSE OF PENSION.**

Provided that notwithstanding anything contained in Rule 53 of the Assam Services (Pension) Rules, 1969 or in any other Rules-

- (1) The members of the Service initially recruited to Grade III of the Service having not less than 10 years of

actual qualifying service shall be entitled to add to their service qualifying for superannuation pension, the actual period, of practice put in by him at the Bar not exceeding three years.

(2) The members of the Service directly recruited from the Bar to Grade-1 of the Service, having not less than 10 years of actual qualifying service, shall be entitled to add to their service qualifying for superannuation pension, the actual period of practice put in by him at the Bar not exceeding seven years.

**23. 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.

**24. A. Conduct-**

A Judicial Officer appointed under the Rules shall be required to maintain the integrity and conduct himself in conformity with the dignity of the office he holds. He should follow the Code of Conduct as provided in Appendix-A to the Rules.

## **B. Disqualification**

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

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

c) the judge knows that he or she, individually or a fiduciary, or the judge's spouse parent or child wherever residing, or any other member of the judge's family residing in the judge's household, 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 of party;

ii. is acting as a lawyer in the proceeding;

iii. is known by the judge to have interest that could be substantially affected by the proceeding;

iv. is to the judge's knowledge likely to be a material witness in the proceeding.

**C.** The rules governing and regulating the conduct of Indian Administrative Service Officers shall in so far as they are not inconsistent with the rules in this chapter shall apply to the members of the service.

**D. Disciplinary Authority:**

The members of the service shall be under the disciplinary control of the High Court and the disciplinary proceeding may be drawn up against them in accordance with the provisions of the Assam Civil Services (Discipline and Appeal) Rules, 1964.

**E.** No disciplinary proceeding shall be initiated against the members of the service except with the recommendation of the High Court.

**25. LEAVE, PENSION, ETC.-**

Except as provided in these rules, pay allowances, pension, leave and other conditions of service of the members of the Service shall be regulated by Assam Civil Service (Discipline and Appeal) Rules, 1964, Fundamental Rules, the Assam Manual and other relevant rules in force in the State.

**26. REPEAL & SAVINGS-**

The Assam Judicial Service Rules, 1967 are hereby repealed.

Notwithstanding such repeal any appointment made, order issued, action taken or anything whatsoever done under the Rules so repealed shall be deemed to have been made, issued, taken or done under the corresponding provisions of these Rules and the provisions of Section 6 of Assam General Clauses Act, 1915 will apply in determining the effect of such repeal.

M.K. DEKA. Commissioner &  
Secretary to the Govt, of Assam,  
Judicial Department.

## SCHEDULE - A

There shall be three Grades of service, namely: -

- (a) Grade-1
- (b) Grade-II
- (c) Grade-III.

### GRADE-1

SL No.	Name & Posts	Pav No. of Posts	Scale of Pav. Remarks
1.	Super Time Scale District & Sessions Judge	10% Posts in Grade- 1 at SI. 3 to 10.	As may be fixed by the State Government from time to time.
2.	Selection Grade District & Sessions Judge	25% of Posts in Grade-1 at SI.No.3 to 10.	
3.	District & Sessions Judge	21	

4.		7
	Additional district & Sessions Judge	
5.	Registrar General	1
6.	Registrar (I&E)	1
7.	Registrar (Admn.)	i i
8.	Special Judge	1
9.	Principal Judge, Family Court	1
10.	Presiding Officer, Industrial Tribunal.	3
11.	Presiding Officer Labour Court.	2
12.	Judge, Designated Court.	1
13.	Addl. Judge, Designated Court.	1



GRADE II

SL No.	<u>Name &amp; Posts</u>	Pav	<u>No. of Posts</u>	Scale of Pav. Remarks
1.	Chief Judicial Magistrate		21	As may be fixed by the State Government from time to time
2.	Addl. Chief Judicial Magistrate	Entry Level	19	
3.	Deputy Registrar		2	
4.	Principal Civil Judge	Time Scale of pay	2	
5.	Senior Civil Judge	Time Scale of pay		
6.	Civil Judge	Entry Level	23	
7.	Counsellor, Family Court.		1	

**GRADE III**

SL No.	Name & Posts	Pav	No. of Posts	Scale of Pav. Remarks
1.	Senior Munsiff	ACP scale - II stage		As may be fixed by the State Government from time to time
2.	Upper Munsiff	ACP Scale - I Stage		
3.	Munsiff	Entry Level	63	
4.	Judicial Magistrate		46	
5.	Special Judicial Magistrate		1	
6.	Sub-Divisional Judicial Magistrate		38	

**SCHEDULE B'**  
**COMPETITIVE EXAMINATION.**

1. The competitive examination for recruitment to Grade-1 of the Service shall consist of-

**A. FOR DIRECT RECRUITMENT & PROMOTION UNDER LIMITED DEPARTMENTAL EXAMINATION:**

(1) A competitive examination for recruitment to the service in Grade-1 shall be held at such intervals by the High Court from time to time as determined. The examination shall be conducted with the syllabus as below:

**(i) Paper-1:**

One Paper of 100 marks (duration not less than 2 hours) to test the General Knowledge, aptitude, intelligence, test of comprehension and expression of law and General English including Essay Writing on legal topic and information technology.

**(ii) Paper-II:**

One paper of 100 marks of not less than 2 hours duration regarding objective questions and

problems of law as regards the Transfer of Problems of law as regards the Transfer of Property Act, Civil Procedure Code, Code of Criminal Procedure, Indian Evidence Act, Indian Penal Code, Limitation Act.

**(iii) Paper-III:**

One paper of 100 marks (duration not less than two hours) consisting of Judgment writing (Paper Book to be supplied) Legal theories on jurisprudence, provision of Constitution of India.

**Note:** (The candidate is expected to refer to the relevant decisions of the Apex Court and the High Court while writing answers in Paper II and in).

**(d) Interview:** Viva-voce-50 marks.

2. The Competitive Examination for recruitment to Grade-III of the Service shall be held at such intervals as the Governor may in consultation with the High Court from time to time determine. The examination shall be conducted by the High Court in accordance with the following syllabus.

**Paper on English - 100 marks.**

- (a) Essay writing,
- (b) Precise writing,
- (c) Grammer etc.

**General Knowledge-100 Marks.**

- (a) Objective Type
- (b) Aptitude Test

**Law Paper-1 - 100 Marks.**

- (a) Constitution of India
- (b) Code of Civil Procedure
- (c) Transfer of Property Act
- (d) Indian Contract Act

**Law Paper-II - 100 Marks.**

- (a) Indian Penal Code
- (b) Criminal Procedure Code
- (c) Indian Evidence Act
- (d) Law of Torts

(v) **Interview, Viva-voce - 70 Marks.**

### **3. GENERAL INSTRUCTIONS:**

All candidates who obtain sixty percent or more marks or corresponding grade in the written examination shall be eligible for viva voce examination.

Provided that Scheduled Caste/Scheduled Tribe candidates who obtain fifty percent or more marks or corresponding grade in the written examination shall be eligible for the viva voce examination.

Selection of candidates shall be made on the basis of cumulative grade value obtained; in the written and viva voce examination.

The object of the viva-voce examination under sub-rules (1) and (2) is to assess the suitability of the candidate for the cadre by judging the mental alertness, knowledge of law, clear and logical exposition, balance of judgment, skills, attitude, ethics, power of assimilation, power of communication, character and intellectual depth and the like of the candidate.

All necessary steps not provided for in these Rules for recruitment under these Rules shall be decided by the recruiting authority.

The mode of evaluating the performance of Grading in the written and viva-voce examination shall be as specified below:

## **EVALUATING PERFORMANCE IN COMPETITIVE EXAMINATIONS FOR JUDICIAL SELECTION.**

The system operates as follows:

- 1) The questions in the question paper may carry numerical marks for each question.
- 2) The examiner may assign numerical marks for each sub- question, which may be totaled up and shown against each full question in numbers.
- 3) The tabulator will then convert the numerical marks into grades in a seven-point scale with corresponding grade values as follows:

<b>Percentage of marks</b>	<b>Grade</b>	<b>Grade value</b>
70% and above	O	7
65% to 69%	A+	6
60% to 64%	A	5
55% to 59%	B+	4
50% to 54%	B	3
45% to 49%	C+	2
40% to 44%	c	1
Below 40%	F	0

After converting the numerical marks of each question into the appropriate grade according to the formula given in first column above, the tabular will re-covert to Grades obtained for each question to the Grade value according to the value given in the third column above.

\* What is now obtained is the relative Grade value of each answer in the question paper obtained by the candidate in a seven-point scale (i.e. '0' to 7')

\* The tabulators next task is to add up those Grader Values and divide the sum total by the numbers of questions in the answer book including the questions unanswered by the candidate. What is thus obtained is the Cumulative Grade Value Average (CGVA) obtained by the candidate at the examinations. Suppose the CGVA comes to '4', the grade obtained by the candidate at the examinations is "B+". If the CGVA is '6', the Grade of the candidate is "A+".

Thus organized, the result of the written examination will be indicating only the cumulative evaluation grade of the candidates which moderates the inevitable element of subjectivity in individual evaluation and brings in relative objectivity and fairness to much higher degree. Of course, the tabulation record sheet can carry the numerical marks as well for reference and re-checking whenever needed. A

proper computer programme can do all these operations in minutes.

What happens if there are several successful obtaining the same grade and the available positions are fewer in number? How do you rank them to determine who is to be given the job? Of course, this situation can develop with numerical marking also where persons with one mark or half a mark difference are given advantage. This is unfair given the fact that in actual practice this may happen because of the play of subjective elements on the part of the individual examiners. What is therefore recommended is a similar vigorous and objective grade value exercise for the viva-voce examination as well.

At the end of each day's interview the, tabulator will convert the numerical marks assigned to each category into grades and then to grade values. This will then be totaled up and the Cumulative Grade Value Average of each candidate interviewed will be obtained.

Thus a separate list of candidates interviewed and the Grades obtained in the viva-voce will be readied which will naturally be far more fair and transparent with little scope for corrupt practice to creep in. Again for ready reference, the result sheet may carry the numerical marks side by side with grades.

The final selection list will be readied by combining the Cumulative Grade Value obtained in the written examination and the viva - voce examination.

Since in practice many candidates who have obtained less than a prescribed grade (say B+) in the written examination will not be called for viva voce examination, then combined tabulation has to be done only with reference to fewer candidates, possibly one - tenth or even less of the total number of applicants for the job.

If the viva - voce is rigorous and higher marks are given only to those who are outstanding in all categories of evaluation given in the profroma, the chances are very few will obtain higher grades (like 'O' or TV) and their numbers may be just within the available vacancies. There may be some borderline cases where it is difficult to determine who is to included and whom to be excluded. This dilemma may be resolved by a second interview between those candidates by the same board or alternatively looking at the difference in numerical scores between them similarly placed in grades.

## **SCHEDULE-C**

**1. Special Pay. -**

The members of the service may be given special Pay as fixed by the State Govt, from time to time. The special pay shall be attached to the post and not the officer.

**2. Charge Allowance:**

The State Government in consultation with the High Court may provide for charge allowance to the members, at the rates to be fixed, from time to time. The charge allowance shall be attached to the post.

**3. Time Scale Pay:**

The State Government may grant Time Scale Pay to the various grade of officers for assured career progression. The pay scale shall be personal to the officer.

## **SCHEDULE-D**

### **Training course for officers appointed in Grade - I (Direct Recruits)**

**After the appointment of a candidate in Grade -1 of the Service as provided in Rule 7, the Officer would require to submit his Joining Report before the Registrar General, Gauhati High Court and thereafter he shall be given four weeks training at the Training Institute in the following manner:**

- (i) Writing of judicial orders both in civil and criminal cases;
- (ii) Framing of charge and settlement of issues;
- (iii) Judgment writing;
- (iv) Administrative order and other matters relating to administration of office including accounts;
- (v) Any other subject which the High Court/Training Institute may deem fit and proper.

Before the completion of the training necessary order of posting shall be issued so that the officers may join at their respective place of posting.

**B.** There shall be a training course for officers appointed in Grade - III of the service, which will be spread over as below:

- i. Class room lectures at TRAINING INSTITUTE as per the curriculum fixed in consultation with the High Court.
- ii. Two months working knowledge of Criminal court, civil court and revenue courts to be arranged by TRAINING INSTITUTE.
- iii. On completion of the period of six months training the Officers who had completed 3 years practice at the Bar shall be given posting.
- iv. The Officers who have not completed 3 years practice at the Bar shall be given further training for a period of 6 months as under:
  - a) The High Court shall depute the officers to various districts/ sub-divisional courts for further in field training. The officers will attend the civil, criminal courts and watch the proceedings and maintain a diary. They will be under the supervision of the concerned District

Judge. This training shall be for a period of 3 months. On completion of the training they will submit a report to the Director, TRAINING INSTITUTE.

After the field training, there will be a gap of two weeks and thereafter the officer shall report back to the Director, TRAINING INSTITUTE for further training of 10 weeks. In this period the trainees will give the feed back and the Training Institute will take steps to remove all doubts in the mind of the trainees as regard the working of the Courts or any law point raised by them. On completion of the above period the trainees will be posted out.

## **SCHEDULE -E**

### **1. GENERAL CRITERIA FOR PROMOTION:**

- (a) Considering the number of vacancies to be filled up, the Assessment Committee shall assess the Judgments/ACR's of the officers, who are within the zone of consideration, the ratio being 1:3.
- (b) The suitability and overall performance of the officers including disposal of cases and the remarks of the concerned Portfolio Judge shall be considered.
- (c) In case any Departmental Proceeding/Enquiry is pending against an officer, his/ her promotion may be considered and the decision be kept in a sealed cover, to be opened on conclusion of the Departmental Proceeding/ Enquiry.
- (d) The officers against whom there is adverse entry regarding their character, integrity will be eligible for promotion provided the required Bench mark has been obtained subsequent to the adverse entry.

## **2. PROMOTION:**

The basis for promotion in various grades will be as follows:

### **From Grade - III to Grade - II:**

- (i) Seniority -cum -merit subject to overall suitability.
- (ii) ACR's of last five years are to be considered and officers having minimum two Good Grading in ACR's will be considered provided their integrity and character is beyond doubt or there is no doubt.

### **From Grade -II to Grade - I under sub-rule 7 (1) (II):**

- (i) Merit-cum-Seniority subject to suitability.
- (ii) ACR's of last five years are to be considered and officers having minimum Three Good' Grading out of five ACR's will be considered.
- (iii) Must have completed 5 years of Service in the Grade.

### **From District Judge to Selection Grade District Judge:**

- (i) Merit and suitability.
- (ii) Minimum 'Four Good' out of last five ACR's; or

(iii) The officer must have Two Good' and "One Very Good" in the ACR's out of last five ACR's.

**From Selection Grade District judge to Super Time Scale District Judge:**

- (i) Merit- cum-suitability.
- (ii) The Officer must have "Three Good" and "One Very Good" grading during the last 5 years; or
- (iii) The officer must have Two Good' and 'One Outstanding' grading during the last five years.

## **APPENDIX -A**

### **Should uphold the integrity and independence of Judiciary -**

An independent and honourable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing 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, and not the judiciary. The provisions of this chapter should be construed and applied to further these objectives.

### **Should avoid impropriety -**

- (i) 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.
- (ii) A judge shall respect and observe the law. At all times, 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.

A Judge shall not allow family, social, or other relationships to influence his judicial conduct or judgment. 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 subpoenaed.

A Judge shall not allow 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 the membership of an organization activities of which discriminate, or appear 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 free exercise of religion.

**Performance of duties impartially and diligently -**

- (i) A judge shall be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.
- (ii) A judge may require lawyers, court personnel, and litigants to be appropriately attired for Court and should reasonable rules of conduct, order and decorum in the Courtroom.
- (iii) A judge shall be patient, dignified, and courteous to litigants, witness, lawyers, and others with whom the judge deals in official capacity, and should require similar conduct of lawyers, and of staff, Court officials, and others subject to the judge's direction and control.
- (iv) A judge shall not initiate, permit, or consider ex-parte communications made to the judge outside the presence of the parties concerning a pending or impending proceeding.
- (v) A Judge shall hear and decide matters assigned to the judge except those in which disqualification is required.
- (vi) A judge shall perform judicial duties without bias or prejudice, including but not limited to bias or

prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, Court officials and others subject to the judges direction and control to do so.

- (vii) A judge shall dispose of all judicial matters speedily, effectively and fairly.
- (viii) 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 nonpublic 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.
- (ix) A judge should prohibit broadcasting, televising, recording or taking of photographs in or out of the courtroom during session of court or recess between sessions except as authorized by the High Court.

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 severe attitude on the judge's part toward witness, 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.

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

(c) 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 premature judgment.

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.

- (xii) 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.
- (xiii) 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.
- (xiv) A judge should take or initiate appropriate measures as admissible under law against a judge or lawyer for unprofessional conduct of which the judge may become aware.
- (xv) A judge should not cause unnecessary expense by making appointments. All appointments shall be based upon merit.
- (xvi) A judge should not approve compensation beyond the fair value of services rendered.

## **Extra judicial and quasi-judicial activities -**

- I. As a judicial officer and person specially learned in the law, a judge is in unique position to contribute to the improvement of the law, the legal system, and the administration of 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 the organization dedicated to the improvement of the law.
  
- II. A judge, subject to the proper performance of judicial duties and to the extent time permits, may engage in the following quasi-judicial activities:
  - (a) A judge may speak, write, lecture, teach and participate in other activities concerning only the law, the legal, and the administration of justice; and
  
  - (b) A judge may appear at a public hearing on matters concerning only the law, the legal system, and the administration of justice.

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

III.

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.

- IV. A judge should serve as an executor, administrator, testamentary trustee, or guardian.
- V. A judge should act as an arbitrator or mediator
- VI. Except in the performance of judicial duties.
- VII. A judge should not practice law remuneration.
- VIII. A judge should not accept appointment to a governmental committee, commission, or other position without the permission of the High Court in writing.
- IX. A judge or a candidate for judicial office should not be a member of, or hold any office in a political party.
- X. A judge shall not make speeches on behalf of a political party or endorse a candidate for a political office.
- XI. A judge shall keep informed about the judge's personal and fiduciary economic interests and make a reasonable effort to keep informed about the personal



economic interests of the judge's spouse and children residing in the judges household.

XII. A judge shall not conduct all of the judge's extrajudicial activities in such a way that they do not:

- a) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- b) demean the judicial office; or
- c) interfere with the proper performance of judicial duties.

XIII. A judge shall not serve as an officer, director, trustee or legal advisor if it is likely that the organization, -

- a) Will be engaged in proceedings that would ordinarily come before the judges, or
- b) Will be engaged frequently in adversary proceedings in the Court of which the judge is a member or in any Court subject to the appellate jurisdiction of the Court of which the judge is a member.

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 for:

XIV.

a gift incident to a public testimonial, books, tapes and other resource materials supplied by the publishers on a complimentary 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;

a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member 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;

ordinarily social hospitality;

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;

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 27;

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

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

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 interest have come or are likely to come before the judge;

M.K.DEKA, Commissioner & Secretary to the  
Govt, of Assam, Judicial Department.