

PART I**HARYANA GOVERNMENT****LAW AND LEGISLATIVE DEPARTMENT****Notification**

The 28th March, 2018

No. Leg.8/2018.— The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 27th March, 2018 and is hereby published for general information:-

HARYANA ACT NO.5 OF 2018**THE HARYANA GROUP D EMPLOYEES (RECRUITMENT AND CONDITIONS OF SERVICE) ACT, 2018****AN****ACT**

to regulate the recruitment and conditions of service of the Haryana Group D employees in the State and for the matters connected therewith and incidental thereto.

Be it enacted by the Legislature of the State of Haryana in the Sixty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Haryana Group D Employees (Recruitment and Conditions of Service) Act, 2018.

Short title,
commencement
and application.

(2) It shall come into force from the date of its publication in the Official Gazette.

(3) It shall apply to the persons appointed to any post of Group D, whether temporary or permanent, in the State or Subordinate Services, except to the extent otherwise expressly provided-

- (a) by or under any law for the time being in force; or
- (b) in respect of any member of such Service by a contract or agreement subsisting between such member and the Government.

2. In this Act, unless the context otherwise requires,-

Definitions.

(a) "appointing authority" means the authority specified as such in the Service rules made under proviso to article 309 of the Constitution of India in respect of any Service or post;

(b) "appointment" means an appointment of a member of Service in accordance with this Act or the rules applicable at the time of such appointment, as the case may be, who discharges, for the first time, the duties of a post borne on the cadre of such Service or commences the probation, instruction or training prescribed thereof;

Explanation.- The appointment of a person holding a post borne on the cadre of one Service to hold additional charge of a higher post in the same Service or a post borne on the cadre of another Service or to discharge the current duties thereof does not amount to appointment to the latter post or Service;

(c) "approved probationer" means a member of Service who has satisfactorily completed his probation and awaits appointment as a full member of such Service or category;

(d) "direct appointment" means an appointment made otherwise than by promotion or by transfer of a person already in the service of any State Government or Government of India;

(e) "discharged probationer" means a full member or an approved probationer of another service or category reverting him to such service or whose services have been dispensed with;

- (f) "full member" means a member who has been confirmed in the Service in which he has been first appointed;
- (g) "Government" means the Government of the State of Haryana in the General Administration Department;
- (h) "Head of Department" shall have the same meaning as assigned to it in clause (38) of rule 8 of the Haryana Civil Services (General) Rules, 2016 and includes any other authority specially appointed by the Government to exercise the powers of the Head of Department;
- (i) "Head of Office" shall have the same meaning as assigned to it in clause (39) of rule 8 of the Haryana Civil Services (General) Rules, 2016;
- (j) "member of Service" means a person who has been appointed to Service but does not include a person appointed under sub-section (1) of section 8;
- (k) "recruiting agency" means the Haryana Staff Selection Commission or such other body constituted by the Government for selection of candidates for appointment to Service;
- (l) "recognized university or institution" means,-
 - (i) any university or institution incorporated by law in India; or
 - (ii) any other university or institution, which is declared by the Government to be a recognized university or institution for the purposes of this Act;
- (m) "Schedule" means the Schedule appended to this Act;
- (n) "Service" means any Group D Service in the State;
- (o) "Service rules" means the Service rules made under the proviso to article 309 of the Constitution of India regulating the recruitment and condition of Service of Group D posts in the State;
- (p) "State" means the State of Haryana.

Authorities
empowered to
make
appointment.

3. The appointment to all the posts in the Service shall be made by the Head of Department or Head of Office, as the case may be.

Pay,
allowances,
leave, pension
and other
conditions of
Service.

4. The Haryana Civil Services (General) Rules, 2016, the Haryana Civil Services (Pay) Rules, 2016, the Haryana Civil Services (Travelling Allowance) Rules, 2016, the Haryana Civil Services (Allowances) Rules, 2016, the Haryana Civil Services (Leave) Rules, 2016, the Haryana Civil Services (General Provident Fund) Rules, 2016, the Haryana Civil Services (Pension) Rules, 2016, the Haryana Civil Services (Government Employees' Conduct) Rules, 2016 and the Haryana Civil Services (Punishment and Appeal) Rules, 2016, shall in so far as they are applicable and except to the extent expressly provided in this Act, govern members of Service in the matters of their pay, allowances, leave, pension and other conditions of Service.

Cadre.

5. The permanent cadre, category and grade pay of the Service shall be determined by the Government.

Age.

6. No person shall be appointed to any post in the Service by direct recruitment who is less than eighteen years or more than forty-two years of age:

Provided that where different lower and upper age limits have been specifically prescribed for posts in the Service rules, those limits shall be applicable for appointment to such posts:

Provided further that in the case of candidates belonging to Scheduled Castes, Backward Classes, ex-servicemen and persons with disability categories, the upper age limit shall be such, as may be fixed by the Government, from time to time.

Recruitment to
posts.

7. Recruitment to all posts in the Service shall be made by recruiting agency:

Provided that the recruitment to the posts of Sweeper, Chowkidar and Sweeper-cum-Chowkidar shall be made by such other bodies as may be constituted by the Government, from time to time.

8. (1) Where in the opinion of the Government, special provisions inconsistent with any of the provisions of this Act or any other Service rules made under the proviso to article 309 or continuing by article 313 of the Constitution (hereinafter referred to in this section as the said rules) are required in respect of recruitment, conditions of service, pay, allowances, pension, discipline and conduct with reference to any particular or all posts in the Service, the Government may make appointment to such post otherwise than in accordance with this Act or the said rules and provide by an agreement with the person so appointed for any of the matters in respect of which in the opinion of the Government special provisions are required to be made and to the extent to which such provisions are made in the agreement. Nothing in this Act or the said rules shall apply to any person so appointed in respect of any matter for which provision is made in the agreement:

Appointment by agreement.

Provided that in respect of any matter in respect of which, no provision has been made in the agreement, the provisions of this Act or of the said rules shall apply.

(2) A person appointed under sub-section (1) shall not be a member of Service and shall not be entitled by reason only of such appointment to any preferential claim to any other appointment in that Service or any other Service.

9. (1) No person shall be appointed to any post in the Service, unless he is in possession of qualifications and experience specified in column 3 of the First Schedule in the case of direct recruitment and those specified in column 4 of the aforesaid Schedule in the case of persons appointed other than by direct recruitment.

Qualifications.

(2) No person shall be appointed to any post in the Service, unless he is,-

- (a) a citizen of India; or
- (b) a subject of Nepal; or
- (c) a subject of Bhutan:

Provided that a person belonging to any of the categories (b) or (c) shall be a person in whose favour a certificate of eligibility has been issued by the Government.

(3) A person in whose case a certificate of eligibility is necessary may be admitted to an examination conducted by the recruiting agency but the offer of appointment shall be given only after the necessary eligibility certificate has been issued to him by the Government.

(4) No person shall be appointed to any post in the Service by direct recruitment, unless he produces a certificate of character from the Principal Academic Officer of the university, college, school or institution last attended, if any, and similar certificate from two other responsible persons not being his relatives, who are well acquainted with him in his private life and are unconnected with his university, college, school or institution.

(5) No person-

- (a) who has entered into a marriage with a person having a spouse living; or
- (b) who having a spouse living, has entered into or contracted a marriage with any person,

shall be eligible for appointment to any post in the Service:

Provided that the Government may, if satisfied, that such marriage is permissible under the personal law applicable to such person and the other party to marriage and there are other grounds for doing so, exempt and person from the operation of this section.

10. (1) In the case of selection and recommendation of the names of candidates to a department or an office for Group D posts, there shall be no interview and there shall be written exam and criteria for selection shall be such, as specified in the Second Schedule.

Selection criteria.

(2) A candidate may apply for any number of departments and indicate his priority for such departments.

11. (1) Persons appointed to any post in the Service shall remain on probation for a period of two years, if appointed by direct recruitment, and one year, if appointed otherwise:

Probation.

Provided that,-

- (a) any period after such appointment, spent on deputation on a corresponding or a higher post shall count towards the period of probation;

- (b) any period of work in equivalent or higher rank, prior to appointment to any post in the Service, may, in the case of an appointment by transfer, at the discretion of the appointing authority, be allowed to count towards the period of probation fixed under this section; and
- (c) any period of officiating appointment shall be reckoned as period spent on probation, but no person who has so officiated shall, on the completion of the prescribed period of probation, be entitled to be confirmed, unless he is appointed against a permanent vacancy.

(2) If, in the opinion of the appointing authority, the work or conduct of a person during the period of probation is not satisfactory, it may,-

- (a) if such person is appointed by direct recruitment, dispense with his services; and
- (b) if such person is appointed otherwise, than by direct recruitment,-
 - (i) revert him to his former post; or
 - (ii) deal with him in such other manner, as the terms and conditions of his previous appointment permit.

(3) On the completion of period of probation of a person, the appointing authority may,

- (a) if his work or conduct has, in its opinion, been satisfactory,-
 - (i) confirm such person from the date of his appointment, if appointed against a permanent vacancy; or
 - (ii) confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy; or
 - (iii) declare that he has completed his probation satisfactorily, if there is no permanent vacancy; or
- (b) if his work or conduct has, in its opinion, been not satisfactory,-
 - (i) dispense with his services, if appointed by direct recruitment, if appointed otherwise, revert him to his former post or deal with him in such other manner, as the terms and conditions of his previous appointment permit; or
 - (ii) extend his period of probation and thereafter pass such order, as it could have passed on the expiry of the first period of probation:

Provided that the total period of probation including extension, if any, shall not exceed three years.

Appeal against discharge.

12. A discharged probationer whose services have been dispensed with under section 11, may file an appeal against such order passed by the competent authority.

Appointment of full member.

13. An approved probationer shall be considered for confirmation immediately after the satisfactory completion of his probation. Such confirmation shall be made in the entry level post to which he was first appointed and an order shall be issued for confirmation of Service.

Fixation of seniority.

14. Seniority, inter-se of the members of Service shall be determined by the length of continuous service on any post in the Service:

Provided that where there are different cadres in the Service, the seniority shall be determined separately for each cadre:

Provided further that in the case of a member appointed by direct recruitment, the order of merit determined by the recruiting agency shall not be disturbed in fixing the seniority:

Provided further that in the case of two or more members appointed on the same date, their seniority shall be determined as follows:-

- (a) a member appointed by direct recruitment shall be senior to a member appointed by promotion or by transfer;
- (b) a member appointed by promotion shall be senior to a member appointed by transfer;

- (c) in the case of a member appointed by promotion or by transfer, seniority shall be determined according to the seniority of such members in the appointments from which they are promoted or transferred; and
- (d) in the case of members recruited by transfer from the same office, seniority shall be determined according to seniority in the appointments previously held in that cadre;
- (e) in the case of members appointed by promotion/ transfer from different cadres, their seniority shall be determined according to pay, preference being given to a member, who was drawing a higher rate of pay in his previous appointments, and if the rates of pay drawn are also the same, then by the length of their service in the appointments and if the length of such service is also same, the older member shall be senior to the younger member.

15. No member of Service shall be eligible for promotion from the category in which he was appointed to the Service unless he has satisfactorily completed his probation in that category:

Promotion.

Provided that a member of a Service who, having satisfactorily completed his probation in the category in which he was appointed to the service, has been promoted to the next higher category shall, notwithstanding that he has not been declared to have satisfactorily completed his probation in such higher category be eligible for promotion from such higher category:

Provided further that if the scale of pay or pay band or pay matrix of post in the feeder categories are different, the person holding post carrying a higher scale of pay or pay band or pay matrix in the feeder category shall be considered first and that, if no qualified and suitable persons holding post in that feeder category are available, the persons holding post carrying the next higher scale of pay or pay band or pay matrix in descending order in other feeder categories shall be considered.

16. Appointment by recruitment on transfer basis to the Service from among the holders of posts in a Subordinate Service shall be made on grounds of merit and ability, seniority being considered only where merit and ability are approximately equal.

Appointment by recruitment on transfer basis.

17. No member of Service, who is on extension of Service after superannuation, shall be considered for appointment either by promotion or by recruitment by transfer to a higher category, during the period of extension of Service.

Promotion or recruitment by transfer during extension of Service.

18. A member of Service shall, if he resigns from his appointment, forfeit the service rendered by him on the particular post held by him at the time of resignation and also all his previous service under the Government. The re-appointment of such person to any Service shall be treated in the same way as a first appointment to such Service by direct recruitment and all the provisions governing such appointment shall apply and on such re-appointment, he shall not be entitled to count any portion of his previous service for any benefit or concession admissible under this Act:

Consequence of resignation.

Provided that a member of Service, who after resignation has contested the general election to Parliament or State Legislature or in the elections to local bodies either as a party candidate or as an independent candidate, shall not be eligible for re-appointment to any service.

19. (1) A member of Service may resign his appointment by giving notice of not less than three months in writing direct to the appointing authority with a copy marked to his immediate superior officer. The period of three months notice shall be reckoned from the date of receipt of such notice by the appointing authority.

Acceptance of resignation.

(2) The member of Service may withdraw the notice of his resignation before its acceptance and withdrawal of resignation shall not be permitted after its acceptance by the appointing authority.

(3) The appointing authority shall issue orders on the notice of resignation before the date of expiry of notice, either accepting the resignation from a date not later than the date of expiry of the notice or rejecting the same, giving the reasons thereof. If no such order is passed, the resignation shall be deemed to have been accepted on the expiry of the period of notice.

(4) Notice of resignation given by the member of Service shall be accepted by the appointing authority, subject to the conditions—

	(i) that no disciplinary proceeding is contemplated or pending against the member of concerned under rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 2016; (ii) that a report from the Director of Vigilance and Anti-Corruption has been obtained to the effect that no enquiry is contemplated or pending against the member of Service; (iii) that no dues are pending to be recovered by the Government from the member of Service; and (iv) that there is no contractual obligation of any kind including contractual obligation to serve the Government during the period in which the member of Service seeks to resign. (5) Notwithstanding anything contained in clauses (i) and (ii) of sub-section (4), where a member of Service, under suspension or against whom disciplinary or criminal action or vigilance enquiry is pending, seeks to resign, the appointing authority shall examine the nature and gravity of the case and may accept the resignation, if the case is not such as would warrant rejection of the notice of resignation.
Appeal or review.	20. (1) Where no specific provision for appeal or review against any order is provided under this Act or in the service rules for redressal of grievances, an appeal or review, as the case may be, shall lie to the authority to which an appeal or review petition would lie against an order of dismissal. (2) An appeal or review under sub-section (1) shall be preferred within two months from the date of receipt of the orders by the appellant or the review petitioner, as the case may be. (3) Every appeal or review under sub-section (1) shall be disposed of <u>within a period of four months from the date of the receipt of the appeal or review petition.</u> (4) The appellate or reviewing authority may issue such interim directions, as it deems fit, pending final decision thereon in order to avoid any irreparable loss to the appellant or review petitioner or to avoid administrative inconvenience.
Special provision.	21. Notwithstanding anything contained in this Act, the appointing authority may impose special terms and conditions in the order of appointment, if it is deemed expedient to do so.
Reservation.	22. Nothing contained in this Act shall affect reservations and other concessions required to be provided for Scheduled Castes, Backward Classes, Ex-Servicemen, Physically handicapped persons or any other class or category of persons in accordance with the orders issued by the Government in this regard, from time to time.
Overriding effect of special rules.	23. If any provision of this Act is inconsistent with any provision of the service rules applicable to any particular service, the service rules shall, in respect of that service, prevail over the provisions of this Act.
Application of certain rules.	24. Any rule continued by article 313 or made under the proviso to article 309 of the Constitution in respect of any service or category thereof shall be applicable to all persons holding posts intended to be held by members of that service or category on the date on which such rule was made: Provided that nothing in any such rule shall, unless a contrary intention is expressly indicated therein, operate to deprive any such person of any right or privilege to which he is entitled by or under any rule or applicable to him prior to the making of such rule: Provided further that no such rule shall be applicable to candidates who had been approved for appointment to any such service or category by the Commission or by any other authority competent in that behalf prior to the making of such rule or who had applied for such approval in response to any advertisement inviting applications, published by the Authority competent in that behalf prior to the making of such rule.

25. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of three years from the commencement of this Act.

- (2) Any order passed under sub-section (1) shall, as soon as may be, after it is passed, be laid before the State Legislature.

26. (1) The Government may, by notification, amend or cancel the Schedule.

Power to amend Schedule.

- (2) Every notification issued under sub-section (1) shall, as soon as may be, after it is issued, be placed before the State Legislature.

FIRST SCHEDULE*[see section 10 (1)]***EDUCATIONAL QUALIFICATIONS**

Serial number	Name of Post	Academic qualifications and experience, if any, for direct recruitment.	Academic qualifications and experience, if any, for appointment other than Direct recruitment.
1	2	3	4
1.	All Group D posts except Sweeper, Chowkidar and Sweeper-cum-Chowkidar	(i) Matriculation from recognized Board. (ii) Hindi/Sanskrit upto matriculation, as one of the subject.	(i) Matriculation from recognized Board (ii) Hindi/Sanskrit upto Matriculation, as one of the subject. (iii) two years experience in relevant post
2.	Sweeper, Chowkidar and Sweeper-cum-Chowkidar	Should be able to read and write Hindi.	(i) Should be able to read and write Hindi; (ii) two years experience in relevant post.

SECOND SCHEDULE*[see section 11(1)]***CRITERIA FOR SELECTION**

(1) The scheme of marks in respect of selection to Group D posts in the Service shall comprise of total 100 marks, as detailed below:-

- | | | |
|------|---|----------|
| (i) | Written Exam: | 90 marks |
| (ii) | Socio-Economic criteria and experience: | 10 marks |

The marks for experience and some objective socio-economic criteria are to be allocated as follows:

- (a) If no person from among the applicant's father, mother, spouse, brothers, sisters, sons and daughters is, was or has been regular employee in any Department/ Board/ Corporation/ Company/ Statutory Body/ Commission/ Authority of Government of Haryana or any other State Government or Government of India.
(5 marks)
- (b) Orphan/Widow:-
(i) if the applicant is a Widow; or
(ii) if the applicant is the first or the second child and his father had died before attaining the age of 42 years, or
(iii) if the applicant is the first or the second child and his father had died before the applicant had attained the age of 15 years.
(5 marks)
- (c) If the applicant belongs to such a denotified tribe (Vimukt Jatis and Tapriwas Jatis) or Nomadic tribe of Haryana which is neither a Scheduled Caste nor a Backward Class.
(5 marks)
- (d) **Experience:** One-half (=0.5) mark for each year or part thereof exceeding six months of experience, out of a maximum of 16 years, on the same or a higher post in any Department/ Board/ Corporation/ Company/ Statutory Body/ Commission/Authority of Government of Haryana. No marks will be awarded for any period less than six months.

(A maximum of 8 marks)

- (2) No applicant shall be given more than 10 marks under any circumstances.
- (3) The waiting list for the vacancies upto 25 at 25%, for vacancies between 25 to 50 at 15% and for vacancies above 50 at 10% subject to the minimum of two candidates shall be prepared during selection.
- (4) The main list as well as the waiting list shall remain valid for a period of one year from the date of recommendation.
- (5) The recruiting agency while making recommendations shall clearly indicate the main list and the waiting list. The main list shall contain the number of candidates equal to the number of demand made by the department to the recruiting agency.

KULDIP JAIN,
SECRETARY TO GOVERNMENT HARYANA,
LAW AND LEGISLATIVE DEPARTMENT.