

In pursuance of the provisions of clause (3) of Article 348 of "the Constitution of India", the Governor is pleased to order the publication of the following English translation of Notification No. (2) / XXX(4) / 25-02 / 2016 Dated : 25-02-2016 for general information.

Government of Uttarakhand

Personnel Section - 4

No.- (2) / XXX(4) / 2016-04(03) / 2016

Dehradun 25 February, 2016

NOTIFICATION

(Miscellaneous)

In exercise of the powers conferred by Article 233 read with proviso to Article 309 of the "Constitution of India" the Governor is pleased to make the following Rules with a view to further amend the Uttaranchal Higher Judicial Service Rules, 2004:-

The Uttarakhand Higher Judicial Service (Amendment) Rules, 2016

Short title and 1. (1) These Rules may be called the Uttarakhand Higher Judicial Service (Amendment) Rules, 2016.

(2) It shall come into force at once.

Amendment of 2. In clause 2 (i) of the principal rules, for set out in column 1 below, the clause as set out in column-2 shall be substituted namely

2(i) - "Suitability test" means oral test which the Court deems fit.

"Suitability test" means test as prescribed in rule 20(iii).

Amendment of 3. In clause (a) and (b) of the principal rules of rule 5, set out in column 1 below, the clauses as set out in column-2 shall be substituted namely-

Column-1

Existing Rule

5(a): By promotion from amongst the cadre of civil judge (Senior Division);

(b) By selection through limited competitive examination from amongst Civil Judges (Senior Division) cadre;

Column-2

Rule hereby substituted

5(a) By promotion from amongst the confirmed officers of the cadre of Civil Judge (Senior Division), having minimum 5 years of service as such on the first day of the calendar year of recruitment on the basis of merit-cum-seniority to be judged as per rule-20.

(b) By selection through limited competitive examination from amongst the confirmed officers of the cadre of Civil Judge (Senior Division) having minimum five years of service as such on the first day of the calendar year of recruitment.

Amendment of 4. In the principal rules, for clause (a) and (b) of rule 6, set out in column 1 below, the clauses as set out in column-2 shall be substituted namely-



Column-1
Existing Rule

6(a): Sixty Five percent by promotion by amongst the Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority;

(b) Ten percent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years Service as Civil Judge (Senior Division);

Amendment of 5. In rule 8 of the principal rules, set out in column 1 below, the rule as set out in column 2 shall be substituted namely--

Column-1
Existing Rule

8 : Number of appointment to be made-
(i) The Court, shall, time to time, but not later than three years from the last
Page 2

Column-2
Rule hereby substituted

6: (a) Sixty five percent by promotion from amongst the confirmed officers of the cadre of Civil Judge (Senior Division), having minimum 5 years of service as such in the cadre of Civil Judge (Senior Division) on the basis of principle of merit-cum-seniority, to be judged as per rule-20 on the first day of the calendar year of recruitment.

Provided that Judicial officer, who has been awarded penalty, shall not be considered for promotion and selection on the basis of merit-cum-seniority, for three years from the date of award of penalty. However, such officer, who is facing disciplinary action, shall be considered, but his result shall be kept in sealed cover for one year subject to the final outcome of the disciplinary proceeding, whichever is earlier.

(b) Ten percent by promotion strictly on the basis of merit through limited competitive examination from amongst the confirmed Civil Judges (Senior Division) having not less than five years Service as such on the first day of the calendar year of recruitment;

Provided that the Judicial officer, who has been awarded penalty, shall not be considered for selection through limited competitive examination for three years from the date of award of penalty. However, such officer, who is facing disciplinary action, shall be considered, but, his result shall be kept in sealed cover for one year subject to the final outcome of the disciplinary proceeding, whichever is earlier.

Column-2
Rule hereby substituted

8 : Number of appointment to be made-
The Court or the Committee constituted by



recruitment, fix the number of vacancies to be taken at the recruitment, keeping in view the existing and likely to occur vacancies in the next two years.

Explanation- The limitations of three years mentioned in the forgoing sub-rule shall not applied to the first recruitment held after the enforcement of these rules.

(ii) If at any selection the number of suitable selected direct recruits available for appointment is less than the number vacancies of determined by the Court to be taken from that source, the court may increase correspondingly the number of vacancies to be taken by promotion from the Civil Judge (Senior Division) cadre;

Provided that the number of vacancies filled in the forgoing sub-rule shall be taken into consideration while fixing the number of vacancies to be allocated to the quota of direct recruits at the next recruitment and the number of vacancies for direct recruitments may be raised accordingly; howsoever, that the percentage of direct recruits in the service does not in any case exceed 25 percent of the total strength of the service.

Amendment of 6. In rule 18 of the principal rules, set out in column 1 below, the rule as set out in column 2 shall be substituted namely-

Column-1

Existing Rule

18: Limited competitive examination-

The applications for recruitment through limited competitive examination of eligible Civil Judges (Senior Division), who have not been promoted under rule 20 shall be invited by the Court through the district judge or through the Head of the office or Head of the Department as the case may be under those subordination the candidate works and shall be made in the form, prescribed that purpose.

Column- 2

Rule hereby substituted

18: Limited competitive examination-

(i) The Chief Justice or the Committee constituted by the Chief Justice shall notify the vacancies reserved for appointment by limited competitive examination. The applications shall be invited from all the eligible candidates by the Registry as directed by the Chief Justice or Committee constituted by the Chief Justice in the form prescribed for that purpose.

(ii) The Registry shall prepare the list of the eligible candidate in the ratio of 1:3 of the available vacancies on the basis of

seniority.

Amendment of 7. In Clause (i), (ii) and (iii) of the principal rule 19, set out in column-1 below, the clauses as set out in column-2 shall be substituted namely-

Column-1

Existing Rule

(i) The Court or Committee constituted by the Chief Justice may get these applications scrutinized and may hold the examination.

(ii) Provision of rule 17 shall apply mutatis mutandis for conducting the limited competition. The Syllabus in given in Appendix "C".

(iii) In case eligible Civil Judge (Senior Division) are not available for the limited competitive examination or the Court is of the opinion that the Civil Judge (Senior Division), who appeared have not qualified the test, such remaining vacancies may be reverted temporarily to the Uttarakhand Judicial Service and may be filled through promotion amongst the officers of Uttarakhand Judicial Service as provided under rule 20, which shall be adjusted later on.

Column-2

Rule hereby substituted

(i) The Chief Justice or Committee constituted by the Chief Justice may get these applications scrutinized and may hold the examination.

(ii) All the candidates, whose names are in the list finalized by the Chief Justice or Committee constituted by the Chief Justice in the ratio of 1:3, shall appear in the written examination and the syllabus of the examination shall be as per Appendix "C" of the rules.

(iii) In case, vacancies reserved for limited competitive examination are not filled-up by reason of sufficient candidates not being available or found successful, the same may be filled-up by way of promotion as provided in rule-20. However, in the subsequent recruitment, such number of vacancies shall be deducted from the quota of promotees for the first time the vacancies arise under the roster prepared as referred to in rule 22 and will be added in the quota for limited competitive examination.

Amendment of 8. In rule 20 of the principal rule, set out in column 1 below, the rule as set out in column-2 shall be substituted namely-

Column-1

Existing Rule

20: promotion of members of the Uttarakhand Judicial Service-

(i) The Chief Justice or Committee constituted by the Chief Justice shall, after examining the record of the officers make a preliminary selection of the officers on the basis of principle of merit-cum-seniority.

Column-2

Rule hereby substituted

20: promotion of members of the Uttarakhand Judicial Service-

(i) Recruitment by promotion from the members of the cadre of Civil Judge (Senior Division) shall be made by selection by the Chief Justice or Committee constituted by Chief Justice on the principle of merit-cum-seniority. Merit shall be evaluated on the

The list shall contain the names of officers twice the number of vacancies required to be filled by promotion of the members of the Uttarakhand Judicial Services.

(ii) The Chief Justice or Committee nominated by the Chief Justice shall call the members of Uttarakhand Judicial Services of the list prepared in the forgoing rule for the suitability test and after the suitability test, the Chief Justice or Committee shall prepare a list of officers found suitable for the promotion.

basis of criteria as mentioned hereinafter in sub rule(iii) of rule 20.

(ii) The Registry of the Court shall prepare a list of eligible officers in the ratio of 1:3 in order of their seniority and shall place it before the Chief Justice or Committee constituted by the Chief Justice along with the ACRs of the officers. The Registry shall also call for 5 civil as well as 5 criminal judgments of such officers delivered by them within the period of one year prior to 31st March of the year of commencement of recruitment (i.e. from 1st April of the previous year) and shall place it before the Chief Justice or Committee constituted by the Chief Justice along with the list so prepared.

However, it would be open to the Chief Justice or Committee constituted by the Chief Justice to call for other judgments delivered by the officers.

Provided that where the concerned Judicial officer is working on a post in which he does not have to write judgments such as a deputation, post in the High Court or in any other authority or Forum or Government etc., the expression "last one year" shall be construed as the last one year prior to his aforesaid posting on deputation, meaning thereby "such a year" in which he was occupying a post/holding an appointment in which he had to write judgments.

Provided further that if the eligible officer is holding the post of Civil Judge (Senior Division) and is not having criminal jurisdiction, then for criminal judgments 'one year' shall be construed for the period he was having jurisdiction over the criminal matters. Likewise, if the officer is posted as Chief Judicial Magistrate and has no jurisdiction over civil matters, then for civil judgments one year shall be construed for the period he was having jurisdiction over civil matters.

(iii) Norms for suitability test/evaluation of

merit-

(a) Evaluation of their judgments-40 marks

(b) Evaluation of Annual Confidential Reports for the last five years- 30 marks

The other part of the suitability test will be the assessment of the candidate for his continued efficiency which will be adjudged on the basis of his service record of preceding 05 years of the suitability test.

The marking pattern shall be as follows for this section-

Outstanding - 6 marks

Very Good - 5 marks

Good - 4 marks

Satisfactory /Average/ Fair - 3 marks

Poor - No marks

(c) Oral Test - 30 marks

The final marks obtained shall be worked out by process of averaging, that is to say, by dividing the gross total marks obtained by respective candidate/ officer.

(iv) The list shall contain the name of the officers twice the number of vacancies required to be filled up by promotion from the cadre of Civil Judge (Senior Division).

(v) List prepared by the Selection Committee shall be placed before the Chief Justice for his approval and shall be placed for consideration before the Court.

(vi) The Court shall examine the approved list and make a final selection for promotion and forward the same to the Governor.

Amendment of 9. In rule 22 of the principal rules, set out in column 1 below, the rule as set out in column-2 shall be substituted namely-

Column-1
Existing Rule

Column- 2
Rule hereby substituted



22: Appointment-

(i) The Governor shall on receipt of the list of candidates make appointment to the service but in case of the direct recruitment after character verification and medical examination.

(ii) Appointment to the service shall be made on a 20 point roster with two blocks of 10 points each. In the first block of 10 points, the first 6 posts shall be filled up from those appointed under rule 6(a); and the next 3 posts from those appointed under rule 6(c), and the last post from those appointed under rule 6(b). In the second block of 10 posts, the first 7 posts shall be filled from those appointed under rule 6(a); the next 2 posts from those appointed under rule 6(c), and the last post from those appointed under rule 6(b).

22: Appointment and Seniority-

(i) Appointment and seniority to the service shall be made on a 20 point roster with two blocks of 10 posts each. In the first block of 10 posts, the first and second vacancy shall be filled up from the promotion quota i.e. under rule 6(a); third vacancy shall be filled up from the quota of direct recruits i.e. under rule 6(c); the fourth vacancy shall be filled up from the limited competitive examination quota i.e. under rule 6(b); fifth and sixth shall be filled up from the promotion quota i.e. under rule 6(a); seventh shall be filled up from the list of direct recruits i.e. under rule 6(c); eighth and ninth shall be filled up from promotion quota i.e. under rule 6(a); tenth shall be filled up from direct recruits quota i.e. under rule 6(c). In the second batch of 10 posts the eleventh and twelfth shall be filled up from promotion quota i.e. under rule 6(a); thirteenth shall be filled up from direct quota i.e. under rule 6(c); fourteenth shall be filled up from limited competitive examination quota i.e. under rule 6(b); fifteenth and sixteenth shall be filled up from promotion quota i.e. under rule 6(a); seventeenth shall be filled up from direct recruits quota i.e. under rule 6(c); and eighteenth, nineteenth and twentieth shall be filled up from promotion quota i.e. under rule 6(a).

(ii) The Governor shall on receipt of the list of candidates make appointment to the service but in case of the direct recruitment after character verification and medical examination.

Where appointments from any source fall short of the prescribed quota and appointments against such unfilled vacancies are made in subsequent year or years, the persons so appointed shall not get seniority of any earlier year but shall get the seniority of the year in which their appointments are made, so, however, that their names shall be placed at the top followed by the names, in the cyclic order of the other appointees.

Insertion of a new rule 25A

10. After rule 25 of the principal rules, a new rule 25A with the following title shall be inserted, namely-

" 25A- Special provision regarding compulsory retirement in public interest-

(i) Notwithstanding anything contained in these rules and without prejudice to the generality of the provisions contained in the Service rules applicable to Government Servants in Uttarakhand, an officer borne in this service who has attained the age of 50 years, 55 years and 58 years may compulsorily be retired in public interest by giving him notice of not less than 'Three months' in writing or 'Three months' pay and allowances in lieu of such notice, if the High Court on an assessment and evaluation of the record of such officer is of the view that such officer is not fit and eligible to continue in service beyond the age of 50 years, 55 years and 58 years, as the case may be.

(ii) Whether a member of the service should be retired in public interest under sub-rule (i) shall be considered at least three times, that is when he is about to attain the age of 50 years, 55 years and 58 years:

Provided that nothing in sub-rule (ii) shall be construed as preventing such consideration by the Court of a member of the service at any time other than those mentioned therein."

Omission of rule 26 11. Rule 26 of the principal rules shall be omitted.

By order,

(Radha Raturi)

Principal Secretary.