

HIGH COURT OF UTTARAKHAND AT NAINITAL

NOTIFICATION

No. 368 /UHC/ Admin.A /2018

Dated: November 30 , 2018.

THE DESIGNATION OF SENIOR ADVOCATE RULES, 2018

1. Short title, extent and commencement :- (1) These Rules shall be called 'Uttarakhand High Court (Designation of Senior Advocates) Rules, 2018'

(2) These Rules shall extend to the entire jurisdiction of the High Court of Uttarakhand.

(3) These Rules shall come into force from the date of their publication in the Official Gazette.

2. Definitions:- In these Rules, unless the context otherwise requires:

(a) An "Advocate" for the purposes of the present Rules would mean an Advocate as defined in the Advocate's Act, 1961 and whose name figures on the rolls prepared by the State Bar Council of Uttarakhand; and in addition he/she should also be a member of the recognised Bar Association of Uttarakhand High Court for the last 5 years, and where his original registration is not with the Bar Council of Uttarakhand then, in that case, he/she should have been validly transferred to the rolls of the Bar Council of Uttarakhand, at least five years prior to his candidature being considered as a Senior Advocate.

(b) "Committee" means the "Permanent Committee" for Designation of Senior Advocates as constituted under sub-rule (1) of Rule 3 of these Rules;

(c) "Court" means the same as defined in the Rules of the Court, 1952;

(d) "High Court" means the same as defined in Section 2 (g) of the Advocate's Act 1961;

(e) "Roll" means the roll of Advocates prepared and maintained under the provisions of the Rules of Court, 1952, as applicable in the High Court;

(f) "Secretariat" means the Permanent Secretariat established by the Chief Justice of the High Court under sub-rule (2) of Rule 3 of these Rules.

3. Permanent Committee for designation of Senior Advocates:- (1) All matters relating to designation of Senior Advocates in the High Court shall be dealt with by the Permanent Committee, which will be headed by the Chief Justice, and shall consist of the two Senior-most Judges of the High Court, the Advocate General of the State of Uttarakhand; and a designated Senior Advocate of the Bar to be nominated by the members of the Committee.

(2) The Committee, constituted under sub-rule (1), shall have a Secretariat, the composition of which will be decided by the Chief Justice of the High Court, in consultation with the other members of the Committee.

(3) The Committee may issue such directions, from time to time, as are deemed necessary regarding the functioning of the Secretariat, including the manner in which, and the sources from which, the necessary data and information, with regard to designation of Senior Advocates, are to be collected, compiled and presented.

4. Designation of an Advocate as Senior Advocate:- (1) The High Court may designate an Advocate as a Senior Advocate, if in its opinion, by virtue of his/her ability and standing at the Bar, the said Advocate is deserving of such distinction.

Explanation: The term "standing at the Bar" means position of respect and eminence attained by an Advocate at the Bar by virtue of his/her seniority, legal acumen, and high ethical standards maintained by him, both inside and outside the Court, and who is an advocate as defined under rule 2(a) and has put in at least ten years of actual practice as an advocate.

5. Motion for Designation as a Senior Advocate:- Designation of an Advocate, as a Senior Advocate by the High Court, may be considered:

(a) on the written proposal made by the Chief Justice or any sitting Judge of the High Court of Uttarakhand.

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[Provided where a sitting Judge has made a proposal for an advocate, he shall not be making a similar proposal for that advocate or for any other advocate for a period of two years.]

(b) on the written application submitted by an Advocate, recommended by two designated Senior Advocates.

[Provided further that such designated Senior Advocates, who have made such a recommendation, will not be making a similar recommendation for that advocate or for any other advocate for a period of two years.]

6. Procedure for Designation:- (1) All the written proposals and applications for designation of an Advocate as a Senior Advocate shall be submitted to the Secretariat.

Provided that every application by an advocate shall be made in Form No. 1 of **APPENDIX-A** appended to these Rules.

Provided further that, in case the proposal emanates from a Judge, it need not be submitted in a prescribed form. However once the proposal is received, the Secretariat shall request such advocate to submit Form No. 1 duly filled in within such time as may be directed by the Committee and, in such case, the application in Form-I shall be filled within the time directed by the Committee. The requirement of having recommendation of two Senior Advocates would stand dispensed with, in such cases.

(2) On receipt of an application or proposal for designation of an Advocate as a Senior Advocate, the Secretariat shall compile the relevant data and information with regard to the reputation, conduct, integrity of the advocate concerned including his participation in *pro bono* work, reported judgments of the last five years in which the concerned advocate has appeared and has actually argued.

(3) The Secretariat will notify the proposed names of the advocates to be designated as Senior Advocates on the official website of the High Court of Uttarakhand, inviting suggestions and views within such time as may be fixed by the Committee.

(4) After the material, in terms of the above, is compiled and all such information, as may be specifically required by the Committee to be obtained in respect of any particular candidate, has been obtained and the suggestions and views have been received, the Secretariat shall put up the case before the Committee for scrutiny.

(5) On the case being put up by the Secretariat, the Committee shall examine the same in the light of the material provided and, if it so desires, may also interact with the concerned advocate (s) and, thereafter, make its overall assessment on the basis of the point based format provided in **APPENDIX-B** to these Rules.

(6) After overall assessment by the Committee, all the names listed before it will be submitted to the Full Court along with its Assessment Report.

(7) The Full Court shall make all endeavour to first take a decision on the basis of consensus, and as far as possible, the decision shall be unanimous. Failing this, open voting may be resorted to, in which the Hon'ble Chief Justice/Acting Chief Justice will not participate. In the event of voting, the views of the majority of the Judges, present and voting, shall constitute the decision of the Full Court. In case the Judges present be equally divided, the Chief Justice/Acting Chief Justice present shall have the casting vote.

(8) The cases, that have not been favourably considered by the Full Court, may be reviewed/reconsidered after expiry of a period of two years, following the same procedure as is prescribed above, as if the proposal is being considered afresh.

7 Designation of Advocates as Senior Advocates by the Chief Justice:- (1) On the approval of the name of the Advocate by the Full Court, the Chief Justice shall designate such an advocate as a Senior Advocate under Section 16 of the Advocate's Act, 1961.

(2) The Registrar General shall notify the designation to the Secretary General of the Supreme Court of India, the Bar Council of Uttarakhand, the Bar Council of India and also to all the District and Sessions Judges subordinate to the High Court.

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(3) A record of the proceedings of the Committee, and the record received from the Full Court in this regard, shall be maintained by the Permanent Secretariat for future reference.

8. Restrictions on Designated Senior Advocates:- A senior Advocate shall be subject to such restrictions as the Supreme Court, High Court, the Bar Council of India or the Bar Council of the State may prescribe from time to time.

9. Canvassing:- Canvassing in any manner, by a nominee/applicant for designation as a Senior Advocate, shall disqualify him/her from being so considered or designated for the next five years.

10. Interpretation:- All questions relating to the interpretation of these Rules shall be referred to the Chief Justice, whose decision thereon shall be final.

11. Review and Recall: (1) if, after being designated as a Senior Advocate, it is reported by a Judge of the Court, that, by virtue of his/her conduct or behaviour either inside or outside the Court, he/she has forfeited his/her privilege to the distinction conferred upon him/her by the Court, the matter may be placed by the Chief Justice before the Full Court for consideration of withdrawal of the designation as Senior Advocate. If the Full Court is of the view that the Senior Advocate, by virtue of his/her conduct or behaviour inside or outside the Court, has disintitiled himself/herself to be worthy of the designation, the Full Court may review its earlier decision to designate the concerned person and recall the same.

(2) The procedure for review and recall shall be the same as provided under sub-rule (7) of Rule 6. After approval by the Full Court, the Chief Justice shall recall the designation of such Senior Advocate. The Registrar General shall notify the decision in the same manner as is provided in sub-rule (2) of Rule 7 of these Rules.

12. Repeal and Saving:- All previous Rules, except Rule 11 of Chapter XXIV of Allahabad High Court Rules, 1952, on the subject matter covered by these Rules including the guidelines for designating an advocate as a Senior Advocate are hereby repealed. However, this repeal shall not, by itself, invalidate the action taken under the repealed rules/guidelines.]

[APPENDIX-A

[SEE Rule 6(1)]

Form No. 1

Form of Application for designation as Senior Advocate

Latest passport
size photograph
of Applicant

1	Name	
2	Father's/husband's name	
3	Address	Permanent Address
		Correspondence Address
4	If you belong to a minority community, please give the particulars	
5	If you belong to a community for which the Constitution and the laws provide for reservation in service and education, please give the particulars	
6	Age/Date of Birth	
7	Enrollment No. Bar Council & Enrollment Date (Enclose copy)	
8	If you have been transferred to the Rolls of the Uttarakhand State Bar Council, please state the date of transfer.	

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9	Name of the Bar Association/Associations of which he/she is a member	
10	When were you enrolled as a member of the Uttarakhand High Court Bar Association.	
11	Number of years of practice, and in which Court/s	
12	If specialized in any branch of Law, please give the particulars.	
13	Aadhaar No. (Enclose Copy)	
	PAN Card No. (Enclose Copy)	
14	Year from which he/she became an Income tax assessee, in respect of the professional income (enclose copies of relevant documents)	
15	Average net professional income for the past five years (Gross professions Income – deductions i.e. professional Income on which tax was actually paid).	
16	Professional Qualification (Enclose Copy)	
17	Additional Qualification (Enclose Copy)	
18	Contact No.	
	E. Mail	
19	Whether he/she is, or has been in the panel of Advocates of the State of Central Government or a public sector undertaking, or a statutory body, or institution. If so, details thereof.	
20	Particulars of important matters involving question of law in which he/she appeared in the last five years, and particulars of at least ten citations of such reported cases during this period.	
21	Names and particulars of Advocates associated with him/her in his/her chamber/office	
22	Particulars of cases in which he/she appeared as an arguing Counsel, on behalf of another Advocate, (not being an advocate from his/her chamber/office), during the preceding five years, and the name and particulars of the Advocates on whose behalf he/she appeared.	
23	Particulars of articles, if any, published in any journal or books, if any, authored.	
24	Whether associated with any faculty of Law (If so, the particulars thereof)	
25	Particulars of the cases in which he/she provided free legal aid.	
26	Particulars of the pro bono work performed.	
27	Whether or not his/her name was considered for being designated as Senior Advocate within the last two years.	
28	Whether he/she is involved in any criminal case, disciplinary proceedings before the State Bar Council. If so, the particulars/the result/the stage of the proceedings.	
29	Whether he/she is involved in any contempt case.	
30	Whether any proceeding for professional misconduct has been initiated against him/her by the State Bar Council of Uttarakhand/Bar Council of India (pending or decided)	
31	Whether any remark has ever been passed against him/her in	

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	any order/judgment by any Court of law.	
32	Whether he/she is involved in any collateral activities which may disqualify him/her for being designated as a Senior Advocate	

(SIGNATURE OF THE APPLICANT)

I, the under signed advocate, practicing in the State of Uttarakhand, submit my application for being designated as a Senior Advocate, and give my consent to be so designated by the High Court.

Dated

(Signature)

[APPENDIX-B

[See Rule 6 (5)]

POINT BASED FORMAT FOR ASSESSMENT OF AN ADVOCATE FOR BEING DESIGNATED AS SENIOR ADVOCATE

S. No.	Matter	Points
1.	Number of years of practice of the Applicant Advocate from the date of enrollment [10 points for 10-20 years of practice, 20 points for practice beyond 20 years]	20 points
2.	Judgments (reported and unreported) which indicate the legal formulations advanced by the concerned Advocate in the course of the proceedings of the case; pro bono work done by the concerned Advocate; domain Expertise of the Applicant Advocate in various branches of law, such as constitutional law, Inter-State Water Disputes, Criminal law, Arbitration law, Corporate law, Taxation laws, Family law, Human Rights, Public Interest Litigation, International law, law relation to women, etc.	40 points
3.	Publications by the Applicant Advocate	15 points
4.	Test of Personality & Suitability on the basis of interview/interaction	20 points

By order of the Court,

Sd/-
(Pradeep Pant)
Registrar General

No. 5608 /UHC/ Admin.A/2018

Dated: November 30, 2018.

Copy forwarded for information and necessary action to:

1. Secretary General, Supreme Court of India.
2. P.P.S. to Hon'ble the Chief Justice.
3. P.S./ P.A. to Hon'ble Judges of the Court with the request to place the notification for His Lordships kind perusal.
4. Advocate General, Government of Uttarakhand, Nainital.
5. President, High Court Bar Association, Nainital.
6. Secretary, Bar Council of Uttarakhand, Nainital.
7. Principal Secretary (Law) cum-L.R., Government of Uttarakhand, Dehradun.

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8. All the Registrars of the Court.
9. Librarian with the direction that the above amendment be incorporated in all the relevant books immediately.
10. I/c N.I.C. High Court of Uttarakhand, Nainital with the request to upload the same on the website of High Court of Uttarakhand, Nainital .
11. Director, Printing & Stationery, Government Press, Roorkee, District Hardwar for publication of the Notification in the next Gazette of the Uttarakhand.
12. Guard file.


30.11.2018
Deputy Registrar