

GOVERNMENT OF ASSAM (JUDICIAL DEPARTMENT)
THE ASSAM CHIEF JUDICIAL MAGISTRATES ESTABLISHMENT
(MINISTERIAL) SERVICE RULES, 1987.

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NOTIFICATION

The 26th October, 1987.

No. JDJ.282/84/124 : In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is pleased to make the following rules regulating recruitment and conditions of service of persons appointed to the Assam Chief Judicial Magistrates Establishment (Ministerial) Service, namely :-

The Assam Chief Judicial Magistrates Establishment
(Ministerial) Service Rules, 1987, PRELIMINARY.

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| Short title
and com-
mencement | 1. (1) These rules may be called “The Assam Chief Judicial Magistrates Establishment (Ministerial) Service Rules, 1987”

(2) They shall come into force at once. |
| Definitions | 2. In these rules unless there is anything repugnant in the subject or context -

(1) “Appointing authority” means (a) District & Sessions Judge in the case of appointment to the post of Head Assistant and (b) Chief Judicial Magistrate in the case of appointment to all other ministerial posts in the Chief Judicial Magistrates Establishment (Ministerial) Services.

(2) “District & sessions Judge” means the District & Sessions Judge of the District in which the Chief Judicial Magistrates Establishment (Ministerial) is situated ;

(3) “Chief Judicial Magistrate” means the Chief Judicial Magistrate of the District ;

(4) “Chief Judicial Magistrates Establishment (Ministerial) means and includes all non-gazetted |

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(2)

ministerial staff in the Office of the Chief Judicial Magistrate, Additional Chief Judicial Magistrate and Sub-Divisional Judicial Magistrate and Sub-Divisional Judicial Magistrate of the District ;

(5) "Government" means Government of Assam ;

(6) "Member of the service" means a member of the Assam Chief Judicial Magistrates Establishment (Ministerial) Service ;

(7) "Additional Chief Judicial Magistrate" means an Officer holding the post under the Assam Judicial Service Rules, 1967 ;

(8) "Sub-divisional Judicial Magistrate" means an officer holding the post under the Assam Judicial Service Rules, 1967 ;

(9) "Service" means the Assam Chief Judicial Magistrates Establishment (Ministerial) Service ;
and

(10) "Year" means English Calendar year.

(11) "Board" means the Selection Board consisting of a Chairman and two other members.

CADRE

Service

3. (1) The Service shall comprise of the following categories of posts -

(i) Head Assistant

(ii) Supervisory Assistant

(iii) Upper Division Assistant

(iv) Lower Division Assistant.

(2) Each of the categories of posts in Sub-rule (1) shall form an independent cadre.

Members of a lower cadre shall have no claim for appointment to any of the higher cadres except in accordance with the provisions made in these rules.

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(3)

Status of the
of class service

4. The status of the members of the service shall be that III- non-gazetted Ministerial Service.

Strength
of the service

5. The number of posts, permanent as well as temporary, under each of the categories mentioned in sub-rule(1) of rule 3 shall be such as may be determined by Government from time to time.

RECRUITMENT

Recruitment

6. Recruitment to the service shall be made by the appointing authority according to the procedure laid down below -

(1) **Head Assistant-** By selection from amongst the Upper Division Assistants with at least 10(ten) years of service as such to their credit including Supervisory Assistants in any Chief Judicial Magistrates Establishment (Ministerial).

NOTE – Vacancies to the posts of Head Assistant shall be advertised by the Chief Judicial Magistrate concerned inviting applications from suitable persons fulfilling the requirements of the posts. On receipt of the applications the Selection Board consisting of the Chief Judicial Magistrate of the District concerned shall assess the comparative merit and ability of the candidates for the purpose of recommending the names of suitable candidates to the District & sessions Judge concerned. Thereafter, the Chief Judicial Magistrate shall forward the recommendation of the Selection Board together with the character rolls and other relevant papers concerning the applications to the District & sessions Judge concerned who shall make the

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(4)

selection strictly on merit and make the appointment. The select list shall remain valid for one year from the date of recommendation of the Selection Board.

(2) **Supervisory Assistant** – By promotion from amongst the Upper Division Assistants of the Chief Judicial Magistrates Establishment (Ministerial) concerned on the basis of seniority-cum-merit who have rendered not less than 7 years of service in the Chief Judicial Magistrate's Establishment (Ministerial) concerned out of which at least 3 years shall be of continuous service as Upper Division Assistant on the 1st day of the year in which the promotion is made.

NOTE – For the purpose of promotion of the Upper Division Assistant, the Chief Judicial Magistrate shall prepare a select list at the beginning of each year taking into account the number of vacancies likely to occur during the year in question. The Chief Judicial Magistrate shall associate the Additional Chief Judicial Magistrate and Sub-Divisional Judicial Magistrate in the selection. The criterion for selection shall be on the basis of seniority-cum-merit and the select list shall remain valid for one year from the date of recommendation of the Selection Board. It shall be reviewed after one year and all those eligible shall again be considered.

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(5)

(3) **Upper Division Assistant-** By promotion on the basis of seniority-cum-merit from amongst Lower Division Assistants of the Chief Judicial Magistrates Establishment (Ministerial) concerned who have rendered not less than 5 years of service as Lower Division Assistant in the Chief Judicial Magistrate Establishment (Ministerial) concerned on the 1st day of the year in which the promotion is made.

NOTE – For the purpose of promotion, the Chief Judicial Magistrate shall prepare a select list at the beginning of each year taking into account the number of vacancies likely to occur during the year in question. The Chief Judicial Magistrate shall associate the Additional Chief Judicial Magistrate and the Sub-Divisional Judicial Magistrate in the Selection. The criterion for selection shall be on the basis of seniority-cum-merit. The select list shall remain valid for one year. It shall be reviewed after one year and all those eligible shall again be considered.

(4) Lower Division Assistants – (a) By direct recruitment on the basis of a competitive examination to be conducted by the Chief Judicial Magistrate at the beginning of each year unless otherwise directed by Government in this behalf.

(6)

NOTE- At the beginning of each calendar year the Chief Judicial Magistrate shall call for applications to fill up temporary vacancies of any kind of posts which are likely to occur in course of the year in their respective establishments. On receipt of applications by a specified date, a test shall be held and a list of all candidates suitable for appointment to the post of Lower Division Assistant shall be prepared in order of merit by the Chief Judicial Magistrate. The list shall remain valid for one year unless it is exhausted earlier and one such list shall be prepared every year. The Chief Judicial Magistrate shall make all appointments during the year from such a select list. The syllabus for such tests shall be as specified in the schedule ;

(b) by selection strictly on the basis of merit from amongst the Copyist Typists of the Chief Judicial Magistrates Establishment having the requisite educational qualifications as required for direct recruitment of Lower Division Assistants who have rendered not less than 7 years of service on the first day of the year in which the selection is made ;

(c) by selection on the basis of seniority-cum-merit from amongst Grade IV staff of the Chief Judicial Magistrate's Establishment (Ministerial) concerned who have passed the H.S.L.C. or equivalent examination and have rendered at least 7 years of

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(7)

continuous service in the Chief Judicial Magistrate's Establishment (Ministerial) on the 1st day of the year in which selection is made.

NOTE – (1) The proportion of vacancies to be filled in any year according to clauses (a), (b) & (c) of sub-rule (4) of this rule shall be 80:10: 10 respectively. In the event of sufficient number of qualified or suitable persons not being available in category (b) &(c), the balance shall be made up from category (a), i.e., through direct recruitment. Here vacancies shall include both permanent and temporary vacancies.

(ii) Appointment by selection under clauses (a) and (c) of sub-rule (4) of this rule shall be made by Chief Judicial Magistrate from amongst the eligible Copyist Typists and Grade IV staff.

Conditions of eligibility 7. In order to be eligible for competing in the examination for appointment, a candidate must satisfy the following conditions :-

(i) Nationality – He must be a citizen of India.

(ii) Age Limit- He must not be less than 18 years of age and more than 30 years of age on the first day of the year in which the examination is held.

Provided that in the case of candidates belonging to special categories, the upper age limit shall be subject to such relaxation as may be made by Government from time to time.

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(8)

Explanation- "Special categories" means persons belonging to Scheduled Castes/ Scheduled Tribes, Political Sufferers, War Service candidates and such other persons or class of persons as may be notified by Government from time to time.

- (iii) Educational Qualification- He must have passed H.S.L.C. Examination from a recognised University Board or any examination declared equivalent thereto by the Government.

Note :Pending conversion of all the existing Schools into Higher Secondary Schools and during the transitional period when both the old courses and the new courses continue together the instructions issued by Government from time to time in this regard shall be followed.

- (iv) He must not have more than one wife living, provided the Government may for good and sufficient reasons exempt any candidate from the operation of this condition.
- (v) No candidate shall be eligible for appointment if he, after undergoing such medical examination as Government may specify, is found to be not good mental or bodily health and not free from any mental or physical defect likely to interfere in the discharge of his duties.

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(vi) Inclusion of a candidate's name in the list shall confer no right to appointment unless the appointing authority is satisfied after such enquiry as he may consider necessary that the candidate is suitable in all respect for appointment.'

Reservation

8. In all cases of appointment by direct recruitment as well as by promotions, there shall be reservation in case of candidates belonging to the member of SC/ST as per provision of the Assam Scheduled castes and Scheduled Tribes (Reservations of Vacancies in Services and Posts) Act, 1978 and Rules framed thereunder. There shall also be reservation for candidates belonging to other Backward Classes including More other backward Classes as per Govt. instructions contained in O.M. No. ABP.338/83/14 dated 4.01.94 for direct recruitment only. General orders in respect of reservation in favour of other categories of candidates as may be in force for time being, shall also be followed.

Gradation list -

9. A gradation list of the staff of the amalgamated establishment shall be prepared by the Chief Judicial Magistrate every year and the same shall be approved by the District & Sessions Judge concerned and published once a year.

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(10)

CONFIRMATION, SENIORITY, ETC.

- Confirmation
10. (1) Subject to availability of a permanent vacancy, every member of the service shall be confirmed in the grade to which he is appointed, if he-
- (a) has completed at least one year of service to the satisfaction of the appointing authority and
 - (b) is considered fit for confirmation by the appointing authority.
- (2) Subject to the aforesaid conditions, confirmation shall be made on the basis of seniority as determined under rule 12.

Discharge or
reversion before
confirmation

11. At any time before confirmation a member is liable to be reverted to his next lower rank or to a lower post on which he holds a lien or be discharged from the service in case he is direct recruit, if he cannot qualify for such confirmation even after a second chance or if his performance of duty has not been satisfactory and/ or if the appointing authority finds him otherwise unfit to hold the post.

Seniority

12. (i) In the Lower Division Cadre, the seniority shall be according to the date of appointment, if the persons join the appointments within 15 days of the receipt of the order of appointment :

Provided that in case of a person prevented from joining within the said period of 15 days by circumstances of a public nature or for reasons beyond his control, the

appointing authority may extend it for a further period of 15 days. If the period is

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(11)

not so extended, his seniority shall be determined in accordance with the date of joining.

When however more than one person are appointed on the same date their inter-se-seniority shall be determined according to their position in the merit list prepared by the Chief Judicial Magistrate as mentioned in Note below clause (a) of Sub-rule (4) of rule 6.

Provided further that the inter-se-seniority among Lower Division Assistants appointed under clause (a), (b) and (c) of sub-rule (4) of Rule 6 on the same date shall be according to the following order -

- (a) Assistants appointed under clause (a) of Sub-rule (4) of Rule 6.
- (b) Assistants appointed under clause (b) of Sub-rule(4) of Rule 6.
- (c) Assistants appointed under clause (c) of sub-rule (4) of Rule 6.

(ii) In the Upper Division cadre, the seniority shall be according to the position in the select list from which the promotion to posts of Upper Division Assistant is made.

(iii) In the Supervisory Assistant Cadre, the seniority shall be according to the position in the select list from which promotion to the post of Supervisory Assistant is made.

- (iv) In the Head Assistant Cadre, the seniority shall be according to the date of promotion to the post of Head Assistant.

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(12)

- (v) If confirmation of a member of the service in a Cadre is delayed on account of his failure to qualify for such confirmation, he shall lose his position in order of seniority in that cadre vis-a vis such of his juniors as may be conformed earlier than him. His original position in that particular cadre shall, however, be restored on his confirmation subsequently.

Right of appeal.

13. Every member of the service shall have the right to appeal from the orders of the Chief Judicial Magistrate to the District and Sessions Judge and from the orders of the District and Sessions Judge to Government in the Judicial Department.
14. The scale of pay admissible to members of different cadres shall be as shown in Schedule II subject to such revision as may be made by Government from time to time.

MISCELLANEOUS.

Leave, Pension

etc.

15. Except as provided in these rules, all matters relating to pay, allowances, leave, pension, discipline and other conditions of service shall be regulated by general rules framed by Government from time to time.

Power of transfer

16. The power of transfer and posting of staff from one District to another District vest with the Government

in the Judicial Department.

Power to dispense
with or relax any
rule

17. Where the appointing authority is satisfied that the operation of any of these rules may cause under hardship in any particular case, it may dispense with or relax the requirement of that rule to such extent and subject to such conditions as it may consider necessary for

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(13)

dealing with the case in a just and equitable manner.

Provided that the case of any person shall not be dealt with in any manner less favourable to him than that provided in any of these rules.

Interpretation

18. If any question arises relating to the interpretation of these rules, it shall be referred to the Government in the Judicial Department whose decision thereon shall be final.

Repeal and
Savings

19. Any rules corresponding to these rules in force immediately before the commencement of these rules are hereby repealed.

Notwithstanding such repeal any order made or any action taken under the rules so repealed shall be deemed to have been validly made or taken under the corresponding provisions of these rules.

SCHEDULE-I

(Rule 6(4)(a))

The syllabus for test of direct recruitment.

<u>Subject</u>		<u>Marks</u>
1. General English	75
2. Official Language	75
3. Drafting (English & official Language)	100

4. Interview	50
		Total= 300

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SCHEDULE – II

(Rule 14)

<u>POST</u>	<u>SCALE OF PAY.</u>
1. Head Assistant	Rs. 700-30-850-EB-35-1200/-
2. Supervisory Assistant/ Upper Division Assistant	Rs. 675-25-800-EB-30-1100/- (Rs. 30/- P.M. is allowed to the Supervisory Assistant as special pay)
3. Lower Division Assistant	Rs. 470-12-530-EB-12-590-EB-15-680-20-800/-

Assam

(S.M. Deka)
Secretary to the Govt. of

Judicial Department.