

ASSAM JUDICIAL SERVICE RULES, 2003

L. R's Library -ft&/sq Registered No. - 768/97 THE ASSAM GAZETTE EXTRAORDINARY PUBLISHED BY AUTHORITY «27fi*t7, 17 2003, 28 1924 (IF) No. 27 Dispur, Monday, 17th February, 2003, 28th Magha, 1924 (S.E.) GOVERNMENT-OF ASSAM ORDERS BY THE GOVERNOR JUDICIAL DEPARTMENT : : JUDICIAL BRANCH NOTIFICATION The 17th February, 2003 No. 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. 2. 3. (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. 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, "Constitution" means the Constitution of India, "Commission" means The Assam Public Service Commission, "Existing members of the Service" means the officers who have been holding the posts under the Assam Judicial Service Rules 1967, as amended, "Government" means the Government of Assam, "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, "Service" means the Assam Judicial Service, (j) "Year" means the English Calendar Year, 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. THE ASSAM GAZETTE. EXTRAORDINARY. FEBRUARY 17. 2003 183 SL Cadre No. 1 1 2 Method of Recruitment 3 (i) Not exceeding 25% of the Posts in the cadre may be filled by direct recruitment on the basis of the aggregate marks in grade secured in a competitive examination conducted by the High Court, as specified in Schedule B of the Rules. (ii) 50% of the posts in the cadre shall be filled by promotion from cadre of Grade 11 of the service on the basis of merit and seniority by the Court, following the criteria in Schedule- E. (iii) Remaining 25% of the cadre of the service shall be filled up by promotion on the basis of merit through limited departmental competitive examination as conducted by the High Court in schedule B of the specified Rules. Qualification age limit etc. 4 By recruitment 1. 2. 3. must be holder of degree in law of a recognized University Must be practising as an Advocate in Courts of Civil and Criminal jurisdiction on the last date for receipt of application and must have so practising for a period of not less than seven years as on such date. Must have attained the age of thirty-five and must not have attained the age of forty-five years in the case of candidates to Scheduled Castes or Scheduled Tribes and forty five years in the case of others, as on the last date fixed for receipt of 4. Must have been in the cadre of Grade-II for a period of not less than 5 years. THE ASSAM GAZETTE. EXTRAORDINARY. FEBRUARY 17: 2003 185 (a) (d) unless he is a citizen of India; If he is dismissed from service by any High Court, Government or statutory or local authority; If he has been convicted of an offence involving moral turpitude or who is or has been permanently 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 If he directly or indirectly influences the recruiting authority by any means for his candidature; If he is a man, has more than one wife living and if a woman, has married a man already having another wife. 10. RECRUITMENT. (2) To fill the vacancy required to be filled by promotion the recruiting authority shall take all necessary steps well in time so as to finalise the list of persons considered for promotion at least 10-15 days before the occurrence of the vacancy (i) Whenever or more vacancies required to be filled by direct recruitment occur in the cadre in the service or once in the year whichever is earlier, the recruiting authority shall, invite by advertisement in the official Gazette and in at least two newspapers — publications 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 Scheduled Castes, Scheduled Tribes; and other backward classes, if any, and shall contain all necessary information relating to the recruitment. It also indicate that an additional list of selected candidates would be prepared as per clause (iv). (ii) 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 recruiting authority shall be admitted for the examination. (iii) The recruiting authority shall on the basis of cumulative grade value secured by the 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 ASSAM GAZETTE EXTRAORDINARY. FEBRUARY 17, 2003 JOINING TIME FOR APPOINTMENT- 13. 187 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 report 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 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 a training Course for the Officers appointed in Grade III 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 or outside the country in consultation with the State Govt.

15. 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 on officiating basis for a period of two years. The period of probation or officiation, as the case may be, (3) for reasons to be recorded in writing, may be extended by the appointing authority by such period not exceeding the period of probation or officiation, as the case may be, specified in sub-rules (1) or (2). (4) At the end of the 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 — THE ASSAM GAZETTE, EXTRAORDINARY. FEBRUARY 2003 (9) Increment during the period of probation or officiation- 189 (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. (10) Notwithstanding anything contained in sub-rules (1) and (2) 16. PAY. (11) (iii) (M) (V) where validity of the appointment of any person- (a) 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. The pay of all the members of the various cadres of the services shall be as shown in Schedule-A appended to this Rule. 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. The Special Pay/Charge Allowance admissible to different posts shall be such, as shown in Schedule-D 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. 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. The Selection Grade Pay and Super Time Scale Pay for members of the Grade-I of the Service shall be such as shown in THE ASSAM GAZETTE, EXTRAORDINARY, FEBRUARY 17, 2003 191 (ii) The promotion of the officers under the lower Grades in the Service shall be as per the criteria laid down in Schedule-E.

19. RETIREMENT. A. B. 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 every 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 preceding month on attaining the age of 58 years. Notwithstanding anything contained in Clause A above, a Judicial Officer belonging to the Judicial Service, who in the

opinion of the High Court, have the potential to continue with his/her services shall be remedied in service upto 60 years. 11. IV. V. 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 officers' past record of service, character roll, quality of judgements and other relevant matters. 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. 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. 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. An officer shall be deemed to have been denied the benefit of extension unless a specific order to that effect is passed and communicated. L. R's Library THE ASSAM GAZETTE EXTRAORDINARY FEBRUARY 17 2003 193 (2) The members of the Service directly recruited from the Bar to Grade-I 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 service 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) b) c) d) 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; the judge served as a lawyer in the matter in controversy, or lawyer with whom the judge previously practised law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it ; the judge knows that he or she, individually or as a fiduciary, or the judge's spouse parent or child where ever 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; 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 ; ii. iii. iv. is a party to the proceeding, or an officer, director or trustee of a party; is acting as a lawyer in the proceeding; is known by the judge to have interest that could be substantially affected by the proceeding; is to the judge's knowledge likely to be a material witness in the proceeding, THE ASSAM GAZETTE. EXTRAORDINARY. FEBRUARY 17, SCHEDULE- A There shall be three Grades of service, namely:- 2003 195 1 2. 3. 4. 5. 6. 7. 8. 9. 10. 12. 13. (a) Grade-I (b) Grade-II (c) Grade-III. Name & Posts Super Time Scale District & Sessions Judge Selection Grade District & Sessions Judge District & Sessions Judge Additional District & Sessions Judge Registrar General Registrar (I & E) Registrar (A & N.) Spedai Judge Principal Judge, Family Court Presiding Officer, Industrial Tribunal. Presiding Officer Labour Court. Judge, Designated Court. Add. Judge, Designated Court. GRADE-I Posts in Grade-I at Sl. 3 to 10. 25% of Posts in (Schedule at 10. 21 7 1 3 2 1 As may be fixed by the State Government from time to time. THE ASSAM GAZETTE EXTRAORDINARY FEBRUARY 17 2003 197 I. The competitive examination for recruitment to Grade-I of the Service shall consist of - A. FOR DIRECT RECRUITMENT a PROMOTION UNDER LIMITED DEPARTMENTAL PROMOTION. (I) A competitive examination for recruitment to the service in Grade-I 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) One Paper of 100 marks (duration not less than 2 hours) to test the General knowledge, aptitude, - intelligence, test of comprehension and comprehension 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 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 11 and 12). (d). Interview: Viva-voce — 50 marks

2. The Competitive Examination for recruitment to Grade-HI 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. (i) Paper on English - 100 marks. (a) (b) Essay writing, Grammar etc. THE ASSAM GAZETTE, EXTRAORDINARY, FEBRUARY 17, 2003 199 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: Percentage of marks 70 % and above 65 % to 69 % to 64 % 55 60 59 % 45 % to 49 % 40 % to 44 % Below 40 % c Grade value 7 6 5 4 3 2 0 4) After converting the numerical marks of each question into the appropriate grade according to the formula given in first column above, the tabulator will re-convert 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 • The tabulators next task is to add up those Grade 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' y, the grade obtained by the candidate at the examination is If the CGVA is '6', the Grade of the candidate is "A*". 5) 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 THE ASSAM GAZETTE EXTRAORDINARY FEBRUARY 17 2003 SCHEDULE -C 201 Special Pay. 1. — 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. THE ASSAM GAZETTE EXTRAORDINARY FEBRUARY 17 2003 203 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. b) 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 feedback 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 point raised by them. On completion of the above period the trainees will be posted out. L. R's Library THE ASSAM GAZETTE EXTRAORDINARY FEBRUARY 17, 2003 205 APPENDIX- A. (1) 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. (2) 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. (iii) 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. (iv) A Judge shall not allow activity as a member of an organization to cast doubt on 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 on the basis of race, gender, or other protected personal characteristics. Nothing in this paragraph be interpreted to diminish a judge's right to free exercise of religion. THE ASSAM GAZETTE. EXTRAORDINARY. FEBRUARY 17. 2003 207

(x) (a) 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 impairs 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 should 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. (d) A judge shall adopt the usual and accepted methods of doing justice; avoid the imposition of humiliating acts or discipline, not authorised 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 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 THE ASSAM GAZETTE. EXTRAORDINARY: FEBRUARY 17. 2003 209 VI. X. XL. XII. XIII. XIV. A judge should not accept appointment to a governmental committee, commission, or other position without the permission of the High Court in writing. A judge or a candidate for judicial office should not be a member of, or hold any office in, a political party. A judge shall not make speeches on behalf of a political party or endorse a candidate for a political office. A judge shall keep informed about the judge's personal and fiduciary economic interests and a reasonable effort to keep informed about the personal economic interests of the judge's spouse and children residing in the judge's household. A judge shall not conduct any of the judge's extra-judicial 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. 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: a) 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; b) 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