

Uttarkhand Higher Judicial Service Rules, 2004

[As amended by (Amendment Rules), 2005, 2011, 2013 and 2016]

Preamble - In exercise of the powers conferred by Article 233 and the Proviso to Article 309 of the Constitution of India, the Governor, in Consultation with the High Court of Uttarakhand, Nainital makes the following rules-regulating recruitment to posts in, and the conditions of service of persons appointed to the Uttarakhand Higher Judicial Service:-

1. Short title and Commencement. - (i) These Rules may be called the **Uttarakhand Higher Judicial Service Rules, 2004**

(ii) These Rules shall come into force with effect from the date of Publication in the *official Gazette* of Uttarakhand State.

2. Definition. - (a) "*Advocate*" means Advocate defined in the Advocate Act, 1961;

(b) "*Chief Justice*" means Chief Justice of High Court of Uttarakhand;

(c) "*Civil Judge (Senior Division)*" means the Judge appointed under The Bengal, Agra and Assam Civil Courts Act, 1887;

(d) "*Court*" means the High Court of Uttarakhand;

(e) "*Government*" means the Government of Uttarakhand;

(f) "*Governor*" means Governor of Uttarakhand;

(g) "*Judge*" means Judge of the High Court of Uttarakhand;

(h) "*The Service*" means the Uttarakhand Higher Judicial Service;

¹[(i) "*Suitability test*" means oral test which the Court deems fit. - "*Suitability test*" means test as prescribed in Rule 20(iii).]

Part-I

Cadre

3. Status of the Service. - The Uttarakhand Higher Judicial Service is a State Service comprising class I posts.

4. Strength of the Service. - (i) The service shall consist of single cadre comprising the post of District and Sessions Judge and Additional District and Sessions Judges;

(ii) The strength of the Service shall be such as may be determined from time to time by the Governor in consultation with the Court.

(iii) The Strength of the Service, shall, unless varied by orders passed in this behalf, be as specified in Appendix "A".

(iv) The Governor may, from time to time, in consultation with the Court leave any vacancy in the service unfilled or hold in obedience.

Part-II

Recruitment

5. Source of Recruitment. - The recruitment to the service shall be made -

²[(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.

¹ Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

² Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

(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.]

(c) By direct recruitment of Advocates of not less than seven years standing on the first day of January of the year in which the notice inviting applications is published.

6. Quota. - The quota for various sources of recruitment shall be -

³[(a) Sixty-five per cent 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 per cent 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.]

(c) Twenty five percent by direct recruitment from amongst the eligible Advocates on the basis of selection test comprising the written examination and viva-voce test;

Provided that where the number of vacancies to be filled in by any of these sources in accordance with the quota is in fraction, up to half shall be ignored and the fraction of more than half ordinarily be counted as one.

7. Reservation of posts for scheduled caste etc. - Reservation to posts in the service for candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes and others shall be in accordance with the orders of the Government for reservation in force and approved by the Court at the time of direct recruitment.

⁴**8. Number of appointment to be made.** - The Court or the Committee constituted by the Chief Justice shall notify the vacancies on or before 31st March of every year keeping in view the existing vacancies and future vacancies that may arise within one year ending with the concerned calendar year.]

Part-III

Procedure for direct recruitment

9. Nationality. - A candidate for recruitment to the service must be a citizen of India under Part II of the Constitution.

10. Proficiency of English and Hindi. - A candidate for recruitment to the service must possess a thorough knowledge of Hindi (in Devnagri Script) and English.

11. Age. - A candidate for direct recruitment must have attained the age of 35 years and

³ Substituted by Not. No. 121/XXX(4)2016-04(03)/2016 Dt. 25.02.2016

⁴ Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

must not have attained the age of 45 years and must not have attained the age of 45 years on the first day of January of the year in which the notice inviting applications in published;

Provided that candidates belonging to Scheduled Caste, Scheduled Tribes and such other categories may be notified by the Government from time to time shall be entitled for relaxation in age according to rules are applicable at the relevant time.

12. Character. - The character of a candidate for direct recruitment must be such as to render him suitable in the opinion of the Governor, in all respect for appointment to the service.

13. Marital status. - A candidate who has more than one living spouse at a time shall not be eligible for appointment.

14. Physical Health. - (i) The candidate selected for direct recruitment for appointment shall be required to be examined by Medical Board especially constituted for the purpose, who will certify the mental and bodily fitness of the candidate for efficient performance of duties. Any candidate not found fit by Medical Board shall not be entitled appointment.

(ii) Any candidate not found fit by the Medical Board shall have a right to be re-examined by the another Medical board especially constituted by the Director, Medical & Health & Family planning, Uttarakhand whose decision in shall be final.

15. Direct recruitment. - (i) Application for direct recruitment to the service shall be invited by the court through advertisement to that effect in at least two leading newspapers having wide circulation in the State.

(ii) The syllabus for competitive examination shall as prescribed in Appendix "B".

16. Fee. - The applications shall be deposited with requisite fee. Any application shall liable to be rejected, it made without the requisite fee.

17. Procedure of selection. - (i) That the examination shall be conducted by the Court through the Chief Justice or committee constituted by the Chief Justice for the purpose.

(ii) That the Court or the Committee, as the case may be, may short list the candidates for selection test in the manner by Preliminary examination or in any other manner as it thinks fit.

5[(iii) That keeping in view the number of vacancies as list of vacancies shall be prepared by the committee on the basis of written examination for viva-voce. Subject to general category candidates obtaining minimum 40 percent marks in each paper and minimum 50 percent marks in aggregate and reserved category candidates getting minimum 30 percent marks in each paper and minimum 40 percent marks in aggregate in the said examination. Normally candidates thrice the number of vacancies should be called for viva-voce.]

(iv) The Chief Justice shall constitute a Board comprising the judges of the Court and any other person having professional ability for judging the personality. After interview/viva-voce a final list of candidates shall be prepared by the committee constituted for conducting the examination and merit list shall be prepared by adding the marks of written test and viva-voce.

Part-IV

Procedure for recruitment by promotion

⁶[**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.

⁵ Substituted by Notification Misc. June 05, 2013

⁶ Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

(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.]

719. Scrutiny and Test. - [(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.]

Part-V

Promotion of members of the Uttarakhand Judicial Service

8[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 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 judgements 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 judgements delivered by the officers.

Provided that where the concerned Judicial Officer is working on a post in which he does not have to write judgements 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 judgements.

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 judgements '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 judgements 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 | - 30 marks |

⁷ Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

⁸ Amended by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

Reports for the last five years

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 5 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 to 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 officer 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.]

Part- VI

21. Forwarding of Select List. - List of selected candidates/officers prepared under Rule 17, 18 & 19 by the court shall be forwarded to the Governor for appointment.

⁹ **[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, he 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.]

⁹ Substituted by Not. No. 121/XXX(4)2016-04(03)/2016 Dt. 25.02.2016

23. Probation. - (i) The candidate shall on appointment be placed on probation for period of two years:

Provided that in appropriate cases the Court may extend the period of probation for one more year.

(ii) If it appears to the court at any time during or at the end of the period of probation, or at extended period of probation, as the case may be, that a probationer has not made sufficient use of his opportunities or has otherwise failed to give satisfaction, it may make suitable recommendations to the Governor whereupon the Governor may revert the probationer to his substantive post, if any, or if he does not hold a lien on any post, his services may be dispensed with.

(iii) A person whose services are dispensed with or who is reverted under sub-rule (3) shall not be entitled to any compensation.

24. Confirmation. - A probationer shall be confirmed in his appointment at the end of his period of probation or at the end of the extended period of probation if the Court is satisfied that he is fit for confirmation.

25. Appointment and confirmation to the notified in Gazette. - All appointments and confirmations under these rules shall be notified in the State Gazette.

¹⁰[**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.]

¹¹[**26. ***.**]

Part-VII

Miscellaneous Provisions

27. Grant of the Selection Grade and Super time Scale. - (i) 25% of the cadre post of the Higher Judicial service, who have put in not less than five years of service in the cadre the court may grant the selection grade amongst the members of the service on the basis of merit-cum-seniority.

(ii) Super time scale will be available to the extent of 10 percent of the strength of the Cadre to the Selection Grade officers who have put in not less than three years of Continuous service in Selection Grade.

28. Scale of pay. - The scale of pay admissible to the persons appointed the service, whether in substantive or officiating capacity or as a temporary measure, shall be as shown in Appendix

¹⁰ Substituted by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

¹¹ Deleted by Not. No. 121/XXX(4)/2016-04(03)/2016 Dt. 25.02.2016

"D".

29. Fixation of pay. - (i) The initial pay of an officer promoted to the service from the Uttaranchal Judicial Services shall be fixed at the stage next above the amount equal to the officers pay, or presumptive pay in the ordinary time scale of the Uttarakhand Judicial services, plus an increase at the rate of one increment in the time-scale of the Higher Judicial service for every three years of service in the Uttarakhand Judicial Services subject to a minimum increase of 600/ -

Provided that when with the prescribed increase as aforesaid, the figure arrived at corresponds to stage in the time scale for the service, the pay shall be fixed at that stage and not at the next higher stage.

(ii) In addition to the pay, which may be drawn by a member of the Service under this rule, he shall while holding a special post, receive the special pay also as may be admissible for such post.

30. Regulation of other matters. - In regards to the matters not specifically covered by these rules or by special order, persons appointed to this service shall be governed by the rules, regulations and orders applicable generally be Government Servants serving in connection with the affairs of Uttarakhand State.

31. All the officers allocated by the Central Government vide notification no. 27/2/2000 S.R. (s) dated 22.09.2003 (Order no. 3/2003) and other officers appointed by the Government before commencement of these rules thereafter, shall be deemed to have been appointed in the regular cadre of Higher Judicial Service in the State of Uttarakhand.

32. The Uttar Pradesh Higher Judicial Service Rules, 1975 is hereby repealed in its application to the State of Uttarakhand.

Appendix "A"
[See Rule 4 (3)]

The Strength of the Service is as follows: -

1.	District Session Judge	36
2.	Fast Track Court's Additional District & Sessions Judge	36
3.	Special Posts (Deputation)	20

Note: - The posts created in Higher Judicial Service Cadre by the Government from time to time after the Commencement of these Rules shall be counted towards the strength of service.

Appendix "B"
[See Rule 4 (3)]

Papers - Direct recruitment of H.J.S.

Paper No. 1	100 Marks
It will be divided into two parts:-	
Part-1	50 Marks
Current Affairs, Indian Legal History, Legal Maxims, Medical Jurisprudence, Basic Computer Operation, Legal Phraseology.	
Part-2 (Language)	50 Marks
(i)	Essay in English;
(ii)	Precis writing in English;
(iii)	Translation of Hindi to English and English to Hindi specially containing the legal phrases;
Paper No. 2	100 Marks
The questions will be restricted to the filed concerning :-	
(1)	Civil Law 40 Marks
(2)	Criminal Law 40 Marks
(3)	Constitutional Law 20 Marks
Paper No. 3	
(1)	Indian Evidence Act, 1972 30 Marks
(2)	The Code of Civil Procedure, 1908 30 Marks
(3)	Code of Criminal Procedure, 1973 30 Marks
(4)	Legal Drafting, i.e. Framing of Charges, Issues and Judgment writing, etc. 10 Marks
Viva-Voce	100 Marks

Appendix "C"
[See Rule 19]

Syllabus for limited Competitive Examination -

Paper No. 1		100 Marks
(1)	Civil Law	30 Marks
(2)	Criminal Law	30 Marks
(3)	Constitutional Law	20 Marks
(4)	Procedural Law	20 Marks
		50 Marks

Paper No. 2

(Language)

- (1) English Essay writing.
- (2) Translation of Hindi to English and English to Hindi Specially containing the legal phrases.
- (3) Precis writing in English

Viva-Voce

50 Marks

Appendix "D"
[See Rule 28]

Scales of Pay for Higher Judicial Service

- (1) District Judges (EntryRs. 16750-400-19150-450-20500 Level)
- (2) District JudgesRs. 18750-400-19150-450-21850-500-22850 (Selection Grade)
- (3) District Judges (Super Time Scale)