

THE JAMMU AND KASHMIR HIGH COURT STAFF (CONDITIONS OF SERVICE) RULES, 1968

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[Made by the High Court with approval of the Governor and published in Govt. Gazette, dated 20th July, 1968]

In exercise of the powers conferred by section 103 of the Constitution of Jammu and Kashmir, the High Court of Jammu and Kashmir with the approval of the Governor of Jammu and Kashmir State, hereby make the following rules, regulating the conditions of service of the persons serving on the staff attached to the High Court including their salaries, allowances, leave and pension.

PART I

1. Short title and commencement

(1) These rules may be called the Jammu and Kashmir High Court Staff (Conditions of Service) Rules, 1968.

(2) These shall come into force with effect from the date of their publication in the Jammu and Kashmir Government Gazette.

2. Definitions

In these rules, unless there is something repugnant in the subject or the context,-

- (a) 'Governor' means the Governor of Jammu and Kashmir;
- (b) 'Chief Justice' means the Chief Justice of the High Court of Jammu and Kashmir;
- (c) 'High Court' means the High Court of Jammu and Kashmir;
- (d) 'State' means the State of Jammu and Kashmir;
- (e) 'Government' means the Government of Jammu and Kashmir.

3. Interpretation

Any doubt regarding the interpretation of these Rules shall be decided by the Chief Justice whose decision shall be final.

PART II—CONDITIONS OF SERVICE

4. Appointment and promotions

All appointments to the staff of the High Court including promotions shall be made by the Chief Justice. The Chief Justice may, however, delegate any of the powers of appointment other than those of the Gazetted Officers to the Registrar or to any Judge of the High Court.

COMMENTS

Appointment of Head Assistants — Adjustments of respondents

Impugned order read with Note 1 and Note 2 does not make it mere temporary adjustment for smooth functioning of the Registry, as it is claimed to be in the memoranda of appeals — Adjustment on the higher post entitles the beneficiaries to charge allowance and even makes room for their regularization/appointment on the higher post, if they attain qualification/experience prescribed for the

post — Impugned order in effect promotes the appellants to the next higher post and is required to satisfy the requirements of High Court order No. 579 dated 24.10.2008 — Appellants in LPA no. 45/2010 and 84/2010 can not label the order as mere adjustment without any consequential benefits to the appellants — Condition that the adjustment "shall not confer any right on the concerned officers/officials to hold the post on permanent regular basis" is meaningless and does not change the consequences that to flow out of the order — In view of the stipulation that the appellants shall "be entitled to charge allowance as may be admissible to them under rules" and "they can be considered for their regularization/ appointment on higher post only, if they attain qualification and experience prescribed for the post" leave no scope for disagreement with Writ Court that the order impugned in the petition in effect promoted the appellants to the higher post dehors the criteria lay down under High Court order No. 579 dated 24.10.2008 — Appeals dismissed.—*Bhawani Prasad & Ors. v. Rajesh Kumar & Ors.* 2011 (4) JKL 202[HC]

5. Strength of staff

Each class and category of the staff shall consist of and at present consists of posts (permanent and temporary) as are set-out in the Schedule annexed hereto subject to any additions thereto or modifications thereof as may from time to time be fixed by the Chief Justice with the approval of the Governor.

6. Qualifications and mode of recruitment

The Chief Justice may from time to time lay down the qualifications of a member of service and determine the mode of recruitment.

COMMENTS

Qualification of Reader

Reader appointed in High Court should have the minimum qualification of law graduation as provided under rules, which has not been waived.—*High Court of Jammu & Kashmir through Registrar General v. Yash Pal Sharma* 2002 KLJ 190.

Eligibility to post of Head Assistant

Graduation, with two years experience, by promotion from amongst Senior Assistants on basis of seniority cum merit Note 2 empowered Chief Justice to relax prescribed qualifications only in case of those officials who had entered service before April 25, 1987 — Registrar General mooted proposal of adjustment of respondents as Head Assistants by relaxation of Order No. 579. All respondents had entered service after April 2, 1987 — Matter placed before Judges' Committee who while recommending adjustment of respondents as Head Assistants did not make any recommendation for affecting change in mode of recruitment and promotion as suggested by Registrar General. Adjustment of respondents approved by Acting Chief Justice — Adjustment order challenged by Senior Assistants senior in service to respondents — Allowing writ petition, Held : (1) Petitioners had right to invoke extra ordinary writ jurisdiction notwithstanding any prior representation, affecting their right to consideration for post of Head Assistant; (2) Seniority no doubt relevant for consideration to post of Head Assistant, ineligible Senior Assistant cannot claim consideration on basis of seniority; (3) Power of Chief Justice for relaxation not absolute and is exercisable only in case of those officials who had entered service before April 25, 1987; (4) Order adjusting respondents as Head Assistant is unjustified and against rules and thus not sustainable.—*Rajesh Kumar & Ors. v. High Court of J&K & Ors.* 2010 (2) JKL HC-28

7. Pay, duty allowance and special pay

The rates of scales of pay, duty allowance and special pay to which holders of the post specified in the second column of the Schedule are respectively entitled shall be those specified in the fourth and fifth columns of the Schedule annexed hereto and as may be modified from time to time by the Government.

8. Special pay, duty allowance to members of the staff

A member of the High Court staff shall be entitled to such special pay or duty allowance as may be sanctioned from time to time by the Chief Justice with the previous approval of the Governor in addition to the pay to which he is entitled.

9. Increments

The staff of the High Court is on a time scale and shall be entitled to periodical increments as a matter of course unless the same is on the recommendation of the Registrar, withheld by the Chief Justice for unsatisfactory work or conduct.

10. Seniority

(1) The seniority of a member of the High Court staff shall be determined from the date of his first appointment to a substantive post. When appointments are made to a class or category of posts carrying the same scale of pay by the same order, the Chief Justice shall determine the inter se seniority of the persons so appointed.

(2) An official shall be treated as having worked in any post during any period in respect of which it is certified that he would have so worked but for his absence on leave, his tenure of special appointment or other exceptional circumstances.

The Chief Justice may from time to time declare any Gazetted post or a Non-Gazetted post of classes I and II as a selection post:

Provided that where a Gazetted post is to be filled in by a member of the State Judicial Service, such declaration shall be made by the Court.

11. Compulsory Retirement

Every member of the staff of the High Court shall retire on attaining the age of 55 years but the Chief Justice may in exceptional circumstances which must be recorded in writing retain a member in service up to the age of 58 years.

Notwithstanding anything contained in the above rule, the Chief Justice may require any person serving on the staff of the High Court, other than the one included in Class IV of the Schedule annexed hereto, to retire at any time after he has completed 25 years/50 completed six monthly periods of qualifying service or on attaining 50 years of age, if such retirement is considered necessary in the public interest, provided that the Chief Justice shall give in this behalf a notice in writing to the person concerned at least three months before the date on which he is required to retire:

Provided further that such person shall be granted pensionary benefits admissible under the Jammu and Kashmir Civil Service Regulations on the basis of qualifying service put in by him and if at the date of such retirement on attaining 50 years age, the person concerned has not completed 25 years of qualifying service, he shall be granted pensionary benefits on the basis of qualifying service equal to 25 years or such service as he would have put in, had he retired at the normal age of superannuation namely 55 years, whichever may be less, on the emoluments qualifying for pension drawn by him before the date of such retirement.

12. Voluntary retirement

A person serving on the staff of the High Court may voluntarily retire from service at any time after completing 25 years/50 completed six monthly periods of qualifying service or 50 years of age, provided that he shall give in this behalf a notice in writing to the pension sanctioning authority at least three months before the date he wants to retire:

Provided that such officer shall not be entitled to pensionary benefits in excess of those admissible to him under the Jammu and Kashmir Civil Service Regulations on the basis of qualifying service rendered by him:

Provided further that the right conferred under this rule shall not be available to an officer who has been placed under suspension and/or against whom some

enquiry or investigation is pending or is contemplated on any charge of administrative or criminal nature.

Note 1 : A person serving on the staff of the High Court who opts for voluntary retirement after 25 years qualifying service will not be permitted to retire under this rule until after the fact that the person concerned has completed 25 years qualifying service has been verified in consultation with the Accountant General.

Note 2 : A person serving on the staff of the High Court who has elected to retire under this rule and has given necessary intimation to the effect to the competent authority shall be precluded from withdrawing his election subsequently except with the specific approval of the authority competent to fill the appointment, provided his request for withdrawal is made within the intended date of retirement and he is in a position to establish that there has been a material change in the circumstances in consideration of which the notice was originally given.

13. Leave and pension etc

(1) Subject to any special provisions contained in these rules, the rules and orders for the time being in force and applicable to Government servants of corresponding classes in the service of the Government of Jammu and Kashmir, shall regulate the conditions of service of persons serving on the staff attached to the High Court:

Provided that the powers exercisable under the said rules and orders by the Governor of Jammu and Kashmir State, or Government of Jammu and Kashmir State or by any authority subordinate to the Governor or the Government shall be exercisable by the Chief Justice or by such person as he may, by general or special order, direct.

(2) Any question arising as to which rules or orders are applicable to the case of any person serving on the staff attached to the High Court shall be decided by the Chief Justice whose decision shall be final.

14. Crossing of Efficiency Bar

No member of the High Court Staff shall be allowed to cross the efficiency bar prescribed in the scale unless,—

- he possesses the qualifications, if any, prescribed for holding the scale, and
- his confidential rolls for the last three years have been good, or
- his work and conduct is certified to be good by the appointing authority:

Provided that in case of Gazetted posts for which the incumbents are drawn from the Judicial Service of the State, appointing authority shall also consult other Judges of the Court.

15. Undertaking Business, Trade etc

No member of the Staff shall undertake any business, trade or employment, directly or indirectly, without obtaining the previous permission of the Chief Justice.

16. Maintenance of confidential roll etc. and their communication

(1) A confidential roll shall be maintained for each Gazetted Officer of the staff and a character roll for each member of the ministerial clerical staff and a service roll for each member of the inferior staff. Entries shall be made therein annually by

the Chief Justice in case of Gazetted Officer and by the Registrar in case of other staff on the basis of personal knowledge. In case of Readers, Bench Clerks and P. A. cum-Stenos the remarks of the Chief Justice or the Judge having special knowledge of their work will also be incorporated in their character rolls. The Deputy Registrar will also furnish his remarks to the Registrar in regard to the staff working in the Court Bench. In case of inferior staff service rolls shall be maintained and entries shall be made by the Registrar annually in their service books.

(2) Adverse confidential rolls or character rolls or service rolls shall be communicated to the concerned officer or member of the ministerial clerical staff or member of the inferior staff, as the case may be.

17. Declaration of assets and liabilities

All Gazetted Officers and Non-Gazetted ministerial clerks shall submit their declaration of assets and liabilities annually in the form prescribed for other Government servants. The Registrar shall submit his declaration to the Chief Justice and other members of the staff to the Registrar of the Court in sealed covers.

18. Penalties

The following penalties may for good and sufficient reasons and as hereinafter provided be imposed by the Chief Justice upon members of the High Court staff, namely:—

- Censure;
- Fine in case of members of inferior staff;
- Withholding of increments or promotion including stoppage at efficiency bar;
- recovery from pay of the whole or any part of the pecuniary loss caused to the State Government or the Central Government or to any local authority by negligence or breach of orders;
- reduction to a lower rank in the seniority list or to a lower post or time scale;
- removal from service;
- dismissal from service.

Explanation.—

I. The discharge—

- or a person appointed on probation, before the expiry or at the end of the prescribed or extended period of probation; or
- of a person engaged under contract, in accordance with the terms of his contract; or
- of a person appointed otherwise than under contract to hold a temporary appointment, on the expiration of the period of the appointment;

shall not amount to removal or dismissal within the meaning of this rule.

II. The removal of a person from the service shall not disqualify him from future employment but the dismissal of a person from the service shall ordinarily disqualify him from future employment.

III. The retirement of a member of the staff on the completion of the age of superannuation or otherwise in accordance with the provisions of these rules and Civil Service Regulations for the time being in force shall not amount to compulsory retirement within the meaning of this Rule.

19. Procedure for imposing penalties

(1) All forms of punishment may be imposed on the members of the High Court Staff by the Chief Justice:

Provided that in case of a Gazetted Officer drawn from the State Judicial Service, he shall consult other Judges of the Court.

(2) In every case where it is proposed to impose on a member of the staff any of the penalties specified in items (i), (ii), (iii) and (iv) of rule 18 above he shall be given a reasonable time, not generally exceeding one month for any representation that he may desire to make and such representations, if any shall be taken into consideration before the order imposing the penalty is passed:

Provided that the requirements of this sub-rule may, for sufficient reasons to be recorded in writing, be waived when there is genuine difficulty in observing them and they can be waived without injustice to the person concerned.

(3) When it is proposed to impose on any member of the staff any of the penalties specified in items (v), (vi) and (vii) of rule 18 above, the rules and orders regulating inquiries into allegations against servants of the State Government under the Jammu and Kashmir Civil Service (Classification, Control and Appeal) Rules, 1956, shall apply with necessary modifications and adaptations to inquiries into conduct of members of the staff attached to the High Court. Such inquiries may be ordered by the Chief Justice and shall be conducted by such Judge of the High Court or officer as may be authorised by him.

20. Appeals

(1) Every member of the staff shall be entitled to appeal from an order passed by the Chief Justice imposing upon him any of the penalties specified in rule 18 items (v), (vi) and (vii) above.

(2) An appeal against the order of the Chief Justice shall lie to a Committee of two Judges constituted by the Chief Justice. The order of the Chief Justice or, as the case may be, of the Committee of Judges shall be final.

(3) Every person preferring an appeal shall do so separately in his own name.

(4) Every appeal preferred under these rules shall contain all material statements and arguments relied upon by the appellant and shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal shall be addressed to the Chief Justice through the Registrar. The Chief Justice shall on receipt of the said appeal constitute a Committee of two Judges to hear the appeal.

(5) The appellate authority shall pass such order as it may think fit and proper.

SCHEDULE STRENGTH OF HIGH COURT STAFF, THEIR PAY, DUTY ALLOWANCE AND SPECIAL PAY.

Category of post	Title of post	No. of posts sanctioned	Scale of pay	Duty allowance or special pay
Gazetted Officers				
CLASS I				
(i)	Registrar	1	850-50-1350	Duty allowance of Rs. 100 per mensem.
(ii)	Special Officer (Temporary)	1	do	do.
CLASS II				
(i)	Deputy Registrars (one temporary)	2	500-30-620-40-700-EB-50-1100	Duty allowance of Rs. 50 per mensem for the permanent Deputy Registrar.
(ii)	Secretary to Chief Justice (Temporary)	1	do.	Rs. 100 duty allowance per mensem
CLASS III				
(i)	Assistant Registrar (Temporary)	1	300-25-450-EB-30-600-35-700	
Non-Gazetted (Ministerial Clerical Staff)				
CLASS I				
(i)	Superintendents (one post temporary)	2	215-15-245-20-325-EB-25-450	
(ii)	P.A.-cum-Steno to Chief Justice	1	do	Duty Allowance of Rs. 50 per mensem.
(ii)	P.A.-cum-Steno to Puisne Judges and Ad hoc Judges (two posts temporary)	4	150-15-270-EB-20-350-EB-25-450	Duty allowance of Rs. 30 per mensem.

Note : For the revised pay scale refer to SRO-75 dated 30th March, 1992.

Category of posts	Title of post	No. of posts sanctioned	Scale of pay	Duty allowance or special pay
CLASS II				
(i)	Readers	...	200-15-260-EB-20-300-EB-20-400 (Admissible for Law Graduates otherwise the scale will be 140-7-175-EB-10-275)	...
(ii)	Librarian	1	200-15-260-EB-20-300-EB-20-400 (Admissible for Law Graduates otherwise the scale will be 140-7-175-EB-10-275). The incumbent of the post of Librarian existing on 1-11-67 will carry the revised scale of 200-400 as above in his personal capacity.	...
(iii)	Additional Librarian	1	200-15-260-EB-20-300-EB-20-400 (Admissible for Law Graduates)	...
(iv)	Head Assistants	3	140-7-175-EB-10-275	...
(v)	Senior Translator	1	do.	...
(vi)	Additional Translator (Temporary)	1	do.	...
(vii)	Supervisor	1	do.	...
(vii)	Accountant	1	do.	...

Category of post	Title of post	No. of posts sanctioned	Scale of pay	Duty allowance or special pay
(ix)	Nazir	1	140-7-175-EB-275	...
(x)	Relieving Steno	1	do.	...
(xi)	Steno to Special Officer (Temporary)	1	do.	...
(xii)	Bench Clerks (Temporary)	2	do.	...
CLASS III				
(i)	Senior Assistant	17	100-6-130-EB-8-170-EB-10-220	...
(ii)	Typists (Temporary)	2	do.	...
(iii)	Junior Assistants (Two posts temporary)	5	75-5-115-EB-7-150	...
(iv)	Routine Clerks	2	70-5-100-EB-5-135	...
Inferior Staff				
CLASS IV				
	Jamadars (Two Temporary)	5	65-2-85-3-100	...
	Orderlies (Four Temporary)	20	65-1-75-2-85	...