

The Orissa Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 285 CUTTACK, MONDAY, MARCH 16, 1998/FALGUNA 25, 1919

HOME DEPARTMENT

NOTIFICATION

The 7th March 1998

No. 11981—P. I. C./1-59/97-P. R.—In exercise of the powers conferred by the proviso to article 309 of the Constitution of India read with Sections 24 and 25 of the Code of Criminal Procedure, -1973 (2 of 1974), the Governor of Orissa has been pleased to make the following rules to regulate the recruitment and conditions of service of the Orissa State Prosecution Service, namely :—

THE ORISSA STATE PROSECUTION SERVICE RULES, 1997

1. *Short title and commencement*

- 1.1. These rules may be called the Orissa State Prosecution Service Rules, 1997.
- 1.2. They shall come into force on the date of their publication in the *Orissa Gazette*.

2. *Definitions*

2.1. In these rules, unless the context otherwise requires—

- (a) 'Commission' means the Orissa Public Service Commission
- (b) 'Government' means Government of Orissa
- (c) 'Appointing Authority' means the Government of Orissa in Home Department in respect of all the posts in Group 'A' and Group 'B' Service.
- (d) 'Board' means the Selection Board constituted under rule 9 and 10 of those rules.
- (e) 'Direct recruit' means a person recruited and appointed to the Service from the open market.
- (f) 'Department' means the Home Department
- (g) 'Head of the Department' means the Director of Public Prosecution
- (h) 'Service' means the Orissa State Prosecution Service

- (i) 'Scheduled Castes and Scheduled Tribes' means such Castes and Tribes as notified by the president of India under Article-341 and 342 of the Constitution of India, respectively.
- (j) 'Socially and Educationally Backward Class' means such class as mentioned in the notifications issued by the Government in Welfare Department for the purpose from time to time in *Orissa Gazette*.
- (k) 'State' means the State of Orissa.
- (l) 'Select list' means the list approved by the appointing authority containing the names of incumbent considered suitable for appointment/promotion, as the case may be.
- (m) 'Year' means the Calendar Year.

2.2. All other words and expressions mentioned but not specifically defined in these rules, unless the context otherwise requires, shall have the same meaning as respectively assigned to them in the Orissa Service Code.

3. Constitution of Service

3.1. The service shall consist of the following hierarchical cadres in that order :—

- (a) Assistant, Public Prosecutor in Group 'B' Service
- (b) Additional Public Prosecutor in Group 'A' Service
- (c) Public Prosecutor in Group 'A' Service
- (d) Deputy Director of Public Prosecution in Group 'A' Service
- (e) Joint Director of Public Prosecution in Group 'A' Service
- (f) Director of Public Prosecution in Group 'A' Service

4. Method of Recruitment

4.1. Recruitment of Assistant Public Prosecutor in Group 'B' posts :—

Recruitment to the cadre of Assistant Public Prosecutor in Group 'B' service shall be made by the Orissa Public Service Commission by way of direct recruitment from the open market.

4.2. Recruitment to Group 'A' posts :

Recruitment to the cadre of Additional Public Prosecutor in Group 'A' service shall be made by way of promotion from the cadre of eligible Assistant Public Prosecutors, who have put up not less than eight years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.

4.3. Recruitment to the cadre of Public Prosecutor shall be made in the following manner :—

- (a) 75% of the vacancies arising in the cadre, every year shall be filled by way of promotion from the rank of Additional Public Prosecutors, who have put up not less than five years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.
- (b) 25% of vacancies arising in the cadre every year shall be filled by way of direct recruitment from the open market through the competitive recruitment examination to be conducted by the Orissa Public Service Commission.

4.4. Recruitment to the cadre of Deputy Director of Public Prosecution shall be made by way of promotion from the rank of public Prosecutors, who have put up at least five years of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.

4.5. Recruitment to the cadre of Joint Director of Public Prosecution shall be made by way of Promotion from the cadre of Deputy Director of Public Prosecution, who have completed at least one year of continuous service in that cadre. This will be done in consultation with the Orissa Public Service Commission.

4.6. Recruitment to the cadre of Director of Public Prosecutions shall be made by way of deputation from the Orissa Superior Judicial Service (Senior Branch).

5. Eligibility criteria for direct recruits

5.1. In order to be eligible for direct recruitment to Group 'B' and 'A' services under Rule 4.1 and 4.3 (ii) of these Rules candidate must fulfil the following general conditions—

- (i) He must be a citizen of India
- (ii) He must be able to speak, read and write Oriya and must have passed either the Middle School standard language test in Oriya conducted by the Director of Secondary Education, Orissa or the Matriculation (Class-X/10th standard) Examination with 'Oriya' as a subject.
- (iii) He must have good character and satisfactory antecedents as revealed by the Police Verification.
- (iv) He must have sound health/good physique, active habits and free from organic defects or bodily/mental infirmity.
- (v) He must not have more than one spouse living
- (vi) He must possess a good character as certified by two responsible citizens of India, one of whom must be a Government Servant not below Group 'B' service.
- (vii) He must possess a Bachelor's degree in law from a recognized university.

5.2. Additional eligibility criteria for direct recruitment to Group 'B' service under Rule 4.1 above—

- (i) He must not be above the age of 35 years on the 1st day of January in which the notification for recruitment is issued.
- (ii) He should have at least seven years of experience as practising advocate

5.3. Additional Eligibility criteria for direct recruitment of Group 'A' Service under rule 4.3 (ii) above—

- (i) He must not have completed the age of 45 years on the first day of January in which the Notification for recruitment is issued.
- (ii) He should have at least 15 years of experience as practising Advocate.

5.4. The upper age limit prescribed in sub-rules 5.2 and 5.3 above shall be relaxed in respect of S. C./S. T./Socially and Educationally backward classes/Women candidates/Sportsmen/Ex-servicemen as per the provisions made by the Government in this respect from time to time:

Provided that in case of candidate falling in more than one of the categories mentioned in sub-rule 4 above, he/she will be eligible to claim only one of the age relaxation prescribed, whichever is more beneficial to him/her.

6. Notification of vacancies for direct recruitment

6.1. Every year during the month of December, the Government in Home Department shall notify the available and anticipated vacancies for the next year (indicating the reservation for the various categories) to the Orissa Public Service Commission for direct recruitment to the cadres of Assistant Public Prosecutor in Group 'B' and Public Prosecutor in Group 'A' service.

6.2. On receipt of such intimation as mentioned in sub-rule (i) above, the Commission shall take steps to conduct the concerned recruitment examinations by making advertisement as per the syllabus and plan of examination to be determined by them in consultation with the Government in Home Department.

6.3. The names recommended for direct recruitment shall not exceed the number of vacancies notified as in sub-rule 1 above.

7. Method of recruitment by promotion

7.1. The Appointing Authority shall determine the existing and anticipated vacancies during the course of the year and prepare a list of eligible officers coming within the zone of consideration and the said list will be placed before the Board along with their C. C. Rs. and service record for the last five years for consideration of their promotion to next higher cadre.

7.2. The respective Board for promotion to Group 'A' services may meet at least once in a year, preferably in the month of January, and prepare the list of officers considered and found suitable for promotion.

7.3. The process of promotion, *inter alia*, shall be governed by the following rules and other instructions issued from time to time by the Government :—

(i) The Orissa Civil Services (Criteria for Promotion) Rules, 1992

(ii) The Orissa Civil Services (Zone of Consideration) Rules, 1988

(iii) The Orissa Reservation of Vacancies Act, 1975 the rules, orders and instructions issued by the Government in appropriate Department from time to time.

(iv) General Administration Department Office Memorandum No. 3928, dated 18-2-1994 and No. 14640, dated 4-7-1995 dealing with the 'Sealed Cover' Procedure.

✓ 7.4. The list of the officers considered and found suitable for promotion to Grade 'A' service shall be sent along with the necessary Service records of the officers to the Orissa Public Service Commission in the prescribed manner for their recommendations.

8. The Select List

8.1. The list of the officers considered and found suitable for promotion and recommended by the Orissa Public Service Commission and as approved finally by the Government in Home Department shall be treated as the select list for appointment to the service.

8.2. The names of the officers in the select-list shall be arranged in order of merit. The select list shall not contain the names more than the existing and the anticipated vacancies as determined under rule 7.1 above.

8.3. The select list will remain valid for a period of one year from the date of its approval by the Government.

9. Constitution of the Selection Board for Group 'A' Service

9.1. Selection of candidates to the cadre of Additional Public Prosecutor by way of promotion shall be made by the Selection Board consisting of the following members namely :—

- (i) Secretary to Government, Home Department .. Chairman
- (ii) Director-General & Inspector General of Police, Orissa Member
- (iii) Legal Remembrancer and Additional Secretary to Government, Law Department. Member
- (iv) Director of Public Prosecution, Orissa .. Member
- (v) Special Secretary/Additional Secretary/Joint Secretary to Government, Home Department dealing with the subject. Member-Convenor

10. Constitution of the Selection Board for Group 'A' Service

Selection of candidates for appointment to the cadre of Public Prosecutor and Deputy Director of Public Prosecution and Joint Director of Public Prosecution shall be made by the Selection Board consisting of the following Members namely :—

- (i) Chief Secretary to Government of Orissa .. Chairman
- (ii) Secretary to Government, Home Department .. Member
- (iii) Secretary to Government, Law Department .. Member
- (iv) Director-General and Inspector-General of Police, Orissa. Member
- (v) Director of Public Prosecution, Orissa .. Member-Convenor

11. Probation and Confirmation in Service

11.1. Every person on appointment to a cadre in the Service shall be on probation for a period of two years in case of direct recruitment and one year in case of promotion.

11.2. The probation period shall not include the following :—

- (a) Extraordinary leave
- (b) Period of unauthorised absence
- (c) Any other period for which the person concerned is held not to be on actual duty.

11.3. The appointing authority may extend the period of probation or terminate the service of a person appointed on probation in case of a direct recruit or revert him/her to his/her previous post in case of a person appointed by promotion, during the period of his/her probation, if the work and conduct of the person is found to be unsatisfactory.

11.4. A person appointed to a Post in the service may be confirmed against a substantive post, if available, on successful completion of the probation period and on passing of the Departmental Examination, if any, prescribed by the Government.

12. Determination of inter se seniority and preparation of Gradation List

12.1. The appointing authority shall maintain the Gradation lists separately for each of cadres mentioned in Rule-3.

12.2. The Gradation list will contain the name, date of birth, academic qualifications, date of joining in the cadre and the date of confirmation, if any.

12.3. The *inter se* seniority of the direct recruits shall be determined as per the position assigned to them in the Merit list prepared by the Orissa Public Service Commission irrespective of the date of their joining.

12.4. The *inter se* seniority of the promotees in each cadre shall be determined as per the position assigned to them in the Select list basing on which they were promoted, irrespective of the date of their joining.

12.5. The seniority of the promotees and direct recruits will be determined as follows :—

The promotees of a year (i. e., the year in which the Select list is approved) shall be placed above the direct recruits of that year (i. e., the year in which the merit list of the recommended candidates is received from the O. P. S. C.), irrespective of the date of their joining in the post.

13. Reservation

Notwithstanding anything contained in these rules, reservation of vacancies set apart for being filled up by direct recruitment and promotees in favour of candidates belonging to Scheduled Castes, Scheduled Tribes, for recruitment to the service, shall be made in the manner as prescribed in the Orissa Reservation of Vacancies in the posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 and the rules made thereunder. Similarly, the recruitment for the post reserved for Socially and Educationally Backward Classes, Women, Physically Handicapped persons, Sportsmen and ex-Servicemen shall be made as per rules, instructions etc., issued by the Government in the appropriate Department from time to time.

14. Allotment of Duties

14.1. An Assistant Public Prosecutor may be attached to one or more Magisterial Courts.

14.2. An Additional Public Prosecutor or Public Prosecutor may be attached to one or more Courts of Sessions.

14.3. The Public Prosecutor of the District may allot Courts to the Assistant Public Prosecutors and Additional Public Prosecutors posted in the District to conduct Cases in Criminal Courts.

14.4. Notwithstanding anything in the preceding sub-rules the Director of public Prosecution shall have the over all control/supervision in the matter of allotment of duties to the cadres.

15. Accountability

15.1. For the Performance in the Courts—

(a) The Assistant Public Prosecutors and Additional Public Prosecutors shall be answerable to the Public Prosecutors of the District.

(b) The Public Prosecutor shall be answerable to the Deputy/Joint Director of Public Prosecution ; and

(c) The Director of Public Prosecution shall be answerable to the Government in Home Department.

(d) Notwithstanding above, all the cadres shall also be directly answerable to the Director of Public Prosecution.

15.2. The Additional Public Prosecutor and the Public Prosecutor shall be under the administrative control of the Director of Public Prosecution.

15.3. The Assistant Public Prosecutors shall be under the administrative control of the Superintendent of Police of the District.

16. *Transitional Provision*

16.1 Notwithstanding anything to the contrary in these rules, fifty per cent of the post of Additional Public Prosecutor and Public Prosecutor as required to be filled up by promotion under these rules, shall be filled up in the first instance by the direct recruitment, through the Commission, by the persons having at least a Bachelor's Degree in Law from a recognised University and continuous active practice as an Advocate at the Bar of not less than—

(a) fifteen years in the case of Additional Public Prosecutor ; and

(b) twenty years in the case of public prosecutor :

Provided that the person must not have exceeded the 50 years of age as on the first day of January of the year in which the vacancy is advertised:

Provided further that the person concerned must fulfil the eligibility criterion prescribed in Rule, 5.1 above :

Provided further that the rules for reservation of vacancies shall be followed while making the above direct recruitments.

16.2. Save as provided in sub-rule (1) in respect of posts required to be filled up by promotion under these rules, the existing practice in the matter of appointment to any such post shall continue until such time as the posts in the service can be filled up in accordance with these rules.

17. *Special engagement*

Nothing contained in these rules shall debar the Government to appoint an Advocate on contract basis to conduct any particular case, where such appointment is considered expedient in the public interest :

Provided that no public prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor shall be appointed on contract basis to conduct any particular case.

18. *Departmental Examination and Training*

18.1. The officers may be called upon to undergo the course of training as directed by Government from time to time.

18.2. The Government may prescribe a course of training at any subsequent stage, so as to develop the overall competency of the officers.

18.3. The Government may prescribe the Departmental Examinations, subject to which only the officers may be considered for promotion to the next higher grades.

19. *Deputation*

The person brought on deputation will work in the same scale of pay in which he was working in his parent cadre immediately preceding the date of deputation.

20. *Special Provision*

Notwithstanding anything contained in any other law for the time being in force, the provisions laid down in Orissa Civil Services (fixation of upper age limit) Rules, 1989 shall not be applicable to recruitments made under these rules.

21. Interpretation

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

22. Relaxation

The Government may for reasons to be recorded in writing relax any provision of these rules in respect of any class of the employees in the public interest. Any such relaxation shall be a one time relaxation and will not form the precedence for any purpose.

23. Miscellaneous

The Government may issue such executive instructions, not inconsistent with the provisions of these rules, as they consider necessary to regulate matters not specifically covered by the provisions of these rules.

By order of the Governor

S. C. HOTA

Principal Secretary to Government

The Orissa Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 1786 CUTTACK, TUESDAY, NOVEMBER 2, 2010/KARTIKA 11, 1932

HOME DEPARTMENT

NOTIFICATION

The 20th October 2010

No. 47520—PGC-26/2010—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, read with Sections 24 and 25 of the Code of Criminal Procedure, 1973 (2 of 1974), the Governor of Orissa has been pleased to make the following rules further to amend the Orissa State Prosecution Service Rules, 1997, namely :—

1. (1) These Rules may be called the "Orissa State Prosecution Service (Amendment) Rules, 2010".
(2) They shall come into force on the date of their publication in the *Orissa Gazette*.
2. In Clause (ii) of sub-rule 5.2 of Rule 5 of the Orissa State Prosecution Service Rules, 1997, for the words "seven years" the words "two years" shall be substituted.

ORDER—This Notification shall be published in the next issue of *Orissa Gazette*.

By order of the Governor

U. N. BEHERA

Principal Secretary to Government

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 58. CUTTACK, MONDAY, JANUARY 7, 2013/PAUSA 17, 1934

HOME DEPARTMENT
NOTIFICATION

The 21st December 2012

No. 49287—HOME-PROS-RULE-0001/01863800012012/2012-Pros.—In exercise of the powers conferred by the proviso to the Article 309 of the Constitution of India; read with Sections 24 and 25 of the Code of Criminal Procedure 1973 (2 of 1974), the Governor of Odisha has been pleased to make the following rules further to amend the Odisha State Prosecution Service Rules, 1997, namely :—

(1) These rules may be called the Odisha State Prosecution Service (Amendment) Rules, 2012.

(2) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. In the Odisha State Prosecution Service Rules, 1997 (hereinafter referred to as the said Rules) in rule 5, in sub-rule (5.3),—

(a) for the words "recruitment of Group 'A' service under rule 4.3 (ii)", the words "recruitment of Public Prosecutor under rule 4.3(b)" shall be substituted;

(b) in clause (i), for the figure "45" the figure "40", shall be substituted; and

(c) in clause (ii), for the figure "15" the figure "10", shall be substituted.

3. In the said Rules, the sub-rule (6.1) of rule 6, shall be substituted by the following sub-rule, namely :—

"6.1 As and when the Government decide to fill the vacancies in the post of Assistant Public Prosecutor, Group 'B', Additional Prosecutor, Group 'A' and Public Prosecutor in Group 'A' service in the respective cadres by direct recruitment as per sub-rules 4.1, 4.3 (b) of rule 4 and sub-rule 16.1 of rule 16, they will communicate the Commission the number of vacancies in the posts along with reserved vacancies thereof proposed to be filled up".

4. In the said Rules, in rule 16, in sub-rule 16.1 :—

(i) the words "shall be filled up in the first instance by direct recruitment", shall be substituted by the words "may be filled up by direct recruitment at the first instance whenever such posts are created";

(ii) in clause (a), for the word "fifteen", the word "seven" shall be substituted;

(iii) in clause (b), for the word "twenty", the word "ten" shall be substituted; and

(iv) in the first proviso, for the figure "50", the figure "40" shall be substituted.

By order of the Governor

U. N. BEHERA

Principal Secretary to Government

Government of Odisha
Home Department

NOTIFICATION

No. HOME-PROS-RULE-0001-2014/ 5155(M) / Dated, the 21st February, 2015.
01863800012014

In exercise of powers conferred by the proviso to Article 309 of the Constitution of India, read with sections 24 and 25 of the Code of Criminal Procedure, 1973 (2 of 1974), the Governor of Odisha has been pleased to make the following rules further to amend the Odisha State Prosecution Service Rules, 1997, namely:-

1. (1) These Rules may be called the Odisha State Prosecution Service (Amendment) Rules, 2015.
(2) They shall come into force on the date of their publication in the Odisha Gazettee.

2. In the Odisha State Prosecution Service Rules, 1997 (hereinafter referred to as the said Rules), for rule 9, the following rule shall be substituted, namely:--

"9. Constitution of the Selection Board for Group 'A' Service - There shall be constituted a Selection Board for selection of candidates by way of promotion, to the cadre of Additional Public Prosecutors, Public Prosecutors and Deputy Directors, Public prosecution consisting of the following members, namely:--

- | | | |
|--|----|-----------------|
| (i) Secretary to Govt., Home Department | -- | Chairman |
| (ii) Director General & Inspector General of Police, Odisha | -- | Member |
| (iii) Legal Remembrancer-cum-Special Secretary to Government, Law Department | -- | Member |
| (iv) Director of Public Prosecutions, Odisha | -- | Member |
| (v) Special Secretary / Additional Secretary / Joint Secretary to Govt., Home Department dealing with the subject. | -- | Member-Convenor |

3. In the said Rules, in rule 10, after the words "cadre of" and before the words "Joint Director" the words "Public Prosecutor and Deputy Director of Public Prosecution" shall be omitted.

By Order of the Governor
Sd/-

21/02/2015

(C. J. Venugopal)

Principal Secretary to Government

Government of Odisha
Home Department

NOTIFICATION

No. HOME-PROS-RULE-0001-2016/ 30113, Dated, the 27-8-2016.
01863800012016

In exercise of powers conferred by the proviso to Article 309 of the Constitution of India, read with sections 24 and 25 of the Code of Criminal Procedure, 1973 (2 of 1974), the Governor of Odisha has been pleased to make the following rules further to amend the Odisha State Prosecution Service Rules, 1997, namely:—

1. (1) These Rules may be called the Odisha State Prosecution Service (Amendment) Rules, 2016.

(2) They shall come into force on the date of their publication in the Odisha Gazette.

2. In the Odisha State Prosecution Service Rules, 1997 (hereinafter referred to as the said rules) in rule 2 in sub-rule 2.1, after clause (g) the following clause shall be inserted, namely:—

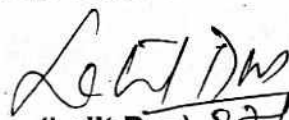
"(g-1) 'Person with Disabilities' means persons who have been granted with a disability certificate by the Competent Authority as per the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Odisha Rules, 2003."

3. In the said rules in rule 5 in sub-rule 5.1 after clause (iv) and before clause (v), the following proviso shall be inserted, namely:—

"Provided that this clause, except the mental condition as to mental infirmity, shall not be applicable in case of the candidates belonging to Persons with Disability."

4. In the said rules, in rule 13, for the words 'Physically Handicapped Persons' appearing after the word 'Women' and 'Comma' and before the 'Comma' and the word 'Sportsmen', the words 'Persons with Disabilities' shall be substituted.

By Order of the Governor


(Lalit Das) 27/8/2016

Special Secretary to Government

Memo No. 30114 / Dated, the

27.8.2016.

Copy forwarded to the Private Secretary to the Principal Secretary to Government / Special Secretary to Government, Home Department for kind information of the Principal Secretary / Special Secretary.

Rev. 27/8/16
Under Secretary to Government

Memo No. 30115 / Dated, the

27.8.2016.

Copy forwarded to all Departments of Government / Odisha Public Service Commission, Cuttack for information & necessary action.

Rev. 27/8/16
Under Secretary to Government

Memo No. 30116 / Dated, the

27.8.2016.

Copy forwarded to the Director, Public Prosecutions, Odisha, Bhubaneswar for information & necessary action.

Rev. 27/8/16
Under Secretary to Government

Memo No. 30117 / Dated, the

27.8.2016.

Copy forwarded to the Director, Printing, Stationeries and Publication for information & necessary action.

He is requested to publish the Notification in the next issue of the Odisha Gazette and send 50 copies of the Gazette Notification to the Home (Prosecution) Department for official use.

Rev. 27/8/16
Under Secretary to Government

Memo No. 30118 / Dated, the

27.8.2016.

Copy forwarded to the NIC Co-coordinator, Home Department for information & necessary action.

He is requested to upload the Notification in the Home Department Website.

Rev. 27/8/16
Under Secretary to Government