


The

Kolkata **Gazette**
सत्यमेव जयते
Extraordinary
Published by Authority

ASADHA 15]

TUESDAY, JULY 6, 2021

[SAKA 1943

PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL

Judicial Department

Writers' Buildings, Kolkata- 700 001.

The West Bengal District Court (Constitution of Service, Recruitment, Appointment, Probation and Discipline of Employees) Rules, 2015

CONTENTS

CHAPTER I

Preliminary

1. Short title and commencement.
2. Application.
3. Definitions.

CHAPTER II

Constitution of the Service

4. Constitution of the Service.

CHAPTER III

Method of recruitment, qualifications and age limit etc.

5. District Recruitment Committee.
6. Recruitment Committee.

PART I

District Court/City Court/City Sessions Court/Presidency Small Causes Court/any other Court in equivalent rank

(i) Ministerial/Supervisory Cadre

7. Method of recruitment of Sheristedar, Grade-I, Bench Clerk, Grade-I, Nazir, Head Clerk-cum-Translator, Protocol Officer or other equivalent posts.
8. Method of recruitment of Upper Division Clerk or Lower Division Clerk.

(ii) Stenographer/Executive Assistant

9. Method of recruitment of Stenographer Grade-I and Executive Assistant to the District & Sessions Judge or Chief Judge.

(iii) Process Establishment

10. Method of recruitment of Process Server/Bailiff/Summons Bailiff/Seal Bailiff.

(iv) Common Category (Inferior or menial posts)**Common Category—Group C & Group D**

11. Method of recruitment of Peon/Orderly/Farash/Night Guard/Day Guard/Sweeper/Darwan/other equivalent posts.

PART II

Court of Civil Judge Senior Division/Chief Judicial Magistrate/Chief Metropolitan Magistrate/Additional Chief Judicial Magistrate/Additional Chief Metropolitan Magistrate/ Presidency Small Causes Court

(i) Ministerial/Supervisory Cadre

12. Method of recruitment of Sheristedar, Grade-II, Bench Clerk, Grade-II and Nazir.
13. Method of recruitment of Upper Division Clerk or Lower Division Clerk.

(ii) Stenographer/Executive Assistant

14. Method of recruitment of Stenographer, Grade-II.

(iii) Process Establishment

15. Method of recruitment of Process Server/Bailiff.

(iv) Common Category (Inferior or menial posts)**Common Category—Group C & Group D**

16. Method of recruitment of Peon/Orderly/Farash/Night Guard/Day Guard/Sweeper/Darwan/other equivalent posts and Attendant/Jamedar/other equivalent posts.

PART III**Court of Civil Judge Junior Division/Magistrate Court****(i) Ministerial/Supervisory Cadre**

17. Method of recruitment of Sheristedar, Grade-III and Bench Clerk, Grade-III.
18. Method of recruitment of Upper Division Clerks or Lower Division Clerk.

(ii) Stenographer

19. Method of recruitment of Stenographer, Grade-III.

Process Establishment

20. Method of recruitment of Process Server/Bailiff.

(i) Common Category (Inferior or menial posts)**Common Category—Group C & Group D**

21. Method of recruitment of Peon/Orderly/Farash/Night Guard/Day Guard/Sweeper/Darwan/other equivalent posts and Attendant/Jamedar/other equivalent posts.
22. Procedures of recruitment.
23. Disqualification for appointment.
24. Age-limit for direct recruitment.
25. Provision for reservation in appointment.
26. Direct recruitment.

27. Eligibility of candidates for the interview.
28. Interview.
29. List of selected candidates.

CHAPTER IV

Appointments

30. Appointment of candidates.
31. Duration of operation of the panel.
32. Conditions relating to suitability and certificates of character.
33. Conditions relating to Physical Fitness.
34. Fees.
35. Joining time for appointment.

CHAPTER V

Probation and officiation

36. Definitions.
37. Mode of appointment.
38. Probation and officiation.
39. Discharge of a probationer during the period of probation.
40. Increment during the period of probation or officiation.

CHAPTER VI

Seniority

41. Seniority.

CHAPTER VI

Penalties

42. Penalties.
43. Disciplinary Authority.
44. Procedure for imposition of Penalty.
45. Inquiring authority.
46. Suspension.
47. Special procedure in certain cases where inquiry is not necessary.
48. Appeal against an order of suspension.
49. Appeal to Appellate Authority.
50. Period of limitation of appeals.
51. Form and contents of Appeal.
52. Matters for consideration in appeal by Appellate Authority.
53. Implementation of Order in Appeal.
54. Subsistence Allowance.
55. Pay and Allowances on reinstatement of an employee who has been suspended.
56. Pay and Allowances on reinstatement of an employee who has been dismissed, removed or compulsorily retired.
57. Pay and Allowances on reinstatement when the Order of Dismissal etc. are set aside by any Court of Law.

CHAPTER VII

Miscellaneous

58. Age of Superannuation.
 59. Retirement in public interest.
 60. Training etc.
 61. Change of cadre.
 62. Interpretation.
 63. Application of other rules not inconsistent with these rules.

SCHEDULES

SCHEDULE A: Category of posts (cadres).

SCHEDULE B: PART I District Court/City Civil Court/City Sessions Court/Chief Judge, Presidency Small Causes Court/any other Court in equivalent rank.

Method of recruitment Sheristedar, Grade I, Bench Clerk, Grade I, Nazir, Head Clerk-cum-Translator and Protocol Officer.

PART II Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/Additional Chief Judicial Magistrate/Additional Chief Metropolitan Magistrate/any other Court in equivalent rank.

PART III Court of Civil Judge (Junior Division)/Judicial Magistrate Court/Metropolitan Magistrate Court/any other Court in equivalent rank. Method of recruitment Sheristedar, Grade III, Bench Clerk, Grade III.

SCHEDULE C: Method of recruitment and qualifications of Upper Division Clerk and Lower Division Clerk or other equivalent posts.

SCHEDULE D: PART I Method of recruitment and qualifications of Stenographer, Grade-I, in the District Court or the City Civil Court or the Sessions Court or the Special Court or any other Court in equivalent rank.

PART II Method of recruitment and qualifications of Stenographers, Grade II, in the Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/Additional Chief Judicial Magistrate/Additional Chief Metropolitan Magistrate/or any other Court in equivalent rank.

PART III Method of recruitment and qualifications of Stenographers, Grade III, in the Court of Civil Judge (Junior Division) Judicial Magistrate/Metropolitan Magistrate/or any other Court in equivalent rank.

SCHEDULE E: PART I Process Establishment of District Court any other Court sub-ordinate thereto (except City Civil Court, City Sessions Court, Presidency Small Causes Court).

Method of recruitment and qualifications of Process server and Bailiff.

PART II Process Establishment of City Civil Court, City Sessions Court, Presidency Small Causes Court.

Method of recruitment and qualifications of Summons Bailiff and Seal Bailiff.

SCHEDULE F: Method of recruitment of Common Category (Inferior or menial posts) in any court.

NOTIFICATION

No. 91-JL.- Kolkata, the 6th July, 2021. – WHEREAS the Bengal Civil Courts Clerical and Inferior Service (Recruitment, Discipline and Appeal) Rules, 1941, framed in exercise of the power conferred by section 211 of the Government of India Act, 1935, has been impliedly repealed on the date of coming into force of Constitution of India;

AND WHEREAS the Hon'ble Supreme Court of India *vide* Writ Petition (C) No. 1022 of 1989 in *All India Judges Association and Ors. vs. Union of India & Ors.*, has been pleased to pass an order dated 07/10/2009, to implement the recommendations of the Shetty Commission;

AND WHEREAS the Hon'ble High Court at Calcutta *vide* W. P. No. 29700 (W) of 2014 with W.P. No. 27930 (W) of 2014 and W.P. No. 27690 (W) of 2014, in *West Bengal Court Employees Association vs. State of West Bengal and Ors.*, has been pleased to observe that the Bengal Civil Court Clerical and Inferior Services (Recruitment, Discipline and Appeal) Rules, 1941, shall be modified to make it contemporary and to give effect to the Shetty Commission recommendations in accordance with the order of the Supreme Court as mentioned herein above;

NOW, THEREFORE, in exercise of the power conferred by the proviso to article 309 of the Constitution of India and in partial modification of all earlier notifications on the subject-matter, the Governor, in consultation with the High Court at Calcutta, is hereby pleased to make the following rules, namely:–

Rules

CHAPTER I

Preliminary

1. **Short title and commencement.**– (1) These rules may be called the West Bengal District Courts (Constitution of Service, Recruitment, Appointment, Probation and Discipline of Employees) Rules, 2015.
- (2) They shall come into force on and from the date of their publication in the *Official Gazette*.
2. **Application.**– (1) Subject to the provisions of sub-rule (2), these rules shall apply to all persons who are whole time employees of the District Courts including Special Courts or any other Court in equivalent rank, the City Civil Court, the City Sessions Court and the Presidency Small Causes Court in West Bengal.
- (2) These rules shall not apply to–
 - (a) persons appointed on contract basis, or appointed otherwise than in accordance with recruitment rules;
 - (b) part-time employees, casual labourers, daily labourers, master-roll workers and seasonal labourers;
 - (c) such other categories of persons as may be specified from time to time by the State Government, by notification in the *Official Gazette*, in consultation with the High Court at Calcutta.
3. **Definitions.**– (1) In these rules, unless the context requires otherwise,–
 - (a) "appointing authority" in relation to a member of the Service means,–
 - (i) in case of the City Civil Court, the City Sessions Court & the Presidency Small Causes Court, Chief Judge of each Court, and
 - (ii) in case of a district, the District Judge;
 - (b) "State Government" means the Government of West Bengal in the Judicial Department;
 - (c) "High Court" means the High Court at Calcutta;
 - (d) "Schedule" means a Schedule appended to these rules.
- (2) Words and expressions used and not defined in these rules but defined in the West Bengal Service Rules, Part I and Part II, shall have the same meanings as respectively assigned to them in West Bengal Service Rules, Part I and Part II.

CHAPTER II

Constitution of the Service

4. **Constitution of the Service.**— (1) The category of posts or cadres mentioned in sub-rule (2), is hereby constituted as a Service, namely, the West Bengal District Court Service.
- (2) The service shall consist of the category of posts or cadres specified in columns (3) and (4), in respect of the Court specified in column (2), of Schedule A.
- (3) With effect from the date of commencement of these rules, the existing category of posts, if any, not included in these rules, shall stand designated as the category of posts or cadres specified in columns (3) and (4), of Schedule A and they shall constitute the service.

CHAPTER III

Method of recruitment, qualifications and age limit etc.

5. **District Recruitment Committee.**— On and from the date of commencement of these rules, the members of the service in any district shall be recruited through the District Recruitment Committee which shall consist of—
- | | | |
|---|---|-----------|
| (a) the District Judge | - | Chairman; |
| (b) the Senior-most Additional District Judge in the district headquarters | - | Member; |
| (c) the Senior-most Civil Judge (Senior Division) or Chief Judicial Magistrate at the district headquarters | - | Member; |
6. **Other Recruitment Committee.**— On and from the date of commencement of these rules, the members of the service in the City Civil Court, the Presidency Small Causes Court and in the City Sessions Court shall be recruited through the Other Recruitment Committee which shall consist of—
- | | | |
|--|---|-----------|
| (a) the Chief Judge | - | Chairman; |
| (b) the Senior-most Judge of the Court | - | Member; |
| (c) the Registrar or the Chief Metropolitan Magistrate | - | Member. |

PART I

(A) District Court/City Civil Court/City Sessions Court/Presidency Small Causes Court/Special Court/any other equivalent Court**(i) Ministerial /Supervisory Cadre**

7. **Method of recruitment of Sheristedar, Grade-I, Bench Clerk, Grade-I, Nazir, Head Clerk-cum-Translator and Protocol Officer and other equivalent posts.**—The method of recruitment of Sheristedar, Grade-I, Bench Clerk, Grade-I, *Nazir*, Head Clerk-cum-Translator and Protocol Officer and other equivalent posts in the District Court or the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or the Special Court or any other Court of equivalent rank, shall be such as specified in PART I of **Schedule B** and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, in respect of any District Court and by the Other Recruitment Committee constituted under rule 6, in respect of the City Civil Court or the City Sessions Court or the Presidency Small Causes Court.
8. **Method of recruitment of Upper Division Clerk or Lower Division Clerk or other equivalent posts.**— The method of recruitment of Upper Division Clerk and Lower Division Clerk or other equivalent posts in the District Courts or the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or the Special Courts or any other Court of equivalent rank, shall be such as specified in **Schedule C** and recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, in respect of any District Court and by the Other Recruitment Committee constituted under rule 6, in respect of the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or the Special Courts or any other Court of equivalent rank.

(ii) Stenographer/Executive Assistant

9. **Method of recruitment of Stenographer, Grade-I and Executive Assistant to District & Sessions Judge or Chief Judge.**— (1) The method of recruitment of Stenographers, Grade-I, in the District Courts or the City Civil Court or the City Sessions Court or the Special Courts or any other Court of equivalent rank, shall be by promotion from the cadre of Stenographer, Grade-II, on the basis of seniority-cum-merit, as mentioned in PART I of Schedule D and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, in respect of any District Court and by the Other Recruitment Committee constituted under rule 6, in respect of the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or the Special Courts or any other Court of equivalent rank.
- (2) The method of recruitment of Executive Assistant to the District & Sessions Judge or the Chief Judge, shall be by selection from amongst the Stenographers, Grade-I, as per choice of the Principal District & Sessions Judge or the Chief Judge, as the case may be.

(iii) Process Establishment

10. **Method of recruitment of Process Server/Bailiff/Summon Bailiff/Seal Bailiff.**—The method of recruitment of Process Server in the District Courts or the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or any other Court in equivalent rank, shall be such as specified in Schedule E and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, in respect of any District Court and by the Other Recruitment Committee constituted under rule 6, in respect of the City Civil Court or the City Sessions Court or the Presidency small Causes Court.

(iv) Common Category (Inferior or menial posts)**Common Category—Group C and Group D**

11. **Method of recruitment of Peon/ Orderly/ Farash/ Night Guard/Day Guard/ Sweeper and Attender/ Jamedar/ Daftry/ other equivalent posts.**— The method of recruitment of Peon or Orderly or Farash or Night Guard or Day Guard or Sweeper or Darwan or other equivalent posts and Attender or Jamedar or Daftry or other equivalent posts, in the District Courts or the City Civil Court or the City Sessions Court or the Presidency Small Causes Court or any other Court of equivalent rank, shall be such as specified in Schedule F and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, in respect of the District Courts and by the Other Recruitment Committee constituted under rule 6, in respect of the City Civil Court or the City Sessions Court or the Presidency Small Causes Court.

PART II**(B) Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/ Additional Chief Judicial Magistrate/ Additional Chief Metropolitan Magistrate/ any other Court in equivalent rank****(i) Ministerial /Supervisory Cadre**

12. **Method of recruitment of Sheristedar, Grade-II, Bench Clerk, Grade-II and Nazir or other equivalent posts.**— The method of recruitment of Sheristedar, Grade-II, Bench Clerk, Grade-II and Nazir in the Court of Civil Judge (Senior Division) or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional Chief Judicial Magistrate or the Additional Chief Metropolitan Magistrate or any other court in equivalent rank, shall be such as specified in PART II of Schedule B and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.
13. **Method of recruitment of Upper Division Clerk or Lower Division Clerk or other equivalent posts.**— The method of recruitment of Upper Division Clerks and Lower Division Clerks or other equivalent posts in the Court of Civil Judge (Senior Division) or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional

Chief Judicial Magistrate or the Additional Chief Metropolitan Magistrate or any other court in equivalent rank, shall be such as specified in **Schedule C** and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(ii) Stenographer

14. **Method of recruitment of Stenographer, Grade-II.**— (1) The method of recruitment of Stenographer, Grade-II, in the Court of Civil Judge (Senior Division) or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional Chief Judicial Magistrate or the Additional Chief Metropolitan Magistrate or any other court in equivalent rank, shall be such as specified in Part II of Schedule D and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(iii) Process Establishment

15. **Method of recruitment of Process Server/Bailiff.**—The method of recruitment of Process Server in the Court of Civil Judge (Senior Division) or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional Chief Judicial Magistrate or the Additional Chief Metropolitan Magistrate or any other court in equivalent rank, shall be such as specified in Schedule E and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(iv) Common Category (Inferior or menial posts)

Common Category—Group C & Group D

16. **Method of recruitment of Peon / Orderly/ Farash/ Night Guard/ Day Guard/ Sweeper and Attender/Jamedar/ Daftry/other equivalent posts.**— The method of recruitment of Peon or Orderly or Farash or Night Guard or Day Guard or Sweeper or Darwan or other equivalent posts and Attender or Jamedar or Daftry or other equivalent posts in the Court of Civil Judge (Senior Division) or the Chief Judicial Magistrate or the Chief Metropolitan Magistrate or the Additional Chief Judicial Magistrate or the Additional Chief Metropolitan Magistrate or any other Court in equivalent rank, shall be such as specified in Schedule F and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5, and by the Other Recruitment Committee constituted under rule 6, as the case may be.

PART III

(C) Court of Civil Judge (Junior Division)/ Judicial Magistrate / Metropolitan Magistrate/any other Court in equivalent rank

(i) Ministerial /Supervisory Cadre

17. **Method of recruitment of Sheristedar, Grade-III, Bench Clerk, Grade-III or other equivalent posts.**— The method of recruitment of Sheristedar, Grade-III, Bench Clerk, Grade-III, in the Court of Civil Judge (Junior Division) or the Judicial Magistrate or the Metropolitan Magistrate or any other Court in equivalent rank, shall be such as specified in PART III of Schedule B and the recruitment shall be conducted by the District Recruitment Committee constituted under the rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.
18. **Method of recruitment of Upper Division Clerk or Lower Division Clerk or other equivalent posts.**— The method of recruitment of Upper Division Clerk, Lower Division Clerks or other equivalent posts in the Court of Civil Judge (Junior Division) or the Judicial Magistrate Court or the Metropolitan Magistrate or any other Court in equivalent rank, shall be such as specified in Schedule C, and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(ii) Stenographer

19. **Method of recruitment of Stenographer, Grade-III.**— The method of recruitment of Stenographer Grade-III in the Court of Civil Judge (Junior Division) or the Judicial Magistrate Court or the Metropolitan Magistrate or any

other Court in equivalent rank, shall be as specified in PART III of Schedule D and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(iii) Process Establishment

- 20. Method of recruitment of Process Server/Bailiff.**—The method of recruitment of Process Server or Bailiff in the Court of Civil Judge (Junior Division) or the Judicial Magistrate Court or the Metropolitan Magistrate or any other Court in equivalent rank, shall be as specified in **Schedule E** and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.

(v) Common Category (Inferior or menial posts)

Common Category—Group C & Group D

- 21. Method of recruitment of Peon/ Orderly/ Farash/ Night Guard/ Day Guard/ Sweeper and Attender/ Jamedar/ Daftry/other equivalent posts.**— The method of recruitment of Peon or Orderly or Farash or Night Guard or Day Guard or Sweeper or Darwan or other equivalent posts and Attender or Jamedar or Daftry or other equivalent posts in the Court of Civil Judge (Junior Division) or the Judicial Magistrate Court or the Metropolitan Magistrate or any other Court in equivalent rank, shall be such as specified in Schedule F and the recruitment shall be conducted by the District Recruitment Committee constituted under rule 5 and by the Other Recruitment Committee constituted under rule 6, as the case may be.
- 22. Procedure of recruitment.**— Subject to the provisions of these rules, the recruitment to any category of post in the Service shall be made by the appointing authority –
- (a) in the case of direct recruitment, after giving such adequate publicity to the recruitment as the appointing authority may determine;
 - (b) in the case of recruitment by promotion, on the basis of seniority-cum-merit, that is, seniority subject to minimum fitness of the candidate to discharge the duties of the post, from among persons eligible for promotion.
- 23. Disqualifications for appointment.**— (1) No person shall be eligible for appointment unless he is a citizen of India.
- (2) No man who has more than one wife living and no woman who has married a man already having another wife, shall be eligible for appointment.
 - (3) No person who attempts to obtain extraneous support by any means for his candidature from officials or non-officials, shall be eligible for appointment.
 - (4) No person shall be eligible for appointment, if he or she—
 - (a) is or has been a member of, or has associated himself or herself with anybody or association after such body or association is declared as an unlawful body or association; or
 - (b) has participated in or is associated with, any activity or programme—
 - (i) aimed at subversion of the Constitution of India;
 - (ii) aimed at organised breach or defiance of law involving violence;
 - (iii) which is prejudicial to the interests of the sovereignty and integrity of India or the security of the State; or
 - (iv) which promotes, on grounds of religion, race, language, caste or community feelings or enmity or hatred between different sections of the people; or
 - (c) is dismissed from service under the Government of India or any State Government or any High Court;
 - (d) is or has been debarred or disqualified by the Union or any State Public Service Commission or any High Court from appearing for any examination or selection conducted by it; and
 - (e) is or has been convicted of an offence involving moral turpitude.

- 24. Age-limit for direct recruitment.**— (1) Every candidate for direct recruitment shall on the 1st day of January of the year of advertisement inviting applications, must attain the age of eighteen years and not cross the age of: —
- (a) in case of Group 'A' and Group 'B' posts,—
 - (i) thirty-five years, in the case of a person belonging to the Scheduled Castes / Other Backward Classes;
 - (ii) thirty-seven years, in the case of a person belonging to Scheduled Tribes or other category of persons for which reservation is made by law;
 - (iii) thirty-two years, in the case of any other person;
 - (b) in case of Group 'C' and Group 'D' posts,—
 - (i) forty-three years, in the case of a person belonging to the Scheduled Castes or Other Backward Classes;
 - (ii) forty-five years, in the case of a person belonging to Scheduled Tribes or other category of persons for which reservation is made by law;
 - (iii) forty years, in the case of any other person;
- on the 1st day of January of the year of advertisement inviting applications.
- 25. Provision for reservation in making appointment.**— The vacancies shall be reserved for the members of the Scheduled Castes, Scheduled Tribes, Other Backward Classes (Group A and Group B) and others to such extent and in such manner as may be specified by the State Government from time to time.
- 26. Direct recruitment.**—(1) The appointing authority may intimate the District Recruitment Committee or the Other Recruitment Committee, as the case may be, in the month of January every year the number of existing vacancies to be filled up by direct recruitment including anticipated vacancies during the year in different category of posts. The District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall invite applications by giving adequate publicity indicating the total number of vacancies notified for recruitment and the number of vacancies reserved for different reserved categories including the anticipated vacancies during the year in different categories of posts.
- (2) Subject to provisions of these rules, the direct recruitment shall be made on the basis of the percentage of total marks secured in the qualifying examination as determined under rule 27 and of the marks secured in the interview under rule 28, by the District Recruitment Committee or the Other Recruitment Committee, as the case may be.
- 27. Eligibility of candidates for the interview.**— (1) For purpose of selection of candidates for interview, the appointing authority shall prepare a list of names of candidates on the basis of the percentage of total marks secured in the qualifying examination in the order of merit and if two or more candidates have secured equal percentage of marks in the qualifying examination, the order of merit in respect of such candidates shall be fixed on the basis of their age the person or persons older in age being placed higher in the order of merit and from among the candidates whose names are included in such list, such number of candidates as is equal to ten times of the number of vacancies notified shall be selected in the order of merit, for the interview.
- (2) Notwithstanding anything contained in sub-rule (1), where posts are reserved for the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes, and physically challenged persons, if the required number of candidates in terms of sub-rule (1) belonging to such castes, tribes or other classes are not eligible for the interview, such number of candidates as will make up the deficiency, belonging to such castes, tribes or other classes selected in the order of merit from the list of names of candidates prepared under sub-rule (1), shall be eligible for the interview.
 - (3) For the purpose of this rule,—
 - (a) "qualifying examination" means the examination or examinations prescribed as the minimum qualification required for appointment to the posts concerned;

- (b) where the qualifying examination consists of more than one examination the percentage of total marks secured in the qualifying examination shall be the average of the percentage of total marks secured in those examinations.
- 28. Interview.**— (1) The District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall hold interview of the eligible candidates selected under rule 27 and award marks on the basis of their performance in the interview. The maximum marks for interview shall not exceed twenty-five percent of the total marks fixed for selection. The object of such interview is to assess the suitability of the candidates for appointment to the post applied for.
- (2) The District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall publish on the notice board of its office on the day on which interview is held or on the day following day, a list of marks obtained by each candidate in the said interview.
- 29. List of selected candidates.**— (1) The District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall, on the basis of the total marks secured by the candidates in the qualifying examination and the interview and taking into consideration the orders in force relating to reservation of posts for the Scheduled Castes, the Scheduled Tribes, the Other Backward Classes (Group A and Group B) and Physically Challenged persons, prepare in the order of merit a list of candidates eligible for appointment to the category of post and if the aggregate of the percentage of total marks secured in the qualifying examinations, and the marks secured in interview, of two or more candidates is found to be equal, the order of merit in respect of such candidates shall be fixed on the basis of their age—the person or persons older in age being placed higher in the order of merit. The number of candidates to be included in such merit list shall be equal to the number of vacancies notified for recruitment.
- (2) The District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall in accordance with the provisions of sub-rule (1) also prepare an additional list of names of candidates not included in the list prepared under sub-rule (1) in which the number of candidates to be included shall, as far as possible, be ten per centum of the number of vacancies notified.
- (3) The lists so prepared under sub-rules (1) and (2) shall be published in such manner as the High Court may direct.

CHAPTER IV

Appointments

- 30. Appointment of candidates.**—(1) Subject to rules 32 and 33, candidates whose names are included in the merit list prepared under sub-rule (1) and published under sub-rule (3) of rule 29, may be appointed by the appointing authority in the vacancy in the particular post in the order in which the names are found in the merit list after satisfying itself about the suitability of the candidate to the post on the basis of report of physical fitness as laid down in rule 33 and report of police verification about antecedent of the candidate as laid down in rule 32.
- (2) The inclusion of the name of a candidate in any list published under rule 29, shall not confer any right of appointment.
- 31. Duration of operation of the lists.**— The list of names of candidates published by the District Recruitment Committee or the Other Recruitment Committee, as the case may be, under rule 29, shall cease to be operative till when the next advertisement for recruitment is published or one year, whichever is earlier.
- 32. Report of Verification about antecedent of the candidate.**—No person shall be appointed unless the appointing authority is satisfied that he is of good character and is in all respects suitable for appointment to the service. Every candidate selected for direct recruitment shall furnish to the appointing authority certificates given not more than six months prior to the date of his selection, by two respectable persons unconnected with his school, college or university, and not related to him, testifying his character, in addition to the certificate or certificates which may be required to be furnished from the educational institution last attended by the candidate. If any doubt arises regarding the suitability of a candidate for appointment, the decision of the District Recruitment Committee or the Other Recruitment Committee, as the case may be, shall be final.

33. Conditions relating to Physical Fitness.—(1) No candidate selected for appointment shall be appointed to any post unless he satisfies the appointing authority that he is physically fit to discharge the duties that he may be called upon to perform.

(2) A candidate selected for appointment shall appear before the Medical Board constituted by the appointing authority for medical examination and the Medical Board shall submit the report to the appointing authority within a period of seven days from the date of notification about the medical examination.

34. Fees— Every candidate for direct recruitment to any category of post may be required to pay such fees, as may be specified by the Recruitment Committee, in respect of his application :

Provided that in the case of a candidate belonging to a Scheduled Caste or a Scheduled Tribe or a Backward Class (Group A or Group B), the fees payable shall be one half of the fee specified under this rule.

35. Joining time for appointment.—(1) A candidate appointed by direct recruitment shall assume charge of the post specified by the appointing authority as soon as possible after the date of the order of appointment, but not later than thirty days from the date of receiving letter of appointment.

Explanation.— For the purpose of this sub-rule, the expression "the date of the order of appointment" means the date of receipt of the order of appointment by registered post or speed post with acknowledgement due to the address given by the candidate.

(2) Notwithstanding anything contained in sub-rule (1), the appointing authority may, on the application of the candidate and if satisfied that there are good and sufficient reasons for doing so, by order in writing, grant such further time but not exceeding fifteen days as it may deem necessary.

(3) The name of the candidate who fails to assume charge of the post within the time specified in sub-rule (1) or within the further time granted under sub-rule (2) shall stand deleted from the list of selected candidates and the candidate concerned shall cease to be eligible for appointment.

CHAPTER IV

Probation and officiation

36. Definitions.— In these rules, unless there is anything repugnant in the subject or context—

- (a) "appointment on permanent basis" means substantive appointment against permanent post;
- (b) "appointment on probation" means appointment in substantive post before confirmation;
- (c) "Government" means the Government of West Bengal;
- (d) "probationer" means an employee of the court appointed on probation;
- (e) "temporary service" means service beginning from the date of appointment in any court till the date of appointment on probation or on permanent basis.

37. Mode of appointment.— All appointments on entry level into the service shall initially be made on temporary basis.

38. Probation and officiation.—(1) All appointments to the service by direct recruitment shall be on probation for the period of two years.

(2) All appointments by promotion shall be on officiating basis for a period of two years.

(3) The period of probation or officiation, as the case may be, for reasons to be recorded in writing, may be extended by the appointing authority by such period not exceeding the period of two years, as the case may be, specified in sub-rule (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—

- (a) if it is decided that he is suitable to hold the post to which he was appointed or promoted and has passed the examinations or tests, if any, required to be passed during the period of probation or officiation, as the case may be, it shall, as soon as possible, issue an order declaring him to have satisfactorily completed the period of probation or officiation, as the case may be; and such an order shall have effect from the date of expiry of the period of probation or officiation, including extended period, if any, as the case may be;
- (b) if the appointing authority considers that the person is not suitable to hold the post to which he was appointed or promoted, as the case may be, he shall, by order—
- (i) if he is a promotee, revert him to the post which he held prior to his promotion;
- (ii) if he is a probationer, discharge him from service.
- (5) A person shall not be considered to have satisfactorily completed the period of probation or officiation, as the case may be, unless a specific order to that effect is passed. Any delay in passing such an order shall not entitle the person to be deemed to have satisfactorily completed the period of officiation or probation, as the case may be.
- 39. Discharge of a probationer during the period of probation.**—(1) Notwithstanding anything contained in rule 44, the appointing authority may, at any time during the period of probation, discharge from service, a probationer on account of his unsuitability for the service.
- (2) An order under sub-rule (1) shall indicate the grounds for the discharge but no disciplinary enquiry shall be necessary.
- 40. Increment during the period of probation or officiation.**—(1) 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.
- (2) 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.
- (3) Notwithstanding anything contained in sub-rules (1) and (2), where validity of the appointment of any person,—
- (i) 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;
- (ii) as a promotee on officiating basis is questioned in any legal proceedings, before a court of law, the period of officiation of such promotee shall continue until the final disposal of such proceedings.

CHAPTER V

Seniority

- 41. Seniority.**—(1) An employee appointed in accordance with these rules of recruitment on regular basis shall be senior to persons appointed temporarily or as local candidate.
- (2) Where employees are recruited to a cadre by promotion and direct recruitment the officers recruited by promotion shall take precedence over the directly recruited officers where the date of their appointment is same.
- (3) Save as provided in sub-rules (4) to (7), seniority of employees appointed by direct recruitment or promotion shall be determined according to the dates on which they report for duty.
- (4) Where more than one employee is promoted to a cadre at the same time the inter-se-seniority of persons so promoted shall be determined,—

- (a) if promotions are made from any one cadre by their inter-se-seniority in that lower cadre;
 - (b) if promotions are made from more than one cadre of same grade, by the length of their service in those cadres;
 - (c) if promotions are made from more than one cadre of different grades, by the order in which the names of candidates are arranged in the select list.
- (5) Where more than one person is recruited by direct recruitment to a cadre the inter-se-seniority of persons so recruited shall be the order in which their names are arranged in the select list.
- (6) Every year in the month of January, seniority list of employees in all cadres shall be prepared and published by the appointing authority and the lists so published shall be used for the purpose of making promotions to the next higher cadre.
- (7) Seniority of a person allowed to change his cadre as provided in these rules shall be determined in the changed cadre with reference to his first appointment to his original cadre.

CHAPTER VI

Penalties

42. **Penalties.**—The following penalties may, for good and sufficient reasons, be imposed on an employee appointed in accordance with these rules, namely:—

Minor Penalties:

- (a) censure;
- (b) withholding of Increments and Promotion;
- (c) recovery from pay of the whole or part of any pecuniary loss caused by negligence or breach of orders, to the Government;

Major Penalties:

- (d) reduction to a lower stage in the relevant Band Pay and Grade Pay for a specific period;
- (e) reduction to a lower Pay Band and/or Pay, grade post or service;
- (f) compulsory retirement;
- (g) removal from service which shall not be disqualification for future employment;
- (h) dismissal from service which shall not be disqualification for future employment.

Explanation.—The following shall not amount to a penalty within the meaning of this rule, namely:—

- (a) non promotion after consideration of the case of an employee;
- (b) compulsory retirement of an employee in accordance with the provision relating to his superannuation or retirement;
- (c) termination of service—
 - (i) of an employee appointed on probation during or at the end of the period of probation in accordance with terms of his appointment or rules and orders governing such Probation; or
 - (ii) of a seasonal employee at the end of the season for which he is employed expressly or implicitly.

Note 1.— Failure on the part of an employee to intimate to his official superior the fact of his arrest and circumstances connected therewith, shall be regarded as suppression of material information and will render him liable to disciplinary action on the that ground alone, apart from the action that may be called for on the outcome of the police case against him.

Note 2.— In the absence of special and adequate reasons to the contrary to be mentioned in the order, no penalty other than those specified in clauses (f) to (h) shall be imposed for an established charge of corruption i.e. criminal misconduct by a public servant as specified in section 13 of the Prevention of Corruption Act, 1988 (49 of 1988).

43. Disciplinary Authority—(1) The appointing authority may impose any of the penalties specified in rule 42 on any member of the service as the Disciplinary Authority.

(2) Without prejudice to the provisions of sub-rule (1), the District Judge, in case of a district or the Chief Judge, in case of the City Civil Court, the City Sessions Court or the Presidency Small Causes Court, as the case may be, may impose on a member of the service working in his judgeship any of the penalties specified in clause (a) to (h) of rule 42.

44. Procedures for imposition of Penalty—(1) No order, imposing on an employee, any of the penalties specified in rule 42 shall be made except after an enquiry is held in the manner provided in this rule. When it is proposed to hold an inquiry against an employee under this rule, the disciplinary authority shall draw up or cause to be drawn up—

- (a) the substance of the imputation of misconduct or misbehavior into definite and distinct articles of charge;
- (b) a statement of the imputations of misconduct or misbehavior in support of each article of charge which shall contain —
 - (i) a statement of relevant facts including any admission or confession made by the employee,
 - (ii) a list of documents by which and a list of witness by whom the articles of charge are proposed to be sustained.
- (2) The disciplinary authority shall deliver or cause to be delivered to the employee a copy of the articles of charge and the statement of imputations of misconduct or misbehavior and a list of documents by which and a list of witness by whom each article of charge is proposed to be sustained and shall require the employee to submit a written statement of his defence to the inquiring authority within such time as may be specified and to state whether he desires to be heard in person.

45. Inquiring authority—(1) The disciplinary authority shall, in all case for the purpose of inquiry, appoint an inquiring authority with powers conferred under the Departmental Proceedings (Enforcement of Attendance of Witnesses and Production of Documents) Act, 1973 (West Ben. Act XXIV of 1973) and forward to it—

- (a) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;
- (b) a copy of the statement of witness, if any;
- (c) evidence providing the delivery of documents referred to in rule 44 (1) (b) (ii) to the employee;
- (d) a copy of the order appointing the "Presenting Officer" if any.
- (2) When the disciplinary authority appoints an inquiring authority for holding an inquiry into the articles of charge the disciplinary authority may, by an order in writing, appoint an employee or retired employee, to be known as the presenting officer, to present on its behalf the case in support of the articles of charge.
- (3) The employee against whom departmental proceedings have been instituted may take assistance of any other employee, whether existing or retired, to present the case on his behalf:

Provided that if the presenting officer appointed by the disciplinary authority is a legal practitioner or a person from legal background, such an employee against whom departmental proceedings have been instituted may take the assistance of legal practitioner or a person from legal background, to present the case on his behalf.

- (4) The employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt of the articles of charge by him as the inquiring authority may, by a notice in writing specify in this behalf.
- (5) If the employee who has not admitted any of the articles of charge in his written statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the pleas, sign the record

and obtain the signature of the charged employee thereon. The inquiring authority shall return the finding of guilt in respect of those articles of charge to which the employee pleaded guilty, The inquiring authority shall, if the employee fails to appear within the specified time or refuses or omits to plead or cause to be tried, require the disciplinary authority or his representative to produce the evidence by which he proposes to prove the articles of charge and shall adjourn the case to later date not exceeding 30 days after recording an order that the employee may, for the purpose of preparing his defence,—

- (a) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents, specified in the list referred to in rule 44;
 - (b) submit a list of witness to be examined on his behalf; and
 - (c) give a notice within 10 days of the order or within further time not exceeding ten days as the inquiring authority may allow asking for the discovery or production of any documents which are in the possession of any court but not mentioned in the list referred to in rule 44.
- (6) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same to the authority in whose custody or possession the documents are kept with a requisition for the production of the documents by such date as may be specified in such requisition:

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition, not relevant to the case.

- (7) On receipt of the requisition referred to in sub-rule (6), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if such authority is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or the interest of the court or security of the State, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the employee and withdraw the requisition made by it for production or discovery of such documents.

- (8) If the employee, to whom a copy of the articles of charge has been delivered, fails or refuses to comply with the provisions of this rule, the inquiring authority may hold the inquiry *ex parte*.
- (9) After the completion of the inquiry, a report shall be prepared and it shall contain—
 - (a) the articles of charge and statement of imputation of misconduct or misbehavior;
 - (b) the defence of the employee in respect of such articles of charge;
 - (c) an assessment of the evidence in respect of each article of charge;
 - (d) the findings of each article of charge and the reason therefor.
- (10) (a) The disciplinary authority shall consider the record of the inquiry and record its findings on each charge.
 - (b) The disciplinary authority may, for reasons to be recorded in writing, remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold further inquiry as far as possible, according to the provisions laid down in this rule.
- (11) If the disciplinary authority having regard to its findings on the charge is of opinion that any of the penalties specified in clause (a) to (c) of rule 42 should be imposed, it shall pass appropriate orders on the case.
- (12) If the disciplinary authority having regard to its finding on the charge is of opinion that any of the penalties specified in clause (d) to (h) of rule 42 should be imposed, it shall—
 - (a) furnish to the employee a copy of the report of the inquiring authority and a statement of the findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority; and
 - (b) give him a notice stating the punishment proposed and the grounds thereof and calling upon him to submit with a specified time such representation as he may wish to make on the punishment proposed but only on the basis of the evidence adduced during the inquiry.

- (13) The disciplinary authority may consider the representation, if any, made by the employee according to the provision of clause (b) of sub-rule (12) and determine what penalty, if any, should be imposed on the delinquent employee and pass appropriate orders on the case.
- (14) Orders passed by the disciplinary authority under sub-rule (11) or sub-rule (12) of this rule, shall be communicated to the employee who shall also be supplied with a copy of the report of the inquiring authority and a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority unless they have already been supplied to him.

46. Suspension.— (1) An employee appointed under these rules may be placed under suspension by the appointing authority or any authority empowered by the appointing authority in this behalf,—

- (a) where a disciplinary proceeding or departmental inquiry against him is contemplated or is pending; or
- (b) where, in the opinion of the authority competent to place an employee under suspension, he has engaged himself in activities prejudicial to the interest of the State and the security of the State; or
- (c) where a case against him in respect of a criminal offence is under investigation, inquiry or trial:

Provided that where in exceptional circumstances the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made and obtain his approval.

Provided further that the appointing authority or any authority empowered by the appointing authority in this behalf, shall, before making an order of suspension under this rule,—

- (i) give a notice to the concerned employee for showing cause of such action;
- (ii) make a preliminary investigation regarding a *prima facie* case on any of the grounds mentioned in clause (a), clause (b), or clause (c), of this sub-rule.
- (2) An employee against whom a proceeding has been commenced on a criminal charge but who is not actually detained in custody (for example, a person released on bail) may be placed under suspension under clause (c) of sub-rule (1) by an order made by any of the authorities mentioned in that sub-rule. If the criminal charge is related to the official position of the employee or involves any moral turpitude on his part, suspension shall be ordered under this sub-rule, unless there are exceptional reasons for not adopting such a course.
- (3) An employee who is detained in custody for a period exceeding 48 hours under any law providing for preventive detention or as a result of proceeding either on a criminal charge or otherwise, shall be deemed to have been suspended by an order of the appointing authority, with the effect from the date of his detention and shall remain under suspension until further orders. An employee who is undergoing a sentence of imprisonment shall be dealt with in the same manner, pending disciplinary action to be taken against him.
- (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed on an employee under suspension is set aside in appeal under these rules and the case is remitted for further inquiry or action with any other direction, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- (5) Where a penalty of dismissal, removal or compulsory retirement from service imposed on an employee under suspension or a disciplinary proceeding pending against an employee under suspension is set aside or declared or rendered void in consequence of or by a decision of a court of law, and the disciplinary authority on a consideration of the circumstances of the case decides to hold a further inquiry against the employee on the allegation on which the penalty was originally imposed or the disciplinary proceeding was originally started, the employee shall be deemed to have been placed under suspension by the appointing authority or any other authority empowered to place an employee under suspension with effect from the date of the original order of dismissal, removal or compulsory retirement from service or when the disciplinary proceedings was pending, from the date on which the employee was originally placed under suspension until further orders.

Note.— In a case where an employee is detained in custody under any law providing for preventive detention, the subsistence allowance admissible under this rule shall be reduced by the amount of allowance, if any paid to the detainee under the relevant laws or rules for the time being in force.

47. Special procedure in certain cases where inquiry is not necessary.—Nothing in rules 44 and 45 shall apply in a case, where —

- (a) any penalty is imposed on an employee on the ground of conduct which has led to his conviction on a criminal charge; or
- (b) the disciplinary authority is satisfied that in the interest of the security of state it is not expedient to hold such inquiry.

48. Appeal against an order of suspension.— An employee who is suspended or deemed to have been suspended under rule 46, may prefer an appeal against such suspension to the authority immediately superior to the authority by which he is suspended or is deemed to have been suspended.

49. Appeal to Appellate Authority.— An employee may prefer an appeal against an order imposing upon him any of the penalties specified in rule 42 to the Appellate Authority. An employee may also appeal to the Appellate Authority against an order which—

- (a) denies or varies to his disadvantage his pay, allowance, pension, provident fund benefits, service gratuity or other conditions of service as regulated by rules;
- (b) interprets to his disadvantage the provisions of any such rule;
- (c) reverts an employee to a lower grade or post officiating in a higher grade or post otherwise than as a penalty;
- (d) reduces or withholds the pension of an employee or denies to him the maximum pension admissible under the rules;
- (e) determines the pay and allowances for the period of suspension to be paid to an employee on his reinstatement or determines whether or not such period shall be treated as a period spent on duty for any purpose.

Explanation.— In this rule,—

(iii) the expression "pension" includes additional pension, gratuity and any other retirement benefit;

(iv) the expression "Appellate Authority"—

- (a) where such employee is or has been a member of the Service in Group A post, to the High Court;
- (b) where such employee is or has been a member of the Service in Group B, Group C or Group D post, to the authority to which the authority making the order appealed against is immediately subordinate.

50. Period of limitation of appeals.—No appeal under these rules shall be entertained unless it is submitted within a period of three months from the date on which the appellant receives a copy of the order appealed against:

Provided that the appellate authority may entertain that appeal after the expiry of the said period, if it is satisfied that the appellant has sufficient cause for not submitting the appeal in time.

51. Form and contents of Appeal.—(1) Every Person preferring an appeal shall do so separately and in his own name.

- (2) The appeal shall be presented to the Appellate Authority to which the appeal lies, a copy being simultaneously forwarded by the appellant to the Appellate Authority which made the order appealed against. It shall contain all material statements and arguments on which the appellant relies.

52. Matters for consideration in appeal by Appellate Authority.—(1) In the case of appeal against an order of suspension, the Appellate Authority shall consider whether in the light of the provision in rule 46 and having regard to circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

- (2) In the case of an appeal against an order imposing any of the penalties specified in rule 42, the Appellate Authority shall consider –
- (a) whether the procedure prescribed in these rules has been complied with, and if not whether such non-compliance has resulted in the violation of any of the provisions of the constitution of India or in the failure of justice;
 - (b) whether the findings of the disciplinary authority are warranted by the evidences on the record; and
 - (c) whether the penalty imposed is adequate, inadequate or severe and pass orders for—setting aside, reducing, confirming or enhancing the penalty:

Provided that no order imposing an enhanced penalty shall be passed unless the appellant is given, an opportunity of making any representation which he may wish to make against such enhanced penalty.

53. Implementation of Order in Appeal.—The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority and in doing so it shall furnish to the employee concerned a copy of the order passed by the Appellate Authority in the case.

54. Subsistence Allowance.—(1) An employee under suspension or deemed to have been placed under suspension by an order of the appointing authority, shall be entitled to the following payments, namely:—

- (a) a subsistence allowance at an amount equal to the leave salary which the employee concerned would have drawn if he had been on half-pay:

Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of first six months as follows:

- (i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 *percent* of the subsistence allowance admissible, during the period of the first six months, if in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the employee;
 - (ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 *percent* of the subsistence allowance admissible during of the period of six months, if in the opinion of the said authority, the period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the employee;
- (b) dearness, medical or other compensatory allowance, if any, admissible from time to time on the basis of pay which the employee was in receipt of on the date of suspension or such portion thereof as the suspending authority, may direct subject to the fulfilment of other conditions laid down for the drawal of such allowance. Dearness Allowance shall, however, be calculated on the reduced pay.

Note.— No payment under this rule shall be made unless the employee furnishes a certificate that he is not engaged in any other employment, business, profession or vocation.

- (2) The following recoveries which would have been made from salary had he not been suspended, shall be made from the subsistence allowance to the employee:—
- (a) Government dues such as income-tax, profession-tax, house-rent, charges for electricity and water, furniture hire and the like;
 - (b) contribution towards group insurance scheme if it exists;
 - (c) loans and advances taken by the employee from the Government;
 - (d) over payment made to the employee by the Government; and
 - (e) loss to the Government for which the employee has been held responsible. Loss to the Government for which the employee has been held responsible in a departmental enquiry or by any Court or Tribunal subject to permission or sanction of the Appropriate Authority.

Provided that the total amount of the recoveries to be made under clause (c) to (e) shall not exceed one-third of the subsistence allowance granted to the employee under clause (a) of the sub-rule (1).

(3) Recovery may be made from the subsistence allowance to the employee with his written consent and to the extent agreed in respect of the following, namely –

- (a) subscription to Provident Fund;
- (b) premium due on postal life insurance policies;
- (c) dues of any co-operative society.

55. Pay and Allowances on Reinstatement of an employee who has been suspended.—(1) When an employee who has been suspended is reinstated or would have been so reinstated but for his retirement including premature retirement while under suspension, the authority competent to order reinstatement shall consider and make a specific order—

- (a) regarding the pay and allowance to be paid to employee for the period of suspension ending with reinstatement or the date of retirement including premature retirement as the case may be;
- (b) whether or not the said period shall be treated as a period spent on duty.

(2) Where the authority competent to order reinstatement is of opinion that the suspension was wholly unjustified the employee shall, subject to the provision of sub-rule (7), be paid full pay and allowance to which he/ she would have been entitled, had he/she not been suspended.

(3) In a case falling under the sub-rule (2), the period of suspension shall be treated as a period spent on duty for all purposes.

(4) In a case other than falling under sub-rule (2), the employee shall, subject to the provision of sub-rule (7) be paid such amount (not being the whole) of pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine after giving notice to the employee of the quantum proposed and considering the representation, if any, submitted by him in that connection within such period which is in no case shall exceed 60 days from the date on which the notice has been served as may be specified in the notice.

(5) Where suspension is revoked pending finalisation of disciplinary or court proceeding, any order passed under sub-rule (1) before the conclusion of the proceeding against the employee, shall be reviewed on its own motion after the conclusion of the proceedings by the authority mentioned in sub-rule (4) who shall make an order according to the provisions of sub-rule (2) or sub-rule (4), as the case may be.

(6) In a case falling under sub-rule (4) the period of suspension shall not be treated as a period spent on duty:

Provided that if the employee so desires, such authority may order that the period of suspension shall be converted into leave of any kind due and admissible.

(7) The payment of allowance under sub-rules (2) and (4) shall be subject to all other conditions under which such allowances are admissible.

56. Pay and Allowances on Reinstatement of an employee who has been dismissed, removed or compulsorily retired.— (1) When an employee who has been dismissed, removed or compulsorily retired is reinstated as a result of an appeal or would have been so reinstated but for his/her retirement on superannuation while on suspension, the authority competent to order reinstatement shall consider and make specific order:

- (a) regarding the pay and allowance to be paid to the employee for the period of his/her absence from duty including the period of suspension preceding his /her dismissal, removal or compulsory retirement as the case may be; and
- (b) whether or not the said period shall be treated as a period spent on duty.

- (2) Where the authority competent to order reinstatement is of opinion that the employee who had been dismissed, removed or compulsorily retired has been fully exonerated, the employee shall, subject to the provision of sub-rule (6) be paid the full pay and allowances to which he/she would have been entitled, had he/she not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement as the case may be;
- (3) In a case falling under sub-rule (2) the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.
- (4) In cases other than those covered by sub-rule (2) including the case where the order of dismissal, removal and compulsory retirement from the service is set-aside by the appellate authority solely on technical grounds and not on merits and no further inquiry is proposed to be held, the employee shall, subject to the provisions of sub-rules (6) and (7), be paid such amount (not being the whole) of the pay and allowances of which he/she would have been entitled, had he/she not been dismissed, removed or compulsorily retired or suspended prior to such removal, dismissal or compulsory retirement, as the case may be, as the competent authority may determine after giving notices to the employee of the quantum proposed after considering the representation, if any, submitted by him/her in that connection within such period, which in no case shall exceed 60 days from the date on which the notice has been served, as may be specified by notice.
- (5) In a case falling under sub-rule (4), the period of absence from duty including the period of suspension preceding his/her dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty:

Provided that if the employee so desires such authority may direct that the period of suspension preceding his/her dismissal, remove or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to him/her.

- (6) The payment of allowance under sub-rule (2) or/and under sub-rule (4) shall be subject to all other conditions under which such allowance are admissible.
- (7) The amount determined under the provision of sub-rule (4) shall not be less than the subsistence allowance and other allowance admissible under rule 54.
- (8) Any payment made under this rule to an employee on his/her reinstatement shall subject to adjustment of amount, if any, earned by him/her through employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be and the date of reinstatement. When the emoluments under this rule are equal to or less than the amount earned during the employment elsewhere, nothing shall be paid to any employee.

57. Pay and Allowances on Reinstatement when the Order of Dismissal etc. are set aside by any Court of Law.—

- (1) Where the dismissal, removal or compulsory retirement of an employee is set aside by a Court of Law and such employee is reinstated without holding any further inquiry, the period of absence from duty shall be regulated and the employee shall be paid pay and allowances for the period in accordance with the provisions of sub-rules (2) or (3) subject to the directions, if any, of the Court.
- (2) Where the order of dismissal, removal or compulsory retirement of an employee is set aside by the Court on the ground of non-compliance with the technical requirements of rules or procedure or where he is not exonerated on merits of the case, action will be taken in the same way as in sub-rule (4) of rule 56 and period of absence will be regulated in accordance with the provisions in sub-rule (5) of rule 56.
- (3) If the dismissal, removal or compulsory retirement of the employee is set aside by the Court on the merit of the case, the period intervening between the date of dismissal, removal or compulsory retirement including the period of suspension preceding such dismissal, removal or compulsory retirement, as the case may be and the date of reinstatement shall be treated as the period spent on duty for all purposes and he shall be paid the full pay and allowances for the period, to which he/she would have been entitled had he/she not been dismissed, removed or compulsorily retired or suspended, as the case may be.

- (4) Any payment made under this rule to an employee on his/her reinstatement shall be subject to adjustment of the amount, if any, earned by him/her through an employment during the period between the date of dismissal, removal or compulsory retirement and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than those earned during the employment elsewhere, nothing shall be paid to the employee.

CHAPTER VII

Miscellaneous

- 58. Age of Superannuation.**— The age of superannuation of a member of the service shall be age of superannuation specified by the Government from time to time to members of the State Civil Services.
- 59. Retirement in public interest.**—Notwithstanding anything contained in these rules or any other law the High Court may, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any member of the Service who has put in not less than twenty years of service or has attained the age of 50 years, by giving him notice of not less than three months in writing or three months' pay and allowances in lieu of such notice.
- 60. Training etc.**—(1) Every person appointed by direct recruitment to the service shall, undergo such training as may, from time to time, be specified by the High Court.
- (2) Every member of the service shall be given such periodical training as the High Court may, from time to time specify.
- (3) Every member of the service shall pass such tests or examinations and within such time as the High Court may, from time to time specify.
- 61. Change of cadre.**—(1) Stenographers of all grades may be permitted by the appointing authority to change their cadre to a cadre of equivalent grade on the clerical or ministerial side after completion of 5 (five) years of service
- (2) Change of cadre once permitted shall be final.
- 62. Interpretation.**— Any dispute in respect of these rules shall be referred to the State Government and the decision of the State Government shall be final:
- Provided that in every such case of dispute, the State Government shall make an effective consultation with the High Court in order to making its decision as final.
- Interpretation— Any question with regard to application or interpretation to those rules shall be referred to the High Court and the decision of the High Court shall be final.
- 63. Application of other rules not inconsistent with these rules.**—In all matters not expressly provided for by these rules, the rules specified in the West Bengal Service Rules, Part I and Part II, and other service rules applicable to Government employees, in so far as they are not consistent with these rules shall, mutatis mutandis, apply to the members of the service.
- (i) Repeal and Savings- (i) The Bengal Civil Court Clerical and Inferior Services (Recruitment, Discipline and Appeals) Rules, 1941 is hereby repealed.
- (ii) Notwithstanding the repeal of the said rules any action taken or enquiry conducted or proceedings initiated under the repealed Rules shall be continued or proceeded with as if these rules have not come into force.

SCHEDULE A

[See rule 4]

Category of posts (cadres)

Sl. No.	Name of Court	Name of post	Category of posts
(1)	(2)	(3)	(4)
1.	District Court/Chief Judge, City Civil Court/City Sessions Court/Presidency Small Causes Court/any other Court in equivalent rank	Assistant Registrar (In City Court/City Session Court)	Gr. A
		Sheristedar Grade- I	Gr. A
		Bench Clerk Grade-I	Gr. A
		Stenographer Grade-I/ Executive Assistant to District Judge of Chief Judge, City Civil Court, City Sessions Court and Presidency Small Causes Court	Gr. A
		Nazir/ Head Clerk-cum-Translator/ District Record Keeper/other equivalent posts	Gr. B
		Protocol Officers	Gr. B
		Upper Division Clerks/ Librarian /Senior Accountant/ Cashier/Caretaker/Naib Nazir/other equivalent posts	Gr. B
		Lower Division Clerk/Record Clerk/ Assistant Accountant/Typists/ Typists- Copyists/Mapyist/other equivalent posts	Gr. C
		Process Servers/ Bailiff/Summon Bailiff/ Seal Bailiff/Record Keeper/Assistant Record Keeper/ other equivalent posts	Gr. C
		Peons / Orderlies/ Frash/ Night Guard/ Day Guard/ Sweeper/Darwan/ other equivalent posts	Gr. C
2.	Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/ Additional Chief Judicial Magistrate/ Additional Chief Metropolitan Magistrate/ any other Court in equivalent rank.	Sheristedars Grade-II	Gr. A
		Bench Clerk Grade-II	Gr. A
		Stenographers Grade-II	Gr. B
		Nazir/ Head Clerk-cum-Translator/ Cashier/ Librarian/Accountant/ Head Assistant/ Sr. Superintendent/ other equivalent posts	Gr. B

Sl. No.	Name of Court	Name of post	Category of posts
(1)	(2)	(3)	(4)
		Upper Division Clerks/ other equivalent posts	Gr. B
		Lower Division Clerk/ Typists/Typists-Copyists/ Caretaker	Gr. C
		Process Servers/ Bailiff/other equivalent posts	Gr. C
		Attenders/Jamedars/other equivalent posts	Gr. C
		Peons / Orderly/ Farash/ Night Guard/ Day Guards/ Sweeper/ other equivalent posts	Gr. D
3.	Court of Civil Judge (Junior Division)/ Judicial Magistrate Court/Metropolitan Magistrate/ any other Court in equivalent rank	Sheristedars Grade-III	Gr. A
		Bench Clerk Grade-III	Gr. B
		Upper Division Clerks/Librarian/ Cashier/ Accountant/ Head Assistant/ Sr. Superintendent/ other equivalent posts	Gr. B
		Stenographers Grade-III	Gr. B
		Lower Division Clerk/Cashier Typist/ Typist-Copyist/Mapyist/ other equivalent posts	Gr. C
		Process Server/ Bailiff/ Summon Bailiff/ Seal Bailiff	Gr. C
		Attender/Jamedar/Daftry/other equivalent posts	Gr. C
		Peons / Orderlies/ Farash/ Night Guard/ Sweeper/ other equivalent posts	Gr. D

SCHEDULE B

PART I

(See rule 7)

District Court/City Civil Court/City Sessions Court/Special Court/any other Court in equivalent rank method of recruitment Sheristedar, Grade I, Bench Clerk, Grade I, Nazir, Head Clerk-cum-Translator and Protocol Officer or other equivalent posts.

Sl.No.	Category of post	Method of recruitment
(1)	(2)	(3)
1.	Assistant Registrar (In City Civil Court/City Session Court)	By Promotion from amongst the Sheristedars Grade-I, on the basis of seniority.
2.	Sheristedar, Grade-I	By promotion from amongst the Sheristedars, Grade-II, on the basis of seniority.
3.	Bench Clerk, Grade-I	By promotion from the cadre of Bench Clerks, Grade-II, Head Clerk-cum-Translators, Cashiers, Accountants, Nazirs, Sheristedars, Grade III, on the basis of seniority.

Sl.No.	Category of post	Method of recruitment
(1)	(2)	(3)
4.	<i>Nazir</i> /Head Clerk-cum-Translator/ Accountant/cashier/equivalent posts	By selection from the Upper Division Clerks on the basis of seniority.
5.	Protocol Officer	By selection of a suitable officer from Group B cadres on the basis of seniority-cum-merit-cum-ability.

PART II

(See rule 12)

Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/ Additional Chief Judicial Magistrate/ Additional Chief Metropolitan Magistrate/any other Court in equivalent rank

Method of recruitment Sheristedar, Grade II, Bench Clerk, Grade II and Nazir or other equivalent posts

Sl.No.	Category of post	Method of recruitment
(1)	(2)	(3)
1.	Sheristedar, Grade-II	By promotion from amongst the Sheristedars Grade-III, on the basis of seniority-cum-merit.
2.	Bench Clerk, Grade-II	By promotion from the cadre of Head Clerk-cum-Translators, Cashiers, Accountants, Nazirs, on the basis of seniority-cum merit;
3.	<i>Nazir</i>	By selection from the Head clerk or equivalent posts

PART III

(See rule 17)

Court of Civil Judge (Junior Division)/Judicial Magistrate/Metropolitan Magistrate/any other Court in equivalent rank

Method of recruitment Sheristedar, Grade III, Bench Clerk, Grade III

Sl.No.	Category of post	Method of recruitment
(1)	(2)	(3)
1.	Sheristedar, Grade-III	By promotion from amongst the Bench Clerk, Grade-III, on the basis of seniority.
2.	Bench Clerk, Grade-III	By promotion from the cadre of Upper Division Assistants, Bench Clerks, Accountants, or other equivalent posts, on the basis of seniority-cum-merit.

SCHEDULE C

(See rule 8, 13 and 18)

Method of recruitment and qualifications of Upper Division Clerk and Lower Division Clerk or other equivalent posts.

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Upper Division Clerk/ other equivalent posts	(a) 75% by promotion from the cadre of Lower Division Clerks / Typists(erstwhile)/ Typist Copyists (erstwhile), having minimum of three years of service in the respective cadre having qualification of direct recruitment as upper Division Clerk. (b) 25% by direct recruitment.	(a) Must be holder of a degree granted by a university established by law in India; (b) must have passed typing test or have such knowledge or qualification in computer operation as may be specified by the High Court at Calcutta from time to time;
2.	Lower Division Clerk/ Typist (erstwhile)/ Typist Copyist (erstwhile)/other equivalent posts.	(a) 75% by direct recruitment; (b) 25% by promotion from the cadres of Process Server/ Summons Bailiff/Seal Bailiff and Attender/Jamedar/other equivalent posts having passed Madhyamik or equivalent in the ration of 1:2; every third vacancy being filled by promotion of Process Servers/Summons Bailiff/Seal Bailiff/other equivalent posts.	(a) Must have passed Madhyamik or equivalent examination conducted by any recognised Board or institution; (b) must have passed typing test or have such knowledge or qualification in computer operation as may be specified by the High Court at Calcutta from time to time.

SCHEDULE D

PART I

(See rule 9)

Method of recruitment and qualifications of Stenographers, Grade-I, in the Court of District Court / City Civil Court/City Sessions Court/Special Court/any other Court in equivalent rank.

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Stenographers Grade-I	By promotion from the cadre of Stenographers Grade-II, having minimum of three years experience as such on the basis of seniority-cum-merit	

PART II

(See rule 14)

Method of recruitment and qualifications of Stenographers, Grade-II, in the Court of Civil Judge (Senior Division)/Chief Judicial Magistrate/Chief Metropolitan Magistrate/ Additional Chief Judicial Magistrate/ Additional Chief Metropolitan Magistrate or any other Court in equivalent rank

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Stenographers, Grade-II	(a) 75% by promotion from the cadre of Stenographer Grade-III, having minimum of three years experience as such on the basis of seniority-cum-merit; (b) 25% by direct recruitment.	(a) Must have Bachelor's degree from any university recognised by the University Grants Commission; (b) must have passed typing test or have such knowledge or qualification in computer operation, and in Shorthand, as may be specified by the High Court at Calcutta from time to time;

PART III

(See rule 19)

Method of recruitment and qualifications of Stenographers, Grade-III, in the Court of Civil Judge (Junior Division)/Judicial Magistrate/Metropolitan Magistrate any other Court in equivalent rank

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Stenographers, Grade-III	(a) 40% by promotion from the cadre of Lower Division Clerks/ Typists (erstwhile)/ Typist Copyist (erstwhile), having qualification of direct recruitment as Stenographer Grade - III; (b) 60% by direct recruitment.	(a) Must have passed Madhyamik or equivalent examination conducted by any recognised Board or institution; (b) must have passed typing test or have such knowledge or qualification in computer operation, and in Shorthand, as may be specified by the High Court at Calcutta from time to time.

Note.— The Appointing Authority shall have the power to take administrative decision for carrying out the purpose.

SCHEDULE E

(See rules 10, 15 and 20)

PART I

**Process Establishment of District Court/any other Court sub-ordinate thereto (except City Civil Court,
City Sessions Court, Presidency Small Causes Court)**

Method of recruitment and qualifications of Process server and Bailiff

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Process Server	(a) 50% by promotion from the cadre of Attender or Jamedar or Daftry or other equivalent posts having minimum of three years of experience as such and having qualification of direct recruitment of Process Server, on the basis of seniority-cum-merit; (b) 50% by direct recruitment	Must have passed VIII standard examination from any recognised institution.
2.	Bailiff	(a) (66 & 2/3) by promotion from the cadre of Process Servers having three years of experience as such on the basis of seniority-cum-merit; (b) (33&1/3) by direct recruitment	Must have passed Madhyamik or equivalent examination conducted by any recognised Board or institution.

PART II

Process Establishment of City Civil Court, City Sessions Court, Presidency Small Causes Court

Method of recruitment and qualifications of Summons Bailiff and Seal Bailiff

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
1.	Summons Bailiff	(a) 50% by promotion from the cadre of Attenders or Jamedars or other equivalent posts having minimum of three years of experience as such and having qualification of direct recruitment of Process Server on the basis of seniority-cum-merit. (b) 50% by direct recruitment.	Must have passed VIII standard examination from any recognised institution.

Sl. No.	Category of post	Method of recruitment	Qualification for direct recruitment
(1)	(2)	(3)	(4)
2.	Seal Bailiff	(a) (66% (2/3) by promotion from the cadre of Process Servers having three years of experience as such on the basis of seniority-cum-merit; (b) (33% (1/3) by direct recruitment	Must have passed Madhyamik or equivalent examination conducted by any recognised Board or institution.

[Note: This Notification has been made in cancellation of previous Notification No. 83-JL dated 31.05.2021 published in the Kolkata Gazette, Extraordinary dated 01.06.2021]

By Order of the Governor,

SIDDHARTHA ROY CHOWDHURY
Principal Secretary to the Government of West Bengal

==
43
==