



বাংলাদেশ

গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

শনিবার, জানুয়ারি ২৮, ২০১২

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

আইন, বিচার ও সংসদ বিষয়ক মন্ত্রণালয়

লেজিসলেটিভ ও সংসদ বিষয়ক বিভাগ

প্রজ্ঞাপন

তারিখ, ১৬ জানুয়ারি ২০১২ ইং

নং ০৩(আঃম)(লেঃ স)(মুঃপ্রঃ)-আইন-অনুবাদ-২০১২—সরকারি কার্যবিধিমালা, ১৯৯৬ এর প্রথম তফসিল (বিভিন্ন মন্ত্রণালয় এবং বিভাগের মধ্যে কার্যবন্টন) এর আইটেম ৩০ এর ক্রমিক ৭ ও ১০ এবং মন্ত্রিপরিষদ বিভাগের বিগত ৩-৭-২০০০ ইং তারিখের সভায় গৃহীত সিদ্ধান্ত বাস্তবায়নের নিমিত্ত বাংলাদেশ জুডিসিয়াল সার্ভিস সংক্রান্ত বিধিমালাসমূহ (এস, আর, ও নং ৯) নিম্নরূপ ইংরেজী অনুবাদ সর্বসাধারণের জ্ঞাতার্থে প্রকাশ করিল।

মোঃ আনোয়ার হোসেন

সিনিয়র সহকারী সচিব।

(৫৪১)

মূল্য : টাকা ৮.০০

Bangladesh Gazette

Extraordinary

Published by Authority

TUESDAY, JANUARY 16, 2007

GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH  
MINISTRY OF ESTABLISHMENT

## NOTIFICATION

Dated, Magh 03, 1413 BE/January 16, 2007 AD

ইস্যু নং-০৩

**S.R.O. No.9-Law/2007.**—Whereas the President is empowered to make separate rules for the officials exercising judicial functions in the office of Judicial Service by article 115 of the Constitution; and

Whereas there is a direction to make provisions under article 115 of the Constitution regarding constitution of Service, appointment to the posts of the Service and other matters ancillary thereto, and suspension, dismissal and removal of the persons appointed to the Service in the judgment of Civil Appeal No. 79/1999 passed by the Appellate Division of the Bangladesh Supreme Court;

Therefore, in pursuance of the direction given by the Supreme Court, the President, in exercise of all powers conferred to him in this behalf by article 115 of the Constitution, is pleased to make the following rules for constituting a Judicial Service, namely :—

**1. Short title and commencement.**—(1) These rules may be called the Bangladesh Judicial Service (Constitution of Service, Appointment to the Posts of Service and Suspension, Dismissal and Removal) Rules, 2007.

(2) These rules shall come into force on such date as may be determined by notification in the official Gazette according to the advice of the Supreme Court.

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

- (a) “Competent Authority” means the President or the Ministry or Division having the administrative charge of the Service under the Rules of Business made according to article 55(6) of the Constitution;

- (b) “Appointing Authority” means the President;
- (c) “Commission” means the Bangladesh Judicial Service Commission;
- (d) “Schedule” means the Schedule of these rules;
- (e) “post” means any post mentioned in the Schedule;
- (f) “probationer” means any person appointed as a probationer under rule 6;
- (g) “entry post” means the post of an Assistant Judge of the Service;
- (h) “Service” means the Bangladesh Judicial Service constituted under rule 3;
- (i) “recognized university” means a university established by or under any law for the time being in force or any foreign university or foreign educational institution of equal status recognized by the Government.

**3. Constitution of Service.**—(1) There shall be a Service to be called the Bangladesh Judicial Service and the posts mentioned in the Schedule shall be the posts of the Service.

(2) The Judicial Service shall consist of the following persons, namely:—

- (a) the persons appointed to the posts mentioned in the First Part of the Schedule or deputed anywhere immediately before the rules coming into force; and
- (b) the persons appointed to the posts of Service under these rules.

(3) The Competent Authority shall, by notification in the official Gazette, determine the number of the initially approved posts mentioned in both Parts of the Schedule and may, from time to time, determine or re-determine the number of the posts by way of reducing or increasing:

Provided that the number of the posts of the Service shall not reduced without the consent of the Supreme Court.

**Explanation.**—To determine the total number of entry posts of the Service, the number of the lowest two posts of the First and Second Parts of the Schedule shall be enumerated together.

(4) To determine the number of posts under sub-rule (3), at least 10% additional posts of the total posts of the Service shall be kept reserved for leave, deputation and training purposes.

**4. Appointment to the entry posts of the Service.**—For the purpose of article 29(3) of the Constitution of the People's Republic of Bangladesh, appointment to the entry posts of the Service shall be made directly, subject to the instructions relating to reservation and other provisions of these rules.

**5. Qualifications, age-limit and other terms and conditions of appointment to the entry posts of the Service.**—(1) A person may be appointment to the entry posts of the Service, if he—

- (a) has second class Bachelor Degree in law or second class LL.M. Degree from a recognized university;
- (b) does not exceed 32 years of old; and
- (c) is a member of any local Bar Association as an enrolled advocate of Bar Council formed under Bangladesh Legal Practitioners and Bar Council Order, 1972 (P. O. No. 46 of 1972).

(2) No person shall be appointed to the entry posts of the Service by direct recruitment except upon the recommendation of the Commission.

(3) No person shall be eligible for appointment to the entry posts of the Service by direct recruitment, if he—

- (a) is not a citizen of Bangladesh or a permanent resident of or domiciled in, Bangladesh; or
- (b) is married to or has entered into promise of marriage with a person who is not a citizen of Bangladesh.

(4) No person shall be appointed to the entry posts of the Service by direct recruitment, unless—

(a) he is certified by a medical board set up or any medical officer nominated for the purpose by the Director-General of health services to be medically fit for such appointment and that he does not suffer from any such organic defect as is likely to interfere with the discharge of the duties of the concerned posts of the Service; and

(b) his antecedents have been verified through Home Ministry and found to be such as do not render him unfit for appointment in the Service.

(5) No person shall be recommended for appointment to the entry posts of the Service, unless he—

(a) applies in such form, accompanied by such fee and before such date, as is notified by the Commission while inviting applications for the said post; and

(b) while already appointed in government service or in the service of a local authority, applies through proper channel.

(6) The Commission may, with approval of the President, by notification in the official Gazette, determine the syllabus and procedure of examination necessary for recommendation in order to appoint to the entry posts of the Service.

(7) Until the syllabus and procedure of examination under sub-rule (6) are made, the Commission may take necessary measures for making recommendation for appointment to the entry posts of the Service in accordance with such syllabus and procedure of examination as were followed to make appointment to the post of Assistant Judge by direct recruitment under the Bangladesh Civil Service (Age, Qualification and Examination for Direct Recruitment) Rules, 1982.

(8) In the case of selection of candidates and appointment to the entry posts of the Service 20% female quota shall be preserved :

Provided that if at least 20% selection and appointment is possible to be made among the female candidates only on the basis of merit, such quota shall not be required to preserve:

Provide further that, if from among the female candidates, at least 20% candidates are not possible to select and appoint on the basis of merit, quota shall be preserved for such number of candidates as are required to fill up 20% quota from among the candidates qualified in the written examination on the basis of merit.

(9) If the number of women working in the Service rises up to 50% of the Service posts, the provision of quota mentioned in sub-rule (8) shall not have effect.

**6. Probation.**—(1) The person recruited against any entry substantive vacuum for appointment to any entry post of the Service shall remain on probation for a period of two years from the date of his appointment:

Provided that the Competent Authority may extend the period of probationer up to a term not exceeding two years in aggregate and if the probation period is not extended officially, it shall be deemed to have been extended to the highest term of two years.

(2) If the Competent Authority, after the completion of the probation period including the extended period, if any, is satisfied that the conduct and work of the probationer has been satisfactory, it shall, in consultation with the Supreme Court, subject to the provision of sub-rule (4), confirm him.

(3) After the completion of or during the probation period including the extended period thereof, if any, if the Competent Authority is of the opinion that his conduct and work is unsatisfactory or, as the case may be, was not satisfactory or that he is not likely to become efficient and he has not passed the examinations or completed the trainings determined under sub-rule (4), the Appointing Authority may, in consultation with the Supreme Court, terminate the service of the probationer.

(4) A probationer shall not be confirmed in the entry post of the Service, if he—

(a) has not passed such examinations successfully; and

(b) has not undergone or, if undergone, not completed such trainings successfully, as the Competent Authority may, from time to time, prescribe by order notified in the official Gazette.

(4A) Until any order regarding the departmental examinations and trainings to be held under sub-rule (4) is issued, the Commission may take necessary examinations and measures ancillary thereto and make necessary recommendations on departmental examinations or trainings in accordance with the Munsifs' Training and Probations Rules, 1979.

(5) If the service of a probationer is not terminated officially under sub-rule (3), his service shall be deemed to have been confirmed after completion of the extended probation period.

(6) If the service of a probationer is confirmed under this rule, the probation period shall, for the purpose of determining promotion, leave and other facilities ancillary thereto, be deemed to be his service period.

**7. Suspension, dismissal and removal.**—(1) No person holding a post of the Service shall be suspended, dismissed or removed by any authority subordinate to his Appointing Authority.

(2) No person holding a post of the Service shall be suspended, dismissed or removed from the post of the Service, unless he is given a reasonable opportunity of showing cause against the proposed action to be taken against him and without consultation with the Supreme Court.

(3) In the case of suspension, dismissal or removal of a member of the Service under this rule, the provisions of the Government Servants (Discipline and Appeal) Rules, 1985 shall, mutatis mutandis, apply; but in this regard consultation with the Public Service Commission shall not be required.

**8. Special provision.**—(1) Notwithstanding anything contained in these rules, the Appointing Authority may, within the following three years from the date of commencement of these rules, adopt any officer having the experience of discharging the duty of a magistrate of B.C.S (Administration) Cadre to any post of the Second Part of the Schedule or the post of Assistant Judge of the Service on the basis of recommendation made by the select committee and subject to the provision of sub-rule (3).

- (2) The Competent Authority shall, by issuing notification within 60 (sixty) days after the commencement of these rules, ask for applications from the officers who desire to be adopted to the Service post under these rules.
- (3) Any officer desiring to be adsorbed in any post of the Service under sub-rule (1) may, subject to having such qualifications as are required for the concerned post under sub-rule (19), apply for the post in writing to the Competent Authority of the Service through his present controlling Ministry expressing his desire to be absorbed within 2 (two) years from the date of publishing notification under sub-rule (2).
- (4) The Competent Authority shall send the applications received under sub-rule (3) to the select committee mentioned in sub-rule (18) and request it to make recommendation after scrutiny within next 45 (forty five) days.
- (5) The select committee shall, after scrutiny of the applications under sub-rule (4) send a recommendation for absorbing the names of the eligible candidates having satisfactory service record to the Competent Authority within 90 (ninety) days.
- (6) The Competent Authority shall, in consultation with the Supreme Court and with approval of the Appointing Authority, issue the absorption and posting order within 120 (one hundred and twenty) days after receiving the recommendation under sub-rule (5).
- (7) If any person fails to join at the absorbed post within the period specified for joining at the post mentioned in the order issued under sub-rule (6), which may not exceed 30 (thirty) days, his absorbing order shall be deemed to have been void.
- (8) The Competent Authority may, in consultation with the Supreme Court, give posting of the officer absorbed under sub-rule (1) to the absorbed post.
- (9) The seniority of the officers absorbed in different posts of the Second Part of the Schedule under sub-rule (1) shall be determined in accordance with the serial of their seniority which they held in the Bangladesh Civil Service (Administration) Cadre immediately before they have been absorbed.

(10) In the case of determination of seniority of the officers absorbed in the post of Assistant Judge of the Service under sub-rule (1), his previous service period in the Bangladesh Civil Service (Administration) Cadre shall be reckoned and the seniority shall be determined in the following manners, such as:—

- (a) if the officer absorbed is enlisted in a general merit list as a candidate of the same batch with the officers who have joined as Assistant judge according to the merit list made by the Public Service Commission before the commencement of these rules, his seniority shall be determined according thereby;
- (b) if more than one officer of the same batch are absorbed as Assistant Judge, their seniority shall be determined according to the merit list of the said batch;
- (c) if there is no such common merit list for any batch, the seniority of the officers absorbed shall be determined on the basis of their seniority of age with the Assistant Judges;
- (d) in determination of the seniority of the Assistant Judges and the officers absorbed, general principles of seniority shall, subject to the provisions of clause (a), (b) and (c), apply.

(11) Any officer absorbed under sub-rule (1) may express his desire to return his original Cadre or post in writing to the Competent Authority within three years after his joining at the absorbed post.

(12) If any officer expresses his desire to return his original Cadre or post under sub-rule (11), the Competent Authority shall in consultation with the Supreme Court and with the approval of the Appointing Authority, take measures for his return and in such case, his service period in the post of the Service shall be deemed to be his deputation period and for this reason his seniority and other privileges in his original service or post shall not be affected.

(13) The Competent Authority may, in consultation with the Supreme Court, appoint any officer having experience of magistracy in the B.C.S. (Administration) Cadre and qualifications mentioned against the concerned post under sub-rule (19) to any vacant post of Second Part of the Schedule on deputation for the period of three years specified for absorption under sub-rule (1), if necessary.

(14) If there remains any vacancy in the posts of Second Part of the Schedule after completion of the procedure for absorption under sub-rule (1), the Competent Authority may, if necessary, fill up the said vacant posts by appointing eligible officers of the B.C.S. (Administration) Cadre on deputation.

(15) All posts of the Second Part of the Schedule shall be filled up by turns through appointment to the entry posts of the Service and promotion according to rules by the members of the Service within 31 December, 2011 and simultaneously the officers of the B.C.S. (Administration) Cadre appointed to the Service on deputation shall be sent back to the said Cadre.

(16) If any officer absorbed under sub-rule (1) or appointed on deputation under sub-rule (13) and (14) reverts to his original Cadre, his seniority or other privileges of the said Cadre shall not be affected for the reason of his discharging duties in the Service.

(17) The Government may, by executive orders, give any special financial facilities to the officers appointed as aforesaid for the period he remains engaged on deputation.

(18) A select committee shall be formed consisting of the following persons to make recommendation on absorption in accordance with sub-rule (1), namely:—

- (a) a Judge of the High Court Division of the Supreme Court to be nominated by the Chief Justice, who shall be its Chairman;
- (b) Secretary, Ministry of Establishment, ex-officio;
- (c) Secretary, Home Ministry, ex-officio;
- (d) Secretary, Ministry of Law, Justice and Parliamentary Affairs, ex-officio;
- (e) Secretary, Finance Division, Ministry of Finance, ex-officio; and
- (f) Registrar, Bangladesh Supreme Court, ex-officio.

(18A) The select committee shall determine its procedure and the presence of four members shall from the quorum of its meeting.

(19) The minimum qualification of a person eligible to be absorbed in the Service under this rule shall be as follows:—

<u>Serial No</u>	<u>Name of the service post</u>	<u>Minimum qualification of being absorbed in the service post</u>
(a)	Chief Judicial Magistrate/ Chief Metropolitan Magistrate.	At least 15 (fifteen) years' experience of satisfactory service in the post of first class officer with minimum 2 (two) years' experience as Additional District Magistrate/Additional Chief Metropolitan Magistrate.
(b)	Additional Chief Judicial Magistrate/Additional Chief Metropolitan Magistrate.	At least 12 (twelve) years' experience of satisfactory service in the post of first class officer with minimum 5 (five) years' experience as first class Magistrate.
(c)	Senior Judicial Magistrate/ Metropolitan Magistrate/ Special Judicial Magistrate.	At least 8 (eight) years' experience of satisfactory service in the post of first class officer with minimum 3 (three) years' experience as a first class Magistrate.
(d)	Judicial Magistrate (2nd/3rd class Magistrate)	Having experience of discharging duties as Magistrate.

(20) Experience of discharging duties as a magistrate shall be required to be absorbed in the post of Assistant Judge of the Service under this rule.

**8A. Effectiveness of consultation with the Supreme Court.**—In the case of taking advice of the Supreme Court in accordance with these rules, the Competent Authority shall take necessary measures to take advice effectively and where the proposal of the Competent Authority and the advice of the Supreme Court differ, the advice of the Supreme Court shall prevail.

**9. Repeal and savings.**—(1) The Bangladesh Judicial Service (Constitution, Appointment to the Entry Posts of Service and Suspension, Dismissal and Removal) Rules, 2006 are hereby repealed.

(2) Notwithstanding such repeal under sub-rule (1), all acts done and actions taken under the repealed rules shall be deemed to have been done and taken under these rules.

(3) Any appointment to the post mentioned in the First Part of the Schedule before the commencement of these rules shall be deemed to be the appointment given under these rules.

### **Schedule**

[See rule 2(e)]

#### **The posts of Bangladesh Judicial Service**

##### **First Part**

- (a) District Judge/District and Sessions Judge/other judicial posts of the same status;
- (b) Additional District and Sessions Judge/other judicial posts of the same status;
- (c) Joint District and Sessions Judge/other judicial posts of the same status;
- (d) Senior Assistant Judge/other judicial posts of the same status;
- (e) Assistant Judge.

##### **Second Part**

- (a) Chief Metropolitan Magistrate/Chief Judicial Magistrate;
- (b) Additional Chief Metropolitan Magistrate/Additional Chief Judicial Magistrate;
- (c) Senior Judicial Magistrate (1<sup>st</sup> class Magistrate/Metropolitan Magistrate/Special Magistrate);
- (d) Judicial Magistrate(2<sup>nd</sup>/3<sup>rd</sup> class Magistrate).

By order of the President

**Abu Muhammad Monirujjaman Khan**

Secretary.

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