

## **\*THE SIKKIM SUPERIOR JUDICIAL SERVICE RULES, 1980**

In exercise of the powers conferred by the proviso to article 309 read with article 233 of the Constitution of India, the Governor of Sikkim, in consultation with the High Court of Sikkim makes the following rules regulating the recruitment and the conditions of service of persons appointed to the Sikkim Superior Judicial Service:—

### **1. SHORT TITLE AND COMMENCEMENT:**

- (1) These rules may be called the Sikkim Superior Judicial Service Rules, 1980.
- (2) They shall be deemed to have come into force on the 8th day of March, 1978.

### **2. DEFINITIONS :** In these rules, unless the context otherwise requires :-

- (1) "appointment to the service" means an appointment to a cadre post, whether on permanent, temporary or officiating basis, or on probation;
- (2) "cadre post" means a post, whether permanent or temporary in the service;
- (3) "Chief Justice" means the Chief Justice of the High Court of Sikkim;
- (4) "direct recruit" with its grammatical variations and cognate expressions, means a person who at the time of his appointment to the service is not already in judicial service and who is appointed to the service in accordance with the provisions of rule 8;
- (5) "High Court" means the High Court for the State of Sikkim;
- (6) " member of the service" means a person --
  - (a) who, immediately before the commencement of these rules, holds a cadre post except on deputation from outside the State; or
  - (b) who is appointed to a cadre post in accordance with the provisions of these rules;
- (7) "Promoted officer" means a member of the service who is not a direct recruit;
- (8) "Service" means the Sikkim Superior Judicial Service.

### **3. CONSTITUTION OF THE SERVICE:** The service shall consist of-

- (a) persons holding any of the posts mentioned in Appendix 'A' immediately before the commencement of these rules; and
- (b) persons appointed to the service in accordance with the provision of these rules.

NOTE:—The persons holding or appointed against any of the cadre post, whether before or after the commencement of these rules, on deputation from outside the State of Sikkim shall not ipso facto become member of the service.

### **<sup>1</sup>4. NATIONALITY OF CANDIDATES:-**

A candidate for appointment to the service must be a citizen of India.]

### **5. DISQUALIFICATION:**

No person who has more than one wife living or is married to a person who already has a wife or husband living shall be eligible for appointment to any post in the service unless the Governor, for special reasons, exempts such person from the operation of this rule.

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\* Notification No. 8/LL/80 dated 24<sup>th</sup> May, 1980 (Gaz. No. 51 of 1980)

1. Substituted vide Notification No. 74/GEN/DOP dated 25.09.2001.

## 6. POSTS IN SERVICE:

The service shall comprise of the posts specified in Appendix "A" to these rules and such other posts of District and Sessions Judge/Additional District and Sessions Judges and Joint Legal Remembrancer as may be created from time to time by the Governor in consultation with the High Court.

Provided that nothing herein contained shall affect the powers of the Governor to add to or reduce the number of the posts specified in Appendix "A" in consultation with the High Court.

## <sup>1</sup> 7. METHOD OF RECRUITMENT, QUALIFICATION AND AGE LIMIT:

The method of recruitment to the said service, qualification, age limit, etc. shall be as specified in the Table below:-

Method of Recruitment (1)	Qualification, age limit, etc. (2)
(i) <sup>2</sup> <b>65%</b> by promotion from amongst the Chief Judicial Magistrates-cum-Civil Judges on the basis of principle of merit cum-seniority and passing a suitability test on the basis of ACRs and interview to be conducted by the High Court.	1. Must have been in the cadre of Chief Judicial Magistrate-cum-Civil Judges. <sup>3</sup> 2. An adequate knowledge of computer.
(ii) <sup>2</sup> <b>10%</b> by promotion strictly on the basis of merit through limited competitive examination of Chief Judicial Magistrate-cum- Civil Judges having not less than five years of qualifying service.	1. Must have not less than five years of service in the cadre of Chief Judicial Magistrate-cum-Civil Judge. <sup>3</sup> 2. An adequate knowledge of computer.
(iii) 25% by direct recruitment from amongst the eligible Advocates on the basis of written and viva-voce test.	1. Must be holder of a degree in law granted by a University established by law in India. 2. Must be citizen of India. 3. Must have practiced as an Advocate in any Court in India for a period of not less than seven years as on the last date fixed for receipt of applications. 4. Must have attained the age of thirty-five years and must not have attained the age of forty-five years as on the last date fixed for receipt of applications. <sup>4</sup> 5. Must be able to communicate in Nepali or any other languages of the State. <sup>3</sup> 6. An adequate knowledge of computer.

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1. Substituted vide Notification No. 39/GEN/DOP dated 08.09.2004.

2. Substituted vide Notification No. 334/GEN/DOP dated 07.01.2011.

3. Inserted vide Notification No. 460/GEN/DOP dated 10.08.2011.

4. Inserted vide Notification No. E(18)/153/GEN/DOP dated 17.09.2007.

<sup>1</sup>7. No candidates appearing for the Sikkim Superior Judicial Service examination shall be qualified to appear for viva-voce unless a candidate secure minimum 40% marks in aggregate and each paper respectively.

**<sup>2</sup>7A. The post in the service shall be filled up as per the roster given below:-**

1<sup>st</sup> Post - By promotion as provided under clause (i) of Rule 7.

2<sup>nd</sup> Post - By promotion as provided under clause (i) of Rule 7.

3<sup>rd</sup> Post – By limited competitive examination as provided under clause (ii) of Rule 7.

4<sup>th</sup> Post – By direct recruitment as provided under clause (iii) of Rule 7.

5<sup>th</sup> Post - By promotion as provided under clause (i) of Rule 7.

**<sup>2</sup>7B. COMPETITIVE EXAMINATION:**

(1) The competitive examination for recruitment to the posts in the Service by the methods under clauses (ii) and (iii) of Rule 7 shall consist of :-

**(a) Written examination**

**Paper – I :** Procedural Law, <sup>3</sup>**Local Laws**, Code of Civil Procedure, Code of Criminal Procedure, Indian Evidence Act and Limitation Act.

<sup>3</sup>**[Local Laws :**

**(A) Property Laws.**

(1) Notice dated 2<sup>nd</sup> January, 1897 relating to transfer of land by Bhutias and Lepchas.

(2) Revenue Order No. 1 dated 17<sup>th</sup> May, 1917.

(a) Notice No. 660/G dated 21<sup>st</sup> May, 1931.

(b) Notice No. 669/G dated 21<sup>st</sup> May, 1931.

(3) Sikkim Darbar Gazette Vol. XVIII No. 11 dated 21<sup>st</sup> April, 1969 Right of a women to purchase or sell land after her marriage vis-a-vis Revenue Order No. 1 of 1917.

(4) O. O. No. 105/L.R. dated 25<sup>th</sup> February, 1961.

**(B) Registration Laws.**

(1) Notification No. 385/G dated 11<sup>th</sup> April, 1928 (Regarding Registration of Documents).

(2) Notification No. 2947/G dated 22<sup>nd</sup> November, 1946 (Regarding Registration of Documents).

(3) Sikkim State Rules Registration of Documents, 1930.

**(C) House Rent & Eviction Laws.**

(1) Notification No. 6326-600/H&W-B dated 14.04.1949 Regulations of Letting and Sub-letting of Premises etc. (Health & Works Deptt.)

(2) Gangtok Rent Control & Eviction Act 1 of 1956 dated 31<sup>st</sup> May, 1956.

(3) The Sikkim Public Premises (Eviction of Unauthorized Occupants and Rent Recovery) Act, 1980.

(4) The Sikkim Public Premises (Eviction of Unauthorized Occupants and Rent Recovery) Rules, 1980.

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1. Inserted vide Notification No. 585/GEN/DOP dated 07.05.2012.

2. Inserted vide Notification No. 39/GEN/DOP dated 08.09.2004.

3. Inserted vide Notification No. E(18)/153/GEN/DOP dated 17.09.2007.

**(D) Land Laws.**

- (1) The Sikkim Cultivators Protection Act, 1985.
- (2) The Sikkim Land (Requisition and Acquisition) Act, 1977 (1 of 1978).
- (3) Notification No. 1209/L&F dated 25<sup>th</sup> May, 1950 (Regarding formulation of Substantive Law for land in Sikkim).
- (4) The Sikkim Regulation of Transfer of Land Act, 2005.

**(E) Court Fee and Stamp Laws.**

- (1) Sikkim Court Fees and Stamp on Documents Rules dated 30.03.1928 Amended schedule.
- (2) Sikkim Court Fees (Exemption and Miscellaneous Provisions) Act, 1983.

**(F) Adoption Laws.**

- (1) Notification No. 2341-4/G dated 17<sup>th</sup> June, 1930 (Regarding Adoption of Heir).

**(G) Civil Courts Act.**

- (1) Sikkim Civil Courts Act, 1978.

**(H) Municipal Laws.**

- (1) Sikkim Shops and Commercial Establishment Act, 1983.
- (2) Sikkim Allotment of House Sites and Construction of Buildings (Regulation and Control) Act, 1985.

**(I) Interpretation and General Clauses Act.**

- (1) Sikkim Interpretation and General Clauses Act, 1978.

**(J) Other Local Laws.**

- (1) The Sikkim Anti Drugs Act, 2006.
- (2) The Sikkim State Legislator's Appointment to Different Authorities Act, 2006.
- (3) The Sikkim State Public Services Act, 2006.

**(K) Notification on Issuance of Certificate of Identification.**

- (1) Notification No. 66/Home/95 dated 2<sup>nd</sup> November, 1995.

**(L) Rural Indebtedness Act.**

- (1) Sikkim Rural Indebtedness Act, 1966 dated 23.09.1966 Notification No. 845/II dated 20.08.1968 issued under Sikkim Rural Indebtedness Act, 1966.

**(M) Language Test.**

Nepali or any Languages of the State.]

**Paper – II:**

**Substantive Law** – Hindu Law, Contract Act, Arbitration Act, Transfer of Property Act, Sale of Goods Act, Partnership Act, Specific Relief Act, General Clauses Act, <sup>1</sup>[**Indian Penal Code and Constitutional Law of India**].

**Note:** Each paper shall be of <sup>1</sup> [**three hours**] duration and shall carry 200 marks each.

- (b) 100 marks on Viva-voce for the direct recruits and 100 marks on the basis of Annual Confidential reports for 10 years immediately preceding the financial year in which written test is held for the candidates appearing in the limited competitive examination.
- (2) Selection of the candidates shall be made on the basis of the aggregate marks obtained in the written examination and viva-voce and on the basis of Annual

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1. Substituted vide Notification No. E(18)/153/GEN/DOP dated 17.09.2007.

Confidential reports for 10 years immediately preceding the financial year in which written test is held for the candidates appearing in the limited competitive examination.

<sup>1</sup> [Provided that the list prepared on the basis of selection made shall be operative for one year and shall be effective for filling of the vacancies then existing and those arising within a period of one year.

Provided further that if no suitable candidate is available from direct recruitment quota the vacancy may be filled up by promotion from clause (i) of the Table or rule 7 above and vice versa if no suitable candidate is available from source (i) as the High Court may decide from clause (i) of the Table or rule 7 as the High Court may decide from time to time.]

<sup>2</sup>[7C. **TRAINING** : Every person appointed by direct recruitment to the service shall be required to undergo training at any place within or outside Sikkim as the High Court may determine.]

<sup>3</sup> [8. No person appointed directly from the Bar by the method under clause (iii) of rule 7 shall be appointed unless he is found physically fit by a Medical Board set up by the Governor and is also found suitable for appointment in all other respects.]

**9. Probation :**

- (1) Direct recruits to the service shall remain on probation for a period of two years and promoted officers if appointed against permanent posts shall remain on probation for a period of one year which may be extended by the Governor in consultation with the High Court so as not to exceed total period of three years in case of direct recruits two years in case of promoted officers.
- (2) On the completion of the period probation, the Governor may, in consultation with the High Court, confirm a direct recruit on a cadre post with effect from a date not earlier than the date on which he joined the service.
- (3) If the work or conduct of a direct recruit has, in the opinion of the Governor, not been satisfactory, he may, at any time, during the period of probation or the extended period of probation, if any, in consultation with the High Court, and without assigning any reason, dispense with the services of such direct recruit.

**10. REVERSION OF PROMOTED OFFICERS:** If the work of a promoted officer officiating on a cadre-post has, in the opinion of the Governor, not been satisfactory, he may, at any time during the period of officiation, in consultation with the High Court:-

- (i) revert him to his substantive post; or
- (ii) deal with him in such other manner as may be warranted by the terms and conditions of his substantive appointment.

<sup>3</sup>[11. The seniority inter-se of the members of the service shall be determined on the basis of the continuous length of service rendered by them in the relevant grade.]

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1. Inserted vide Notification No. 585/GEN/DOP dated 07.05.2012.  
2. Inserted vide Notification No. 39/GEN/DOP dated 08.09.2004.  
3. Substituted vide Notification No. 39/GEN/DOP dated 08.09.2004.

<sup>1</sup>[12. (1) The revised Pay Matrix for the members of the service shall be as follows:

Sl. No.	Name of post	Existing scale of Pay	Level in the revised Pay Matrix
1	District Judge (Entry Level)	51550-1230-58930-1380-63070	J-5
2	District Judge (Selection Grade)	57700-1230-58930-1380-67210-1540-70290	J-6
3	District Judge (Supertime Grade)	70290-2250-76450	J-7

- (1) In the case of a promoted officer, his pay in the aforesaid scale shall be fixed in accordance with the rules and instructions as applicable from time to time.
- (2) The initial pay of direct recruits shall be fixed at such stages in the permissible scale by allowing him one increment for every three completed years of practice at the bar subject to a maximum of seven increments.
- (3) While there shall be no change in the existing system regarding the date of accrual of increment, the retiring Judicial Officers shall have the benefit of increment becoming due the next day following the retirement. This increment shall be for the purpose of pension only and subject to vertical ceiling of Rs. 2,24,100/-.
- (4) For the purpose of fixation and fitment of pay scale, the Pay Matrix as approved by the Hon'ble Supreme Court shall be followed in so far as it is applicable to the above stated categories of Judicial Officers.
- (5) Other conditions and rules as prevailing shall continue as applicable or as may be modified from time to time.
- (6) Determination of revised pay for various cells of the revised Pay Matrix as on 01/01/2016 shall be as under:-

Pay Level Year	J-5	J-6	J-7
1	144840	163030	199100
2	149190	167920	205070
3	153670	172960	211220
4	158280	178150	217560
5	163030	183490	224100
6	167920	188990	
7	172960	194660	
8	178150	200500	
9	183490	206510	
10	188990	212710	
11	194660	219090	

Note: I – As per the direction of the Hon'ble Supreme Court, the arrears accruing out of the revision of pay shall be computed with effect from 01.01.2016 and after adjusting the interim relief already paid, the balance amount shall be paid in stages in the following manner:

- (i) 25% in cash within a period of three months from the date of judgement, i.e. 27/07/2022;
- (ii) Another 25% to be paid in cash within three months thereafter; and
- (iii) The balance 50% to be paid on or before the end of June, 2023.

Note: II – In the event of any doubt, the matter shall be resolved with reference to the report of Second National Judicial Pay Commission headed by Justice P. Venkatarama.]

1. Substituted vide Notification No. 97/GEN/DOP dated 17. 09.2022.

<sup>1</sup>**13. SELECTION GRADE**

(1) 25% of the cadre post shall be eligible for promotion permanently or provisionally in the Selection Grade on completion of not less than 5(five) years of continuous service in the cadre.

**13A. SUPERTIME GRADE**

10% of the Selection Grade District Judges shall be eligible for promotion, permanently or provisionally, in the Supertime Grade on completion of not less than 3(three) years of continuous service as Selection Grade District Judges.]

**14. INCREMENT:**

(1) An increment shall ordinarily be drawn as a matter of course, unless it is withheld. An increment may be withheld from a member of the service by the competent authority, if his conduct has not been good or his work has not been satisfactory. In ordering the withholding of increment, the competent authority shall state the period for which it is withheld and whether the postponement shall have the effect of postponing future increment.

(2) The increment shall become due after completion of every 12 months service in a particular pay scale.

(3) Notwithstanding the provisions of sub-rule (2), the date of increment shall be the 1st day of the month in which a person has joined service or is promoted in a particular pay scale, irrespective of the actual date of joining service or of promotion during that month.

<sup>2</sup>**14 A. AGE OF SUPERANNUATION:**

(1) <sup>3</sup>[\*\*\*] A member of the service shall retire from service in the afternoon of the last day of the month in which he attains the age of 60 years.

<sup>3</sup>(2) [\*\*\*]

<sup>3</sup>(3) [\*\*\*]

<sup>4</sup>(4) Notwithstanding anything contained hereinabove, a member of the service on attaining the age of 60 years may be considered for re-employment from 60 to 62 years if there is vacancy and subject to fitness and efficiency.]

<sup>5</sup> **14 B.** A member of the service shall be eligible for three advance increments for possessing / acquiring higher <sup>6</sup>[educational qualifications in law like a post graduate degree in law].

**15. DEATH-CUM-RETIREMENT BENEFITS:**

<sup>7</sup>[In respect of death-cum-retirement benefits, the members of the Service shall be governed by the Death-cum-Retirement Benefit Rules, as applicable to the members of Indian Administrative Service from time to time.]

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1. Substituted vide Notification No. 272/GEN/DOP dated 08.03.2019.  
2. Inserted vide Notification No. 11/Home/95 dated 18.02.1995.  
3. Deleted vide Notification No 113/GEN/DOP dated 16.10.2008.  
4. Inserted vide Notification No. 149/GEN/DOP dated 20.02.2004.  
5. Inserted vide Notification No. 113/GEN/DOP dated 16.10.2008.  
6. Substituted vide Notification No. 03/GEN/DOP dated 12.05.2020.  
7. Substituted vide Notification No. 71/GEN/DOP dated 24.01.1998.

**16. DISCIPLINE, PENALTY AND APPEAL:**

- (1) In matter relating to discipline, penalties and appeals, members of the service shall be governed by the Sikkim Government Servants Discipline and Appeal Rules, as amended from time to time.

Provided that the nature of penalties which may be imposed and the authority empowered to impose such penalties shall, subject to the provisions of any law or rules made under article 309 of the Constitution of India, be as specified in Appendix "B";

Provided further that the competent authority other than the High Court shall, before imposing any penalty, consult the High Court.

- (2) The authority competent to make an order under the Sikkim Government Servants, Discipline and Appeal Rules shall be the Governor who shall before passing such order consult the High Court.

**17. OATH OF ALLEGIANCE:**

Every member of the service, unless he has already done so, shall be required to take the oath of allegiance to India and to Constitution of India as by law established.

**18. LIABILITY TO TRANSFER:**

Every member of the service shall be liable to transfer under the orders of High Court anywhere within the State of Sikkim and under the orders of the Governor, made in consultation with the High Court, to any other place in India where he may be required to proceed by the Governor.

**19. PUBLICATION OF GROUNDS OF DISMISSAL:**

If a member of the service is dismissed by the Governor as a result of a departmental inquiry or on conviction on a criminal charge by a Court, the Governor may publish in the Official Gazette the reason for such dismissal, if he is of the opinion that such publication is desirable in public interest.

**20. RESIDUARY MATTERS:**

In respect of leave, traveling allowance and other matters not expressly provided for in these rules, the members of the service shall be governed by such rules as are applicable for the time being to the officers of the rank of Secretary to the Government of Sikkim.

**21. POWER TO RELAX:**

Where the Governor, in consultation with the High Court, is of opinion that it is necessary or expedient so to do, the Governor may by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

**22. INTERPRETATION:**

In any question arises as to the interpretation of these rules the same shall be decided by the Governor in consultation with the High Court.

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## <sup>1</sup> APPENDIX – A

### Details of posts in the Sikkim Superior Judicial Service

Sl. No.	Designation of the Posts	Number of Posts
1.	Legal Remembrancer and Secretary to Government of Sikkim, Law Department	1(one)
2.	Registrar General, High Court of Sikkim	1(one)
3.	District and Sessions Judge (East) at Gangtok	1(one)
4.	<sup>2</sup> District and Sessions Judge (North) at Mangan	1(one)
5.	<sup>2</sup> District and Sessions Judge (West) at Gyalshing	1(one)
6.	District and Sessions Judge (South) at Namchi	1(one)
7.	District and Sessions Judge, Special Division – I at Gangtok	1(one)
8.	District and Sessions Judge, Special Division – II at Gangtok	1(one)
9.	Registrar, High Court of Sikkim	1(one)
10.	<sup>3</sup> Member Secretary of State Legal Services Authority	1(one)
11.	<sup>3</sup> Director, Sikkim Judicial Academy	1(one)
12.	<sup>3</sup> Central Project Coordinator	1(one)
13.	<sup>4</sup> Registrar (Judicial Service)	1(one)
Total number of posts		13(thirteen)

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1. Substituted vide Notification No. 30/GEN/DOP dated 17.07.2004.

2. Posts created vide Notification No. 14/HOME/2012 dated 15.02.2012.

3. Posts created vide Notification No. 139/GEN/DOP dated 03.11.2016.

4. Re-designated vide Notification No. 85/Home/2021 dated 23.12.2021 earlier it was created in pursuance of the order of the Hon'ble Supreme Court in the matter of Brij Mohan Lall case meant for Fast Track Court vide Notification No. 71/Home/2013 dated 01.11.2013.

## APPENDIX – B

NATURE OF PENALTY		AUTHORITY EMPOWERED TO IMPOSE PENALTY		APPELLATE
(i)	Censure		High Court	<b>NIL</b>
(ii)	Withholding of increment or promotion, including stoppage at an efficiency bar.		High Court	
(iii)	Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders.		High Court	
(iv)	Reduction to a lower post or time scale or to a lower stage in time scale.		GOVERNOR	
(v)	Suspension		GOVERNOR	
(vi)	Removal from the Service which does not disqualify from employment.		GOVERNOR	
(vii)	Dismissal from the Service which ordinarily disqualifies from future employment.		GOVERNOR	