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PUBLISHED UNDER THE AUTHORITY OF THE HIGH
COURT OF JUDICATURE, ORISSA
NOTIFICATION

The 19th July 2000

No. 795-A.—In exercise of the powers conferred by the proviso to Section 13 of the Code of Criminal Procedure, 1973 (of 1974), the High Court of Orissa hereby makes the following rules, namely:—

1. (1) These rules may be called the Appointment of Special Judicial Magistrate (Orissa) Rules, 2000.

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

Definition

2. (1) In these rules, unless the context otherwise requires—

(a) "Chief Justice" means the Chief Justice of Orissa High Court;

(b) "Code" means the Code of Criminal Procedure, 1973;

(c) "High Court" means the Orissa High Court;

(d) "Offence" shall have the same meaning as assigned to it in the Code;

(e) "Petty Offences" means offences under—

(i) the sections listed in the Tables under Section 320 of the Code excluding the offences under Sections 324, 325, 335, 344, 357, 379, 381, 406, 407, 408, 411, 414, 418, 419, 420, 429, 430, 451 and 494 of the Indian Penal Code, 1860;

(ii) Sections 160, 188, 279, 294 and 336 of the Indian Penal Code; and

(iii) all offences under any Act which are punishable up to 2 years' imprisonment;

(f) "State Government" means the State Government of Orissa.

(2) The words and expressions used in these rules but not defined shall have the same meanings as respectively assigned to them in the Code.

Assignment of Cases.

3. The Chief Judicial Magistrates may from time to time assign any other types of cases to be decided by the Special Judicial Magistrate.

Eligibility

4. A person shall not be qualified for appointment as a Special Judicial Magistrate unless he—

(a) has been serving as Judicial Officer, or is a retired Judicial Officer; or

(b) is a senior ministerial officer of the High Court or District Court who is experienced and is conversant with rules and procedures of law and holds a Bachelor's Degree in Law.

Appoi n t-
ment.

5. (1) A panel of suitable persons for appointment as Special Judicial Magistrate would be prepared on the basis of selection to be made by a Committee constituted by the Chief Justice, which shall consist of a sitting Judge and two Registrars of the High Court to be nominated by the Chief Justice.

(2) The panel of suitable persons as prepared and approved by the High Court shall be forwarded to the State Government.

(3) The State Government shall appoint such persons as Special Judicial Magistrates who have been recommended by the High Court.

Training

6. (1) Every Special Judicial Magistrate shall undergo training for two weeks with the District and Sessions Judge/Chief Judicial Magistrate of the District where he is posted.

(2) Special Judicial Magistrate shall be under the administrative control of the District and Sessions Judge of the District.

Term of
Office.

7 (1) The term of office of the Special Judicial Magistrate shall be one year which may be renewed up to four years from time to time, or till the age of 62 years, whichever is earlier:

Provided that in case of person referred to in clauses (a) and (b) of rule 4, appointed as Special Judicial Magistrate the term of office shall be extended till the normal age of superannuation applicable to the Government servants according to rules in force.

(2) The scale of pay and allowances of the Special Judicial Magistrates shall be similar to that of the officers in the cadre of Orissa Judicial Service, Class II and scale of pay and allowances of the staff shall be similar to that of the employees of the State Government:

Provided that in respect of retired Judicial officers referred to in clause (a) of rule 4, the honorarium/consolidated remuneration shall be Rs. 3,000 in addition to the pensionary benefits admissible to them from time to time.

Infrastructure

8. The Court building and the staff to the Special Judicial Magistrates shall be provided by the State Government in consultation with the Chief Justice.

Function of
the Special
Judicial
Magistrate.

9. (1) Special Judicial Magistrate shall exercise same powers as conferred by the Code on Judicial Magistrate, first class.

(2) All petty offences shall be tried by Special Judicial Magistrate unless the High Court directs otherwise.

(3) All petty offences shall be tried in a summary way as per the procedure laid down in Sections 206 and 260 of the Code, as and when occasion arises.

(4) When in the course of summary trial, it appears to the Special Judicial Magistrate that the nature of the case is such that it is undesirable to try it summarily, he shall refer the case to the District and Sessions Judge for entrusting it to any Judicial Magistrate competent to decide the same.

Bail and
Bonds.

10. Special Judicial Magistrate in relation to petty offences shall have the same powers as to bail and bonds as are provided in the Code.

Relaxation

11. The High Court may in special circumstances and in order to meet the exigencies of a place or of a certain case relax any of the conditions prescribed in these rules.

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12. "The appointment of Special Judicial Magistrates Rules, 1974" shall stand repealed from the date of coming into force of these rules :

Provided that action taken or things done under the provisions of these rules so repealed shall be deemed to have been taken or done under these rules.

By order of the High Court

N. P. ROU T

Registrar (I. & E.)