

**The Maharashtra
Judicial Officers of the Courts of Enquiry,
Labour Courts, Industrial Courts
(Recruitment, Appointment and
Disciplinary Action) Rules, 1999**

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 14th September 1999

NOTIFICATION

CONSTITUTION OF INDIA AND THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946 (ACT XI OF 1947).

No. ICE. 1098/8235/(Part III)/LAB-6.—In exercise of the powers conferred by the proviso to Article 309, read with Articles 233 and 234 of the Constitution of India and Section 123 of the Bombay Industrial Relations Act, 1946 (Act XI of 1947) and in supersession of all the existing Recruitment Rules, Regulations, Orders and Instruments made in this behalf, the Governor of Maharashtra, after consultation with the High Court of Judicature at Bombay and the Maharashtra Public Service Commission only in relation to the post of Presiding Officer of the Labour Court, is hereby pleased to make the following Rules for regulating the Recruitment, Appointment and Disciplinary Actions of the Presiding Officers of the Courts of Enquiry, Labour Courts and Industrial Courts, namely :—

1. These Rules may be called the Maharashtra Judicial Officers of the Courts of Enquiry, Labour Courts, Industrial Courts (Recruitment, Appointment and Disciplinary Action) Rules, 1999.

2. In these Rules, unless the context otherwise requires—

(a) "Act" means the Bombay Industrial Relations Act, 1946 (XI of 1947).

(b) "Court of Enquiry" means the Court of Enquiry constituted under Section 100 of the Bombay Industrial Relations Act, 1946.

(c) "Labour Court" means the Labour Court constituted under Section 9 of the Bombay Industrial Relations Act, 1946.

(d) "Industrial Court" means the Industrial Court constituted under section 10 of the Bombay Industrial Relations Act, 1946.

(e) "District Judge" shall have the same meaning as defined by Article 236 of the Constitution of India.

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

(g) "High Court" means the High Court of Judicature at Bombay.

(h) "Judge" means a Judge of the Labour Court.

(i) " Member " means a Member of the Industrial Court.

(j) " President " means the President of the Industrial Court.

(k) " Selection Committee " means the Selection Committee constituted in accordance with Rule 3 of these Rules.

3. The Selection Committee shall consist of three Hon'ble Judges of the High Court, as may be nominated by the Chief Justice of the High Court, from time to time senior-most out of them being the Chairman.

4. Appointment to the post of the President shall be made by the Governor in consultation with the High Court, by any one of the following modes, as may be determined by the High Court, namely :—

(1) Promotion,

(2) Nomination,

(3) Transfer.

Mode of Appointment—

(a) by promotion, on the recommendation of the High Court, of a suitable person, who has worked for not less than three years as a member of the Industrial Court ;

(b) by nomination, on recommendation of the Selection Committee, of a person who :

(i) is qualified for being appointed as a Judge of the High Court,

or

(ii) is or has been District Judge, for not less than three years.

(c) by transfer of a suitable District Judge who fulfill the requirements prescribed in sub-clause (ii) of the Clause (b) above.

5. Appointment to the post of Member shall be made by the Governor in consultation with the High Court, by any one of the following modes, as may be determined by the High Court, namely :—

(1) Promotion,

(2) Nomination,

(3) Transfer.

Provided the appointments by promotion and by nomination shall, as far as possible, be made in the ratio of 50 : 50.

Mode of appointment—

(a) by promotion, on the recommendation of the High Court, of a suitable Judge, who has worked for not less than five years;

(b) by nomination, on the recommendation of the Selection Committee, of a person who :

(i) is not less than 35 years of age and unless already in the Judicial service is not more than 50 years of age;

(ii) has practised as an advocate in the High Court or any courts subordinate to it, for not less than ten years.

(c) by transfer of suitable District Judge.

6. Appointment to the post of Judge, Labour Court, shall be made by any one of the following modes, as may be determined by the High Court, namely :

(1) Nomination,

(2) Transfer.

Mode of Appointment—

(a) by nomination, on the recommendation of the Selection Committee, by the Governor of a person :

(i) who has practised as an Advocate in the High Court or in the Courts subordinate to it for not less than 7 years

(ii) who holds a degree in Law of a University established by Law and is holding or has held an office not lower in rank than that of Deputy Registrar of any Industrial Court/Tribunal or of assistant Commissioner of Labour under the State Government in both cases for not less than 5 years.

(iii) who is not less than 25 years and unless already in the service is not more than 35 years of age;

Provided the upper age limit may be relaxed upto 5 years in favour of Backward Class candidate or on the recommendation of the Selection Committee in favour of a candidate with exceptional qualifications or experience.

(b) by transfer of a suitable Civil Judge, Junior Division and Judicial Magistrate First Class by the High Court.

Provided the appointments by nomination and by transfer shall be made as far as possible in ratio 70 : 30

7. (a). A person to be appointed as President Member or a Judge shall have sufficient knowledge of Marathi enabling him to speak, read, write and translate with facility from the written character into English and vice-versa.

(b) A person appointed to any of the posts, by nomination, shall be required to pass the examination in Hindi and Marathi according to the Rules made in this behalf, unless he has already passed or has been exempted from passing those examinations.

8. (a) A person appointed to the post of the President, Member for the Judge shall retire on completing the age of 62 years, subject to assessment and evaluations of potential for continued utility at the age of 58 years, by the Committee of Honourable Judges of the High Court constituted by the Honourable the Chief Justice. Such assessment and evaluation shall be in addition to the assessment for compulsory retirement or other assessment and evaluation that may have been undertaken under the relevant service rules at an earlier stage/s.

(b) Notwithstanding anything contained in (a) above, person appointed as per rule 4(c) shall retire on completing, age of 65 years.

9. A person appointed to be a Member or a judge shall be liable to be transferred by the High Court anywhere in the State of Maharashtra.

10. A person appointed to any of the posts, by nomination, shall be on probation for a period of two years, and shall not be confirmed save and except on the recommendation of the High Court, provided the period of probation may be extended by the High Court from time to time, as it may deem fit.

During the period of probation and until expressly confirmed by a written order, the services of an appointee shall be terminated by the High Court by one month's notice without any reason being assigned therefor or by payment of salary in lieu of notice. The appointee may also terminated his service during the probation period, by giving one month's notice or by payment of salary, in lieu of notice.

11. A person appointed to the post—

(i) the President or a Member, as the case may be shall be debarred for a period of two years from the date on which he ceases to be in service from practicing in any Court in which he has presided as the President or a Member while in service or in any Court subordinate thereto ; or

(ii) a Judge of a Labour Court shall be debarred from practicing in any Court in which he was the presiding Officer while in service, for a period of two years from the date on which he ceases to be in service.

12. The provisions of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 shall apply. However, by virtue of Article 235 of the Constitution of India, the High Court shall be the authority who shall have disciplinary and other control over the President, a member and a Judge.

By order and in the name of the Governor of Maharashtra,

RAJENDRA SINGH,
Principal Secretary (Labour) to Government.