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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 19th December, 2019

No.7787–LESI-LL1-IIM1-0019/2018/LESI.— In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India and in supersession of the Odisha Labour Service (Recruitment and Conditions of Service) Rules, 1984; except as respect things done or omitted to be done before such supersession, the Governor of Odisha, hereby, makes the following rules to regulate the method of recruitment and conditions of service of the persons appointed to the Odisha Labour Service namely:—

PART- I

GENERAL

1. **Short title and commencement .-** (1) These rules may be called the Odisha Labour Service (Method of Recruitment and Conditions of Service) Rules, 2019.
(2) They shall come into force on the date of their publication in the *Odisha Gazette*.
2. **Definitions .-** (1) In these rules unless the context otherwise requires,
 - (a) “Commission” means the Odisha Public Service Commission;
 - (b) “Committee” means the Departmental Promotion Committee / Selection Committee constituted under rule 9;
 - (c) “Department” means the Labour & E.S.I. Department, Odisha;
 - (d) “Ex-servicemen” means persons as defined in the Odisha Ex-servicemen (Recruitment to State Civil Services and Posts) Rules, 1985;
 - (e) “Government” means the Government of Odisha in Labour & ESI Department;
 - (f) “Persons with Disabilities” means persons who have been granted with disability certificates by competent authority as per the provisions of the Rights of Persons with Disability Act, 2016.
 - (g) “Scheduled Castes and Scheduled Tribes” shall have reference to the Scheduled Castes and Scheduled Tribes specified in the Constitution (Scheduled Castes) Order, 1950 and the Constitution (Scheduled Tribe) Order, 1950, as the case may be, made under Article 341 and 342 of the Constitution of India, respectively, and amended from time to time;

- (h) "SEBC" means the Socially and Educationally Backward Classes of Citizens defined as Backward Classes and referred to in clause (a) of section 2 of the Odisha State Commission for Backward Classes Act, 1993.
- (i) "Service" means the Odisha Labour Service;
- (j) "Sportsperson" means persons who have been issued with identity card as sportsperson by the Director, Sports as per Resolution No. 24808/Gen. dated 18th November 1985 of General Administration Department; and
- (k) "Year" means the Calendar Year.
- (2) All other words and expressions used in these rules but not specifically defined shall, unless the context otherwise requires, have the same meaning as respectively assigned to them in the Odisha Service Code.
- 3. Constitution of Service** .- The Service shall consist of the following posts, namely:-
- (a) Assistant Labour Officer;
 - (b) District Labour Officer;
 - (c) Divisional Labour Commissioner;
 - (d) Joint Labour Commissioner; and
 - (e) Additional Labour Commissioner.

PART II

METHOD OF RECRUITMENT

4. Method of recruitment .- Subject to the provisions made in these rules, the recruitment to different grades in the service shall be made by the following methods, namely:-

- (1) Out of the remaining vacancies of the year after promotion effected under sub rule (2),-
 - (a) As nearly as, but not less than 90% of the vacancies in the post of Assistant Labour Officer shall be filled up by direct recruitment through Combined Competitive Recruitment Examination conducted by the Commission in accordance with Odisha Civil Services (Combined Competitive Recruitment Examination) Rules, 1991,
 - (b) As nearly as, but not more than 10% of the vacancies arising every year in the rank of Assistant Labour Officer shall be filled up from among the Officers working under Labour Directorate and carrying pay scale in Level-9 in the Pay Matrix of ORSP Rule 2017 and have worked for a minimum period of three years and having educational qualification of Bachelor Degree in any discipline from a recognized University with basic knowledge in computer application, by selection, subject to assessment of suitability and performance:

Provided that if no suitable candidate is available against any such vacancy in a particular year, then the vacancy shall be filled up through direct recruitment process.

(2) The Rural Labour Inspectors on completion of minimum two years of service as such may be considered for promotion to the post of Assistant Labour Officer against the vacancies arise in a particular year on the basis of merit and suitability in all respect with due regard to seniority:

Provided that in case the eligible Rural Labour Inspectors are not available in a particular year, the vacancies shall be filled up by the method provided under sub rule (1).

(3) Appointment to the posts of District Labour Officer, Divisional Labour Commissioner, Joint Labour Commissioner and Additional Labour Commissioner, shall be made by way of promotion respectively in accordance with these rules.

5. Reservations.- Notwithstanding anything contained in these rules, reservation of vacancies or posts, as the case may be, for,-

(a) Scheduled Castes and Scheduled Tribes shall be made in accordance with the provisions of the Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1975 and the rules made there under, or any other law or rule in force at the relevant time; and

(b) SEBC, women, sportsperson, Ex-servicemen and Persons with Disabilities shall be made in accordance with the provisions made under such Act, rules, orders or instructions issued in this behalf by the Government from time to time.

PART- III

DIRECT RECRUITMENT

6. Recruitment Procedure.- (1) Recruitment to the post of Assistant Labour Officer in the service shall be conducted by the Commission by way of competitive examination to be held once in a year as per the requisition of the Department.

(2) The date on which and the places at which the examination are to be held shall be fixed by the Commission.

(3) The eligibility criteria, standard, syllabus and subjects of examination shall be as provided in Odisha Civil Services (Combined Competitive Recruitment Examination) Rules, 1991.

(4) The vacancies shall be determined by the Department annually and communicated to the Commission.

PART- IV

PROMOTION

7. Eligibility Criteria for Promotion.- (1) Every Assistant Labour Officers appointed in the service, shall be eligible for promotion to the post of District Labour Officer, on completion of three years of continuous service, excluding the period of probation, if any, as prescribed in sub rule (1) of Rule- 13:

Provided that in case of the officers promoted from the post of Rural Labour Inspector, Government may consider to relax the experience for their promotion to the cadre of DLOs.

(2) No District Labour Officer in Group- A (Junior Branch) shall be eligible for promotion to the post of Divisional Labour Commissioner in Group-A (Senior Branch), unless he/she has completed 5 years of continuous service in the post of District Labour Officer.

(3) The post of Joint Labour Commissioner in Group-A (Super-time Grade) shall be filled up by way of promotion from amongst the post of Divisional Labour Commissioners in Group-A (Senior Branch), on the basis of merit and suitability with due regard to seniority; who have completed at least three years of service taken together in the post of Divisional Labour Commissioner, Deputy Labour Commissioner & Assistant Labour Commissioner (before restructuring of OLS cadre):

Provided that a Common Gradation List of Divisional Labour Commissioners clubbing the erstwhile Deputy Labour Commissioners and the Assistant Labour Commissioners shall be made before considering promotion.

(4) The post of Additional Labour Commissioner in Group-A (Superior Administrative Grade) shall be filled up by promotion from amongst the post of Joint Labour Commissioner in Group-A (Super-time Scale), on the basis of merit and suitability with due regard to seniority.

8. Constitution of Committee/ Selection Board.- (1) There shall be constituted a Departmental Promotion Committee consisting of the following members to consider the cases for promotion from Joint Labour Commissioner to Additional Labour Commissioner, namely:-

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|-------|--|-------------------|
| (i) | Chief Secretary / Development Commissioner | : Chairman |
| (ii) | Secretary to Government, Labour & E.S.I. Department | : Member |
| (iii) | Labour Commissioner, Odisha | : Member |
| (iv) | Additional Secretary / Joint Secretary to Government, Labour & E.S.I. Department | : Member Convener |

(2) There shall be constituted another Departmental Promotion Committee consisting of the following members to consider the cases of selection/promotion to the post of Assistant Labour Officer, District Labour Officer, Divisional Labour Commissioner and Joint Labour Commissioner, namely:-

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|------|---|------------|
| (i) | Secretary to Government, Labour & E.S.I. Department | : Chairman |
| (ii) | Labour Commissioner, Odisha | : Member |

(iii) Additional Secretary / Joint Secretary / Deputy Secretary to Government, Labour & E.S.I. Department : Member Convener

(3) For filling up of posts of District Labour Officer on promotion, a representative of the S.T. & S.C. Development Department shall be a member of the Selection Board/ Departmental Promotion Committee.

(4) The recommendation of the Committee or the Selection Board, as the case may be, shall be valid and can be operated upon notwithstanding the absence of any one of its members other than the Chairman:

Provided that the member so absenting was duly invited to attend the meeting of the Committee and the majority of members constituting the Committee attended the meeting.

9. Procedure for Selection by the Committee/Board.- (1) The Committee/Board shall ordinarily meet at least once in each year preferably in the month of January to prepare a list of eligible officers, as are held by them, suitable for promotion to the next higher grade taking into account the existing vacancies and the anticipated vacancies of the year.

(2) The Committee while considering the promotion cases of suitable officers and preparation of the list shall follow the provisions of the Odisha Civil Services (Zone of Consideration for Promotion) Rules, 1988, the Odisha Civil Services (Criteria for Promotion) Rules, 1992 and the Odisha Civil Services (Criteria for Appointment including Promotion) Rules, 2003:

Provided that in case of promotion to the posts of District Labour Officer in Group-A (Junior Branch), the Odisha Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act and the Rules made there under, shall be followed.

10. Consultation with the Commission.- (1) The recommendations of the committee under sub-rule (2) of Rule-10 shall be referred to the Commission along with service particulars in respect of all officers included in the list for concurrence including those whose cases have not been recommended for promotion being found unsuitable.

(2) The Commission shall consider the list received along with the service particulars received under sub-rule (1) and shall furnish its recommendations to the Government with the lists of persons for appointment to different cadres / levels in the Service by promotion.

11. Select List.- (1) The recommendations of the Commission in respect of reference made to it under sub-rule (1) of rule-10, after being approved by Government, shall form the select list for appointment to respective grades of the service.

(2) The Select List referred to under sub-rule (1) shall ordinarily remain in force for a period of one year from the date of its approval by the Government or until another Select List is prepared afresh whichever is earlier:

Provided that the Government may, at anytime in consultation with the Commission, for grave lapse in conduct or deterioration in standard of performance of duties on the part of any person included in the Select List, remove the name of such persons from the list.

(3) Appointment to any grade in the service shall be in the order in which their names appear in the Select List.

PART- V OTHER CONDITIONS OF SERVICE

12. Appointment to the Service.- (1) Appointment to the Service by direct recruitment shall be made in the order in which the names of the persons appear in the select list furnished by the Commission.

(2) Appointment to the Service by promotion shall be made in the order in which the names of the persons appear in the select list under Rule- 11.

13. Probation and Confirmation.- (1) Every person appointed in the post of Assistant Labour Officer by way of direct recruitment through the Commission or by way of promotion other than the officers promoted from the post of Rural Labour Inspector, shall be on probation for a period of two years from the date of joining in the post:

Provided that the Government may, if they think fit, extend the period of probation by such period for reasons to be recorded in writing under intimation to the person concerned or terminate the appointment on the ground of unsatisfactory performance;

Provided further that, a probationer Assistant Labour Officer appointed in the service by direct recruitment by the Commission or by way of promotion other than the officers promoted from the post of Rural Labour Inspector, after completing the period of probation to the satisfaction of Government and on passing the prescribed Departmental Examination as prescribed in the Appendix appended in the rules, to be conducted by Board of Revenue and approval of case records submitted by them on any two Labour Laws given below, shall be confirmed in their service as Assistant Labour Officers.

Case Records to be submitted from the following Acts

- i. The B&OCW (RE&CS) Act, 1996 along with the B&OCWW Cess Act, 1996.
- ii. The Minimum Wages Act, 1948
- iii. The Interstate Migrant Workmen (RE & CS) Act, 1979.
- iv. The Child & Adolescent Labour (P & R) Act, 1986.
- v. The Industrial Dispute Act, 1947.
- vi. The Employee Compensation Act, 1923
- vii. The Payment of Gratuity Act, 1972.

(2) Passing the departmental examination and submission of the two case records shall also be mandatory for the existing Assistant Labour Officers appointed by direct recruitment through Odisha Staff Selection Commission or through promotion from the post of Rural Labour Inspector in connection with their confirmation in the substantive post of Assistant Labour Officer so that they can be considered for next promotion; but their probation period for 2 years shall be dispensed with.

(3) These two case records shall have to be prepared by Assistant Labour Officer basing on two actual cases studied at any two courts of the Joint Labour Commissioner, Divisional Labour Commissioner and District Labour Officer during the probation period; containing own observations on the entire proceedings of these cases with reference to the relevant provisions of the Acts and Rules made there under, along with introduction and concluding remarks.

(4) After the case records submitted under the second proviso of sub rule (1) are approved by the Labour Commissioner, Odisha, and after passing of the Departmental examination, the Assistant Labour Officers shall be eligible for confirmation against a substantive post in the service; otherwise their 2nd and subsequent increments shall be stopped till confirmation with loss of arrear incremental pay but without loss of number of cumulative increments.

(5) Every person appointed on promotion in the post of District Labour Officer, shall be on probation for a period of one year from the date of joining the post:

Provided that the Government may, revert the District Labour Officer on probation to the feeder cadre for reasons to be recorded in writing under intimation to the person concerned:

(6) The period of probation shall not include-

- (a) extraordinary leave;
- (b) period of unauthorized absence; or
- (c) Any other period held to be not being on actual duty.

(7) A probationer in the post of Assistant Labour Officer, after completing the period of probation to the satisfaction of Government, passing departmental examination and approval of two case records as prescribed above, shall be eligible for confirmation against a substantive post in the service.

14. Training .- A person appointed by direct recruitment by the Commission in the post of Assistant Labour Officer, during their period of probation, will undergo three months Induction Training at Gopabandhu Academy of Administration, Bhubaneswar in Labour Laws and Labour Welfare and three months on the Job / field Training in the Labour Directorate/ District.

15. Inter se-Seniority .- (1) The *inter se-seniority* of the officers appointed to any post in the service in a particular year shall be in the order in which their names appear in the Select List:

Provided that the names of Assistant Labour Officers promoted from the post of Rural Labour Inspectors (dying cadre) shall appear above the names of ALOs recruited in the same year.

(2) The inter-se-seniority of the persons appointed to Group-'B' of the service in a particular year shall be in the order in which their names appear in the merit list prepared by the Commission.

(3) The persons appointed by promotion in Group-'B' of the service shall en-bloc be senior to those appointed by direct recruitment in that year.

16. Other conditions of Service.- The conditions of service with regard to matters not covered by these rules shall be the same as are or as may from time to time be prescribed by the State Government.

PART- VI MISCELLANEOUS

17. Relaxation.- When it is considered by the Government that it is necessary or expedient so to do in the public interest, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules in respect of any class or category of officers in consultation with the Commission.

18. Interpretation.- If any question arises relating to the interpretation of these rules, it shall be referred to the Government in Labour & ESI Department, whose decision thereon shall be final.

By Order of the Governor

ANU GARG

Principal Secretary to Government

APPENDIX**[See Rule-13]****Syllabus for the Departmental Examination of Assistant Labour Officers for confirmation against the substantive post.**

PART- I : LAW

There will be two papers on Law and the examination shall be directed to test the general knowledge of the important provisions of the laws.

PAPER 1 – GENERAL LAW

The Indian Penal Code, 1860

The Indian Evidence Act, 1872

The Indian Contract Act, 1872

The Oaths Act, 1969

The Code of Criminal Procedure, 1973

The Indian Registration Act, 1908

The Code of Civil Procedure, 1908

PAPER 2 – LABOUR LAWS

The Industrial Disputes Act, 1947

The Factories Act, 1948

The Industrial Employment (Standing Orders) Act, 1946

The Payment of Wages Act, 1936

The Minimum Wages Act, 1948

The Payment of Bonus Act, 1965

The Payment of Gratuity Act, 1972

The Employees' Compensation Act, 1923

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

The Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981

The Trade Unions Act, 1926

The Motor Transport Workers Act, 1961

The Employees' State Insurance Act, 1948

The Child and Adolescent Labour (Prohibition & Regulation) Act, 1986

The Employees Provident Fund and Miscellaneous Provisions Act, 1952

The Maternity Benefits Act, 1961

The Contract Labour (Regulation & Abolition) Act, 1970

The Equal Remuneration Act, 1976

The Sales Promotion Employees (Conditions of Service) Act, 1976

The Odisha Shops and Commercial Establishment Act, 1956

The Odisha Industrial Establishment (National and Festival) Holidays Act, 1969

The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979

The Building and Other Construction Workers' (RE&CS) Act, 1996

The Building and Other Construction Workers' Welfare Cess Act, 1996

The Unorganized Workers' Social Security Act, 2008

The Odisha Labour Welfare Fund Act, 2005

There shall be written examination with the aid of books. Only un-annotated editions of Acts issued by authority will be allowed in answering the papers.

The maximum marks in each paper will be 150 and the duration of the examination will be three hours. Candidates securing 90 marks and above, i.e. 60 percent and above will be deemed to have passed in the paper.

PART - II : ACCOUNTS

The Examination in Accounts will be of one standard and only one paper will be set to be answered within the time limit of three hours and with the aid of books. The maximum marks will be 150 and candidates obtaining 90 marks and above, i.e. 60 percent and above will be deemed to have passed in the subject.

The Books recommended for the Accounts Examination are as follows:-

1. Odisha Leave Rules
2. Odisha Civil Services (Classification, Control & Appeal) Rules, 1962
3. The Odisha Government Servants' Conduct Rules, 1959.
4. The Odisha Travelling Allowances Rules and the Civil Service Regulations (Chapter XV, XIX).
5. The Odisha Civil Services (Pension) Rules, 1992
6. The Odisha Treasury Code Vol.-I Part I (1,2,6 to 9, 16 to 25, 28,30 and 31)
Part II, Subsidiary Rules under the Odisha Treasury Rules, Chapters I to IV, VII to IX
7. The Odisha Treasury Code Vol. II, Appendices 2 to 7, 9 and 16.
8. General Provident Fund (Odisha) Rules with its amendments
9. An Introduction of Indian Government Accounts and Audit (Second Edition) published in 1940 under the authority of the Comptroller and Auditor General of India, Chapter 6,7,8,9 (Paragraph 138 to 164, 170,179,187 and 192 only), 10, 11, 13 to 19, 24 (paragraph 394 to 396, 405, 406 to 437 only), 25 to 27, 30 (paragraphs 518 to 520 only) and 37.
10. The Odisha General Financial Rules – Vol. I and Vol. II
11. Delegation of Financial Power Rules, 1978.

PART – II : LANGUAGE TEST

Every officer of the Service shall have to pass language test in Odia as per the syllabus prescribed by Government of Odisha in the Revenue Department Notification No. 59914-III-ER-366-R, dated the 13th September, 1966. Candidates securing 60 percent marks and above will be deemed to have passed in Odia:

Provided that an officer will be exempted from passing the said Language examination on production of a certificate that he has passed in Odia at the High School Certificate Examination conducted by the Odisha Board of Secondary Education or such other examination as in the opinion of the President of the Central Board of Examiners, is equivalent to superior to it.