



सत्यमेव जयते

UTTARAKHAND COURT NEWS

(A Quarterly News letter)

Vol-2 Issue No-1 (Jan.-March, 2011)



High Court of Uttarakhand, Nainital

EDITORIAL BOARD

Hon'ble Mr. Justice Prafulla C. Pant
Hon'ble Mr. Justice Sudhanshu Dhulia

COMPILED BY

U.C. Dhyani, Registrar General, High Court of Uttarakhand

A quarterly newsletter published by High Court of Uttarakhand, Nainital
Also available on our website : www.highcourtofuttarakhand.gov.in

**Group Photograph taken on 03-03-2011 after Full Court reference on retirement of
Hon'ble Mrs. Justice Nirmal Yadav**



(L to R) :

Hon'ble Mr. Justice V. K. Bist, Hon'ble Mr. Justice B. S. Verma, Hon'ble Mr. Justice Tarun Agarwala,
Hon'ble Mr. Justice Barin Ghosh, Chief Justice, High Court of Uttarakhand, Hon'ble Mrs. Justice Nirmal Yadav,
Hon'ble Mr. Justice Prafulla C. Pant, Hon'ble Mr. Justice Sudhanshu Dhulia

CONTENTS

- Hon'ble Judges of Uttarakhand High Court 4
- From the Desk of Chief Justice 5
- Transfers and Promotion of Judicial Officers 6-7
- Vacancies in High Court and District Courts 8
- Institution, Disposal and Pendency of cases in High Court 9
- Institution, Disposal and Pendency of cases in District Courts 10
- Some recent Judgments of High Court 11-15
- Circular letter issued in the quarter 15
- Major activities of UJALA 16
- Notification regarding amendment in H.J.S. Rules, 2004 17
- Notification regarding amendment in Uttarakhand Judicial Service Rules, 2005 18
- The Uttarakhand Subordinate Civil Courts Ministerial Rules, 2007
(as amended after 2nd amendment, 2011) 19-32

UTTARAKHAND HIGH COURT

LIST OF JUDGES (As on 31st March, 2011)

Sl. No.	Name of the Hon'ble Judge	Date of Appointment (Assumed charge in Uttarakhand)
1.	Hon'ble Mr. Justice Barin Ghosh Chief Justice	12.08.2010
2.	Hon'ble Mr. Justice Tarun Agarwala	25.09.2009
3.	Hon'ble Mr. Justice Prafulla C. Pant	29.06.2004
4.	Hon'ble Mr. Justice B. S. Verma	15.07.2004
5.	Hon'ble Mr. Justice V. K. Bist	01.11.2008
6.	Hon'ble Mr. Justice Sudhanshu Dhulia	01.11.2008

RETIREMENTS (In the quarter ending 31.03.2011)

Hon'ble Mrs. Justice Nirmal Yadav	03.03.2011
-----------------------------------	------------



Barin Ghosh



**CHIEF JUSTICE
HIGH COURT OF UTTARAKHAND**

Nainital - 263001

FROM THE DESK OF CHIEF JUSTICE

The purpose of the news letter is to apprise people of the facts pertaining to judiciary of the State. In the second edition of the news letter facts and developments, which have taken place during the last quarter have been highlighted. News letter of future must contain a dedicated chapter for sharing experience of the members of the judiciary while discharging judicial function. I accordingly request the members of the State judiciary to write to the Editor of the news letter of their experience, which they think would help other members of the judiciary in dispensation of justice.

April 06, 2011

(Barin Ghosh)

TRANSFERS & PROMOTION OF JUDICIAL OFFICERS IN DISTRICTS

S. No.	Name of the officer	From	To
1.	Sri Jai Deo Singh	District Judge, Bageshwar	District Judge, Udham Singh Nagar
2.	Sri Raj Krishan	District Judge, Pauri Garhwal	District Judge, Dehradun
3.	Sri K. D. Bhatt	District Judge, Udham Singh Nagar	District Judge, Pauri Garhwal
4.	Sri N. S. Dhanik	Secretary, Lokayukta	District Judge, Bageshwar
5.	Sri G. K. Sharma	Presiding officer, CGIT-cum-Labour Court, Chandigarh	Chairman, State Transport Appellate Tribunal, Dehradun
6.	Sri Rajendra Joshi	A.D.J./1 st F.T.C., Roorkee Distt. Hardwar	A.D.J./1 st F.T.C., Nainital
7.	Sri Srikant Pandey	A.D.J./1 st F.T.C., Dehradun	A.D.J./1 st F.T.C., Roorkee, Distt. Hardwar
8.	Smt. Neelam Ratra	C.J.M., Hardwar	Cl.J. (S.D.), Kotdwar
9.	Sri Sujeet Kumar	Cl.J. (S.D.), Kotdwar	Cl. J. (S.D.), Nainital
10.	Sri Mahesh C. Kaushiwa	1 st Addl. Cl. J. (S.D.), Dehradun	C.J.M., Rudraprayag
11.	Sri Ambika Pant	J.M., Hardwar	Joint Director, UJALA, Bhowali, Nainital
12.	Ms. Deepali Sharma	Cl.J. (J.D.), Laksar	Cl.J. (S.D.), Laksar
13.	Sri Pradeep Kumar Mani	Addl. Cl.J. (J.D.), Khatima	1 st Addl. Cl.J. (S.D.), Dehradun
14.	Sri Arvind Nath Tripathi	J.M.-I, Dehradun	A.C.J.M., Roorkee
15.	Sri Rakesh Kumar Singh	Cl.J. (J.D.), Lansdowne	Cl.J. (S.D.), Tehri
16.	Ms. Pratibha Tiwari	J.M., Kashipur	Cl.J. (S.D.), Hardwar
17.	Sri Rajoo Kr. Srivasatava	Civil Judge (J.D.), Ramnagar, Nainital	A.C.J.M., Hardwar
18.	Sri Kuldeep Sharma	Civil Judge (J.D.), Khatima	Cl.J.(S.D.), Ramnagar
19.	Sri Anirudh Bhatt	J.M., Rudraprayag	Cl.J.(S.D.), Rudraprayag
20.	Ms. Reena Negi	Cl.J.(J.D.), Hardwar	2 nd Addl. Cl.J.(S.D.), Udham Singh Nagar

21.	Sri Chandramani Rai	Civil Judge (J.D.), Kashipur	2 nd Addl. Cl. J. (S.D.), Hardwar
22.	Ms. Parul Gairola	Cl.J. (J.D.), Roorkee	Addl. Cl.J. (S.D.), Roorkee
23.	Sri Ritesh Kr. Srivastava	Cl.J. (J.D.), Almora	Cl. J. (S.D.) Rishikesh
24.	Sri Ashutosh Kr. Mishra	Addl. Cl.J. (J.D.), Khatima	3 rd Addl. Cl.J. (S.D.), Udham Singh Nagar
25.	Sri Manish Kumar Pandey	Cl. J. (J.D.), Didihat	A.C.J.M. (Railway), Haldwani
26.	Sri Seash Chandra	Cl.J. (J.D.), Chakrata	Cl.J. (J.D.), Dehradun
27.	Sri Shiva Kant Dwivedi	Asst. Director, UJALA	J.M.-I, Dehradun
28.	Smt. Geeta Chauhan	Cl.J. (J.D.), Dehradun	Cl.J. (J.D.), Tanakpur
29.	Ms. Meena Deopa	Cl.J. (J.D.), Tanakpur	Cl.J. (J.D.), Roorkee
30.	Ms. Rajni Shukla	1 st Addl. Cl.J. (J.D.), Hardwar	Cl.J. (J.D.), Nainital
31.	Sri Vivek Srivastava	Cl.J. (J.D.), Nainital	Cl.J. (J.D.), Narendranagar
32.	Sri Sudhir Kumar Singh	Cl.J. (J.D.), Vikasnagar	Cl.J. (J.D.), Almora
33.	Sri Udai Pratap Singh	J.M., Kashipur	Cl.J. (J.D.), Didihat
34.	Sri Dharmendra Kr. Singh	1 st Addl. Cl. J. (J.D.), Roorkee, Distt. Hardwar	Cl.J. (J.D.), Uttarkashi
35.	Sri Sudhir Tomar	1 st Addl. Cl.J. (J.D.), Udham Singh Nagar	Cl.J. (J.D.), Pauri
36.	Sri Man Mohan Singh	Cl.J. (J.D.), Uttarkashi	J.M., Udham Singh Nagar
37.	Sri Madan Ram	Cl.J. (J.D.), Rishikesh	Cl.J. (J.D.), Lansdowne
38.	Sri Mukesh Chandra Arya	J.M., Roorkee	J.M., Kashipur
39.	Smt. Manju Singh	Civil Judge (J.D.), Narendranagar	Civil Judge (J.D.), Gangolihat
40.	Sri Ramesh Singh	Civil Judge (J.D.), Haldwani	Civil Judge (J.D.), Chamoli
41.	Smt. Sangeeta Rani	2 nd Addl. Civil Judge (J.D.), Roorkee	Civil Judge (J.D.), Kashipur
42.	Sri Arun Vohra	Civil Judge (J.D.), Pauri Garhwal	Civil Judge (J.D.), Khatima
43.	Sri Jayendra Singh	Civil Judge (J.D.), Chamoli	1 st Addl. Civil Judge (J.D.), Haldwani

VACANCIES IN COURTS**A) HIGH COURT (As on 31-03-2011)**

Sanctioned Strength

Working Strength

Vacancies

09

06

03

B) District Courts (As on 31-03-2011)

S. No.	Name of the District	Sanctioned Strength	Working Strength	Vacancies
1.	Almora	11	05	06
2.	Bageshwar	07	04	03
3.	Chamoli	10	04	06
4.	Champawat	05	05	Nil
5.	Dehradun	56	24	32
6.	Haridwar	40	20	20
7.	Nainital	28	15	13
8.	Pauri Garhwal	13	09	04
9.	Pithoragarh	07	05	02
10.	Rudraprayag	07	04	03
11.	Tehrai Garhwal	11	05	06
12.	Udham Singh Nagar	34	25	09
13.	Uttarkashi	04	04	Nil
	Total	233	129	104

INSTITUTION, DISPOSAL AND PENDENCY OF CASES

A) HIGH COURT OF UTTARAKHAND (from 01.01.2011 to 31.03.2011)

						Pendency (At the end of 31.12.2010)		
						Civil Cases	Criminal Cases	Total Pendency
						12053	6222	18275
Institution (01.01.2011 to 31.03.2011)			Disposal (01.01.2011 to 31.03.2011)			Pendency (At the end of 31.03.2011)		
Civil Cases	Criminal Cases	Total matters	Civil Cases	Criminal Cases	Total matters	Civil Cases	Criminal Cases	Total Pendency at the end of 31.03.11
1520	1035	2555	1358	828	2186	12215	6429	18644

B) District Courts (From 01.01.2011 to 31.03.2011)

Sl. No.	Name of the District	Civil Cases				Criminal Cases				Total Pendency at the end of 31.03.11
		Opening Balance as on 01.01.11	Institution from 01.01.11 to 31.03.11	Disposal from 01.01.11 to 31.03.11	Pendency at the end of 31.03.11	Opening Balance as on 01.01.2011	Institution from 01.01.11 to 31.03.11	Disposal from 01.01.11 to 31.03.11	Pendency at the end of 31.03.11	
1	Almora	739	87	116	710	1356	200	316	1240	1950
2	Bageshwar	120	47	67	100	236	120	136	220	320
3	Chamoli	370	85	83	372	1143	318	453	1008	1380
4	Champawat	161	68	78	151	669	354	408	615	766
5	Dehradun	13539	1942	2017	13464	55261	14129	20109	49281	62745
6	Haridwar	8146	2073	2061	8158	23932	7325	9184	22073	30231
7	Nainital	2839	459	407	2891	9756	2375	2562	9569	12460
8	Pauri Garhwal	1290	149	115	1324	3341	846	1519	2668	3992
9	Pithoragarh	303	56	66	293	699	392	385	706	999
10	Rudraprayag	150	52	34	168	410	538	522	426	594
11	Tehri Garhwal	474	120	113	481	1479	547	678	1348	1829
12	Udham Singh Nagar	3884	731	607	4008	24108	3081	3506	23683	27691
13	Uttarkashi	383	85	96	372	805	359	480	684	1056
	Total	32398	5954	5860	32492	123195	30584	40258	113521	146013

Some Recent Judgments of Uttarakhand High Court

Marriage & Divorce :

1. On 17th March, 2011, a Division Bench in *Smt. Pratiksha Arya Vs. Sri Deepak Kumar Arya* (Appeal from Order No. 356 of 2010), while allowing appeal of appellant wife against the order of family court granting maintenance to respondent husband held that Section 24 of the Hindu Marriage Act, 1955, applies equally to both spouses. It provides that where in any proceeding under the Act it appears to the court that either the wife or the husband, as the case may be, has no independent income sufficient for her or his support, it may, on the application of wife or the husband order the other party to pay monthly maintenance during the proceeding initiated under the Act. The Bench observed that normally, in the Indian society, we see husband as an earning member in the family, and wife as one dependent on him. But Section 24 takes note of all kinds of situation including the one in which husband is unable to maintain himself and dependent on his wife.

Civil Matters :

2. On 6th January, 2011, a single Judge Bench in *Subhash Chandra Vs Smt. Kusumlata Jain* (WPMS No. 35 of 2011) dismissed the writ petition against the order of trial court on application for interrogatories under section 34 read with Rule 22 & 23 of the U.P. Act No. 13 of 1972 with the observation that the proceedings under section 21 (1) (a) of the U.P. Act No. 13 of 1972 are required to be decided on affidavits and in rare cases, resort can be taken to elicit certain information by invoking the provision of Section 34 of the Act and Rule 22 & 23 of the rules with regard to filing interrogatories. In the present case, the court found that the interrogatories sought has no bearing with the issue involved.
3. On 6th January, 2011, a Single Judge Bench in *Sri Balkar Singh & others Vs. The Board of Revenue & others* (Review Application No. 9 of 2011 in Writ Petition (M/S) No. 4964 of 2001), while placing reliance on the principle of law laid down in **State of West Bengal and others Vs. Kamal Sen Gupta and another (2008)8 S.C.C., 612**, reiterated the principle pertaining to power of review as under :

“The term “mistake or error apparent” by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and its detection thereof requires long debate and process of reasoning, it can not be treated as an error apparent on the face of record for the purpose of Order 47 Rule 1 C.P.C. or Section 22(3)(f) of Administrative Tribunals Act, 1985. To put it differently an order or decision or judgment can not be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of fact or law. In any case, while exercising the power of review, the court/tribunal concerned can not sit in appeal over its judgment/decision”.

4. On 18th March, 2011, a Single Judge Bench in *Avdhu Singh Yadav Vs. State of Uttarakhand & others* (Writ Petition No. 239 of 2011), on a petition of a Junior Engineer in the mine and irrigation department challenging his transfer, while dismissing his petition held that, Transfer is an exigency of service and the interference by the Courts is normally made only on two grounds, (a) Where there is a statutory violation or (b) the order has been passed due to mala fide reasons. The Bench directed that if petitioner makes a representation before the concerned authority, then the authority shall also take into consideration the Full Bench judgement of this Court namely, **Smt. Damyanti Bisht Vs. State of Uttarakhand and others 2008(2) U.D. 517**, which calls for certain measures to be taken by the Administrative Authority while transferring an employee on administrative ground.

Criminal Matters :

5. On 16th March, 2011, a Division Bench in *Nandan Singh Vs. State of Uttarakhand* (Criminal Appeal No. 1930 of 2001 / Old No. 1025 of 1998), while dismissing the appeal against the conviction, set aside the sentence awarded by the trial court with the observation that the accused/appellant was a juvenile on the date of incident. The Bench placed reliance on the principle of law laid down in **Dharambir Vs. State (NCT Delhi) (2010)5 S.C.C., 344** and **Hari Ram Vs. State Rajasthan (2009)13 S.C.C., 211**.

6. On 22nd March, 2011, a Division Bench in **State of Uttarakhand Vs. Harvinder Singh @ Moga** (Govt. Appeal No. 1620 of 2001 / Old No. 423 of 2000) held that it is settled principle of law that where two views are possible, on appreciation of evidence on record, and trial court has taken a view holding that the accused is entitled to the benefit of reasonable doubt, the Appellate Court should not interfere with the finding of fact, unless the finding is perverse or against the record. In the instant case presence of the only supporting witness, who is a lady of 70 years of age, was shown at the time of incident, out of her house in the odd hours of 9:45 p.m. and her statement was not corroborated by any of the other eyewitnesses produced by the prosecution.

7. On 22nd March, 2011, a Division Bench in **Pritam Singh Vs. State of Uttarakhand** (Criminal Appeal No. 278 of 2003) & in **Pyare Lal Vs. State of Uttarakhand** (Criminal Appeal No. 271 of 2003) while dismissing the appeal of accused Pritam Singh, allowing the appeal of accused Pyare Lal observed that neither there is any role of exhortation assigned to him (Pyare Lal), nor he is said to have fired a shot at the deceased, as such, it cannot be said that it is proved on the record beyond reasonable doubt that Pyare Lal had common intention to commit murder of the deceased with accused / appellant Pritam Singh. The Bench observed that simply because he is said to have been accompanying the accused / appellant Pritam Singh while sharing drinks with the said accused and deceased, and thereafter went with them to Shiv Temple, it cannot be said to have been proved that he had common intention with accused / appellant Pritam Singh.

Service Matters :

8. On 6th January, 2011, a Full Bench in **Madan Mohan Chaudhary Vs. State of Uttarakhand & others** (Write Petition (S/B) NO. 284 of 2004) (reported in 2011(1) U.D. 6) considered the question referred by the Division Bench that Whether, the Government Order dated 1st July 1989, referred in the judgment of the Division Bench (in Special Appeal No. 225 of 2008, State of U.P. and another Vs. Pitamber Dutt Sanwal, arisen out of Writ Petition No. 843 (S/S) of 2003) applies to work-charge employees or not ? The Full Bench answered the question in negative and observed while interpreting the Government Order No. Sao-3-1152/Ten-915/89, Lucknow Dated : 1st July, 1989 that a perusal of Article 361 read with Article 368 and 370 of the Civil Service Regulations (CRS) clearly indicates that a service does not qualify unless the

officer holds a substantive office on a permanent establishment, and that the period of service in a work-charged establishment will not qualify service for the purpose of pension. The underlying reason is that a work-charged employee is not holding a substantive post on a permanent establishment. Bench further observed that genesis of receiving a pension is indicated in Article 361 of the CSR. One such condition is that the employment must be substantive and permanent which is reiterated in Article 368 of the CSR. Article 370(ii) excludes periods of service spent in a work-charged establishment for the purpose of calculating the qualifying service. The Bench opined that service rendered in work-charge establishment, before regularization is not a temporary service for the purposes of regular service. Full Bench placed reliance on the judgment of Hon'ble Apex Court in **State of Himachal Pradesh Vs. Suresh Kumar (1996) 8 S.C.C., 562**, in which it is observed that "work-charge employees perform the duties of transitory and urgent nature so long as the work exists (in a particular project). Only because a work-charge employee was engaged in one after another projects does not make his services regular without there being a permanent post".

9. On 16th March, 2011, a Division Bench in *Dr. Jagdish Chandra Ghildiyal Vs. State of Uttarakhand & another* (Writ Petition (S/B) No. 299 of 2009), while hearing a matter in which rationality of the rules regarding promotion were challenged observed that when promotion is to be accorded, the same is to be accorded on the basis of law then applicable, in as much as when a law exists that law removes all previous laws dealing with the subject, unless expressly preserved. The vacancy whether accrued before or after coming into force of the existing law is of no consequence. When steps would be taken to fill them up, law then applicable can only be applied for at that time the previous law is not in existence.
10. On 16th March, 2011, a Division Bench in *Dr. (Miss) Harshwanti Bisht Vs. State of Uttarakhand & another* (Writ Petition (S/B) No. 128 of 2010), while hearing a matter in which petitioner was denied promotion as she got two 'Good' final gradations in her confidential report for the relevant period and it has been said that she could not reach the bench-mark of achievement, which would have entailed a promotion to the petitioner and the respondents were contending that in terms of the law made by the State, the above gradations were not required to be communicated, observed that because of receiving the said two gradation marks, the petitioner has lost a career advancement opportunity, as a result her civil

rights have been affected. The Bench observed that if by reason of any action on the part of any one civil right of a Government servant is affected, law requires the Government employee to be at least informed in that regard, so that Government employee may represent against the same.

11. On 16th March, 2011, a Division Bench in *Sanjay Kumar Kumiyal & other Vs. Uttarakhand Public Service Commission & others* (Special Appeal No. 24 of 2011), while answering in negative on the question that whether the Public Service Commission engaged postal authority as its agent for collection of application forms or not, observed that the Commission not to write words "by registered post/speed post or by personally" in similar in future, instead; if they want to avoid any particular mode of service, to indicate that the said mode of service will not be accepted.

Circular letter issued by the High Court from 01.01.2011 to 31.03.2011

C.L. No. 01/11/UHC/Admin.A/2010 Dated : March 05, 2011

Subject : Nomination of Administrative Judge(s).

In continuation of earlier Circular Letter No. 10/UHC/Admin.A/2010 dated : 18.08.2010 and 13/UHC/Admin.A/2010 dated : 19.11.2010, Hon'ble the Chief Justice is pleased to nominate the following Hon'ble Judges as the Administrative Judges Incharge of the District(s) shown against their names in the list given below with immediate effect.

- | | | |
|-----------------------------------------|---|-------------|
| 1. Hon'ble Mr. Justice Tarun Agarwala | - | Nainital |
| 2. Hon'ble Mr. Justice Prafulla C. Pant | - | Almora |
| 3. Hon'ble Mr. Justice B. S. Verma | - | Rudraprayag |

MAJOR ACTIVITIES OF UJALA

- **Workshop on “Juvenile Justice (Care and Protection of Children) Act, 2000” (from 15-03-2011 to 17-03-2011)** : A workshop of three days was organized for the Principle Magistrates of Juvenile Justice Boards working in the State. 11 Principal magistrates across the State participated in the workshop.
- **Workshop on “Right to Information Act, 2005” (from 29-01-2011 to 30-01-2011)** : A two day workshop was organized for the first appellate authorities of District Courts to apprise them from the relevant provisions of Right to Information Act, 2005. 13 participants attended the workshop.
- **Workshop on “Protection of Women from Domestic Violence Act, 2005” (from 05-02-2011 to 07-02-2011)** : A three day workshop on Domestic Violence Act was organized for Judicial Magistrates of the State. Total 19 Judicial Magistrates participated in the workshop.
- **Workshop on “Service Jurisprudence” (from 09-02-2011 to 11-02-2011)** : A three day workshop for Government Officers of various departments was organized to sharpen their skill on Service Jurisprudence. 25 Officers of different departments attended the workshop.
- **Training Programme for Additional District & Sessions Judges (from 04-03-2011 to 18-03-2011)** : A 15 days training programme was organized for the recently promoted 09 Additional District & Sessions Judges.

Government of Uttarakhand

NOTIFICATION

No. 271/XXX-(1)/2011/26(5)/2004 Dated : Dehradun : 23-02-2011

Subject : The Uttarakhand Higher Judicial Service (Amendment) Rules, 2011

- (1) They shall come into force w.e.f. 01-01-2011.
- (2) In Uttaranchal Higher Judicial Service Rules, 2004, the words "Uttarakhand" to be read instead of "Uttaranchal".
- (3) In the Principal rules for the existing clause (a) and (b) of rule 6, following clause as here by substituted :
 - (a) "Sixty five percent by promotion from amongst the Civil Judges (Senior Division) on the basis of principle of merit-cum-seniority.
 - (b) Ten percent by promotion strictly on the basis of merit through limited competitive examination of Civil Judges (Senior Division) having not less than five years Service as Civil Judge (Senior Division).
- (4) In the Principal rules for the existing sub-rule (2) of rule 22, following shall be substituted :
 - (2) "Appointment to the service shall be made on a 20-point roster with two blocks of 10 posts each. In the first block of 10 posts, the first 6 posts shall be filled up from those appointed under rule 6 (a); and the next 3 posts from those appointed under rule 6(c), and the last post from those appointed under rule 6(b). In the second block of 10 posts, the first 7 posts shall be filled from those appointed under rule 6(a); the next 2 posts from those appointed under rule 6(c); and the last post from those appointed under rule 6(b)".

Government of Uttarakhand

NOTIFICATION

No. 380/XXX-(1)/2011/26(4)/2004 Dated : Dehradun : 11-03-2011

Subject : The Uttarakhand Judicial Service (Amendment) Rules, 2011

- (1) They shall come into force at once.
- (2) In Uttaranchal Judicial Service Rules, 2005, the words "Uttarakhand" to be read instead of "Uttaranchal".
- (3) In the existing rule 14, the sub-rule (2) shall be substituted as follows :
 - (2) "All candidates who obtained 50 percent or more marks or corresponding grade, if any, in the written examination shall be eligible for viva-voce examination.

Provided that Scheduled Castes, Scheduled Tribes and Other Backward Class candidates, who obtained 40 percent or more marks or the corresponding grade, if any, in the written examination shall be eligible for viva-voce examination".

Rules after Second Amendment(2011)

Government of Uttarakhand

Nyay Anubhag-1

No. 161/XXXVI(1)/07/306-EK(1)/2005,

Dated Dehradun, 24 April, 2007.

NOTIFICATION

Miscellaneous

In exercise of the powers conferred by the proviso to Article 309 of the Constitution and in supersession of all existing rules and orders on the subject, the Governor is pleased to make the following rules regulating recruitment and conditions of service of persons appointed to the Ministerial establishment of the Civil Courts and Family Courts in the State of Uttarakhand, subordinate to the High Court.

THE UTTARAKHAND SUBORDINATE CIVIL COURTS MINISTERIAL ESTABLISHMENT RULES, 2007.

1. Short Title, Commencement and Extent:

- (1) These rules may be called "The Uttarakhand Subordinate Civil Courts Ministerial Establishment Rules, 2007.
- (2) They shall come into force with immediate effect.
- (3) These rules shall apply to all persons in the Ministerial Establishment of the Civil Courts and Family Courts in the State of Uttarakhand, subordinate to the High Court.

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

- (a) "Appointing Authority" means the District & Sessions Judge and the Principal Judge, Family Court.
- (b) "Chief Justice" means the Chief Justice of High Court of Uttarakhand.
- (c) "Constitution" means the Constitution of India.
- (d) "Court" means the High Court of Uttarakhand.
- (e) "Family Court" means the courts of Principal Judge, Family Court, Judge, Family Court and Additional Judge, Family Court.

- (f) "Government" means the Government of Uttarakhand.
- (g) "Governor" means the Governor of Uttarakhand.
- (h) "Ministerial Establishment" means the staff of the subordinate Civil Courts and Family Courts consisting of ministerial servants.
- (i) "Subordinate Civil Courts" means the Courts of District and Sessions Judges, Additional District and Sessions Judges, Civil Judges (Senior Division), Additional Civil Judges (Senior Division), Assistant Sessions Judge, Chief Judicial Magistrates, Additional Chief Judicial Magistrates, Additional Chief Judicial Magistrates (Railway), Judicial Magistrates, Civil Judge (Junior Division), Additional Civil Judge (Junior Division) and Courts of Judge Small Cause, Additional Judge Small Cause Courts Subordinate to the High Court of Uttarakhand.
- (j) "Year of Recruitment" means a period of Twelve Months commencing from the first day of January of the calendar year in which the process of recruitment is initiated by the appointing authority.
- (k) "Registrar General" means the Registrar General of Uttarakhand High Court.

3. Cadre of the service: The ministerial service shall consist of the following classes and categories of officials employed in each Judgeship and Family Courts in Uttarakhand.

CIVIL COURTS

Sl. No	Name of the post	Pay scale	Source of recruitment
(a)	Copyist/Junior Clerk/Assistant Accounts Clerk, Assistant Librarian, Stationary Clerk, Amin Grade-II, Assistant Record Keeper, Assistant Nazir.	Rs. 3050-4590 or pay scale refixed by the Government from time to time	By direct recruitment or by selection from amongst the regular Group 'D' employees fulfilling conditions as per the rules/ Government orders applicable not beyond the quota fixed in such Government orders.

(b)	Suits Clerk/ Execution Clerks, Ahalmads, Dy. Nazir, Accounts Clerk, Sessions Clerk, Appeals Clerk, Cashier, Misc. Clerk, Munsarim/ Readers of Civil Judge (SD) and Civil Judge (JD)/ J.M., Librarian, Amin Grade-I/Deputy Record Keeper.	Rs. 4000-6000 or pay scale refixed by Government from time to time.	By promotion from amongst the category (a) having three years experience.
(c)	Munsarim/Readers of the Courts of District Judge/ Addl. District Judges/ C.J.M./ Addl. C.J.M. Central Nazir, Record Keeper, Head Copyist, 2 nd Clerk.	Rs. 4500-7000 or pay scale refixed by Government from time to time.	By promotion from amongst the category (b) having three years experience.
(d)	Sadar Munsarim	Rs. 5500-9000 or pay scale refixed by Government from time to time.	By promotion from amongst the category (c) who has put at least ten years service in all.
(e)	Senior Administrative Officer	Rs. 6500-10,500 or pay scale refixed by Government from time to time	By promotion from amongst the categories (c) and (d) who has put atleast ten years service.
(f)	Stenographer Grade I for the courts of Civil Judge (J.D.)/Judicial Magistrates/ C.J.M./ Additional C.J.M./Civil Judge (SD)/ Additional Civil Judge (SD)	Rs. 4000-6000 or pay scale refixed by Government from time to time.	By direct recruitment
(g)	Personal Assistants to the courts of Additional District & Sessions Judges	Rs. 5500-9000 or pay scale refixed by Government from time to time	By promotion from amongst the category (f) having five years experience

(h)	Personal Assistants to the courts of District & Sessions Judges.	Rs. 6500-10,500 or pay scale refixed by Government from time to time.	By promotion from amongst the category (g).
-----	------------------------------------------------------------------	-----------------------------------------------------------------------	---------------------------------------------

The categories mentioned at sub-clause (a) to (e) will form one cadre and categories (f) to (h) will be another cadre.

FAMILY COURTS

S.No.	Name of the post	Pay scale	Source of recruitment
(a)	Typist-cum-Copyist	Rs. 3050-4590 or pay scale refixed by the Government from time to time	By direct recruitment
(b)	Assistant Accountant/ Execution Clerk-cum-Conservation Clerk, Suits Clerk-cum-Maintenance Clerk.	Rs. 4000-6000 or the pay scale refixed by the Government from time to time	By promotion or on deputation from the Judgeships
(c)	Reader	Rs. 4500-7000 or the pay scale refixed by the Government from time to time	By promotion or on deputation from the Judgeships
(d)	Personal Assistant	Rs. 5500-9000 or the pay scale refixed by the Government from time to time	By direct recruitment or on deputation from the Judgeships
(e)	Sadar Munsarim	Rs. 5500-9000 or the pay scale refixed by the Government from time to time	By promotion or on deputation from the Judgeships

4. Sanctioned Strength of the Establishment:

The strength of the ministerial establishment of a Judgeship or Family Court shall be such as may be determined by the Government from time to time.

5. Nationality: No person shall be appointed to any ministerial establishment unless he be a citizen of India and registered in any Employment Exchange of Uttarakhand before publication of the advertisement by the commission.

6. Academic Qualification:**Clerical Post:**

- (a) Must possess a Bachelor degree of University established by law in India or a qualification recognized as equivalent thereto.
- (b) Must possess a thorough knowledge of Hindi and English.
- (c) Must possess good knowledge of Hindi and English typewriting having a speed of 40 words per minute on the computer.
- (d) Sufficient knowledge of operating computer.

Stenographer & Personal Assistant of Family Courts:

- (a) Must possess a Bachelor degree of a University established by law in India or a qualification recognized as equivalent thereto.
- (b) Must possess a thorough knowledge of Hindi and English.
- (c) Must possess a speed of 80 and 100 words per minute in shorthand in Hindi and English respectively and typing 40 words per minute in Hindi and 60 words per minute in English.
- (d) Sufficient knowledge of operating computer.

7. Age: A candidate for recruitment to a post in the ministerial establishment must have attained the age of twenty-one years and must not have attained the age of more than thirty-five years on the 1st day of January of the calendar year in which the vacancies for direct recruitment are advertised;

Provided that the upper age limit in the case of candidates belonging to Scheduled Castes, Scheduled Tribes and such other categories, as may be notified by the Government from time to time, shall be higher by such number of years as may be specified;

Provided the Chief Justice may extend the age limit in favour of a candidate on the grounds of public interest or fair dealing.

8. Character: The character of a candidate for recruitment to a post in the ministerial establishment must be such as to render him suitable in all respects for employment in Government service. The appointing authority shall satisfy itself on this point. He must produce a certificate of good character from the principal officer of the University or college or the school, as the case may be, in which he was last educated and from two responsible persons of status (not being relations), who are well acquainted with him in private life.

Explanation- Persons dismissed by the Union of India or by any State Government or a Local authority or by a Corporation or body owned or controlled by the Union or any State Government shall be ineligible for recruitment to the ministerial establishment. Persons convicted of an offence involving moral turpitude shall also be ineligible.

9. Physical Fitness: No person shall be appointed to the ministerial establishment unless he is in good mental and bodily health and free from all physical defect likely to interfere with the efficient performance of his duties. Before a person is appointed to any post, he shall be required to produce a medical certificate of fitness in accordance with the rules framed under Fundamental Rule 10 contained in Chapter III of the Financial Hand Book, Volume II, Part III.

10. Reservation of Posts for Scheduled Caste etc.: The Reservation for the candidates belonging to the Scheduled Castes, Scheduled Tribes and other categories shall be in accordance with the orders of the Government in force at the time of initial recruitment.

11. Eligibility of Women: Women are also eligible for appointment to the Establishment as per government orders in force.

12. Marital Status: A male candidate who has more than one wife living, or a female candidate who has married a man already having a wife living shall not be eligible for appointment to the ministerial establishment.

13. PROCEDURE FOR DIRECT RECRUITMENT TO THE SERVICE

Determination of Vacancies:

- (a) Each District Judge and Principal Judge, Family Court in Uttarakhand shall ascertain the probable number of Vacancies to be filled by direct recruitment during the course of the year of recruitment as also the number of vacancies under rule 10 to be reserved for the candidates belonging to the Scheduled Castes and Scheduled Tribes and other categories in accordance with the orders of the State Government issued from time to time.
- (b) The vacancies shall be intimated to the court.
- (c) After the consolidation of the vacancies, they shall be advertised by the Court.
- (d) Competitive Examination for selection against the consolidated vacancies shall be conducted in the manner as may be prescribed by the Chief Justice:

Provided that the option shall be obtained at the time of inviting the applications itself from the candidates for the purpose of appointment in all the Districts of the State, in order of preference, and after the selection they shall be posted in accordance with the option given by them. The option shall not be changed.

(e) Application Form:

- (1) Applications for permission to appear at the competitive examination shall be invited through advertisement by the Court.
- (2) No candidate shall be admitted to the examination unless he holds a certificate of admission.
- (3) **Fees-**
Candidates shall pay such fees as may from time to time be specified by the Chief Justice. No claim for the refund of the fee shall be entertained.
- (4) If the number of candidates is more, a preliminary examination for the purpose of short listing the candidates shall be conducted in the manner prescribed by the Chief Justice at his discretion.
- (5) **Syllabus**
The competitive examination shall be conducted by the Registrar General as per the syllabus given in annexed Appendix-I.

(6) Canvassing

No recommendation either written or oral other than those required under these rules shall be taken into consideration. Any attempt on the part of a candidate directly or indirectly may render him liable to disqualification.

- (7) (a) A written examination shall be conducted for the selection.
- (b) The written examination shall consist of single question paper which shall include General Knowledge and General Studies as prescribed in (part 1) of annexed Appendix-1. While evaluating the question paper, one mark shall be awarded for each correct answer and $\frac{1}{4}$ negative mark for each incorrect answer.
- (c) The Answer Sheet of the written examination shall be in duplicate (including the carbon copy) and the candidate shall be permitted to carry back the duplicate copy with him/her after the examination.
- (d) After the written examination, the Answer Key of the objective type written examination shall be displayed on the Uttarakhand website www.ua.nic.in and published in the daily newspapers and shall be pasted on the notice board of the concerned office.
- (e) Result of the Written examination of all the candidates shall be displayed on the Uttarakhand website and published in daily newspapers and shall be pasted on the notice board of the concerned office.
- (f) On the basis of the result of written examination as per details mentioned in (Part-1) of the annexed Appendix-1, such number of candidates shall be called for examination part-2 on the basis of merit in the manner as mentioned in the annexed Appendix-I prescribed by the Chief Justice, as may be considered necessary.
- (g) If two or more candidates obtain equal marks, the candidate senior in age, shall be placed higher in the merit list.

14. List of Candidates approved by the Commission:

- (1) The Registrar General shall prepare a select list of the candidates in order of merit, on the basis of the aggregate of marks obtained by them in the written examination part 1 and part 2;

Provided that if two or more candidates obtain equal marks, the name of the candidate senior in age, shall be placed higher in the select list:

Provided further that if two or more candidates of equal age obtain equal marks, the name of the candidate who has obtained higher marks in the written examination, shall be placed higher in the select list.

(2) The list of selected candidates shall be published in the manner as prescribed by the Chief Justice.

15. Appointment to the Establishment:

(1) The Registrar General shall send the list of the selected candidates to the concerned District Judges and the concerned Judges of the Family Courts in order of merit for appointment. In preparing the district wise merit list, the Registrar General, as far as possible shall keep in mind the preferences given by the candidates. Normally efforts shall be made as far as possible to appoint them in the district, opted by the candidates. If it is not possible to appoint a candidate on the basis of his first, second or third option, he may be posted at any of the available places.

The appointment of the candidate in a district in accordance with his first preference shall be made on the basis of merit. If it is not possible to appoint all the selected candidates on the basis of their preference, they shall be appointed on the basis of second preference and so on.

- (2) The select list shall be valid for one year from the date of its publication.
- (3) The District Judges and Judges of Family Courts shall make appointment of the candidates whose names are sent by the Registrar General as per the roster, provided in the official notification and Government orders.
- (4) The names of the candidates appointed by the District Judge and the Principal Judge, Family Court in accordance with rule 15(3) shall be entered in order of merit in a bound register in the form prescribed in the annexed Appendix II and each entry shall be initialed and dated by the District Judge or the Principal Judge, Family Court, as the case may be, after inspection of the originals of the attested copies of certificates submitted by the candidates.

16. Registration of Selected Candidates:

- (1) Services of any candidate may be dispensed with for the reasons of inefficiency or misconduct by the appointing authority without any departmental enquiry within the period of one year from the date of joining.

17. Probation:

- (1) All persons on first appointment to the ministerial establishment except when the appointment is only in temporary or officiating capacity and on promotion to higher posts that fall substantively vacant shall be on probation for a period of one year;

Provided that the District Judge or Principal Judge, Family court, as the case may be, at his discretion extend the period of probation for a further period of six months.

- (2) The period of probation shall be counted from the date of taking over charge of the post.

Explanation-An appointee as a stenographer in ministerial establishment will also be put on probation for a period of one year.

- (3) If it appears to the appointing authority at any time during or at the end of period of probation that any person has not made sufficient use of his opportunities on promotion or if he has otherwise failed to give satisfaction, the District Judge or Principal Judge, Family Court as the case may be, may, without notice, revert him to his substantive post, if he holds one, or make any other suitable order.

18. Confirmation: Subject to the provisions of the preceding rule, a probationer shall be confirmed against the permanent post.

19. Seniority: The Seniority of persons substantively appointed in the service shall be determined in accordance with the Uttarakhand Government Servants Seniority Rules, 2002 as amended from time to time.

20. Promotion:

- (1) The higher post in a Judgeship or Family Court shall be reserved for clerks in that Judgeship or Family Court and promotion to higher posts shall be made from amongst them.
- (2) Except in case of Amins, promotion shall be made according to seniority subject to efficiency.

- (3) Posts other than those mentioned in sub rule (2) above, shall be treated as selection posts, promotion to which shall be based on merit with due-regard to seniority, with a suitability test as prescribed by the District Judge or Principal Judge, Family Court, as the case may be.
- (4) The promotion from the lowest grade to the next higher grade shall be made if the persons have sufficient knowledge of Circular letters, General Rules (Civil and Criminal), Financial Hand Book after taking a suitability test by the District Judge and the Principal Judge, Family Court as prescribed by him.
- (5) The posts of Sadar Munsarim and Senior Administrative Officers are of promotional and of selection posts. The promotion to these posts will be made from amongst the persons who have sufficient knowledge of working in all departments of the Judgeship, particularly, the Nazarat and Accounts. While making the promotion to the posts of Sadar Munsarim and the Senior Administrative Officer, the District Judge will conduct a suitability test as prescribed by him of the persons of working in the next lowest grade to these posts and then make promotion to these posts on the basis of merit-cum-seniority. The cases of senior Personal Assistants shall also be considered by the District Judge for the post of Senior Administrative Officer.
- (6) The Chief Justice, if he deems fit, may make appointment on the posts of Sadar Munsarim and the Senior Administrative Officer of the member of any Judgeship provided the vacancy exists in such judgeship.

Note- In passing over a person for inefficiency as well as promotion for a selection post due weight shall be given to his previous record of service and seniority should be disregarded only when the junior official promoted is of outstanding merit as compared to his seniors.

- (7) In Courts subordinate to the High Court, promotions to the Amins from the second to the first grade shall, as a rule, be made within the local jurisdiction of District Judge considering the ground of superiority of general qualifications, irrespective of length of service.
- (8) Promotions or appointments to the posts of Amins in Subordinate Civil Courts shall ordinarily be confined to persons regarding whom the District Judge is satisfied that they have a sufficient knowledge of –
 - (i) Hindi and English.
 - (ii) Arithmetic.
 - (iii) Measurement.
 - (iv) Elementary land surveying and mapping.

- (v) Code of Civil Procedure.
- (vi) Rules in General (Civil) relating to the work and duties of the Amins;

Provided in exceptional circumstances the District Judge may exempt an official from such qualifications if he is satisfied that the official concerned is otherwise fit to hold the appointment.

- (9) An official once promoted to the post of Amin shall not, for purposes of promotion to other posts in general office be entitled to claim seniority by reasons of such promotion over other clerks who were senior to him before his promotion as Amin.
- (10) The appointment by way of promotion from the eligible candidates of group 'D' within the prescribed quota shall be made by the appointing authority in accordance with the conditions and procedure prescribed by rules and Government orders issued from time to time in the lowest pay scale of Group 'C'.

21. Scale of pay: The scales of pay of persons appointed to posts in the cadre, whether in substantive or officiating capacity, or as a temporary measure shall be as sanctioned by the State Government from time to time.

22. Pay During Probation: The pay during probation of a person directly recruited shall be the minimum pay of the post to which he is appointed and in the case of a person already in the service of the State it shall be such as may be admissible to him under the relevant rules referred to in rule 21. Increments will be earned by approved probationary service provided that if, in any case the period of probation is extended on account of failure to give satisfactory service, such extended period shall not be counted for increment.

23. Transfers:

- (1) The Chief Justice may transfer any Sadar Munsarim or any Senior Administrative Officer or any member of the establishment from any Judgeship to another Judgeship in the same pay scale against existing vacancy on the complaint of the District Judge or in the public interest.
- (2) The District Judge may transfer any member of the establishment within the District in the same pay scale from one court/office/department to another, as he deems fit.

24. Applicability of Dying in Harness Rules:

Notwithstanding anything to the contrary contained in these rule the Uttarakhand (Uttar Pradesh Recruitment of Dependants of Government Servant Dying in harness Rules, 1974) Adaptation & Amendment Rules, 2002 shall be applicable to the ministerial establishment. Recruitment will be made by the appointing authority accordingly.

25. Repeal & Savings:

- (1) The Subordinate Civil Court Ministerial Establishment Rules 1947 are hereby repealed.
- (2) Notwithstanding such repeal:
 - (a) If immediately before the date on which these rules come into force, there is any matter pending regarding salary, pension, seniority, disciplinary action or other connected matters shall be disposed of in accordance with the provisions of the Subordinate Civil Court Ministerial Establishment Rules, 1947.
 - (b) All notifications and circular letters of the High Court or of the State Government, if any, issued under the Subordinate Civil Court Ministerial Establishment Rules, 1947, shall be deemed respectively to have been issued under the corresponding provisions of these rules.

26. Power to remove the difficulties.

“Notwithstanding anything to the contrary contained in these rules or any other rules in force for the time being, the Chief Justice may issue necessary directions from time to time for effective implementation of these rules.”

By order
(R. D. PALIWAL)
Secretary

Appendix-1

(See Rule 13)

The examination shall be in two parts**Part-1**

	Marks
An objective type written examination shall be conducted which will include multiple choice questions of General knowledge and General Studies	140

Part-2

	Marks
Typewriting test on computer/ Shorthand (for Stenographers)	60
(One) Type writing in English and Hindi on the Computer having a speed of 60 words per minute in English and 40 words per minute in Hindi.	
(Two) Shorthand writing in English with a speed of 100 words per minute and in Hindi with a speed of 80 words per minute.	
(For others) Type writing in English and Hindi having a speed of 40 words per minute on the computer.	

Total : 200

MAJOR EVENTS AND INITIATIVES

Mega Lok Adalat : On 25.03.2011, a Mega Lok Adalat was organized in all the District Courts of Uttarakhand under the banner of SLSA. Main function was organized in District Dehradun, where Hon'ble Mr. Justice Altamas Kabir, Judge, Supreme Court of India & Chairman, National Legal Services Authority presided over the function in the benign presence of Hon'ble Mr. Justice Barin Ghosh, Chief Justice, High Court of Uttarakhand and Hon'ble Mr. Justice Tarun Agarwala, Sr. Judge & Chairman, Uttarakhand State Legal Services Authority. On this occasion, inaugural issue of Newsletter of SLSA was released by Hon'ble Mr. Justice Altamas Kabir. In all 20,588 cases were disposed of in whole of the State on that day, and compensation of Rs. 3,66,43,045/- was awarded to claimants.



(L to R) :

Hon'ble Mr. Justice Barin Ghosh, Chief Justice, High Court of Uttarakhand,
Hon'ble Mr. Justice Altamas Kabir, Judge, Supreme Court of India & Chairman NALSA,
Hon'ble Mr. Justice Tarun Agarwala, Sr. Judge, High Court of Uttarakhand & Chairman SLSA

UTTARAKHAND JUDICIAL AND LEGAL ACADEMY, BHOWALI, NAINITAL

TRAINING PROGRAMME FOR PROMOTED ADDITIONAL DISTRICT & SESSIONS JUDGES

March 04 to March 18, 2011



First Row : Smt. Sujata Singh, Sri R.D. Paliwal, Director UJALA, Hon'ble Mr. Justice B. S. Verma,
Sri Malik M. Sultan, Addl. Director, Sri Amit Kumar Sirohi.

Second Row : Sri Shahanshah Mohd. Dilber Danish, Sri SriKant Pandey, Sri Dhananjay Chaturvedi, Sri Nitin Sharma,
Sri Anuj Kumar Sangal, Sri Kaushal Kishore Shukla, Sri Rajeev Kumar Khulbe.