



# THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM  
ORDERS BY THE GOVERNOR  
HOME AND POLITICAL DEPARTMENT :: DISPUR

## NOTIFICATION

The 17th February, 2023

### **No. HMA-11/225/2022/63.-**

Pursuant to the decision taken by the State Government to establish a Directorate of Prosecution in terms of Section 25-A of the Code of Criminal Procedure, 1973, to ensure conducting of prosecutions in a proper and efficient manner, the Governor of Assam, pending finalization of the Service Rules to be framed in exercise of the powers conferred by the Article 309 of the Constitution of India, is pleased to make the following orders regulating the recruitment, *promotion* and other conditions of service, to the service and posts under the establishment of Directorate of Prosecution, Assam.

#### **1. Short title and commencement :-**

- (1) These orders shall be known as the Assam Directorate of Prosecution Establishment Officers' Service Orders, 2022.
- (2) These orders shall come into force with immediate effect from the date of their publication in the official Gazette.

**2. Definitions :-**

In these orders, unless, there is anything contrary to the subject or context-

- a) "Appointing Authority" means the Governor of Assam;
- b) "Citizen of India" means a person who is or deemed to be a citizen of India under Part-II of Constitution;
- c) "Constitution" means the Constitution of India.
- d) "Director General" means the Director General of Police, Assam;
- e) "Government" means the State Government of Assam;
- f) "Governor" means the Governor of Assam;
- g) "Member of the Service" means a person appointed in service in any of the cadres under these orders;
- h) "Service" means the Assam Directorate of Prosecution Establishment Officers' Service;
- i) "Selection Committee" means selection committee constituted as per the provisions of this orders;
- j) "Substantive Appointment" means an appointment not being ad-hoc appointment, to a post in the cadre of the service made after selection in accordance with the provisions of this orders and if there is no orders, in accordance with the procedure for the time being by executive instructions issued by the Government;
- k) "Year of recruitment" means a period of twelve months commencing from the first day of January of each Calendar year.

**3. Class and Cadre of Service :-**

The service shall consist of the following categories as on the commencement of these orders, namely:-

Category-1: It includes the cadre of Director of Prosecution,

Category-2:- It includes the cadre of Deputy Director of Prosecution,

Each of the categories mentioned above shall form an independent cadre. Members of any cadre shall have no claim for

appointment to a higher cadre except in accordance with the provisions of these orders.

**4. Strength of the service:-**

The strength of the service of each category of posts, as on the date of commencement of these orders, shall be as shown in Schedule-I to these orders.

Provided that the Government may review the strength of service as and when required and the Governor may create such additional permanent or temporary posts as he may consider and deem it proper.

**5. Tenure of service :-**

Appointments to the posts of Director of Prosecution and Deputy Director of Prosecution shall be for a period of 3 (three) years or attainment of the age of 60 years, whichever is earlier, except on disciplinary ground or on ground of criminal offences.

**6. Powers & Functions :-**

Sl. No.	Name of Post	Powers & Functions
1.	Director Prosecution	<p><b>Financial power :</b></p> <ol style="list-style-type: none"> <li>1) Appointed as Controlling Officer.</li> <li>2) Grant of Loans, Advances, GPF &amp; Medical Advances, Reimbursement</li> <li>3) Sanction of pay and allowances and special pays to officers and staff under his control</li> <li>4) Appointment of Drawing and Disbursing Officer for the Organization.</li> </ol> <p><b>Administrative power :</b></p> <ol style="list-style-type: none"> <li>1) Supervises the works of all Deputy Directors and Public Prosecutors, Special Public Prosecutors, Additional Public Prosecutors &amp; Assistant Public Prosecutors in the districts.</li> </ol>

		<p>2) To give advices on legal matters to police officers and other State Government authorities as and when required.</p> <p>3) To scrutinize the judgments and suggest for appeal/revision in appropriate cases, to point out the draw-back, if any and to inform to the DGP and Government about the lapses for action.</p> <p>4) To take legal action against erring subordinate officers and prosecutors appointed under these orders.</p> <p>5) Any other duty as may be assigned by the Government from time to time.</p>
2.	Deputy Director	<p>Subject to overall supervision and instruction of the Director-</p> <p>1) To Supervise the works of all Public Prosecutors, Special Public Prosecutors, Additional Public Prosecutors and Assistant Public Prosecutors.</p> <p>2) To give legal advice on legal matters to police officers and other State Government authorities as and when required.</p> <p>3) To scrutinize the judgments and to point out the drawbacks to the Director for appeal or appropriate action.</p> <p>4) To take legal action against the erring prosecutors.</p> <p>5) Any other responsibility as may be assigned by the Director.</p>

**7. Method of recruitment:-**

Subject to other provisions in these orders, the method of recruitment for the several categories shall be as follows:-

<b>Category (1)</b>	<b>Method of appointment (2)</b>
1. Director of Prosecution	Direct recruitment, from amongst the eligible candidates having practice as an Advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.
2. Deputy Director of Prosecution	Direct recruitment, from amongst the eligible candidates having practice as an Advocate for not less than ten years and such appointment shall be made with the concurrence of the Chief Justice of the High Court.

**8. Nationality :-**

Only Indian Nationals shall be eligible for appointment under these orders.

**9. Educational Qualification :-**

No person shall be eligible for appointment to the posts of Director of Prosecution and Deputy Director of Prosecution, unless he/she possesses the minimum educational qualifications of having a Bachelor's Degree in Law from a recognized University of India (established or incorporated by or under a Central Act or Provincial Act) or an Institutions recognized by the Government of Assam or University Grants Commission (UGC).

**10. Age:-**

A candidate for direct recruitment to the post of Director of Prosecution shall not be less than 45 (forty five) years of age and to the post of Deputy Director of Prosecution shall not be less than 40 (forty) years of age. The maximum age limit for direct recruitment to the post of Director of Prosecution and to the post of Deputy Director of Prosecution may not exceed 60 years.

**11. Character :-**

The Character of a candidate for any posts in the service should be such that he is suitable in all respects for employment in the Government service.

**Note :-**

Persons dismissed by the Union Government or any State Government or any local Authority or by any corporation or body held or controlled by the Union Government or any State Government shall not be eligible for appointment by direct recruitment to any post in the service.

Persons convicted of any offence of moral turpitude shall not be eligible both for direct recruitment and also in case of promotion. Promotion will also depend on service conduct.

**12. Marital Status :-**

No person who has more than one wife, living, or in the case of a women is married to person already having a wife living shall be eligible for appointment of any post to the service.

**13. Physical Fitness :-**

No candidate shall be appointed or promoted to any post in the service unless he is in good health mentally and physically and he shall be free from any physical defect due to which there is a possibility of hindrance to performing his duty efficiently. Any candidate before finally approved for the direct appointment will be expected to pass the Medical Board Examination.

**14. Selection Committee:-**

(A) There shall be a Committee to select suitable candidate to the post of Director of Prosecution and Deputy Director of prosecution which shall comprise of:

1. Advocate General, Assam.
2. Chief Secretary/Additional Chief Secretary.
3. Director General of Police,
4. L.R.-cum-Commissioner & Secretary, Judicial Department,
5. Commissioner & Secretary, Home Department- Convener.
6. Registrar nominated by the Hon'ble Gauhati High Court.

**15.1. Direct recruitment :-**

(i) Subject to orders 6 to 13 and subject to acquiring the academic qualification as prescribed in order-9, direct recruitment to the cadre of Director and Deputy Director shall be made through the Selection Committee as prescribed in Order 14.

(ii) The appointing authority shall intimate the Selection Committee the likely numbers of vacancies to be filled up, together with details about reservation as provided in order 16 for selection of candidates and for furnishing a list of candidates in order of preference for direct recruitment. For the post of Director of Prosecution the **Selection Committee shall furnish a panel of 3 (three) names in order of preference, from which the appointing authority shall send one name for the concurrence of the Hon'ble Chief Justice of the High Court.** For the post of Deputy Directors the list shall contain as many names the numbers of vacancies notified.

(iii) Direct recruitment would comprise of written examination and viva-voce.

(iv) After the result of the Written examination is received and tabulated, the Committee shall having ensured due representation of the candidates belonging to the Scheduled Castes, the Scheduled Tribes and other categories under order-16, call such number of candidates for interview, as many as can reach the level prescribed by the Committee on the basis of the result of the written examination in

this regards. The marks awarded to each candidate at the interview shall be added to the marks obtained by him in the written examination.

(v) Qualifying marks for both written and viva-voce will be 60% for open category and 50% for SC and SC category.

(vi) The Committee shall prepare a list of candidates in order of merit in terms of aggregate of marks obtained by them in the written examination and interview. The candidate belonging to open category obtaining 60% marks and candidates belonging to SC & ST obtaining 50% marks in both written and viva-voce will be considered for selection in terms of merit. If two or more candidates obtain equal marks in the aggregate the name of the candidate obtaining higher marks in the written examination shall be placed higher in the list and if both such candidate has obtained same marks in written test, then the Senior in age will be selected. The number of names in the list will be more (but not more than 25%) than the number of vacancies. The Selection Committee shall forward the list to the appointing Authority.

(vii) In case vacancy arises pursuant to Government decision to increase the strength of the cadre in Category 2, on being intimated about the same, the Committee shall by issuing a corrigendum notifying the additional posts, prepare select list for the additional posts also from among the candidates already in the fray.

(viii) The select list shall remain valid for 12 calendar months from the date of recommendation.

(ix) The Appointing Authority, may, if so thinks fit, remove any candidate from the Select List.

(x) The Appointing Authority shall have the discretion to make temporary appointments not exceeding a period of four months.

**15.2.** The authority shall also have the option to adopt a summery recruitment process through verification of documents and personal interview in lieu of the procedure under order 15.1 of these orders to

select the panel and the candidates for the posts of Director of Prosecution and Deputy Director of Prosecution by the selection committee and thereafter take the concurrence of the Chief Justice of the High Court for appointment.

**16. Reservation in appointment:-**

- a. General rules for reservation as applicable in any recruitment of Government of Assam will be applicable in case of direct recruitment under this order. Reservation will be on the basis of cadre strength wise.
- b. The quota earmarked for Persons with Disability (PwD) shall be filled in by eligible orthopedically challenged persons only, i.e., those whose speech, hearing and sight are not impaired.

**17. Determination of vacancies :-**

The Appointing Authority shall determine the number of vacancies to be filled up during the year and the number of vacancies to be reserved as per reservation policy of the State

**18. Disciplinary Matter :-**

The Assam Services (Discipline and Appeal) Rule, 1964 shall be *mutatis mutandis* apply in case of disciplinary proceedings drawn against any person under this service.

**19. Scale of pay :-**

- 1) The scale of pay admissible to persons appointed to the various categories of posts in the service, whether substantive or officiating or on temporary basis, shall be such as may be prescribed by the Government from time to time.
- 2) The scale of pay at the time of the commencement of these order are as follows :-

Sl. No.	Name of Post	Pay band	Scale of Pay
1.	Director of Prosecution	PB-	70,290-1540-76450/-
2.	Deputy Director Prosecution	<del>PB-</del>	57700-1230-47930-1380- 67210-1540-70290/-

3) Other allowances as admissible under Government rules.

**20. Relaxation in the conditions of services :-**

Where the State Government is satisfied that the operation of any order regulating the conditions of service of persons appointed to the service causes undue hardship in any particular case, it may, notwithstanding anything contained in the orders applicable to the cases, by order, dispense with or relax the requirements of that order to such extent and subject to such condition, as it may consider necessary for dealing with the case in a just and equitable manner.

**21. Ministerial Staff:-**

The ministerial staff will be provided to the Directorate of Prosecution on attachment as secondment basis till permanent posts are created.

**22. Interpretation :-**

The decision of Home Department shall be final instead of Personnel Department since the Home Department shall be the cadre management & controlling Department in respect of the members of the Service.

**NIRAJ VERMA,**  
Principal Secretary to the Government of Assam,  
Home and Political Department.

**SCHEDULE-I****Strength of Cadre of the Establishment of Directorate  
of Prosecution**

Category of posts	Number of posts Permanent	Number of posts Temporary	Total
(1)	(2)	(3)	(4)
Director of Prosecution	---	01	01
Deputy Director of Prosecution	----	03	03