



सत्यमेव जयते

# **GOVERNMENT OF MEGHALAYA**

## **MEGHALAYA JUDICIAL SERVICES (REVISION OF PAY) RULES**

**FOR THE YEAR 2005**

**No. LJ(A) 36/98/211**—Whereas, the Hon'ble Supreme Court of India has passed a judgement on 21<sup>st</sup> March, 2002 in Writ Petition (c) No. 1022 of 1989 in matter of all India Judges Association and others Versus Union of India and others, directing all States Governments to implement the Shetty Commission report on First National Judicial Pay Commission.

And, whereas, the Government of Meghalaya in compliance of the judgement of Hon'ble Supreme Court has decided to adopt the report of First National Judicial Pay Commission.

Now, therefore, in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Government of Meghalaya is pleased to make the following rules namely:-

1. SHORT TITLE AND COMMENCEMENT:- (1) These rules may be called the Meghalaya Judicial Services (Revision of Pay) Rules, 2005.  
(2) They shall be deemed to have come into force on the first day of July, 1996
2. CATEGORY OF JUDICIAL OFFICERS TO WHOM THE RULES APPLY:- (1) Save as otherwise provided by or under these rules, these rules shall apply to person appointed to the Meghalaya Judicial Services.  
(2) These rules shall not apply to the ministerial staff attached to the Court and also to adhoc or temporary persons.

3. DEFINITIONS:- In these rules, unless the context otherwise require-

- (1) "Basic Pay" means pay as defined in Rule 7 (17) of the Meghalaya Fundamental Rules and Subsidiary Rules including stagnation increment;
- (2) "Existing Emoluments" means the emoluments of a Judicial Officer in relation to the existing Pre-revise scale of Pay (prior) to IIIrd Pay Commission of Meghalaya on the date on which he becomes entitled to draw pay in the revision scale under these rules shall include:-
  - (i) Basic Pay;
  - (ii) Personal pay if any granted for the loss of substantive pay but does not include any other allowance or other emoluments which count as pay under the Meghalaya Fundamental Rules and Subsidiary Rules, 1984;
  - (iii) Dearness Allowance appropriate to the basic pay admissible at the index average 306;
- (3) "Existing Scale" in relation to a Judicial Officer means the present scale of pay applicable to the post held by the Judicial Officer (or, as the case may be, Personal scale pay applicable to him) as on the first day of July, 1996 (Pre-revised) i.e. prior to IIIrd Pay Commission of Meghalaya, whether in a substantive or in an officiating capacity.

EXPLANATION:-

In case of Judicial Officer who was on the first day of July, 1996 on deputation or on leave or on foreign service, and who would have on the aforesaid date officiated in one or more lower posts but for his officiating in a higher post thereto, 'existing scale, includes the scale of pay applicable to the post which he would have held or entitled to but for his being on deputation or on leave or on foreign service or, as the case may be but for his officiating in a higher post;

- (4) F. Rs and S. Rs means the Meghalaya Fundamental Rules and Subsidiary Rules, 1984 as amended and "F.R" refers to rule thereof;
- (5) "Personal Pay" means the pay as defined in F.R. 7 (19) and as also intended in F. R. 34;
- (6) "Present Scale" in relation to any post/grade specified in column 2 of the Schedule means the scale of pay specified against that post/grade in columns 3 and 4 thereof, as the case may be.
- (7) "Revised emoluments" means the basic pay of a Government employee in the revised scale specified in columns 4 of the schedules and includes the revised special pay, if any, admissible to him, in addition the personal pay, if any; \_\_\_\_\_ admissible to him in addition to the personal pay, if any;
- (8) "Revised Scale" in relation to any post/grade specified in column 2 of the Schedule means the standard scale as the case may be, specified against that post/grade in column 4 and 5 thereof, unless a different revised scale is, notified separately for that post/grade.
- (9) "Rules" means the Meghalaya Judicial Services (Revision of Pay) Rules, 2005.
- (10) "Schedule" means schedule appended to these rules.
- (11) "Standard Scale" means the scale of pay specified as such in the Schedule;
- (12) "State Government" means the Government of Meghalaya.

Note:- 1

Words and expressions not defined in those rules shall have same meaning as in the Meghalaya Fundamental Rules and Subsidiary Rule

Note:- 2

Where a female Government employee is concerned, the word "he" "his" and "him" used in these rules shall be taken to mean "she" "her" and "her" respectively.

4. Scale of pay of Posts:- The scale of pay of every post/grade specified in column 2 of the Schedule shall be as specified in columns 4 thereof, with effect from the 1<sup>st</sup> day of July 1996.

5. Drawal of pay in the Revised Scales:- Save a otherwise provided in these rules, a Judicial Officer shall draw pay in the revised scale applicable to the post/grade to which he is appointed.

Provided that a Judicial Officer may elect to continue to draw pay in the existing scale until the date on which he earns his next increment or any subsequent increment in the existing scale on until he vacates his post or ceases to draw pay in that scale.

Note 1 The option to retain the existing scale under provision to this rule shall be admissible only in respect of one existing scale.

Note 2 The aforesaid option shall not be admissible to any person appointed to a post on or after the 1<sup>st</sup> day of July 1996 whether for the first time in Government service, or by transfer or promotion from another post. Person so appointed shall be allowed to draw pay only in the revised scale.

Note 3 Re-appointment after a break in service to post on or after the 1<sup>st</sup> day of July 1996 shall in all cases be treated as first appointment in the Government service.

Note 4 Where a Government Judicial Officer exercises the option under the proviso to this Rule to retain the existing scale in respect of a post/grade held by him in an officiating capacity on a regular basis for the purpose of regulation of pay in that scale Fundamental Rule 23 of Fundamental Rule 94 or any other rule or under applicable to that post, his substantive pay shall be the substantive pay which he would have drawn had he retained the existing scale in respect of the permanent post on which he holds a lien or would have held a lien had his lien not been suspended or the pay of the officiating post which has acquired the character of substantive pay in accordance with any order for the time being in force, whichever is higher.

6. Exercise of option:- (1) The option under the proviso to Rule 5 shall be exercised in writing in the form appended to these rules so as to reach the Government within 60 (sixty) days from the date of publication of these rules or where an existing scale has been revised by any order made subsequent to that date, within 60 (sixty) days of the date of such order.

Provided that-

- (i) In the case of Judicial officer who is, on the date of the publication of these rules or, date of such order, as the case may be, on deputation or on leave or foreign service, the said option shall be exercised in writing so as to reach the Government within 60 (sixty) days of the date of his taking charge of the post in India and
- (ii) Where a Judicial officer is under suspension on the 1<sup>st</sup> day of July, 1996, the option may be exercised within 60 (sixty) days of the date of his return to his duty if that date is later than the date prescribed in this Sub-rule.

(2) The option shall be intimated by the Government employee to the Accountant General (Accounts & Entitlements), Meghalaya, on the basis on which the Pay Slip shall be issued by the said Accountant General (A&E).

(3) If the intimation regarding option is not received the authority specified in Sub-Rule (2) within the time mentioned in Sub-rule (1), the Judicial officer shall be deemed to have elected to be governed by the revised scale of pay with effect from the 1<sup>st</sup> day of July, 1996, under these rules.

(4) The option once exercised shall be final.

(5) In the case of judicial officer whose services were terminated on or after the 1<sup>st</sup> day of July, 1996 on account of discharge on the expiry of the sanctioned costs, resignation, dismissal or discharge on disciplinary grounds of retirement of superannuation should also exercise option in writing in the prescribed form and submit to the authority mentioned in Sub-Rule (2) of this rule within 60 (Sixty) days from the date of publication of these rules.

(6) In case of judicial officer who have died on or after 1<sup>st</sup> day of July, 1996 and could not exercise the option within the prescribed time limit shall be deemed to have opted for the revised scales on and from the 1<sup>st</sup> day of July, 1996 or such later date as is most beneficial to their dependents, if the revised scales are more favourable and in such cases, necessary action for payment of arrears, if any, shall be taken by the Head of Office/Accountant General (A&E) Meghalaya, as the case may be.

(7) Fixation of initial pay in the revised scale:- (1) The initial pay of a judicial officer who elects, or is deemed to have elected under Sub-rule (3) of Rule 6 to be governed by the revised scale on and from the 1<sup>st</sup> day of July, 1996, shall unless the Governor of Meghalaya by special order otherwise directs, be fixed separately in respect of his substantive pay in the permanent post on which he holds a lien or would held a lien if it had not been suspended, and in respect of his pay in the officiating post held by him.

In all such cases, the fixation of initial pay shall be done in the following manner, namely:-

- (a) An amount representing 15 percent of the basic pay in the existing scale (Pre-Third Pay Commission Revision of Meghalaya) shall be added to the existing emoluments of the Judicial Officer;
- (b) After the existing emoluments (Pre-Third Pay Commission Revision of Meghalaya) have been so increased, the pay shall thereafter be fixed in the revised scale at the stage next above the amount thus compute;

Provided that:-

- (a) If the minimum of the revised scale is more the amount so arrived at, the pay shall be fixed at the minimum of the revised scale;
- (b) If the amount so arrived at is more than the maximum of the revised scale, the pay shall be fixed at the maximum of that scale.

7. (2) :- “Subject to the provisions of Rule 5, if the pay of a Judicial Officer as fixed in the officiating post under Sub-rule (1) is lower than the pay fixed in the substantive post, the former shall be fixed at the stage next above the substantive pay”.

- Note 1:- Where the increment of a Judicial Officer falls on the 1<sup>st</sup> day of July, 1996, he shall have the option to draw the increment either in the existing scale or the revised scale. In case where a Judicial Officer opts to draw the increments in the existing scale of the aforesaid date, the pay so fixed shall be treated as the basic pay for the purpose of fixation of initial pay in the revised scale.
- Note 2:- Where the existing emoluments as calculated in accordance with Sub-rule (1) exceed the revised emoluments of the Judicial Officer, the difference shall be allowed as personal pay to be merged in future increments in pay.
- Note 3:- In the case of a Judicial Officer who is on leave on the date of his being entitled to draw pay in the revised scale, his present emoluments shall be taken to be the emoluments which would have been admissible to him but for his proceeding on leave, and he shall be entitled to pay in the revised scale of pay from the date he joins his duty.
- Note 4:- The fixation of initial pay in the revised scale shall be made in the form appended to these rule.

8. Case of Judicial Officer under suspension:- A Judicial officer who is under suspension on the 1<sup>st</sup> day of July, 1996, shall continue to draw his subsistence allowance in the existing scale and if he is later reinstated in service, fixation of his pay in the revised scale shall be regulated as follows:-
- (a) If he is full exonerated and the period of suspension is treated as period spent on duty, the existing emoluments shall be those which he would have been entitled to on the relevant date but for his being under suspension.
  - (b) If the period of suspension is treated as period spent on leave, existing emoluments shall be those which would have been admissible to him on the relevant date if he were on leave;
  - (c) If the period of suspension is treated as "dies non" the existing emoluments shall be those which, were admissible to him immediately before the date he was placed under suspension;

Provided that where the period treated as "dies non" is allowed to be counted for the purpose of national increments such increments shall be taken into account while computing the existing emoluments as on the relevant date.

9. Date of next increment in the revised scale:- The next increment of Judicial Officer whose may has been fixed in the revised scale in accordance with Rule 7 shall be granted on the date he would have drawn his increment has he continued in the existing scale:  
Provided that in the case of a Judicial Officer who had been drawing maximum of the existing scale for more than one year as on the 1<sup>st</sup> day of July, 1996, the next increment in the revised scale shall be allowed on the 1<sup>st</sup> day of July, 1996.

10. Fixation of pay in the revised scale subsequent to the 1<sup>st</sup> day of July, 1996:- (1) Where a Judicial Officer continue to draw his pay in the existing scale and is brought over to the revised scale from a date later than the 1<sup>st</sup> day of July, 1996, his pay from the later date in the revised scale shall be fixed in accordance with the provisions of Sub-rule (1) of Rule 7 read with the provisions contained in Sub-rule (3) of Rule 3, as the case may be, except that the basic pay to be taken into account for calculation of the those emoluments shall be the basic pay on the later date aforesaid.
- (2) A Judicial Officer exercising option to retain-the existing scale of pay under Rule 5 should continue to draw, until the expiry of the period for which the option remains operatives or until he vacates the post held by him or ceases to draw pay in the existing scale, whichever is earlier, the pay in the existing scale, special pay/personal pay, if any, dearness allowance appropriate to the pay of the existing scale and at the rates last drawn by him in the existing scale. He will also continued to draw the Hill Compensatory Allowance, House Rent Allowance, Medical Allowance, Winter Allowance and such other departmental allowances of the compensatory nature at the existing rates or any enhanced rate or rates if at the time of option to retain the existing scale of pay, any or all of these allowances are admissible to him under the Meghalaya Rules. D.A. at Govt. of Meghalaya, rates met alise as on 1<sup>st</sup> July, 1996 shall be applicable.
11. Fixation of pay on re-appointment after the 1<sup>st</sup> day of July, 196 to a post held prior to that date:- A Judicial Officer employee who had officiated in a post prior to the 1<sup>st</sup> July, 1996 but was not holding that post on that date and who on subsequent appointment to that post draws pay in the revised scale of pay shall be allowed the benefit or the proviso to F.R.23 to the extent it would have been admissible had he been holding that post on the 1<sup>st</sup> day of July, 1996 and had elected the revised scale of pay on and from that date.
12. Mode of payment of arrears of pay:- Notwithstanding anything contained in these rules the arrears of pay and allowances to which a Judicial Officer may be entitled in respect of the relevant period under these rules shall be paid to him in equal proportion of fifty percent in cash and the balance thereof to the credit of the General Provident Fund accounts for such period as the State Govt. may be decided.
- (i) “arrear of pay and allowances” in relation to a Judicial Officer means the difference between (A) and (B) below, and these are:
- (A) The aggregate of the pay and allowances to which he is entitled on account of the revision of pay and allowances under these rules, for the relevant period; and,
- (B) The aggregate of the pay and allowances to which he would have been entitled (Pre-IIIrd Meghalaya Pay Revision, whether such pay and allowances had been received or not) for that period has his pay and allowances not been so revised;
- (ii) For the purpose of computation/calculation of the “equal proportion” of fifty percent, the basic pay, special pay and dearness allowance as admissible for relevant period shall be taken into account; and,

- (iii) “relevant period” means the period commencing on and from 1<sup>st</sup> day of July, 1996 and ending with the 31<sup>st</sup> day of July, 1997.

Explanation 2:- In the cases of the persons who have since retired from service or died the arrears of pay and allowances shall be paid in cash.

13. Over riding effect of Rules:- To the extent they are in consistent with these rules, the provisions of the F. Rs. and S. Rs. the Meghalaya Judicial services (Revision of Pay) Rules, 2002 shall not save as otherwise provided in these rules, apply to cases where fixation of pay is regulated under these rules.
14. Retirement age:- The retirement age of the Judicial Officers, unless decided by the Govt. for change/alteration, shall be 58 years.
15. Provision for option to the Pay scale of Meghalaya:- (1) Notwithstanding anything contained in the rule, Judicial Officers may opt the Meghalaya Pay Scale as recommended by the Meghalaya Third Pay Commission.  
(2) If any Judicial Officer who opts to pay scale under these rules, but already drawing pay scales under the Meghalaya Pay Scales recommended by the Third Pay Commission his pay shall be adjusted from his arrears/emoluments etc. to the extent that he has drawn pay under the pay scale recommended by the Meghalaya Third pay Commission.
16. Supersession and savings:- (1) The Government Office Memorandum Vide-Memo No. F (PR)-98/97/15, dated 1<sup>st</sup> December, 1997 is hereby superseded as far as these Officers covered by these rules are concerned.  
(2) Notwithstanding such supersession anything done or any action taken or deemed to have been done or taken under the said Officer Memorandum shall so far as it is not inconsistent with these rules as deemed to have been done or taken under the corresponding provisions of these rules and if any Judicial Officer has opted the Meghalaya 3<sup>rd</sup> Revision of Pay, his pay and other allowances should be adjusted with these rules.
17. Power to relax:- Where the Governor of Meghalaya is satisfied that the operation of all or any of the provisions of these rules causes hardship in any particular case, he may, by order dispense with or relax the requirements of that rule to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.
18. Interpretation:- If any question arises relating to the interpretation of any of the provisions of these rules it shall be referred to the Government of Meghalaya in Law Department for decision in consultation with Finance Department.



**FORM OF OPTION**

**[SEE RULE 6 (1)]**

\*(1) I, \_\_\_\_\_ hereby elect the revised scale with effect from 1<sup>st</sup> July, 1996.

\*(2) I, \_\_\_\_\_ hereby elect to continue on the existing scale of pay of my substantive/officiating pos mentioned below until \_\_\_\_\_

\*the date of my next increment.

\*the date of my subsequent increment raising my pay to Rs. \_\_\_\_\_

\*(3) The option hereby exercised is final.

Station \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Name \_\_\_\_\_

(IN BLOCK LETTERS)

Designation \_\_\_\_\_

Office/Department in which employed:

\_\_\_\_\_  
\_\_\_\_\_

\* To be scored out if not applicable

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**ACKNOWLEDGEMENT**

Received the above declaration of option from Shri/Smti. \_\_\_\_\_

Day of \_\_\_\_\_ 20\_\_\_\_\_

Station \_\_\_\_\_

Signature of receiving authority.

Date \_\_\_\_\_

Designation with Official Seal.

E. WARJRI,  
Secretary to the Govt. of Meghalaya,  
Law (A) Department.