

HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

No.HHC/Rules(Petty Offences) /95-

Dated. 6.3.98

N O T I F I C A T I O N

In exercise of the powers conferred by section 13 of Code of Criminal Procedure 1973 (No.2 of 1974), Hon'ble the Chief Justice and Judges of Himachal Pradesh, High Court at Shimla have made the following rules, namely:-

Short Title 1. (i) These rules may be called the "Himachal and Commencement. Pradesh Petty Offence (Trial by Special Judicial Magistrates), Rules, 1995.

(ii) They extend to whole of the State of Himachal Pradesh.

(iii) They shall come into force with immediate effect.

Definition. 2. In these rules, unless context otherwise requires:

(a) Code shall mean the Code of Criminal Procedure, 1973.

(b) Offence shall have the same meaning as assigned to it in the Code.

~~•X•X~~ (c) Petty offences: mean the offences listed in the following provisions:

(i) Section 320 Cr.P.C. Tables I and II excluding offences under sections 324, 325, 335, 344, 357, 379, 381, 406, 407, 408, 411, 414, 418, 419, 420, 429, 430, 451, and 494 I.P.C.

(ii) Sections 160, 188, 279, 294, and 336 of the I.P.C.

(iii) All offences under any Act which are punishable upto 2 years imprisonment.

Contd.2/-

~~•X•X~~ Amended vide 2nd amendment dated 6-3-1998.

(d) Definitions given in Section 2 of the Code shall hold good for these rules.

Qualification.

~~X~~ ~~X~~

3. A person shall not be qualified for appointment as Special Judicial Magistrate unless he has been:-

- (a) a Judicial Officer; or
- (b) a retired I.A.S. or H.A.S. officer having exercised the powers of District Magistrate or Sub Divisional Magistrate for a period of not less than six months; or
- (c) an Executive Magistrate for a period of not less than three years; or
- (d) An Advocate having completed the age of 55 years.
- (e) "A Senior ministerial officer of the High Court possessing a degree in law as specified in clause (c) of sub-section (1) of Section 24 of the Advocates Act, 1961, and having worked at least for a period of three years on a gazetted post."

Panel.

4. (i) The Panel of suitable persons for appointment as special Judicial Magistrate would be prepared by the Registrar, High Court of Himachal Pradesh.

(ii) The High Court shall appoint such persons as Special Judicial Magistrate who have been selected by the High Court from the panel prepared under Sub-rule (i).

(iii) Special Judicial Magistrate shall exercise same powers as conferred by the Code on Judicial Magistrates Ist Class.

Oath to Special Judicial Magistrates.

5. (i) The Special Judicial Magistrates, before entering upon his office, shall take oath as has been prescribed for the Judicial Magistrates. The oath shall be administered by the District and Sessions Judge where Special Judicial Magistrate is posted.

~~X~~ ~~X~~ Amended vide 2nd amendment dated 6-3-1998.

X (ii) Every Special Judicial Magistrate shall undergo 15 days training which may be extended upto one month with the Chief Judicial Magistrate under the supervision of Sessions Judge of the District, where he is posted.

Provided that the Chief Justice may exempt any such appointee from training.

(iii) Special Judicial Magistrate shall be under the administrative control of the District and Sessions Judge.

Term of Office.

6. (i) The term of office of the Special Judicial Magistrate shall be one year which may be renewed upto four years from time to time or till the age of 62 years, whichever is earlier.

X (ii) The State Government by special orders provide for remuneration and order allowances of the Special Judicial Magistrates as well as of the staff in consultation with the High Court.

Providing Court Building.

7. (i) The State Government shall provide Court building and the staff to the Special Judicial Magistrate in consultation with the Chief Justice.

(ii) The members of the staff attached to the Court of Special Judicial Magistrate shall be appointed by the District and Sessions Judge in accordance with the Himachal Pradesh Subordinate Courts' Staff (Recruitment, Promotion and Conditions of Service) Rules, 1997.

Function of Special Judicial Magistrates.

X (i) All petty offences as assigned by the Chief Judicial Magistrates shall be tried by the Special Judicial Magistrate unless the High Court directs otherwise.

(ii) All petty offences shall be tried in a summary way as per the procedure laid down in Section 260 of the Code.

X (iii) When in the course of summary trial it appears to the Special Judicial Magistrate that the nature of the case is such that it is not desirable to try it summarily he shall refer the case to the Chief Judicial Magistrate who may either try the same himself or assign it to any other Judicial Magistrate of competent jurisdiction.

X Amended rule. 1st amendment dated 26-8-95.

Contd/4/-

Provisions
as to bail
and bonds.

9. The provisions as to bail and bonds as provided in the Code shall mutatis mutandis be applicable in relation to petty offences triable by Special Judicial Magistrate.

Relaxation.

10. The High Court may in special circumstances and in order to meet the exigencies of a place or of a certain case, relax any or all of the conditions prescribed above.

BY ORDER OF HON'BLE THE CHIEF
JUSTICE AND JUDGES.

(K.C.Negi)
District & Sessions Judge
(Rules)

Endst.No.HHC/Rules(Petty Offences) /05- Dated:-

Copy forwarded to:-

1. The Commissioner cum Secretary (Home) to the Govt. of Himachal Pradesh, Shimla.
2. The Dy. Secretary (Home) Govt. of Himachal Pradesh.
3. The Secretary (Law) Govt. of Himachal Pradesh.
4. The Special Private Secretary to the Hon'ble Chief Justice, High Court of H.P. Shimla.
5. Addl. Registrar (J) / Addl. Registrar (A) of this Registry.
6. All the Judicial Officer in Himachal Pradesh.
7. All the Dy. Registrars / Assistant Registrars / Secretaries / Court Secretaries / Readers / Private Secretaries / Superintendents of this Registry.
8. P.As. to Registrar / Registrar (V) & District & Sessions Sessions Judge (Rules) of this Registry.
9. The Chief Librarian of this Registry, with 5 spare copies.
10. The Controller, Printing and Stationery, Department, Govt. of H.P. Shimla, for publication in H.P. Rajpatra.

District & Sessions
Judge (Rules)