



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
JUDICIAL DEPARTMENT :: JUDICIAL BRANCH

NOTIFICATION

The 12th December, 2016

No. JDJ.244/2012/60.-- In exercise of the powers conferred by the proviso to Article 309 read with Article 234 of the Constitution of India, the Governor of Assam is hereby pleased to make, in consultation with the Gauhati High Court, the following rules further to amend the Assam Judicial Service Rules, 2003 hereinafter referred to as the principal Rules, namely :-

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| Short title and commencement | 1.(1) These rules may be called the Assam Judicial Service (Amendment) Rules, 2016.

(2) They shall come into force on the date of their publication in the Official Gazette. |
| Amendment of rule 2. | 2. In the principal Rules, in rule2, after the existing clause (j), the following new clauses shall be inserted, namely.-

“(k) - “Grade- I” Judicial Officer means the Judicial Officer designated as District Judge and Additional District Judge on the Civil side and Sessions Judge and Additional Sessions Judge on the Criminal side (as the case may be).

(l) - “Grade-II” Judicial Officer means the Judicial Officer designated as Civil Judge (Senior Division) on the Civil side and Assistant Sessions Judge, Chief Judicial Magistrate and Additional Judicial Magistrate on the Criminal side (as the case may be).

(m) - “Grade-III” Judicial Officer means the Judicial Officer designated as Civil Judge (Junior Division) on the Civil Side and Sub-Divisional Judicial Magistrate and Judicial Magistrate on the Criminal Side (as the case may be).” |
| Amendment of rule 7. | 3. In the principal Rules, in Rule7, in the table, in serial No.1, in column 3.-

(i) in clause (ii) for the existing provision, the following shall be substituted, namely,-

“65% of the posts in the cadre shall be filled up by promotion from the cadre of Grade-II of the service on the basis of merit -cum - seniority by the High Court, following the criteria in Schedule-E.” |

- (ii) in clause (iii) for the existing provision, the following shall be substituted, namely,-

“Remaining 10% of the cadre of the service shall be filled up by promotion strictly on the basis of merit through limited departmental competitive examination as conducted by the High Court in Schedule B of the specified Rules :

Provided that if candidates are not available for 10% of the posts or are not able to qualify in the examination, then vacant posts shall be filled up by regular promotion in accordance with the provisions of the Service Rules applicable.”

- (iii) in serial No. 2, in column 3, the clause (i) and (ii) shall be substituted with the following, namely,-

“By promotion from the cadre of Grade-III selected by the High Court on the basis of criteria indicated in Schedule- E.”

Amendment of rule 9.

4. In the principal Rules, in rule 9, in clause (c), for the existing provision the following shall be substituted, namely -

“If he has been convicted of an offence involving moral turpitude or who is or has been permanently debarred or disqualified by the High Court or the Union Public Service Commission or any State Public Service Commission from appearing for examination or selection conducted by it.”

Amendment of rule 10.

5. In the principal Rules, in rule 10, in sub-rule (1),-

- (i) in clause (1) for the existing provision the following shall be substituted, namely, -

“ Whenever two or more vacancies required to be filled by direct recruitment occur in the cadre of Grade-I in the service or once in two years, whichever is earlier, the recruiting authority shall, invite by advertisement in the Official Gazette and at least in two news papers, applications in such form as it may determine, from intending candidates, who possess the prescribed qualifications. The advertisement shall indicate the number of vacancies notified for recruitment and the number of vacancies if any, reserved for Scheduled Castes, Scheduled Tribes and other backward classes, if any, and shall contain all necessary informations relating to the recruitment. It shall also indicate that an additional list of selected candidates would be prepared as per clause (iv). Such procedure shall also be followed for the purpose of selection of candidates for pre appointment training in Grade-III cadre.”

- (ii) in clause (iii) for the existing clause, the following shall be substituted namely,

“The recruiting authority shall on the basis of cumulative grade value secured by a candidate, and taking into consideration the orders, if any, in force relating to reservation of posts for Schedule Castes, Schedule Tribes and other backward classes, prepare in the order of merit, assessed as provided in Schedule B, a list of candidates to be included in the list which shall be equal to the number

of vacancies notified. In case of recruitment in Grade-III cadre, the selected candidates shall undergo 1 (one) year pre appointment training as stipulated in rule 7 of those rules, in order of their position in the list according to merit.”

- (iii) in clause (v), for the existing provision the following shall be substituted, namely,-

“The lists so prepared under clauses (iii) and (iv) above shall be published in the Official Gazette and they shall cease to be operative on the expiry of one year from the date of such publication.”

- (vi) in clause (vi) the words and number “rule 9” occurring between the words “subject to” and “ they” shall, be substituted with the words and number “rule 11”.

Amendment of rule 15

6. In the principal Rules, in rule 15, for sub-rule (8) following sub-rule shall be substituted, namely,-

“Confirmation-A probationer who has been declared to have satisfactorily completed his probation and a promotee who has been declared to have satisfactorily completed his period of officiation shall be confirmed as a full member of the service in the category of the post to which he was appointed or promoted as the case may be, at the earliest opportunity in any substantive vacancy which may exist or arise.”

Amendment of rule 16

7. In the principal Rules, in rule 16 .-

- (i) for clause (ii), the following shall be substituted, namely,-

“ The time Scale of pay admissible to the members of the service shall be as shown in Schedule-C. ”

- (ii) for clause (iv), the following shall be substituted, namely ,-

“The Registrar, Court Manager (PM and P), Joint Registrar, Deputy Registrar and Assistant Registrar shall be entitled to Special Pay, if any, as laid down in the Gauhati High Court Service (Appointment, Condition of Service and Conduct) Rules, 1967.”

Amendment of rule 19

8. In the principal Rules, in rule 19.-

- (i) in clause A, for the figure “58” occurring between the words “age of” and “years” the figure “60” shall be substituted.

- (ii) in clause B, the following shall be substituted, namely :-

“ Notwithstanding anything contained in Clause (A) above, the High Court shall have the power to assess and evaluate the records of the Judicial Officer for his continued utility in the service up to 60 years.”

- (iii) in clause B, for sub clause I and II following shall be substituted, namely,-

“(I) The potential for continued utility shall be assessed and evaluated by appropriate Committee of Judges of the High Court, constituted and headed by the Chief Justice and the evaluation shall be made on the basis of the Officer’s past record of service, character roll, quality of judgment and other relevant matters.

- (II) The High Court shall undertake and complete the exercise well in time, before the officer attains the age of 58 years.”**
- Amendment of rule 20. 9. In the principal Rules, in rule 20, sub-rule (2), the existing provision shall be substituted with the following, namely :-
- “This review will be undertaken when the concerned officer(s) complete 15 years of service and thereafter again on attaining the age of 50, 55 and 58 years. If the committee considers that in public interest the officer should retire from service, he shall be compulsorily retired by giving him a notice of not less than 3 months in writing or 3 months pay and allowances in lieu thereof, subject to the condition that in the event of such retirement on completion of 15 years of service, the Officer would be deemed to have put in the requisite qualifying service for availing proportionate retirement benefits :
- Provide that nothing in sub-rule (ii) shall be considered as preventing consideration for compulsory retirement of a member of the service at any time other than those mentioned therein.
- EXPLANATION :- For the purpose of sub-rule (2), “review” means the review of the entire service record of the member of the service regarding suitability or otherwise of such Member for further retention in the service.”
- Amendment of rule 24. 10. In the principal Rules, in rule 24, in clause-(C), the existing provision shall be substituted as follows, namely ,--
- “The rules governing and regulating the conduct of Indian Administrative Service Officers shall in so far as they are not inconsistent with these Rules, shall apply to the members of the service.”**
- Amendment of schedule- A. In the principal Rules, for the existing SCHEDULE-A, the following SCHEDULE-A shall be substituted, namely,-
- “SCHEDULE-A**
- There shall be three Grades in the Assam Judicial Service, namely :-**
- (a) Grade-I
- (b) Grade-II
- (c) Grade-III

GRADE-I

Sl.No.	Name of the posts	Scale of pay	No. of posts.	
1.	Super time scale District and Sessions Judge,	70290-1540-76450/-	10% in Grade-I at Sl. No. 3 to 14	
2.	Selection Grade District and Sessions Judge	57700-1230-58930-1380-67210-1540-70290/-	25% of posts in Grade-I at Sl. No. 3 to 14	
3.	District and Sessions Judge	51550-1230-58930-1380-63070/-	27	
4.	Addl. District & Sessions Judge	-do-	44	
5.	Special Judge (CBI)	-do-	4	
6.	Special Judge, Assam.	-do-	1	
7.	Principal Judge, Family Court	-do-	6	
8.	Judge, Designated Court	-do-	1	
9.	Special Judge, NDPS Court	-do-	1	
10.	Presiding Officer, Industrial Tribunal.	-do-	3	
11.	Presiding Officer, Labour Court.	-do-	2	
12.	PO STAT & Member MACT	-do-	1	
13.	Member MACT Court	-do-	10	
14.	Posts reserved for placement/ appointment in statutory / non-statutory positions where Grade-I Judicial Officers are required to be posted.	-do-	7	
	Total sanctioned Strength in Grade-I		107	

GRADE-II

Sl.No.	Name of the posts	Scale of pay	No. of posts.	Remarks
1.	Chief Judicial Magistrate	39530-920-0450-1080-49090-1230-54010/-	27	
2.	Civil Judge(Sr. Division) & Asstt. Sessions Judge.	-do-	29	
3.	Additional Chief Judicial Magistrate	-do-	27	
4.	Counselor Family Court	-do-	6	
5.	Posts reserved for placement/ appointment in statutory / non-statutory positions where Grade-II Judicial Officers are required to be posted.	-do-	29	
	Total strength		118	

GRADE-III

Sl.No.	Name of the posts	Scale of pay	No. of posts.	Remarks
1.	Sub-divisional Judicial Magistrate (M)	27700-770-33090-920-40450-1080-44770/-	23	
2.	Sub-divisional Judicial Magistrate (S)	-do-	25	
3.	Munsiff	-do-	81	
4.	Judicial Magistrate	-do-	65	
5.	Posts reserved for placement/appointment in statutory / non-statutory positions where Grade-III Judicial Officers are required to be posted.	-do-	5	
	Total strength		199	

Amendment of
Schedule-B.

In the principal Rules, for the existing SCHEDULE-B, the following Schedule shall be substituted, namely.-

“Schedule-B

1. The competitive examination for recruitment to Grade-I of the Service shall consist of :-

**A. FOR DIRECT RECRUITMENT & PROMOTION
UNDER LIMITED DEPARTMENTAL EXAMINATION:-**

- (I) **A competitive examination for recruitment to the service in Grade-I shall be held at such intervals by the High Court from time to time as determined. The competitive examination shall consist of a Preliminary Examination (Screening Test), a Main (written) Examination and a Viva Voce / Interview.**

The Preliminary Examination (Screening Test) shall consist of objective type questions of 100 Marks, out of which 90 marks will cover General Knowledge, Aptitude, English, Constitution of India, Code of Civil Procedure, Code of Criminal Procedure, Indian Penal Code, Transfer of Property Act, Indian Evidence Act, Limitation Act, Legal Theories of Jurisprudence, Arbitration & Conciliation Act, Indian Contract Act, Family Law, Specific Relief Act, Motor Vehicle Act, Industrial & Labour Law, Land Acquisition Act, Law Relating to Trust, Indian Registration Act, Court Fees Act, and remaining 10 marks to test the proficiency in the official Language(s) of the State of Assam.

Only those candidates who will secure 60% or more marks in such examination shall be eligible for appearing in the Main Examination :

Provided that the ratio on the basis of which the candidates will be called for the Main (written) Examination shall be 1:10 (for 1 post 10 candidates will be called) :

Provided further that in respect of Limited Departmental Examination, there will be no Preliminary Examination.

- (II) **The main (written) Examination shall be conducted with the syllabus as below :-**
- (i) **Paper-I: One paper of 100 marks (duration not less than two hours) to test the General knowledge, aptitude, intelligence, test of comprehension and expression of law and General English including Essay writing on legal topic and information technology.**
- (ii) **Paper-II : One paper of 100 marks (duration not less than two hours) regarding objective questions and problems of law as regards the Transfer of Property Act, Civil Procedure Code, Code of Criminal Procedure, Indian Evidence Act, Indian Penal Code, and Limitation Act.**
- Paper -III : One paper of 100 marks (duration not less than two hours)- consisting of judgment writing (Paper Book to be supplied) Legal theories on jurisprudence, provision of Constitution of India.**

Note : The candidate is expected to refer to the relevant decisions of the Apex Court and the High Court while writing answer in Paper II and III)

Paper IV : one paper of 50 marks (duration not less than 1 hour) to test the proficiency of the candidates in official language(s) of the state of Assam. (As amended in 2011)

Interview : Viva Voce – 50 Marks. “The candidate shall have to secure minimum 60% marks in the interview.”

Accordingly, after the aforesaid amendment the existing Clause (I), (i), (ii), (iii), (iv) [as amended in 2011] and sub clause (d) of Clause 1A of Schedule- B be re-numbered and read as sub-clause (I) (II),(i), (ii), (iii) (iv) & (v).

2. (a) **A competitive examination for recruitment to Grade- III of the Service shall be held at such intervals by the High Court from time to time as determined. The competitive Examination shall consist of a Preliminary Examination (Screening Test), a Main (written) Examination and a Viva – Voce / Interview.**
 - (i) **The Preliminary Examination (Screening Test) shall consist of objective type questions of 100 Marks, out of which 90 marks will cover General Knowledge, Aptitude, English, Constitution of India, Code of Civil Procedure, Code of Criminal Procedure, Transfer of Property Act, Indian Contract Act, Indian Penal Code, Indian Evidence Act, Law of Torts and remaining 10 Marks to test the proficiency in the Official Language(s) of the State of Assam.**
 - (ii) **The candidates who will secure 60% or more in the Preliminary Examination shall be eligible for appearing in the Main Examination:**

Provided that the ratio on the basis of which the candidates will be called for the Main (written) examination shall be 1:10 (for 1 post 10 candidates will be called)

- (iii) **Interview : Viva -voce – 50 Marks . “The candidates shall have to secure minimum 60% marks in the interview.”**

3. General Instructions :-

- (a) **“All candidates who obtain 60% or more marks, subject to securing at least 45% marks individually in Paper-I, II & III and minimum 35% marks in the official language paper shall be eligible for viva – voce:**

Provided that Schedule Caste / Schedule Tribe candidates who obtain 50% or more marks, subject to securing minimum 40% marks individually in paper I, II & III and minimum 35% marks in the language paper shall be called for viva voce.

- (b) **The marks secured in the language paper shall be qualifying in nature and shall not be counted in the aggregate marks secured by the candidates in the examinations for the purpose of final selection.**

- (c) **The ratio in which the candidates will be called for viva – voce / interview is 1 : 3 (3 candidates against 1 post) subject to marks obtained as stated above. The final evaluation will be in order of merit subject to overall suitability.**

The object of viva-voce examination is to assess the suitability of the candidates for the cadre by judging the mental alertness, knowledge of law, clear and logical exposition, balance of judgments, skills, attitude, ethics and power of assimilation, power of communication, character and intellectual depth.”

Amendment in
Schedule F.

13.

**In the principal Rules, in existing SCHEDULE-F ,
in Paragraph A for sub-para (b).-**

- (i) **for the words ‘twenty five percent’ occurred in the beginning shall be substituted with the words “ten Percent.”**
- (ii) **in Paragraph B, the words in the heading “fifty percent” occurring between the words “in respect of” and “vacancies” shall be substituted by the words “sixty five percent.”**
- (iii) **in Paragraph C, serial No. 4, the words “viva voce” and “(C) performance in oral interview” shall be deleted.**

Amendment of
Appendix A.

14.

In the principal Rules, the existing APPENDIX-A, shall be substituted with the following Appendix A, namely,-

“ APPENDIX-A

- (1) **Should uphold the integrity and independence of Judiciary** : An independent and honourable judiciary is indispensable for justice in our society. A judge should participate in establishing, maintaining and enforcing and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge shall always be aware that the judicial system is for the benefit of the litigant and the public, and not the judiciary. The provisions of this APPENDIX should be construed and applied to further these objective.
- (2) **Should avoid impropriety :-**
- (i) Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.
- (ii) A judge shall respect and observe the law. At all times, the conduct and manner of a judge should promote public confidence in the integrity and impartiality of the judiciary. Without regard to a persons race, gender, or other protected personal characteristic, a Judge should treat every person fairly, with courtesy and respect.
- (iii) A Judge shall not allow family, social or other relationships to influence his judicial conduct or judgment. A judge shall not

lend the prestige of judicial office to advance his private interests or those of others. A judge shall not convey or permit others to convey the impression that they are in a special position to influence the Judge. A judge shall not appear as a character witness in a Court proceeding unless subpoenaed.

- (iv) A judge shall not allow activity as a member of an organization to cast doubt on the judges ability to perform the function of the office in a manner consistent with the code of judicial conduct and the laws of the State. A judge shall not hold the membership of an organization activities of which discriminate, or appear to discriminate, on the basis of race, gender, or other protected personal characteristic. Nothing in this paragraph should be interpreted to diminish a judges right to free exercise of religion.
- (3) **Performance of duties impartially and diligently**
- (i) A judge shall be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public *Clamour*, or fear of criticism.
- (ii) A judge may require lawyers, court personnel, and litigants to be appropriately attired for court and should *enforce* reasonable rules of conduct, order and decorum in the Courtroom.
- (iii) A judge shall be patient, dignified, and courteous to litigants, witnesses, lawyers, and others with whom the judge deals in official capacity, and should require similar conduct of lawyers and of staff, Court officials, and others subject to the judge's direction and control.
- (iv) A judge shall not initiate, permit, or consider ex-parte communications or *consider other communications* made to the judge outside the presence of the parties concerning a pending or impending processing.
- (v) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.
- (vi) A judge shall not, in the performance of judicial duties, conduct manifest bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status, and shall not permit staff, court officials and others subject to the judges direction and control to do so.
- (vii) A judge shall dispose of all judicial matters speedily, effectively and fairly.
- (viii) A judge shall not, while a proceeding is pending or impending in any Court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of Court personnel subject to the judges direction and control. This clause does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the Court. This clause does not apply to proceedings in which the judge is a litigant in a personal capacity.

- (ix) A judge should prohibit broadcasting, televising, recording or taking of photographs in or out of the courtroom during session of court or recess between sessions except as authorized by the High Court.
- (x)(a) A judge may properly intervene in a trial of a case to promote expedition, and prevent unnecessary waste of time, or to clear up some obscurity, but the Judge should bear in mind that undue interference, impatience, or participation in the examination of witness, especially those who are excited or terrified by the unusual circumstances of a trial, may tend to prevent the proper presentation of the cause, or the ascertainment of truth in respect thereto.
- (b) Conversation between the judge and the counsel in Court is often necessary, but the judge should be studious to avoid controversies that are apt to obscure the merits of the dispute between litigants and lead to unjust disposition. In addressing counsel, litigants, or witness, the judge should avoid a controversial manner or tone.
- (c) A judge shall avoid interruptions of counsel in their arguments except to clarify their positions, and should not be tempted to the unnecessary display of learning or premature judgment.
- (xi) A judge shall adopt the usual and accepted methods of doing justice; avoid the imposition of humiliating acts or discipline, not authorised by law in sentencing and endeavour to conform to a reasonable standard of punishment and not seek popularity or publicity either by exceptional severity or undue leniency.
- (xii) A judge shall be punctual in attending court and do judicial work during Court hours. He shall ensure punctuality of the staff and court officials.
- (xiii) A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and Court officials.
- (xiv) A judge should take or initiate appropriate measures as admissible under law against a judge or lawyer for unprofessional conduct of which the judge may become aware.
- (xv) A judge should not cause unnecessary expense by making appointments. All appointments shall be based upon merit.
- (xvi) A judge should not approve compensation beyond the fair value of services rendered.
- (4) **Extra Judicial and quasi Judicial activities.**
 - I. As a Judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent time permits, and without affecting his judicial work, a judge is encouraged to do so, either independently or through a Bar association, judicial conference, or other organization dedicated to the improvement of the law.

- II. A judge, subject to the proper performance of judicial duties and to the extent time permits, may engage in the following quasi-judicial activities :
- (a) A judge may speak, write, lecture, teach and participate in other activities concerning only the law and the legal system, and the administration of justice; and
 - (b) A judge may appear at a public hearing on matters concerning only the law, the legal system, and the administration of justice.
- III. A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality or judicial office, interfere with the proper performance of judicial duties, exploit the judicial position, demean the judicial office or involve the judge in transactions with lawyers or persons likely to come before the court on which the judge serves.
- IV. A judge should serve as an executor, administrator, testamentary trustee or guardian.
- V. A judge should *not* act as an arbitrator or mediator, except in the performance of judicial activities.
- VI. A judge should not practice *for* remuneration.
- VII. A judge should not accept appointment to a governmental committee, commission, or other position without the permission of the High Court in writing.
- VIII. A judge or a candidate *for* judicial office should not be a member of, or hold any office in, a political party.
- IX. A judge shall not make speeches on behalf of a political party or endorse a candidate for a political office.
- X. A judge shall keep informed about the judge's personal and judiciary economic interests and make a reasonable effort to keep informed about the personal economic interests of the judges spouse and children residing in the judges household.
- XI. ***A Judge shall conduct all of the judge's extra judicial activities in such a way that they do not :-***
- (a) cast reasonable doubt on the judge's capacity to act impartially as a judge;
 - (b) demean the judicial office; or
 - (c) interfere with the proper performance of judicial duties.
- (XII) A judge shall not serve as an officer, director, trustee or legal advisor if it is likely that the organization :-
- (a) will be engaged in proceedings that would ordinarily come before the judges, or
 - (b) will be engaged frequently in adversary proceedings in the Court of which the judge is a member or in any Court subject to the appellate jurisdiction of the Court of which the judge is a member.

- (XIII) A judge and members of the judge's family residing in the judge's household shall not accept, a gift, bequest, favour or loan from anyone except for;
- (a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by the publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice.
 - (b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, gifts, awards and benefits for the use of both the spouse or other family members and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties.
 - (c) ordinary social hospitality.
 - (d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;
 - (e) a gift, bequest, favour or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under rule 27;
 - (f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;
 - (e) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or
 - (h) any other gift, bequest, favour or loan, only if the donor is not a party or other person who has come or is likely to come or whose *interests* have come or are likely to come before the judge.

P. SAIKIA,

L. R. & Secretary to the Govt. of Assam,
Judicial Department.