

PART C.--CONFERMENT OF CRIMINAL MAGISTERIAL  
POWERS ON OFFICERS POSTED AT DELHI.

With the approval of the Delhi State Government, the Hon'ble Judges have been pleased to issue the following instructions in regard to the conferment of criminal Magisterial powers on officers posted at Delhi : -

(1) Instructions contained in Part 3 of this Chapter will apply *mutatis mutandis* to Punjab Officers posted at Delhi. Copies of the lists mentioned in paragraph 6 thereof will be forwarded to Delhi State Government for information. Officers whose names are included in the various powers lists may be invested with such powers without any reference to the High Court. If, however, the name of any officers is not included in any list, the procedure laid in paragraph 7 of Part 3 of that Chapter will be followed.

(2) The procedure regarding conferment of magisterial powers on Officers who do not belong to the Punjab Service will be as under: -

- (a) first and second class magisterial powers may be conferred by Government on the recommendation of the Deputy Commissioner provided that the officer concerned has exercised 3rd or 2nd Class powers, *as the case may be*, for six months. If it is considered necessary to confer first class powers on any officer who has not exercised second Class Powers for six months, a reference will be made to the High Court and its approval obtained;
- (b) higher powers, e.g., the powers of section 30 or 260 Magistrate. Additional District Magistrate, etc., will be conferred with the approval of the High Court. While making a reference to the High Court in this behalf, the fact that the Officer concerned has *al-ready* exercised such powers before his posting at Delhi will be communicated and

the personal file containing annual reports on the work of the officer will be forwarded to the High Court along with such other information as may be necessary;

- (c) the procedure outlined at (b) above will also be followed in the case of conferment of powers of District Magistrate on any Officer.

(3) In accordance with the rules published with Delhi State Government Notification No. F. 2 (77) 54-Home, dated the 6<sup>th</sup> / 8<sup>th</sup> July, 1955 (a copy of which forms as annexure to this Chapter Hony. Magistrates are also appointed at Delhi. Rule 5 of these rules provided that summary powers will not ordinarily be conferred upon Hony Magistrates. If, however, it is considered necessary to confer such powers on any Hony, Magistrate, a reference will be made to the High Court and the procedure laid down in paragraph 2(b) above will be followed. A reference will also be made to the High Court, if and when, it is considered necessary to confer section 30 powers on an Hony, Magistrate.

(4) In all cases where a reference is made to the High Court by Delhi State Government for conferment of higher powers on a Magistrate already posted at Delhi, the views of the District and Sessions Judge, Delhi will be obtained and forwarded to this Court.

As far as possible, the qualifications mentioned in paragraph 5 in Part 'B' of this Chapter will be taken into consideration while conferring the powers of section 30 or 260 Magistrate, Criminal Appellate powers or powers of an Additional District Magistrate.

## ANNEXURE

OFFICE OF THE CHIEF COMMISSIONER, DELHI

## NOTIFICATION

*Delhi, dated the 8<sup>th</sup> July, 1955.*

No. F-2. (77)54.-Home-The Commissioner of Delhi is pleased to make the following revised rules for the appointment of Honorary Magistrates in the State of Delhi.

Revised rules regarding appointment of Honorary Magistrates. These rules are subject to any rules that may be framed by the High Court regarding appointment, training or removal of Honorary Magistrates.

1. (a) *Competent authority to make appointments of Honorary Magistrates.*-Appointment of Honorary Magistrates shall be made by the State Government on the recommendation of the Selection Committee consisting of the following:-

- (1) District and Sessions Judge, Delhi;
- (2) District Magistrate, Delhi;
- (3) Home Secretary to Government, Delhi State, Delhi.

The District and Sessions Judge will preside over the deliberation of the committee and the District Magistrate will be the convenor. The proceedings of the committee shall be confidential.

The committee shall consider names and suggestions which may be received by the District Magistrate from the individual desiring to be appointed as Honorary Magistrate or by way of recommendation from other sources, or put forward by any member of the committee. In all cases, the necessary inquiry shall be held by the District Magistrate and each case shall be put up before the committee with all the information and facts available.

information and facts available. The Committee shall draw up approved lists separately for persons considered suitable for appointment as 1<sup>st</sup> and 2<sup>nd</sup> Class Magistrates in case the number of candidates exceeds the number of vacancies. This list shall be prepared in order of merit. In the event of a vacancy occurring, the Convenor of the Committee shall notify the same to the other members indicating the person on the waiting list eligible for appointment to the vacancy. The members shall communicate their views to the Convenor and in case there is unanimity of views and the appointment is not for the post of a First Class Magistrate, the District Magistrate shall submit the recommendation to the State Government without calling a formal meeting of the Committee.

(b) The Committee shall meet once in every quarter, the first meeting being held in month of February.

2. *Qualifications of Candidates.*-Before recommending a person for appointment as an Honorary Magistrate, the Committee shall satisfy that he fulfils the following requirements:

- (a) *Age.*- He is not less than 30 years and more than 60 years of age;
- (b) *Educational Qualifications.*- He has passed an examination equivalent to or higher than Intermediate or Higher Secondary Examination and is liable to record the evidence and write judgments in English, Urdu or Hindi in his own hand and is capable of appreciating the evidence and forming a reasoned judgment. In case of those who have exercised powers as Honorary Magistrate before, the educational qualifications shall be relaxed to a minimum of High School or equivalent standard;
- (c) *Reputation.*-he has a good reputation and is a person of such character as to command the confidence of the public;

- (d) *Physical condition.*-He should be in good physical and mental health;
- (e) *Indebtedness.*-He is not heavily indebted. In determining whether the indebtedness is so heavy as to be a disqualification, regard shall be had to his assets and his ability to pay off his debts. In particular, the Committee shall consider whether the indebtedness is such that it may, in the opinion of the Committee, be a source of embarrassment to the Honorary Magistrate in the honest and impartial discharge of his duties or impair his usefulness as an Honorary Magistrate;
- (f) *Sufficient Time and Leisure at his disposal.*-he has sufficient time and Leisure at his disposal to be able to hold Court for at least three days in the week during normal court hours.

*Note.*-Ladies are eligible for appointment as Honorary Magistrates.

3. (a) *Persons not eligible for appointments as Honorary Magistrates.*-No member of Parliament or State Legislature shall be eligible for appointment as an Honorary Magistrate.

(b) No person who is the President or Chairman of a Local body or Gaon Sabha or holds an elected public office or is in active political life shall be eligible for appointment as Honorary Magistrate.

(c) No person who has been disqualified for having committed a corrupt practice in connection with an election to the Parliament or the State Legislature or to a Local Body and no legal practitioner who has been debarred from practice shall be eligible for appointment as an Honorary Magistrate.

(d) No person who has been convicted of an offence involving moral turpitude shall be eligible for appointment as Honorary Magistrate.

(e) Ordinarily, a member of the legal profession shall not be eligible for appointment as an Honorary Magistrate. However, on the recommendation of the Committee, a Practising member of the Legal profession may be appointment as an Honorary Magistrate on his giving up the practice.

4. *Training to persons appointed as Honorary Magistrates.*-Unless the person recommended has previous experience of law and procedure in Criminal Courts or has already served as an Honorary Magistrate, his appointment shall be subject to his undergoing a course of practical training under a senior Stipendiary Magistrate. In the beginning he should familiarize himself with the Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act under the guidance of such Stipendiary magistrate and should watch the progress of trials in his court. After that he should be asked to take notes of evidence in criminal cases and write out his own judgment and submit them for the approval of the Magistrate. The period of such training shall normally be three months but may at the discretion of the District Magistrate be extended by a period not exceeding 6 months. At the end of this period if the Magistrate certifies that the person selected is competent to conduct criminal trials and write proper judgments, magisterial powers, may be conferred.

The District Magistrate, shall prescribe the mode and details of the training such as the type and number of cases each trainee is required to submit with notes and judgment to be recorded by him independently.

5. *Powers to be conferred on Honorary Magistrates.*-On first appointment as an Honorary Magistrate will generally be invested with Second Class Powers. But a person who has previously exercised second class powers as an Honorary Magistrate at least for a period of one year or is a graduate of a recognized University or has practiced as a lawyer may, if he is considered fit by the Selection Committee, be originally invested with first class Magisterial powers. Summary powers will not ordinarily be conferred upon Honorary Magistrates unless they are retired Judicial Officers.

6. *Term of appointment of Honorary Magistrate.*-The first appointment of an Honorary Magistrate shall be for a period of one year or less, terminable on 31st March next following. After this period he may be appointed for a further term not exceeding three years. Thereafter the term may be renewed from time to time for further period not exceeding three years. The term of an Honorary Magistrate should not be renewed beyond the age of 61 years. Any Honorary Magistrate shall be liable to be called upon to do law and order duties under instructions from the District Magistrate. The Government may, if it considers necessary, grant an Honorary Magistrate such conveyance allowance as it may consider reasonable. An Honorary Magistrate will take the oath of loyalty when he assumes office. He will comply with such directions as may be issued to him by the District Magistrate or such Senior Magistrate as may be empowered in this behalf by the District Magistrate. An Honorary Magistrate desiring to resign his office shall be required to give the District Magistrate a month's notice.

7. *Recommendations for renewal, enhancement and withdrawal of powers.*-All recommendations for the renewal of the terms of Honorary Magistrates and for the enhancement of their powers shall be made by the Selection Committee at least one month in advance of the date of expiry of the term. Recommendations for the withdrawal of powers of Honorary Magistrates shall be made by the District Magistrate with the concurrence of the Selection Committee. Such a recommendation will be made only in exceptional cases such as abuse of position or patent unfitness of the individual.

8. *Location of courts.*-The court of an Honorary Magistrate or a Bench of Honorary Magistrates shall, unless otherwise permitted by Government, be held at the District or tehsil headquarters or in Government or Government rented buildings.

9. *Courts hours.*-Every Honorary Magistrate or Bench of Honorary Magistrates shall hold court during the hours prescribed by the District Magistrate, which

should ordinarily be within the hours fixed for the sittings of Stipendiary Magistrates. The hours fixed by the District Magistrate, shall not be changed without his previous sanction.

10. *Fixation of days for holding courts by Honorary Magistrates.*-The District Magistrate shall fix at least three days in the week on which every Honorary Magistrate shall take part in any election to a local body or to State Legislature or to the Parliament otherwise than by casting his vote as an elector. The days fixed by the District Magistrate shall not be changed without his previous sanction.

11. *Disabilities of Honorary Magistrates.*-No Honorary Magistrate shall take part in any election to a local body or to State Legislature or to the Parliament otherwise than by casting his vote as an elector.

12. *Disqualifications of Honorary Magistrates.*-Should any Honorary Magistrate subsequent to his appointment incur any of the disqualifications imposed in these rules he will render himself liable to the withdrawal of his magisterial powers.

13. *Inspection of Honorary Magistrates' Courts.*-The Court of every Honorary Magistrate or Bench of Honorary Magistrates should be inspected at least once a year by the District Magistrate or the Additional District Magistrate, whose report should be sent through the District and Sessions Judge to the State Government.

14. Rule 2 will not be applicable to persons appointed as Honorary Magistrate prior to the coming into force of these rules for their current term of office.

*The Chief Commissioners' notification No. F.-2(83)/49-R & J. dated the 8th September, 1949 and No.F-2 (83)/49-R & J. dated 18th February. 1950 are hereby cancelled.*