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ASSAM FAMILY COURTS RULES, 1990[1]

1. **Short title, extent and commencement.**—(1) These Rules may be called the Assam Family Courts Rules, 1990.

(2) It extends to the areas in Assam to which the provisions of the Family Courts Act, 1984 extends.

(3) It shall come into force with effect from the date of publication in the official Gazette.

COMMENTS

These Rules were framed under Section 23 of the Family Courts Act, 1984, under Notification No. JDJ/23/85/155, dated 19th December, 1990.

2. **Definitions.**—In these Rules, unless the context otherwise requires,—

(*a*) "*Act*" means the Family Courts Act, 1984 (No. 66 of 1984).

(*b*) "*Family Courts*" means the Courts constituted under the Family Courts Act, 1984.

(*c*) "*Principal Judge*" means the Presiding Judge of a Family Court which consists of more than one Judge and include also the sole Judge where the Family Court consists of only one Judge.

(*d*) "*Additional Judge*" means the Judge or Judges of the Family Court other than the Principal Judge.

(*e*) "*Institution*" and "*Organisation*" means any institution or organisation engaged in social welfare and registered under the Societies Registration Act, 1860.

(*f*) "*Counsellor*" means a person having suitable legal knowledge and working experience of social and family welfare appointed so as to assist the Family Court in the matters of law and in making conciliation etc. and to tender legal advice to the parties of litigations before the Family Court.

(*g*) All other words and expressions used but not defined in these Rules and defined in the Act or the Code of Civil Procedure, 1908 shall have the meanings respectively assigned to them in that Code or the Act.

3. **Application.**—These Rules shall apply to the Family Courts constituted in the State of Assam under the Family Courts Act, 1984.

4. **Salary or honorarium and other allowances of Judges.**—The salary and other allowances admissible to a Judge shall be such as may be determined by the Government in consultation with the High Court from time to time :

Provided that the pay and allowances of the Judge who is a member of the Assam Judicial Service (Grade I) shall not be less than the presumptive pay and allowances as would have been admissible to him for his appointment as the Judge of the Family Court.

Note:—The pay scale admissible to a Family Court Judge at the commencement of these rules is Rs. 3950—Rs. 6100 p.m.

COMMENTS

Rule 4 has been substituted vide Notification NO. JDJ/23/85/Pt./33, dated the 10th February, 1992 and published in the Assam Gazette, Part-II-A, dated the 12th February, 1992, pages 141-142.

1. Published in the Assam Gazette, Extraordinary No. 234, dated 20-12-1990.

5. **Terms and conditions of service.**—(1) A person appointed on the post of the Judge shall retire from service in the afternoon of the last day of the month in which he attains the age of 58 years :

Provided that if the Government considers it expedient in the pubic interest so to do, it may re-employ such a Judge for further period not exceeding two years at a time so however, that no person shall continue as a Judge after he attains the age of 62 years.

(2) Unless otherwise expressly provided for in these Rules, the provisions of the Assam Judicial Service Rules, 1967 shall be applicable as regards the conditions of service of the Judge or Judges of the Family Court including the Principal Judge and Additional Judge.

COMMENTS

Rule 5 has been substituted vide Notification No. JDJ/23/85/Pt./33, dated the 10th February, 1992 and published in the Gazette, Part II-A, dated the 12th February, 1992, pages 141- 142.

6. **Institutions or organisation of persons rendering service to Family Court.**—The Judge, if he thinks that he may exercise its jurisdiction more effectively in accordance with the purposes of the Act, may take the help of any institution or organisation engaged in social welfare or representative thereof, any person professionally engaged in promoting the welfare of the family persons working in the fields of social welfare and any other persons whose association with the Family Court would enable the Family Court to exercise its jurisdiction more effectively, in accordance with the purposes of this Act.

(2) The duty of such associated institutions, organisations or persons would be to help the Family Court in promoting conciliation and in securing speedy settlement of disputes.

(3) Such institutions, organisations or persons, as the case may be, for rendering service to the Family Court shall be entitled to get a lump sum fee of Rs. 100 (one hundred) for each case or proceeding in addition to the normal travelling allowances etc.

(4) Such institutions, organisations or persons, as the case may be, shall be entitled to get the amount actually incurred by them in accordance with the direction of the Family Court.

(5) The Family Court may ask any institution , organisation or persons referred to above for making journey or journeys that may deem necessary for the purpose of making or attempting to make conciliation settlement etc. of disputes.

(6) For journeys referred to in the foregoing Rules the normal mode of conveyance shall be the ordinary available means of conveyance like public bus, Assam State transport bus, railway etc., provided that in case any public servant or Government officer engaged in social or family welfare is engaged for the purposes, then he shall be entitled to get the travelling allowances in the mode and manner prescribed therefor in the relevant FRs and SRs applicable to him according to his grade of service :

Provided further that the Family Court in special cases may allow any special mode of conveyance as it may deem fit and proper under special circumstances of the case or proceeding.

7. **Councellor.**—(1) There shall be one Counsellor for each Family Court.

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(2) The Counsellor must have suitable legal knowledge and working experience of social and family welfare .

(3) Notwithstanding anything contained in sub-rule (2) of Rule 6, an Officer in Grade II or Grade III of the Assam Judicial Service shall be eligible for appointment as Counsellor of the Family Court.

COMMENTS

Sub-rule (3) of Rule 7 has been substituted vide Notification No. JDJ/23/85/Pt./87, dated the 7th January, 1995 and published in the Assam Gazette, Part-II-A, dated the 8th March, 1995, pages 143-144.

8. Salary, allowances, terms and conditions.—(1) The pay and allowances of the Counsellors shall be such as may be fixed by the State Government from time to time :

Provided that the pay and allowances of the Counsellor who is a member of the Assam Judicial Service (Grade II or Grade III) shall be entitled to the pay and allowances of their respective Grades.

Note:—The pay scale admissible to a Counsellor of the Family Court, (other than the members of the Judicial Service), at the commencement of these rules is Rs. 3375-100-3575-125-4325 EB-125- 4450-150-5200.

(2) The terms and conditions of service of the Counsellors shall be such as prescribed in the Assam Judicial Service Rules for an Officer in Grade II of the Assam Judicial Service :

Provided that the terms and conditions of the Counsellor who is a member of the Assam Judicial Service shall be such as prescribed in their Service Rules for the respective Grades.

(3) It shall be the duty of the Counsellor to help the Family Court in matters of law and facts so that the Family Court may make a legal, practical and permanent conciliation or may arrive at a right legal settlement of disputes and proceedings.

COMMENTS

Sub-rules (1) and (2) of Rule 8 have been substituted vide Notification No. JDJ/23/85/Pt./87, dated the 7th January, 1995 and published in the Assam Gazette, Part-II-A, dated the 8th March, 1995, pages 143-144.

9. (1) Whenever the Family Court thinks it fit and necessary or whenever any right occasion arises for the purposes of safe conclusion, a Family Court may have the opinion of any recognised expert, including medical and hand-writing expert, even at its own account or will.

(2) The Family Court may, if it thinks it expedient so to do, examine any such expert.

(3) The expenses incurred in obtaining the opinion of any such expert or the expenses incurred in examining such experts shall be borne by the Family Court from the fund allocated to it by the State Government :

Provided that whenever the expert referred to above is a public servant, the Family Court shall issue a court's certificate as issued by Judicial Courts to witnesses who are pubic servants or Government officials. The experts who are already in Government service shall not be entitled to get any remuneration for their opinion and they shall be duty bound to help the Family Court.

(4) There shall be a panel of recognised experts and the panel shall be prepared and maintained by the High Court, in consultation with the State Government :

Provided that whenever any occasion arises to have the opinion of any other expert not included in the panel referred to above, the Family Court shall have to obtain the concurrence of the State Government.

10. Staff of Family Court.—(1) There shall be the following staff for the establishment of each Family Court :

1.	Superintendent	1
2.	U.D. Assistant	1
3.	L.D. Assistant	3
4.	Typist	1 (English)
5.	Stenographer Gr. I	1
6.	Peon	4
7.	Counsellor	1
8.	Stenographer Gr. II	1
9.	Peon	2
	Total	15

(2) The Stenographer Grade-II and the two peons referred to in item Nos. 8 and 9 above shall be meant for the Counsellor.

(3) Excepting in case of Counsellor the Principal Judge or the Judge of the Family Court where there is only one Judge, shall be the appointing and controlling authority of the staff referred to in Rule 10 (1).

11. Terms and conditions of services.—(1)Except otherwise expressly provided in these Rules, the terms and conditions of service of the staff referred to in the foregoing rule shall be the same as that of the corresponding grade in the establishment of the District and Sessions Judge.

(2) The post of Superintendent referred to in item No. 1 of 10 (1) shall be equivalent to that of Sheristadar in the establishment of the District and Sessions Judge.

12. The legal practitioners appointed under Section 12 of the Act as *amicus curiae* shall be entitled to get the fees at the rates admissible to a Public Prosecutor for appearing in the Courts of District and Sessions Judge.

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