No 288/VII-Nyaya-*2-732/*86

Dated, Lucknow, April 4, 1995

In exercise of the powers under Section 23 of the Family Courts 1984 (Act no. 66 of 1984) the Governor, after consultation with the High Court, is pleased to make the following rules:

THE UTTAR PRADESH FAMILY COURTS RULES, 1995

CHAPTER-I

PRELIMINARY

Short title and commencement

1. (i) These rules may be called the Uttar Pradesh Family Courts Rules, 1*995;*..

(ii) They shall come into force with effect from the date of their publication in th*e official Gazette*

Definitions

2. (1) In these rules, unless the context otherwise requires

(a) 'Act' means the Family Courts Act, 1984 (Act no.66 of 1984);

[1]**[** *(b)* 'Appointing authority' means the Governor in relation to the post of a Judge and the Judge or where there are more than one Judge, the Principal Judge, in relation to an officer of the Family Court, and the District Judge of the place where the Family Court is located in relation to other employees of the Family Court.

(c) 'Citizen of India' means a person who is or is deemed to be a citizen of India under Part II of the Constitution;

*(d) '*Commission' means the Uttar pradesh Public Service Commission;

(e)' Governor' means the Governor of Uttar Pradesh:

*(f) '*Government' means the State Government of Uttar Pradesh;

(g) 'High Court' means the High Court of Judicature at Allahabad; "

(h)' Post' means the post of a Judge; .

(i) 'Section' means sections of the Act.

(ii) Words and expressions used but not defined in these rules and defined in the Act shall have the meanings assigned to them in the Act.

CHAPTER-II

PART-1

APPOINTMENT AND TERMS AND CONDITIONS OF SERVICE OF JUDGE

[Section 4.(6) and 23 (2) (a)]

Source of appointment

3. The appointment of a Judge may, with the concurrence of the High Court, be made from any of the following sources;- .

(a) By deputation from amongst persons having held for at least seven years a judicial office in India; or

(b) By re-employment after retirement on superannuation of a person who has for atleast seven years held a Judicial Office in India: or

(c) By direct recruitment from amongst persons eligible for appointment under Sub sections (3) and (4) of Section 4.

Reservation

4. Reservation for the candidates belonging to Scheduled Castes, Scheduled Tribes and other Categories in direct recruitment shall be in accordance with the provisions of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Schedule Tribes and other Backward Classes Act .1994 (U.P. Act no. 4 of 1994).

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1. subs. by sub- rule (i)(b) of rule 2 of The U.P. Family Court (Amendment) Rule 2002

Eligibility and other qualifications

5. A candidate for appointment to a post must possess any of the qualifications provided under clauses (a) and (b) or such other qualifications as may be prescribed by, the Central Government under clause (c) of sub-section (3) of Section 4. Selection shall he made having due regard to the provisions under sub-section (4) Section 4 :

Nationality

6. A candidate for appointment to the post must be –

(a) a Citizen of India or

(b) a Tibetan refugee who came over to India before January 1, 1962 with the intention of permanently settling in India or

(c) a person of India origin who has migrated from Pakistan or any of the East African countries of Kenya, Uganda and the United Republic of Tanzania (formerly Tanganyika and Zanzibar) with the intention of permanently settling in India.

Provided that a candidate belonging to category (b) or (c) above must be a person in whose fovour a certificate of eligibility has been issued by the State Government.

Provided further that a candidate belong to category (b) has also obtained a certificate of eligibility granted by the Deputy Inspector –General of Police, Intelligence Branch, Uttar Pradesh.

Age

7. A candidate for direct recruitment to the post must have attained the age of 45 years and must not have attained the age of 50 years on the first day of July in the year in which the vacancies are advertised.

Provided that candidates belonging to Scheduled Castes and Scheduled Tribes Claiming reservation shall be entitled for five years of relaxation in higher side of the age limit.

Character

8. The character of the candidate for direct recruitment to the post must be such as to render him suitable in all respects for employment In Government service. The appointing authority shall satisfy itself on this point.

NOTE : –

Persons dismissed by the Union Government or a State Government or by the local Authority or a Corporation or Body owned or controlled by the Union Government or a State Government shall be ineligible for appointment to the post. Persons convicted of an offence involving moral turpitude shall also be ineligible.

Marital status

9. A male candidate who has more than one wife living or a female candidate who has married a man already having a wife living shall not be eligible for appointment to the post.

Medical Fitness

10. No candidate by direct recruitment shall be appointed to the post unless he being in good Mental and bodily health and free from any physical defect likely to interfere with the efficient performance of his duties. Before a candidate is finally approved for appointment he shall be required to pass an examination by a Medical Board.

PART-III

PROCEDURE FOR APPOINTMENT BY DIRECT RECRUITMENT

Determination of vacancies

11. The appointing authority shall determine and intimate to the Commission the number of vacancies to be filled by direct recruitment during the courses of the year as also the number of vacancies to be reserved for candidate belonging to Scheduled Castes, Scheduled Tribes and other categories under Rule-4.

Competitive examination

12. The examination may be conducted at such time and on such dates as may be notified by the Commission and shall consist of –

(a) Written examination of such legal and allied subjects including procedure as may be included in the syllabus prescribed under rule 13 and

(b) An interview to assess the all round career of the candidates and their personality, address and general suitability.

Syllabus

13. The syllabus and the rules relating to the competitive examination shall be such as may be prescribed by the High Court in consultation with the Commission.

Fee

14. Candidate for direct recruitment shall pay to the Commission and to the President of the Medical Board such fees as may from time to time be specified by the Government.

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Procedure for direct recruitment on the basis of competitive examination

15. (1) Application for permission to sit at the competitive examination shall be invited by the Commission in the form notified by them in the advertisement.

(2) No candidate shall be admitted to the examination unless he holds a certificate of admission issued by the Commission.

(3) After the results of written examination have been received and tabulated, the Commission shall having regard to the need for securing due representation of the candidates belonging to the Scheduled Castes, Scheduled Tribes and other categories under Rule 4, summon for interview such number of candidates as on the result of the written examination have come up to the standard fixed by the Commission in this respect. The marks awarded to each candidate at the interview shall be added to the marks obtained by him in the written examination.

(4) The Commission shall prepare and forward to the appointing authority a list of candidates who have taken examination for recruitment to the post in the order of their proficiency as disclosed by the aggregate of marks finally awarded to each candidate. If two or more candidates obtain equal marks in the aggregate, the commission shall give preference to the candidates securing higher marks in written examination.

PART- IV
APPOINTMENT AND TERM OF OFFICE

Appointment

16. Subject to the provisions of Rule 9, the Governor shall on receipt of the list prepared by the Commission under sub-rule (4) of Rule 15, consult the High Court and shall; after taking into consideration the views of the High Court select candidates for appointment from amongst these who stand highest in order of merit in such list, provided that he is satisfied that they are duly qualified in other respects.

Term of office

17. The maximum age of superannuation in the case of direct recruit shall be 62 years, The judge on deputation shall hold office for a term of three years from the date on Which he enters upon the office unless extended by the Government with the concurrence of High Court but not beyond the date on which he attains the age of 62 years.

Seniority

18. The seniority of a Judge recruited directly in any year shall be determined according to the merit list drawn up under sub-rule (4) of Rule 15.

PART-V
PAY

Pay and other allowances

19. The salary and other allowances admissible to a Judge shall be such as may be determined by the Government in consultation with the High Count from time to time.

PART-VI
MISCELLANEOUS

Canvassing

20. No recommendation, either written or oral; other than these required under the rules applicable to the post will be taken into consideration. Any attempt on the part of a candidate to enlist support directly or indirectly for his candidature will disqualify him for appointment.

Regulation of other matters

21. In regard to the matters not specifically covered by these rules or by special orders, persons appointed to the post shall he governed by the rules, regulations and orders applicable generally to Government servants serving in connection with the affairs of the State.

CHAPTER-III
TERMS AND CONDITIONS OF SERVICE OF OFFICERS AND OTHER EMPLOYEES OF FAMILY COURTS [(Section:6: (2) and 23 (2)(b)]!

Appointment of Officers and other employees

[1] [22. (1) The Judge and where there are more than one Judge for any area, the Principal Judge shall appoint for his Court and for other Family Courts, if any, for the area of his jurisdiction, such officers as may be determined from time to time under sub- section (1) of section 6 of the Act.

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(2) Until the terms and conditions of service of officers of the Family Court are prescribed, there qualifications, procedure for recruitment pay and other conditions of service shall be the same as that of the officers of similar category in Civil Courts Subordinate to the High Court and the rules relating thereto shall mutatis mutandis apply.

22-A (1) The establishment of Group C and Group D employees of the Family Court shall form part of establishment of the Judgeship of the District where the Family Court is located.

(2) The District Judge shall appoint Group 'C' and Group 'D' employees against the vacancies as may be determined from time to time under sub-section (1) of section 6 of the Act and it shall added to the strength of the said Judgeship.

(3) Any recruitment of Group 'C' and Group D' employees made by the District Judges in relation to the Family Court shall form part of the cadre of the employees of the judgeship for all purposes and they shall be provided to the Family courts according to their requirement.

(4) The procedure of recruitment, terms and condition of services of the Group 'C' and Group D' employees of the Family Court shall be the same as has been prescribed in the U.P. Subordinate Civil Courts Ministerial Establishment Rules, 1947; the Uttar Pradesh Rules for the Recruitment of Ministerial Staff to the Subordinate offices in Uttar Pradesh, 1950 and the U.P. Subordinate Civil Courts Inferior Establishment Rules, 1955, as the case may be.

22-B The Group 'C' and Group D employees of the Family Courts appointed on Ad-hoc basis prior to August 7, 1989 may be considered for regular appointment by the District Judge in accordance with the U.P. Regularisiation of Ad-hoc Appointments (on posts outside the purview of the Public Service Commission) Rules, 1989 read with High Court C.L No. 69/ VII b 104/ Adm(D) Allahabad dated November 10, 1993.]

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1. Sub. by U.P. Family court (Amendment) Rules, 2002

CHAPTER-IV
TRANSMISSION OF RECORDS, TO FAMILY COURTS
[Sections 8 and 23 (1)].

Transmission of records

23. (1) As soon as a Family Court is established for an area, the District and Sessions Judge having Jurisdiction in that area shall cause the records of all suits and proceedings of the nature referred to in Section 8 pending before the Courts under his Jurisdiction, collected and transmitted to the Family Court

(2) The records of the case be properly stitched and all the papers shall be duly indexed.

(3) The particulars of every such records shall be entered in a statement in form 'A' which shall be prepared in duplicate. The first copy of the statement shall be sent to the Family Court along with the records and the duplicate copy shall be retained by the District and Sessions Judge,

Amicus Curiae (section 13)

CHAPTER-V.
ASSOCIATION OF SOCIAL WELFARE AGENCIES MEDICAL AND WELFARE EXPERTS,
AMICUS CURIAE ETC. .

24. If the Family Court considers it necessary in the interest of justice it may seek the assistance of legal expert as amicus curiae on purely legal issue. For that purpose, the Family Court shall prepare a list of legal experts who are willing to assist it as amicus curiae and legal experts. They shall be paid fees and expenses out of the revenues of the Government as per the scale of fees and expenses prevalent in the Court of District Judge.

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Counselling centre (Sections 6 and 23)

25. (1) There shall be attached to every family Court a Counselling entry which shall have as many Counsellors as may be determined by the Government in consultation with the High Court from time to time. If more than one Counsellor is appointed for any Family Court, one of them may be appointed the Principal Counsellor.

Counsellor Section 6(1) and 23(1)

(2) A counselling centre may be divided into different units and may be located in the Family Court Premises and or in such other places as the High Court may direct.

26). (1) Principal and other Councellors attached to a Counselling centre shall be appointed by the Government on the recommendation of the High Court and shall be paid such remuneration and expenses out of the revenues of the Government as may be determined by the Government from time to time.

(2) The High Court may consult professionally qualified experts in Family and Child Welfare. Preferably working with recognised institutions of Social Sciences or Social Work before recommending a person for appointment as a Counsellor.

(3) Such persons who possess Master's degree in social work with minimum of two years experience in family counselling, will be given preference in appointment as counsellor.

Functions of counsellor [Section 6 (1) and 23(2)(e)

27.(1) A counsellor entrusted with a petition shall assist and advise the parties regarding the settlement of the subject matter or dispute between the parties or any part thereof. The counsellor shall also help the parties in arriving at reconciliation.

(2). A counsellor appointed to advise the parties shall fix the time and date or appointment and the parties shall be bound to attend the Counsellor on the date and the time so fixed.

(3) If a party fails to attend the Counsellor on the date and at the time fixed, the Counsellor may fix another date and time and inform the absent party accordingly

by registered post, and if the said party does not attend the Counsellor on the adjourned date, the Counsellor may make a report to the Family Court stating that one or both the parties have failed to attend the Counsellor, whereupon in the Family Court may proceed with the matter without prejudice to its any other powers to take action against the defaulting party.

(4) A Counsellor in the discharge of his functions shall be entitled to pay visit to the house of any of the parties, and interview relatives, friends and acquaintance of parties or any of them;

Provided that where the lady is the sole occupant of the premises she occupies the visit by a male Counsellor shall always be along with a lady duly approved by a the Family Court.

(5) The Counsellor in the discharge of his functions may seek such informations as he

may deem necessary from the employer of a party,

(6) The Counsellor may refer a party to an expert in any other area such as medicine or psychiatry,

Panel of Experts [(Sections 12 and 23(2)(c)]

28. The Judge shall prepare a panel of medical and other experts in consultation with the principal Counsellor or Counsellor, as the case may be, and the experts shall be entitled to such fees and expenses out of the revenues of the Government as may be determined by the Judge of the Court having due regard to the status, expertise and the professional loss etc., of the expert giving evidence or opinion before the Court.

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List of institution etc. (Section 5 and 23(1)]

29. (1) The Judge shall also prepare, in consultation with the Principal Counsellor or Counsellor as the case may be, a list of institutions, organisations or agencies working in the area of family welfare or in any other areas that he may deem fit in order to enable him or the parties to obtain the assistance of such as institution organisation or agency.

(2) The institutions, organisations and agencies shall, for the services rendered by them, be entitled to such remuneration as may be fixed by the Government from time to time by an order notified in this behalf.

Confidentiality of information [(Section 23(1)]

30. (1) Information gathered by the Counsellor, any statement made before the counsellor or any notes or report prepared by the counsellor shall be treated as confidential and the Counsellor shall not be called upon to disclose the information, statements, notes or report to any court except with the consent of both the parties.

(2) The information, statements, notes and report referred to in sub-rule (1) shall be kept in sealed covers by the Counsellor and will not form part of evidence before the Family Court. The same may, however, be used for the purposes of research or education with the permission of the Judge on condition that the identities of the parties shall not be disclosed. However the Court may persue the information, statements, notes, reports, etc.

Counsellor not to give evidence[(Section23(i)]

31. A Counsellor shall not be required to give evidence in any court in respect of the information statements, notes or reports referred to in sub-rule (1) of Rule 30:

Provided that (i) the Counsellor may submit to the Family Court a report relating to the environment of the parties, their personalities and their relationship with their children in order to assist it in deciding the question of custody or guardianship of

any child of the marriage .

(ii) the Counsellor may also submit to the Family Court report relating to the environment, income or standard of living of a party or parties in order to assist it in determining the amount of maintenance or alimony to be granted to one of the parties.

(2) A Family Court may, also require the Counsellor to submit to it a report on any other subject in order to assist it in adjudicating upon the matter before it or any part thereof.

(3) A copy of the report submitted under sub-rules (1) and (2) may be supplied to a party on a request being made by it.

(4) The parties shall be entitled to make their submissions on the report.

Submission of memorandum (Section 23)

32. The Counsellor shall submit a brief memorandum to the Family Court informing the outcome of the proceedings before him.

Settlement before Counsellor (Section 23)

33. If the parties arrive at a settlement before the Counsellor relating to the dispute or any Part thereof, such settlement shall be reduced to writing and shall be signed by the parties and countersigned by the Counsellor, and the Family Court shall pronounce a decree or order in terms thereof unless it considers the terms of the settlement unconscienable or unlawful or contrary to public policy.

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Supervision of or custody of children [(Section 23(1)]

34. (1) The Counsellor shall be entitled to supervise the placement of children in the custoday of a party and for this purpose he may make surpise visits to the house where the child resides and shall make a report to the Family Cout if any alteration is required in the arrangement relating to the custoday of the child:Provided that where the lady is the sole occupant of the premises, she occupies, then visits by a male Counsellor shall always by along with a lady duly approved by the Family Court.

(2) On receipt of a report under-sub-rule (i) the Family Court may, after giving notice to the parties, pass such order as it may deem fit relating to custody of the child .

Supervision after reconciliation [(Section 23(1)]

35. The Counsellor shall be entitled to supervise guide and assist the reconciled couples even if the matter is no longer pending in the Family Court.

Superintendence of High Court

36. Unless there is any Rule to the contrary, a Family Court shall function under the superintendence of the High Court.

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