

The Family Courts (Rajasthan) Rules, 1991

RAJASTHAN

India

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The Family Courts (Rajasthan) Rules, 1991 Published vide Notification No. F. 2(8) Jud./87, dated 19-11-1991, published in Rajasthan Gazette Extraordinary Part 4-C(2), dated 23-11-91, page 103(1)G.S.R. 37. - In exercise of the powers conferred by section 23 read with sub-section (6) of sections 4, 5 and 6 of the Family Courts Act, 1984 (Central Act 66 of 1984), the State Government in consultation with the High Court of Judicature for Rajasthan hereby makes the following rules for carrying out the purposes of the Act:-

1. Short title and commencement.

(1) These rules may be called the Family Courts (Rajasthan) Rules, 1991. (2) They shall come into force from 1-4-1992.

2. Definitions.

(1) In these rules, unless there is anything repugnant to the subject or otherwise, -(a) "Act" means the Family Courts Act, 1984 (Central Act No. 66 of 1984); (b) "Court" means the Family Court established under section 3 of the Act; and (c) "High Court" means the High Court of Judicature for Rajasthan. (2) Words and expressions defined in the Act shall, wherever used in these rules, be constituted to have the meanings assigned to them by the Act.

3. Recruitment of Judges.

(1) Recruitment of a Judge shall be made:- (a) by deputation of a member of the Rajasthan Higher Judicial Service or of a person who has held for 7 years the office of a member of a Tribunal or any post under the Union or a State requiring special knowledge of law; or (b) by re-appointment of a retired member or person referred to in clause (a); or (c) by appointment of a person eligible under clauses (b) and (c) of sub-section (3) of section 4 of the Act. (2) For the purpose of making an appointment under clause (c) of sub-rule (1) the High Court shall invite applications from eligible

candidates and appoint a committee of such number of Judges of the High Court as it may think proper. The committee so appointed shall scrutinize the applications received, interview such of the applicants as are thought proper and place its recommendations to the State Government for making appointments: Provided that the High Court may recommend the name of an eligible person for appointment under clause (c) of sub-rule (1) even if such person has not submitted his application for such appointment.

4. Salary, allowances, and other terms and conditions of Judges.

(1) The terms and conditions of service of a Judge appointed by deputation under clause (a) of sub-rule (1) of rule 3 shall, - (a) if such Judge belongs to the Rajasthan Higher Judicial Service, be regulated by the Rules applicable to the members of that service: Provided that the pay and allowances of such Judge shall be as are admissible to District Judge on deputation and his service conditions shall not be varied to his disadvantage after appointment; and (b) if such Judge belongs to a service other than the Rajasthan Higher Judicial Service, be regulated by the Rules applicable to the members of that service: Provided that the pay and allowances of such Judge shall be as are applicable to an officer on deputation under the provisions of the Rajasthan Service Rules and his service Rules and his service conditions shall not be varied to his disadvantage after appointment. (2) The terms and conditions of service of a Judge appointed under clause (c) of sub-rule (1) of rule 3 shall be the same as are applicable to a member of the Rajasthan Higher Judicial Service and shall be paid pay and allowances as are admissible to a selection grade member of that service. On his appointment as Judge he will be fixed on the minimum of selection scale of that service. (3) No person shall be appointed as a Judge before he has attained the age of 50 years and after he has attained the age of 62 years. (4) If any person appointed as a Judge was in service under the Central or State Government he shall on completion of superannuation age applicable in his parent Department stand retired from the service: Provided that the State Government may in concurrence with the High Court re-appoint him on the post of a Judge for a period not exceeding two years which can be further extended upto the age of 62 years. On his re-appointment he will get the salary and allowances as is admissible to a retired Government servant as per provisions of Rajasthan Service Rules. (5) Any member of the Rajasthan Higher Judicial Service who has reached the age of superannuation will be eligible for re-appointment as a Judge of the Family Court for a period not exceeding two years which can further be extended upto 62 years of his age, by the State Government with the concurrence of the High Court. On his re-appointment, he will get salary and allowances as are admissible to a retired Government servant as per law. (6) The pension of a person appointed otherwise than from the in service members of the Rajasthan Higher Judicial Service or other service shall be a sum of Rs. 7,200/- per annum for each completed year of service subject to a maximum of Rs. 24,000/- per annum. (7) The State Government may transfer any Judge from one Family Court to another such Court, with concurrence of the High Court.

5. Terms and conditions of Service of Officers and Employees.

(1) There shall be provided to a Court such number and categories of officers and employees as are determined by the State Government from time to time in consultation with the High Court. (2) Such officers and employees may be appointed by the Principal Judge in a Court on deputation from

amongst those in the employment of the State Government as deemed necessary.(3)The recruitment or appointment of the Officers and employees in a court shall be made by the Principal Judge in accordance with the Rajasthan Subordinate Courts Ministerial Establishment Rules, 1986 and Rajasthan Class IV Service (Recruitment and Other Service Conditions) Rules, 1963.(4)The Salary, allowances and other terms and conditions of service of the officers and employees of the court shall be governed by the rules and orders made by the State Government from time to time in this behalf and as are applicable to the officers and employees of the State Government.

6. Medical Expert.

(1)A Private Medical expert, when called by the court from out-station, shall be paid TA/DA as may be determined by the Court keeping in view the rules made by the State Government from time to time in this behalf with regard to Government servants. Such an expert and a Government doctor when called locally shall be paid a sum not exceeding Rs. 25/- towards conveyance charges as determined by the Court.(2)Such a Private Medical expert shall be paid as his fee a sum as may be determined not exceeding Rs. 75/- by the Court.(3)A medical expert who has retired from Government service shall be paid such TA/DA as were admissible to him at the time of his retirement.

7. Amicus Curiae.

(1)The Judge, if he deems necessary may appoint any legal expert as Amicus Curiae in a case.(2)The Amicus Curiae shall be paid by the State Government in a case or proceeding a fee which may be determined by the State Government from time to time.

8. [Appointment of counsellors. [Substituted by Notification No. G.S.R. 28, dated 27.6.2016 (w.e.f. 23.11.1991).]

(1)The High Court shall, by public notice published in any local daily news paper having wide circulation in the area, invite applications for each area from persons engaged or working in the field of social welfare and welfare of the family for being associated with or to assist the Family Court of such area.(2)A person shall not be qualified for appointment as a counsellor unless he possesses the following qualifications, namely:-(i)Degree in social sciences such as social welfare, sociology, clinical psychiatry, psychology/ philosophy, preferably with a Degree in laws; and(ii)At least five years experience in field work/ research or of teaching in Government department or in a College/ University or a comparable academic institute, with special reference to problems of women and children.OrFive years experience in the examination and/ or application of Central/ StateLaws relating to marriage, divorce, maintenance, guardianship and adoption and other family disputes;Provided that the High Court may, in exceptional circumstances, relax the minimum academic qualifications:Provided further that preference may be given to women having the requisite qualifications:Provided also that preference shall be given to a candidate who has been an officer of District Judge cadre or has experience of counselling in family matters.(3)The applications received for appointment as counsellors shall be examined and if the applicants are, on such enquiry

as deemed proper, found to be fit for being associated as counsellors, such applicants shall, in consultation with the Judge of the Family Court, be authorized for a period of two years by the State Government by notification in the Official Gazette, to be associated with the Family Court in that area.(4)The Court may appoint a Counsellor from the persons authorized under sub-rule (3).(5)The Court may secure the services of any other person whose association with the Court appears necessary so as to enable the Court to exercise its jurisdiction more effectively in accordance with the purpose of the Act.]

8. Appointment of counsellors and other persons.- (1) The High Court shall, by public notice published in any local daily newspaper invite applications in each area from institutions organisations and persons engaged or working in the field of social welfare and welfare of the family for being associated with or to assist the Family Court of such area.(2) The applications shall be examined and if the applicants are, on such enquiry as deemed proper, found to be fit for being associated as counsellors, such applicants shall, in consultation with the Judge of the Family Court be authorized for a period of 2 years by the State Government by notification in the official Gazette, to be associated with the Family Court in that area.(3) The Court may appoint a Counsellor from the approved list.(4) Such Counsellor may, if permitted by the Court in a particular matter, assist the Court as welfare expert in its functions under the Act.(5) Such Counsellor shall not be paid any fee or expenses by any party to the case.(6) The Court may assign any work to a Counsellor for assisting it in discharging its functions under the Act.(7) The Court may secure the services of any other person whose association with the Court appears necessary so as to enable the court to exercise its jurisdiction more effectively in accordance with the purpose of the Act.(8) The Counsellor or the person associated with the Court under clause (7) shall not act or plead for a party to a case or proceeding but shall generally assist the Court in reaching peaceful and amicable settlement of the dispute.(9) A Counsellor or a person associated under clause (7) may be paid by the Court a sum not exceeding Rs. 25/- as conveyance charges.

9. [Number of counsellor. [Added by Notification No. G.S.R. 28, dated 27.6.2016 (w.e.f. 23.11.1991).]

- Each Family Court shall have as many counsellors as may be determined by the High Court.

10. Salary, Allowances & other terms and conditions of counsellors.

(1)The counsellors shall be entitled to receive the fee and other allowances at such rates as may, from time to time, be determined by the State Government in consultation with the High Court.(2)The counsellor shall not be paid any fee or expenses by any party to the case.(3)The Court may assign any work to a Counsellor for assisting it in discharging its functions under the Act.(4)The Counsellor or the person associated with the Court under sub-rule (5) of Rule 8 shall not act or plead for a party to a case or proceeding but shall generally assist the Court in reaching peaceful and amicable settlement of the dispute.(5)The Counsellor, entrusted with any petition, shall,-(i)attend the Court as and when required by the Judge of the Family Court;(ii)aid and advise the parties regarding settlement of the subject-matter of dispute or any other part thereof;(iii)help the parties in reconciliation;(iv)submit report or interim report, as the case may be required by the

Court;(v)perform such other functions as may be assigned to him by the Family Court, from time to time.(6)The Counsellor in performing his function shall be guided by such general or special directions as may be given by the Court, from time to time.Explanation. - The term "Counsellors" in this rule shall include the persons associated with the Court under sub-rule (5) of Rule 8.]Notification[No. 1(12) Jud./88, dated 18th June, 1991, Published in Rajasthan Gazette 1 (kh), dated 13.6.1991, page 102] - In exercise of the powers conferred by Section 3 of the Family Courts Act 1984 (Central Act 66 of 1984) and after making consultation with the Rajasthan High Court, the State Government has, with effect from 1.7.1991, established the following Family Courts for exercising the powers conferred on family courts by the aforesaid Act and its local limits and jurisdiction shall be as mentioned in column 4 of the table appended herewith:-Table

S. No.	Name of Court	Place of sitting	Limits of local jurisdiction
1	2	3	4
1.	Family Court, Udaipur	Udaipur	Revenue District, Udaipur
2.	Family Court, Kota	Kota	Revenue district, Kota