

LAW AND JUDICIARY DEPARTMENT

Mantralaya, Bombay 400 032, dated the 27th December 1990

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CONSTITUTION OF INDIA AND FAMILY COURTS ACT, 1984.

No. DAJ. 1187/274(A)/(82)-D-III.—In exercise of the powers conferred by the proviso to article 309 of the Constitution of India and section 23 read with section 4 of the Family Courts Act, 1984 (66 of 1984), the Governor of Maharashtra, in consultation with the High Court of Judicature at Bombay, is hereby pleased to make the following rules regulating recruitment and service conditions of the Judge of the Family Court in the State of Maharashtra, namely :—

1. These rules may be called the Judges of the Family Courts (Recruitment and Service Conditions) Rules, 1990.

2. In these rules, unless the context requires otherwise,—

(a) “family Courts” means Family Courts established under the Family Courts Act, 1984 (66 of 1984);

(b) “High Court” means the High Court of Judicature at Bombay;

(c) “Judge” means the Judge or; as the case may be, Principal Judge, Additional Principal Judge or other Judge of a Family Court in the State of Maharashtra.

3. Appointment to the post of a Judge shall be made either,—

(A) by transfer of a person holding a post of District Judge, as defined under article 236(a) of the Constitution of Indian :

Provided that, a person holding the post other than a post of a District Judge, Judge of the City Civil Court, Bombay, Joint District Judge, Chief Judge, Small Causes Court, Bombay or Chief Metropolitan Magistrate shall have standing of not less than five years :

Provided further that, a person holding the post other than a post of District Judge, Judge of the City Civil Court, Joint District Judge, Chief Judge, Small Causes Court, Bombay or Chief Metropolitan Magistrate shall not ordinarily be appointed as a Judge of the Family Court, Bombay ; or

(B) by nomination from amongst candidates who,—

(a) is ordinarily not less than 35 years of age ;

(b) has for at least seven years held a Judicial Office in India or the office of a Member of a Tribunal or any post under the Union or a State requiring special knowledge of law ; or

(c) has for at least seven years been an Advocate of a High Court or of two or more such Courts in succession ; or

(d) (i) is a post Graduate in Law with specialisation in personal Law ; or

(ii) has a post Graduate degree in Social Sciences such as Master of Social Welfare, Sociology Psychology/Philosophy with a degree in Law ; and

(iii) has at least seven years' experience in field work/research or of teaching in a Government Department or in a College/University or a comparable academic institute, with special reference to problem of women and children ; or

(iv) has seven years' experience in the examination and/or application of Central/State Laws relating to marriage, divorce, maintenance, guardianship, adoption and other family disputes ; or

4. In selecting persons for appointment as Judges :—

(a) every endeavour shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children and qualified by reason of their experience and expertise to the settlement of disputes by conciliation and counselling are selected ; and

(b) preference shall be given to women.

5. No person shall be appointed as or hold the office of a Judge of the Family Court after he/she has attained the age of 62 years :

Provided that a person appointed on transfer as a Judge of the Family Court shall hold office till he attains the age of 58 years.

6. (a) A person appointed by nomination, other than from judicial service, shall be on probation for a period of 2 years :

Provided that the High Court may extend the said period, from time to time, as it may deem fit :

Provided further that on the expiry of such period he/she may be confirmed, if there is a permanent vacancy.

(b) The services of a Judge during the period of probation and thereafter, until expressly confirmed by a written order, shall be terminable by one month's notice on either side, without any reason being assigned therefore or by payment of salary for the period of notice or the unexpired portion thereof.

7. A person, appointed to the post shall be debarred from practising as a legal expert in any Family Court for a period of two years from the date on which he/she ceases to be in service and shall at the time of appointment, give an undertaking in writing that for a period of two years from the date on which he/she ceases to be in service, he/she shall not practise as a legal expert in any Family Court in the State of Maharashtra.

8. (a) The Judge of the Family Court in Bombay shall draw pay and allowances at par with the Judges, (i.e. of Principal Judge, Additional Principal Judge and Judge respectively) of the City Civil Court, Bombay and at other places pay and allowances as admissible to the District Judge. The Principal Judge of the Family Courts at other places however will be entitled to such additional allowances as sanctioned from time to time.

(b) The service conditions of the Principal Judge, Additional Principal Judge/Judges and Judges of the Family Courts, Bombay shall be at par with the Principal Judge, Additional Principal Judge/Judges and Judges of the City Civil Court, Bombay, the Judges of the Family Courts outside Bombay shall be at par with the District Judges.

By order and in the name of the Governor of Maharashtra,

B. G. MORE,
Secretary to Government.
