

**Assam Non-Government (Deficit) College Central Pension
And Provident Fund Act, 1997**

17 of 1997

[08 May 1997]

CONTENTS

1. Short Title, Extent And Commencement
2. Application
3. Definition
4. Constitution Of The Fund
5. Contribution Of The Board
6. Term Of Office
7. Meeting Of The Board
8. Function Of The Board
9. Claims To Pension
10. Rate Of Pension
11. Commutation Of Pension
12. Exemption Of Pension From Attachment
13. Assignment Etc. In Anticipation Of Pension To Be Void
14. Nomination Of Pension
15. Audit Of Fund And Expenditure
16. Option
17. Overriding Effect
18. Power To Make Rules

**Assam Non-Government (Deficit) College Central Pension
And Provident Fund Act, 1997**

17 of 1997

[08 May 1997]

An Act to constitute a Central Pension and Provident Fund for the employees of the Non-Government (Deficit) Colleges in Assam. Whereas it is expedient to establish and constitute a Central Pension and Provident Fund for the employees of the Non-Government Deficit Colleges in Assam to make provisions for payment of pension and other retirement benefits to the employees of the said Colleges. It is hereby enacted in the Forty-eighth year of the Republic of India as follows- STATEMENT OF OBJECT AND REASONSThe Non-Government (Deficit) Colleges in Assam have

been established from time to time due to demand of the situation. These Non-Government (Deficit) Colleges have also been given Government grants-in-aid with facilities for Contributory Provident Fund and Death-cum-Retirement gratuity. As there is a pressing demand from the employees (Both teaching and Non-Teaching) of the Various Non Government (Deficit) Colleges of Assam for pension, it has been decided to introduce a scheme for giving pension. Hence this Bill. 1. Published in the Assam Gazette, Extraordinary No. 132, dated the 16th May, 1997.

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Assam Non-Government (Deficit) College Central Pension and Provident Fund Act, 1997,
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the Government may, by Notification published in the official Gazette, appoint.

2. Application :-

This Act shall apply to the employees of the Non-Government (Deficit) Colleges situated in the State of Assam and receiving grants in aid from the Government of Assam and affiliated to the Gauhati University, Dibrugarh University or Assam (Silchar) University.

3. Definition :-

In this Act unless there is anything repugnant in the subject or context-

- (a) " Board" means the Board constituted under Section 5 of this Act;
- (b) "C.P.F. Scheme Act" means the Assam Non-Government Schools and College Employees Centralised Provident Fund Scheme Act, 1969;
- (c) "employees" means the teaching and non-teaching staff of the Non-Government (Deficit) Colleges, appointed substantively against a sanctioned post;
- (d) "employer" means and includes Secretary of the Governing Body or such body to perform the function of a Governing Body of any Non-Government (Deficit) Colleges, situated in the State of Assam and receiving grants-in-aid from the Government of Assam and affiliated to the Gauhati University, Dibrugarh University or

Assam (Silchar) University, except any such College receiving adhoc grants in aid from the Government of Assam;

(e) "Fund" means the Central Pension and Provident Fund constituted under Section 4 of this Act;

(f) "Government" means the Government of Assam;

(g) "grant-in-aid" means deficit system of grants in aid provided by the Government;

(h) "matching contribution" means contribution on the part of the employer against each subscribers share under the C.P.F. Scheme Act, or this Act, as the case may be;

(i) "Non-Government (Deficit) Colleges" means the Colleges receiving the grant-in-aid from the Government and affiliated to the Gauhati University, Dibrugarh University or Assam (Silchar) University except those colleges receiving ad-hoc-grants;

(j) "Pension" means and includes any amount of money to be paid periodically to an employee after retirement from and out of the fund and includes gratuity death-cum-retirement benefit and family pension, etc.;

(k) "Prescribed" means prescribed by rules made under this Act;

(l) "Superannuation" means the date on which an employee completes the age of 60 years.

4. Constitution Of The Fund :-

(1) There shall be constituted a Fund called the Central Pension and Provident fund, wherein shall be credited,-

(i) transfer, the existing fund of the Contributory Provident fund with matching contribution from the employer under the C.P.F. Scheme Act;

(ii) future contributions of the employees and matching contribution made by the employee; and

(iii) interest accrued on the amounts under clauses (i) and (a) above:

Provided that in case of an employee who does not opt for pension under this Act within the stipulated period as provided Section 16 and prefers to continue in the existing system under the C.P.F. Scheme Act, the amount of his contribution along with the matching contribution toward the Contributory Provident Fund and the interest thereon shall not be transferred to the Fund and the said amount and future contributions of the Contributory Provident Fund shall be regulated under C.P.F. Scheme Act :

Provided further that an employee below the age of superannuation

or the date of commencement of the Act, who opts for pension under this Act, shall deposit in the Fund, in lieu of his contribution towards the Contributory Provident Fund under the C.P.F. Scheme Act, an amount of money equal to his contribution made earlier towards the Contributory Provident Fund and the matching contribution of the employer in respect of such employee under this Act shall also be credited to the Fund with effect from the date of commencement of this Act :

Provided also that an employee, who joins in service on or after the date of commencement of this Act, shall contribute and amount to the Fund at such rate as an employee contributes to the Contributory Provident Fund under the C.P.F. Scheme Act, with effect from the date of his joining in the service and the employer shall also contribute the matching contribution to the Fund accordingly.

(2) The Fund shall be deposited and operated in any Nationalised Bank.

(3) All employee may contribute voluntarily to the Fund any amount exceeding the minimum rate as applicable under the C.P.F. Scheme Act, for which there shall be no contribution from the employer for the amount in excess.

5. Contribution Of The Board :-

There shall be constituted a Board for management, control, maintenance and operation of the Fund with the following-

(i) Secretary to the Government of Assam, Education (Higher) Department..... Ex-Officio Chairman.

(ii) Director of Higher Education, Government of Assam. Ex-Officio Member.

(iii) One person representing employees to be nominated by the Government..... Member.

(iv) Director of Pension, Government of Assam..... Ex-Officio Member.

(v) Inspector of Colleges Ex-Officio Member-Secretary.

6. Term Of Office :-

(1) The nominated members shall hold office for a term of 3 (three) years from the date of his appointment.

(2) An outgoing member of the Board shall not be eligible for re-nomination.

(3) In the event of any vacancy before completion of the term, the

Government may fill up such vacancy for the rest of the term from amongst the category of members to which the vacancy belonged : Provided that the vacancy in the office or the absence of any member of any category in the Board for any reason shall not invalidate the proceeding or decision of the Board.

7. Meeting Of The Board :-

The Board shall meet at such time and at such place and shall observe such procedure in regard to transaction of business its meeting as may be prescribed.

8. Function Of The Board :-

Subject to the provisions of this Act and the rules made thereunder, the Board shall-

- (i) mobilise the Fund;
- (ii) deposit the fund in such accounts as may be prescribed;
- (iii) invest/re-invest the Fund under secured investment for the interest of the employees and the Fund; and
- (iv) dispose of pensionary claims as may be prescribed.

9. Claims To Pension :-

Any employee having a claim relating to any pension or grant may prefer such claim in the prescribed form to the Member-Secretary of the Board, who shall dispose of such claims in accordance with the procedure as may be prescribed.

10. Rate Of Pension :-

The pension shall be payable on a self-sustaining basis at such rates and on such norms as may be prescribed under this Act out of the amount of the Fund by way of the matching contribution of the employer and interest accrued thereon.

11. Commutation Of Pension :-

The Board may, at the request of the holder of pension, order a part of his pension to be commuted for a lump-sum on such terms as may be prescribed.

12. Exemption Of Pension From Attachment :-

No pension granted or contributed by the Board on account of past

service or present infirmities or as a compassionate allowance and no money due or to become due on account of any such pension or allowance shall be liable to seizure, attachment or sequestration by process of any court at the instance of creditor, or for any demand against the pensioner, or in satisfaction of a decree or order of any such court :

Provided that, if any disciplinary proceeding is initiated against an employee before or after his retirement in connection with his service and if it is held in such proceeding that he is liable to refund any money, property or other valuable security illegally received by him, the Board or the employer, as the case may be, shall be entitled to recover such amount or the value of the property or valuable security, as the case may be by deduction a part of the pension money in instalment till the entire money held to be payable by the employee is fully recovered as envisaged under Rule 21 of the Assam Services (Pension) Rules, 1969 :

Provided that, for the purposes of this Act, "the Governor of Assam" and "the Government" occurring in Rule 21 of the Assam Services (Pension) Rules, 1969 shall mean the employer.

13. Assignment Etc. In Anticipation Of Pension To Be Void :-

All assignments, orders, sales and securities of any kind made by the employee entitled to any pension in respect of any money not payable at or before the making therefor, on account of any such pension or for giving or assigning any future interest thereon, shall be void.

14. Nomination Of Pension :-

Notwithstanding anything contained in Section 12 Or any other law for the time being in force-

(a) any person to whom any pension is payable by the Board from the fund (hereinafter referred to as the Pensioner) may nominate any other person (hereinafter referred to as "nominee" in such manner and in such form as may be prescribed, to receive after the death of the pensioner, all moneys payable to the pensioner on account of such pension before or after the date of such nomination and which remain unpaid immediately before the death of the pensioner; and

(b) the nominee shall be entitled, on the death of the pensioner to receive to the exclusion of all other persons, all such moneys which have so remained unpaid :

Provided that, if the nominee predeceases the pensioner the nomination shall, so far as it relates to the right conferred upon the said nominee, be void and of no effect :

Provided further that, if the nominee predeceases the pensioner, the pensioner shall be entitled to make another nomination of any other person and the right to receive all amounts on behalf of the pensioner shall vest in the nominee so appointed by the pensioner.

15. Audit Of Fund And Expenditure :-

The Fund and expenditure therefrom shall be audited in such manner and by such authority, as may be prescribed.

16. Option :-

Notwithstanding anything contained in the C.P.F. Scheme Act, an employee who has not crossed the age of superannuation on the date of commencement of this Act shall be entitled to opt for pension under this Act or to continue in the existing system under the C.P.F. Scheme Act and such employees shall exercise the option within a period of six months from the date of commencement of this Act. The employees, who have already crossed the age of superannuation on the date of commencement of this Act, shall be deemed to have continued in the existing system under the C.P.F. Scheme Act :

Provided that in case an employee opts for pension he shall retire at the age of superannuation and shall be entitled to pension and the contribution made by him to the Contributory Provident Fund together with the interest in his contribution in addition to the other usual retirement benefits and in case an employee opts for or continues in the existing system under the C.P.F. Scheme Act, he shall also retire at the age of 60 years and shall be entitled only to the contribution made by him and the matching contribution of the employers to the Contributory Provident Fund together with the interest thereon in addition to the usual retirement benefits, but shall not be entitled pension :

Provided further that in case an employee opting for pension wants to go on voluntary retirement after completing 20 years of service, he shall be entitled to proportionate pension in addition to his contribution to the contributory Provident Fund, the interest thereon and the usual retirement benefits and in case an employee opting for the existing system under the C.P.F. Scheme Act, voluntarily retires after completing 20 years of service, he shall be

entitled to get the usual retirement benefits in addition to his contribution to the Contributory Provident Fund, the matching contribution and the interest thereon, but shall not be entitled to pension :

Provided further more that the facility for exercising the option shall not be available to the employees joining in service after the commencement of this Act.

17. Overriding Effect :-

Any provision of this Act, if contradicts to or conflicts with any provision of the C.P.F. Scheme Act, in giving effect to the provisions of this Act, the provision of this Act shall have overriding effect to the extent of such contradictions or conflicts.

18. Power To Make Rules :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely-

(i) regulation, control, maintenance and operation of the Fund relating to payment of pension and the retirement benefits;

(ii) manner of preparation, submission of Forms;

(iii) the place and times at which and the person to whom any pension shall be paid;

(iv) inquiries into the identity of claimant;

(v) records to be kept on the subject of pension;

(vi) Preservation of records of pension;

(vii) Correction of such records;

(viii) the forms and the manner in which the Pension payment Order shall be issued;

(ix) mode of payment and rate of pension;

(x) authority to audit pension payment;

(xi) registers and such other records to be maintained in respect of payment of pension, and

(xii) Office and staff of the Board.

(3) Every rule made under this Section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly, while it is in Session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session, in which it is so laid or the session

immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.