

**West Bengal College Teachers (Security Of Service) Act,  
1975**

**36 of 1975**

**[01 October 1975]**

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PREAMBLE

An Act to provide for the security of service of teachers of affiliated, constituent and Government Sponsored Colleges in West Bengal.

WHEREAS it is expedient to provide for the security of service of teachers of affiliated, constituent and Government Sponsored Colleges in West Bengal;

It is hereby enacted as follows:-

1. Assent of the Governor was published in the Calcutta Gazette, Extraordinary, dated the 1st October, 1975.

### **1. Short title, extent and commencement :-**

(1) This Act may be called the West Bengal College Teachers (Security of Service) Act, 1975.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

(1) "college" means a college or an institution affiliated to a University in accordance with the provisions of the Act constituting such University or the Statutes made thereunder and includes a constituent college or a Government Sponsored College but does not include a Government College;

(2) "constituent college" means a college recognised as such by the University but does not include a Government College;

(3) "Governing Body", in relation to a college, means the managing committee or any other body charged with the management of the affairs of that college and recognised as such by the University to which such college is affiliated;

(4) "Government college" means a college maintained and managed by the State Government;

(5) "Government Sponsored College" means a college declared by the State Government as such;

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

(7) "Principal" means the head of a college by whatever name called;

(8) "Statutes", "Ordinances" and "Regulations" means respectively the Statutes, Ordinances and Regulations of the affiliating University;

(9) "teacher" means Professor, Assistant Professor, Lecturer, Tutor, Demonstrator, Physical Instructor or any other person holding a teaching post recognised by the affiliating University and appointed as such by a college and includes its Principal and Vice-Principal.

### **3. Appointment of teacher :-**

Appointment to the post of a teacher shall be made by the Governing Body on the recommendation of the University and College Services Commission to be constituted by the State Government in the manner prescribed:

Provided that pending formation of such Commission such appointment shall be made on the recommendation of a Selection Committee to be constituted for the purpose in the manner prescribed:

Provided further that no recommendation of the University and College Services Commission or the Selection Committee will be necessary with respect to filling up for a period not exceeding six months of any permanent or temporary vacancy in the post of a teacher:

Provided also that in cases of permanent vacancies or temporary vacancies for a period exceeding six months, if no recommendation of the University and College Services Commission or Selection Committee, as the case may be, is forthcoming, it shall be lawful for the Governing Body of the college to extend, with the prior approval of the University to which such college is affiliated, the period of temporary appointment of a teacher from time to time, so, however, that the total period of such temporary appointment shall not exceed two years.

#### NOTE

Regularisation cannot be a mode of recruitment. The Court has no jurisdiction to issue an order directing regularisation of service contrary to mandatory provisions of the relevant statute. An appointment made in violation of recruitment rules is illegal. A pure question of law or jurisdiction never operates as res judicata or estoppel. If the Order itself is a nullity it cannot operate as res judicata.-Director of Public Instructions of West Bengal vs. Dr. Ashish Pal, 1998 (2) CHN 241 (D.B.).

#### **4. Letter of appointment of teacher :-**

Every teacher of a college shall, on his appointment as such, be provided with a letter of appointment containing such terms and conditions of appointment as may be prescribed.

#### NOTE

Regularisation cannot be a mode of recruitment. The Court has no jurisdiction to issue an order directing regularisation of service contrary to mandatory provisions of the relevant statute. An appointment made in violation of recruitment rules is illegal. A pure

question of law or jurisdiction never operates as res judicata or estoppel. If the Order itself is a nullity it cannot operate as res judicata. - Director of Public Instructions of West Bengal vs. Dr. Ashish Pal, 1998 (2) CHN 241 (D.B.).

## **5. Probation :-**

(1) A teacher appointed against a permanent vacancy shall be on probation ordinarily for a period of one year from the date of such appointment and such period of probation may at the discretion of the Governing Body be extended for a further period not exceeding one year.

(2) If at any time during the period of probation the probationers work is not considered satisfactory, the probationer shall be discharged by the Governing Body.

(3) On satisfactory completion of the period of probation, a teacher shall be confirmed with effect from the date of his appointment on probation by an order in writing made by the Governing Body and the fact of such confirmation shall be communicated to such teacher:

Provided that if on completion of the period of probation of a teacher no such order of confirmation is passed and communicated within a period of two months of the completion of the period of probation, the teacher shall be deemed to have been confirmed with effect from the date of his appointment on probation.

### **NOTE**

Regularisation cannot be a mode of recruitment. The Court has no jurisdiction to issue an order directing regularisation of service contrary to mandatory provisions of the relevant statute. An appointment made in violation of recruitment rules is illegal. A pure question of law or jurisdiction never operates as res judicata or estoppel. If the Order itself is a nullity it cannot operate as res judicata. - Director of Public Instructions of West Bengal vs. Dr. Ashish Pal, 1998 (2) CHN 241 (D.B.).

## **6. Termination of service of temporary teacher :-**

The services of a temporary teacher shall not be terminated before the expiration of the period for which he was appointed except after serving one months notice or paying him one months salary in lieu thereof.

## **7. Maintenance of Service Register :-**

- (1) A Service Register in respect of every teacher of a college shall be maintained by such authority and in such form and shall contain such particulars of service as may be prescribed.
- (2) The Service Register so maintained shall, on demand, be shown to the teacher concerned.

### **8. Other duties of teacher :-**

Every teacher shall co-operate with and assist the Principal in carrying out such functions as appraising applications for admission, conducting co-curricular activities and holding University and college examinations including supervision thereof.

### **9. Penalty :-**

(1) The following penalties may, for good and sufficient reasons and in the manner prescribed, be imposed on a teacher by the Governing Body of a college, namely:-

- (i) censure;
- (ii) recovery of the whole or part of any pecuniary loss caused to the college by negligence or breach of any lawful order of the Governing Body;
- (iii) withholding of increments;
- (iv) suspension;
- (v) compulsory retirement;
- (vi) removal from service which shall not be a disqualification for future employment;
- (vii) dismissal from service which shall ordinarily be a disqualification for future employment as a teacher.

(2) No order imposing any of the aforesaid penalties shall be made without informing the teacher concerned of the charges against him and giving him an opportunity of being heard and except after an inquiry held in the manner prescribed:

Provided that penalties specified in clause (vi) or clause (vii) of sub-section (1) shall not be imposed on a confirmed teacher except on ground of being persistently engaged in activities prejudicial to the academic or financial interest of the college or habitual dereliction of duty or physical infirmity likely to interfere with the normal discharge of his duties or mental derangement or moral turpitude.

### **10. Communication of order imposing penalty :-**

An order of the Governing Body of a college imposing any of the penalties referred to in sub-section (1) of section 9 shall be communicated to the teacher concerned and shall also be reported to the University to which such college is affiliated.

### **11. Suspension of teacher :-**

(1) The Governing Body of a college may place a teacher under suspension-

(a) where an inquiry against him under sub-section (2) of section 9 is contemplated by the Governing Body or such an inquiry is pending; or

(b) where a case against him in respect of any criminal offence involving moral turpitude is under investigation or trial.

(2) Every order of suspension under sub-section (1) shall be communicated to the Vice-Chancellor of the University to which the college is affiliated within a fortnight from the date of such order.

(3) A teacher who is placed under suspension shall be entitled to receive from the Governing Body of the college a monthly subsistence allowance-

(a) during the first six months of the period of suspension at the rate of fifty per cent, of his total monthly emoluments.

(b) during the next six months of the period of suspension at the rate of seventy-five per cent, of his total monthly emoluments, and

(c) during the balance of the period of suspension at the rate of ninety per cent, of his total monthly emoluments.

Explanation.-For the purpose of this sub-section the expression "total monthly emoluments" means the total monthly emoluments which the teacher had been drawing immediately before his suspension.

### **12. Appeals :-**

(1) A teacher against whom an order imposing any of the penalties referred to in sub-section (1) of section 9, has been passed, may prefer an appeal within thirty days from the date of receipt of such order to the University to which the college is affiliated.

(2) The University shall, after giving the teacher and the Governing Body of the college an opportunity of being heard, pass such order as it thinks fit.

### **13. Power to delegate :-**

The University may, by order, delegate the power conferred upon it by section 12 to such authority or officer not below the rank of a Deputy Inspector of Colleges as the University may specify.

#### **14. Appellate Tribunal :-**

(1) The State Government shall, for the purposes of this Act, constitute an Appellate Tribunal consisting of the following members, namely:-

(a) a Chairman who shall be a person who holds or has held the office of a Judge not below the rank of a District Judge, and

(b) two other members, one of whom at least, shall be an educationist,

to be nominated by the State Government.

(2) The Governing Body of a college or a teacher, may prefer an appeal against an order under section 12, to the Appellate Tribunal within a period of thirty days from the date of the order.

(3) The Appellate Tribunal may, on application made in this behalf, call for the records of an appeal from the University if no final order has been passed therein by the University under sub-section (2) of section 12 within a period of one year from the date of filing an appeal under sub-section (1) of the said section.

(4) The Appellate Tribunal shall dispose of an appeal referred to in sub-section (2) or sub-section (3) in such manner as may be prescribed.

#### **15. Bar to representation by legal practitioners :-**

No legal practitioner as defined in the Advocates Act, 1961, shall be allowed to represent either a teacher or the Governing Body of a college in any proceedings under section 12 or section 14, as the case may be:

Provided that a teacher or any member of the Governing Body of a college who is also a legal practitioner shall be entitled to represent himself or the college, as the case may be, in such proceedings.

#### **16. Decision of the Tribunal to be final :-**

The decision of the Appellate Tribunal shall be final and no suit or proceeding shall lie in any civil court in respect of the matters required to be referred to the said Tribunal.

#### **17. Compensation in case of injury or death of a teacher :-**

(1) If any personal injury or death is caused to a teacher in the course of discharge of his duties, the Governing Body of the college in which the teacher is employed shall be liable to pay compensation the amount of which will be assessed by such authority and in such manner as may be prescribed.

(2) In the case of death of a teacher the compensation shall be payable to his legal heirs.

### **18. Modification of the existing terms and conditions of service` :-**

The terms and conditions of service of a teacher employed before the commencement of this Act shall, to the extent of any inconsistency with the provisions of this Act or the rules made thereunder, be deemed to have been modified by the said provisions.

### **19. Special provisions :-**

The provisions of such Acts or Statutes, Ordinances, Regulations or rules made thereunder as are applicable to a teacher other than that of a Government Sponsored College, and of such rules and orders made by the State Government as are applicable to a teacher of a Government Sponsored College, in respect of selection, appointment, promotion, terms and conditions of service including leave and retirement benefits, shall continue to apply except in so far as they are not repugnant to the provisions of this Act or rules made thereunder.

### **19A. Act not to apply in relation to certain colleges :-**

<sup>1</sup>[Nothing contained in this Act shall apply in relation to any college established and administered by a minority, whether based on religion or language.

1. Section 19A inserted by W.B. Act 44 of 1975.

### **20. Power to make rules :-**

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provisions of this Act, are required to be



prescribed or to be provided by rules.