

**Bihar State Government Employees Revision Of Pension,
Family Pension And Death-Cum- Retirement Gratuity
(Validation And Enforcement) Act, 2001**

3 of 2001

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PREAMBLE

An Act to validate and enforce the revisions of pension, family pension and death-cum-retirement gratuity for Bihar State Government Employees.

WHEREAS, the State Cabinet while accepting revision of pay/pension for State Government employees in principle on the pattern of Central Government had also decided to await report of its Fifth Pay Revision Committee.

AND, WHEREAS, having regard to the financial resource crunch and impact of enforcement of Fifth Pay Revision Commission report in December 1986 involving burden of Rupees several hundred crores due to the agreement made with the employees, the Government of Bihar had passed Resolution No. 806, dated 13th February, 1989 constituting Fitment-cum-Pay Revision Committee for granting Central Pay Scales and Pension/Gratuity benefits to the employees notionally with effect from 1st January 1986 but actually with effect from 1st March, 1989 and stipulated that arrears will not be paid for the period 1st January, 1986 to 28th February, 1989;

AND, WHEREAS, the Government of Bihar had passed and issued Resolution dated 18th December, 1989 regarding pay revision and

Resolution No. 1853F, for pension and gratuity to employees who retired on or after 1st January, 1986 and Resolution No. 1854F for pensionary benefits of employees who retired before 1986, and in each case, express provision was made for granting actual pay/pension revision from 1st March, 1989 and notionally from 1st January, 1986 but excluding arrears between 1st January, 1986 to 28th February, 1989;

AND, WHEREAS, the cut-off principle adopted as above for pay revision was upheld by a Full Bench of the Patna High Court in CWJC No. 511 of 1994 as being consistent with the Constitution of India;

AND, WHEREAS, a Division Bench of the Patna High Court allowed CWJC No. 2467/1991 and quashed Para 1(1) of Resolution No. 1853F and Para 2(1) of Resolution No. 1854F meant for pensionary benefits and directed the Government to reconsider the matter, and the Special Leave Petition filed by the State Government in the Supreme Court has been dismissed on 20th January, 1997 and the Review filed has also been dismissed;

AND, WHEREAS, SLP No. 1672/1999 filed by the State Government against order passed in contempt proceedings in MJC No. 1608/1997 has been dismissed due to infructuous;

AND, WHEREAS, CWJC No. 2082/1996 pertaining to pension arrears had been dismissed by Ld. Single Judge following the Full Bench Judgment in H. Kujur's case but the said judgment was reversed by a Division Bench of Ranch Bench of the Patna High Court following the judgment of the earlier Division Bench judgment dated the 21st August, 1996 and in the SLP filed by the State Government before the Hon'ble Supreme Court, the said judgment have been held to be irrelevant in view of the statement made by the respondents for withdrawing the writ petition;

AND, WHEREAS, in its judgment dated the 21st August, 1996, the Division Bench of the Patna High Court had observed that the Government could have fixed 1st March, 1989 or date of passing of the impugned Resolution i.e., 19th April, 1990 as the cut-off date but the Government, after fixing 1st January, 1986 on the Central pattern, had no justification to deny the consequential monetary benefits and make the same effective only from 1st March, 1989, and had required the Government to re-consider the matter in accordance with law;

AND, WHEREAS, the State Government after considering the matter, has come to the conclusion that in view of inadequate financial resources, it is not possible to bear the additional financial

burden regarding arrears of pension, and that the financial burden is likely to increase substantially due to various writ petitions pending in the High Court for questioning the same cut-off principle with regard to gratuity;

AND, WHEREAS the Supreme Court has held that financial burden is an important factor in determining cut-off dates;

AND, WHEREAS due to the complete quashing of Para 1 (1) of Resolution No. 1853F, an anomaly has arisen as this para pertains even to the employees retiring after 1st March, 1989.

AND, WHEREAS it has become necessary to validate and enforce the revision of pension/family pension/gratuity with effect from 1st March, 1989 only;

Be it enacted by the Legislature of the State of Bihar in the fifty second year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Bihar State Government Employees Pension, Family Pension and Death-cum- Retirement Gratuity (Validation and Enforcement) Act, 2001.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall be deemed to have come into force with effect from 1st March, 1989.

2. Grant of Revision Benefits :-

The Resolution No. 1853F and the Resolution No. 1854F of the State Government (Finance Department) issued on dated 19th April, 1990 would be deemed to have been enforced with effect from 1st March, 1989 and Revision benefits contemplated by the said Resolutions would be granted with effect from 1st March, 1989.

3. Additional relief to existing Pensioners :-

(1) The additional relief for existing pensioners as per para 3.1 of State Government (Finance Department) Resolution No. 1854F dated 19th April, 1990 and additional amounts of pension accruing under para 4 of the said Resolution shall be payable w.e.f. 1st March, 1989. However, pension/family pension will be consolidated w.e.f. 1st January, 1986 by adding together:-

(i) the existing pension/existing family pension;

(ii) the existing Dearness relief; and

(iii) additional relief accruing out of para 3.1, 3.2 and 3.3 and additional amounts of pension accruing out of para 4 of the said Resolution.

(2) The remaining provisions of the aforesaid two Resolutions pertaining to calculation of amounts would remain as such except that all provisions of aforesaid two Resolutions would be so construed as fixing the cut-off date as 1st March, 1989 and all contrary provisions of the said two Resolutions would be deemed to have been repealed hereby, except that the payment made on account of commutation of pension at revised rates as provided in para 6 of the Resolution No. 1853F dated 19th April, 1990 shall not be recovered.

4. Validation of Revision of Pension/Gratuity :-

Notwithstanding any judgment, decree or order of any Court, Tribunal or Authority the Government Resolutions No. 1853F and 1854F both dated 19th April, 1990 would be deemed to have been enforced from 1st March, 1989 and the benefits of pension/family pension and gratuity given to the Government employees under the said two Resolutions would be deemed to have been due to the employees w.e.f. 1st March, 1980 only and the said date would be deemed always to have been the cut-off date for the said two Resolutions.

5. Overriding effect of the Act :-

Notwithstanding anything to the contrary contained in any judgment, decree or order passed by any Court, Tribunal or Authority and in any other law for the time, being in force the provisions of this Act shall prevail and have effect.

6. Repeal and Savings :-

(1) The Bihar State Government Employees Revision of Pension/Family Pension and Death-cum-Retirement Gratuity (Validation and Enforcement) Ordinance, 2000 (Bihar Ordinance No. 3, 2000) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act, were in force on the day on which such thing was done or action taken.

