

Karnataka Advocates Welfare Fund (Amendment) Act, 2004

15 of 2005

[09 May 2005]

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An Act further to amend the Karnataka Advocates Welfare Fund Act, 1983. Whereas it is expedient further to amend the Karnataka Advocates Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) for the purposes hereinafter appearing; Be it enacted by the Karnataka State Legislature in the fifty-fifth year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Karnataka Advocates Welfare Fund (Amendment) Act, 2004.
- (2) It shall come into force on such date as the State Government may by notification appoint and different dates may be appointed for different provisions of this Act.

2. Amendment Of Section 2 :-

In section 2 of the Karnataka Advocates Welfare Fund Act, 1983 (Karnataka Act 2 of 1985) (hereinafter referred to as the principal Act);

- (1) after clause (f), the following clause shall be inserted, namely:-

"(ff)" interlocutory application includes all applications filed before any Court, Tribunal or Authority in respect of any pending or disposed of case or proceeding;"

(2) in clause (m), for the words, figures and brackets " sub-section (4) of section 16 the words, figures and brackets "sub-section (4) of section 15 or sub-section (3) of section 23A" shall be substituted.

3. Amendment Of Section 15 :-

In section 15 of the principal Act,-

"(1) for sub-section (1), excluding the provisos, the following shall be substituted, namely:-

(1) Every Advocate on the roll of the Karnataka State Bar Council practicing in the State of Karnataka shall be a member of the Fund and shall file a declaration in such form as may be prescribed along with an admission fee of rupees two thousand within one month,-

(i) in case of an Advocate who is enrolled on or after the commencement of the Karnataka Advocates Welfare (Amendment) Act, 2004 (hereinafter referred to as Amendment Act 2004); or

(ii) within one month from the date of commencement of Amendment Act, 2004 in the case of Advocates already enrolled:

Provided that this provisions shall not apply to Advocates who are already members of the fund."

(2) for sub-section (1A), the following shall be substituted, namely:-

"(1A) If any Advocate who has failed to pay the balance of the admission fee referred to in the second proviso to sub-section (1) or fails to pay the admission fee within the time specified in sub-section (1) of section 15, may pay such balance admission fee or as the case may be, the admission fee with a late fee of rupees fifty per month or part of a month from the Second day of April 1997 or next after the expiry of one month from the date of commencement of the Amendment Act, 2004 or one month from the date of enrollment, as the case may be."

(3) after sub-section (3), the following sub-sections shall be inserted, namely:-

"(4) Every member shall pay a fee of rupees five hundred within one month next after the completion of every five years from the date of his becoming member of the fund failing which he shall be deemed to have voluntarily suspended his practice for the purpose of this Act:

Provided that a member may pay such fee within three months from the expiry of the period specified above along with a penalty of fifty rupees per month and if he files such declaration along with the penalty it shall not be construed as deemed suspension:

Provided further that a member who on the date of commencement of the Amendment Act, 2004 has completed five years of practice after becoming a member shall pay such fee within six months from the date of such commencement.

(5) If a member fails to pay the fee within the time allowed under sub-section (4) the period of each year till he pays the fee including the year in which he pays the fee shall be treated as period of deemed suspension of practice for the purpose of this Act.

(6) For every year of deemed suspension under sub-section (4) an amount of rupees three thousand per annum shall be deducted from out of the amount payable under sub-section (1) of section 16."

4. Amendment Of Section 16 :-

In section 16 of the principal Act,-

(2) in sub-section (1), at the end, the following provisos shall be inserted, namely:-

"Provided that where an Advocate has become member on or after the First day of August 2000 and has attained the age of sixty years on the date of such admission an amount at the rate of rupees three thousand for every completed year of practice subject to a maximum of rupees fifty thousand shall be payable to the member in the event of cessation of practice due to reason other than death and to his nominee or where there is no nominee to his legal heirs, if the cessation of practice is due to death:

Provided further that if an Advocate who had become member prior to the Second day of April, 1997 has not paid the balance admission fee as required under the second proviso to sub-section (1) of section 15 and has not been readmitted to the fund after such date, an amount at the rate of rupees one thousand for every completed year of practice, shall be paid to him on cessation of practice due to reason other than death and to his nominee or where there is no nominee, to his legal heirs, if the cessation of practice is due to death."

(1) in sub-section (4), third proviso shall be omitted;

(2) in sub-section (5), for the proviso the following shall be substituted, namely:-

"Provided that lump sum amount shall not be paid to a Member, who has voluntarily suspended and resumed practice for purposes of either employment, avocation or business or who had been enrolled as an Advocate either on retirement or dismissal from service or employment or who enrolls as an Advocate after the age of forty years, or who is transferred from other States to the roll of the Karnataka State Bar Council after the age of forty years, so however such member shall be paid from out of the fund an amount at the rate of rupees two thousand for every completed year of practice on the roll of the Karnataka State Bar Council.

Provided further that a Member shall not be eligible to claim amount under this Act on cessation of practice arising out of voluntary retirement within ten years from the date of admission to the Fund"

5. Amendment Of Section 18 :-

In section 18 of the principal Act, clause (b) shall be omitted.

6. Amendment Of Section 23 :-

In section 23 of the principal Act, for sub-section (1A), the following shall be substituted, namely:

"(1A) Every Advocate shall affix Welfare Fund stamp of the value of rupees five on every interlocutory application."

7. Amendment Of Section 23A :-

In section 23A of the principal Act,-

(1) in sub-section (1), the words " before thirty first March" shall be inserted at the end.

(2) for sub-section (2), the following shall be substituted, namely:-

"(2) If any designated Senior Advocate fails to pay the contribution under sub-section (1) on or before thirty-first March of every year, such contribution may be paid within six months from that date together with a late fee of rupees one hundred per month or part of a month subject to a maximum of rupees five hundred."

(3) after sub-section (2), the following shall be inserted, namely:-

"(3) In the event of non-payment of contribution within the period specified in sub-section (2) such default shall be construed as deemed suspension of practice for the purpose of this Act and the provisions of sub-sections (5) and (6) of section 15 shall mutatis mutandis apply."

