

Uttar Pradesh Secondary Education Services Selection Boards (Amendment) Act, 1995

15 of 1995

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Uttar Pradesh Secondary Education Services Selection Boards (Amendment) Act, 1995

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AN ACT

further to amend the Uttar Pradesh, Secondary Education Services Selection Boards Act, 1982

It is hereby enacted in the Forty-sixth Year of the Republic of India as follows: -

1. Short title and Commencement :-

(1) This Act may be called the Uttar Pradesh Secondary Education

Services Selection Boards (Amendment) Act, 1995.

(2) It shall be deemed to have come into force on December 28, 1994.

2. Amendment of long title of U.P. Act no. 5 of 1982 :-

In the long title of the Uttar Pradesh Secondary Education Services Selection Boards Act, 1982, hereinafter referred to as the principal Act, for the words Services Selection Boards the words Services Commission shall be substituted.

3. Amendment of section 1 :-

In section 1 of the principal Act, in sub-section (1), for the words Services Selection Boards the words Services Commission shall be substituted.

4. Amendment of section 2 :-

In section 2 of the principal Act,-

(a) clause (a) shall be omitted ;

(b) after clause (a) as so omitted, the following clauses shall be inserted, namely:-

"(b) Chairman means the chairman of the Commission and includes any other person performing, in the absence of the Chairman, for the time being, the functions of the Chairman ;

(c) Commission means the Uttar Pradesh Secondary Education Services Commission established under section 3; " ;

(c) for clause (g), the following clause, shall be substituted, namely ;-

"(g) Member means a member of the Commission and includes its Chairman; " ;

(d) clause (h) shall be omitted;

(e) after clause (h) as so omitted, the following clauses shall be inserted, namely :-

"(hh) other backward classes of citizens means the backward classes of citizens specified in Schedule I of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1994;

(i) regulation means any regulation made under section 34;"

5. Insertion of Chapter II and section 3 to 11. :-

After section 2 of the principal Act, the following Chapter containing sections 3 to 11 shall be inserted, namely :-

"CHAPTER II

establishment AND FUNCTIONS OF THE COMMISSION

3. Establishment of the Commission

(1) With effect from such date as the State Government may, by notification appoint in this behalf, there shall be established a Commission to be called the "Uttar Pradesh Secondary Education Services Commission".

(2) The Commission shall be a body corporate. It shall exercise powers, throughout Uttar Pradesh and its headquarters shall be at Allahabad.

4. Composition of the Commission

(1) the Commission shall consist of a Chairman and not more than six other members who shall, subject to sub- section (2), be appointed by the State Government.

(2) The Chairman and members shall be appointed from amongst the persons who have-

(a) been in the opinion of the State Government, an eminent educationist or have made valuable contributions in the field of education; or

(b) worked as a Professor in any University established by law in Uttar Pradesh or as a Principal of any College recognised by or affiliated to such University for a period of not less than ten years ; or

(c) worked as a senior officer in the Judicial, Administrative or Education Service of the State for a period of not less than ten years; or

(d) worked as a Principal of any institution for a period of not less than fifteen years.

(3) Every appointment under this section shall take effect from the date on which it is notified by the State Government.

5. Term of notice and conditions of Members.

(1) Subject to the provisions of this Act, every Member shall hold office for a term of four years.

(2) No person shall be a member for more than two consecutive terms.

(3) A member may resign his office by writing under his hand addressed to the State Government, but he shall continue in office until his resignation is accepted by the State Government.

(4) The office of the members shall be whole time and terms and conditions of their service, shall be such as the State Government may by order, direct.

(5) Notwithstanding any thing contained in this section, no person

shall be appointed or continue as a member if he has attained the age of sixty two years.

6. Powers of the State Government to remove the Member

(1) The State Government may, by order, remove from office any member, if he-

(a) is adjudged an insolvent; or

(b) engages, during his term of office, in any paid employment outside the duties of his Office; or

(c) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or of proved misconduct; or

(d) incurs any disqualification under this Act or the rules made thereunder.

Explanation-Where a member becomes in any way concerned or Interested in any contract or agreement made by or on behalf of any Institution or participates in any way in the profits thereof or in any benefit or emolument arising therefrom, otherwise than a member, he shall, for the purpose of clause (c), be deemed to be guilty of misconduct.

(2) The procedure for the investigation and proof of misconduct under this section shall be such as may be prescribed.

7. Power to associate

The Commission may associate with itself, in such manner and for such purposes as may be determined by regulations made under section 34, any person whose assistance or advice it may desire to have in carrying out any of the provisions of this Act.

8. Government staff of the Commission.

(1) The Secretary of the Commission shall be appointed by the State on deputation for a term not exceeding , five years and other conditions of his service shall be such as the State Government may, by order, determine.

(2) Subject to such directions as may be issued by the State Government in this behalf, the Commission may appoint such other employees as it may think necessary for the efficient performance of its functions under this Act and on such terms and conditions of service as the Commission thinks fit.

9. Powers and duties of Commissions.

The Commission shall have the following powers and duties namely:-

(a) to prepare guidelines on matters relating to the method of recruitment and promotion of teachers;

(b) to hold interviews and make selection of candidates for being

appointed as teachers;

(c) to select and invite experts for the purposes specified in clause (b);

(d) to make recommendations regarding the appointment of selected candidates and their promotion;

(e) to advise the. Management in matters relating to dismissal, removal or reduction in rank of teachers;

(f) to obtain periodical returns or other informations from institutions regarding strength of the teaching staff and the appointment, promotion, dismissal, removal, termination or reduction in rank of teachers;

(g) To fix the emoluments and travelling and other allowances of the experts;

(h) to administer the funds placed at the disposal of the Commission;

(i) to perform such ether duties and exercise such other powers as may be prescribed or as may be incidental or conducive to the discharge of its functions under this Act or the rules or regulations made thereunder.

10. Procedure of selection.

(1) For the purpose of making appointment of a teacher, the management shall determine the number of vacancies existing or likely to fall vacant during the year of recruitment and in the case of a post other than the post of Head of the Institution, also the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes, the Scheduled Tribes and other Backward Classes of citizens in accordance with the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994 and notify the vacancies to the Commission in such manner and through such officer or authority as may be prescribed.

(2) The procedure of selection of candidates for appointment to the post of teachers shall be such as may be prescribed ;

Provided that the Commission shall, with a view to inviting talented persons, give wide publicity in the State to the vacancies notified under sub-section (1).

11. Panel of candidates.

(1) The Commission shall, as soon as may be, after the vacancy is notified under sub-section (1) of section 10, hold interviews of the candidates and prepare a panel of those found most suitable for appointment.

(2) The panel referred to in sub-section (1) shall be forwarded by

the Commission to the officer or authority referred to in sub-section (1) of section 10 in such manner as may be prescribed.

(3) After the receipt of the panel under sub-section (2), the officer or authority concerned shall in the prescribed manner intimate the Management of the Institution the names of the selected candidates in respect of the vacancies notified under sub-section (1) of section 10.

(4) The management shall, within a period of one month from the date of receipt of such intimation, issue appointment letter to such selected candidate.

(5) Where such selected; Candidate fails to join the post in such Institution within the time allowed in the appointment letter or within such extended time as the Management may allow in this behalf, or where such candidate is otherwise not available for appointment, the officer or authority concerned may, on the request of the Management, intimate, in the prescribed manner, fresh name or names from the panel forwarded by the Commission under sub-section (2)."

6. Omission of Chapter III and sections 12 to 15-B :-

Chapter III of the principal Act containing sections 12, 12-A, 12-B, 12-C, 13, 14, 15, 15-A and 15-B shall, be omitted.

7. Amendment of section 16 :-

In section 16 of the principal Act, in sub-section (1),-

(a) for the word and figures "subject to the provisions of section 21-B", the words and figures "subject to the provisions of sections 18, 21-B" shall be substituted;

(b) for the words and figures "Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992 be made by the Management only on the recommendation of the Board," the words and figures "Uttar Pradesh Secondary Education Services Selection Boards (Amendment) Act, 1995 be made by the Management only on the recommendation of the Commission," shall be substituted;

(c) after the second proviso, the following proviso shall be inserted, namely-

"Provided also that the dependent, of a teacher or other employee of an Institution dying in harness, who possesses the qualifications prescribed under the intermediate Education Act, 1921 may be appointed as teacher in Trained Graduates Grade in accordance

with the regulations made, under sub-section (4) of Section 9 of the said Act."

8. Amendment of section 17 :-

In Section 17 of the principal Act, in sub-section (1), for the word and figure "Chapter III" the word and figure "Chapter II" shall be substituted.

9. Substitution of section 18 :-

For Section 18 of the principal Act, the following section shall be substituted, namely :-

"18. Ad hoc teachers

(1) Where the Management has notified a vacancy to the Commission in accordance with sub-section (1) of Section 10 and the post of a teacher actually remained vacant for more than two months, the Management may appoint by direct recruitment or promotion a teacher on purely ad hoc basis, in the manner hereinafter provided in this section.

(2) A teacher other than a Principal or Headmaster, who is to be appointed by direct recruitment may be appointed on the recommendation of the Selection Committee referred to in sub-section (8).

(3) A teacher other than a Principal or Headmaster, who is to be appointed by promotion, may in the prescribed manner be appointed by promoting the senior most teacher, possessing prescribed qualifications-

(a) in the trained graduates grade, as a lecturer, in the case of a vacancy in the lecturers grade;

(b) in the Certificate of Teaching grade, as teacher in the trained graduates Grade, in the case of a vacancy in the Trained graduates grade.

(4) A vacancy in the post of a Principal may be filled by promoting the senior most teacher in the lecturers grade.

(5) A vacancy in the post of a Headmaster may be filled by promoting the senior most teacher in the trained graduates grade.

(6) For the purposes of making appointments under sub-sections (2) and (3), the Management shall determine the number of vacancies, as also the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes of citizen in accordance with the Uttar Pradesh Public Services (Reservation for Scheduled Castes,

Scheduled Tribes and Other Backward Classes) Act, 1994 and, as soon as may be thereafter, intimate the vacancies to be filled. by direct recruitment to the District Inspector of Schools and if the Management fails to intimate the vacancies and the post of a teacher has actually remained vacant for more than three months, the District Inspector of Schools may, subject to such directions as may be issued by the Director and after verification from such institution or from his own record, determine such vacancies himself.

(7) The District Inspector of Schools shall, on receipt of intimation of vacancies or as the case may be, after determining the vacancies under sub-section (6), forward the same to the Deputy Director of Education incharge of the Region, who shall invite applications from the persons possessing qualifications prescribed under the Intermediate Education Act, 1921 or the regulations made thereunder, for ad hoc appointment to the post of teachers other than Principal or Head Master in such manner as may be prescribed.

(8) (a) For each region there shall be a Selection Committee for selection of candidates for ad hoc appointment by direct recruitment comprising-

(i) Regional Deputy Director of Education :

(ii) Regional Deputy Director of Education (Second);

(iii) Regional Assistant Director of Education (Basic).

The Regional Deputy Director of Education who is senior shall be the Chairman;

(b) The Selection Committee constituted under clause (a) shall make selection of the candidates, prepare a list of the selected candidates, allocate them to the Institutions and recommend their names to the Management for appointment under sub-section (2).

(c) The criteria and procedure for selection of candidates and the manner of preparation of list of selected candidates and their allocation to the Institution shall be such as may be prescribed.

(9) Every appointment of an ad hoc teacher under sub-section (1) shall cease to have effect from the date when the candidate recommended by the Commission joins the post.

(10) The provisions of section 21-D shall mutatis mutandis apply to the teachers who are to be appointed under the provisions of this section."

10. Amendment of section 19 :-

In section 19 of the principal Act,-

(a) for the word "Board" the word "Commission" shall be substituted.

(b) for the word and figure "section 14" the word and figure "section 9" shall be substituted.

11. Amendment of section 20 :-

In section 20 of the principal Act, for the words "Any person authorised in this behalf by the Board" the words "The Secretary of the Commission or any other person authorised by the Commission" shall be substituted.

12. Amendment of section 21 :-

In section 21 of the principal Act, for the word "Board" the word "Commission" shall be substituted.

13. Amendment of sections 22, 23 and 26 :-

In sections 22, 23 and 26 of the principal Act, for the words "the Board" wherever occurring, the words "the Commission" shall be substituted.

14. Substitution of section 27 :-

For section 27 of the principal Act, the following section shall be substituted, namely :-

Authentication of the orders

"27. All orders and decisions of the Commission shall be authenticated by the signature of the Secretary appointed under section 8 or any other officer authorised by the Commission."

15. Amendment of section 28 :-

In section 28 of the principal Act, for the words "the Board" the words "the Commission" shall be substituted.

16. Insertion of new section 29 :-

After, section 28 of the principal Act, the following section shall be inserted, namely:-

Delegation

"29. The Commission may, by regulation made under section 34, delegate to its Chairman or any of its Members or officers, its power

of general superintendence and, direction over the business transacted by or in the Commission including the powers with regard to the expenditure incurred in connection with the maintenance of the office and internal administration of the Commission."

17. Amendment of section 32 :-

In section 32 of the principal Act, for the words "or the rules made thereunder" the words "or the rules or regulations made thereunder shall be substituted.

18. Amendment of section 33 :-

In section 33 of the principal Act, in sub-section (1), for the proviso the following proviso shall be substituted, namely:-

"Provided that no such order shall be made after two years from the date of commencement of the Uttar Pradesh Secondary Education Services Selection Boards (Amendment) Act, 1995."

19. Amendment of section 33-B :-

In section 33-B of the principal Act, in sub-section (1) in clause (a), in sub-clause (iii), for the words and figures "as it stood before its omission by the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Amendment) Act, 1992" the words and figures "as it stood before its substitution by the Uttar Pradesh Secondary Education Services Commission and Selection Boards (Second Amendment) Act, 1992" shall be substituted.

20. Insertion of new section 34 :-

After section 33-B of the principal Act, the following section shall be inserted, namely :-

Power to make resolutions

"34. (1) The Commission may, with the previous approval of the State Government, make or amend regulations prescribing fees for holding selections, for holding interviews and laying down the procedure to be followed by the Commission for discharging its duties and performing its functions under this Act:

Provided that the first regulation under this sub-section shall be made by the State Government by notification in the Gazette.

(2) The regulations made under sub-section (1) shall not be inconsistent with the provisions of this Act or the rules made under

section 35."

21. Transitory provisions :-

The Secondary Education Selection Boards constituted as body corporate under section 12 of the principal Act as it stood immediately before the commencement of this Ordinance, shall upon such commencement stand dissolved, and upon such dissolution-

(a) all properties and assets of such Boards and all debts, liabilities and obligations of such Boards, whether contractual or otherwise, shall stand transferred to the Commission established under section 3, of the principal Act;

(b) all persons serving on deputation in such Boards shall revert to their parent departments;

(c) the service of every whole time employee of such Boards shall stand transferred to the Commission established under section 3 of the principal Act;

(d) any matter pending before such Boards under Chapter III of the principal Act as it stood immediately before the commencement of this Act and any reference pending before such Boards under section 21 of the principal Act shall stand transferred to the Commission established under section 3 of the principal Act,

22. Repeal and savings :-

(1) The Uttar Pradesh Secondary Education Services Selection Boards (Amendment) Ordinance, 1995 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) or by the Uttar Pradesh Secondary Education Services selection Boards (Amendment) Ordinance, 1994, shall be deemed to have been done or taken under the corresponding provisions of the principal Act/as amended by this Act as if the provisions of this, Act were in force at all material times.