

THE HIMACHAL PRADESH AIDED COLLEGES (SECURITY OF SERVICES OF EMPLOYEES) ACT, 1994

(Act No. 9 of 1995)¹

(Received the assent of the President of India on 12th June, 1995 and was published in Hindi and English in R.H.P. Extra., dated 27.6.1995, at pages 2587-2598.)

An Act to provide for the security of services to the employees of the aided Colleges in the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-fifth Year of the Republic of India as follows :-

1. Short title and extent.- (1) This Act may be called the Himachal Pradesh Aided Colleges (Security of Services of Employees) Act, 1994.

(2) It extends to the whole of the State of Himachal Pradesh.

2. Definitions.- In this Act, unless the context otherwise requires.-

- (a) "aided College" or "College" means a College affiliated to and admitted to the privileges of a University and receiving financial assistance not less than fifty per centum of the salary component for both teaching and non-teaching staff from the State Government;
- (b) "Director" means the Director of Education, Himachal Pradesh, and includes any other officer authorised by the State Government to exercise the powers and perform the functions of the Director under this Act;
- (c) "District Judge" means the District Judge of the District in which the aided College is situated;
- (d) "employee" means a person in the employment of a College, but does not include a work-charged employee;
- (e) "Managing Committee" means the Managing Committee of a College and includes a person or body of persons for the time being entrusted with the management of the affairs of the College;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "Principal" in relation to a College means the head of the College;
- (h) "State Government" means the Government of Himachal Pradesh;

1. Passed in Hindi by the H. P. Vidhan Sabha. For statement of object and Reasons see R.H.P. Extra.' dated 12.9.1994 p. 2377 & 2384.

- (i) "University" means the Himachal Pradesh University constituted under section 3 of the Himachal Pradesh University Act, 1970 (17 of 1970); and
- (j) "University Grants Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956).

3. Qualifications.- The minimum qualifications for recruitment of various classes of the employees of a College shall be such as may, from time to time, be laid down by the University:

Provided that the qualifications for the teachers shall be laid down by the University in accordance with the guidelines issued from time to time by the University Grants Commission:

Provided further that the qualifications of an existing regular employee at the commencement of this Act shall not be varied to his disadvantage.

4. Method of recruitment and conditions of service.- The method of recruitment, and the conditions of service of the employees of a College shall be such as may be prescribed:

Provided that the conditions of service of an existing employee at the commencement of this Act shall not be varied to his disadvantage.

5. Code of conduct. The employees of College shall be governed by such Code of Conduct as may be prescribed:

Provided that in the case of teachers the Code of Conduct under this section shall be prescribed-

- (i) where any guidelines have to be issued by the University Grants Commission in conformity with such guidelines; and
- (ii) where no such guidelines have been issued, in consultation with the University Grants Commission.

6. Salary.- The scales of pay and other allowances and privileges of the employees of a College shall be such as may, from time to time, be specified by the State Government.

7. Dismissal, removal or reduction in rank not to be ordered except after inquiry.- No employee of a College shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

8. Procedure to be observed before dismissal, removal or reduction in rank.- (1) The penalty of dismissal or removal from service or reduction in rank shall not be imposed on an employee unless the same is approved by the Director.

(2) Where after the inquiry referred to in section 7, it is proposed to impose on an employee the penalty of dismissal, removal from service or reduction in rank, the proposal along with the relevant record shall be referred to the Director and the employee concerned shall be informed simultaneously.

(3) The employee may, within a period of thirty days of the receipt of the intimation referred to in sub-section (2) make a representation against the proposed penalty to the Director who may, after examining the record and giving the parties an opportunity of being heard, by an order in writing, approve the proposed penalty or reduce it or, refuse to approve it, if the proposal is found to be melafied or by way of victimisation or not warranted by the facts and circumstances of the case.

9. Sections 7 and 8 not to apply in certain cases.- The provisions of sections 7 and 8 shall not apply-

- (i) to the termination of service of an employee who is appointed for a temporary period only;
- (ii) to the termination of service of an employee appointed on probation, during or at the end of the period of probation, or on account of his work or conduct being unsatisfactory; and
- (iii) to an employee who is dismissed or removed or reduced in rank on the ground of conduct, which has led to his conviction on a criminal charge involving moral turpitude.

10. Period of probation.- An employee appointed against a vacancy likely to exist for more than one year shall remain on probation for a period of one year which may be extended from time to time :

Provided that the total period of probation including extension, if any, shall not exceed two years.

11. Suspension of employees.- (1) No employee shall be placed under suspension, unless,-

- (a) disciplinary proceedings against him are contemplated or are pending; or
- (b) a case against him in respect of any criminal offence is under investigation, inquiry or trial.

(2) In case the Managing Committee of a College considers it expedient to keep an employee under suspension beyond a period of six months, it shall submit a detailed report to the Director at least one month before the expiry of the period of six months specifying the reasons warranting the extension of the suspension period of the employee beyond six months.

(3) After considering the report under sub-section (2), the Director shall pass an order whether the extension be granted or not. In the event of his refusal to grant the extension, the Managing Committee shall reinstate the employee within a fortnight from the date of receipt of the order failing which the employee concerned shall be deemed to have been reinstated on the expiry of the aforesaid period.

12. Retrenchment.- (1) No employee of a College shall be retrenched on account of reduction in work-load without the prior approval of the Director who shall before according approval examine each case in accordance with the norms of work-load laid down by the University.

(2) An employee who is relieved from a College as a result of retrenchment shall have preference for appointment to future vacancies in the College in which he was serving immediately before retrenchment or in another College under the same Managing Committee.

13. Procedure for payment of salary.- (1) The Managing Committee of a College

shall, for the purpose of disbursement of salaries to its employees, open in a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934) or a co-operative bank or a Government treasury or sub-treasury a separate "Salary Payment Account" to be operated by the Principal :

Provided that the State Government may, on receipt of a report from the Director of any irregularity in the operation of the "Salary Payment Account", instruct the bank or treasury, as the case may be operated by a person authorised by the State Government.

(2) The State Government may, from time to time, require by general or special order that the Managing Committee shall deposit in the "Salary Payment Account" such portion of the amount received from students as fees and also such portion, if any, of the income received from any property, movable or immovable, belonging to or endowed wholly or partly for the benefit of the College, and by such date, as may be specified in that order, and thereupon the Managing Committee shall be bound to comply with such directions.

(3) Where the Director is of the opinion that the Managing Committee has failed to deposit the fees in accordance with the provisions of sub-section (2) or the orders issued thereunder, the Director may, by order prohibit the Managing Committee from realising any fee from the students and thereupon, the Director may realise the fees either through the employees of the College or in such other manner as he thinks fit, directly from the students and shall deposit the fees so recovered in the "Salary Payment Account".

(4) The State Government shall also pay into the "Salary Payment Account" such amount as maintenance grant which, after taking into consideration, the amount deposited under sub-sections (2) and (3), is necessary for making payment in accordance with sub-section (5).

(5) The salary of an employee shall be paid by transfer of the amount from the "Salary Payment Account" to his account, if any, in the bank, or if he has no account in that bank, then by cheque.

14. Appeal.- Any party aggrieved by an order of the Director under sub-section (3) of section 8 may file an appeal, within thirty days, to the District Judge who may, after giving to the parties an opportunity of being heard pass such order as he may deem fit:

Provided that the District Judge may entertain the appeal after expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

15. Power of revision.- The State Government may, either of its own motion or on an application received in this behalf, at any time call for the record of any proceedings which is either pending before the Director or in which the Director has passed any order for the purpose of satisfying itself as to the legality or propriety of such order or may pass such order in relation thereto as it thinks fit:

Provided that the State Government shall not pass an order under this section prejudicial to any party without giving such party a reasonable opportunity of being heard.

16. Power to issue directives.- The State Government shall be competent to issue such directives to the Managing Committee of a College as may be necessary for the proper enforcement of the provisions of this Act and the rules made thereunder.

17. Power to stop, reduce or suspend grant-in-aid or to make payment therefrom to employees in certain cases. -(1) It shall be lawful for the Government to stop, reduce or suspend the grant-in-aid to a College for the violation of any of the provisions of this Act or the rules made thereunder or of any directive issued under section 16, by the Managing Committee, Principal or any other authority charged with the administration thereof.

(2) In the case of non-compliance of an order of a competent authority, or of any directive issued under this Act, it shall be lawful for the Government to pay, out of the

grant-in-aid payable to a College, such sum of money as is found to be due to any employee from such a college or the Managing Committee.

(3) Before taking any action under this section, the Government shall give a reasonable opportunity to such Managing Committee, Principal or authority concerned to show cause against the action proposed to be taken.

18. Over riding effect of this Act.- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force including any regulation or statute of any University.

19. Bar of jurisdiction of civil courts.- No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any proceedings taken under the provisions of this Act.

20. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the State Government or any authority or any officer appointed under this Act for anything which is in good-faith done or intended to be done in pursuance of this Act or the rules made thereunder.

21. Power to make rules.- (1) The State Government may by notification in the Official Gazette, 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 following matters, namely:-

- (i) the method of recruitment and conditions of services of employees under section 4;
- (ii) the Code of Conduct for the employees of a College under section 5;
- (iii) the procedure to be observed for an inquiry under section 7;
- (iv) the manner in which "Salary Payment Account" shall be opened and maintained under section 13;
- (v) the manner of filing an appeal to the District Judge under section 14; and
- (vi) any other matter which has to be or may be prescribed under the Act.

(3). The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.