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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS Etc.

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 24th April, 2000 and the said assent is hereby first published on the 25th April, 2000 in the Andhra Pradesh Gazette for general information:-

ACT No. 9 OF 2000.

AN ACT TO PROVIDE FOR THE REGULATION OF GIVING WEIGHTAGE TO THE SERVICE OF THE TEACHING AND NON-TEACHING EMPLOYEES IN PRIVATE AIDED EDUCATIONAL INSTITUTIONS AND TO RESTRICT THE BENEFIT OF SCHEME OF ADVANCEMENT IN

SERVICE, AUTOMATIC ADVANCEMENT SCHEME, CAREER ADVANCEMENT SCHEME AND PENSION IN THE STATE OF ANDHRA PRADESH AND MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Whereas, the Government have admitted certain teaching and non-teaching posts in Private Educational Institutions to Grant-in-aid to improve the standards of education and to reduce the burden of the Managements to the extent of payment of salaries to the Staff;

And whereas, in Government Memo No.3866/F2/78-6, Education, Dated 10-1-1980, it has been directed that while releasing Grant-in-aid, the Director of School Education shall take into account the increments earned by the incumbents working in the posts prior to the date of admission to Grant-in-aid subject to the condition that the staff are qualified and increments sanctioned are in accordance with the rules in force;

And Whereas, the Government in G.O.Ms. No. 117, Finance and Planning (FW.PRC-1) Department, dated 25-5-1981 have formulated a Scheme of Advancement in service by the creation of Special Grade Posts to employees who have completed ten years of service in a particular scale of pay and Special Temporary Promotion Posts/ Special Adhoc Promotion Posts to employees who have completed fifteen years of service in a particular scale of pay; and the benefit of the scheme has been extended inter alia to the teachers working

under Private Aided managements in G.O.Ms.No. 164, Finance and Planning (FW.PRC-1) Department, dated 1-6-1982;

And whereas, the Government in G.O.Ms.No. 137, Education Department, dated 15-2-1982, created a new grade for Junior Lecturers in the Pay Scale of Rs.1050-1600 on completion of seven years of service;

And whereas, the Government in Memo No. 9279/Ser. IV-1/86-4, Education, Dated 6-1-1987, have clarified that the service rendered prior to admitting a post to Grant-in-aid does not count for Automatic Advancement Scheme;

And whereas, the Government in G.O.(P) No. 2, Finance and Planning (FW.PRC-1) Department dated 4-1-1988, liberalised the scheme of Advancement in service by creating another level of Automatic Advancement by creating Special Promotion Post-II, Special Adhoc Promotion Post II on completion of twenty two years of service in a particular scale of pay and the benefit of the said scheme has been extended interalia to the teachers working under Private Aided Managements in G.O.Ms.No. 347, Finance and Planning (FW.PRC-1) Department, dated 17-11-1989;

And whereas, the Government in G.O.Ms. No. 343, Education Department, dated 31-10-1989, interalia extended the said scheme to the Junior Lecturers;

And whereas, the Government in G.O.Ms. No. 520, Education Department, dated

15-12-1988 while extending the Revised University Grants Commission Scales, 1986, extended the Career Advancement Scheme interalia to the teachers of the aided colleges;

And whereas, the Government in G.O.Ms. No. 169, Education Department, dated 7-7-1990 issued guidelines on the Career Advancement Scheme;

And whereas, in G.O.Ms.No. 41, Education (DE-II) Department, dated 11-2-1998, it has been clarified that for the purpose of computing the service to the Career Advancement Scheme of 8/16 years, the services rendered before the college or the post is admitted to aid shall not be taken into account;

And whereas, the Government in G.O.(P) No. 290, Finance and Planning (FW.PC-II) Department, dated 22-7-1993 modified the scheme by creation of Special Grades on completion of eight years of service in particular scale of pay and Special Promotion Posts, Special Adhoc Promotion Posts on completion of sixteen years of service and one employee gets one increment in the Special Promotion Post Scale or Special Adhoc Promotion Scale on completion of twenty four years of service in a particular scale of pay and the said modified scheme has been extended to the teachers and Junior Lecturers in G.O.(P) No. 311, Finance & Planning (FW. PC-II) Department, dated 20-8-1993 and G.O.Ms.No. 382, Finance & Planning (FW.PC-II) Department, dated 16-11-1993 respectively;

And whereas, the said schemes are formulated for the employees serving and drawing the pay from out of the State Funds;

And whereas, the application of the said schemes to the employees in the private aided managements shall have to be made from the date of the admission of the posts to grant-in-aid;

And whereas, the services rendered prior to the date of admission into grant-in-aid were also taken into consideration by an unintended interpretation of the clarification issued in Memo No. 3866/F2/78-6, Education, dated 10-1-1980 which was issued with the intention of arriving at a pay for the purpose of admitting into grant-in-aid only;

And whereas, in view of the gross mis-use of the said instructions, orders were issued in G.O.Ms.No. 341, Education (PS-1) Department, dated 24-10-1997 cancelling the instructions issued in Memo No. 3866/F2/78-6, Education Department, dated 10-1-1980;

And whereas, the Government have to incur a huge expenditure which is likely to be rupees one hundred crores or more adversely hampering the developmental programmes of the State if this unintended financial commitment and misapplied expenditure is not effectively stopped;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-first Year of the Republic of India, as follows:-

Short title
and commence-
ment.

1. (1) This Act may be called the Andhra Pradesh Private Aided Educational Staff (Regulation of Pay) Act, 2000.

(2) It shall be deemed to have come into force with effect from the tenth day of January of 1980.

Eligible
service for
Government
Schemes and
Pension.

2. Every employee of Private Aided Educational Institution shall, from the date of approval of his appointment in a post duly admitted to grant-in-aid be eligible to count his service rendered after such date of approval for fixation of his pay and also his Pension under the schemes formulated, made applicable or extended to the employees of Private Aided Institutions from time to time.

Abatement of
Claims.

3. (1) Notwithstanding anything contained in any rule, order, decree or any judgement of any Court, Tribunal or other authority, no employee of a private Aided Educational Institution shall claim to count the service rendered, or as the case may be, the increments drawn in the respective post prior to the date of approval of his appointment in the post duly admitted to the grant-in-aid for the purpose of Automatic Advancement Scheme, Career Advancement Scheme and Pension.

(2) No suit or any other proceedings shall be maintained or continued in any court against the Government or any

person or authority whatsoever for extending the benefit of Automatic Advancement Scheme, Career Advancement Scheme and Pension by reckoning the service rendered by any employee of Private Aided Educational Institutions prior to the date of approval of appointment in a post duly admitted to grant-in-aid.

(3) No court shall enforce any decree or order directing to count the service rendered in any unaided or aided post prior to the date of approval of his appointment in a post duly admitted to grant-in-aid for the purpose of the extending the Automatic Advancement Scheme, Career Advancement Scheme and Pension.

4. The Andhra Pradesh Private Aided Educational Staff (Regulation of Pay) Second Ordinance, 1999 is hereby repealed. **'Repeal of Ordinance No. 9 of 1999.**

G. BRAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.

STATEMENT OF OBJECTS AND REASONS

In order to improve the standards of education and to reduce the burden of Private Educational Institutions to the extent of payment of salaries to the staff working under them, Government have admitted certain teaching and non-teaching posts in Private Educational Institutions to Grant-in-aid.

In Government Memo No. 3866/F2/78-6, Education Dated 10-1-1980, it has been directed that while releasing Grant-in-aid, the Director, of School Education shall take into account the increments earned by the incumbents working in the post prior to the date of admission to Grant-in-aid subject to the condition that the staff are qualified and increments sanctioned to them are in accordance with the rules in force.

Subsequently, it has been noticed that the said instructions issued, only with the intention of arriving a pay for the purpose of admitting to Grant-in-aid and not otherwise have been misused by giving unintended interpretation. As it has been resulting in higher pay fixations than the eligible and admissible pay fixations and other allied benefits and consequent higher pensionary and other terminal benefits, Government have cancelled the said Memo. dated 10-1-1980 in G.O.Ms.No. 341, Education (PS-1) Department dated 24-10-1997.

A number of Writ Petitions have been filed by Teaching/ Non-Teaching Staff of Private Aided Schools/Junior Colleges/ Degree Colleges in the High Court of Andhra Pradesh seeking relief to count their Unaided service i.e., the service rendered by them prior to the date of admission of posts to Grant-in-aid under their respective managements for the purpose of extending the benefit of Automatic Advancement Scheme, Career Advancement Scheme, Pensionary benefits etc.

Some of these Writ Petitions have been disposed of by the High Court with a direction to extend the benefit of considering the unaided service also, for the purpose of sanction of Automatic Advancement Scheme, Career Advancement Scheme and Pension etc., if the Unaided service put in by teaching and non-teaching staff of the Private Aided Educational Institutions is to be taken into consideration

for the purpose of the said Scheme and Pension, it involves very huge financial implications immediately running to crores of rupees and may reach to Rs. 100 Crores or even more besides being recurring expenditure on the State's Exchequer.

It has therefore been decided to count the services of the employees of the Private Aided Educational Institution from the date of approval of their appointments in posts duly admitted to Grant-in-aid only, for the purpose of extending the benefit of Automatic Advancement Scheme, Career Advancement Scheme, Pensionary benefits etc., It has also been decided to give effect to the decision from the 10th January, 1980 i.e., the date of issue of the Memo referred to above.

As the Legislative Assembly of the State was not then in session having been prorogued and it has been decided to give effect to the above decision immediately, the Andhra Pradesh Private Aided Educational Staff (Regulation of Pay) Ordinance, 1999 (A.P. Ordinance No. 5 of 1999) has been promulgated by the Governor on 27th June, 1999.

This Bill seeks to replace the said Ordinance.

RADIAM SRIHARI,
Minister for School Education.

**ANDHRA PRADESH ACTS, ORDINANCES AND
REGULATIONS Etc.**

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 30th January, 2002 and the said assent is hereby first published on the 1st February, 2002 in the Andhra Pradesh Gazette for general information:-

ACT No. 5 OF 2002

**AN ACT TO AMEND THE ANDHRA PRADESH
PRIVATE AIDED EDUCATIONAL STAFF
(REGULATION OF PAY) ACT, 2000.**

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-third Year of the Republic of India as follows :-

1. (1) This Act may be called the Andhra Pradesh Private Aided Educational Staff (Regulation of Pay) (Amendment) Act, 2002. Short title and commencement.

(2) It shall be deemed to have come into force with effect on and from the 25th April, 2000.

2. In the Andhra Pradesh Private Aided Educational Staff (Regulation of Pay) Act, 2000 in section 1,-

(i) In the marginal heading the words, "and commencement" shall be omitted ; Amendment of section 1, Act 9 of 2000.

(ii) in sub-section (1), the figures 1, with brackets, shall be omitted, and

(iii) sub-section (2), shall be omitted.

K.G. SHANKER,
Secretary to Government,
Legislative Affairs & Justice (FAC),
Law Department.

STATEMENT OF OBJECTS AND REASONS

Whereas, Government is Memo.No. 3866/F2/1978-6, Education dated 10-01-1980 directed the Director of School Education to take into account the increments earned by the Staff of the Private Educational Institutions for the purpose of arriving at pay while admitting the posts to grant-in-aid.

And whereas, the above instructions were grossly misused and in order to stop mis-applied expenditure to the State's Exchequer, the Andhra Pradesh Aided Educational Staff (Regulation of Pay) Act, 2000 (Act 9 of 2000) was enacted and the above Act came into force with effect from 10th January, 1980.

And whereas, according to the Act 9/2000, the employee of a Private Aided Educational Institution is eligible to count his service from the date of approval of his appointment in a post duly admitted to Grant-in-aid, after such date only, fixation of pay, pension are made applicable. Thus, no employee of a Private Aided Educational Institution shall claim to count the service rendered, or the increments drawn in the respective post prior to the date of approval of his appointment. Prior to issue of Act 9 of 2000 some of the employees have already got their fixation based on the orders issued in Government Memo.No.3866/F2/78-6, Education, dated 10-01-1980 and got fixed their pays in higher Scale duly counting their increments earned in the un-aided service.

And whereas, according to Act 9/2000, re-fixation has to be made in respect of employees who were appointed in the un-aided posts prior to 10-01-1980, and subsequently absorbed in the aided posts after 10-01-1980. In view of the re-fixation, most of the employees are losing monetary benefit at considerable rate, hence, they represented not to recover excess payments while implementing the Act 9/2000. Some of the employees have also filed writ petitions in the High Court challenging the Act 9/2000 and Hon'ble High Court passed interim stay orders not to make recoveries.

And whereas the NGO's represented by Joint Action Committee of employees, Teachers and Workers have made, among

other demands, the request to abolish Act 9/2000 and stop recoveries wherever made.

And whereas the Cabinet Sub-Committee constituted to negotiate the demands of NGO's and Joint Action Committee have arrived at an agreement that Act 9/2000 will be implemented "prospectively"

In Para 5 of Government letter No.9968/PS-I/2000-1, dated 25-07-2001, Additional Advocate – General was informed that the Government have decided to implement the Act 9/2000 with prospective date i.e. from the date of issue of Act 9/2000 i.e. 25-04-2000.

In its Judgement dated 26-07-2001, the Full Bench of the Hon'ble High Court disposed of the W.Ps with the following observations:-

"When the cases were called, Sri K. Prakash Reddy, learned Additional Advocate – General placed before us a letter bearing No. 9968/PS-I/2001-1, dated 25-07-2001, addressed to him by the Secretary to Government, Education (SE) Department wherein inter alia in Para 5 it is stated :

Government therefore, decided to implement the Act 9/2000 with prospective date i.e., from 25-04-2000 instead of 10-10-1980, and necessary amendment to the Act 9/2000 will be issued separately at the appropriate time.

Having regard to the fact that the State Government itself has taken a decision to implement Act 9 of 2000 with prospective effect i.e. from 25-04-2000 instead of 10-01-1980, we are of the opinion that the validity or otherwise of the Act 9/2000, need not be gone into.

By reason of the aforementioned Act, the period of Service of the concerned Teacher in unaided institution was not to be reckoned for the purpose of Automatic Advancement Scheme / Career Advancement Scheme / Pension. It is accepted at the bar that the relation to some

Teachers, the Automatic Advancement Scheme / Career Advancement Scheme / Pension has already been granted, but in relation to some others the said benefit has been denied. Having regard to the statement made by the learned Additional Advocate – General, we have no doubt whatsoever that in terms of the aforementioned letter, all Teachers would be treated equally irrespective of Act 9 of 2000.”

It is therefore, decided to implement the Act 9/2000 prospectively i.e., from the date of its publication i.e. 25-04-2000.

This Bill seeks to give effect to the above decision.

MANDAVA VENKATESWARA RAO,
Minister for School Education.