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Law (Legislative Drafting) Department

NOTIFICATION

Jaipur, May 7, 1999

F.2 (3) Vidhi/2/99.—In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to **authorise** the publication in the Rajasthan Gazette of the following **translation** in the English language of the Rajasthan (Lok Sewaon Mein Niyuktion Ka Vinियामान Aur Staff ka Suvya vashtikaran) Act, 1999 (1999 Ka Adhiniyam Sankhya 6):-

(Authorised English Translation)

THE RAJASTHAN (REGULATION OF APPOINTMENTS TO PUBLIC SERVICES AND RATIONALISATION OF STAFF) ACT, 1999

(Act No. 6 of 1999)

(Received the assent of the Governor on the 05th day of May, 1999)

An

Act

to regulate appointments and prohibit irregular appointments in offices and establishments under the control of the State Government, local authorities, public corporations and Universities etc. and matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Fiftieth Year of **the Republic** of India as follows:—

1. Short title, extent and commencement.—(1) This **Act** may be called the Rajasthan (Regulation of Appointments to Public Services and Rationalisation of Staff) Act, 1999.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is any thing **repugnant** in the subject or context,—

(i) 'Competent authority' means the officer or authority specified by the State Government by notification to exercise the powers and perform the functions of a

competent authority under this Act and different authorities may be specified for different purposes with respect to different districts, different departments or different institutions;

(ii) 'daily wage employee' means any person who is employed in any public service on the basis of payment of daily wages and includes a person employed, on the basis of nominal muster roll or consolidated pay either on full time or part time or piece rate basis, or as a work-charged employee, and also includes any other similar category of employees, by whatever designation called, other than, those who are selected and appointed on a sanctioned post in accordance with the relevant rules on a regular basis;

(iii) 'Government Company' **means** any company incorporated under **the Companies Act, 1956 (Central Act No. 1 of 1956)** in which not less than fifty one percent of the paid up share **capital** is held by the State **Government** and **includes** a company which is subsidiary of such a **Government Company**;

(iv) 'local authority' means,—

(a) a Panchayati Raj institution established under the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994);

(b) a municipality, constituted under the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959); and

(c) any other local bodies, corporations and Universities etc. established or declared as local bodies under any Rajasthan law for the time being in force;

(v) 'public service' means services in any office or establishment **of**,—

(a) the State Government;

(b) a local authority;

- (c) a Government Company or undertaking wholly owned or controlled by the State Government;
- (d) a body established under any law made by the Legislature of the State whether incorporated or not, including a University; and
- (e) any other body established by the State Government or a society registered under any law relating to the registration of societies for the time being in force and receiving funds from the State Government either fully or partly for its maintenance, or any educational institution whether registered or not but receiving aid from the State Government.

Explanation.— For the purpose of this clause engagement of persons on muster rolls in respect of works for reliefs against natural calamities shall not be deemed to be 'public service'.

3. Application. — The provisions of this Act shall apply to all public services.

4. Prohibition of daily wage appointments and regulation of temporary appointments. — (1) The appointment of any person in any public service to any post, in any class, category or grade as a daily wage employee shall be prohibited.

(2) No urgent temporary appointment shall be made in any public service to any post, in any class, category or grade without the prior permission of the competent authority and such appointments shall also be consistent with such conditions as may be imposed by the competent authority.

5. Prohibition of creation of posts. — (1) No post shall be created in any office or establishment relating to a public service without the previous sanction of the competent authority.

(2) Any appointment made to any post created in violation of sub-section (1) shall be invalid and the provisions of sections 8, 9 and 15 shall *mutatis mutandis* apply to such appointments.

6. Prohibition of revision of pay, allowances, perquisites, honorarium, compensatory allowances etc.—No revision of pay, allowances, perquisites, honorarium, compensatory allowances etc. in respect of any employee or elected or nominated member, chairperson or any office bearer etc. of the establishments or offices mentioned under section 3 of this Act, shall be made without the approval of competent authority.

7. Regulation of recruitment. — No recruitment or appointment other than those referred to in sub-section (2) of section 4, in any public service to any post in any class, category or grade shall be made except, —

- (a) from the panel of candidates selected and recommended for appointment by the Rajasthan Public Service Commission where the post is within the purview of the said Commission; or
- (b) from a panel prepared by a Selection Committee constituted for the purpose in accordance with the relevant rules or orders issued in that behalf; or
- (c) where recruitment or appointment otherwise than in accordance with clauses (a) and (b) is permissible, from the candidates having the requisite qualifications and in accordance with the relevant rules and/or orders.

Explanation.— For the removal of doubt it is hereby declared that nothing in this section shall apply to compassionate appointments made in favour of son/daughter/spouse of any person employed in public service who dies in harness in accordance with the relevant rules and/or orders issued from time to time.

8. Bills not to be passed.—The Treasury Officer/sub Treasury Officer or Accounts Officer or any other officer or authority who is charged with the responsibility of passing the salary bill shall not pass such first bill of any person appointed to public service unless a certificate issued by the Appointing Authority to the effect that the appointment has been made in accordance with the provisions of section 7 or sub-section (2) of section 4 is attached to the salary bill of the appointee concerned

9. Bar to regularisation of services.— No person who is a **daily wage employee** and no person who is appointed on an **urgent** temporary basis and is continuing as such at the commencement of this Act shall have or shall be deemed ever to have a right to claim for regularisation of services on any ground whatsoever and the services of such person shall be liable to be **terminated** at any time with due notice:

Provided that in the case of workmen falling within the scope of section 25-F of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), retrenchment compensation as may be payable under the said Act shall be paid in case of termination of services by way of retrenchment:

Provided further that nothing in this section shall apply to the workmen governed by Chapter V-B of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947).

Explanation.—For the removal of doubts it is hereby declared that the termination of services under this section shall not be deemed to be dismissal or removal from service but shall only amount to retrenchment or termination simpliciter, not amounting to any punishment.

10. Power to give directions.— For the purpose of enforcing the provisions of this Act, it shall be competent for the State Government, the Director of Treasuries and Accounts, the Director of Inspection, the Director of Local Fund Audit Department, the concerned Chief Account Officer, Financial Advisor / Senior Accounts Officer etc. or Head of the Department of the government, or local authority to issue such directions as may be deemed fit to their subordinates and the subordinates shall comply with such directions and where any subordinate functionary is guilty of non-compliance with such directions, it shall be deemed that such functionary is guilty of misconduct and shall be liable to be proceeded against under the disciplinary rules applicable to him.

11. Abatement of claims.— Notwithstanding anything contained in any judgement, decree or order of any civil court, tribunal or other authority, the claims for regular appointment of

all daily wage employees and persons appointed on an urgent temporary basis, shall stand abated and accordingly,—

- (a) no suit or other proceeding shall be instituted or maintained in any civil court, tribunal or other authority by the daily wage or temporary appointees against the State Government or any other employer of public services specified under sub-clause (b) to (e) of clause (v) of section 2 for the regularisation of the services;
- (b) no civil court shall enforce any decree or order directing the regularisation of the services of such persons; and'
- (c) all suits or other proceedings pending in any civil court or tribunal claiming the regularisation of services shall abate.

12. Review Committees.— (1) After the date of commencement of this Act, the State Government may constitute a Review committee with an officer not below the rank of a Secretary to the Government as the Chairperson and such number of members of such rank as it may deem fit to review,—

- (a) the existing staff pattern in any office or establishment employing persons belonging to any public service keeping in view the workload of such office or establishment; and
- (b) the pay scales, allowances, *ex gratia* payments, bonus, pension, gratuity and other terminal benefits and perquisites applicable to the post belonging to any public service of such office or establishment keeping in view the qualifications and job requirements of each such post.

(2) After undertaking review under sub-section (1), the Review Committee shall submit a report alongwith its recommendations to the State government for such action as may be prescribed by rules made in this behalf.

(3) The Review Committee shall regulate its own procedure for discharging the functions under this section.

(4) All orders and decisions of the review Committees shall be authenticated by the chairperson or a member authorised by him in this behalf.

Explanation.— For the purpose of this section, Secretary to the government includes a Principal Secretary or Special Secretary to the government.

13. Review committee to exercise the powers of a civil court in certain matters.— (1) The Review committee constituted under section 12 shall, while discharging the duties under this Act, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act No. V of 1908) in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office; and
- (e) issuing Commissions for the examination of witnesses or documents.

(2) For the purpose of discharging its duties, the Review committee shall have the right to inspect or cause to be inspected any office or establishment referred to in sub-section (1) of section 12.

14. Offences and punishments.— (1) Any person or authority who contravenes the provisions of this Act shall, apart from the penalties otherwise provided for, on conviction by a competent court having jurisdiction be punishable with imprisonment for a term which shall not be less than six months and which may extend upto two years and also with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees.

(2) No court shall take cognizance of offence punishable under this section except on a complaint filed by a competent authority with the previous sanction of the State Government.

15. Penalties.— (1) Where any holder of an elective office or any officer or functionary or other authority makes any appointment in contravention of the provisions of this Act,—

- (a) in the case of the holder of an elective office, it shall be deemed that he has abused his position or power and accordingly, the competent authority, shall initiate proceedings for his removal, and
- (b) in the case of an officer or functionary or other authority, it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the disciplinary rules applicable to him.

(2) All appointments made in public service in contravention of the provisions of this Act shall be unauthorised and any payments made as a consequence of such appointments out of the funds of the State Government or of the concerned local authority or of other bodies or institutions as specified under sub-clauses (c) to (e) of clause (v) of section 2, as the case may be, shall be deemed to be unauthorised, and the same shall be recoverable in the manner as may be prescribed, from the officer or functionary or other appointing authority who makes such appointments, and where the recovery is not possible in the prescribed manner, the same shall be recoverable as arrears of land revenue.

16. Penalty for abettors.— Whoever abets any offence punishable under this Act shall be punished with the punishment provided for in this Act for such offence.

17. Offences by companies.— (1) Where an offence punishable under the provisions of this Act is committed by a company, every person, who at the time of committing the offence was in charge of, and was responsible to the company for the conduct shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had

exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence against the provisions of this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any **Director**, Manager, Secretary or other officer of the company, such functionary shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purpose of this section, —

- (a) "Company" means a company as defined in the Companies Act, 1956 (Central Act No. 1 of 1956) and includes a University, a firm, a society or other association of individuals; and
- (b) "Director" means, —
- (i) in relation to a University established by law for the time being in force; or
 - (ii) in relation to a society or other association of individuals or bodies, registered, formed, constituted or established, as the case may be, under any law for the time being in force; or
 - (iii) in relation to any other institution;

the person who, by whatever name designated, is empowered or entrusted with the powers to make appointments under the concerning law for the time being in **force** or otherwise, as the case may be.

18. **Protection of action taken in good faith.**— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in **good** faith done or intended to be done in pursuance of this Act or the rules made thereunder.

19. A d to of this Act shall have **effect** notwithstanding anything contained in any other law for the time being in **force** or in any rule, regulation, bye law, standing order made or resolution passed by any local authority, Government **Company/Undertaking**, other body or

society specified under sub-clauses (b) to (e) of clause (v) of section 2, or in **any judgement**, decree or order of any court, tribunal or other **authority**.

20. Power to make rules.— (1) The State Government may, by notification in the **Official Gazette**, make rules for carrying out all or any of the provisions of this Act.

(2) All rules made under this Act, shall be laid, as soon as may be after they are so made, before the House of the State **Legislature**, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in **two** successive sessions and if before the expiry of **the session** in which they are so laid or in the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such **rules** should not be made, such rules shall thereafter have effect only in such modified **form** or be of no effect, as the case **may** be, however that any such modification or annulment shall be without prejudice to the validity of anything **perviously** done thereunder.

एस. के. गर्ग,

Secretary to the government.

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