

Education Act, 1983

Chapter 14 - Terms and Conditions of Service of Employees in Private Educational Institutions

The State Government may after previous publication make rules regulating the recruitment and conditions of service (including rights as regards disciplinary matters) of the employees in recognised private educational institutions:

Provided that the minimum qualifications for recruitment, age of recruitment, and retirement and benefits of retirement for employees in educational institutions receiving maintenance grant from the State Government shall be the same as those applicable for the corresponding category of employees, if any, in State Institutions unless otherwise prescribed.

Section 88 - Appointment of employees

No person who does not possess the requisite qualifications prescribed under section 87 shall on and from the date of commencement of this Act be appointed as an employee in a recognised private educational institution.

Section 89 - Pay and allowances of teachers and other employees

The pay and allowances of persons employed in the recognised private institutions shall be paid on or before such day in every month, in such manner and by or through such officer or authority as may be prescribed.

Section 90 - Schedule of employment to be maintained

(1) Every private educational institution shall maintain a Schedule of employees indicating therein the number of persons in its employment, the name and qualification of each employee, the grade of pay and such other particulars as may be prescribed.

(2) Within three months from the date of commencement of this Act and within a like period after any alteration in such schedule is made, a private educational institution shall submit a copy of the schedule or alterations made therein, as the case may be, to the Director of the Department concerned or such other officer as may be notified for this purpose.

(3) The Schedule of appointments for the time being in force shall be kept at the office of the private educational institution and shall during office hours, be open free of charge, to inspection by any employee of that private educational institution. The names and qualifications of the teaching staff shall be displayed in a prominent place in the institution.

Section 91 - Code of conduct

(1) Every employee of a private educational institution shall be governed by the prescribed code of conduct and if he violates any provision thereof he shall be liable for the prescribed disciplinary action.

(2) The managing committee may with prior approval of the State Government or any authority authorised in this behalf by the State Government also prescribe standards of conduct to be observed by employees, provided they are not inconsistent with those prescribed under sub-section (1).

Section 92 - Dismissal, removal etc.

(1) Subject to such rules as may be made in this behalf no teacher or other employee of a private educational institution shall be dismissed, removed or reduced in rank except,-

(a) in accordance with the conditions of service governing him;

(b) 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 the said charges, and where it is proposed after such inquiry to impose on him such penalty, it may impose such penalty, on the basis of the evidence adduced during such inquiry:

Provided that this sub-section shall not apply to temporary employees or to the dismissal, removal or reduction in rank of a teacher or other employee on the ground of misconduct which has led to his conviction on a criminal charge involving moral turpitude.

(2) No order imposing any penalty other than those referred to in sub-section (1) shall be passed except after,-

(a) the teacher or employee is informed in writing of the proposal to take action against him and of the allegation on which it is proposed to be taken and given an opportunity to make any representation which he may wish to make; and

(b) such representation, if any, is taken into consideration.

(3) (a) A teacher or other employee may be placed under suspension by the managing committee,-

(i) where disciplinary proceeding against him is contemplated or is pending; or

(ii) where a case against him in respect of any criminal offence is under investigation or trial.

(b) No such suspension shall remain in force for more than six months:

Provided that if the enquiry is not completed within the period of six months, the secretary shall report the matter to the competent authority, who may permit extension of the period of suspension beyond six months, if he is satisfied that the enquiry could not be so completed due to circumstances beyond the control of the Governing Council.

(c) the Managing Committee placing an employee under suspension shall forthwith report to the competent authority the circumstances in which the order was made.

(d) Subject to such rules as may be prescribed, every employee placed under suspension under this section shall be entitled to such subsistence allowance as may be prescribed.

Section 93 - Communication of order

(1) Every order of the Managing Committee imposing any penalty or otherwise affecting the conditions of service of an employee to his prejudice, shall be communicated to the employee in the prescribed manner.

(2) No order which has not been communicated in accordance with sub-section (1) shall be valid or be of any effect whatsoever.

Section 94 - Appeals

(1) Any teacher or other employee of a private educational institution who is dismissed, removed or reduced in rank may within three months from the date of communication of the order prefer an appeal to the Tribunal.

(2) The provisions of sections 4 and 5 of the Limitation Act, 1963 shall be applicable to such an appeal.

(3) If, before the date of commencement of this Act, any teacher or other employees has been dismissed, or removed or reduced in rank or his appointment has been otherwise terminated and any appeal preferred before that date,-

(a) by him against such dismissal or removal or reduction in rank or termination; or

(b) by him or by the Governing Council against any order made in any appeal referred to in clause (a);

is pending before any officer, such appeal shall, notwithstanding anything in sub-section (1), stand transferred to the Tribunal, if he makes an application in that behalf to such officer.

(4) The Tribunal shall dispose of the appeal filed under sub-section (1) or transferred under sub-section (3) after giving the parties the opportunity of being heard.

(5) In respect of an order imposing a penalty other than those specified in sub-section (1) of section 92, on any teacher or other employee, an appeal shall lie to the competent authority within three months from the date of communication of the order imposing such penalty.

(6) The competent authority shall dispose of an appeal preferred under sub-section (5) after giving the parties the opportunity of being heard.

(7) An appeal against an order of the competent authority under sub-section (6) shall lie within the prescribed period to the Tribunal, whose decision shall be final.

Section 95 - Court Fee

Notwithstanding anything in the Karnataka Court Fees and Suits Valuation Act, 1958, every appeal to the Tribunal shall bear a court fee stamp of rupees twenty-five.

Section 96 - Tribunal

(1) The State Government shall, by notification in the official gazette constitute one or more Educational Appellate Tribunals for the adjudication of appeals preferred under this Act and where more than one Tribunal is constituted, the State Government shall specify the territorial jurisdiction of each such Tribunal.

(2) The Educational Appellate Tribunal shall consist of one person who is or has been a Judicial Officer not below the rank of a District Judge:

Provided that pending constitution of the Educational Appellate Tribunal under sub-section (1), the District Judge of each District shall function as the Educational Appellate Tribunal of the District.

(3) The Educational Appellate Tribunal,-

(a) may, if satisfied from the material on record that the order is arbitrary, perverse, malafide, violative of the rules of natural justice or not sustainable on any other ground, pass such orders including one for the reinstatement of the employee, as it deems fit on such terms and conditions, if any, including payment of salary allowances and costs;

(b) shall for the purposes of the disposal of the appeals referred under this Act have the same powers as are vested in a court of appeal under the Code of Civil Procedure, 1908 (Central Act 5 of 1908);

(c) shall have the power to stay the operation of the order appealed against on such terms as it may think fit;

(d) shall for the purpose of executing its own orders have the same powers as are vested in a court executing a decree of a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) as if such orders were decrees of a civil court.

(4) All expenses incurred in connection with the Tribunal shall be borne from out of the Consolidated Fund of the State.

(5) No Civil Court shall have jurisdiction in respect of matters over which the Tribunal exercises any power under this Act.

Section 97 - Resignation

(1) Any employee of a private educational institution may resign his service by giving a notice to the Governing Council in accordance with sub-section (2).

(2) Every such notice of resignation shall,-

(a) conform to the terms and conditions of service governing such employee; and

(b) be in the prescribed form attested by an officer duly authorised in this behalf by the State Government.

(3) No resignation which is not in accordance with sub-section (2) shall be valid or be of any effect whatsoever.

Section 98 - Retrenchment of employees

(1) Where retrenchment of any employee is rendered necessary by the Governing Council or competent authority consequent on any change relating to education or course of instruction or due to any other reason, such retrenchment may be effected with the prior approval of the competent authority or the next higher authority, as the case may be.

(2) Where any retrenchment of the member of the teaching staff in any aided Educational Institutions is effected, the State Government or the competent authority shall, subject to prescribed rules or orders governing the reservation in posts to Scheduled Castes and Scheduled Tribes and other Backward Classes, appoint such person to a similar post where available in any other aided educational institution.

(3) If the management of an institution wants a transfer of an employee to some other institution, where there is a vacancy or if any employee of an institution, wants a transfer or if two employees apply for mutual transfer, the State Government may grant the request of the institution or of the employee as the case may be.

Section 99 - Termination of service

An employee of a private educational institution who has been confirmed and whose services are retrenched or terminated by the Governing Council for reasons other than as a measure of punishment shall be entitled to compensation at the rate of fifteen days salary for every completed year of service subject to minimum of three months salary and maximum of fifteen months salary.

Section 100 - Over-riding effect of this Chapter

The provisions of this chapter shall have effect notwithstanding anything in,-

(i) any law for the time being in force, or

(ii) any award, agreement or contract of service made before or after the date of commencement of this Act, or

(iii) any judgment, decree or order of a court, Tribunal or any other authority:

Provided that where under any such law, award, agreement, contract of service, judgment, decree or order or otherwise, any employee is entitled to benefits more favourable than accorded under this chapter such teacher or other employee shall continue to be entitled to such benefits:

Provided further that nothing in this chapter shall preclude the teacher or other employee from entering into employee shall continue to be entitled to such favorable benefits:

Section 101 - Power of Government to impose penalties

Notwithstanding anything contained in sections 92 and 94 and subject to such rules as may be prescribed, where the competent authority is of the opinion that disciplinary action against an employee is necessary, it may direct the Governing Council to take action within a specified period. If the Governing Council fails to comply with the direction, the competent authority shall report the matter to the State Government, which after considering the report may specify by order, a person or authority to take disciplinary action against the employee. The person or authority so specified may thereupon take disciplinary action against the employee and impose all or any of the penalties which the Governing Council can impose. An appeal shall lie from a decision of such person or authority to the tribunal, within the prescribed period.