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PART III— Acts of the West Bengal Legislature

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 4-L.—1st January, 2009.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

West Bengal Act XXXI of 2008

**THE WEST BENGAL SCHOOL SERVICE COMMISSION
(AMENDMENT) ACT, 2008.**

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette, Extraordinary*, of the 1st January, 2009.]

An Act to amend the West Bengal School Service Commission Act, 1997.

WHEREAS it is expedient to amend the West Bengal School Service Commission Act, 1997, for the purposes and in the manner hereinafter appearing;

West Ben.
Act IV
of 1997.

It is hereby enacted in the Fifty-ninth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

Short title and
commencement.

1. (1) This Act may be called the West Bengal School Service Commission (Amendment) Act, 2008.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
section 2 of
West Ben. Act IV
of 1997.

2. In section 2 of the West Bengal School Service Commission Act, 1997 (hereinafter referred to as the principal Act),—

(1) clause (b) shall be omitted;

(2) clause (h) shall be omitted;

(3) after clause (i), the following clause shall be inserted:—

‘(ia) “non-teaching staff” means a member of the staff other than an Assistant Teacher, or any other person holding a teaching post of a school and recognised as such by the Board or the Council, as the case may be, or, the Headmaster, or the Headmistress, or the Assistant Headmaster, or the Assistant Headmistress, or the teacher holding a post against short term vacancy caused by deputation, leave or lien;’;

The West Bengal School Service Commission (Amendment) Act, 2008.

(Sections 3,4.)

(4) in clause (n),—

(a) sub-clause (iii) shall be omitted;

(b) in *Explanation I*,—

(i) for paragraph (b), the following paragraph shall be substituted:—

“(b) recognised under the West Bengal Council of Higher Secondary Education Act, 1975.”;

West Ben.
Act VIII
of 1975.

(ii) paragraph (c) shall be omitted;

(5) for clause (p), the following clause shall be substituted:—

“(p) “Teacher” means an Assistant teacher or any other person, holding a teaching post of a school and recognised as such by the Board or the Council, as the case may be, and includes the Headmaster or the Headmistress but shall not include the Assistant Headmaster or the Assistant Headmistress or the Teacher holding a post against short term vacancy caused by deputation, leave or lien.”.

Amendment of
section 3.

3. For sub-section (4) of section 3 of the principal Act, the following sub-sections shall be substituted:—

“(4) The Central Commission shall consist of seven members of whom—

(a) one shall be the Chairman;

(b) one shall be an educationist who occupies or has occupied in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service;

(c) one shall be from amongst the Chairmen of the Regional Commissions as an *ex officio* member;

(d) four shall be the persons having teaching experience, either as a Teacher of a University or as a Principal of a College for a period of not less than ten years, or as a Teacher, other than Principal of a College or as a Headmaster or Headmistress for a period of not less than fifteen years:

Provided that at least one of such members must be a woman.

(5) The Regional Commission shall consist of seven members of whom —

(a) one shall be the Chairman;

(b) one shall be a person who, not being an educationist, occupies or has occupied, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service;

(c) one shall be a person belonging to Minority of West Bengal;

(d) four shall be the persons having teaching experience, either as a Teacher of University or Principal of a College for a period of not less than ten years, or as a Teacher, other than Principal of a College or as a Headmaster or Headmistress for a period of not less than fifteen years:

Provided that at least one of such members must be a woman.”.

Substitution of
section 6.

4. For section 6 of the principal Act, the following section shall be substituted:—

“Staff of Commission. 6. (1) The staff of the Commission shall consist of—

(a) a secretary and any such other officers who shall be appointed by the State Government, and

(b) such other employees as the Central Commission may, with the previous approval of the State Government, appoint from time to time.

The West Bengal School Service Commission (Amendment) Act, 2008.
(Sections 5-10.)

(2) The salary of the Secretary, any such other officers and of the other employees of the Commission shall be such as may be determined by the State Government.

(3) The other terms and conditions of services—

(a) of the Secretary and any such other officers shall be such as may be prescribed, and

(b) of the other employees of the Commission shall be such as may be provided for by the regulations.”.

Substitution of section 7.

5. For section 7 of the principal Act, the following section shall be substituted:—

“Functions of Regional Commission.

7. Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Regional Commission to select persons for appointment to the posts of Teachers or non-teaching staff in school within its territorial jurisdiction under the supervision and control of the Central Commission on the basis of the result of the examination conducted by the Central Commission.”.

Amendment of section 8.

6. In sub-section (1) of section 8 of the principal Act, for the words “posts of Teachers”, the words “posts of Teachers and non-teaching staff” shall be substituted.

Amendment of section 9.

7. In section 9 of the principal Act,—

(1) in sub-section (1), for the words “posts of Teachers”, the words “posts of Teachers and non-teaching staff” shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted:—

“(2) Any appointment of a Teacher or a non-teaching staff made on or after the commencement of this Act in contravention of the provisions of this Act shall be invalid and shall have no effect and the teacher or the non-teaching staff so appointed shall not be a Teacher or a non-teaching staff within the meaning of clause (p) or clause (ia) of section 2, as the case may be.”.

Amendment of section 9A.

8. In section 9A of the principal Act,—

(1) for the words “the post of Teacher”, the words “the post of Teacher or non-teaching staff” shall be substituted; and

(2) the words “or the West Bengal Board of Madrasah Education,” shall be omitted.

Amendment of section 10.

9. For section 10 of the principal Act, the following section shall be substituted:—

“Protection of Teachers and non-teaching staff.

10. Notwithstanding anything contained elsewhere in this Act, the terms and conditions of service of Teachers, and non-teaching staff in the employment of a school immediately before the commencement of this Act shall not be varied to the disadvantage of such Teachers or non-teaching staff in so far as such terms and conditions relate to the appointment of such Teachers or non-teaching staff to the posts held by them immediately before the commencement of this Act.”.

Amendment of section 17.

10. In sub-section (2) of section 17 of the principal Act,—

(1) in clause (c), for the words “Secretary”, the words “Secretary and any such other officer” shall be substituted;

(2) in clause (d), for the words “Teachers”, the words “Teachers and non-teaching staff” shall be substituted.

By order of the Governor,

ANINDYA BHATTACHARYYA,
Secy. -in-charge to the Govt. of West Bengal,
Law Department.