

Karnataka State Servants (Determination of Age) Act, 1974

KARNATAKA

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Act 22 of 1974

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Karnataka State Servants (Determination of Age) Act, 1974 (Karnataka Act No. 22 of 1974) Last Updated 29th November, 2019 Statement of Objects and Reasons - (Act 22 of 1974). - At present the provisions contained in article 404 of the Karnataka Financial Code prescribe the procedure for determination of date of birth with reference to certain documents like an authenticated extract from the birth or the baptismal register, S.S.L.C. certificate, affidavits, etc. Although the provisions of the Karnataka Financial Code have been issued under the Constitution of India, they do not have the effect of excluding civil courts from determining the date of birth for purposes of ascertaining the date of superannuation of Government servants. This has enabled Government servants to institute suits some time before the date of superannuation for determining their dates of birth and in many cases decrees have been passed determining the date of birth, which in many cases is different from the one determined under article 404 of the Karnataka Financial Code. Determination of age, for service purposes will have to be done by Government taking into consideration all the relevant material. It is therefore considered necessary to vest the power in the Government and in the case of Government servants who are subject to the control of the High Court under article 235 of the Constitution of India in the High Court and exclude the jurisdiction of courts in the matter. Hence the Bill. (Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-308, dated 28-3-1973, at page 6.) Statement of Objects and Reasons - (Amending Act 22 of 1977). - The Karnataka State Servants (Determination of Age), Act, 1974 bars the jurisdiction of courts in the matter of the determination of age and date of birth of Government servants. But in certain cases, persons have obtained declarations regarding their age from courts before they entered Government service and produced them as evidence of their date of birth and age after entering Government service. It is not desirable to accept such declarations without verification as the decisions in these cases would not be after an effective contest, interests of Government not being affected as the plaintiff was not a Government servant. In such cases even though Government might have been a party in each of the suits they would not have been effectively contested as the interests of Government were not directly involved. It is therefore, proposed to amend the Act to make it clear that decree obtained by a person before he entered Government service shall not be binding on Government and that the age and

date of birth of such a person shall also be determined in accordance with the Act after the person enters Government service. (Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-534, dated 8-7- 1977, at page 3). Statement of Objects and Reasons - (Amending Act 22 of 1982).

- Section 3 of the Karnataka State Servants (Determination of Age) Act, 1974, prescribes the procedure to be followed by the concerned appointing authority in determining and accepting the age and date of birth of a person on his entry into State service. Determination of age and acceptance of date of birth of the State Servant has to be considered and decided by the appointing authority on the basis of various documents, such as extract from birth or baptismal register, original horoscope or correspondence contemporaneous with the time and date of birth, entries in school and college records, etc. 2. The procedure required to be followed is elaborate. Apart from the possibility of abuse of this provision this has also led to large number of applications under section 5 for alteration of the date of birth on the ground that the age of the applicant has not been determined in accordance with the provisions of the Act. It is, therefore, proposed to amend section 3 of the Act to provide that in the case of persons who have passed the Secondary School Leaving Certificate examination or equivalent examination, the age and date of birth of State servant shall be accepted on the basis of entries in regard to the date of birth in the Secondary School Leaving Certificate or certificate of any other examination equivalent thereto which is also accepted as the proof of age for the purposes of recruitment. Hence the Bill. (Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-215, dated 19-3- 1982, at page 3). Statement of Objects and Reasons - (Amending Act 13 of 1984).

- According to sub-section (2) of section 3 of the Karnataka State Servants (Determination of Age) Act, 1974 the power to determine the age and date of birth of a State Servant on his entry into the State Civil Services vests in the appointing authority. In relation to the members of the Judicial Service including munsiffs the appointing authority is the Governor. Accordingly the age and date of birth of persons appointed as Munsiffs are being determined with the approval of the Governor. In view of the ruling given by the Supreme Court, reported in AIR 1981 SC 561 (B.S. Yadav Vs. State of Harayana) though the Legislature or the Governor has the power to regulate the conditions of service of judicial officers for laying down rules of general application, the High Court is the authority to regulate the conditions of the service of each judicial officer and in the light of this ruling the power to determine the age and date of birth of Judicial officer falls within the jurisdiction of the High Court. It is, therefore, considered necessary to amend section 3 of the said Act suitably. Hence the Bill. (Published in the Karnataka Gazette (Extraordinary) Part IV-2A No.-719, dated 12-8- 1983 at page 2). (Received the assent of the Governor on the Fifteenth day of June, 1974) An Act to provide for the determination of the age of State servants. Whereas it is expedient to provide for the determination of the age of State servants in so far as it relates to the conditions of service as such State servants; Be it enacted by the Karnataka State Legislature in the Twenty-fifth year of the Republic of India as follows: -

1. Short title.

- This Act may be called the Karnataka State Servants (Determination of Age) Act, 1974.

2. Definition.

- In this Act 'State servant' means a person who is a member of a civil service of the State of Karnataka or who holds a civil post under the State of Karnataka.

3. Determination of age on entry into State Services.

(1) Every person on appointment as a State servant shall declare his age along with the date of birth, and in support of such declaration shall furnish to the appointing authority documentary evidence, namely, an authenticated, extract from the birth or baptismal register, original horoscope or correspondence contemporaneous with the time of birth, indicating the date and time of birth, an authenticated copy or extract from the entries made in school or college records indicating the date of birth: Provided that where any such document is not available, the reasons for its nonavailability shall be furnished along with such other documentary evidence in support of the declaration of the age and date of birth as the appointing authority may require. (2) The appointing authority shall [notwithstanding anything contained in any judgment, decree or order of any court] [Inserted by Act 22 of 1977 w.e.f. 29.7.1977.] after considering the evidence produced by the State servant and after such enquiry as it deems fit, accept the age and date of birth which in its opinion is satisfactorily established; and shall inform the State servant and shall record or cause to be recorded in the service register or book or any other record of service of the State servant the age and date of birth so accepted: Provided that if the age and date of birth of a State servant has been determined by a decree of a civil court obtained by the State servant [after he became such servant] [Inserted by Act 22 of 1977 w.e.f. 29.7.1977.] against the State Government and which has become final before the commencement of this Act, the age and date of birth so determined shall be accepted and recorded or caused to be recorded in the service register or book or any other record of service of the State servant concerned. [Provided further that in the case of a State servant who has passed the Secondary School Leaving Certificate Examination or any other examination equivalent thereto, the date of birth and age specified in the certificate evidencing pass in such examination shall be accepted as his date of birth and age:] [Inserted by Act 22 of 1977 w.e.f. 29.7.1977.] [Provided further that the powers of the appointing authority under sub-section (1) and sub-section (2) shall, in respect of a State Servant who is subject to the control of the High Court under Article 235 of the Constitution be exercisable by the High Court.] [Inserted by Act 13 of 1984 w.e.f. 19.4.1984.] (3) Notwithstanding anything contained in sub-sections (1) and (2), the age and date of birth of a State servant accepted and recorded in his service register or book or any other record of service before the date of commencement of this Act in accordance with the rules then in force shall be deemed to be the age and date of birth of such State servant accepted and recorded in the service register or book or any other record of service under sub-section (2). (4) The age and date of birth accepted and recorded or deemed to have been accepted and recorded in the service register or book or any other record of service under sub-section (2) or as the case may be sub-section (3), shall subject to any alteration made under section 5, be applicable for all purposes relating to the conditions of service including superannuation and retirement of the State servant concerned.

4. Bar of alteration of age except under the Act.

- Notwithstanding anything contained in any law or any judgment, decree or order of any court or other authority, no alteration of the age or date of birth of a State servant as accepted and recorded or deemed to have been accepted and recorded in his service register or book or any other record of service under section 3 shall, in so far as it relates to his conditions of service as such State servant, be made except under section 5.

5. Alteration of age or date of birth of State servants.

(1) Subject to subsection (2), the State Government may, at any time, after an inquiry, alter the age and date of birth of a State servant as recorded or deemed to have been recorded in his service register or book or any other record of service: Provided that no such alteration shall be made if the age and date of birth of a State servant has been accepted and recorded or deemed to have been accepted and recorded in the service register or book or any other record of service in pursuance of a decree of a civil court obtained by the State servant [after he became such servant] [Inserted by Act 22 of 1977 w.e.f. 29.7.1977] against the State Government: Provided further that no such alteration shall be made without giving the State servant concerned a reasonable opportunity of being heard. (2) No such alteration to the advantage of a State servant shall be made unless he has made an application for the purpose within three years from the date on which his age and date of birth is accepted and recorded in the service register or book or any other record of service or within one year from the date of commencement of this Act, whichever is later. (3) The State Government may by notification in the official Gazette appoint such officer as it deems fit for the purpose of making an inquiry under this section: Provided that the powers of the State Government under sub-section (1) and this subsection shall in respect of the alteration of the age or date of birth of a State servant who, -(i) is subject to the control of the High Court under Article 235 of the Constitution, be exercisable, by the High Court; and (ii) is an officer and servant of the High Court, be exercisable by the Chief Justice or such other Judge or officer of the High Court as he may direct. (4) The officer appointed under sub-section (3) shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 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; (e) issuing commissions for the examination of witnesses or documents. (5) (a) The officer appointed under sub-section (3) shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228, of the Indian Penal Code, 1860 (Central Act 45 of 1860) is committed in the view or presence of the said officer, the said officer, may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), forward the case to the Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. (b) Any proceeding before the said officer shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

6. Bar of jurisdiction of courts.

(1)No court shall have jurisdiction to settle, decide or deal with any question which is required to be decided under this Act.(2)No decision under this Act shall be questioned in any court of law.