

The West Bengal State Homoeopathic Health Service Act, 2002.

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Act 10 of 2002

- Published on 1 August 2002
- Commenced on 1 August 2002
- [This is the version of this document from 1 August 2002.]
- [Note: The original publication document is not available and this content could not be verified.]

The West Bengal State Homoeopathic Health Service Act, 2002. West Bengal Act 10 of 2002[1st August, 2002.] Assent of Governor first published in the Kolkata Gazette, Extraordinary, of the 1st August, 2002. An Act to provide for the regulation of the recruitment, and conditions of service of persons appointed, to the State Homoeopathic Health Service. Whereas it is expedient, in the public interest, to regulate the recruitment, and the conditions of service of persons appointed, to the State Homoeopathic Health Service; It is hereby enacted as follows :-

1. Short title and commencement.

(1) This Act may be called the West Bengal State Homoeopathic Health Service Act, 2002. (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires, - (a) "cadre" has the same meaning as in clause (a) of section 2 of the West Bengal State Health Service Act, 1990; (b) "notification" means a notification published in the Official Gazette; (c) "prescribed" means prescribed by rules made under this Act; (d) "service" means the State Homoeopathic Health Service; (e) "State Homoeopathic Health Service" means the West Bengal Homoeopathic Education Service, or the West Bengal Homoeopathic Health Service, as constituted under section 3.

3. Constitution of State Homoeopathic Health Service.

- With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be constituted the following State Homoeopathic Health Service and different dates may be appointed for different Service, namely :- (1) the West Bengal Homoeopathic Education

Service;(2)the West Bengal Homoeopathic Health Service.

4. Transfer from one service to another.

(1)No person appointed to the West Bengal Homoeopathic Education Service shall be transferred to the West Bengal Homoeopathic Health Service:Provided that any person holding a teaching post in the basic level in the West Bengal Homoeopathic Education Service may exercise an option for the West Bengal Homoeopathic Health Service on such terms and conditions as may be prescribed.(2)No person appointed to the West Bengal Homoeopathic Health Service shall be transferred to the West Bengal Homoeopathic Education Service.(3)Any person appointed in the administrative job having the minimum qualification as prescribed for the posts of the West Bengal Homoeopathic Health Service shall be included in the said service cadre.(4)Subject to the foregoing provisions of this section and the rules made thereunder, the State Government shall have the right to transfer any person from one post to another post within the same cadre:Provided that except on account of inefficiency or misbehaviour or on his written request, no person shall be transferred to a post carrying less pay than the pay of the post held by him for the time being.

5. Combination of appointment.

- Subject to the provisions of this Act, the State Government may appoint any person to hold two or more separate posts in the same cadre as and when necessary on such terms and conditions as may be prescribed.

6. Homoeopathic Medical Colleges to be non-practising institutions.

(1)The State Government may, by notification, declare any undergraduate or post-graduate Homoeopathic Medical College or other homoeopathic teaching institution together with the Hospital, if any, attached to such Homoeopathic Medical College or homoeopathic teaching institution to be a non-practising institution with effect from such date as may be specified in the notification.(2)Upon such declaration, no person, holding any post on terms and conditions for practice in such Homoeopathic Medical College or other homoeopathic teaching institution or the Hospital attached thereto, shall be allowed to hold such post on terms and conditions for practice:Provided that any person holding a non-teaching post in such Homoeopathic Medical College or other homoeopathic institution or the Hospital attached thereto on terms and conditions for practice may exercise an option for practice or non-practice without any change of post or designation within a period of ninety days from the date of coming into force of this Act or within such extended period as the State Government may by notification specify:Provided further that any such person who exercises option for non-practice shall be allowed time, not exceeding six months from the date of exercise of such option, for winding up practice:Provided also that if any such person does not exercise any option or exercises option for practice, he shall, within a period of one year from the date of coming into force of this Act, be transferred to a post in any other Hospital on terms and conditions for practice.

7. Cadre of West Bengal Homoeopathic Education Service.

- The cadre of the West Bengal Homoeopathic Education Service shall consist of such teaching posts on such pattern and on such terms and conditions as may be prescribed following the guidelines of the Central Council of Homoeopathy as contained in [the Homoeopathy Central Council (Minimum Standards Requirement of Homoeopathic Colleges and Attached Hospitals) Regulations, 2013] [Substituted by Act No. 11 of 2014, dated 19.8.2014.] and shall include such teaching administrative posts as may be notified by the State Government in this behalf: Provided that such terms and conditions may include the condition of management and supervision of admission to beds, and treatment, of patients in such undergraduate or post-graduate Homoeopathic Medical College or other homoeopathic teaching institution together with the Hospital, if any, attached to such Homoeopathic Medical College or institution by such persons appointed to the West Bengal Homoeopathic Education Service or appointed on such terms and conditions as the State Government may determine, excluding all other persons appointed to the West Bengal Homoeopathic health Service: Provided further that notwithstanding anything contained elsewhere in this Act, any person holding a teaching administrative post included in the cadre of the West Bengal homoeopathic Education Service shall be deemed to be a person holding a teaching post in the West Bengal Homoeopathic Education Service.

8. Cadre of West Bengal Homoeopathic Health Service.

- The cadre of the West Bengal Homoeopathic Health Service shall consist of such nonteaching posts as may be prescribed.

9. Posts in cadre of West Bengal Homoeopathic Education Service to be non-practising.

(1) The posts included in the cadre of the West Bengal Homoeopathic Education Service shall be non-practising. (2) Any person appointed to a post included in the cadre of the West Bengal Homoeopathic Education Service may be granted such non-practising allowance as may be prescribed.

10. Persons appointed in West Bengal General Service as Homoeopathic Medical Officers be included in the West Bengal Homoeopathic Health Service.

- Any person of the West Bengal General Service appointed to the post of Homoeopathic Medical Officer, including those who are in Administrative posts, other than a post included in the cadre of the West Bengal Homoeopathic Education Service shall be included in the cadre of the West Bengal Homoeopathic Health Service.

11. Homoeopathic Medical Officers included in West Bengal Homoeopathic Health Service shall not opt for West Bengal Homoeopathic Education Service.

- A person working as the Homoeopathic Medical. Officer prior to the commencement of the Act-shall be included in the cadre of the West Bengal Homoeopathic Health Service and shall not be allowed to opt for the cadre of the West Bengal Homoeopathic Education Service.

12. Status of persons holding teaching posts in the West Bengal General Service.

- Any person who has held, or who holds; immediately before the coming into force of this Act, a teaching post, in the Homoeopathic Medical College of the State Government, under the West Bengal General Service, on terms and conditions for practice or non-practice, may exercise an option for the West Bengal Homoeopathic Education Service or for the West Bengal Homoeopathic Health Service in such manner as may be prescribed and thereupon such person shall be appointed or shall be deemed to have been appointed, as the case may be to a post included in the West Bengal Homoeopathic Education Service or in the West Bengal Homoeopathic Health Service, as the case may be: Provided that the Homoeopathic Medical Officers temporarily engaged to such teaching posts in the Homoeopathic Medical Colleges of the State Government shall not be eligible for exercising the option for the West Bengal Homoeopathic Education Service: Provided further that a person exercising option for the West Bengal Homoeopathic Education Service and a person selected for appointment to the same service shall, upon appointment to a teaching post in the West Bengal Homoeopathic Education Service, be required to perform duties in a Hospital in addition to his duties as a Teacher of the discipline concerned having such designation as may be prescribed: Provided also that the persons holding teaching posts other than Homoeopathic Medical Officers immediately before the coming into force of this Act, who do not exercise any option under this section, shall be deemed to have exercised option for the West Bengal Homoeopathic Education Service.

13. Transfer of persons holding teaching posts but not opting for West Bengal Homoeopathic Education Service.

- Notwithstanding anything contained in section 12, the persons holding teaching posts' of any rank on terms and conditions for practice prior to coming into force of this Act, who do not exercise option for the West Bengal Homoeopathic Education Service but opt for the West Bengal Homoeopathic Health Service, may, on transfer from such posts, be appointed to the West Bengal Homoeopathic Health Service in phases within a period of one year from the date of coming into force of this Act.

14. [Recruitment to State Homoeopathic Health Service. [Substituted by Act No. 11 of 2014, dated 19.8.2014.]

(1) Recruitment to the post of Lecturer in the West Bengal Homeopathic Education Service shall be made through the West Bengal Health Recruitment Board, in such manner as may be prescribed by the Homeopathy Central Council (Minimum Standards Requirement of Homeopathic Colleges and Attached Hospitals) Regulations, 2013; Provided that the recruitment to the post of Lecturer in the West Bengal Homeopathic Education Service shall be made giving preference to the persons who have rendered at least two years service in the rural-areas: Provided further that the recruitment to the post of Principal in the West Bengal Homeopathic Education Service shall be made on promotion from the members of the West Bengal Homeopathic Education Service in such manner as may be prescribed: Provided also that any person appointed to the West Bengal Homeopathic Health Service shall, subject to such terms and conditions as may be prescribed be eligible to apply for the post of Lecturer: Provided also that the recruitment to the posts of Reader and Professor shall be filled up by promotion only from the members of the West Bengal Homeopathic Education Service in such manner as may be prescribed. (2) Recruitment to all Basic Grade Posts in the West Bengal Homeopathic Health Service shall be made through the West Bengal Health Recruitment Board in such manner as may be prescribed. (3) Recruitment to all administrative post in the West Bengal Homeopathic Health Service shall be made through the West Bengal Health Recruitment Board in such manner as may be prescribed.]

14. Recruitment to State Homoeopathic Health Service.- (1) Recruitment to all teaching posts in the West Bengal Homoeopathic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed by the Central Council of Homoeopathy in its regulations under the Homoeopathy (Minimum Standards of Education) Regulations, 1983: Provided that a quota shall be fixed in such manner as may be prescribed for all categories of teaching posts, except the posts of [Lecturer] [Words substituted for the word 'Demonstrator' by W.B. Act 29 of 2002.] and Principal in the West Bengal Homoeopathic Education Service, for being filled up by promotion of persons holding such teaching posts in the said Service: Provided further that the recruitment to the posts of [Lecturer] [Words substituted for the word 'Demonstrator' by W.B. Act 29 of 2002.] in the West Bengal Homoeopathic Education Service shall be made only through the Public Service Commission West Bengal giving preference to persons who have rendered at least two years' service in the rural areas: Provided also that the recruitment to the post of Principal in the West Bengal Homoeopathic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed: Provided also that any person appointed to the West Bengal Homoeopathic Health Service shall, subject to such terms and conditions as may be prescribed, be eligible to apply for any such posts: Provided also that the recruitment to the posts of [* * * *] [Word 'Lecturer' omitted by W.B. Act 29 of 2002.] Reader or Assistant Professor and Professor in the West Bengal Homoeopathic Education Service shall be made through the Public Service Commission. West Bengal, in such manner as may be prescribed. (2) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, promotion of persons holding teaching posts to the next higher rank, due on any date prior to the date of coming into force of this Act, may, if not made prior to the coming into force of this Act, be made at any time after the coming into

force of this Act, other than in accordance with the provisions of this Act or the rules made thereunder.(3) Recruitment to all Basic Grade posts in the West Bengal Homoeopathic Health Service shall be made through the Public Service Commission, West Bengal in such manner as may be prescribed.(4) Recruitment to all teaching administrative posts in the West Bengal Homoeopathic Education Service shall be made through the Public Service Commission West Bengal, in such manner as may be prescribed.(5) Recruitment to all administrative posts in the West Bengal Homoeopathic Health Service shall be made through the Public Service Commission West Bengal in such manner as may be prescribed.

15. Control and discipline of persons appointed to State Homoeopathic Health Service.

- All persons appointed to the West Bengal State Homoeopathic Health Service shall be subject to such control and discipline as may be prescribed.

16. Age of retirement of persons appointed to State Homoeopathic Health Service.

(1)The age of compulsory retirement of persons appointed to the West Bengal Homoeopathic Education Service shall be such as may be prescribed:Provided that no such person shall be retained in service on his attaining the age of sixty-five years:Provided further that any such person may be re-employed, on his attaining the age of superannuation or after he has attained such age, to a post in the West Bengal Homoeopathic Education Service, not inferior to a post held by such person immediately before his attaining the age of superannuation, on such terms and conditions as may be prescribed:Provided also that no such person shall be retained on such re-employment on his attaining the age of sixty-five years.(2)The age of compulsory retirement of persons appointed in West Bengal Homoeopathic Health Service shall be sixty years and after attaining that age no such person shall be retained in service.

17. Scales of pay of persons appointed to the posts in the State Homoeopathic Health Service.

(1)The scales of pay of persons appointed to the teaching posts, or to the teaching administrative posts, in the West Bengal Homoeopathic Education Service shall be such as may be prescribed.(2)The scales of pay of persons appointed to the posts included in the cadre for the West Bengal Homoeopathic Health Service shall be such as may be prescribed.

18. Seniority of persons appointed to teaching posts in West Bengal Homoeopathic Education Service.

- The seniority of persons appointed to the teaching posts in the West Bengal Homoeopathic Education Service and the inter se seniority between such persons shall be determined in such manner as may be prescribed.

19. Act not to. apply in certain cases.

- The provisions of this Act shall not apply to any person not absorbed, in pursuance of the Acts and the rules made thereunder for taking over of the management of the Homoeopathic Medical Colleges and Hospitals in West Bengal but was holding a teaching post, in any undergraduate Homoeopathic Medical College and Hospital or other teaching institution, or in any Hospital attached to such undergraduate Homoeopathic Medical College and Hospital or teaching institution, on terms and conditions as might be agreed upon by the State Government prior to the coming into force of this Act, and such person shall continue in such post on the same terms and conditions even after the coming into force of this Act.

20. Saving.

- All rules, orders and notifications made or issued by the State Government under the proviso to Article 309 of the Constitution of India or under any other law for the time being in force, applicable to the persons appointed prior to the introduction of this Act and continuing in force immediately before the coming into force of this Act, shall, after the coming into force of this Act, continue to be in force so far as such rules, orders or notifications are not inconsistent with the provisions of this Act until they are repealed or amended.

21. [Transitory provisions. [[Section 21 substituted by W.B. Act 14 of 2007 which was earlier as under:-

'21. Transitory provisions. - Notwithstanding anything contained elsewhere in this Act, if the State Government is of opinion that it is necessary so to do in the public interest, it may, by order, elevate or promote any person holding a teaching post in the West Bengal Homoeopathic Education Service to a higher rank or may make recruitment to any teaching post in the West Bengal Homoeopathic Education Service in such manner, and subject to such terms and conditions, as may be prescribed :Provided that no such order shall be made after the expiry of a period of three years from the date of coming into force of this Act.]]- Notwithstanding anything contained elsewhere in this Act, if the State Government is of opinion that it is necessary so to do in the public interest, it may, by order, elevate or promote any person holding a teaching post in the West Bengal Homoeopathic Education Service' to a higher rank [or may make recruitment to the post of lecturer in the West Bengal Homoeopathic Education Service by inviting option by the Department of Health & Family Welfare, Government of West Bengal from the members of West Bengal Homeopathic Health Service having only medical qualifications as per Homeopathy Central Council (Minimum Standards Requirement of Homeopathic Colleges and Attached Hospitals) Regulations, 2013 who has rendered at least two years service in rural areas.]Provided that no such order shall be made after the expiry of a period of [fifteen years] [Substituted by Act No. 11 of 2014, dated 19.8.2014.] from the date of coming into force of this Act.]

22. Act to have overriding effect.

- The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any judgement, decree or order of any Court, Tribunal or other authority or in any instrument having effect by virtue of any law other than this Act or in any contract, custom or usage to the contrary.

23. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule.

24. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty :Provided that no such order shall be made after, the expiry of a period of three years from the date of coming into force of this Act.