

Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and Other Benefits) Act, 2014

KARNATAKA

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Act 07 of 2014

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The Karnataka Private Aided Educational Institutions Employees (Regulation Of Pay, Pension And Other Benefits) Act, 2014 Act No. 07 of 2014 An Act to regulate salary and allowance and other conditions of service of teaching and non-teaching employees of private educational institutions on admission to grant-in-aid and limiting financial liability of the State and other matters connected therewith are incidental thereto; Whereas, the State Government has admitted several private educational institutions for grant-in-aid to improve the standard of education and reduce the burden of the management by giving the salary grant to teaching and non-teaching staff. And whereas, the Government in order No ED 65 SES 62 dated 24-08-1963 introduced the Karnataka State Aided Schools Employees Contributory Provident Fund-Insurance-Pension scheme (Triple Benefit Scheme) Rules to regulate pensionary benefits of aided institutions coming under the ambit of Primary and Secondary Education with effect from 01-04-1963 and directed to take in to account the length of qualifying service of all previous service whether temporary, officiating or permanent either in one or more than one State- aided Institution. And whereas, the Government framed the Karnataka Education Act, 1983 to provide for the planned development of educational institutions, inculcations of healthy educational practice, maintenance and improvement in the standards of education and better organization discipline and control over Educational institutions in the state with a view to fostering the harmonious development of the mental and physical facilities of students and cultivating a scientific and secular outlook through education and the said Act came into force from 1-6-1995 as per Government notification No ED 2 MES 95 dated 30-05-1995 with a saving clause enshrined in Section 146 (3) by virtue of which the TBS Rules became part and parcel of the said Act. And whereas, non-consideration of non-grant service for pay was questioned in W.P.Nos. 226-228/1998 and the said writ petitions were dismissed on 13-08-1998 by rejecting the reliefs sought by the writ petitioners. And Whereas, the Government in letter No. ED 130 PMC 99

dated: 12-07-2001 has given direction not to reckon the unaided service for pensionary benefits. And Whereas, the Government has issued a circular on 20-09-2003 bearing No. ED 90 PMC 99 clarifying that the non-grant service shall not be considered for the purpose of pension and leave. And whereas the Government has issued order No. ED 674 SEW 2005 dated: 10-04-2006 reiterating the directions given in rule 3 (1) (b) and (c) of the Karnataka Educational Institutions (Recruitment and Terms and Conditions of Service of Employees in Private Aided and Primary and Secondary Educational Institutions) Rules, 1999, wherein the service rendered during non-grant period shall not be considered for pay, leave, pension and any other service benefits. And whereas the non-reckoning of non-grant period of service for pensionary benefits was challenged by Sri H. Peter in W.P. No. 10399/2004 and the Hon'ble High Court of Karnataka allowed the said writ petition on 01-09-2006 with a direction to compute pensionary benefits by considering non-grant period. And whereas, in exercise of powers conferred by Sub-Section (1) of Section 145 of the Karnataka Education Act, 1983 the Government framed the Karnataka Pre-University Education (Academic, Registration, Administration and Grant-in-aid etc.) Rules, 2006. The Sub-rule (2) and (3) of Rule 21 of the said Rules reads as below-“(2) The posts and the persons working in such posts in private aided Pre-University Colleges shall be eligible for grant-in-aid only from the date of sanction of the grant-in-aid by the Government and the earlier period of un-aided service shall not count for any pay fixation, increment, leave, seniority and other service benefits including pension.(3) Consequent to the sanction of salary grant-in-aid to an employee of aided Pre-University College, the initial pay of such an employee shall be fixed at the minimum of the pay scale applicable to the post and he will not be eligible for any monetary benefits either notionally or otherwise in respect of the earlier period of unaided service.” And whereas, the Writ Appeal No.291/2007 filed by the State before the Division Bench of the Hon'ble High Court of Karnataka against the order dated: 01-09-2006 made in W.P. No.10399/2004 was rejected and the Special Leave Petition filed by the State before the Hon'ble Supreme Court was also dismissed on 09/05/2011. And whereas, non reckoning of non grant period of service for pensionary benefits was challenged in W.P. No.126/2008 and W.P. No.15025/2006 and the said writ petitions were connected with the writ appeals filed by the state and the said writ petitions were allowed on 03-11-2009. And whereas, Government issued circular No. ED 156 PMC 2005 dated: 13-03-2009 once again reiterating the directions given in Rule 3 (1) (b) & (c) of the Karnataka Educational Institutions (Recruitment and Terms and Conditions of Service of Employees in private aided and primary and secondary educational institutions) Rules 1999, wherein the service rendered during unaided period shall not be considered for pay, leave, pension and any other service benefits. And whereas, the non-consideration of non-grant period for fixation of pay was challenged in W.P.No. 25447/2010 and the said writ petition was allowed on 16-08-2010. The State filed Writ Appeal 4788/2010 against the order dated:16-08-2010 and the Division Bench of the Hon'ble High Court dismissed the said writ appeal and the Special Leave Petition (CC) No. 7365/2012 was dismissed on 02-07-2012. The review petition No. 2364/2012 filed by the State against the order passed in S.L.P. (CC) No. 7365/2012 was also dismissed on 06-12-2012, thereby creating inevitable situation of complying orders of the Hon'ble High Court of Karnataka in W.P. No. 25447/2010 against the directions given in rule 21(2) and (3) of the Karnataka Pre-University Education (Academic, Registration, Administration & Grant-in-aid etc.) Rules, 2006. And whereas, the Special Leave Petition No. 22176-22186/10 filed by the State in the Hon'ble Supreme Court of India challenging order dated: 03/11/2009 was connected with other S.L.P's filed by the State and the said S.L.P's

were dismissed on 21-08-2013. And whereas, the Government in Order No. ED 176 UPC 75, dated: 18.08.1976, introduced the Karnataka State Aided College and Technical Institutions Employees Triple Benefit Scheme (Pension, Insurance and Management Contribution) Rules, 1976 (TBS Rules for short) to regulate pensionary benefits in aided institutions coming under the ambit of Higher Education with effect from 01.04.1970 and directed to take into account all the previous service rendered in regular and whole time posts in Grant-in-aid institutions governed by TBS Rules shall be taken into account for computing the length of qualifying service. And whereas, Government in G.O.No. ED 15 UEC 89, dated: 05.04.1991 sanctioned the revised 1986 University Grants Commission pay scales to the Librarians and the Physical Education Personnel in the First Grade (Degree) i.e., Government Colleges and those aided by the Government as per the Grant-in-aid Code under the Department of Collegiate Education with effect from 01.01.1986 and extended the Career Advancement Scheme inter alia to the Librarian and Physical Education personnel in the aided colleges; And whereas in exercise of the powers conferred by sub-section (1) of section 145 of the Karnataka Education Act, 1983, the Government has issued rules namely the Karnataka Educational Institutions (Recruitment and Terms and Conditions of Service of Employees in Aided Colleges of Education and Teachers' Training Institutes) Rules, 2001. In the proviso to rule 3(1) (b) and 3 (1) (c) of the said rules, a direction is given that the service rendered during non-grant period shall not be considered for pay, leave, pension and any other service benefits. And whereas, the service rendered by the employee of the private colleges and Technical Institutions prior to the date of admission into grant-in-aid was also taken into consideration for the purpose of Automatic Advancement Scheme and Career Advancement Scheme by an unintended interpretation of the directions given in Government Order NO. ED 25 UPC 2001, dated: 03.06.2003, which was issued with the intention of counting non-grant period service for Automatic Advancement Scheme and Career Advancement Scheme subject to fulfillment of conditions specified in the guidelines issued by the competent authorities/bodies; And whereas, the non-reckoning of non-grant period of service for Automatic Advancement Scheme, Career Advancement Scheme and Pension was challenged by some Aided employees in Hon'ble High Court of Karnataka in Writ Petition Nos. 14676/2001, 871/2004, 19431/2005 and 5145/2007 and upholding the contention of the Petitioners that the Triple Benefit Scheme Rules and the Government Orders are not inconsonance with section 87 of the Karnataka Education Act, 1983 thereby rejecting the Government's contention that as per TBS Rules only the service rendered in aided institutions be considered for qualifying service, the Hon'ble High Court on 13.10.2006 and 12.12.2007 allowed the Writ Petitions by directing reckoning of the service from initial appointment on the basis of actual emoluments drawn, including increments and promotions for non-grant period; And whereas, the State filed Appeals against the Orders dated: 13.10.2006 and 12.12.2007 made in Writ Petitions Nos. 14676/2001, 871/2004, 19431/2005 and 5145/2007 and on 03.11.2009, the Hon'ble High Court of Karnataka connected the Writ Appeals Nos. 450/2007 and 848/2008 filed by the State with other similar Writ Petitions delivered the following Order: "Under the circumstances, Writ Appeals filed by the State have to be dismissed and the Writ Petitions have to be allowed. Rule is made absolute. The respective authorities are directed to consider the case of each of the Petitioner and pass orders accordingly in the context of relevant rules applicable to them with regard to their retirement benefits including pension and gratuity along with interest at the rate of 6% p.a. which shall be paid with effect from the date of filing of the Writ Petition by each of these lecturers/teachers within a period of two months from the date of receipt of the certified copy of this Order". And whereas, the State of Karnataka preferred the Appeal in the Hon'ble Supreme Court in

the Special Leave Petition No. 22176-22186/2010 was connected with other similar Special Leave Petitions were dismissed on 21.08.2013; And whereas, there is no justification to include the service rendered in un-aided institutions which are subsequently brought under grant-in-aid, for the purpose of pensionary benefits as such inclusion would amount to taking into consideration the service not covered by the Pension Rules and it would also amount to giving retrospective effect to the admission to grant-in-aid which is never contemplated by the Government; And whereas, if the increments earned by the teaching and non-teaching employees of the Private Aided Educational Institutions in non-grant period is taken into consideration for releasing the Grant-in-aid, and for the purposes of Automatic Advancement Scheme, Career Advancement Scheme and Pension it would involve very huge financial implication to the state exchequer; And therefore, Government reviewed the matter and decided to extend Grant-in-aid computed at the minimum of pay in the time scale on the date of admission to grant in aid to the employees working in Private Educational institutions in the State and to limit the liability of the State on schemes of Advancement to the extent of Grant-in-aid sanctioned to the posts and for the matters connected therewith or incidental thereto for the purposes hereinafter appearing; Be it enacted by the Karnataka State Legislature in the sixty fifth year of the Republic of India as follows:-

1. Short title and commencement.-

(1) This Act may be called the Karnataka Private Aided Educational Institutions Employees (Regulation of Pay, Pension and other benefits) Act, 2014. (2) It shall be deemed to have been come into force with effect from the 1st June, 1995.

2. Definitions.-

(1) In this Act unless the context otherwise requires,- (a) "Automatic or time bound Advancement Scheme" means Higher Scale of pay granted to an employee of an Educational Institutions after completion of specified period of service in a post; (b) "Career Advancement Scheme" means Higher Scale of pay granted to a lecturer, librarian and physical education directors working in a college or B.Ed college or technical institution after completion of specified period of service in a post; (c) "Educational Institution" means an Educational Institution imparting education at various levels of Primary, Secondary, Pre-University College, Teacher Training institutes, including colleges or Technical Institutions or B.Ed Colleges leading to degree, diploma or certificate courses established and administered or maintained by anybody of persons and recognized by the State Government and affiliated to any University, Wherever applicable; (d) "Employee" means an employee of an Educational Institution; (e) "Government" means Government of Karnataka; (f) "Grant-in-Aid" means any sum of money paid as salary grant out of State funds to any posts in a Private Educational Institution; and (g) "Private Aided Educational Institution" means an Educational Institution receiving Grant-in-aid by the State Government. (2) Other words and expressions used in this Act but not defined shall have the same meaning assigned to them in the Karnataka Education Act, 1983 (Karnataka Act 1 of 1995).

3. Sanction of Grant-in-Aid at the minimum in the time scale, Time bond Advancement, career Advancement and finalization of the pensionary benefits by non-reckoning service rendered in non-grant period as qualifying years and extinguishment of claims if any,-

(1)Notwithstanding anything contained in the Karnataka Education Act, 1983, any order of the Government or rules governing service conditions of employees of any Educational Institution or any other Law Governing Grant in aid to the above employees or any judgment, decree or order of any Court or Tribunal or Authority, Grant-in-aid that may be sanctioned to a post held by an employee of a Private Aided Educational Institution shall be fixed and calculated at the minimum of pay in the time scale allowed to the post from the date of admission to grant-in-aid and the service rendered prior to admission for grant-in-aid shall not be reckoned for purpose of pay, leave, seniority and pension and finalization of the pensionary benefits shall be by non-reckoning service rendered in non-grant period as qualifying years and the financial liability of the Government in respect of Automatic Advancement Scheme and Career Advancement Scheme extended, if any, to such employee shall be limited to the quantum of Grant-in-aid sanctioned to the post.(2)Notwithstanding anything contained in any order of the Government or any judgment of any Court or Tribunal, the claims of employees of Private Aided Educational Institution for release of Grant-in-Aid by counting the increments drawn prior to the date of admission of post to grant-in-aid and finalization of the pensionary benefits by reckoning service rendered in non-grant period as qualifying years shall stand extinguished and accordingly,-(i)the orders issued by the Government directing to take into account the increments earned by an employee or for payment of additional amount on extension of Time bound Advancement Scheme or Automatic Promotion or Career Advancement Scheme of a Private aided Educational Institution, prior to the date of admission of post to Grant-in-aid, while releasing grant-in-aid and for finalization of the pensionary benefits by reckoning service rendered in non-grant period as qualifying years shall stand cancelled:Provided that any amount paid as per the order now cancelled and towards Time Bound Advancement, or Automatic promotion or Automatic Advancement, Career Advancement Schemes and Pensionary benefits shall not be recovered.(ii)No suit or other proceedings shall be maintained or continued in any court against the Government by any employee of Private Aided Educational Institutions claiming for release of Grant-in-aid taking into account the increments earned in the post prior to the date of admission of Grant-in-aid or for payment of additional amount on the extension of the Time bound Advancement Scheme or Automatic Promotion Scheme or the Automatic Advancement Scheme and Career Advancement Scheme and for finalization of the pensionary benefits by reckoning service rendered in non-grant period as qualifying years to such employee except the quantum of Grant-in-aid sanctioned to the post(iii)No Court shall enforce any decree or order directing release of Grant-in-aid taking in to account the increments earned in the post, prior to the date of admission of grant-in-aid in favour of any employee of a Private Aided Educational Institutions and for payment of additional amount of the extension of the Time Bound Advancement or Automatic promotion or Automatic Advancement Scheme or Career Advancement Scheme to such employee and finalization of the pensionary benefits by reckoning service rendered in non-grant period as qualifying years except the quantum of grant-in-aid sanctioned to the post.