

The Public Employment (Requirement As To Residence) Act, 1957

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Act 44 of 1957

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1356.

Clause (2) of Article 16 of the Constitution provides, inter alia, that no citizen shall, on grounds only of residence be ineligible for, or discriminated against in respect of, any employment or office under the State. Parliament is, however, competent under clause (3) of the said article to regulate the extent to which it would be permissible for a State to depart from the above principle. In considering this aspect of the question, the State Reorganisation Commission recommended that if any departure from the principle of non-discrimination on the ground of residence is to be authorised at all, it should be such as to cause minimum hardship and that necessary legislation in this regard should be undertaken.² On the basis of these recommendations, provision was made in this behalf in paragraphs 14, 15 and 16 of the memorandum on safeguards for linguistic minorities which was laid before Parliament in September, 1956. It was stated in the memorandum that the Government of India did not consider it necessary or desirable to impose restrictions for any public employment and that it was proposed to repeal all the laws in force prescribing any requirement as to residence for any public employment. It was further stated that in certain cases exceptions might have to be made for a transitional period to the general rule of non-discrimination in the Telangana area of the former Hyderabad State and in certain backward areas. In pursuance of this decision, it is now proposed to repeal all the laws in force prescribing any requirement as to residence within a State or Union Territory for any public employment in that State or Union territory. Exception, however, is being made in the case of Himachal Pradesh, Manipur and Tripura and the area transferred from the State of Hyderabad to Andhra Pradesh. In respect of these areas, it is proposed to prescribe residential qualifications for a limited period not exceeding five years in regard to non-gazetted services including the service of tchsildars. It is proposed to empower the Central Government to

make rules for the purpose.³ The Bill seeks to achieve these objectives. - Gazette of India, 11-9-1957, Pt. II, section 2, Ext., p. 811. Amending Act 10 of 1964. - The Public Employment (Requirement as to Residence) Act, 1957, repeals all the laws in force in the States and Union territories with regard to requirements as to residence for purposes of any employment of appointment under the State, any local or other authority, but section 3 of the Act empowered the Central Government to make rules prescribing requirements as to residence within Telangana area of Andhra Pradesh or the Union territories of Himachal Pradesh, Manipur or Tripura for appointments in subordinate services. Section 5 of the Act fixed a period of five years from the commencement of the Act during which the domicile rules framed under section 3 in respect of the above mentioned areas were to remain in force. Since the Act came into force on the 21st March, 1959, the domicile rules framed under section 3 will cease to be operative with effect from the 21st March, 1964.² It is considered desirable, after consultation with the Government of Andhra Pradesh and the Administration of the Union territories concerned, that the domicile rules framed in respect of the areas mentioned above should be kept in force for a further period of five years. The Bill seeks to achieve this object. - Gazette of India, 19-3-1964, Pt. II, section 2. Ext., p. 227. Amending Act 1 of 1969. - Section 3 of the Public Employment (Requirement as to Residence) Act, 1957, empowers the Central Government to make rules prescribing a requirement as to residence in regard to appointment in any subordinate service or post under the State Government of Andhra Pradesh or under the control of the Administrator of Himachal Pradesh, Manipur or Tripura or to any service or post under a local authority (other than a cantonment board) within the Telangana area of Andhra Pradesh or within the Union territory of Himachal Pradesh, Manipur or Tripura. Section 5 of the Act as amended in 1964 provides that section 3 and the rules made thereunder shall cease to have effect on the expiration of ten years from the commencement of the Act. By virtue of this, section 3 and the rules made thereunder would cease to have effect on the 21st March, 1969. It is considered desirable after consultation with the Governments of Andhra Pradesh and the Union territories concerned that the said section 3 and the rules made thereunder should be continued for a further period of five years on and from the 21st March, 1969.² With effect from 1st November, 1966, certain territories of the former State of Punjab were added to the Union territory of Himachal Pradesh [vide section 5(1) of the Punjab Reorganisation Act, 1966]. It is considered desirable, after consultation with the Government of Himachal Pradesh, that the provisions of the Public employment (Requirement as to Residence) Act, 1957, should apply in relation to these territories also.³ The Bill seeks to achieve the aforesaid objects. - Gazette of India, 23-12-1968. Pt. II. section 2. Ext., p. 1699. [7th December, 1957] An Act to make in pursuance of clause (3) of article 16 of the Constitution special provisions for requirement as to residence in regard to certain classes of public employment in certain areas and to repeal existing laws prescribing any such requirement. Be it enacted by Parliament in the Eighth Year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Public Employment (Requirement as to Residence) Act, 1957. (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

21st March, 1959 ; vide Notification No. G.S.R. 323, dt. 21-3-1959, Gazette of India, Pt. II, Section 3(i), p. 392 Adapted in Himachal Pradesh, Manipur and Tripura - See Public Employment (Requirement as to Residence) Act (Adaptation) Order, 1973 - Gazette of India, 23-1-1973, Pt. II, section 3(i), Ext., p. 72.

2. Repeal of existing laws prescribing requirements as to residence.

Upon the commencement of this Act, any law then in force in any State or Union territory by virtue of clause (b) of article 35 of the Constitution prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, that State or Union territory, any requirement as to residence therein prior to such employment or appointment shall cease to have effect and is hereby repealed.

3. Power to make rules in respect of certain classes of public employment in certain areas.

(1)The Central Government may, by notification in the Official Gazette, make rules prescribing, in regard to appointments to-(a)any subordinate service or post under the State Government of Andhra Pradesh, or(b)any subordinate service, or post under the control of the Administrator of Himachal Pradesh, Manipur or Tripura, or(c)any service or post under a [local or other authority] [Substituted by Act 1 of 1969, Section 2, for "local authority "] (other than a cantonment board) within the Telangana area of Andhra Pradesh or within the Union territory of Himachal Pradesh, Manipur or Tripura, any requirement as to residence within' the Telangana area or the said Union territory, as the case may be, prior to such appointment.(2)In this section,-(a)["Himachal Pradesh" includes the territories specified in sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966);] [Inserted by Act 1 of 1969, Section 2].(aa)[] [Cl. (a) relettered by Act 1 of 1969, Section 2] "subordinate service or post" means any service or post appointments to which are not notified in the Official Gazette but includes any service of tehsildars ;(b)"Telangana area" comprises all the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956.(37 of 1956).

4. [Parliamentary scrutiny of rules. [Substituted by Act 10 of 1964, Section 2, for s. 4]

Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree 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 of anything previously done under that rule.]

5. Duration of Section 3 and rules.

Section 3 and all rules made thereunder shall cease to have effect on the expiration of [fifteen years] [Substituted by Act 1 of 1969, Section 3, for "ten years"] from the commencement of this Act, but such cesser shall not affect the validity of any appointment previously made in pursuance of the said rules.