

West Bengal Municipal Service Commission Act, 2018

WEST BENGAL

India

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Act 12 of 2018

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West Bengal Municipal Service Commission Act, 2018(West Bengal Act 12 of 2018)Last Updated 12th December, 2019[Dated 13.09.2013]An Act to make provision for constitution of the West Bengal Municipal Service Commission for direct recruitment of personnel for prescribed categories of posts and services in the establishment of Urban Local Bodies (Municipal Corporations, Municipalities, Notified Area Authorities, Industrial Township Authorities), Development Authorities and also establishment of different Organizations under Urban Development and Municipal Affairs Department, Government of West Bengal and for matters connected therewith or incidental thereto.Whereas it is considered expedient to make provision for constitution of West Bengal Municipal Service Commission for direct recruitment of personnel for prescribed categories of posts and services in the establishment of Urban Local Bodies (Municipal Corporations, Municipalities, Notified Area Authorities, Industrial Township Authorities), Development Authorities and also establishment of different Organizations under Urban Development and Municipal Affairs Department, Government of West Bengal and for matters connected therewith or incidental thereto;It is hereby enacted in the Sixty-ninth Year of the Republic of India, by the Legislature of West Bengal, as follows:-

1. Short title and commencement.

(1)This Act may be called the West Bengal Municipal Service Commission Act, 2018.(2)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Appointing Authority" means the Authority empowered to make appointment to the candidates for any particular post in question;(b)"Chief Executive Officers" means the Chief Executive Officers of the different Development Authorities or

Organisation under Urban Development and Municipal Affairs Department, Government of West Bengal;(c)"Chairman" means the Chairman of the Commission;(d)"Commission" means the West Bengal Municipal Service Commission constituted under this Act;(e)"Corporation" means a Municipal Corporation in West Bengal, by whatever name called, constituted under the relevant Municipal Corporation Act;(f)"Development Authority" means the Development Authorities constituted under the West Bengal Town and Country (Planning and Development) Act, 1979;(West Ben. Act XIII of 1979).(g)"Director" means the Director under the control of the Urban Development and Municipal Affairs Department, Government of West Bengal;(h)"Public Servant" means those persons who are acting or deemed to be acting as Public Servant within the meaning of section 21 of Indian Penal (45 of 1860). Code, 1860;(i)"Governor" means the Governor of the State of West Bengal;(j)"Member" means a Member of the Commission and includes the Chairman;(k)"Municipalities" means the municipalities constituted under the West Bengal Municipal Act, 1993;(West Ben. Act XXII of 1993).(l)"Notification" means a notification published in the Official Gazette;(m)"prescribed" means prescribed by rules made under this Act;(n)"regulations" means the regulations made by the Commission under this Act;(o)"Requiring Body" means those Organisations or Authorities that will send requirement for recruitment to different posts in their Organisations or Authorities to the West Bengal Municipal Service Commission;(P)"State Government" means the Government of the State of West Bengal in the Urban Development and Municipal Affairs Department;(q)"Secretary" means the Secretary of the Commission;(r)"section" means a section of this Act;(s)"Valuation Board" means the West Bengal Valuation Board constituted under the West Bengal Valuation Board Act, 1978.(West Ben. Act LVII of 1978).

3. Constitution of Commission.

(1)The State Government shall, as soon as may be after the commencement of this Act, constitute a Municipal Service Commission by the name of the West Bengal Municipal Service Commission.(2)The West Bengal Municipal Service Commission shall consist of a Chairman and not more than three other members.(3)The Commission shall function under the administrative control of the State Government in the Urban Development and Municipal Affairs Department.(4)The place of sitting of the Commission and its jurisdiction shall be such as the State Government, by notification, specify.

4. Appointment and terms and conditions of service of Chairman and Members.

(1)The Chairman and other Members shall be appointed or nominated, as the case may be, by the State Government and one of the three members shall be an officer of the Department of Backward Classes Welfare of the State Government.(2)The Chairman or Members, as the case may be, to be appointed or nominated shall be citizen of India and shall be above forty-five years of age on the first day of the month of appointment or nomination, as the case may be, and shall possess a degree of a recognized University or equivalent and service experience as set forth below:-(a)in the case of the Chairman, 20 years' experience in group 'A' post or the like in Government, public undertaking or statutory body or local authority;(b)in the case of a Member, 15 years' experience in group 'A' post

or the like in Government, public undertaking or statutory body or local authority.(3)Notwithstanding anything contained in this Act, a person who holds office as Chairman or other Member of the Commission, as the case may be, shall on the expiration of his term of office, be ineligible for appointment to any post under the Municipal Corporations or Municipalities or Development Authorities, Notified Area Authorities, or Industrial Township Authorities, as the case may be.(4)The Chairman and other Members shall hold the office for a maximum term of five years or till attaining the age of sixty-five years, whichever is earlier:Provided that the appointment to the post of Chairman and other Members shall be made for a period of one year only and thereafter the term may be extended from time to time for a maximum period of one year on every occasion.

5. Salaries and allowances of the Chairman, Members and its officers and other employees of the Commission.

(1)The State Government may, by notification, fix the amount of salaries and other allowances for the Chairman and Member of the Commission and for officers and other employees of the Commission:Provided that the condition of service of the Chairman or a Member shall not be varied to his disadvantage after his appointment.(2)The salaries and allowances of the Chairman and other Members of the Commission and the officers and other employees thereof shall be paid by the State Government.(3)The State Government shall place requisite fund to the Commission for the purposes under this section.

6. The staff of the Commission.

(1)The staff of the Commission shall consist of-(a)a Secretary, who shall be appointed by the State Government, and(b)such other officers and employees as the State Government may appoint or depute from time to time from existing Municipal Service Commission established under the Kolkata Municipal Corporation Act, 1980, (West Ben. Act LIX of 1980). and the West Bengal Municipal Corporation Act, 2006 (West Ben. Act XXXIX of 2006). against the posts sanctioned by the State Government.(2)The qualification for appointment and other terms and conditions of the service of the Secretary of the Commission shall be such as may be prescribed by the State Government.(3)The State Government may by rules provide for-(a)the terms and conditions of service of the Chairman and other Members of the West Bengal Municipal Service Commission;(b)the manner in which the West Bengal Municipal Service Commission shall perform the duties imposed upon it by or under this Act;(c)the number of officers and other employees of the West Bengal Municipal Service Commission and their salaries and allowances, excluding the officers and staff mentioned in clause (b) of sub-section (1);(d)the terms and conditions of service including discipline, and control and conduct of officers and other employee. of the West Bengal Municipal Service Commission.

7. Function of Commission.

(1)Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of sub-section (3), it shall be the duty of the Commission to select persons for direct

recruitment to such categories of posts and services in the establishments of Urban Local Bodies (Municipal Corporations, Municipalities, Notified Area Authorities, Industrial Township Authorities) and also establishment of different Organizations under Urban Development and Municipal Affairs Department, as may be prescribed.(2)It shall be the duty of the Commission to perform such other functions as the State Government may, by notification, specify and also advise the State Government on such matter as may be referred to it.(3)Nothing in this section shall apply to direct recruitment to the posts or services which are-(a)required to be made through the Public Service Commission, West Bengal;(b)filled up from the candidates belonging to the exempted categories which has been declared or is declared by the State Government by notification issued in exercise of the power conferred by section 3 of the West Bengal Regulation of Recruitment in State Government Establishments and Establishments of Public Undertaking, Statutory Bodies, Government Companies and Local Authorities Act, 1999 (West Ben. Act XIV of 1999).(c)excluded from the purview of this Act by the State Government by notification.

8. Manner of selection of persons and procedure for conduct of business of Commission and certain special provisions of intimation of vacancies to Commission and advertisement.

(1)The manner of selection of persons for appointment to the posts and services as specified under sub-section (1) of section 7, shall be such as may be provided for by regulations.(2)The procedure for conduct of business of the Commission shall be such as may be provided for by regulations.(3)In particular and without prejudice to the provisions of sub-section (2), the establishment, and Organisation and other Authorities under Urban Development and Municipal Affairs Department, Government of West Bengal shall every year intimate the Commission through the State Government the number of vacancies including those anticipated in course of the year within such time, and in such manner, as may be provided for by regulations.

9. Effect of recommendation of Commission.

- Notwithstanding anything contained in any other law for the time being in force, recruitment to the posts and services, except the posts or services falling under sub-section (3) of section 7, shall be made on the recommendations of the Commission. Recommendation of the Commission shall be binding upon the Requiring Body.

10. Fees.

- The Commission may, for the purpose of discharging its functions of selecting persons for direct recruitment to the posts and services, in the establishments of Urban Local Bodies (Municipal Corporations, Municipalities, Notified Area Authorities, Industrial Township Authorities) and various Organizations and Authorities under Urban Development and Municipal Affairs Department as prescribed under sub section(I) of section 7, levy such fees and other charges as may be provided for by regulations:Provided that the candidates belonging to Scheduled Castes and Scheduled Tribes shall be exempt from paying such examination fees.

11. Power to call for records.

- The Commission may call for any record, report or information from any Appointing Authority or the State Government, if in its opinion such record, report and information is necessary for efficient discharge of its functions and the concerned authorities shall furnish such record, report or information to the Commission.

12. Members etc. to be public servants.

- The Chairman and other Members and persons appointed under this Act shall, while acting or purporting to act under this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

13. Validation.

- The proceedings of the Commission shall not be invalidated by reasons of any vacancy in the office of the Chairman or any other Member.

14. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purpose of this Act.(2)In particular and without prejudice to the generality of the foregoing provision of sub-section (1), such rules may provide for all or any of the following matters:-(a)the terms and conditions of the services of the Chairman and other members of the Commission under sub-section (3) of section 6;(b)the qualification for appointment and other terms and conditions of the service of the Secretary of the Commission under sub-section (2) of section 6;(c)the manner of recruitment of officers and employees of the Commission; and(d)any other matter which may be or is required to be prescribed.(3)Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

15. Power to make regulations.

(1)The Commission may, with the previous approval of the State Government, make regulations, not inconsistent with the provision of this Act or the rules made thereunder, for discharging the function of the Commission under this Act.(2)In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters :-(a)the manner of selection of persons for appointment and the procedure for the conduct of business of the Commission under section 8;(b)the levy of fee and other charges under section 10.

16. Direction by State Government.

- In the discharge of its functions, the Commission shall be guided by such direction not inconsistent with the provisions of this Act, as may be given to it by the State Government from time to time.

17. Dissolution of Commission.

(1) If the State Government is of the opinion that the Commission has failed to discharge its functions under this Act in accordance with the provisions of this Act, the State Government may, by an order published in the Official Gazette and stating the reasons therefor, dissolve the Commission with effect from such date as may be specified in the order. (2) Upon dissolution of the Commission under sub-section (1), all the Members of the Commission shall be deemed to have vacated their respective offices with effect from the date of such dissolution. (3) The State Government may, at any time after the dissolution of the Commission under sub-section (1), reconstitute the Commission in accordance with the provisions of this Act.

18. Power to remove difficulties.

- If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty: Provided that no such order shall be made after the expiry of two years from the date of coming into force of this Act.