

The Pensions Act, 1871

UNION OF INDIA

India

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Act 23 of 1871

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19.

/848Statement of Objects and Reasons.-The law relating to pensions is at present distributed over nine Regulations of the Bengal, three Regulations of the Madras, and two Regulations of the Bombay Codes, as well as three Acts of the Governor-General in Council. The main provision of the law as expressed in the Bengal Regulations XXIV, 1793, section 17, XXXIV, 1795, section 14, XXIV, 1803, section 16 and VI, 1817, and the Madras Regulation IV, 1831. Section 2, is the reservation to Government of the right to determine on all claims to the continuance of pensions, and the exclusion of the jurisdiction of the ordinary Courts of judicature in regard to such claims. In the Bombay Presidency, under the operation of Regulations XXIX, 1827, and VII, 1830, the Civil Courts are barred from the cognizance of suits to enforce such claims throughout the Dekhan Khandesh and the South Mahratta Country. The Bengal Regulations, though expressly applicable only to Bengal and the North-Western Provinces, are practically in force throughout the more recently acquired Provinces; hence the law as above described applies to all India, except a portion of the Bombay Presidency. Within this excepted country the Civil Courts have in more than one instance assumed jurisdiction in such cases. The principle on which that jurisdiction is elsewhere disallowed is founded on perfectly equitable considerations, and is therefore, fit for uniform application. It is in effect the assertion of the right of the State to reserve to itself the power of granting or withholding at pleasure concessions which are made gratuitously and without consideration. The object of the proposed legislation, therefore, is (first) to consolidate the existing law, excluding all those provisions which are either obsolete or ill-adapted for enactment in detail; and (second) to extend the law so re-enacted to the whole of British India. Amendment Act 20 of 1982-Statement of Objects and Reasons.-The Pensions Act, 1871 applies both to Union pensions and State pensions. Insofar as State pensions are concerned, State Legislatures alone have competence to make amendment to the Act. 2. The Act does not extend to the territories which immediately before the 1st November, 1956 were comprised in Part B States. Hence pensioners in these territories cannot avail of the protection

provided in section 11 of the Act against seizure, attachment or sequestration by process of any Court at the instance of a creditor. It is, therefore, proposed to amend section 1 of the Act so that the provisions of the Act, insofar as they relate to Union pensions, extend to the whole of India.³ In view of section 12 of the Act, at present it is not possible for a pensioner to nominate someone, who may receive payment of arrears of pensions remaining undrawn at the time of the death of the pensioner. It has been represented that in the absence of a provision enabling the making of such nominations, the heirs of deceased pensioners are put to undue hardship as they have to obtain succession certificates for the purpose of claiming such arrears. It is, therefore, proposed to insert a new section to enable pensioners to make such nominations and it is also proposed to confer powers on the Central Government to make rules regarding the manner and the form in which such nominations may be made. These provisions will apply only in relation to Union pensions.[8th August, 1871]An Act to consolidate and amend the law relating to Pensions and Grants by Government of money or land revenue.

This Act has been extended to the new Provinces and the Merged States by the Merged States (Laws) Act (59 of 1949) and to the States of Manipur, Tripura and Vindhya Pradesh by the Union Territories (Laws) Act (30 of 1950). Manipur and Tripura are full-Fledged States now, see Act 81 of 1971. It has been extended to the transferred territory in the State of Tamil Nadu by Tamil Nadu Act (23 of 1960). It has also been extended to the Union Territory of Dadra and Nagar Haveli by Regulation (6 of 1963) and to the Union territory of Laccadive, Minicoy and Amindivi Islands by Regulation (8 of 1965). These islands are now known as Lakshadweep, see Act 34 of 1973. The Act has now been extended and amended in Karnataka, see Karnataka Act 23 of 1979. Act has been adapted in Meghalaya, see Meghalaya A.L.O. (No. 3), 1973.

I-PRELIMINARY

1. Short title .-This Act may be called The Pensions Act, 1871.

Extent of Act .- [Insofar as it relates to Union pensions, it extends to the whole of India and insofar as it relates to other pensions, it extends] to [the whole of India except] [Substituted by A.O. 1950.] [the territories which, immediately before the 1st November, 1956, were comprised in Part B States] [Substituted by Adaptation of Laws (No. 2) Order, 1956 (w.e.f. 1.11.1956).].[* * *] [The words " and it shall come into force on the date of the passing thereof" repealed by Act 10 of 1914, Section 3 and Schedule II.][* * *] [The words " but not so as to affect any suit in respect of a pension or grant of money or land revenue which may have been instituted by before such date" repealed by Act 12 of 1891, Section 2 and Schedule I.]

2. Enactments repealed. Saving of rules .-[Repealed by the Repealing Act , 1938 (1 of 1938), section 2 and Schedule].

3. Interpretation-section .-In this Act, the expression "grant of money or land-revenue" includes anything payable on the part of Government in respect of any right, privilege, perquisite or office.

[3-A. Definition.-The expression "the appropriate Government" means, in relation to][Union] [Substituted by A.O. 1950.] [pensions, the Central Government, and in relation to other pensions, the] [Inserted by A.O. 1937.][State Government] [Substituted by A.O. 1950.].II-RIGHTS TO PENSIONS

4. Bar of suits relating to pensions .-Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the [Government or by] any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted.

5. Claims to be made to Collector or other authorised officer .-Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorised in this behalf by the [appropriate Government], and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the [appropriate Government] [Substituted by A.O. 1937.], from time to time, prescribe in this behalf.

6. Civil Court empowered to take cognizance of such claims .-A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorised in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

7. Pensions for lands held under grants in perpetuity .-Nothing in sections 4 and 6 applies to-

(1)any inam of the class referred to in section 1 of Madras Act No. 4 of 1862.(2)pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.Iii-mode Of Payment

8. Payment to be made by Collector or other authorised officer .-All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorised officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue Authority.

9. Saving of rights of grantees of land revenue .-Nothing in sections 4 and 8 shall affect the right of a grantee of land revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

10. Commutation of pensions .-The [appropriate Government] may, with the consent of the holder, order the whole or any part of his pension or grant of money or land revenue to be commuted for a lump sum on such terms as may seem fit.

IV-MISCELLANEOUS

11. Exemption of pension from attachment .-No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance, and no money due or to become due on account of any such pension or allowance, shall be liable to seizure, attachment or sequestration by process of any Court [* * *] at the instance of a creditor, for, any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

[This section applies] [Inserted by A.O. 1937.][* * *] [The words " in Part A States and Part C States" omitted by Adaptation of Laws (No. 2) Order, 1956 (w.e.f. 1.11.1956).][also to pensions granted or continued, after the separation of Burma from India, by the Government of Burma.] [Inserted by A.O. 1937.]

12. Assignments, etc., in anticipation of pension, to be void .-All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

[12-A. Nomination by pensioner to receive moneys outstanding on account of pension.-Notwithstanding anything contained in section 12 or in any other law for the time being in force,-(a)any person to whom any pension mentioned in section 11 is payable by the Government of India or out of the Consolidated Fund of India (such person being hereinafter referred to as the pensioner) may nominate any other person (hereinafter referred to as the nominee), in such manner and in such form as may be prescribed by the Central Government by rules, to receive after the death of the pensioner, all moneys payable to the pensioner on account of such pension at, before or after the date of such nomination and which remain unpaid immediately before the death of the pensioner; and(b)the nominee shall be entitled, on the death of the pensioner, to receive, to the exclusion of all other persons, all such moneys which have so remained unpaid:Provided that if the nominee predeceases the pensioner, the nomination shall, so far as it relates to the right conferred upon the said nominee, become void and of no effect:Provided further that where provision has been duly made in the nomination, in accordance with the rules made by the Central Government, conferring upon some other person the right to receive all such moneys, which have so remained unpaid, in the event of the nominee predeceasing the pensioner, such right shall, upon the decease as aforesaid of the nominee, pass to such other person.]

13. Reward to informers .-Whoever proves to the satisfaction of the [appropriate Government] that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

14. Power to make rules .- [In each][State] [Substituted by A.O. 1950.] the Chief Controlling Revenue Authority may, with the consent of the [appropriate Government] [Substituted by A.O. 1937.], from time to time, make rules consistent with this Act respecting all or any of the following matters:-

(1)the place and times at which, and the person to whom, any pension shall be paid;(2)inquiries into the identity of claimants;(3)records to be kept on the subject of pensions;(4)transmission of such records;(5)correction of such records;(6)delivery of certificates to pensioners;(7)registers of such certificates;(8)reference to the Civil Court, under section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land-revenue payable by Government;and generally for the guidance of officers under this Act.All such rules shall be published in the [Official Gazette] [Substituted by A.O. 1937.], and shall thereupon have the force of law.

15. [Power of Central Government to make rules

.-The Central Government may, by notification in the Official Gazette, make rules to provide for all or any of the following matters, namely:-(a)the manner and form in which any nomination may be made under section 12-A and the manner and form in which such nomination may be cancelled or varied by another nomination;(b)the manner in which provision may be made, for the purposes of

the second proviso to section 12-A, in any such nomination for conferring on some person other than the nominee the right to receive moneys payable to the nominee if such nominee predeceases the pensioner.

16. Laying of rules .-Every rule made by the Central Government under this Act and every rule made under section 14 by a Chief Controlling Revenue Authority with the consent of the Central Government, 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.]

THE SCHEDULEENACTMENTS REPEALED[Repealed by the Repealing Act, 1938 (1 of 1938), section 2 and Schedule].