

**ASSAM ACT NO. XLVI OF 2005**

**(Received the assent of the Governor on 19th December, 2005)**

**THE ASSAM COLLEGE EMPLOYEES (PROVINCIALISATION) ACT, 2005**

**AN ACT**

to provide for provincialisation of the services of employees of the Non-Government Colleges in receipt of deficit grants -in-aid in the State of Assam.

**Preamble**

Whereas it is expedient to provincialise the services of employees of the Non-Government Colleges in receipt of deficit grants -in-aid from the Government of Assam.

It is hereby enacted in the Fifty -sixth Year of the Republic of India as follows:-

**Short title, extent and commencement**

1. (1) This Act may be called the Assam College Employees (Provincialisation) Act, 2005.

(2) It extends to the whole of Assam except the Autonomous Council areas under the Sixth Schedule to the Constitution of India:

Provided that the State Government may, in consultation with the said Autonomous Councils, extend this Act to the Autonomous Council areas by notification published in the Official Gazette.

(3) It shall be deemed to have come into force on and from the 1st day of December, 2005.

**Definitions**

2. In this Act, unless the context otherwise requires, -

(a) "College" means any Non-Government College in Assam in receipt of deficit grants -in-aid from the Government and imparting general education in Arts, Commerce or Science stream in Graduate level;

(b) "employee" means an employee of a College both teaching or non-teaching appointed substantively against a sanctioned post;

(c) "existing employee" means an employee of a College both teaching or non-teaching appointed substantively against a sanctioned post and who is or has been in service on or after the 1st day of January, 2005;

(d) "Governing Body" means the body constituted by the Government in accordance with the provisions of the Assam Non-Government College Management Rules, 2001;

(e) "Government" means the Government of Assam;

(f) "provincialisation" means taking the liabilities for payment of salaries including dearness allowance, medical allowance and such other allowances as admissible to the Government employees of similar category and gratuity, pension, leave encashment, etc. as admissible, under the existing rules, to the employees of the State Government serving under the Government of Assam;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "retired employee" means an employee who has retired on attaining the age of superannuation or otherwise.

**Employees to be provincialised**

3. Subject to the provisions of Article 30 and 309 of the Constitution of India, all employees of the Colleges, save and except the employees who exercise option to continue in the existing terms and conditions of service under clause (d) below, shall be deemed to have become the employees of the Government on and from the date on which the Colleges have been brought under the deficit system of grants -in-aid, on the following terms and conditions, namely:-

(a) all rules including the rules of conduct and discipline, which are applicable to the Government servants of corresponding grade similarly situated shall be applicable;

(b) the existing employees will continue to receive their respective existing scales of pay and other allowances etc. as admissible to them under relevant rules and orders of the Government;

(c) the posts in each provincialised College shall constitute an independent cadre for each category of employees. No inter-cadre transfer from one college to another including mutual transfer shall be allowed;

(d) the existing employees who want to continue in the existing terms and conditions of service shall give an option in writing to the Director, Higher Education, Assam within a period of three months from the date of coming into force of this Act;

*Provided that the option once exercised by an existing employee is final and cannot be changed afterwards;*

(e) any existing employee who does not exercise option under clause(d) shall be deemed to have opted for provincialisation under the provisions of this Act;

(f) the employees of the Colleges provincialised after coming into force of this Act shall have no right of option under clause(d); and

(g) all existing employees who do not exercise option under clause (d) shall have to refund the State Government's share of the Contributory Provident Fund with interest within six months from the date of coming into force of this Act.

*Provided that if any existing employee who fails to refund the State Government's share of Contributory Provident Fund with interest within the said stipulated period such employee shall be deemed to have been opted to remain under the existing terms and conditions of service applicable to them before provincialisation.*

**Colleges to be known as Assam Provincialised Colleges**

4. After coming into force of this Act the Colleges provincialised under this Act shall be known as the Assam Provincialised Colleges as distinct from the Government Colleges in Assam.

**Government to take over the services of employees**

5. The services of all the employees, who do not exercise the option within the stipulated period under clause (d) of section 3, shall vest with the Government with effect from the respective date of provincialisation of the Colleges.

**Selection and appointment of employees**

6. Appointments of both teaching and non-teaching posts in the Colleges shall be made by the Director of Higher Education, Assam on the basis of selection and recommendation of the Governing Body of the respective College in accordance with the Rules and Procedure of the Government in force.

**Rules to be followed for settlement of pension**

7. (1) The existing employees shall be governed by the existing pension Rules of the Government for the time being in force :

*Provided that the employees who join on or after the 1st day of February, 2005 shall not be covered by the existing pension Rules of the Government. They shall be governed by such pension Rules or Scheme, as the case may be, as may be framed by the Government from time to time.*

(2) The Director of Higher Education, Assam shall process all pension cases and send them to the Accountant General, Assam as per laid down procedure.

**Mode of pension to employees who retired/died prior to 1st January, 2005**

8. Employees who retired/died, as the case may be, prior to 1st January, 2005 shall be given only superannuation pension or the family pension, as may be applicable under the existing pension Rules of the Government. They shall not be entitled to any other pensionary benefits :

*Provided that the payment of such superannuation or family pension, as the case may be, are subject to refund of the Government's share of their Contributory Provident Fund within six months from the date of coming into force of this Act:*

*Provided further that if the Government's share of Contributory Provident Fund is not refunded in respect of a retired/deceased employee within the aforesaid stipulated period no superannuation pension or family pension shall be admissible in respect of such employee.*

**Age of superannuation**

9. The provincialised employees shall go on superannuation on attaining such age at which a Government servant similarly situated superannuates.

**Suits and Proceeding**

10. No suit, prosecution and other legal proceedings shall lie for anything done in good faith under this Act, except with the previous sanction of the Government.

**Power of interpretation and removal of difficulties**

11. (1) If any difficulty arises as to the interpretation of any provision of this Act, the interpretation of the Government shall be final;

(2) If any difficulty arises in giving effect to the provisions of this Act, the Governor may, by order do anything, not inconsistent with the provisions of this Act, which appear to him to be necessary for the purpose of removing the difficulty.

**Power of the Government to make Rules**

12. (1) Except for the purpose of payment of pension which will be governed by the Assam Services Pension Rules 1969, the State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done there under.

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