

CHAPTER XIII

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THE HARYANA AIDED SCHOOL (SECURITY OF SERVICE) ACT, 1971
HARYANA ACT NO. 10 OF 1971

(Received the assent of the Governor of Haryana on the 15th of March, 1971 and first published in the Haryana Government Gazette (Extraordinary) of March 18, 1971.)

1	2	3	4
Year	Act No.	Short Title	Whether repealed or otherwise affected by legislation
1971	10	The Haryana Aided Schools (Security of Service) Act, 1971	

AN

ACT

to provide for the security of service to the employees of aided schools.

It is hereby enacted as follows :—

1. (i) This Act may be called the Haryana Aided Schools (Security of Service) Act, 1971.

Short Title.

(ii) It shall come into force with effect from 1st April, 1971.

2. In this Act, unless the context otherwise requires :—

Definitions.

(a) 'aided school' means a school receiving aid from the State Government;

(b) 'Director' means the Director of Public Instruction, Haryana and includes any other officer authorised by the State Government in this behalf;

(c) 'District Education Officer' means the District Education Officer of the District in which an aided school is situated and includes any other officer authorised by the State Government in this behalf;

(d) 'employee' means a person in whole-time employment of an aided school; and

(e) 'Prescribed' means prescribed by rules made under this Act.

1. For statement of objects and Reasons, See Haryana Government Gazette (Extraordinary) 1971, page 203.

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DOC. No.....*219/83*.....
Date.....*21/83*.....

Procedure of
punishing
employees of
aided school.

3. (1) No employee shall be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and give a reasonable opportunity of being heard in respect of those charges and where it is proposed, after such enquiry to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such enquiry.

Provided that this section shall not apply where an employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge involving moral turpitude.

(2) No order of dismissal or removal or reduction in rank of an employee shall take effect unless it has been confirmed by the District Education Officer who may refuse to do so, if in his opinion, the provisions of sub-section (1) have not been complied with.

(3) An employee against whom an order of the nature specified in sub-section (1) is passed without complying with the provision of sub-section (1) or sub-section (2) may, within a period of thirty days of the date of communication of the order, make an application to the District Education Officer challenging such an order on the ground that he is an employee to whom the provisions of sub-section (1) and sub-section (2) apply and the District Education Officer may, after giving the parties an opportunity of being heard and after making such further enquiry as he may think fit, make an order refusing the application or setting aside the impugned order.

(4) Any person aggrieved by any decision or order made by the District Education Officer under this section, within a period of thirty days from the date of communication to such person of the decision or order, prefer an appeal to the Director who may after giving the parties an opportunity of being heard, and after making such further enquiry, if any, as he may consider necessary, pass such order as he thinks fit, confirming, modifying or reversing the decision or order appealed against.

(5) The order passed by the Director under sub-section (4) and subject only to such an order the order passed by District Education Officer under sub-section (2) or sub-section (3) shall be final and binding on the parties.

Uniform code of
service for em-
ployees.

4. Subject to the provision of this Act, the State Government may prescribe :—

- (a) uniform code of service rules for employees in the State relating to pay, allowances, dismissal, removal, suspension, leave, conduct and discipline, provident fund, travelling allowance and other cognate matters;
- (b) essential qualifications for various classes of employees; and
- (c) uniform scales of pay for various classes of employees.

Provided that the State Government may exempt any aided school or class of aided school from the operation of the provision of this section

for such period as it may think fit on grounds of economic capacity thereof.

5. It shall be lawful for the Director to stop, reduce or suspend the aid of an aided school for the violation of any of the provisions of this Act or of any rules made thereunder or of any order passed under this Act by the managing committee, manager or any other authority charged with the administration thereof.

Director's power to stop reduce or suspend aid.

Provided that before taking action under this section, the Director shall give a reasonable opportunity to such managing committees, manager or authority to show cause against the action proposed to be taken.

6. No suit, prosecution or other legal proceeding shall lie against the State Government or any authority or any officer appointed under this act any thing which is in good faith done or intended to be done in pursuance of this Act.

Protecting of action in good faith.

7. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Powers to remove difficulties.

8. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

Powers to make rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before the House of the State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees 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 of the validity of any thing previously done under that rule.

(Published in the Haryana Government Gazette, Legislative, Supplement, dated the 18th June, 1974)

PART III

HARYANA GOVERNMENT EDUCATION DEPARTMENT

Notification

The 12th June, 1974

No. G.S.R. 78/HLA.10/71/S.8/74.—In exercise of the powers conferred by sub-section (1) of section 8 of the Haryana Aided Schools (Security of Service) Act, 1971, the Governor of Haryana hereby makes the following rules, namely :—

PART I

GENERAL

Short title and Commencement, Section 8.

1. (1) These rules may be called the Haryana Aided Schools (Security of Service) Rules, 1974 & amended upto 1976.

(2) They shall come into force with effect from 1.8.74.

Definitions, Section 8.

2. In these rules, unless the context otherwise requires,—

(a) "Act" means the Haryana Aided Schools (Security of service) Act, 1971 ;

(b) "department" means the Haryana Education Department ;

(c) "Government" means the Government of the State of Haryana ;

(d) "Head of the Institution" means the Principal or the Headmaster or Headmistress of an aided school ;

(e) "Management" means the managing committee, duly approved by the Director running the aided school ;

(f) "recognised university" means any university incorporated by law in India or which is so declared by the Government for the purposes of these rules ;

(g) "State" means the State of Haryana ;

(h) "Service" means the service in an aided school.

PART II

RECRUITMENT TO SERVICE

Character of posts, Section 4.

3. (1) The Service shall comprise all or any of the posts shown in column 2 of Appendix A to these rules, as the Management may, from time to time after getting the previous approval of the Director, decide.

(2) The Government may by notification, make additions to, or reductions in the posts shown in column 2 of Appendix A to these rules.

4. No person shall be appointed to the Service by direct recruitment, who is less than eighteen years of age on or before the last date of submission of applications to the Management.

Age Section 4.

5. Appointments to the posts of teaching and non-teaching staff in the service shall be made by the Management, and to the posts of other staff in the service shall be made by the Head of the Institution, in consultation with the Management, in the manner provided in rule 7.

Appointing authority, Section 4.

6. No person shall be appointed to the Service unless he is in possession of qualification and experience specified in column 3 of Appendix A to these rules.

Qualifications Section 4.

7. (1) Recruitment to the Service shall be made by—

Methods of recruitment Section 4

(i) promotion ; or

(ii) direct recruitment ; or

(iii) transfer.

(2) There shall be constituted by the Management a selection committee consisting of such number of members as it may determine for the purpose of making recruitment provided that one of its members shall be an experienced educationist.

(3) Whenever vacancy occurs or is about to occur in the service, the Management shall determine the manner in which the vacancy is to be filled. If the vacancy is to be filled by direct recruitment the Management shall :—

(i) advertise the vacancy in the leading daily an English and a Hindi Newspaper etc. ; or

(ii) send the requisition to the local employment exchange.

(4) The applications of the names received under sub-rule (3) shall be put up before the selection committee which shall make selection strictly according to merit.

(5) Nothing contained in sub-rules (2), (3) and (4) shall apply to the posts of non-teaching staff.

(6) Appointment orders to the posts in the Service shall be issued by the Management or the Head of the Institution, as the case may be, in the forms prescribed in Appendix B to these rules:

8. (1) The persons appointed to any post in the service shall remain on probation for a period of two years, if appointed by direct recruitment and one year, if appointed otherwise :

Probation, Section 4.

Provided that any period of officiating appointment shall be reckoned as period spent on probation, but no person who has so officiated shall, on the completion of the prescribed period of probation be entitled to be confirmed, unless he is appointed against permanent vacancy.

(2) If, in the opinion of the appointing authority, the work or conduct of a person during the period of probation is not satisfactory, it may—

(a) if such person is appointed by direct recruitment, dispense with his services, and

(b) if such person is appointed otherwise than by direct recruitment,—

(i) revert him to his former post; or

(ii) deal with him in such other manner as the terms and conditions of his previous appointment permit.

(3) On the completion of the period of probation of a person, the appointing authority may,—

(a) if his work or conduct has, in its opinion, been satisfactory,—

(i) confirm such person from the date of his appointment, if appointed against a permanent vacancy; or

(ii) confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy; or

(iii) declare that he has completed his probation satisfactorily, if there is no permanent vacancy; or

(b) if his work or conduct has, in its opinion, been not satisfactory—

(i) dispense with his services, if appointed by direct recruitment, or if appointed otherwise, revert him to his former post or deal with him in such other manner as the terms and conditions of his previous appointment permit; or

(ii) extend his period of probation and thereafter pass such order, as it could have passed on the expiry of the first period of probation :

Provided that the total period of probation, including extension, if any, shall not exceed three years.

Seniority,
Sections 3 and 4.

9. (1) The seniority *inter se* of the employees shall be determined by the length of continuous service on a post in the Service:

Provided that where there are different cadres in the Service, the seniority shall be determined separately for each cadre :

provided further that in the case of employees appointed directly, the order of merit determined by the selection committee shall not be disturbed in fixing the *inter se* seniority.

Provided further that in case of two employees appointed on the same date, their seniority shall be determined as follows —

(a) an employee appointed by direct recruitment shall be senior to an employee appointed otherwise ;

(b) in the case of employees who are appointed by promotion their *inter se* seniority shall not be disturbed.

(2) The seniority lists of the employees shall be prepared by the Management in the form prescribed in Appendix C to these rules. In the case of any dispute regarding fixation of seniority, the matter shall be decided by the District Education Officer against whose decision an appeal shall lie to the Director of Public Instruction, Haryana.

(3) When an employee leaves the aided school or is transferred from one category of post to another category of post, a note to that effect shall be recorded against his name in the last column of the seniority list, and in his service book.

PART III

PAY, ALLOWANCES AND SERVICE RECORD

(1) The scales of pay of the employees shall be as specified in column 4 of Appendix A, to these rules.

(2) The rates of dearness allowance payable to the employees shall be the same as are admissible from time to time to Government employees.

(1) The employees shall be governed by the leave rules as are applicable from time to time to their counterparts, in Government service.

(2) The Head of the Institution shall be competent to grant casual leave to the employees and in the case of the Head of the Institution the competent authority to grant casual leave shall be the Management.

(3) In respect of any leave other than casual leave, the competent authority to sanction the same shall be the Management. Application in this behalf shall be sent to the Management by the Head of the Institution with his remarks regarding admissibility thereof and if the application for leave is made by the Head of the Institution himself no such sanction shall be required.

(4) If an employee is deputed by the Management or Head of the Institution for the business of the aided school he shall be entitled to get travelling and daily allowances in accordance with the rules as are applicable from time to time to the Government employees.

Scales of pay,
dearness allow-
ance and pay-
ment of Salary,
Section 4.

Leave,
Section 4.

Section 4.

Section 4.

Travelling Allow-
ance and daily
allowance,
Section 4.

13. (1) In every employee there shall be maintained a service book in which shall be recorded all confidential reports and other information in relation thereto.

The service book shall be kept in the custody of the employee and he shall be responsible for its safe custody and shall produce the same on demand of the Head of the Institution or the Management.

14. No employee shall, except with the previous sanction of the Management engage directly or indirectly in any trade or business or undertake any other employment:

Provided that no such permission shall be necessary if the employee undertakes private tuition work with the permission of the Head of the Institution for not exceeding two hours a day:

Provided further that a teacher may, with such permission, undertake honorary work of a purely social or charitable nature or occasional work of a literary, artistic or scientific character, subject to the condition that his official duties do not suffer thereby and the Head of the Institution or the Management does not object thereto.

Insolvency and habitual indebtedness - Section 15

15. An employee shall so manage his private affairs as to avoid habitual indebtedness or insolvency. Any such employee against whom any legal proceedings are instituted for the recovery of any debt due from him or for adjudging him as insolvent shall forthwith report the full facts of the legal proceedings to the Head of the Institution or the Management.

Appearance in examination - Section 16

16. No employee shall, except with the permission of the Head of the Institution or the Management, appear in any examination.

Participation in public meetings - Section 17

17. No employee shall, take part in, subscribe to, or assist in any way, any movement which tends to promote feelings of hatred or enmity between different classes of subjects of India or to disturb public peace.

Participation in newspaper or other periodical - Section 18

18. No employee shall, except with the prior permission of the Management, who wholly or in part or conduct or participate in the editing or management of any newspaper or other periodical.

Communication of information - Section 19

19. No employee shall,--

(a) in any manner whatsoever, criticise in public the Government, Management or any officer of the Government;

(b) except in accordance with any general or special order of the Management, or in the performance of good faith of the duties assigned to him, communicate directly or indirectly any official document or information to any other employee or person to whom he is not authorised to communicate such document or information.

20. No employee shall, except with the prior permission of the Management, stand for election to Parliament, State Legislature or any local body.

Taking part in election,
Section 4.

21. No employee shall join, or continue to be a member of an association unless such association satisfies the following conditions, namely:—

Joining of association by employees,
Section. 4

- (i) its membership is confined to a distinct class of employees and is open to all employees of that class;
- (ii) it is not in any way connected with any political party or any organisation or does not engage in any political activity;
- (iii) it has, within a period of six months from its formation, obtained the recognition of the Government.

22. (1) Every employee shall,—

General,
Section 4.

- (i) serve efficiently, act in a disciplined manner and maintain absolute integrity and devotion to duty; and
- (ii) bear cordial relations with the pupils and their parents, the Head of the Institution, other employees, the Management and the Government Officer concerned.

(2) No employee shall,—

- (i) without sufficient grounds refuse to undergo a course of training, whenever required to do so; and
- (ii) take part in any activity, which in the opinion of the Head of the Institution is calculated to lead to indiscipline in the aided school.

Unless otherwise expressly provided, an employee shall, at the disposal of the aided school and shall serve the school at such places as he may, from time to time, be directed by the Head of the Institution or the Management.

In exceptional circumstances no employee shall absent himself from duty without the prior permission of the Head of the Institution or the Management.

(3) No employee shall,—

allow or permit any member of his family or any other person acting on his behalf to accept, any gift from any student, or from any person with whom he has come in contact by virtue of his position in the school.

(4) The expression 'gift' shall include free transport, boarding, lodging or other service or any other pecuniary advantage when provided by the persons other than a near relation or personal friend having no dealings with him in connection with the school.

A casual meal, lift or other social hospitality of a casual nature shall not be gift.

2. On occasions, such as weddings, anniversaries, funerals or religious functions when the making of a gift is in conformity with the prevailing religious or social practice, a teacher may accept a gift, if the value thereof does not exceed twenty-five rupees;

- (ii) practise, or incite any student to practise, casteism, communalism or untouchability,
- (iii) cause, or incite any other person to cause, any damage to school property;
- (iv) be guilty of, or encourage, violence, or any conduct which involves moral turpitude.

PART V PUNISHMENT AND APPEALS

Penalties. Section 4

The following penalties as hereinafter provided may, for good and sufficient reason, be imposed upon the employees, namely—

- (i) minor penalties,—
 - (a) censure;
 - (b) withholding of increments with or without cumulative effect, or promotion;
 - (c) recovery from pay of the whole or part of any pecuniary loss caused to the aided school or its Management by negligence, fraud, misappropriation or breach of orders; and
 - (d) suspension; and
- (ii) major penalties,—
 - (a) reduction in rank;
 - (b) removal; and
 - (c) dismissal.

21. The authority competent to impose—

- (a) minor penalties shall be the Head of the Institution; and
- (b) major penalties shall be the Management.

25. (1) No order imposing any of the minor penalties, shall be passed unless—

(a) the employee is informed in writing of the action proposed to be taken against him and given a reasonable opportunity to make any representation as he may wish to make against proposed penalty; and

(b) the representation, if any, is taken into consideration.

(2) Any employee aggrieved by the order imposing minor punishment may within a period of thirty days from the date of communication to such employee of the order, prefer an appeal to the Management who may, after giving the parties an opportunity of being heard, and after making such further enquiry, if any, as the Management may consider necessary pass such order as it deems proper, confirmed, modifying or revising the order appealed against.

26. (1) An employee against whom proceedings have been taken either for his arrest for debt or on criminal charge shall be considered under suspension for any period during which he is detained in custody.

(2) An employee who is detained in custody whether on a criminal charge or otherwise for period exceeding forty-eight hours shall be deemed to have been suspended with effect from the date of detention.

(3) An employee against whom a criminal charge or proceedings for arrest for debt or departmental enquiry is pending, may also be placed under suspension by the issue of specific orders to that effect during the period when he is not actually detained in custody or imprisoned that is while released on bail if the charge made or proceedings taken against him is connected with his position as an employee or a departmental enquiry is likely to embarrass him in the discharge of his duties as such or involve moral turpitude.

(4) When an employee is placed under suspension, as the case may be shall be allowed to draw subsistence allowance equal to leave salary on half pay or half average pay, as the case may be and dearness allowance admissible to him.

(5) When an employee is placed under suspension as a result of departmental enquiry pending against him, the period of his suspension shall not exceed three months except in cases where the approval of the District Education Officer has been obtained.

27. If the employee is finally exonerated of the charge he shall be entitled to full pay and allowances as admissible to him minus the amount of subsistence allowance already paid to him during the period of suspension and the period of suspension shall be treated as on duty and shall count for all purposes. In the event of employee not being exonerated, the Management shall, with the prior approval of the District Education Officer, treat the period of suspension in such manner as it may deem fit.

Procedure for imposing minor penalties and filing of appeal.

Suspension Section 4.

Period of suspension how to be treated Section 4.

Procedure for
imposing major
penalties.
Section 4.

28. (1) When a situation warrants dismissal, removal or reduction in rank of an employee, the proceedings for the proposed penalty shall be started by the Management either *suo motu* or on the report of the Head of the Institution and in the case of the Head of the Institution by the Management itself.

(2) The grounds on which it is proposed to take action against an employee shall be reduced to the form of definite charge or charges which shall be, within period of twenty-one days from the date he was placed under suspension, communicated to the employee under a registered cover acknowledgment due and he shall be required within a period of fifteen days to state in writing whether he admits truth of all or any, of the charges, what explanation or defence, if any, he has offered or whether he desires to be heard in person.

(3) On receipt of a reply to the charge sheet from the employee the Management shall, if the employee so desires, or if the Management so desires, hold an oral enquiry in which all evidence shall be heard as to such of the charges as are not admitted, proceed to institute an enquiry within a period of fifteen days from the date of receipt of the reply. If the Management exonerates the employee from the charges levelled against him, he shall be re-instated forthwith and the pay and allowances for the period the employee remained under suspension shall be paid to him within a period of one month of the date of re-instatement and the period of suspension shall be treated as on duty for all purposes.

(4) After the enquiry as specified in the foregoing sub-rule is completed, the Management shall consider the enquiry report and record its findings in respect of each charge. If the Management is of the opinion that any one of the major penalties is required to be proposed it shall serve the employee with a show-cause notice—stating the action proposed to be taken against him and calling upon him to submit, within a period of twenty-one days from the date of receipt of the show-cause notice, such representation as he may wish to make against the proposed action. If after considering the reply of the employee to the show-cause notice, the Management proposes to inflict, the proposed penalty, it shall, within period of seven days of its decision forward the same along with the facts and complete record of the case of the District Education Officer who shall, within a period of thirty days from the date of the receipt of the record, convey his approval or disapproval to the Management with a copy thereof to the employee.

Supply of record
Section 4.

29. An employee against whom an enquiry is proposed to be held shall, for the purposes of preparing his defence be permitted to inspect and take extracts from such official record as he may specify, provided that such permission may be refused, if for reasons to be recorded in writing in the opinion of the Enquiry Officer, such records are not relevant for the purpose or it is against public interest to allow him such access thereto.

PART VI

CONTRIBUTORY PROVIDENT FUND

Definitions.
Section 4.

30. In this part, unless the context otherwise requires—

(a) "emoluments" mean basic pay, leave salary or subsistence allowance;

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APPENDIX B

(see rule 7)

Appointment

No. _____

dated the _____

On the recommendations of the selection committee Shri/Smt. _____ is hereby appointed as _____ in _____ with effect from the date he/she joins duty, in the grade of Rs. _____ plus usual allowances sanctioned by the Haryana Government from time to time on the following terms and conditions, namely :—

Terms and Conditions

1. He/She shall be on probation for a period of _____ year (s) in accordance with the rules which can be extended for such further period as the competent authority under the rules may determine.
2. In case of resignation or discharge, on grounds other than the abolition of post or disciplinary action, he/she shall be given one month's notice or paid one month's pay with allowances, in lieu thereof, on either side, subject to the fulfilment of other conditions of service.
3. No travelling allowance will be admissible for joining the post.
4. Before assuming the charge of duties, he/she will be required to produce the following certificates to the Head of the Institution :—
 - (i) medical certificate of fitness from a qualified registered Medical Practitioner ;
 - (ii) attested copies of academic and professional qualification and matriculation certificates ; and
 - (iii) a certificate of good character from a Gazetted Officer/M.L.A./M.C.
5. If he/she has not been vaccinated within the last twelve months, he /she should have it done before reporting for duty.

If the above terms and conditions are acceptable to him/her, he/she should join his /her duty immediately but not later than _____

In case of failure to do so, his/her candidature is liable to be cancelled and the post shall be offered to the next eligible candidate.

Signature
Appointment Authority,
with Seal of the Office.

No. _____, dated the _____

A copy for information and necessary action is forwarded to :—

- (1) Head of the Institution concerned.
- (2) Candidate concerned.

Signature
Appointment Authority,
with Seal of the Office.

Sub. National Systems Unit,
National Institute of Educational
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DOC. No.: _____
Date.....