

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act VII of 1990

**THE WEST BENGAL STATE HEALTH SERVICE
 ACT, 1990.**

[Passed by the West Bengal Legislature.]

*[Assent of the Governor was first published in the Calcutta Gazette,
 Extraordinary, of the 16th May, 1990.]*

[16th May, 1990.]

*An Act to provide for the regulation of the recruitment, and conditions of
 service of persons appointed, to the State Health Service.*

WHEREAS it is expedient, in the public interest, to regulate the recruitment, and the conditions of service of persons appointed, to the State Health Service;

It is hereby enacted in the Forty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal State Health Service Act, 1990.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

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

Definitions.

- (a) “cadre” means the strength of service or a part of service sanctioned by the State Government as a separate unit;
- (b) “former West Bengal Health Service” means the West Bengal Health Service in existence immediately before the coming into force of this Act;
- (c) “notification” means a notification published in the *Official Gazette*;
- (d) “prescribed” means prescribed by rules made under this Act;
- (e) “service” means the State Health Service;
- (f) “State Health Service” means the West Bengal Medical Education Service, or the West Bengal Health Service, as constituted under section 3.

(Sections 3-6.)

Constitution
of State
Health
Service.

3. (1) With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be constituted the following State Health Services and different dates may be appointed for different services, namely:—

1. The West Bengal Medical Education Service;
2. The West Bengal Health Service.

(2) The West Bengal Health Service shall include a cadre for Public Health-cum-Administration as a separate unit.

Transfer
from one
service to
another.

4. (1) No person appointed to the West Bengal Medical Education Service shall be transferred to the West Bengal Health Service:

Provided that any person holding a teaching post in the basic level in the West Bengal Medical Education Service may exercise an option for the West Bengal Health Service on such terms and conditions as may be prescribed.

(2) No person appointed to the West Bengal Health Service shall be transferred to the West Bengal Medical Education Service.

(3) Any person appointed to a post included in the West Bengal Health Service, other than a post included in the cadre for Public Health-cum-Administration as a separate unit, may transferred to a post included in the cadre for Public Health-cum-Administration as a separate unit.

(4) Subject to the foregoing provisions of this section and the rules made under this Act, the State Government shall have the right to transfer any person from one post to another post:

Provided that except on account of inefficiency or misbehaviour or on his written request, no person shall be transferred to a post carrying less pay than the pay of the post held by him for the time being.

Combination
of appoint-
ment.

5. Subject to the provisions of this Act, the State Government may appoint any person to hold two or more separate posts on such terms and conditions as may be prescribed.

Medical
Colleges to
be non-
practising
institutions.

6. (1) The State Government may, by notification, declare any undergraduate or post-graduate Medical College or other teaching institution together with the Hospital, if any, attached to such Medical College or institution to be a non-practising institution with effect from such date as may be specified in the notification.

VII of 1990.]

(Sections 7-10.)

(2) Upon such declaration, no person holding any post in such Medical College or other institution or the Hospital attached thereto on terms and conditions for practice shall be allowed to hold such post on terms and conditions for practice.

7. The cadre of the West Bengal Medical Education Service shall consist of such teaching posts on such pattern and on such terms and conditions as may be prescribed and shall include such non-teaching administrative posts as may be notified by the State Government from time to time:

Cadre of
West Bengal
Medical
Education
Service.

Provided that such terms and conditions may include the condition of management and supervision of admission to beds, and treatment, of patients in such undergraduate or post-graduate Medical College or other teaching institution together with the Hospital, if any, attached to such Medical College or institution by such persons appointed to the West Bengal Medical Education Service or appointed on such terms and conditions as the State Government may determine, to the exclusion of all other persons appointed to the West Bengal Health Service, as may be prescribed.

8. The cadre of the West Bengal Health Service shall consist of such non-teaching posts as may be prescribed and shall include such other posts to form a cadre for Public Health-cum-Administration as a separate unit as may be notified by the State Government from time to time.

Cadre of
West Bengal
Health
Service.

9. (1) The posts included in the cadre of the West Bengal Medical Education Service shall be non-practising.

Posts in
cadre of
West Bengal
Medical
Education
Service to be
non-
practising.

(2) Any person appointed to a post included in the cadre of the West Bengal Medical Education Service may be granted such non-practising allowance as may be prescribed.

10. (1) The posts included in the cadre for Public Health-cum-Administration as a separate unit of the West Bengal Health Service shall be non-practising.

Posts in
cadre for
Public
Health-cum-
Administra-
tion as a
separate unit
of West
Bengal
Health
Service to be
non-
practising.

(2) Any person appointed to a post included in the cadre for Public Health-cum-Administration as a separate unit of the West Bengal Health Service may be granted such non-practising allowance as may be prescribed.

(Sections 11, 12.)

Persons appointed to posts in West Bengal Health Service, other than posts in cadre for Public Health-cum-Administration as a separate unit, to continue in such posts.

11. Any person of the former West Bengal Health Service appointed to a post included in the cadre of the West Bengal Health Service, other than a post included in the cadre for Public Health-cum-Administration as a separate unit shall continue in such post on such terms and conditions as were in force immediately before the coming into force of this Act.

Status of persons holding teaching posts, or posts connected with Public Health or Administration, in former West Bengal Health Service.

12. Any person who has held, or any person who holds immediately before the coming into force of this Act, a teaching post in the former West Bengal Health Service on terms and conditions for practice or non-practice, may exercise an option for the West Bengal Medical Education Service or the West Bengal Health Service in such manner as may be prescribed and thereupon such person shall be appointed or shall be deemed to have been appointed, as the case may be, to a post included in the West Bengal Medical Education Service or the West Bengal Health Service, as the case may be:

Provided that a person exercising option for the West Bengal Medical Education Service and a person selected for appointment to the West Bengal Education Service shall, upon appointment to a teaching post in the West Bengal Medical Education Service, be required to perform duties in a Hospital in addition to his duties as Teacher of the discipline concerned having such designation as may be prescribed:

Provided further that any person holding a post connected with Public Health or Administration in the former West Bengal Health Service immediately before the coming into force of this Act, may exercise an option for the West Bengal Health Service or the cadre for Public Health-cum-Administration as a separate unit of the West Bengal Health Service in such manner as may be prescribed:

Provided also that the persons holding posts connected with Public Health or Administration in the former West Bengal Health Service immediately before the coming into force of this Act, who do not exercise any option as aforesaid, shall be deemed to have exercised option for the West Bengal Health Service but the posting of such persons in the West Bengal Health Service shall be made in phases:

(Sections 13, 14.)

Provided also that the persons holding teaching posts and the persons holding administrative posts in the former West Bengal Health Service immediately before the coming into force of this Act, who do not exercise any option under this section, shall be deemed to have exercised option respectively for the West Bengal Health Service and the cadre for Public Health-cum-Administration as a separate unit of the West Bengal Health Service.

13. Notwithstanding anything contained in section 12, persons holding teaching posts of any rank in the former West Bengal Health Service on terms and conditions for practice, who do not exercise option for the West Bengal Medical Education Service, may, on transfer from such posts, be appointed to the West Bengal Health Service in phases within a period of one year from the date of coming into force of this Act.

Transfer of persons holding teaching posts but not opting for West Bengal Medical Education Service.

14. (1) Recruitment to all teaching posts in the West Bengal Medical Education Service shall be made through the State Public Service Commission in such manner as may be prescribed:

Recruitment to State Health Services.

Provided that a quota shall be fixed in such manner as may be prescribed for all categories of teaching posts in the West Bengal Medical Education Service for being filled up by promotion of persons holding teaching posts in the said Service:

Provided further that—

- (a) for a period of five years from the date of coming into force of this Act, recruitment to the teaching posts in the basic level in the West Bengal Medical Education Service shall be made from amongst the persons appointed to the West Bengal Health Service who have rendered two years' service in the West Bengal Health Service in rural areas, on such terms and conditions as may be prescribed, and
- (b) on the expiry of the period as aforesaid, recruitment to the teaching posts in the basic level in the West Bengal Medical Education Service shall be made through the State Public Service Commission giving weightage to persons who have rendered two years' service in the rural areas:

Provided also that recruitment to the posts of and above the rank of Reader in the West Bengal Medical Education Service shall be made through the State Public Service Commission in such manner as may be prescribed:

(Sections 15, 16.)

Provided also that any person appointed to the West Bengal Medical Education Service shall, subject to such terms and conditions as may be prescribed, be eligible to apply for any such post:

Provided also that recruitment to the posts of Lecturer and Assistant Professor in the West Bengal Medical Education Service shall be made through the State Public Service Commission in such manner as may be prescribed:

Provided also that weightage of service in the rural areas shall be given to the persons who apply for recruitment to the posts of Lecturer and Assistant Professor in the West Bengal Medical Education Service, in such manner as may be prescribed.

(2) Recruitment to all posts in the basic level in the West Bengal Health Service shall be made through the State Public Service Commission in such manner as may be prescribed.

(3) Notwithstanding anything contained in the forgoing provisions of this section or elsewhere in this Act, promotion of persons holding teaching posts to the next higher rank, due on any date prior to the date of coming into force of this Act, may, if not made prior to the coming into force of this Act, be made at any time after the coming into force of this Act, other than in accordance with the provisions of this Act or the rules made thereunder.

(4) Recruitment to all non-teaching administrative posts in the West Bengal Medical Education Service shall be made in such manner as may be prescribed.

Control and discipline of persons appointed to State Health Services.

15. All persons appointed to the State Health Services shall be subject to such control and discipline as may be prescribed.

Age of retirement of persons appointed to West Bengal Medical Education Service.

16. The age of compulsory retirement of persons appointed to the West Bengal Medical Education Service shall be such as may be prescribed:

Provided that no such person shall be retained in service on his attaining the age of sixty years:

Provided further that any such person may be re-employed on his attaining the age of superannuation or after he has attained such age to a post in the West Bengal Medical Education Service, not inferior to a post held by such person immediately before his attaining the age of superannuation, on such terms and conditions as may be prescribed:

Provided also that no such person shall be retained on such re-employment on his attaining the age of sixty-five years.

(Sections 17-20.)

17. (1) The scales of pay of persons appointed to the teaching posts in the West Bengal Medical Education Service shall be such as may be prescribed.

Scales of pay of persons appointed to teaching posts in the West Bengal Medical Education Service and posts included in cadre for Public Health-cum-Administration as a separate unit of West Bengal Health Service.

(2) The scales of pay of persons appointed to the posts included in the cadre for Public Health-cum-Administration as a separate unit of the West Bengal Health Service shall be such as may be prescribed.

18. The provisions of this Act shall not apply to any person not belonging to the former West Bengal Health Service but holding a teaching post in any undergraduate or post-graduate Medical College or other teaching institution or in any Hospital attached to such Medical College or institution on terms and conditions as might be agreed upon by that Government prior to the coming into force of this Act, and such persons shall continue in such post on the same terms and conditions after the coming into force of this Act.

Act not to apply in certain cases.

19. All rules, orders, and notifications made or issued by the State Government from time to time under the proviso to article 309 of the Constitution of India or under any other law for the time being in force, applicable to the persons appointed to the former West Bengal Health Service and continuing in force immediately before the coming into force of this Act, shall, after the coming into of this Act, continue in force in so far as such rules, orders or notifications are not inconsistent with the provisions of this Act until they are repealed or amended.

Saving.

20. The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any judgement, decree or order of any Court, Tribunal or other authority or in any instrument having effect by virtue of any law other than this Act or in any contract, custom or usage to the contrary.

Act to have overriding effect.

(Sections 21-23.)

Power to
make rules.

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

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, 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, the State Legislature agrees in making any modification in the rule or the State Legislature 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 to the validity of anything previously done under that rule.

Power to
remove
difficulties.

22. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of this Act.

Repeal.

23. The West Bengal State Health Service Ordinance, 1990, is hereby repealed.

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