



**KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
SECOND SESSION**

**THE KARNATAKA CIVIL SERVICES (WATER RESOURCE SERVICE)
(SPECIAL RECRUITMENT OF ASSISTANT ENGINEERS AND JUNIOR
ENGINEERS) BILL, 2013
(L.A. Bill No. 20 of 2013)**

A Bill to make special recruitment of Assistant Engineers and Junior Engineers in the Karnataka Civil Services (Water Resource Services).

Whereas, the High Court of Karnataka in Writ Petition No. 41145-58/2010 (G. Ravi and 3 others) and connected other 3 Writ petitions, has declared that the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water resources Services) (Special) Rules, 2002 – are contrary to Article 16(3) as well as Article 14 and 16 of the Constitution of India as void ab initio and further directed that the Government shall initiate recruitment process to the posts which were filled up under the impugned Absorption Rules forthwith and complete the same within a period of six months from the date of the order outer limit being one year. All the persons absorbed/appointed/ regularized under the impugned Rules are permitted to continue in service till the recruitments are made in pursuance of the Karnataka Public Works (Irrigation Services)(Recruitment of Assistant Engineers and Junior Engineers)(Special) Rules, 1998, within a period of one year, whichever is earlier.

Further, that eligibility for applying as against these vacancies would be that all persons who possess the requisite educational qualification as well as age as on 11.02.1999, the day on which the aforesaid special rules came into force. Only those persons who possess the requisite qualification as on 11.02.1999 shall be considered for filling up those vacancies which were filled up under the impugned Absorption Rules.

Whereas, the Hon'ble Supreme Court has rejected the SLP application bearing No. 38345-38397/2012 and modified the directions of High Court to the extent that any person who has been working on adhoc basis and was eligible at the initial time of his appointment, can apply in pursuance of any advertisement made even if he has become over aged.

The Hon'ble Supreme Court also held that, if the selection process in pursuance of the order of the High Court is not concluded within a period of one year from date of the Court order, any person working in adhoc basis shall cease to work with effect from 13-12-2013.

Thereby, the services of large number of Assistant Engineers and Junior Engineers will cease to exist and the interest of the State will be jeopardised on account of stoppage of ongoing projects undertaken with the aid of World Bank keeping in view Bachavat Award and recent award passed by the Krishna Water Disputes Tribunal Award-II;

Whereas, the State of Karnataka is under an obligation to complete ongoing projects and also to undertake further projects to utilize its share of water to serve the large interest of farmers of the State and therefore it is necessary to utilise the long years of service and experience put in by Assistant Engineers and Junior Engineers absorbed in 2002 rules in public interest;

Whereas, the Karnataka Public Works (Irrigation Services) (Recruitment of Assistant Engineers and Junior Engineers) (Special) Rules, 1998 - are one time operational rules and it requires certain modification with reference to the age limit applicable to the candidates to be recruited in accordance with the above cited judgments and whereas it is also expedient to provide for protection of the interest of 417 engineers absorbed under the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water resources Services) (Special) Rules, 2002 and to consider their long service rendered in the State Government and for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty fourth year of the Republic of India as follows:-

1. Short title commencement and application.- (1) This Act may be called the Karnataka Civil Services (Water Resources Services) (Special Recruitment of Assistant Engineers and Junior Engineers) Act, 2013.

(2) It shall come into force at once.

(3) Notwithstanding anything contained in the Karnataka Civil Services (General Recruitment) Rules, 1977 or in the Karnataka Public Works (Irrigation Services) (Recruitment) Rules, 1988 or in any other rule made or deemed to have been made under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) or in any Judgment, decree or Order of any Court, Tribunal or Authority this Act shall apply to the direct recruitment to 550 or such additional number of vacancies in the categories of Posts of Assistant Engineers and Junior Engineers in the Karnataka Civil Services (Water Resource Services):

Provided that nothing in this Act shall apply to more than one recruitment.

2. Definition.- (1) In this Act, unless the context otherwise requires,-

(a) "Adhoc or Contract Assistant Engineers or Junior Engineers" means the adhoc or contract Assistant Engineers or Junior Engineers as defined and absorbed into the Karnataka Public Works (Irrigation Service) under the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers

appointed on contract basis and on adhoc basis in Water resources Services) (Special) Rules, 2002;

(b) "selection authority" means such officer or authority as the State Government may by order specify in this behalf.

(2) The words and expressions used in this Act but not defined herein shall have the same meaning as in the Karnataka State Civil Services (General Recruitment) Rules, 1977.

3. Selection Authority.-(1) The selection of candidate for the Posts of Assistant Engineers and Junior Engineers under this Act shall be made by the Selection Authority.

(2) The selection authority shall prepare a list of selected candidates in accordance with section 7.

4. Age.-The candidate who are eligible as on 11-02-1999 in accordance with the age limit specified in rule 6 of the Karnataka Civil Services (General Recruitment) Rules, 1977 shall only be eligible to apply for the recruitment under this Act:

Provided that the upper age limit prescribed shall be relaxed in respect of adhoc or contract Assistant Engineers or Junior Engineers as on 11-02-1999 by such number of years they have served on Adhoc or contract basis.

5. Qualification.- The qualification for the purpose of recruitment under this Act, to the post of Assistant Engineers and Junior Engineers shall respectively be the qualification specified for the post of the Assistant Engineers and Junior Engineers in the Karnataka Public Works (Irrigation Service) (Recruitment) Rules, 1998 as on 11-02-99. The candidates who possessed with the above qualification as on 11-02-99 shall only be eligible to apply.

6. Application for Recruitment.- Selection Authority shall advertise the vacancies in the official Gazette specifying the conditions of eligibility, the nature of selection, the number of vacancies to be filled and classification in accordance with the orders of reservation in force and invite applications from the intending candidates. Abstract of such advertisement shall also be published in two news papers having wide circulation in the State.

7. Method of Selection of Candidate.-(1) The selection Authority shall on the basis of the aggregate percentage of marks secured by the candidates in the qualifying examination and taking into consideration the weightage allowed under this Act, and subject to orders in force providing for reservation for posts for the Scheduled Castes, Scheduled Tribes and other Backward Classes or any other reservation as per law in force prepare in the order of merit, lists of candidates eligible for appointment under this Act to the posts of Assistant Engineers and Junior Engineers. If the marks obtained by two or more applicants are equal the order of merit in respect of such

candidates shall be fixed on the basis of their age, the older, in age being placed above the younger:

Provided that in case of determination of income for the purpose of reservation of posts, salary income of the adhoc or contract Assistant Engineers or Junior Engineers shall not be taken into consideration.

(2) The number of candidates to be selected under sub-section (1) shall be equal to the number of Vacancies notified:

Provided that while preparing the above lists,

- (a) A weightage of five percent for each year of service subject to a maximum of thirty percent shall be added to the percentage of total marks secured by the candidate in the qualifying examination, if such candidate has served as Assistant Engineer or Junior Engineer, as the case may be in the Irrigation Department in the State; and
- (b) a weightage of one percent shall be added to the percentage of marks secured in the qualifying examination in respect of the candidates belonging to displaced families.

Explanation 1.- For the purpose of the weightage under Clause (a), service rendered for fraction of a year shall also be reckoned as service rendered for a whole year.

Explanation 2.- Displaced family in relation to a person means the individual, the husband or wife as the case may be, or such individual and their son and un-married daughter residing with them and dependent on them or livelihood and such person being a tenure holder, tenant, Government lessee or owner of property has been displaced from this land or other property on account of acquisition of such land including a plot in the Gramathan or other property in the affected zone for the purpose of the Irrigation project. The 'Authority' for issuing the certificate relating to a displaced family shall be the Deputy Commissioner.

(3) The select list shall be published on the notice board of the office of the Selection Authority and in the official Gazette and a copy thereof shall be sent to the Appointing Authority.

8. Appointment of candidates.-(1) The candidate whose names are included in the selection list made available by the selection Authority shall be appointed by the appointing Authority in the order in which their names appear in the final select list. Before such appointment, the Appointing Authority shall satisfy itself regarding the suitability of candidate for appointment with reference to their antecedents character and physical fitness in accordance with the provisions of the Karnataka Civil Services (General Recruitment) Rules, 1977.

(2) Inclusion of name of a candidate in the select list shall not confer any right on the candidate for appointment.

(3) The entire process of selection of eligible candidates and notifying such names shall as far as may be completed within one year from the date of commencement of this Act.

9. Period of operation of the Selection List.-The list of candidates selected by the Selection Authority and assigned to the Appointing Authority shall be valid till all the candidates included in the list are appointed.

10. Liability of Candidates to serve in any part of the State.- The candidates selected under this Act and appointed shall be liable to serve in any part of the State.

11. Counting of previous service.- Notwithstanding anything contained in any Judgment, decree or Order of any Court, Tribunal or Authority or any other Law for the time being inforce,-

(1) The Adhoc or Contract Assistant Engineers or Junior Engineers shall be continued to work in the post with the same terms and conditions in which they are holding on the tenth day of December, 2013 as if they have been recruited regularly, subject to application of all other rules relating to conditions of service, till the recruitment process under this Act is completed.

(2) The service rendered by adhoc or contract Assistant Engineers or Junior Engineers before the commencement of the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water resources Services) (Special) Rules, 2002 shall not count for the purpose of leave, pay, pension or seniority:

Provided that the service rendered by adhoc or contract Assistant Engineers or Junior Engineers in the Public Works (Irrigation Service) after the commencement of the Karnataka State Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and adhoc basis in the Water Resource Service) (Special) Rules 2002 and before the commencement of this Act shall count for the purpose of leave, pay, pension and seniority:

Provided further that fixation and protection of pay shall be notional and they shall not be eligible for any arrears of salary.

12. Application of other Rules.- The provisions of the Karnataka Civil Services Rules, the Karnataka Civil Services (General Recruitment) Rules, 1977, the Karnataka Civil Services (Conduct) Rules, 1966 and all other rules made or deemed to have been made under the Karnataka State Civil Services Act, 1978, in so far as they are not inconsistent with the provisions of this Act shall be applicable to the persons selected and appointed under this Act.

13. Power to remove difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order, make such provisions as it appears to be necessary or expedient to remove the difficulty.

STATEMENT OF OBJECTS AND REASONS

The High Court of Karnataka in Writ Petition No. 41145-58/2010 (G. Ravi and 3 others) and connected other 3 Writ petitions, has declared that the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water resources Services) (Special) Rules, 2002 – are contrary to Article 16(3) as well as Article 14 and 16 of the Constitution of India as void ab initio and further directed that the Government shall initiate recruitment process to the posts which were filled up under the impugned Absorption Rules forthwith and complete the same within a period of six months from the date of the order outer limit being one year. All the persons absorbed/appointed/ regularized under the impugned Rules are permitted to continue in service till the recruitments are made in pursuance of the Karnataka Public Works (Irrigation Services)(Recruitment of Assistant Engineers and Junior Engineers)(Special) Rules, 1998, within a period of one year, whichever is earlier.

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Whereas, the Hon'ble Supreme Court has rejected the SLP application bearing No. 38345-38397/2012 and modified the directions of High Court to the extent that any person who has been working on adhoc basis and was eligible at the initial time of his appointment, can apply in pursuance of any advertisement made even if he has become over aged.

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Hence the Bill.

FINANCIAL MEMORANDUM

The extra expenditure involved in the proposed Legislative measure will be met out of the existing budget provisions.

M.B.PATIL

Minister for Water Resources
(Major and Medium Irrigation)

P. OMPRAKASHA

Secretary
Karnataka Legislative Assembly