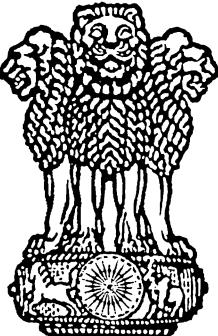


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THURSDAY, APRIL 29, 2010

[SAKA 1932]

PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 576-L.—29th April, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 10 of 2010

**THE WEST BENGAL STATE ELECTION COMMISSION
(AMENDMENT) BILL, 2010.**

**A
BILL**

to amend the West Bengal State Election Commission Act, 1994.

WHEREAS it is expedient to amend the West Bengal State Election Commission Act, 1994, for the purpose and in the manner hereinafter appearing;

West Ben. Act
VIII of 1994.

It is hereby enacted in the Sixty-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 Election Commission (Amendment) Act, 2010.

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

The West Bengal State Election Commission (Amendment) Bill, 2010.

(Clause 2.)

Insertion of new section 3A after section 3 of West Ben. Act VIII of 1994.

2. In the West Bengal State Election Commission Act, 1994, after section 3, the following section shall be inserted:—

"Appointment and other conditions of service etc. of State Election Commissioner.

3A. (1) The State Election Commissioner shall be appointed from amongst, the persons, who had been or are in an All India Service or in any Civil Service of the State or in a civil post under the State Government for not less than twenty-five years, having knowledge and experience in conducting elections.

(2) There shall be paid to the State Election Commissioner such salary which is equal to the salary of a Judge of the High Court:

Provided that if a person who, immediately before the date of assuming office as the State Election Commissioner was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or under the Government of a State, his salary in respect of service as the State Election Commissioner shall be reduced—

(a) by the amount of that pension, and

(b) if he had, before assuming of office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(3) The State Election Commissioner shall hold office for a term of six years from the date on which he assumes his office:

Provided that where the State Election Commissioner attains the age of sixty-five years before the expiry of the term of six years, he shall vacate his office on the date on which he attains the said age:

Explanation.—For the purpose of this section, the term of six years in respect of State Election Commissioner holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office:

Provided further that where no appointment is made on the expiry of term of the State Election Commissioner in position, the incumbent would continue in office for a period of not more than two months thereafter or till the new incumbent is appointed, whichever is earlier.

(4) (a) A person who, immediately before the date of assuming office as the State Election Commissioner, was in service of Government may be granted during his tenure of office but not thereafter leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the account of leave standing at this credit on such date, notwithstanding anything contained in sub-section (5).

(b) The power to grant or refuse leave to the State Election Commissioner and to revoke or curtail leave granted to him, shall vest in the Governor.

(5) (a) A person, who immediately before the date of assuming office as the State Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the State Election Commissioner but his subsequent service as the State Election Commissioner shall be reckoned as continuing approved service counting for pension in service to which he belonged.

The West Bengal State Election Commission (Amendment) Bill, 2010.

(Clause 2.)

(b) Where the State Election Commissioner demits office (whether in any manner specified in clause (c) or by resignation), he shall, on such demission be entitled to—

- (i) a pension which is equal to the pension payable to a Judge of the High Court in accordance with the provisions of part III of the First Schedule to the High Court Judges (Salaries and Conditions of Service) Act, 1954, for the period of his service rendered as the said Election Commissioner after deduction of such period, if any, reckoned in terms of clause (a), as continuing approved service counting for pension in service to which he earlier belonged; and
- (ii) such pension (including commutation of pension) as referred to in sub-clause (i), family pension and gratuity as are admissible to a Judge of the High Court under the said Act and the rules made thereunder.

28 of 1954.

(c) Except where the State Election Commissioner demits office by resignation, he shall be deemed, for the purposes of this Act, to have demitted his office if, and only if,—

- (i) he has completed the term of office specified in sub-section (3), or
- (ii) he has attained the age of sixty-five years, or
- (iii) his demission of office is medically certified to be necessitated by ill health.

(6) Every person holding office as the State Election Commissioner shall be entitled to subscribe to the General Provident Fund.

(7) Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are for the time being applicable to a Judge of High Court under Chapter IV of the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the rules made thereunder, shall, as far as may be deemed appropriate, apply to the State Election Commissioner.”.

STATEMENT OF OBJECTS AND REASONS.

Article 243K of the Constitution of India provides for the constitution of State Election Commission consisting of a State Election Commissioner. Accordingly an Act called the West Bengal State Election Commission Act, 1994 was passed. Provision for appointment of a State Election Commissioner including the terms and conditions has been specified in section 3 of the said Act. As per section 12 of the said Act, in exercise of the power conferred by clause (2) of Article 243K of the Constitution of India the West Bengal State Election Commissioner (Conditions of Service and Tenure of Office) Rules, 1994 has been framed.

2. The sixth Round Table of Ministers in charge of Panchayati Raj held at Guwahati on 27-28 November, 2004 has thoroughly discussed the issue of common Tenure and Conditions of Service and it was recommended that States may consider according the same salary and emoluments to State Election Commissioners as High Court Judges are entitled to.

3. It has been considered necessary and expedient to amend the West Bengal State Election Commission Act, 1994 (West Ben. Act VIII of 1994) with a view to giving effect to the recommendation suggested in the Sixth Round Table of Minister-in-charge of Panchayati Raj held at Guwahati as above.

The West Bengal State Election Commission (Amendment) Bill, 2010.

4. The Bill has been framed with the above objects in view.

Kolkata,
The 16th April, 2010.

BUDDHADEB BHATTACHARJEE,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is financial implication involved in giving effect to the provisions of the Bill. Necessary provisions for this purpose will be made in the budget of the Home Department.

Kolkata,
The 16th April, 2010.

BUDDHADEB BHATTACHARJEE,
Member-in-charge.

By order of the Governor,

MITA BASU ROY,
*Pr. Secy. to the Govt. of West Bengal,
Law Department.*