

KARNATAKA ACT NO. 35 OF 2020

THE KARNATAKA STATE CIVIL SERVICES (PROHIBITION OF ABSORPTION OF THE SERVICES OF THE EMPLOYEES OF ESTABLISHMENTS IN PUBLIC SECTOR INTO PUBLIC SERVICE) ACT, 2020

Arrangement of Sections

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STATEMENT OF OBJECTS AND REASONS

ACT 35 OF 2020.- The Hon'ble High Court of Karnataka in W.P.No.28000/2003 and in connected cases has directed the State Government for absorption of employees of Public Sector Enterprises, who were working on deputation into the Government departments.

In the above circumstances, the State Government was under obligation for absorption of the petitioners who were the employees of Public Sector Enterprises into the different departments of the State Government and Municipal Councils.

The establishments in public sector face closures due to various reasons and the Employees of such establishment in Public Sector tend to demand that their services be absorbed against posts in the Civil Services of the State and approach courts seeking absorption in their services.

The rules regulating the recruitment and conditions of service and the scales of pay applicable to Government Servants are different from those applicable to the employees of establishments in public sector and are often irreconcilable. Such absorption of the employees of establishment in Public Sector would result in an enormous drain on the finances of the State, seriously affecting the developmental programmes of this State and hence, it is against public interest.

In order to prevent absorption of the employees of Public Sector Enterprises into the State Civil Services, it is considered necessary to enact the Karnataka State Civil Services (Prohibition of Absorption of the Services of the employees of establishments in Public Sector into Public Service) Bill, 2020.

Hence, the Bill.

[L.A. Bill No. 32 of 2020, File No. Samvyashae 33 Shasana 2020]

[Entry 41 of List II of the Seventh Schedule to the Constitution of India.]

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KARNATAKA ACT NO. 35 OF 2020(First Published in the Karnataka Gazette Extra-ordinary on the 19th day of October, 2020)**THE KARNATAKA STATE CIVIL SERVICES (PROHIBITION OF ABSORPTION OF THE SERVICES OF THE EMPLOYEES OF ESTABLISHMENTS IN PUBLIC SECTOR IN TO PUBLIC SERVICE) ACT, 2020**(Received the assent of Governor on the 19th day of October, 2020)

An Act to Provide for prohibition of absorption of the service of the employees of establishments in public sector into posts in the various departments of Government or Civil services;

Whereas the establishments in public sector face closure due to various reason and the employees of such establishments in public sector tend to demand that their services be absorbed against posts in the civil services of the State and approach courts seeking absorption of their services;

Whereas the rules regulating the recruitment and conditions of service and the scales of pay applicable to Government servants are different from those applicable to the employees of establishments in public sector and are often irreconcilable. Such absorption of the employees of establishments in public sector would result in an enormous drain on the finances of the State seriously affecting the developmental programmes of the State and hence it is against public interest;

And whereas it is expedient to provide for prohibition of absorption of employees of such establishments in public sector in to Civil Services of the State and for the matters connected therewith or incidental thereto.

Be it enacted by the Karnataka State Legislature in the Seventy first year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka State Civil Services (prohibition of Absorption of the Services of the Employees of the Establishments in public Sector in to public service) Act, 2020.

(2) It shall come in to force on such ¹[date]¹ as the State Government may, by notification in the official Gazette, appoint.

¹. This Act came into force w.e.f. 15.03.2021, by notification No. DPAR 34 SRD 2021, dated 17.03.2021.

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

(a) “ Establishment in public Sector” means,-

- (i) a Co-operative Society registered under the Karnataka Co-operative Societies Act 1959 or a society registered under any law relating to the registration of societies for the time being in force, and receiving funds from the State Government either fully or partly for its maintenance, whether registered or not but receiving aid from the Government;
- (ii) a Government company within the meaning of the companies Act, 2013

(Act No. 18 of 2013);

- (iii) a Local authority means Local Self Government established by Government as per Law;
- (iv) a Statutory or a non-Statutory body of corporation established by or under a State or Central Act owned or controlled by the State Government;
- (v) a Government University established or deemed to have been established by or under any law of the State Legislature; and
- (vi) any other organization or entity as may be specified by the Government by Notification.

(b)“Government” means the Government of Karnataka;

(c) “public Service” means a public Service of the State as defined in clause (3) of section 2 of the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990).

(2) Other words and expressions used but not defined shall have the same meaning assigned to them in the Karnataka State Civil Services Act, 1978 (Karnataka Act of 1990) or rules made or deemed to have been made thereunder.

3. Prohibition of absorption into State Civil Service.-(1)

Notwithstanding anything contained in any law, contract or agreement or any judgment, decree or order of any court, tribunal or any other authority or any order or proceedings of the Government, or any officer of the Government, no employee of an establishment in public sector shall be entitled to absorption into public service from the date of commencement of this Act on any ground whatsoever including that such an establishment in public sector is closed or is likely to be closed or the employee has worked or has been working in any department of the Government on deputation or on contract, or on office duty and accordingly:-

(i) no suit, or other proceeding shall be instituted, maintained or continued in any court, tribunal or any other authority against the Government or any person or other authority whatsoever for such absorption into public service ; and

(ii) no court shall enforce any decree or order directing such absorption into public service.

(2) Subject to the provisions of this Act, no employee of an establishment in public sector shall be disentitled to the benefits of the any scheme of rehabilitation available under the relevant law.

4. Act to override other laws.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

5. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the official

Gazette make such provisions not inconsistent with the provisions of this Act as it appears to be necessary or expedient for removing difficulty:

Provided that, no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

The above translation of ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸಿವಿಲ್ ಸೇವೆಗಳ (ಸಾರ್ವಜನಿಕ ವಲಯದ ಸಂಸ್ಥೆಗಳ ನೌಕರರ ಸೇವೆಗಳನ್ನು ಸಾರ್ವಜನಿಕ ಸೇವೆಗೆ ವಿಲೀನಗೊಳಿಸುವುದಕ್ಕೆ ನಿಷೇಧ) ಅಧಿನಿಯಮ, 2020 (2020ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 35) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA

By Order and in the name of
the Governor of Karnataka,

(K. DWARAKANATH BABU)
Secretary to Government
Department of Parliamentary
Affairs and Legislation

GOVERNMENT OF KARNATAKA

No. DPAR 34 SRD 2021

Karnataka Government Secretariat,
Vidhana Soudha,
Bengaluru, date: 17.03.2021.

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka State Civil Services (Prohibition of Absorption of the Services of the Employees of Establishments in Public Sector into Public Service) Act, 2020 (Karnataka Act No. 35 of 2020) the Government of Karnataka hereby appoints the 15th day of March 2021, as the date on which all the provisions of the said Act, shall come into force.

By Order and in the name of
the Governor of Karnataka

(CHANDRAHAS G TALUKAR)
Deputy Secretary to Government
Department of Personnel and
Administrative Reforms
(Service Rules-2)