

Twelfth Kerala Legislative Assembly
Bill No. 323

THE UNIVERSITY LAWS (AMENDMENT) BILL, 2010

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further to amend the Kerala University Act, 1974, the Calicut University Act, 1975, the Mahatma Gandhi University Act, 1975 and the Kannur University Act, 1996.

Preamble.— WHEREAS it is expedient further to amend the Kerala University Act, 1974, the Calicut University Act, 1975, the Mahatma Gandhi University Act, 1985 and the Kannur University Act, 1996 for the purposes hereinafter appearing ;

BE it enacted in the Sixty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the University Laws (Amendment) Act, 2010.

(2) It shall be deemed to have come into force on the 8th day of December, 2009.

2. *Amendment of Act 17 of 1974.*— In the Kerala University Act, 1974 (17 of 1974),—

(a) in sub-section (2) of section 11, for the words, “fifty six” the word “sixty” shall be substituted ;

(b) after section 64, the following section shall be inserted, namely:—

“64A. *Inter University transfer of teacher by an educational agency.*— Notwithstanding anything to the contrary contained in any law for the time being in force, where an educational agency has colleges under the jurisdiction of the Kerala University and also under the jurisdiction of another University in the State, a teacher appointed by such educational agency to a college within the jurisdiction of the another University, may be transferred to any college under the jurisdiction of Kerala University, subject to the following conditions, namely :—

(i) transfer shall be made only on the written request of the teacher who has completed three years of service ;

(ii) transfer shall be made only once during the entire period of service of a teacher ;

(iii) transfer shall be made on the basis of the seniority of teachers ;

(iv) teacher transferred under the provisions of this section shall become junior most in the colleges under the educational agency in the University irrespective of their service in the University from which he was transferred ;

(v) transfer is to be made as and when vacancy arises in any of the colleges under the educational agency in the University provided no home college option by any teacher against the said vacancy is pending ; and

(vi) teacher who is transferred under the provision of this section shall be eligible for home college option and shall be treated as teachers of the university with all benefits that are enjoyed by the existing teachers, provided that the services rendered by such teachers outside the university shall not be considered as outside service while exercising their home college option.

*Explanation:—*For the purpose of this section, “home college option” means the option made by a teacher regarding his home college in the University under the provision of the Statutes made under this Act.”.

3. *Amendment of Act 5 of 1975.*— In the Calicut University Act, 1975 (5 of 1975),—

(a) in sub-section (2) of section 11, for the words, “fifty six” the words “sixty” shall be substituted ;

(b) after section 64, the following section shall be inserted, namely:—

“64A. *Inter University transfer of teacher by an educational agency.*— Notwithstanding anything to the contrary contained in any law for the time being in force, where an educational agency has colleges under the jurisdiction of the Calicut University and also under the jurisdiction of another University in the State, a teacher appointed by such educational agency to a college within the jurisdiction of the another University, may be transferred to any college under the jurisdiction of Calicut University, subject to the following conditions, namely:—

(i) transfer shall be made only on the written request of the teacher who has completed three years of service ;

(ii) transfer shall be made only once during the entire period of service of a teacher ;

(iii) transfer shall be made on the basis of the seniority of teachers ;

(iv) teacher transferred under the provisions of this section shall become junior most in the colleges under the educational agency in the University irrespective of their service in the University from which he was transferred ;

(v) transfer is to be made as and when vacancy arises in any of the colleges under the educational agency in the University provided no home college option by any teacher against the said vacancy is pending ; and

(vi) teacher who is transferred under the provision of this section shall be eligible for home college option and shall be treated as teachers of the University with all benefits that are enjoyed by the existing teachers, provided that the services rendered by such teachers outside the University shall not be considered as outside service while exercising their home college option.

Explanation:— For the purpose of this section, “home college option” means the option made by a teacher regarding his home college in the University under the provision of the Statutes made under this Act.”.

4. *Amendment of Act 12 of 1985.*— In the Mahatma Gandhi University Act, 1985 (12 of 1985),—

(a) in section 2, after clause (19), the following clause shall be inserted, namely:—

“(19A) “Pro-Chancellor” means the Pro-Chancellor of the University ;”;

(b) in the heading under the CHAPTER III, after the word “CHANCELLOR”, the word “PRO-CHANCELLOR” shall be inserted ;

(c) after section 7, the following section shall be inserted, namely:—

“8. *Pro-Chancellor.*—(1) The Minister for the time being administering the subject of education in the State shall be the Pro-Chancellor of the University.

(2) In the absence of the Chancellor or during his inability to act, the Pro-Chancellor shall exercise all the powers and perform all the functions of the Chancellor.”;

(d) in sub-section (2) of section 11, for the words, “fifty six” the word “sixty” shall be substituted ;

(e) after section 68, the following section shall be inserted, namely:—

“68A. *Inter University transfer of teacher by an educational agency.*— Notwithstanding anything to the contrary contained in any law for the time being in force, where an educational agency has colleges under the jurisdiction

of the Mahathma Gandhi University and also under the jurisdiction of another University in the State, a teacher appointed by such educational agency to a college within the jurisdiction of the another University, may be transferred to any college under the jurisdiction of Mahathma Gandhi University, subject to the following conditions, namely:—

(i) transfer shall be made only on the written request of the teacher who has completed three years of service ;

(ii) transfer shall be made only once during the entire period of service of a teacher ;

(iii) transfer shall be made on the basis of the seniority of teachers ;

(iv) teacher transferred under the provisions of the section shall become junior most in the colleges under the educational agency in the University irrespective of their service in the University from which he was transferred ;

(v) transfer is to be made as and when vacancy arises in any of the colleges under the educational agency in the University provided no home college option by any teacher against the said vacancy is pending ; and

(vi) teacher who is transferred under the provision of this section shall be eligible for home college option and shall be treated as teachers of the University with all benefits that are enjoyed by the existing teachers, provided that the services rendered by such teachers outside the University, shall not be considered as outside service while exercising their home college option.

Explanation:— For the purpose of this section, “home college option” means the option made by a teacher regarding his home college in the University under the provision of the Statutes made under this Act.”.

5. *Amendment of Act 22 of 1996.*—In the Kannur University Act, 1996 (22 of 1996),—

(a) in sub-section (2) of section 13, for the words “fifty six” the word “sixty” shall be substituted ;

(b) in section 23, under the heading ‘*other members*’, after item (e), the following item shall be inserted, namely :—

“(f) one member elected by the Senate from among the members in item (xi) under the heading ‘*Elected members*’ in section 19.”;

(c) after section 71, the following section shall be inserted, namely:—

“71A. *Inter University transfer of teacher by an educational agency.*— Notwithstanding anything to the contrary contained in any law for the time

being in force, where an educational agency has colleges under the jurisdiction of the Kannur University and also under the jurisdiction of another University in the State, a teacher appointed by such educational agency to a college within the jurisdiction of the another University, may be transferred to any college under the jurisdiction of Kannur University, subject to the following conditions, namely:—

(i) transfer shall be made only on the written request of the teacher who has completed three years of service ;

(ii) transfer shall be made only once during the entire period of service of a teacher ;

(iii) transfer shall be made on the basis of the seniority of teachers ;

(iv) teacher transferred under the provisions of this section shall become junior most in the colleges under the educational agency in the University irrespective of their service in the University from which he was transferred ;

(v) transfer is to be made as and when vacancy arises in any of the colleges under the educational agency in the University provided no home college option by any teacher against the said vacancy is pending ; and

(vi) teacher who is transferred under the provision of this section shall be eligible for home college option and shall be treated as teachers of the University with all benefits that are enjoyed by the existing teachers, provided that the services rendered by such teachers outside the University shall not be considered as outside service while exercising their home college option.

*Explanation:—*For the purpose of this section, “home college option” means the option made by a teacher regarding his home college in the University under the provision of the Statutes made under this Act.”.

6. *Repeal and Saving.*—(1) The University Laws (Amendment) Ordinance, 2010 (8 of 2010) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

As per the existing provisions of the Kerala University Act, 1974, the Calicut University Act, 1975, the Mahatma Gandhi University Act, 1985 and the Kannur University Act, 1996 the upper age limit for the appointment as Pro-Vice-Chancellor is 56 years. The Government have decided to raise the

upper age limit to sixty years. At present there is no provision for inter University transfers of teaching and non-teaching staff of colleges under corporate management. So also there is no provision for including a nominee of the students representative in the Syndicate of the Kannur University as in the case of other Universities. Further there is no post of Pro-Chancellor in the Mahatma Gandhi University. The Government have decided to amend the relevant Acts for the above purposes.

As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately the University Laws (Amendment) Ordinance, 2009 was promulgated by the Governor of Kerala on the 7th day of December, 2009 and the same was published as Ordinance No. 27 of 2009 in the Kerala Gazette Extraordinary No. 2281 dated the 8th day of December, 2009.

A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Legislative Assembly of the State of Kerala in its 13th session which held on the 29th day of December, 2009.

As the Legislative Assembly was not in session and the above proposals had to be given effect to immediately, the University Laws (Amendment) Ordinance, 2010 was promulgated by the Governor of Kerala on the 22nd day of January, 2010 and the same was published as Ordinance No. 8 of 2010 in the Kerala Gazette Extraordinary No. 169 dated the 23rd day of January, 2010.

The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

M. A. BABY

EXTRACT FROM THE KERALA UNIVERSITY ACT, 1974
(17 OF 1974)

** ** *

11. *The Pro- Vice-Chancellor.*—(1) ** ** *

(2) No person who is more than fifty-six years of age shall be appointed as Pro-Vice-Chancellor.

** ** *

64. *Transfer of teachers to other Universities.*—(1) Where an educational agency has colleges under the jurisdiction of the Kerala University and also under the jurisdiction of the Calicut University, the educational agency shall, within three months of the commencement of this Act or within such further period, not exceeding three months, as may be granted by the Government for sufficient reason, prepare a seniority list of the teachers of all such colleges.

(2) After the preparation of the list under sub-section (1), the educational agency shall give a right of option to the teachers as to the University under the jurisdiction of which he opts to remain and the teachers shall be allotted to each University area in accordance with such option :

Provided that where the number of teachers who have opted to Work under the jurisdiction of the Kerala University or the Calicut University is more than the number required, allotment shall be made on the basis of seniority.

(3) Any teacher aggrieved by any entry in the list prepared under sub-section (1) or by the allotment under sub-section (2) may appeal to Government within sixty days from the date of communication of the list or order of allotment to him, and the decision of the Government thereon shall be final.

(4) Where a teacher is allotted to a University area under this section, he shall not be transferred to a college affiliated to any other University.

(5) Nothing contained in this section shall apply in respect of Principals of private colleges.

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EXTRACT FROM THE CALICUT UNIVERSITY ACT, 1975
(5 OF 1975)

** ** *

11. *The Pro-Vice-Chancellor.*—(1) ** ** *

(2) No person who is more than fifty-six years of age shall be appointed as Pro-Vice-Chancellor.

** ** *

64. *Transfer of teachers to other Universities.*—(1) Where an educational agency has colleges under the jurisdiction of the Calicut University and also under the jurisdiction of the Kerala University, the educational agency shall, within three months of the commencement of this Act or within such further period, not exceeding three months, as may be granted by the Government for sufficient reason, prepare a seniority list of the teachers of all such colleges.

(2) After the preparation of the list under sub-section (1), the educational agency shall give a right of option to the teachers as to the University under the jurisdiction of which he opts to remain and the teachers shall be allotted to each University area in accordance with such option:

Provided that where the number of teachers who have opted to work under the jurisdiction of the Calicut University or the Kerala University is more than the number required, allotment shall be made on the basis of seniority.

(3) Any teacher aggrieved by any entry in the list prepared under sub-section (1) or by the allotment under sub-section (2) may appeal to Government within sixty days from the date of communication of the list of order of allotment to him, and the decision of the Government thereon shall be final.

(4) Where a teacher is allotted to a University area under this section, he shall not be transferred to a college affiliated to any other University.

(5) Nothing contained in this section shall apply in respect of principals of private colleges.

** ** *

Provided that where the number of teachers who have opted to work under the jurisdiction of the Mahatma Gandhi University or the Kerala University or the Calicut University is more than the number required, allotment shall be made on the basis of seniority.

(3) Any teacher aggrieved by any entry in the list prepared under sub-section (1) or by the allotment under sub-section (2) may appeal to Government within sixty days from the date of communication of the list or order of allotment to him, and the decision of the Government thereon shall be final.

(4) Where a teacher is allotted to a University area under this section, he shall not be transferred to a college affiliated to any other University.

(5) Nothing contained in this section shall apply in respect of principals of private colleges.

** ** *

EXTRACT FROM THE KANNUR UNIVERSITY ACT, 1996
(22 OF 1996)

** ** *

13. *The Pro-Vice-Chancellor.*—(1) ** ** *

(2) No person who is more than fifty-six years of age shall be appointed as Pro-Vice-Chancellor.

** ** *

23. *The Syndicate.*—*The Syndicate shall be the Chief Executive body of the University and shall consist of the following members, namely:—*

Ex-Officio members

** ** *

Other Members

(a) ** ** *

(e) The members referred to in item (iv) under the heading “Other members” in section 19, nominated by Government.

** ** *

71. *Transfer of teachers to other Universities.*—(1) Where an educational agency has colleges under the jurisdiction of the Kannur University and also under the jurisdiction of the Calicut University, the educational agency shall, within three months of the commencement of this Act or within such further period, not exceeding three months, as may be granted by the Government for sufficient reason, prepare a seniority list of the teachers of all such colleges.

(2) After the preparation of the list under sub-section (1), the educational agency shall give a right of option to the teachers as to the University under the jurisdiction of which he opts to remain and the teachers shall be allotted to such University area in accordance with such option :

Provided that where the number of teachers who have opted to work under the jurisdiction of the Kannur University or the Calicut University is more than the number required, allotment shall be made on the basis of seniority.

(3) Any teacher aggrieved by any entry in the list prepared under sub-section (1) or by the allotment under sub-section (2) may appeal to Government within sixty days from the date of communication of the list or order of allotment to him, and the decision of the Government thereon shall be final.

(4) Where a teacher is allotted to a University area under this section, he shall not be transferred to a college affiliated to any other University.

(5) Nothing contained in this section shall apply in respect of principals of private colleges.

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