
REPORT OF THE SUBJECT COMMITTEE
ON
THE KERALA ADVOCATES' WELFARE FUND
(AMENDMENT) BILL, 2016
AND
THE BILL AS REPORTED BY THE SUBJECT COMMITTEE

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SUBJECT COMMITTEE XIV
(HOME AFFAIRS)
(2016-2018)

Composition

Chairman:

Shri Pinarayi Vijayan,
Chief Minister.

Special Invitee:

Shri A. K. Balan,
Minister for Welfare of Scheduled Castes, Scheduled Tribes,
Backward Classes, Law, Culture and Parliamentary Affairs.

Members:

Shri V. S. Achuthanandan

Shri James Mathew

Shri P. K. Kunhalikutty

Shri K. M. Mani

Shri C. K. Nanu

Shri Oommen Chandy

Shri A. Pradeepkumar

Shri Raju Abraham

Shri R. Ramachandran

Shri Ramesh Chennithala.

Legislature Secretariat:

Shri V. K. Babu Prakash, Secretary

Shri A. Shajahan, Joint Secretary

Shri Raju K. A., Deputy Secretary

Shri G. S. Suresh Kumar, Under Secretary.

**THE KERALA ADVOCATES' WELFARE FUND
(AMENDMENT) BILL, 2016**

(Report of the Subject Committee)

Subject Committee XIV (Home Affairs) to which the Kerala Advocates' Welfare Fund (Amendment) Bill, 2016, was referred, considered the Bill clause by clause and now submits its report with the Bill as reported by the Committee annexed thereto.

2. The Kerala Advocates' Welfare Fund (Amendment) Bill, 2016 was published as a Gazette Extraordinary dated October 17, 2016. The Bill was introduced in the Assembly on November 3, 2016 and was referred to the Subject Committee on the same day.

3. The Committee considered the Bill clause by clause at the meeting held on November 3, 2016 and the Committee recommends to adopt the bill with the following modifications:

Clause 3

In Section 9 of the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) proposed to be inserted by clause 3 of the bill, in sub-section (2), after clause (gh), the following clause shall be inserted, namely:—

“(gi) to provide stipend to advocates who have less than three years standing at the bar, who have not attained the age of thirty years and who have an annual income of less than rupees 1,00,000 (rupees one lakh); at the rate determined by the Trustee Committee from time to time, and approved by the Government.”.

Clause 4

In Section 15 of the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) proposed to be inserted by clause 4 of the Bill, after sub-section (1D), the following sub-section shall be inserted, namely:—

“(1E) An Advocate who has not joined the Fund may apply to the Trustee Committee for admission as a member of the Fund in such form, as may be prescribed, on payment of the annual subscription payable corresponding to the period of practice at the time of such admission multiplied by his actual years of practice together with a fine of rupees 2,000 for every completed year of actual practice:

Provided that such member shall not be eligible to claim any amount from the Fund on voluntary cessation of practice within a period of ten years from the date of such admission to the Fund.”;

4. The minutes of dissent is appended.

Thiruvananthapuram,
3rd November, 2016.

PINARAYI VIJAYAN,
Chairman,
Subject Committee XIV.

വിയോഗനക്കുറിപ്പ്

പതിനഞ്ച് വർഷക്കാലത്തെ തുടർച്ചയായ അംഗത്വം പൂർത്തിയാക്കിയ അഭിഭാഷകർക്ക് അഭിഭാഷക ക്ഷേമനിധിയിൽ നിന്നും ലഭിക്കുവാൻ അർഹമായ പരമാവധി തുക 10 ലക്ഷമായും, സേവനം പൂർത്തിയാക്കുന്ന ഓരോ വർഷവും നൽകേണ്ട തുക 2,50,000 രൂപയായും ആണ് ഈ ഭേദഗതി ബിൽ പ്രകാരം വർദ്ധിപ്പിച്ചിരിക്കുന്നത്. 2008-ലാണ് ഇതിന് മുമ്പ് വർദ്ധനവ് വരുത്തിയത്. നിലവിലുള്ള തുക വർദ്ധിപ്പിച്ചിട്ട് എട്ടു വർഷം കഴിഞ്ഞ സാഹചര്യത്തിൽ അത് യഥാക്രമം 15 ലക്ഷം രൂപയായും, 35,000 രൂപയായുമെങ്കിലും വർദ്ധിപ്പിക്കേണ്ടതാണ്. ഈ നിർദ്ദേശം അംഗീകരിക്കാത്തതിനാൽ വിയോഗനം രേഖപ്പെടുത്തുന്നു.

രമേശ് ചെന്നിത്തല

(ഒപ്പ്)

THE KERALA ADVOCATES' WELFARE FUND
(AMENDMENT) BILL, 2016

(As reported by the Subject Committee)

[The words sidelined indicates the modifications suggested by the Committee]

A

BILL

further to amend the Kerala Advocates' Welfare Fund Act, 1980.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Advocates' Welfare Fund Act, 1980 for the purposes hereinafter appearing;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Advocates' Welfare Fund (Amendment) Act, 2016.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Kerala Advocates' Welfare Fund Act, 1980 (21 of 1980) (hereinafter referred to as the principal Act),—

(i) for clause (a) the following clause shall be substituted, namely:—

“(a) “actual practice” means carrying on the profession of an Advocate other than senior Advocate and filing of at least five vakalaths per year by an Advocate whose name is included in the list of practising Advocates published and maintained by the Bar Council in accordance with the rules made by it under section 27.”;

(ii) after clause (aa), the following clause shall be inserted, namely:—

“(ab) “Advocates Academy” means the academy constituted by the Bar Council for providing training to Advocates to enable them to give efficient legal service to the people.”;

(iii) after clause (g), the following clauses shall be inserted, namely:—

“(ga) “non-practising Advocate” means an Advocate who is not in actual practice.”;

(gb) “practising Advocate” means an Advocate in actual practice.”.

3. *Amendment of section 9.*—In section 9 of the principal Act, in sub-section (2), after clause (gg), the following clauses shall be inserted, namely:—

“(gh) provide assistance to the Advocates Academy;

(gi) to provide stipend to advocates who have less than three years standing at the bar, who have not attained the age of thirty years and who have an annual income of less than rupees 1,00,000 (rupees one lakh); at the rate determined by the Trustee Committee from time to time, and approved by the Government.”.

4. *Amendment of section 15.*—In section 15 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any practising Advocate in any court in the State may apply to the Trustee Committee for admission as a member of the Fund in such form, as may be prescribed.”;

(b) for sub-section (1A), the following sub-section shall be substituted, namely:—

“(1A) No person enrolled as an Advocate after retirement from an employment shall be admitted as a member of the Fund if such person is eligible for or availed himself of any kind of retirement benefit from such employment:

Provided that this sub-section shall not be applicable to a person who was in employment for a period not exceeding five years or if the retirement benefits or pension does not exceed five thousand rupees per month.”;

(c) after sub-section (1B), the following sub-sections shall be inserted, namely:—

“(1C) A member of the Fund who is removed from the list of practising Advocates published and maintained by the Bar Council shall not be entitled to continue as a member of the Fund and during such period, such Advocate whose name is included in the list of non-practising Advocates maintained by the Bar Council shall be deemed to have been suspended from the Fund.

(1D) An Advocate who is included in the list of non-practising Advocates published and maintained by the Bar Council shall be entitled to continue as member of the Fund on inclusion of his name in the list of practising Advocates maintained by the Bar Council and shall be entitled to continue his membership in the Fund.

(1E) An Advocate who has not joined the Fund may apply to the Trustee Committee for admission as a member of the Fund in such form, as may be prescribed, on payment of the annual subscription payable corresponding to the period of practice at the time of such admission multiplied by his actual years of practice together with a fine of rupees 2,000 for every completed year of actual practice:

Provided that such member shall not be eligible to claim any amount from the Fund on voluntary cessation of practice within a period of ten years from the date of such admission to the Fund.”;

(d) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Every member of the Fund shall pay an annual subscription to the Fund on or before the 30th June of every year at the following rates, namely:—

- | | | | |
|-------|---|----|--|
| (i) | Where the standing of the Advocate at the bar is less than five years. | .. | Five hundred rupees |
| (ii) | Where the standing of the Advocate at the bar is five years and more, but less than ten years. | .. | One thousand rupees |
| (iii) | Where the standing of the Advocate at the bar is ten years and more, but less than fifteen years. | .. | Two thousand rupees |
| (iv) | Where the standing of the Advocate at the bar is fifteen years and more but less than twenty years. | .. | Two thousand and five hundred rupees |
| (v) | Where the standing of the Advocate at the bar is twenty years and more but less than twenty five years. | .. | Three thousand rupees |
| (vi) | Where the standing of the Advocate at the bar is twenty five years and more but less than thirty years. | .. | Three thousand and five hundred rupees |
| (vii) | Where the standing of the Advocate at the bar is thirty years or above. | .. | Four thousand rupees : |

Provided that an Advocate designated as senior Advocate under the Advocates Act, 1961 (Central Act 25 of 1961) shall pay an annual subscription to the Fund at the rate of six thousand rupees.”;

(e) for sub-section (13), the following sub-section shall be substituted, namely:—

“(13) A member of the Fund who voluntarily suspends his membership in the Fund may on resumption of his practice as an Advocate as allowed by the Bar Council resume his membership in the Fund on payment of two thousand rupees as resumption charges and his date of resumption shall be recorded in his Certificate of Membership.”.

5. *Amendment of section 16.*—In section 16 of the principal Act,—

(a) in sub-section (1), for the words “rupees fourteen thousand two hundred and eighty five” and “rupees five lakhs”, the words “rupees twenty five thousand” and “rupees ten lakhs” shall, respectively, be substituted;

(b) In sub-section (2), for the words, “five lakhs rupees” the words “ten lakhs rupees” shall be substituted.

6. *Amendment of section 18.*—In clause (b) of section 18 of the principal Act, after the words “and their dependents a maximum amount of five thousand rupees”, the words “and in the case of members of the Fund rupees one lakh during a period of three years in case of hospitalized treatment involving major surgical operation or for cancer treatment and other critical illness” shall be inserted.

7. *Amendment of section 23.*—In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Every vakalath filed by an Advocate shall, in addition to the court fee stamp affixed thereon, be affixed with the welfare fund stamp of the value of fifty rupees in the case of vakalath filed before the High Court and of the value of twenty five rupees in the case of vakalath filed before subordinate courts, tribunals and other authorities. No vakalath shall be valid unless it is so stamped.”.

Secretariat of the Kerala Legislature,
Thiruvananthapuram,
3rd November, 2016.

V. K. BABU PRAKASH,
Secretary.