

Fourteenth Kerala Legislative Assembly

Bill No. 80

9/8/17

**THE KERALA PUBLIC SERVICE COMMISSION
(ADDITIONAL FUNCTIONS AS RESPECTS THE
SERVICES UNDER THE KERALA ADMINISTRATIVE
TRIBUNAL) BILL, 2017**

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[Translation in English of the “2017-ലെ കേരള പബ്ലിക് സർവ്വീസ് കമ്മീഷൻ (കേരള അഡ്മിനിസ്ട്രേറ്റീവ് ട്രൈബ്യൂണലിനെ സംബന്ധിച്ച കൂടുതൽ ചുമതലകൾ) ബിൽ” published under the authority of the Governor.]

THE KERALA PUBLIC SERVICE COMMISSION (ADDITIONAL
FUNCTIONS AS RESPECTS THE SERVICES UNDER
THE KERALA ADMINISTRATIVE
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BILL

to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Kerala Administrative Tribunal.

Preamble.—WHEREAS, it is expedient to provide for the exercise of certain additional functions by the Kerala Public Service Commission as respects the services under the Kerala Administrative Tribunal;

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

1. *Short title and commencement.*—(1) This Act may be called the Kerala Public Service Commission (Additional Functions as respects the services under the Kerala Administrative Tribunal) Act, 2017.

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

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “prescribed” means prescribed by rules made under this Act;

(b) “Public Service Commission” means the Kerala Public Service Commission;

(c) “services” means the services under the Kerala Administrative Tribunal;

(d) “Tribunal” means the Kerala Administrative Tribunal constituted under sub-section (2) of section 4 of the Administrative Tribunal Act, 1985 (Central Act 13 of 1985).

3. *Functions of the Public Service Commission in respect of services under the Tribunal.*—(1) Notwithstanding anything contained in any Acts or rules regarding the recruitment and conditions of service of officers and employees of the Tribunal, it shall be the duty of the Public Service Commission to prepare select list, for appointment by direct recruitment, of all officers and employees of the Tribunal.

(2) The Tribunal shall consult the Public Service Commission,—

(a) as respects matters relating to direct recruitment to the posts under the services of the Tribunal;

(b) on the principles to be followed in making appointments by direct recruitment of the officers and employees of the Tribunal and on the suitability of candidates for such appointments.

(3) It shall be the duty of the Public Service Commission to advise on any matter under sub-section (2), where the Public Service Commission shall be consulted:

Provided that the Government may make rules specifying the matters in which, either generally, or in any particular case or class of cases or in any particular circumstances, it shall not be necessary for the Public Service Commission to be consulted;

(4) In the case of any difference of opinion between the Public Service Commission and the Tribunal on a matter to be consulted under sub-section (2), the Tribunal shall refer the matter to the Government and the decision of the Government thereon shall be final:

Provided that the Government, before taking a decision against the advice of the Public Service Commission, shall refer the matter to the Public Service Commission.

4. *Power to make rules.*—(1) The Government may, by notification in the Gazette make rules, in consultation with the Public Service Commission and the Tribunal for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the procedure to be followed by the Tribunal for consultation with the Public Service Commission;

(b) any matter which is incidental to, or necessary for, the purpose of consultation with the Public Service Commission.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make provisions not inconsistent with the provisions of this Act which appear to it to be necessary or expedient, for removing such difficulty:

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

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

6. *Repeal and saving.*—(1) The Kerala Public Service Commission (Additional Functions as respects the services under the Kerala Administrative Tribunal) Ordinance, 2017 (16 of 2017) is hereby repealed.

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

STATEMENT OF OBJECTS AND REASONS

The Government have decided to entrust the Kerala Public Service Commission to exercise additional functions as respects the appointment of the employees of the Kerala Administrative Tribunal so as to make the appointment of the officers and employees of the Kerala Administrative Tribunal in consultation with Public Service Commission.

2. As the Legislative Assembly of the State of Kerala was not in session and the above proposal had to be given effect to immediately, the Kerala Public Service Commission (Additional Functions as respects the services under the Kerala Administrative Tribunal) Ordinance, 2017 (16 of 2017) was promulgated by the Governor of Kerala on the 15th day of July, 2017 and the same was published in the Kerala Gazette Extraordinary No.1476 dated 15th July, 2017.

3. The Bill seeks to replace Ordinance No. 16 of 2017 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

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

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 3 of the Bill empowers the Government to make rules in respect of matters of routine nature or of any special matter or special matters or in respect of any special circumstance in which Public Service Commission need not be consulted.

2. Sub-clause (1) of clause 4 of the Bill empowers the Government to make rules by notification in the Gazette, in consultation with the Public Service Commission and Tribunal for the implementation of the purpose of the Act.

3. Sub-clause (1) of clause 5 empowers the Government to issue orders not inconsistent with the provisions of this Act, for the purpose of removing any difficulty arising in implementing the provisions of the Act.

4. The matters in respect of which the notifications are to be issued or rules are to be made or orders are to be issued are matters of procedure or routine matters or matters of administrative in nature. Further, such rules and orders are subject to the scrutiny of the Legislative Assembly. Hence, the delegation of legislative power is of a normal character.

PINARAYI VIJAYAN.