



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

NOTIFICATION

The 25th October, 2017

No. LGL.235/2017/5.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on 16th October, 2017 is hereby published for general information.

ASSAM ACT NO. XLIII OF 2017

(Received the assent of the Governor on 16th October, 2017)

THE ASSAM EMPLOYEES' PARENT RESPONSIBILITY
AND NORMS FOR ACCOUNTABILITY AND MONITORING ACT, 2017.

AN ACT

to provide for accountability of employees of the State Government or any other organisation in the State of Assam in taking care of their parents and *divyang* siblings and in relation to the matters connected therewith or incidental thereto.

Preamble

Whereas, respect and service to one's parents is the central obligation of children that is integral part of Indian family system, for ages, and most of the families in the State, by and large, adhere to the same;

AND

Whereas with the emerging modern society, increased mobility and growth of nuclear families, instances of negligence of parents by their children have, of late, come to exist and re-kindling the family values need easily enforceable norms;

AND

Whereas the principles which govern the pension and family pension do amply expound that the family of an employee is the integral unit to lay claim over his salary and retirement benefits. The parents of the employee are inseparable part of such family system;

AND

Whereas it is expedient to provide for an enforceable morality through a certain norms, to begin with, among those employees who do neglect their dependent parents and *divyang* siblings so that each and every employee would lead as a role model in the society;

AND

Whereas it is expedient to provide for accountability of employees of the State Government or any other organisation in the State of Assam in taking care of their parents and *divyang* siblings and in relation to matters connected therewith or incidental thereto;

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows:-

Short title,
extent and
commence-ment

1. (1) This Act may be called 'the Assam Employees' Parent Responsibility And Norms for Accountability and Monitoring Act, 2017, and in short may be called as "the Assam Employees' PRANAM Act, 2017.

(2) It extends to the whole of Assam.

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

Definitions

2. In this Act, unless the context otherwise requires, -

(a) “**Appellate Authority**” means an officer or functionary of the State Government or Organisation, as the case may be, or such officer or functionary, superior to the Designated Authority in rank and post, as may from time to time be notified under section 13, as such by an order by the State Government or by the Organisation for the purposes of the Act, in order to admit appeals against the orders of the Designated Authority as provided in the Act;

(b) “**Apportioned Salary**” means the amount of the salary of the employee, granted by designated authority or appellate authority, that he/she should part with the dependent parents/*divyang* siblings;

(c) “**Commission**” means Assam Employees PRANAM Commission constituted and notified under section 18 of the Act or the Assam Administrative Tribunal till the Commission is notified;

(d) “**Dependent Divyang Sibling**” means a “*person with disability*” or and “*person with disability having high support needs*” as defined under the section 2 (s) and 2 (t) of The Rights of Persons with Disability Act, 2016 (No. 49 of 2016) notified by the Central Government and who is an unmarried sibling (brother/sister) of an employee and do not have adequate income of their own to support their livelihood;

(e) “**Dependent Parents**” means the mother/father or both, and dependent on his/her/their son/daughter because such parents do not have adequate source of income of their own;

(f) “**Designated Authority**” means an officer or functionary of the State Government or the Organisation, as the case may be, or such officer or functionary, not below the level of Drawing and Disbursing Authority, as may from time to time be notified under section 6 as such by an order by the State Government or by an Organisation for the purposes;

(g) **"Employee"** means any personnel appointed by and under the control of the State Government and draw his/her salary from consolidated fund of the State through Government's treasury or appointed by any organisation functioning in the State of Assam as may be notified under section 3 (2);

(h) **"Organisation"** means an Organisation functioning in the State of Assam and notified by the State Government under section 3 (2), to be covered under the Act;

(i) **"Prescribed"** means prescribed by rules made under this Act;

(j) **"State Level Monitoring Body"** means the Body to be constituted under section 25(1) to review and monitor the implementation of various provisions of the Act;

(k) **"State Government"** means the Government of Assam.

Employees,
Responsibility,
Rights of
Dependent Parents/
Divyang Siblings

3. (1) All the employees of the State Government shall be governed by the provisions of this Act.

(2) The State Government may notify the organisations functioning within the State of Assam to be covered under this Act. The employees of such organisation shall be governed by the provisions of this Act and the rules to be prescribed under this Act.

Responsibility and
care of the
dependent Parents/
divyang siblings

4. (1) Each employee of the State Government is responsible to take care of the parents/*divyang* siblings and any deviation in this regard shall be dealt with under the provisions of this Act.

(2) The relevant Conduct Rules of the employees of the State Government or an Organisation shall be amended to include the above, within six months from the date of commencement of this Act or otherwise the Conduct Rules applicable to the respective categories of the employees deemed to have been amended after six months from the date of commencement of this Act.

Rights of the
dependent Parents/
Divyang siblings to
seek apportioned
salary

5. (1) Both or either of the dependent parents or dependent *divyang* siblings of an employee, as the case may be, may apply, in writing before the Designated Authority notified under section 6, seeking apportioned salary of the employee, to be paid to them directly by the Drawing and Disbursing Officer on monthly basis from the salary of the employee:

Provided that such dependent parents/*divyang* siblings, *prima facie*, establish that they do not have adequate source of income to maintain their livelihood in a dignified manner and they are in need of financial support from the employee:

(2) Such application of the dependent parents/*divyang* sibling should clearly state the personal monthly income from all sources of the parents and the nature of support, financial and otherwise, which has been presently given to them by the employee.

Designated
Authority and
Accountability

6. The State Government or the Organisation, as the case may be, shall notify, from time to time, by order, an officer or functionary of the state Government or the Organisation, as the case may be, as the Designated Authority for the purposes of considering the applications received from the aggrieved dependent parents/*divyang* siblings seeking apportioned salary of an employee.

Time Period
for disposal of
application

7. Upon receipt of such application from the dependent parents/*divyang* sibling, the Designated Authority shall decide the eligibility of such claim and dispose of the application within a period of not more than *ninety* days from the date of receipt of such application, after giving the applicant and the employee concerned a reasonable opportunity of being heard.

Quantum of
Apportioned
Salary and
Ceiling thereon

8. If the Designated Authority considers appropriate, it shall sanction the apportioned salary of the employee to his dependent parents/*divyang* siblings within the period of *ninety days* as mentioned in section 7 and issue directions to the Drawing and Disbursement Officer concerned clearly stating the apportioned amount to be paid on monthly basis directly to the dependent parents with effect from the succeeding month of the date of the order:

Provided that such apportioned amount shall not exceed 10% of the monthly gross salary being paid to the employee except in exceptional cases only where it may go upto 15% of the monthly gross salary.

Designated
Authority to be
quasi-judicial
Authority

9. The designated authority, while hearing an application under section 7 shall exercise quasi-judicial powers.

Rejection of
application

10. If the case is not found to be fit to be considered under the provisions of the Act and the relevant Rules there under, Designated Authority may reject the application within the stipulated period of *ninety days* bringing out cogent reasons thereof, in the form of speaking order, with due intimation, in writing, to all concerned.

- Right to appeal 11. If the Designated Authority does not dispose of the case within the stipulated period of *ninety days*, the dependent parents/*divyang* sibling or employee has the right to appeal before the Appellate Authority as per the procedure as may be prescribed.
- Right to Appeal against orders of the Designated Authority 12. The employee or the dependent parents/*divyang* siblings as the case may be, aggrieved by the orders of the Designated Authority may prefer an appeal before the Appellate Authority against the orders of the Designated Authority within *one month* from the date of receipt of such order.
- Appellate Authority and Accountability 13. The State Government or the Organisation, as the case may be, shall, by order notify an officer or functionary of the State Government or the Organisation as the case may be, as the Appellate Authority, in order to consider appeals against the orders of the Designated Authority disposing an application seeking apportioned salary.
- Appellate Authority to have quasi-judicial power 14. The Appellate Authority shall hear the appeal preferred under section 13, by giving reasonable opportunity of being heard to both the parties and pass such order as may be deemed necessary. While passing an order under this section, the Appellate Authority shall exercise quasi-judicial powers.
- Time limit for the disposal of appeal 15. Upon receipt of appeal from the aggrieved dependent parents/*divyang* sibling or employee concerned, the Appellate Authority shall decide the appeal within a period of *not more than sixty days* from the date of receipt of such application,
- Communication of the Orders of the Appellate Authority 16. After hearing the appeal if the Appellate Authority considers it appropriate, it shall direct the Designated Authority, in writing, to sanction a certain amount of the apportioned salary of the employee as may be fixed in his order, to his dependent parents/*divyang* sibling with effect from the succeeding month of the date of the order:
 Provided that such apportioned amount granted shall not exceed 10% of the gross salary being paid to the employee except in exceptional cases only where it may go up to 15% of the monthly gross salary.
- Rejection of Appeal by the Appellate Authority 17. If after consideration of all the relevant facts, the Appellate Authority is satisfied that the appeal is not found to be fit for consideration as per the relevant provisions of the Act and the Rules framed there under, the Appellate Authority may

reject the appeal, within the stipulated period of *sixty days* clearly stating the cogent reasons thereof, with a clear speaking orders, with due intimation, in writing, to all concerned.

Constitution of
Assam
Employees
PRANAM
Commission

18. (1) The State Government shall, by notification in the Official Gazette, constitute a body to be known as the **Assam State Employees PRANAM Commission** to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) Till the Commission is constituted, Assam Administrative Tribunal shall exercise the powers and functions of the Commission under this Act with effect from such date as the State Government may notify in this behalf in the official Gazette.

(3) **The Assam State Employees PRANAM Commission shall consist of,-**

(a) Chief Commissioner, and

(b) Commissioners, not exceeding two, as may be deemed necessary.

(4) The Chief Commissioner and the Commissioners shall be appointed by the State Government by notification from time to time, from among the persons possessing the qualification and experience as mentioned in sub-sections (6) and (7) respectively.

(5) The general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Commissioner who shall be assisted by the Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Commission autonomously without being subjected to directions by any other authority under this Act.

(6) The Chief Commissioner shall be appointed from amongst the persons who has worked in the State Government of Assam not lower in rank than that of an **Additional Chief Secretary**.

(7) The Commissioners shall be persons with wide knowledge and experience in law, social service, administration and governance or must have worked under the State Government not lower in rank than that of a Commissioner and Secretary to the Government of Assam.

(8) The headquarters of the Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify:

Provided that the Commission may establish such number of office or offices in such other place / places in the state, with the previous approval of the State Government.

**Terms of office
and conditions
of service of
Chief
Commissioner
and
Commissioners**

19 (1) The Chief Commissioner shall hold office for a term of five years from the date on which he enters upon his office:

Provided that no Chief Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Commissioner who have not attained the age of sixty five years, shall, on vacating his office under this sub-section, be eligible for appointment as the Chief Commissioner:

Provided further that where the Commissioner is appointed as the Chief Commissioner, his term of office shall not be more than five years in aggregate as the Commissioner and the Chief Commissioner.

(3) The Chief Commissioner or a Commissioner may, at any time, by writing under his hand addressed to the State Government, resign from his office:

Provided that the Chief Commissioner or a Commissioner may be removed from his office in the manner, as specified under section 20.

(4) The salaries and allowances payable to and other terms and conditions of service of,-

(a) the Chief Commissioner shall be the same as that of not less than an Additional Chief Secretary of the State Government;

(b) the Commissioner shall be the same as that of not less than Commissioner and Secretary of the State Government:

Provided that if the Chief Commissioner or a Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Central Government or the State Government, his salary in respect of the service as the Chief Commissioner or a Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the Chief Commissioner or a Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation

established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Commissioner or the Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Commissioner and the Commissioners shall not be varied to their disadvantage after their appointment.

Removal of Chief
Commissioner
and
Commissioner

20. Subject to the provisions as stated here in below, the State Government may, by order, remove from office the Chief Commissioner or a Commissioner, if the Chief Commissioner or a Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Commissioner or a Commissioner; or
- (f) any other reason that the State Government deem fit and proper.

Powers and
Functions of the
Commission

21. (1) Subject to the provisions of this Act, it shall be the duty of the Commission to receive and inquire into a complaint from the parents/*divyang* siblings of an employee,—

- (a) who has been unable to submit an application or appeal before Designated Authority or the Appellate Authority, as the case may be, either by reason that there is no such officer for the time being either appointed or functioning under this Act, or because the Designated Authority or the Appellate Authority, as the case may be, has refused to accept his or her application or appeal under this Act;
- (b) who has not been given a response to an application for sanctioning apportioned salary of an employee within the time limit specified under this Act.

(2) Where on the receipt of the complaint under sub section (1), the Commission is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other law for the time being in force, the Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the authority, and no such record may be withheld from it on any grounds.

Second Appeal
before the
Commission

22. (1) The parents/*divyang* sibling who, does not receive a decision from Appellate Authority within the time specified in the section 15, or any employee or the parents/*divyang* sibling aggrieved by a decision of the Appellate authority, as the case may be, may within *sixty days* from the expiry of such period or from the receipt of such a decision from the Appellate Authority prefer an appeal before the Commission:

Provided that the Commission may admit the appeal after the expiry of the period of sixty days if it is satisfied that the appellart was prevented by sufficient cause from filing the appeal in time.

(2) An appeal under this section shall be disposed of by the Commission within *ninety days* of the receipt of the appeal or within such extended period not exceeding a total of *one hundred twenty days* from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(3) The decision of the Commission, as the case may be, shall be final and binding on all concerned.

(4) In its decision, the Commission has the power to,—

(a) require the designated authority or appellate authority to take any such steps as may be necessary to secure compliance with the provisions of this Act and impose any of the penalties provided under this Act;

(b) grant the amount of apportioned salary of an employee to the dependent parents/*divyang* sibling not exceeding 10% of the gross salary being paid to the employee except in exceptional cases only where it may go upto 15% of the monthly gross salary, with a direction to the Designated Authority to sanction the amount and cause payment of the apportioned salary through the Drawing and Disbursing officer directly to the grantee with effect from the succeeding month;

(c) reject the appeal, with cogent reasons to be recorded in writing and inform all concerned;

(d) any other orders as deem fit and proper, but not inconsistent with the provisions of the Act.

(5) The Commission shall give notice of its decision, including any right of appeal, to the complainant and the designated or appellate authority.

(6) The Commission shall decide the appeal in accordance with such procedure as may be prescribed by rules made under this Act.

Penalties

23. Where the Commission at the time of deciding any complaint or appeal is of the opinion that the Designated Authority or Appellate Authority, as the case may be, has, without any reasonable cause, refused to receive an application or has not disposed of the application within the time specified under section 7 and section 15, it may impose a penalty of *one hundred rupees per day* upon such Designated Authority or Appellate Authority as the case may be, till the application is disposed of, so however, the total amount of such penalty *shall not exceed twenty-five thousand rupees*.

Right to withdraw

24. (1) Notwithstanding anything contained in this Act and the rules made there under, the dependent parents/*divyang* siblings may withdraw their application, appeal or seek to rescind the orders of apportionment, at any stage, before or at the time of hearing or after an order of apportionment is passed, or during the continuance of payment of the apportioned salary to them, before the Designated Authority or the Appellate Authority or the Commission:

Provided that the dependent parents/*divyang* sibling shall-

(a) give it in writing to that effect to the Designated Authority, Appellate Authority or the Commission, as the case may be, clearly stating the reasons and changed circumstances for which he/she has proposed for withdrawal of the application or appeal or rescind the orders of apportionment, as the case may be.

(b) furnish an undertaking that the request has been made with his/her own decision and not under any duress from any quarter, and

(c) state the month from which such apportioned salary order shall be withdrawn.

(2) If such application is accepted by the Commission, Appellate Authority, they shall direct the Designated Authority to issue a formal order directing the Drawing and Disbursing Officer to discontinue the apportioned salary to the grantee parents/siblings with effect from the succeeding month of such order and if such application lies before the Designated Authority, he shall also do so as provided here under.

(3) In the event of circumstances, such as, the death of the grantee parents/siblings or arising of any new source of income for the grantee, which prove that the apportioned salary is no more applicable, the employee may submit an application to that effect before the Designated Authority and the latter shall dispose of the same within *thirty days* from the date of such application, after considering the evidence submitted before him by the employee and after hearing the grantee parents/siblings about the new source of income stated to have arisen in respect of him/her.

(4) If the Designated Authority fails to dispose of the application within the stipulated time, the employee may file appeal before the Appellate Authority and thereafter to the Commission, who may dispose of the appeal in the manner as provided under this Act.

**State Level
Monitoring Body**

25. (1) State Government shall, by notification, constitute a State Level Monitoring Body to closely monitor the implementation of the provisions of this Act in order to lessen the hardship to the sick and old dependent parents/*divyang* siblings.

(2) The Body so constituted shall also keep in mind and strive to widen the impact of the Act to reinforce the basic morality and family values among the employees and thereby, advance the influence of such values in the Society at large, beyond the employees of the Government.

Power to Remove Difficulties

26. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order, make such provisions not inconsistent with the provisions of this Act and the rule made thereunder and as may appear to them to be necessary or expedient for removing the difficulty.

Protection of action taken in good faith

27. No suit, prosecution or other legal proceeding shall lie against the State Government or an Organisation or any authority or any functionary or any officer thereof or any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

Bar of Jurisdiction of Courts

28. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Power to make Rules

29. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters including the procedure to be followed by various authorities involved in implementation of the Act.

(3) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the Assam Legislative Assembly, while it is in session, for a total period of not less than fourteen days which may be comprised on one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Assam Legislative Assembly may, during the said period agrees to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done there under.

S. M. BUZAR BARUAH,
Commissioner & Secretary to the Government of Assam,
Legislative Department, Dispur.