

EXTRAORDINARY
No. 1151, CUTTACK, TUESDAY, JULY 5, 2016 ASADHA 14, 1938

LAW DEPARTMENT

NOTIFICATION

The 4th July, 2016

No. 1151, CUTTACK, TUESDAY, JULY 5, 2016 ASADHA 14, 1938
The following Act of the Odisha Legislative Assembly has been passed and the Governor has assented thereto on the 27th June, 2016 and it is hereby notified for general information.

ODISHA ACT 7 OF 2016

THE ODISHA MUNICIPAL SERVICES ACT, 2015

AN ACT TO PROVIDE FOR THE REORGANISATION, INTEGRATION, RECRUITMENT AND CONDITIONS OF SERVICE OF PERSONS APPOINTED TO THE MUNICIPAL SERVICES IN THE STATE OF ODISHA AND ALSO TO PROVIDE FOR THE EXERCISE OF CERTAIN ADDITIONAL FUNCTIONS BY THE ODISHA PUBLIC SERVICE COMMISSION AS RESPECTS SUCH SERVICES AND MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

in pursuance of the Directive of the Constitution (Seventy-fourth Amendment) Act, 1932, it is incumbent on the State to establish one group of dedicated Municipal Service Cells to strengthen the elected local Self-Government System for better management of all material resource of the Urban Local Bodies and to better serve the community; And, whereas, it is expedient to provide for exclusive Municipal Services for ensuring and fitting responsibility and to promote good governance with effective delivery of services and to make provision for other matters connected therewith.

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BE it enacted by the Legislature of the State of Odisha in the Sixty-seventh Year of the Republic of India that it shall have effect from the date of its commencement.

Short title

enactment

commencement

and application.

1. (1) This Act may be called the Odisha Municipal Services Act, 2016.

(2) It extends to the whole of the State of Odisha.

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

(4) This Act shall apply to the officers and other employees recruited in accordance with the provisions of this Act and the rules in connection with the affairs of the Urban Local Bodies in the State of Odisha except the persons employed in work charged establishments or in any establishment or on daily wages or on contract or on consolidated pay or the employment is casual nature.

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

- (a) "appointing authority" means the authority empowered to appoint to the posts under the municipal services;
- (b) "Commission" means the Odisha Public Service Commission;

(c) "Director" means the Director of Municipal abpointed Odisha Act,

1950.

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(e) "existingemployees" an3employeeesservingonregular

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the Odisha Municipal Corporation Act, 2003 of Odisha

Notified Area under the Odisha Municipal Act, 1950;

Act B, of

(2) Words and used but not defined this it shall have Odisha Act. 23

the same means as respectively assigned to them in the Ordinance of 1950.

Act.1950 the Municipality Corporation Act.2003 Act.II

Corztitutioo

3.(1) On and from this Act, there shall be constituted the following municipal services at the Urban Local Bodies,

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(a) the Odisha A&nintÉrative *vice;
(b) ttK Municipal Service;
(s) the Odisha Service;
(d) Odiste PlanningService;
(e) the MuncipalCornm•niw
the Service;

(g) the Odisha Municipal Public Health Service; and

(h) e-Governance Service.

(2) services specified in sub-sections subject to the provision of this Act and rules, shall be—

(a) persons appointed to the service the commencement of this Act in accordance with the provision of this Act and the rules; and

- person appointed to the commencement of this Act to any Urban Body and absorbed thereinafter. With the commencement of this Act, the provisions of the Act shall apply.

B) Notwithstanding anything contained in this Act, a person appointed to the municipal service shall not be deemed to have been appointed to any civil service or post under the Government.

Designation, 4. (1) Each Urban Body shall classify its posts and their classification as may be prescribed for each category of Urban Body.

Posts for Urban

Local Bodies.

Explanation.—For the purpose of this section the expression 'category of Urban Local Body' shall mean the following categories of Urban Local Body grouped on the basis of population, namely,—

(a) Category-I—Urban Local Bodies with the population of 10 lakhs and above;

(b) Category-II—Urban Local Bodies with the population of 6 lakhs but not exceeding 10 lakhs;

(c) Category-III—Urban Local Bodies with the population of 3 lakhs but not exceeding 6 lakhs;

(d) Category-IV—Urban Local Bodies with the population exceeding 1 lakh but not exceeding 3 lakhs;

(e) Category-V—Urban Local Bodies with the population exceeding 50 thousand but not exceeding 1 lakh;

(f) Category-VI—Urban Local Bodies with the population exceeding 25 thousand but not exceeding 50 thousand;

(g) Category-VII—Urban Local Bodies with the population exceeding 10 thousand but not exceeding 25 thousand;

(h) Category-VIII—Urban Local Bodies with the population exceeding 5 thousand but not exceeding 10 thousand.

(2) For the purpose of this section, the expression 'category of Urban Local Body' shall mean the following categories of Urban Local Body grouped on the basis of population, namely,—

(a) Category-I—Urban Local Bodies with the population exceeding 10 lakhs but not exceeding 25 lakhs;

(b) Category-II—Urban Local Bodies with the population exceeding 6 lakhs but not exceeding 10 lakhs;

(c) Category-III—Urban Local Bodies with the population exceeding 3 lakhs but not exceeding 6 lakhs; (d) Category-IV—Urban Local Bodies with the population exceeding 1 lakh but not exceeding 3 lakhs; (e) Category-V—Urban Local Bodies with the population exceeding 50 thousand but not exceeding 1 lakh; (f) Category-VI—Urban Local Bodies with the population exceeding 25 thousand but not exceeding 50 thousand; (g) Category-VII—Urban Local Bodies with the population exceeding 10 thousand but not exceeding 25 thousand; (h) Category-VIII—Urban Local Bodies with the population exceeding 5 thousand but not exceeding 10 thousand.

(2) For the purpose of this section, the expression 'category of Urban Local Body' shall mean the following categories of Urban Local Body grouped on the basis of population, namely,—

ent. in a service. minimum qualification, scale of pay, and other conditions of service of employees of the Local Bodies such as may be made by the Government. (2) The direct recruitment to the municipal office Commission, or the Service Selection Committee constituted by the Government, may be, at the State level, examination and interview for recruitment to posts in the municipal service in the manner may be made by the Government. (3) Provision to the municipal service shall be made subject to the provisions of the Departmental Promotion constituted at the State level by the Government in the manner may be prescribed.

6. (1) An employee may be allowed to give option, within such and in such manner as may be prescribed, to be absorbed in the municipal service at the level subject to verification of their qualifications and experience as may be required for the said post under this Act and rules.

(2) On absorption of such employees in the municipal service, and service benefits shall not be less than those enjoyed by such employees immediately before such absorption.

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the matter of pay, allowances, of superannuation and such other conditions of service as may be decided by the Government.

pension, gratuity, provident fund, age conditions of service as may be decided by the Government.

(3) The existing employees of the Urban Local Bodies who do not exercise option for being absorbed or otherwise found unsuitable for further employment in the municipal service, they shall continue in the existing posts until their retirement or cessation in any other manner.

(4) Employees who continue in their service under the respective Urban Local Body without being absorbed shall have the same seniority as other employees of the same grade.

7. (1) Nothing contained in any law relating to the appointment and condition of service of officers and employees of the Urban Local Body but subject to the general or special order of the Government, the Commission shall be the authority competent to conduct examinations for recruitment to such posts of the Urban Local Body.

(2) The Commission shall be consulted. (a) on all matters relating to methods of recruitment to municipal service and posts under the Urban Local Body; (b) on the principle to be followed in making appointments to services and posts and making promotions from one service to another service and the suitability of candidates for such posts.

and it shall be the duty of the Commission to advise on any referred to them and on any other matter relating to employees of Urban Local Bodies the Government may refer to them: provided that the Governor may make specifying the in which either general or any particular class of cases or in particular circumstances, it shall not be necessary for the Commission to be consulted.

Appointing

8.(1)-The Government or the officer authorised by order in this behalf by the Government, shall be the Appointing Authority in respect of all Group-A, Group-B and Group-C posts under any urban Local Body whether they are included in the municipal service or not and the Government and the officer so authorised shall be the Controlling Authority for all those posts.

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(2) For the purpose of performing services like cleaning services of drains, latrines, markets, roads, streets, fields, offices, carpuses, vehicles including loading and unloading of waste materials and works relating to gardening, offices or premises to Urban Local Bodies or any other works labour persons shall be the Urban Local Bodies involving physical Providing Agencies as may be by the Director to such financial limit and number as may be decided by the Government, from time to time.

(3) The qualifications and standards required to types services under Urban Local Body and the remuneration to be paid to such or Agencies or the rates for payment for the items or quantity of work performed, shall be such as may be prescribed.

9. A person appointed to any post in a Full-time or part-time

provided that,—

(a) any period, and such services shall remain on permanent deputation

(b) any period of officiating or reckoned as the on probation, m. Person who has officiated full, on contract or of probation, to confirmed, or a contract.

(2) In opinion of the Appointing Authority, the or of a person appointed to any the period

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n. (1) All the offlcers and employees under Groups

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transfer
officers and

Of any municipal services shall liable to serve at any Urban Local Body in

the State Of Odisha.

(2) Notwithstanding contairrd in this Act, or in any Otlér

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Disqualification

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12. (1) No person shall be qualified to be appointed as an officer or employee of any Urban Local Body, if he has directly or indirectly any interest in any contract made with or in any work being done for the Local Body, except as a shareholder in a registered Company or Joint Stock Company Co-operative Society under the laws for the time being in

force.

(2) Any officer or employee of an Urban Local Body, who acquires directly or interest as aforesaid to be such Officer or employee of

the Urban

—A person shall not be deemed to have any interest in any contractor work as aforesaid by reason only of his having a share or interest in,—

(a) any lease, sale or purchase of immovable property or any

(b) any agreement for the loan of money or any security for the

payment of money only.

13. (1) No appointment to any post of an Urban Local Body shall be

made in contravention of the provisions of this Act and rules or any order

made in and Instruction of the Government and any appointment made in such

contravention shall be treated as void.

provisions of

this Act

(2) Any officer or employee of an Urban Local Body, who

makes any appointment or causes any engagement to be entered into

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receive or salary from the Urban Local Body or his member

contravention of provisions of this Act or rules or order or instruction issued by the Government, —:

(a) it shall be deemed the case of the holder of an elective office that

has abused his position or power and accordingly

Government shall initiate proceedings for his removal;

(c) in the case of an officer or authority, it shall be deemed

that he is guilty of misconduct and the competent authority shall

initiate proceedings under the relevant disciplinary rules,

and such holder of elective office or the officer or authority, as the case may be

shall be punishable with imprisonment for a term which shall not be less

than six months or may extend to two years and also with fine which shall

not be less than fifty thousand rupees but may extend to one lakh rupees.

(3) In addition to

action taken under sub-section (2), the pay

and allowance paid to the person whose appointment was annulled

shall be recoverable from such person or his legal representative as a loss

to the Urban Local Body and the person shall be recoverable from such person

of elective office, officer or authority who made such appointment.

(4) No court shall take cognizance of an offence punishable under

sub-section (2) except with the sanction of the Government.

14. Notwithstanding anything contained in this Act and rules, the

Government may appoint on deputation to any posts in Groups "A" and

official on

deputation.

Of the urban Local Bodies on such term and conditions and for such period as may be by the Government, from among the persons who are in the service of Government and the concerned Urban Local Body shall bear the towards the pay and allowance of each such officer which he is entitled to receive under the Rules of the Government governing his services to which he belongs and shall make contribution the pension, if salary of such Officer to which he is entitled in his service under the Government.

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IS. (1) Every officer or employee under the municipal services, shall

Punishment

appeal. be liable to have his increment or promotion withheld or to be censured, reduced in rank, suspended, compulsorily retired, removed or dismissed for breach of any departmental rules or regulations or of discipline or carelessness, unfitness, neglect of duty or authority as may be prescribed in this behalf: misconduct by SLEH

provided that no such Officer or employee, as aforesaid, shall be reduced in rank, compulsorily retired, removed, or that by which he was appointed. an authority subordinate

(2) No officer or employee as aforesaid shall be dismissed or or reduced in rank until he has been given a reasonable opportunity of showing cause against the proposed action taken against him. Provoked that this sub-section shall not apply (a) a person is dismissed or reduced in rank on the ground of Conduct which has led to his conviction on a criminal charge; or (b) where an authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that, for some reason, to be by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause or that in the interests of the security of the State it is expedient to give such an opportunity to him.

(3) If any question arises, whether it is reasonably practicable to give to any person an opportunity of showing cause or whether, in the interests of the security of the State it is not expedient to give to any person such an opportunity under the proviso to sub-section (2), the decision thereon, of the authority appointed by the Government to dismiss or remove such person or to reduce him in rank, as the case may be, shall be final.

(4) The procedure for initiation of proceedings, the provisions laid down in the Odisha Civil Services (Classifications, Control and Appeal) Rules, 1962 in so far as they are not inconsistent with this Act shall, mutatis mutandis, apply to the officers and employees of every Urban Local Body.

(5) The officer and employee, upon whom a punishment has been imposed under section, an appeal within such time, in such manner, and to such authority as may be prescribed.

(6) The authority empowered to and authority in respect of a class of posts in the shall such as may prescribed.

Pension, Gratuity 16. Subject to the rules, employees engaged in the municipal service shall be covered under the provisions of the Pension and Provident Scheme, Provident Fund Rules and Rules relating to Death-cum-retirement Benefit which are applicable to employees of the Government of Odisha on or after the 1st day of January, 2005.

Duties of 17. The Government may, by notification, authorize any officer of the Government or of the Urban Local Body or authority to exercise in regard to any Urban Local Body any or more of the powers vested in it by this Act, except the power to make rules like

may withdraw the authority in the

of 18. The provisions in respect of leave, travelling allowance, Joining other benefits, medical facilities, fees, honoraria, house rental allowance, dearness allowance, fixation of pay, grant of increments, deputation, age superannuation and other matters not expressly provided in this Act, shall be as provided in the corresponding provisions contained in the Government employees which shall apply to the Urban Local Bodies:

Provided that leave salary shall be payable to an employee by the Urban Local Body where he happens to serve at the time of proceeding on

Provided further that a person shall not transfer his leave salary, travelling allowance and joining benefits, leave salary, from the Urban Local Body to which he is transferred previously to any other Urban Local Body.

from the date of his removal from the

Act to have 19. The provisions of this Act shall have effect notwithstanding

anything inconsistent therewith contained in the Odisha Municipal Act,

effect.

1950 and the Odisha Municipal Corporation Act, 1950.

Odisha Act,

23 of 1950

and 6 of 1950

20. Any officer or employee who fails or neglects to comply with

Penalties.

any lawful order or provision passed under this Act and contravenes such

order or provision or obstructs the action taken by the officer or

or employees in respect of any property which has vested in the Urban

Local Body or furnishes information which he knows or has reason to

believe to be false or does not believe to be true, he shall, conviction be

punishable with imprisonment which may extend to two years or with fine

which may extend to fifty thousand rupees or with both:

Provided that no court shall have cognizance of the offence except with

the previous sanction of the Government.

ReservatiM.

21. Nothing contained in this Act shall affect the reservations and other concessions required to be provided for Scheduled Castes, Scheduled Tribes and Educationally Backward Classes. Ex-servicemen, persons with disabilities, or any other category of persons in accordance with the provisions of this Act and rules or orders issued by the Government in this regard, from time to time.

Power to make

22. (1) The Government, with previous publication, may make rules for carrying out or any of the provisions of this Act. In particular and without prejudice to the generality of the powers, the rules may provide for all or any of the following matters, namely:—

- (a) number, classification and of posts;
- (b) method of recruitment, age limit for entry into service, minimum qualification, scale of pay, leave, allowances and other conditions of service;
- (c) manner of exercising option for absorption;
- (d) manner of conduct of examinations by the Commission and Service Selection Committee and manner of conducting Departmental Examination and constitution of Departmental Promotion Committee;
- (e) authority to whom, the appeal in which and the time within which appeal to be filed; and
- (f) any other matters which are required to be, or maybe, prescribed:

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23. No suit or prosecution or other legal proceedings shall lie against any officer of the Government or any other employee of the Urban Local body acting on behalf of them for anything which, in good faith, done or intended to be done in pursuance of this Act, or any rule or made thereunder.

power to

24. (1) If any difficulty arises in giving effect to the provisions of this Act, provisions not inconsistent with provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

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

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

Amendment of Odisha Act, 23 of 2003

the Odisha Act, 11 of 2003.

25. (1) Chapter-WI of the Odisha Municipal Act, 1950 and sections 117 to 129 Chapter-VI of the Corporation Act, 2003 shall be omitted.

(2) Notwithstanding the amendments of the provisions of the Acts

referred to in (1),—

- (a) any proceeding pending at the date of commencement of this

Act and any other proceedings before the Court or
Tribunal on the aforesaid date under any of the provisions so
any cause of action arising under any of the provisions of the
Acts so and the right, if any, appeal, review or
revision arising out of any with respect to which
causes of action; and
the right of any or authority to take action as per the
provisions so amended, shall continue as if this Act has not
come into force.

By Order of the Governor
B. P. ROU TRAY

Principal Secretary to Government.

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