

Bill No. LXIII of 2010

**THE PRASAR BHARATI (BROADCASTING CORPORATION
OF INDIA) AMENDMENT BILL, 2010**

A

BILL

further to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

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

1. (1) This Act may be called the Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2010.

Short title
and
commence-
ment.

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

25 of 1990.

2. In the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (hereinafter referred to as the principal Act), for section 11, the following sections shall be substituted, namely:—

Substitution
of new
sections for
section 11.

‘11. (1) All officers and employees recruited for the purposes of Akashvani or Doordarshan before the appointed day and in service in the Corporation as on the 1st day of April, 2000, shall be on deemed deputation to the Corporation with effect from the 1st day of April, 2000, and shall so continue till their retirement.

Status of
officers and
employees.

(2) All officers and employees recruited during the period on or after the appointed day till the 5th day of October, 2007, shall be on deemed deputation to the Corporation with effect from the 1st day of April, 2000 or the date of their joining service in the Corporation, whichever is later.

Explanation.—For the purposes of sub-sections (1) and (2), “officers and employees recruited” means officers and employees recruited either under the proviso to article 309 of the Constitution or in accordance with the regulations made under the Act, but shall not include persons engaged or appointed on daily wages, casual, *ad hoc* or work charged basis.

(3) The officers and employees referred to in sub-section (1) and sub-section (2) shall be entitled to the pay and all other benefits as admissible to an employee of the Central Government:

Provided that such officers and employees shall not be entitled to any deputation allowance.

(4) Notwithstanding anything contained in any other law for the time being in force, the Corporation shall have the disciplinary and supervisory powers and full control on the officers and employees referred to in sub-section (1) and sub-section (2), including the power to transfer them from one place, post or media to another, and to suspend, initiate disciplinary proceedings and impose major or minor penalties:

Provided that the power to impose major penalties of compulsory retirement, removal or dismissal from service shall be exercised by the Central Government.

(5) All officers and employees recruited after the 5th day of October, 2007 shall be officers and employees of the Corporation and shall be governed by such conditions of service as may be specified in the regulations.

Section 11 not to apply to certain officers and employees.

11A. (1) The provisions of section 11 shall not apply to officers and employees of the Indian Information Service, the Central Secretariat Service or any other service borne on any cadre outside Akashvani or Doordarshan, who have been working in Akashvani or Doordarshan before the appointed day or in service in the Corporation after that day.

(2) The terms and conditions of service in the Corporation of officers and employees referred to in sub-section (1) shall be such as may be prescribed.

Transfer of posts of Akashvani and Doordarshan to Corporation.

11B. (1) All posts in the erstwhile Akashvani and Doordarshan other than the posts borne on the strength of the cadres referred to the sub-section (2) shall be deemed to have been transferred to the Corporation with effect from the 1st day of April, 2000.

(2) All matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan, in so far as such posts are concerned with the Corporation, shall be determined in such manner and on such terms and conditions as may be prescribed.’.

Amendment of section 32.

3. In section 32 of the principal Act, for clause (f), the following clauses shall be substituted, namely:—

"(f) the terms and conditions of service in the Corporation of officers and employees under sub-section (2) of section 11A;

(ff) the manner and the terms and conditions subject to which matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan shall be determined under sub-section (2) of section 11B;".

Amendment of section 33.

4. In section 33 of the principal Act, in sub-section (2),—

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

"(d) the conditions of service of officers and employees under sub-section (5) of section 11;";

(ii) clause (e) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Prasar Bharati (Broadcasting Corporation of India) Act, 1990 provides for the establishment of a Broadcasting Corporation of India, to be known as Prasar Bharati. The said Act came into force on the 15th September, 1997. Section 11 of the said Act provides for transfer of officers or employees serving in the Akashvani or Doordarshan to the Corporation, by the Central Government where it has ceased to perform any of the functions of the Corporation specified in section 12 thereof. It further provides that no such order shall be made in respect of any officer who has intimated, within the specified period, his intention of not becoming an employee of the Corporation.

2. However, the employees were not given option in terms of section 11 of the Act for transfer of their services to the Corporation. The Government kept receiving representations from the employees about their status as to whether they were to remain as Government employees or as employees on deemed deputation serving in an autonomous organisation. It gave rise to a number of litigation in various High Courts. After considering the grievances of the employees who were on deemed deputation to the Corporation, the Government decided to constitute a Group of Ministers on 7th March, 2006 to take a final view. Further, Supreme Court of India, in appeals clubbed together in Civil Appeal No. 3244/2002, while upholding the right of Prasar Bharati Broadcasting Corporation of India to transfer the employees, directed the Union of India on 2nd February, 2007 to take a firm decision in terms of section 11 of the aforesaid Act and complete the entire process of deciding the service related issues of Prasar Bharati employees.

3. The Group of Ministers, in its meeting held on 5th October, 2007, recommended that the employees working in the Prasar Bharati may continue on deemed deputation with all benefits available to Central Government employees. Again in its meeting held on 26th September, 2008, the Group of Ministers reiterated its recommendation that the Government employees shall continue to serve in Prasar Bharati on "deemed deputation" basis till the time of their retirement with all facilities at par with Central Government employees and that the persons recruited after 23rd November, 1997, that is, the date on which, the Prasar Bharati was established, and serving in the Prasar Bharati on the date of decision of Group of Ministers dated 5th October, 2007, will also be treated as Government employees on "deemed deputation" basis to the Prasar Bharati and will enjoy all facilities at par with the Central Government employees. It further recommended for bringing necessary amendments to the Act for giving effect to the aforesaid decisions.

4. The Group of Ministers in its meeting held on 16th April, 2010 considered the issue relating to the status of the employees belonging to the Indian Information Service, the Central Secretariat Service and other cadres borne outside the cadre of Akashvani and Doordarshan and recommended that *status quo* be maintained in respect of the said employees subject to the conditions, *inter alia*, that Ministry of Information and Broadcasting and Prasar Bharati may jointly work out the number of deputation posts to be manned by officers from Indian Information Service cadre.

5. Accordingly, a provision has been made in the Bill that the terms and conditions of service in the Corporation, and all matters relating to the posts borne on the strength of the cadres of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan, in so far as such posts are concerned with the Corporation, shall be determined in such manner and on such terms and conditions as may be prescribed.

6. Since the above recommendations of the Group of Ministers will settle the long standing issues of the status of employees working in Prasar Bharati and empower the Prasar Bharati with all disciplinary and supervisory powers and control on the officers and employees including the power to transfer them from one place, post or media to another, it has become necessary and expedient to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

7. The Bill seeks to achieve the aforesaid objectives.

AMBIKA SONI

NEW DELHI;

The 25th August, 2010.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to substitute section 11 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 by inserting new sections 11, 11A and 11B. The proposed new section 11A seeks to provide that section 11 relating to status of officers and employees will not apply to the officers and employees of the Indian Information Service, the Central Secretariat Service or any other service borne on any cadre outside Akashvani or Doordarshan. Sub-section (2) of proposed new section 11A, *inter alia*, empowers the Central Government to make rules providing for the terms and conditions of service in the Corporation of officers and employees referred to above.

2. The proposed new clause 11B seeks to provide for the transfer of posts of Akashvani and Doordarshan to the Corporation. Sub-section (2) of the proposed new section 11B, *inter alia*, empowers the Central Government to make rules to provide for the manner of determination and terms and conditions of all matters relating to the posts borne on the strength of the Indian Information Service, the Central Secretariat Service or any other cadre outside Akashvani or Doordarshan.

3. Clause 3 of the Bills seeks to amend section 32 of the Act relating to power of the Central Government to make rules. Consequent to the rule making power given under sub-section (2) respectively of the proposed sections 11A and 11B, it is proposed to substitute clause (f) by new clause (f) and (ff) respectively so as to reiterate the rule making provisions of sub-section (2) of sections 11A and 11B respectively.

4. Clause 4 of the Bill seeks to amend section 33 of the Act relating to power of the Corporation to make regulations. It proposes to substitute clause (d) of sub-section (2) of the said section so as to provide for the Corporation to make regulations relating to conditions of service of officers and employees.

5. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegated legislation is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) ACT, 1990

(25 OF 1990)

* * * * *

11. (1) Where the Central Government has ceased to perform any functions which under section 12 are the functions of the Corporation, it shall be lawful for the Central Government to transfer, by order and with effect from such date or dates as may be specified in the order, to the Corporation any of the officers or other employees serving in the Akashvani or Doordarshan and engaged in the performance of those functions:

Transfer of service of existing employees to Corporation.

Provided that no order under this sub-section shall be made in relation to any officer or other employee in the Akashvani or Doordarshan who has, in respect of the proposal of the Central Government to transfer such officer or other employee to the Corporation, intimated within such time as may be specified in this behalf by the Central Government, his intention of not becoming an employee of the Corporation.

(2) The provisions of sub-section (1) shall also apply to the members of the Indian Information Service, the Central Secretariat Service or any other service or to persons borne on cadres outside Akashvani and Doordarshan who have been working in Akashvani or Doordarshan immediately before the appointed day:

Provided that where any such member intimates, within the time specified in sub-section (1), his intention of not becoming an employee of the Corporation but to continue on deputation, he may be allowed to continue on deputation in accordance with such terms and conditions as may be prescribed.

(3) In making an order under sub-section (1), the Central Government shall, as far as may be, take into consideration the functions which the Akashvani or, as the case may be, Doordarshan has ceased or ceases to perform and the area in which such functions have been or are performed.

(4) An officer or other employee transferred by an order under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an employee of the Corporation with such designation as the Corporation may determine and shall, subject to the provisions of sub-sections (5) and (6), be governed by such regulations as may be made as respects remuneration and other conditions of service including pension, leave and provident fund and shall continue to be an officer or other employee of the Corporation unless and until his employment is terminated by the Corporation.

(5) Every officer or other employee transferred by an order made under sub-section (1) shall, within six months from the date of transfer, exercise his option, in writing, to be governed—

(a) by the scale of pay applicable to the post held by him in the Akashvani or Doordarshan immediately before the date of transfer or by the scale applicable to the post under the Corporation to which he is transferred;

(b) by the leave, provident fund, retirement or other terminal benefits admissible to employees of the Central Government in accordance with the rules or orders of the Central Government, as amended from time to time, or the leave, provident fund or other terminal benefits admissible to the employees of the Corporation under the regulations,

and such option once exercised under this Act shall be final:

Provided that the option exercised under clause (a) by an officer or other employee shall be applicable only in respect of the post under the Corporation to which such officer or other employee is transferred and on appointment to a higher post under the Corporation he shall be eligible only for the scale of pay applicable to such higher post:

Provided further that if immediately before the date of his transfer any such officer or other employee is officiating in a higher post under the Government either in a leave vacancy or any other vacancy of a specified duration, his pay on transfer shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Government to which he would have reverted or to the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt:

Provided also that when an officer or other employee serving in the Union Ministry of Information and Broadcasting or in any of its attached or subordinate offices is promoted to officiate in a higher post in the Ministry or office subsequent to the transfer to the Corporation of any other officer or employee senior to him in that Ministry or office before such transfer, the officer or other employee who is promoted to officiate in such higher post shall, on transfer to the Corporation, be entitled only to the scale of pay applicable to the post he would have held but for such promotion or the scale of pay applicable to the post under the Corporation to which he is transferred, whichever he may opt.

(6) No officer or other employee transferred by an order made under sub-section (1) or sub-section (2),—

(a) shall be dismissed or removed by an authority subordinate to that competent to make a similar or equivalent appointment under the Corporation as may be specified in the regulations;

(b) shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided that where it is proposed after such inquiry to impose upon him any such penalty, such penalty may be imposed on the basis of evidence adduced during such inquiry and it shall not be necessary to give such person an opportunity of making representation on the proposed penalty:

Provided further that clause (b) shall not apply where an officer or other employee is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge.

	*	*	*	*	*
Power to make rules.	32. (1)	*	*	*	*

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

	*	*	*	*	*
--	---	---	---	---	---

(f) the terms and conditions in accordance with which the deputation may be regulated under sub-section (2) of section 11;

	*	*	*	*	*
Power to make regulations.	33. (1)	*	*	*	*

(2) Without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

	*	*	*	*	*
--	---	---	---	---	---

(d) the remuneration and other conditions of service, including pension, leave and provident fund in relation to an officer or other employee of the Corporation under sub-section (4) of section 11;

(e) the authority competent to make certain appointments referred to in clause (a) of sub-section (6) of section 11;

	*	*	*	*	*
--	---	---	---	---	---

RAJYA SABHA

A

BILL

further to amend the Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

(Shrimati Ambika Soni, Minister of Information and Broadcasting)