

**THE UTTAR PRADESH HIGHER EDUCATION
SERVICES COMMISSION ACT, 1980**

(U. P. Act No. 16 of 1980)

[As amended by U. P. Act No. 9 of 1982 and U. P. Act No. 22 of 1985]

AN

ACT

to establish a service commission for the selection of teachers for appointment to the colleges affiliated to or recognised by a University, and for matters connected therewith or incidental thereto.

IT IS HEREBY enacted in the Thirty-first Year of the Republic of India, as follows :—

CHAPTER I

Preliminary

1. Short title and commencement.—(1) This Act may be called, the Uttar Pradesh Higher Education Services Commission Act, 1980.

(2) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.¹

2. Definitions.—In this Act—

- (a) “appointment” in relation to a teacher does not include an appointment under sub-section (3) of section 31 of the Uttar Pradesh State Universities Act, 1973 ;
- (b) “Chairman” means the Chairman of the Commission and includes any other person performing, in the absence of the Chairman for the time being the functions of the Chairman ;
- (c) “College” means an affiliated or associated college to which the privileges of affiliation or recognition, as such has been granted by a University, and includes a college maintained by a local authority but does not include a college maintained by the State Government;
- (d) “Commission” means the Higher Services Commission established under section 3;
- (e) “Director” means the Director of Education (Higher Education) and includes Joint Director of Education or Deputy Director of Education authorised by him in this behalf :

1. This Act came into force w.e.f. August 21, 1981 (vide U.P. Govt. Education (10) Department, Notification No. 4230/XV-10-81-15 (95)-81 dated August 20, 1981).

- (f) "Member" means a member of the commission and includes its Chairman;
- (g) other words used and not defined in this Act but defined in the Uttar Pradesh State Universities Act, 1973, shall have the meanings respectively assigned to them in that Act.

NOTES

In Writ petition No. 1473 of 1986 (Lucknow—Bench) Allahabad. *R. P. Singh v. U.P. H.E.S.C.* and others decided on dt. 11.3.1986 by Allahabad High Court. it has been held that the appointment of purely ad-hoc teacher under section 31 (3) (a) of the U.P. State Universities Act being not in accordance with sub-clause 4 (a) of section 31 of the Universities Act does not oust the jurisdiction of the commission Act by virtue of sub-clause (a) of section 2 of the Commission Act.

In Writ petition no. 1050 of 1986 *Dr. Anil KumarSingh v. State of U. P.* and others decided by Allahabad High Court on dt. 16.1.1986 it has been held that neither clause (a) of sub-section 3 of section 31 of U. P. State Universities Act is applicable as the same is confined to officiating appointments in a vacancy caused by grant of leave to the incumbent for a period not exceeding ten months. In the present case the petitioner was appointed in a leave vacancy, the leave granted to the incumbent being admittedly for more than ten months. Clause (b) of sub-section 3 is also not attracted as the post against which the petitioner was appointed was not a temporary post which may have been converted into a permanent post as contemplated under the provision. Thus Sub-section 3 of section 31, will not be applicable to the petitioners case at all. That being so, the commission was fully empowered to make the recommendation.

CHAPTER II

Establishment of the Commission

3. ¹[Establishment of the Commission.—(1) With effect from such date as the State Government may by notification appoint in this behalf, there shall be established a Commission to be called the "Uttar Pradesh Higher Education Services Commission].

(2) The Commission shall be a body corporate.

4. Composition of the Commission.—(1) The Commission shall consist of a Chairman and not less than two and not more than four other members to be appointed by the State Government.

(2) No person shall be qualified for appointment as Chairman or Member unless he is or has been—

- (a) a person occupying, in the opinion of the State Government, a position of eminence in public life or in judicial or administrative service ; or
- (b) a Vice-Chancellor of any University ; or
- (c) a Professor in any University ; or
- (d) a Principal of a college for a period of not less than ten years ; or
- (e) a teacher of a college for a period of not less than fifteen years].²

1. "The U.P. Higher Education Commission was established w. c. f. 1.11.1982 (vide Notification No. 5004/15-10-82-15 (95)/81 dated 23.10.1982)."

2. Sub-section (2) of section 4 was *Substituted* by U.P. Act No. 9 of 1982 (w. c. f. 4th December, 1981). It read prior to the substitution as under:

(2) Of the members, one shall be a person who occupies, or has occupied, in the opinion of the State Government, a position of eminence in public life or in Judicial or Administrative Services others shall have teaching experience as:

- (a) Professor of any University ; or
- (b) Principal of a college for a period of not less than ten years ; or
- (c) Teacher of a college for a period of not less than fifteen years,