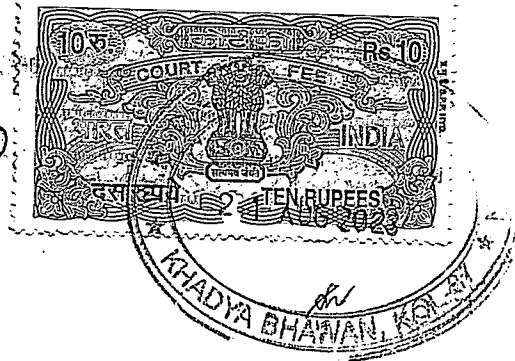


3008/(A)  
21/08/2023

Appeal # 21



From,  
Prof. Abichal Chattopadhyay,  
Fellow, National Academy of Ayurveda, Govt. of India,  
10 Rash Behari Ghosal Lane, Salkia, Howrah, Pin- 711106  
Mob: 9830188328 ; email: abichalchattopadhyaya@gmail.com

To,  
The state Information Officer,  
Khadya bhawan complex, 11A,  
Mirza Ghalib St, Janbazar, Taltala, Kolkata, West Bengal 700087

Sub: Second appeal against the order passed in relation to my RTI appeal dated 26/07/2023 (page no. 9)

Reference No: HF/O/GA/2482/3A-65/23 dated, Kolkata 3/8/23

Sir,

In response to the above cited reference number, I have to inform you that the first appellate authority has dismissed my first appeal probably without verifying the reply of my appeal related queries. The reply of my query no. 4 made by the concerned authority is categorically feasible that the reply is non specific misleading in every dimension which reflects the inefficiency of the concerned authority.

Therefore, I am hereby placing my second appeal before you with all the relevant papers for proper judgement.

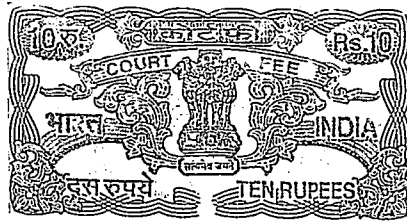
Thanking you

Date: 18/08/2023

Yours faithfully,

*Abichal Chattopadhyay*  
18-08-2023  
Prof. Abichal Chattopadhyay

A  
ND



Date: .....

To,  
The Public Information Officer  
Secretary, H&FW Department, Government of West Bengal  
Block-GN-29, Sector-V, Swasthya Bhawan,  
Saltlake, Kolkata - 700091

**Subject - Application under the Right to Information Act 2005**

Respected Sir/Madam,

I, Prof. Abichal Chattopadhyay, a citizen of India, do hereby submit the instant application under the Right to Information Act, 2005 for providing me with the following information related to your department.

Please provide me the relevant information as per the norms under RTI act. If you believe that this application is not related to your department then kindly transfer this to the concerned department under the section of 6(3) of RTI act- 2005.

Please provide me the following information in specific with respect to the Order No. HFW-34011(11)/12/2022/36, dated - 30/01/2023, issued by the Secretary & DG AYUSH, Ministry of Health & Family Welfare, Govt. of West Bengal.

1. Whether **Dr. Asim Kumar Mondal**, Superintendent, Institute of Post Graduate Ayurvedic Education & Research (IPGAE&R) at Shyamadas Vaidya Shastra Pith (SVSP), Kolkata was engaged under West Bengal Ayurvedic Health Service or under West Bengal Ayurvedic Education Service?
2. Whether the service of **Dr. Asim Kumar Mondal**, as the Superintendent, Institute of Post Graduate Ayurvedic Education & Research (IPGAE&R) at Shyamadas Vaidya Shastra Pith (SVSP), Kolkata, was governed by the West Bengal Ayurvedic Health Service Act, 2002?
3. According to the West Bengal Ayurvedic Health Services Act 2002, what is the age of compulsory retirement of persons appointed in the West Bengal Ayurvedic Health Service?
4. Whether an employee appointed in the West Bengal Ayurvedic Health Service whose service is governed by the West Bengal Ayurvedic Health Service Act, 2002 can be retained in service even after attaining the age of compulsory retirement, by way of extension and/or re-employment? If yes then please elaborate the process of such retention with relevant provisions of law as applicable.
5. Please also provide me the details including name, designation and email id of the first appellate authority as per the provision of RTI Act- 2005.

Thanking you

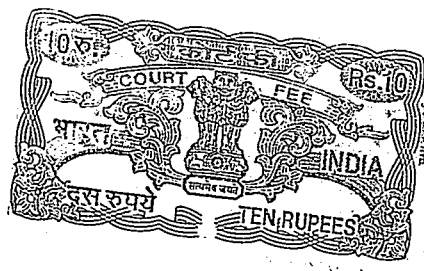
**Prof. Abichal Chattopadhyay,**  
Former Professor & Fellow, National Academy of Ayurveda, Govt. of India

Address -  
10, Rash Behari Ghoshal Lane, Salkia, Howrah, PIN - 711106  
Contact- 9830188328, Email - abichalchattopadhyaya@gmail.com

Attachments-

1. Court Fees of Rs 10.

Encls



Page-2

Enclosure-(c)

Date: 26/07/2023

From:

Prof. Abichal Chattopadhyay

Fellow, National Academy of Ayurveda, Govt. of India

10 Rash Bihari Ghoshal Lane, Salkia, Howrah, PIN – 711106

Mob. 9830188328 Email – abichalchattopadhyaya@gmail.com

To

The Appellate Authority

H&FW Department, Government of West Bengal

Swasthya Bhawan, Block-GN-29, Sector-V,

Salt lake, Kolkata – 700091

Sub. Misleading answer of my RTI application by the respondent regarding seeking information under RTI Act, 2005

Ref. No.

- I. 1841-WBIC/RTI/MISC/SS/22 dated 14. 07.2023
- II. HF/O/GA/572/3A-65/2023 dated Kolkata the 28<sup>th</sup> February, 2023
- III. DAY/322/2023 dated Kolkata the 06.04.2023

Sir,

In response to the above cited references No. II & III; I have to inform you that the reply against my query no. 4 and 5 provided by the concerned authority are inappropriate, insignificant, irrelevant and/or purposefully the tricky answers were made. It is intentionally replied just to mislead my queries with malafide intention.

This reply proves the inefficiency of the respondent authority as this is forwarded to me without analysis and justification against the reply of query no. 4 & 5 of my RTI supporting the provided answers replied by the Principal of the Institute of Post Graduate Ayurvedic Education & Research at SVSP which reflects in Annexure –I of the ref. no. DAY/322/2023 dated Kolkata the 06.04.2023

The simple query (in query no 4) was about whether the retained in service of Dr. Asim Kr. Mondal even after attaining the age of compulsory retirement by way extension and/or re-employment.

The answer was not categorically mentioned against the specified query and the next query of the same point if yes, then please elaborate the process of such retention with relevant provisions of law as applicable.

In the reply of the said, no relevant provisions of law has mentioned, on contrary only the departmental order issued by the department vide ref no. HFW-34011(11)/12/2022/36 dated 30.01.2023 is specified. The order itself is under question and doesn't follow the West Bengal State Ayurvedic Health Services Act, 2002 where it is categorically mentioned that section - 16(2) "the age of compulsory retirement of persons appointed in the West Bengal State Ayurvedic Health Services shall be the age of 60 years and after attaining the that age no such person shall be retained in service". This has also been reflected in the reply of respondent

Abichal Chattopadhyay  
11.08.23

against my query no. 3, but the reply for the same is contradictory in respect to the order no. HFW-34011(11)/12/2022/36 dt. 30.01.2023

A copy of the West Bengal State Ayurvedic Health Services Act 2002 is enclosed herewith with pointing red mark in page 5 of the said Gazette of Section 16(2).

I beg to be excused to say that probably this will definitely clear the matter that this extension or the re-employment of the said person is made with vested interest. This is mere a despotism for the system.

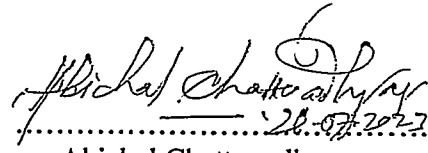
The reply of the query no 5 is absolutely inappropriate and does not reflect the significant answer of the query.

Under this circumstance may I request you to provide the proper reply of the said points Q. no 4 & 5 of my RTI against the order passed by the concerned authority and not to mislead me with an insignificant reply.

Kindly treat it as urgent with an appropriate necessary action.


This letter is written in accordance to the direction of Ref. No. I by the Section Officer, West Bengal Information Commission.

Thanking you

  
..... 20.07.2023  
Abichal Chattopadhyay

Enclosures:

1. 1841-WBIC/RTI/MISC/SS/22 dated 14. 07.2023 from the Section Officer, West Bengal Information Commission, Khadya Bhaban
2. Letter No HF/O/GA/572/3A-65/2023 dated Kolkata the 28<sup>th</sup> February, 2023
3. Letter of the Director of Ayurveda (DOA), No. DAY/322/2023 dated Kolkata, the 06.04.2023 along with Annexure - I;
4. Gazette Notification, the West Bengal State Ayurvedic Health Services Act, 2002;

  
..... 11.08.23

Page-4

Enclosure - (2)

Government of West Bengal  
Department of Health & Family Welfare  
G.A. Branch  
Swasthya Bhawan, GN-29, Sector-V  
Salt Lake, Kolkata-700091

**SPEED POST**

No. HF/O/GA/5723A-65/2023

Dated. Kolkata the 28<sup>th</sup> February 2023

From : The Assistant Secretary and  
State Public Information Officer.

To : The Director of Ayurveda & SPIO  
Directorate of Health Services  
GN-29, Swasthya Bhawan, Kol-91

**S u b : RTI application dated nil of Prof. Abichal Chattopadhyay  
regarding seeking information under RTI Act, 2005**

Sir,

In pursuance of provision of section 6(3) of the RTI Act, 2005, I am directed to transfer the original RTI application dated nil received from Prof. Abichal Chattopadhyay for disposal as the information sought for by the applicant is closely connected to you.

If necessary, this may be transferred to the other public authority for disposal.

Yours faithfully,

Enclosed: As stated.



Assistant Secretary and  
State Public Information Officer

No. HF/O/GA/5723A-65/2023/1(1)

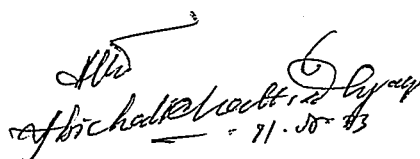
Dated. Kolkata the 28<sup>th</sup> February 2023

Copy forwarded for information to :-

✓ 1. Prof. abichal Chattopadhyay, 10, Rash Behari Ghoshal Lane, salkia, Pin-711106.



Assistant Secretary and  
State Public Information Officer

  
21.02.23

Page-5

Enclosure - (1)

Government of West Bengal  
Department of Health & F. W.  
Directorate of Ayurveda  
"Swasthya Bhawan" Sector-V  
GN-29, Salt Lake City  
Kolkata - 700 091.

No. DAY/ 322/2023

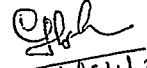
Dated, Kolkata, the 06.04.2023

To  
Prof. Abichal Chattopadhyay,  
Former Professor & Fellow, National Academy of Ayurveda, Govt. of India  
10, Rash Behari Ghoshal Lane, Salkia, Howrah, Pin-711106,  
Email-abichalchattopadhyaya@gmail.com

With reference to your RTI application dated nil forwarded by the Assistant Secretary and State Public Information Officer, G.A. Branch, vide their memo no.HF/O/GA/572/3A-65/2023 dated 28.02.2023, it is to be noted here that we are enclosing the replies and related papers as received from the Principal, IPGAE&R at SVSP, Kolkata for your information .


Enclosure : As stated

No. DAY/ /2023

  
06/04/23  
Director of Ayurveda  
Govt. of West Bengal  
Health & Family Welfare Department  
Government of West Bengal  
Dated, Kolkata, the 06.04.2023

Copy forwarded for information and necessary action to :-

1. The Assistant Secretary and State Public Information Officer,  
G.A. Branch, Govt of West Bengal.
2. Office Copy.

  
Abichal Chattopadhyay  
11-08-23

Director of Ayurveda  
Govt. of West Bengal

**Annexure - I**

1	Whether Dr. Asim Kr. Mondal ,Superintendent , Institute of Post Graduate Ayurvedic Education& Research (IPGAE&R) at Shyamdas Vaidya Shastra Pith (SVSP),Kolkata was engaged under West Bengal Ayurvedic Health Service or under West Bengal Ayurvedic Education Service?	As per order Vide no. HF/O/AYUSH/500/M-21/18 dt.01.08.2019.The Superintendent of IPGAE & R at SVSP Comes under the West Bengal Ayurvedic Health Service cadre.
2	Whether the service of Dr. Asim Kr. Mondal, as the superintendent , Institute of Post Graduate Ayurvedic Education& Research (IPGAE&R) at Shyamdas Vaidya Shastra Pith (SVSP),Kolkata was Governed by the West Bengal Ayurvedic Health Service Act,2002?	Yes, As per Annexure -I
3	According to the West Bengal Ayurvedic Health Service Act 2002.What is the age of compulsory retirement of persons appointed in the West Bengal Ayurvedic Health Service Act.	60(Sixty)
4	Whether an employee appointed in the West Bengal Ayurvedic Health Service whose service is governed by the West Bengal Ayurvedic Health Service Act.2002 can be retained in service even after attaining the age of compulsory retirement by way of extension and/or reemployment ? if yes then please elaborate the process of such retention with relevant provisions of law as applicable.	The order is issued by department Vide no. HFW-34011(11)/12/2022/36 dt.30.01.2023.
5	Please also provide me the details including name ,designation and email id of the first appellate authority as per the provision of RTI Act-2005.	The order is issued by department Vide no. HFW-34011(11)/12/2022/36 dt.30.01.2023.

*aff. chel. Photo*

*Mr. Anu Gupta*  
21.3.2023  
Principal

PRINCIPAL  
IPGAE & R at SVSP Hospital  
294/3/1, A.P.C. Road  
Kolkata-700009  
Govt. of West Bengal  
Department of Health & F.W.

Page-7

Enclomus 1st

Government of West Bengal  
Health & Family Welfare Department  
AYUSH Branch  
Swasthya Bhawan,  
Block GN-29, Sector -V, Salt Lake, Kolkata - 700 091.

1 AUG 2019  
4072

Supervising  
M. C. 1.8.2019

No. HF/O/AYUSH/ 500 / M-21/18

Dated : 01.08.2019

ORDER

The undersigned is directed by order of the Governor to say that the Governor is pleased to appoint, Dr. Asim Kumar Mandal, RMO, (W.B. Ayurvedic Health Service Cadre) IPGAE&R at Shyamadas Vaidya Shastra Pith, Kolkata in the Pay Band 4B (Rs. 28000 - 52000 ) with Grade Pay of Rs. 7600/- under W.B.S. (ROPA) Rules, 2009 as Superintendent of IPGAE&R at Shyamadas Vaidya Shastra Pith, Kolkata (W.B. Ayurvedic Health Service Cadre) on promotion with effect from the date of joining to the post, until further order(s).

All concerned are being informed accordingly

Kumbh 18/19

Joint Secretary (AYUSH)

to the Government of West Bengal

Dated:- 01.08.2019

No. HF/O/AYUSH/ 500 / M-21/18/1(11)

Copy forwarded for information and necessary action to :-

1. Principal Accountant General (A&E), W.B., Treasury Buildings, Kolkata-1.
2. Principal Accountant General (Audit), W.B., Treasury Buildings, Kolkata-1.
3. Accountant General (Local Bodies Audit), W.B., Salt Lake, Kolkata-91.
4. Kolkata Pay & Accounts Office-I, 81/2/2 Phears lane, Kolkata.
5. Additional Secretary (AYUSH), Department of Health & Family Welfare, Government of West Bengal, Swasthya Bhavan, Kolkata-91.
6. Director of Ayurveda, Department of Health & Family Welfare, Government of West Bengal, Swasthya Bhavan, Kolkata-91.
7. Principal IPGAE &R at SVSP
8. D.D.O. IPGAE &R at SVSP
9. Dr. Asim Kumar Mandal, R.M.O., IPGAE&R at Shyamadas Vaidya Shastra Pith, Kolkata
10. I.T. Cell of this Department
11. Office Copy/Guard File.

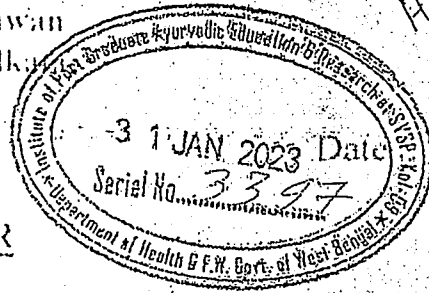
Kumbh 18/19  
Joint Secretary (AYUSH)

Official Record  
11-08-2019



Page-8  
Enclosure (1)  
Government of West Bengal  
Health & Family Welfare Department  
AYUSH Branch  
Swasthya Bhawan  
Salt Lake, Kolkata

No. HFW-34011(11)-12/2022-36



H.C. Gupta  
M. 31.1.2023

30.01.2023

Sahar  
31/01/23

ORDER

It is hereby directed that the services of Dr. Asim Kumar Mandal, the Superintendent, Institute of Post Graduate Ayurvedic Education & Research (IPGAE&R), at Shyamadas Vaidya Shashtra Pitth (SVSP), Kolkata, who is superannuating on 31.01.2023, are hereby extended for a period of one (1) year with effect from 01.02.2023 or till the post is filled up on regular basis, whichever is earlier. This order is issued in supersession of any previous order(s) issued in this regard.

All concerned are being informed accordingly.

Y. K. Hazra

Secretary 30/1/23  
Health & Family Welfare Deptt.

&  
DG AYUSH

No. HFW-34011(11)-12/2022-36

Date : 30.01.2023

Copy forwarded for information and necessary action to :-

- 1) Principal Accountant General (Acct), W.B., Treasury Buildings, Kolkata-1
- 2) Principal Accountant General (Audit), W.B., Treasury Buildings, Kolkata-1
- 3) Special Secretary, AYUSH. This order is issued in cancellation of Order No. HFW/O/AYUSH/35 1A 02/23 dated 27.01.2023 and he is directed to communicate the same to all concerned.
- 4) Director of Ayurveda
- 5) Principal, IPGAE&R at SVSP
- 6) Dr. Asim Kumar Mandal, Superintendent, IPGAE&R at SVSP
- 7) P.S. to Principal Secretary, Health & F W Deptt., Govt. of West Bengal
- 8) Kolkata Pay & Accounts Office-J, 81/2/2 Phears lane, Kolkata
- 9) Sr.P.A. to Secretary & DG-AYUSH, Govt. of West Bengal
- 10) Guard File

Y. K. Hazra  
30/1/23

Y. K. Hazra  
Secretary 30/1/23  
Health & Family Welfare Deptt.  
&  
DG AYUSH

Page-9

Enclosure (d 7)

SPEED POST

Government of West Bengal  
Department of Health & Family Welfare  
G.A. Branch  
Swasthya Bhawan; GN-29: Sector-V  
Salt Lake City; Kolkata-700091

No:-HF/O/GA/<sup>2482</sup>/3A-65/23

Dated, Kolkata 3/8/23

From:-

The Assistant Secretary & SPIO  
to the Government of west Bengal, H. & F.W. Department

✓ To:- Shri Abhichal Chattopadhyay, 10, Rash behari Ghosal Lane, Salkia, Pin- 711106

Sub:- RTI Appeal dated 26.07.2023 preferred by Shri Abhichal Chattopadhyay u/s 19(1) of the RTI Act, 2005

It appears from the materials on record that you have been provided with adequate and conclusive reply by the Director of Ayurveda & SPIO, Swasthya Bhawan, against your RTI application dated Nil. <sup>vide no. DAY/322/2023 dt. 06.4.23</sup>

So your present appeal stands dismissed.



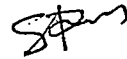
Assistant Secretary & SPIO

No:-HF/O/GA/<sup>2482</sup>/3A-65/23

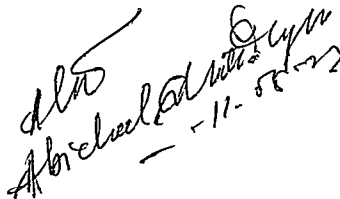
Dated, Kolkata 3/8/23

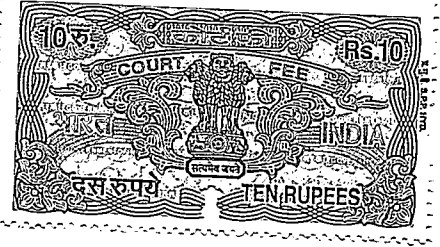
Copy forwarded for information to:-

- 1) The Director of Ayurveda & SPIO, Swasthya Bhawan.



Assistant Secretary & SPIO

  
Shri Abhichal Chattopadhyay  
- 11-8-23



- 1) Name of the Applicant: Prof. Abichal Chattopadhyay
- 2) Address: 10, Rash Behari Ghosal Lane, Salkia, Howrah, PIN- 711106,  
Contact – 9830188328, Email – abichalchattopadhyaya@gmail.com
- 3) Date of filing of application for information under RTI Act: Duly self-attested copy is enclosed herewith (enclosure a) *-(Page 1)*
- 4) Name of State Public Information Officer / State Assistant Public Information Officer to whom the application was made and address: Shri Subhas Chandra Poddar, Address- Block-GN – 29, Sector – V, Salt Lake Swasthya Bhawan, Kolkata - 700091
- 5) Gist of the information sought for: To provide the following information in specific with respect to the Order No. HFW-34011(11)/12/2022/36, dated – 30/01/2023, issued by the Secretary & DG AYUSH, Ministry of Health & Family Welfare, Govt. of West Bengal, and the categorical information asked for in relevance with this is enclosed in enclosure a. *-(Page 7)*
- 6) Have you received any response / information?  
: Yes, duly self-attested received copy is enclosed herewith in enclosure d. *(Page 4-9)*
- 7) Decision of the 1<sup>st</sup> Appellate Authority, if any, including number and date of the order:  
Decision of the 1<sup>st</sup> Appellate authority: present appeal stands dismissed.  
No:- HF/O/GA/2482/3A- 65/23  
Dated, Kolkata 03/08/23 *(Page 9)*
- 8) Grounds for 2nd appeal and the relief sought (specify): prayer to cancel the decision/ order of the 1<sup>st</sup> Appellate authority and to take necessary step with answer against my query no. 4, which was about whether an employee (Dr. Asim kr. Mondal) appointed in the West Bengal Ayurvedic Health Service whose service is governed by the West Bengal Ayurvedic Health Service Act. 2002 can be retained in service even after attaining the age of compulsory retirement by way of extension and/ or reemployment? if yes then please elaborate the process of such retention with relevant provisions of law as applicable.  
In the reply of the said, no relevant provisions of law have been mentioned, only the departmental order issued by the department vide ref. No. HFW-34011(II)/12/2022/36, dated 30.01.2023 is specify. **The order itself is under question** and does not follow the State Ayurvedic Services Act, 2022 where it is categorically mentioned in section/ clause- 16(2) **“the age of compulsory retirement of persons appointed in The West Bengal State Ayurvedic Health Services shall be the age of 60 years and after attaining the that age no such person shall be retained in service”**. This has also been reflected in the reply of the respondent against my query no. 3, but the reply for the same is contradictory in respect to the order HFW-34011(II)/12/2022/36, dated 30.01.2023. a copy of the West Bengal State

Page - 10 11

Ayurvedic Health Service Act is enclosed herewith pointing red mark in page 5 of the said gazette of section 16(2). *→ Page No 10 11 of this branch*

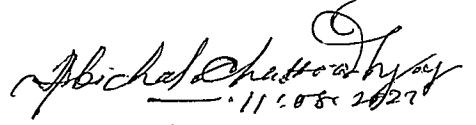
I beg to be excused to say that this will definitely clear the matter that this extension/reemployment of the said person is made with vested interest. This is mere a despotism for the system.

- 9) If 2<sup>nd</sup> appeal is filed after 90 days from the date on which the decision of the 1<sup>st</sup> Appellate Authority was received or after 135 days from the date of filing of the 1<sup>st</sup> appeal, explain the reasons for the delay: NA

I, Abichal Chattopadhyay son of Madhu Sudan Chattopadhyay aged 62 years being an Indian citizen do hereby solemnly affirm that the statements made herein are true to my knowledge based on records and the rest are my submissions to the Hon'ble West Bengal Information Commission.

Place: Kolkata

Date: 11/08/2023

  
Signature of the appellant

(Abichal Chattopadhyay)

Enclosure: -

- a) Self attested copy of RTI application;
- b) Self attested photocopy of proof of RTI fee payment or of BPL status;
- c) Self attested copy of 1<sup>st</sup> appeal;
- d) Self attested copy of all communications / replies received from the public authorities in connection with the instant RTI application;
- e) 2<sup>nd</sup> appeal in the format as above.
- f) Gazette notification, The West Bengal Ayurvedic Health Services Act, 2002

Enclosure + (7)

Kolkata



Gazette

सत्यमेव जयते

Extraordinary  
Published by Authority

SRAVANA 10]

THURSDAY, AUGUST 1, 2002

[SAKA 1924

PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL  
LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1252-L.—1st August, 2002.—The following Act of the West Bengal Legislature, having been assented to by the Governor, is hereby published for general information:—

## West Bengal Act XI of 2002

### THE WEST BENGAL STATE AYURVEDIC HEALTH SERVICE ACT, 2002.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,  
Extraordinary, of the 1st August, 2002.]

*An Act to provide for the regulation of the recruitment, and conditions of service of  
persons appointed, to the State Ayurvedic Health Service.*

WHEREAS it is expedient, in the public interest, to regulate the recruitment, and the  
conditions of service of persons appointed, to the State Ayurvedic Health Service;

It is hereby enacted in the Fifty-third Year of the Republic of India, by the Legislature  
of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal State Ayurvedic Health Service  
Act, 2002.

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

Shon file and  
commenced.

*The West Bengal State Ayurvedic Health Service Act, 2002.*

(Sections 2-6.)

Definitions.

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

- (a) "Cadre" has the same meaning as in clause (ii) of section 2 of the West Bengal State Health Service Act, 1990;
- (b) "notification" means a notification published in the *Official Gazette*;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "Service" means the State Ayurvedic Health Service;
- (e) "State Ayurvedic Health Service" means the West Bengal Ayurvedic Education Service, or the West Bengal Ayurvedic Health Service, as constituted under section 3 of this Act.

West Ben' Act VII of 1990.

institution of  
State Ayurvedic  
Health Service.

3. With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be constituted the following State Ayurvedic Health Service and different dates may be appointed for different Service, namely:—

- (1) the West Bengal Ayurvedic Education Service;
- (2) the West Bengal Ayurvedic Health Service.

Transfer from one  
service to another.

4. (1) No person appointed to the West Bengal Ayurvedic Education Service shall be transferred to the West Bengal Ayurvedic Health Service:

Provided that any person holding a teaching post in the basic level in the West Bengal Ayurvedic Education Service may exercise an option for the West Bengal Ayurvedic Health Service on such terms and conditions as may be prescribed.

(2) No person appointed to the West Bengal Ayurvedic Health Service shall be transferred to the West Bengal Ayurvedic Education Service.

(3) Any person appointed in the administrative job having the minimum qualification as prescribed for the posts of the West Bengal Ayurvedic Health Service shall be included in the said service cadre.

(4) Subject to the foregoing provisions of this section and the rules made thereunder, the State Government shall have the right to transfer any person from one post to another similar post within the same cadre:

Provided that except on account of inefficiency or misbehaviour or on his written request, no person shall be transferred to a post carrying less pay than the pay of the post held by him for the time being.

Combination of  
employment.

5. Subject to the provisions of this Act, the State Government may appoint any person to hold two or more separate posts in the same cadre as and when necessary on such terms and conditions, as may be prescribed.

ayurvedic  
Medical Colleges  
- be non-  
practising  
institutions

6. (1) The State Government may, by notification, declare any undergraduate or post-graduate Ayurvedic Medical College or other ayurvedic teaching institution together with the Hospital, if any, attached to such Ayurvedic Medical College or ayurvedic teaching institution to be a non-practising institution with effect from such date as may be specified in the notification.

(2) Upon such declaration, no person, holding any post on terms and conditions for practice in such Ayurvedic Medical College or other ayurvedic teaching institution or the Hospital attached thereto, shall be allowed to hold such post on terms and conditions for practice:

Provided that any person holding a non-teaching post in such Ayurvedic Medical College or other ayurvedic teaching institution or the Hospital attached thereto on terms and conditions for practice may exercise an option for practice or non-practice without any change of post or designation within a period of ninety days from the date of coming into force of this Act or within such extended period as the State Government may by notification specify:

Provided further that any such person who exercises option for non-practice shall be allowed time, not exceeding six months from the date of exercise of such option, for winding up practice:

*The West Bengal State Ayurvedic Health Service Act, 2002.*

(Sections 7-12.)

Provided also that if any such person does not exercise any option or exercises option for practice, he shall, within a period of one year from the date of coming into force of this Act, be transferred to a post in any other Hospital on terms and conditions for practice.

Cadre of West Bengal Ayurvedic Education Service.

7. The cadre of the West Bengal Ayurvedic Education Service shall consist of such teaching posts on such pattern and on such terms and conditions as may be prescribed following the guidelines of the Central Council of Indian Medicine in its regulations under the Indian Medicine (Minimum Standards of Education in Indian Medicine) Regulations, 1986 and shall include such teaching administrative posts as may be notified by the State Government in this behalf:

Provided that such terms and conditions may include the condition of management and supervision of admission to beds, and treatment, of patients in such undergraduate or post-graduate Ayurvedic Medical College or other ayurvedic teaching institution together with the Hospital, if any, attached to such Ayurvedic Medical College or institution by such persons appointed to the West Bengal Ayurvedic Education Service or appointed on such terms and conditions as the State Government may determine, excluding all other persons appointed to the West Bengal Ayurvedic Health Service:

Provided further that notwithstanding anything contained elsewhere in this Act, any person holding a teaching administrative post included in the cadre of the West Bengal Ayurvedic Education Service shall be deemed to be a person holding a teaching post in the West Bengal Ayurvedic Education Service.

Cadre of West Bengal Ayurvedic Health Service.

8. The cadre of the West Bengal Ayurvedic Health Service shall consist of such non-teaching posts as may be prescribed.

Posts in cadre of West Bengal Ayurvedic Education Service to be non-practising.

9. (1) The post included in the cadre of the West Bengal Ayurvedic Education Service shall be non-practising.

(2) Any person appointed to a post included in the cadre of the West Bengal Ayurvedic Education Service may be granted such non-practising allowance as may be prescribed.

Persons appointed in West Bengal General Service Cadre as Senior Ayurvedic Medical Officers be included in the West Bengal Ayurvedic Health Service.

10. Any person of the West Bengal General Service appointed to a post as Senior Ayurvedic Medical Officer, including those who are in Administrative posts, other than a post included in the cadre of the West Bengal Ayurvedic Education Service shall be included in the cadre of the West Bengal Ayurvedic Health Service.

Senior Ayurvedic Medical Officers included in West Bengal Ayurvedic Health Service shall not opt for West Bengal Ayurvedic Education Service.

11. A person working as the Senior Ayurvedic Medical Officer prior to the commencement of this Act shall be included in the cadre of the West Bengal Ayurvedic Health Service and shall not be allowed to opt for the cadre of the West Bengal Ayurvedic Education Service.

Status of persons holding teaching posts in the West Bengal General Service.

12. Any person who has held, or who holds, immediately before the coming into force of this Act, a teaching post, in the Ayurvedic Medical Colleges of the State Government, under the West Bengal General Service, on terms and conditions for practice or non-practice, may exercise an option for the West Bengal Ayurvedic Education Service or for the West Bengal Ayurvedic Health Service in such manner as may be prescribed

*The West Bengal State Ayurvedic Health Service Act, 2002.*

(Sections 13, 14.)

and thereupon such person shall be appointed or shall be deemed to have been appointed, as the case may be, to a post included in the West Bengal Ayurvedic Education Service or in the West Bengal Ayurvedic Health Service, as the case may be:

Provided that the senior Ayurvedic Medical Officers temporarily engaged to such teaching posts in the Ayurvedic Medical College of the State Government shall not be eligible for exercising the option for the West Bengal Ayurvedic Education Service:

Provided further that a person exercising option for the West Bengal Ayurvedic Education Service and a person selected for appointment to the same Service shall, upon appointment to a teaching post in the West Bengal Ayurvedic Education Service, be required to perform duties in a Hospital in addition to his duties as a Teacher of the discipline concerned having such designation as may be prescribed:

Provided also that the persons holding teaching posts other than Senior Ayurvedic Medical Officers immediately before the coming into force of this Act, who do not exercised any option under this section, shall be deemed to have exercised option for the West Bengal Ayurvedic Education Service.

Transfer of persons holding teaching posts but not opting for West Bengal Ayurvedic Education Service.

13. Notwithstanding anything contained in section 12, the persons holding teaching posts of any rank on terms and conditions for practice prior to coming into force of this Act, who do not exercise option for the West Bengal Ayurvedic Education Service but opt for the West Bengal Ayurvedic Health Service may, on transfer from such posts, be appointed to the West Bengal Ayurvedic Health Service in phases within a period of one year from the date of coming into force of this Act.

Recruitment to State Ayurvedic Health Service.

14. (1) Recruitment to all teaching posts in the West Bengal Ayurvedic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed by the Central Council of Indian Medicine in its regulations under the Indian Medicine (Minimum Standards of Education in Indian Medicine) Regulations, 1986:

Provided that a quota shall be fixed in such manner as may be prescribed for all categories of teaching posts, except the posts of Demonstrator and Principal in the West Bengal Ayurvedic Education Service, for being filled up by promotion of persons holding teaching posts in the said Service:

Provided further that the recruitment to the posts of Demonstrator in the West Bengal Ayurvedic Education Service shall be made only through the Public Service Commission, West Bengal, giving preference to persons who have rendered at least two years' service in the rural areas:

Provided also that the recruitment to the posts of Principal in the West Bengal Ayurvedic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed:

Provided also that any person appointed to the West Bengal Ayurvedic Health Service shall, subject to such terms and conditions as may be prescribed, be eligible to apply for any such posts:

Provided also that the recruitment to the posts of Lecturer, Reader or Assistant Professor and Professor in the West Bengal Ayurvedic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed.



*The West Bengal State Ayurvedic Health Service Act, 2002.*

(Sections 15-19.)

(2) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, promotion of persons holding teaching posts to the next higher rank, due on any date prior to the date of coming into force of this Act, may, if not made prior to the coming into force of this Act, be made at any time after the coming into force of this Act, other than in accordance with the provisions of this Act or the rules made thereunder.

(3) Recruitment to all Basic Grade Posts in the West Bengal Ayurvedic Health Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed.

(4) Recruitment to all teaching administrative posts in the West Bengal Ayurvedic Education Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed.

(5) Recruitment to all administrative posts in the West Bengal Ayurvedic Health Service shall be made through the Public Service Commission, West Bengal, in such manner as may be prescribed.

Control and discipline of persons appointed to State Ayurvedic Health Service.

15. All persons appointed to the West Bengal State Ayurvedic Health Service shall be subject to such control and discipline as may be prescribed.

Age of retirement of persons appointed to State Ayurvedic Health Service.

16. (1) The age of compulsory retirement of persons appointed to the West Bengal Ayurvedic Education Service shall be such as may be prescribed:

Provided that no such person shall be retained in service on his attaining the age of sixty years:

Provided further that any such person may be re-employed, on his attaining the age of superannuation or after he has attained such age, to a post in the West Bengal Ayurvedic Education Service, not inferior to a post held by such person immediately before his attaining the age of superannuation, on such terms and conditions as may be prescribed:

Provided also that no such person shall be retained on such re-employment on his attaining the age of sixty-five years.

(2) The age of compulsory retirement of persons appointed in West Bengal Ayurvedic Health Service shall be the age of sixty years and after attaining that age no such person shall be retained in service.

Scales of pay of persons appointed to the posts in the State Ayurvedic Health Service.

17. (1) The scales of pay of persons appointed to the teaching posts, or to the teaching administrative posts, in the West Bengal Ayurvedic Education Service shall be such as may be prescribed.

(2) The scales of pay of persons appointed to the posts included in the cadre for the West Bengal Ayurvedic Health Service shall be such as may be prescribed.

Seniority of persons appointed to teaching posts in West Bengal Ayurvedic Education Service.

18. The seniority of persons appointed to the teaching posts in the West Bengal Ayurvedic Education Service and the inter se seniority between such persons shall be determined in such manner as may be prescribed.

Act not to apply in certain cases.

19. The provisions of this Act shall not apply to any person not absorbed, in pursuance of the Acts and the Rules made thereunder for taking over of the management

*The West Bengal State Ayurvedic Health Service Act, 2002.*

(Sections 20-24.)

of the Ayurvedic Medical Colleges and Hospitals in West Bengal but was holding a teaching post, in any post-graduate or undergraduate Ayurvedic Medical College and Hospital or other teaching institution, or in any Hospital attached to such post-graduate or undergraduate Ayurvedic Medical College or teaching institution, on terms and conditions as might be agreed upon by the State Government prior to the coming into force of this Act, and such person shall continue in such post on the same terms and conditions even after the coming into force of this Act.

Saving.

20. All rules, orders and notifications made or issued by the State Government under the proviso to Article 309 of the Constitution of India or under any other law for the time being in force, applicable to the persons appointed prior to the introduction of this Act, and continuing in force immediately before the coming into force of this Act, shall, after the coming into force of this Act, continue to be in force so far as such rules, orders or notifications are not inconsistent with the provisions of this Act until they are repealed or amended.

Transitory provisions.

21. Notwithstanding anything contained elsewhere in this Act, if the State Government is of opinion that it is necessary so to do in the public interest, it may, by order, elevate or promote any person holding a teaching post in the West Bengal Ayurvedic Education Service to a higher rank or may make recruitment to any teaching post in the West Bengal Ayurvedic Education Service in such manner, and subject to such terms and conditions, as may be prescribed:

Provided that no such order shall be made after the expiry of a period of three years from the date of coming into force of this Act.

Act to have overriding effect.

22. The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any judgement, decree or order of any court, tribunal or other authority or in any instrument having effect by virtue of any law other than this Act or in any contract, custom or usage to the contrary.

Power to make rules.

23. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rule or the State Legislature agrees 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.

Power to remove difficulties.

24. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything not inconsistent with the provisions of this Act as may appear necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of coming into force of this Act.

By order of the Governor.

A. K. BHATTACHARYA,  
Secy. to the Govt. of West Bengal.