

AS INTRODUCED IN THE RAJYA SABHA
ON THE 26TH JULY, 2019

Bill No. XLIX of 2018

THE ORPHANS (RESERVATION OF POSTS IN GOVERNMENT
ESTABLISHMENTS AND WELFARE) BILL, 2018

A

BILL

*to provide for reservation of posts in Government Establishments and formulation of
welfare schemes and programmes for orphans and for matters connected
therewith or incidental thereto.*

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

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Orphans (Reservation of Posts in Government
Establishments and Welfare) Act, 2018

(2) It shall apply to the whole of India.

Short title,
extent and
commence-
ment.

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

Definitions.

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

(a) "appointing authority", means the authority empowered in an establishment to make appointment to service of post; 5

(b) "appropriate Government's means,—

(i) in relation to the Central Government or any established wholly or substantially financed by that Government, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, the State Government; 10

(c) "establishment" means every body or authority founded, owned, controlled, managed or financed by the appropriate Government and includes the following,—

(i) any body or authority established by or under a Central Act or a State Act or an authority or a body owned or controlled or aided by the Government or a local authority, or a Government company as defined in section 2 of the Companies Act, 2013, and includes a Department of the Government; or 15
18 of 2013.

(ii) any company or body corporate of association or body of individuals, firm, cooperative or other society, association, trust, agency or institution.

(d) "Group 'A' post" means a post which is classified as such by the President in exercise of the powers conferred by the proviso to article 309 of the Constitution or by or under any Act of Parliament and includes an equivalent post in any establishment; 20

(e) "orphan" means an individual who has lost both parents through death or disappearance, abandonment or desertation by, or separation;

(f) "prescribed" means prescribed by rules made under this Act; 25

(g) "scientific or technical post" includes, post for which qualification in natural sciences or exact sciences or applied sciences or technology are essential and the incumbent of such post shall have to use his or her knowledge in such sciences for discharge of duties.

CHAPTER II 30

RULES AND REGULATIONS FOR RESERVATIONS

Reservation of posts for orphans appointment in civil services.

3. (1) The appropriate Government shall reserve such percentage of posts for the orphans for appointment in civil services by direct recruitment and promotion, in such manner, as may be prescribed.

(2) The vacancy reserved for orphans under sub-section (1) shall be filled in such manner as may be prescribed. 35

No reservations in certain cases.

4. (1) Notwithstanding anything contained in section 3, there shall be no reservation where appointments are made—

(i) for a period of less than forty-five days;

(ii) for work charged post required for any emergency relief work; and 40

(iii) to posts higher than the lowest grade of Group 'A' posts and to posts classified as scientific or technical posts;

(2) The Central Government may, by notification in the Official Gazette, include or omit any institution of national importance and Indian Institutes of Management from the purview

of this Act and on the publication of the notification, such institution shall be deemed to be included in or as the case may be, omitted under this Act.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

5 **5.** Notwithstanding the provision of section 3, appointment to an unreserved vacancy shall be open to all eligible persons including a person belonging to the orphan category. Appointment to unreserved vacancy.

6. (1) The maximum age limit fixed for direct recruitment to a service or post shall be increased by five years for the orphans. Relaxations of age.

10 (2) The maximum age limit fixed for promotion to a post, if any, shall be increased by five years for the orphans.

 Provided that no relaxation shall be available where the maximum age limit for promotion has been fixed above fifty years.

15 **7.** The examination fee or application fee, determined for recruitment to a service or post through competitive examination or otherwise, may be reduced to such extent for the orphans, as may be prescribed. Fees concession.

8. The vacancies reserved for the orphans shall be filled by the orphans only. Reserved vacancies to be filled by orphans only.

20 **9.** Where posts in an establishment are to be abolished and as a result thereof, the services of certain persons are required to be either surrendered or terminated, no such surrender or termination shall be made in respect of the orphans, if it results in lowering their representation in relation to the percentage of reservation fixed for them. Abolition of posts in an establishment.

CHAPTER III

MEASURES BY GOVERNMENT

10. The appropriate Government shall take steps to secure full and effective participation of orphans and their inclusion in society which may include: Measures to be taken by appropriate Government.

25 (i) taking such measures as may be necessary to protect the rights and interests of orphans, and facilitate their access to reservations as framed by that Government by issuing orphan certificate in such manner as may to prescribed.

 (ii) formulation of welfare schemes and programmes which are sensitive and non-discriminatory towards orphans.

30 (iii) taking steps for the rescue, protection and rehabilitation of orphans to address the needs of such persons; and

 (iv) developing and organizing training programmes to advance the competence of the orphans for appointment to services and posts.

CHAPTER IV

OBLIGATION OF ESTABLISHMENTS AND OTHER PERSONS

35 **11. (1)** Every establishment shall designate an officer of such rank, as may be prescribed, to function as a liaison officer for the purpose of ensuring that the provisions of this Act or the rules made thereunder are not contravened. Appointment of a Liaison officer.

40 (2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointments of the orphans made by the appointing authority by direct recruitment or promotion.

 (3) Where the liaison officer is satisfied that any establishment has contravened the

provisions of this Act or the rules made thereunder or any direction or instruction issued. he shall submit a report of such contravention to the head of the establishment.

(4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take such disciplinary action against the person responsible for such contravention as may be prescribed. 5

Maintenance of records by appointing authority.

12. Every appointing authority, shall maintain documents and records, and furnish every year a report on the appointments of the orphans made by direct recruitment and promotion to the appropriate Government in such manner and at such time, as may be prescribed.

CHAPTER V

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OFFENCES AND PENALTIES

Penalties for false claim.

13. Whoever intentionally,—(i) makes a false claim that he is an orphan; or (ii) issues a false orphans certificate shall be liable for punishment for a term, which may extend to three years; and

14. Where any person responsible for implementing the provisions of this Act or the rules made thereunder, intentionally breaches any of such provisions, he shall be liable for disciplinary action under the service rules. 15

CHAPTER VI

MISCELLANEOUS

Act to have overriding effect.

15. The provisions of this Act shall be in addition to, and not derogation of, any other law for the time being in force. 20

Protection against legal proceedings.

16. No suit, prosecution or other legal proceeding shall lie against the appropriate Government or any local authority or any officer of the Government in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act and any rules made thereunder. 25

Power to move rules.

17. (1) The appropriate Government may, by notification, make rules for carrying out the provisions 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 following matters, namely:—

(a) the percentage of posts for reservation and the manner of reservation under sub-section (1) of section 3; 30

(b) the manner of filling vacancies under sub-section (2) of section 3;

(c) the extent of reduction in examination fee and application fee under section 7;

(d) the rank of the officer to be designated as the liaison officer under sub-section (1) of section 11.; 35

(e) the documents and records to be maintained and the time and manner of furnishing report under sub-section (1) of section 12;

(f) any other matter which is required to be or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, 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, both Houses agree in making any modification in the rule or both Houses agree 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 45

modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) 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.

STATEMENT OF OBJECTS AND REASONS

As of 2017, India did not have an official figure on the number of orphans in this country. The latest number is estimated around 20 million, based on a study carried out by the SOS Children's Village Faridabad based NGO by analyzing data from the National Family Health Survey-3, in 2011. This vacuum is itself a testament to the treatment orphans face.

Though orphans have an identity while staying at orphanages, once they turn 18, society renders them useless. Without government identification, birth certificates, or residential proofs, it is almost impossible for them to access higher opportunities for education or employment. Therefore, it is important for the Government to recognize orphans as socially and economically deprived groups and provide them with reservations. Additionally, given that India has the world's largest youth population it is imperative that the Government, through Job reservation, brings orphans one step closer towards empowerment and the youth of our country towards a brighter future.

NARESH GUJRAL

FINANCIAL MEMORANDUM

Clause 10 of the Bill, *inter alia*, provides for formulation of welfare schemes and programmes for the orphans, rehabilitation of orphans and developing and organizing training programmes to advance the competence of the orphans for appointment to services and posts.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible at this stage as to the exact amount which is likely to be incurred towards recurring and non-recurring expenditure for the purpose.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the appropriate Government to make rules for carrying out the provisions of the Bill.

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

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(Shri Naresh Gujral, M.P.)