

Bill No. XLIII of 2012

THE ORPHANS (RESERVATION OF POSTS IN GOVERNMENT
ESTABLISHMENT) BILL, 2012

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BILL

*to provide for reservation of Posts in Government establishment for Orphans and for
matters connected therewith or incidental thereto.*

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

1. (1) This Act may be called the Orphans (Reservation of Posts in Government Establishment) Act, 2012.
- (2) It shall apply to whole of India.
- 5 (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
- (a) “appointing authority”, in relation to a service or post in an establishment, means the authority empowered to make appointment to such service or post;

Short title,
extent and
commence-
ment.

Definitions.

(b) 'appropriate Government' means the State in relation to Government of a State and the Central Government in all other matters;

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

(i) a Ministry or department or subordinate office or attached office of the appropriate Government; 5

(ii) a public sector undertaking or statutory authority constituted under any Central Act;

(iii) a corporation in which not less than fifty-one per cent. of the paid-up share capital is held by the Government; 10

(iv) a university established by a Central Act and its affiliated colleges, including medical and engineering colleges and institutions;

(v) a primary or secondary school or any other educational institution;

(vi) an industry, trade or business;

(vii) a Government company as defined under section 617 of the Companies Act, 1956; and 15
1 of 1956.

(viii) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India.

(d) "Group 'A' post" or "Group 'B' post" or "Group 'C' 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 a beaft through death or disappearance of, abandonment or desertion by, or separation or loss from both parents;

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

(g) "promotion by non-selection" means promotion made on the basis of seniority-cum-fitness;

(h) "promotion by selection" means promotion made on the basis of merit-cum-seniority;

(i) "recruitment year" means the calendar year for which the recruitment is made; 30

(j) "scientific or technical post" include post for which qualifications 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. 35

Reservation of posts for 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. 40

No reservation 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;

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

5 (iv) to posts higher than the lowest grade of Group 'A' posts in institutions of national importance and Indian Institutes of Management as may be specified in the Act.

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

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

5. (1) Appointment to an unreserved vacancy shall be open to all eligible persons including a person belonging to the orphan category.

Unreserved vacancies to be open to orphans.

15 (2) Where such unreserved vacancy is filled by direct recruitment or promotion by a person belonging to the orphan category on the basis of merit, then, such person shall be appointed against the unreserved vacancy:

Provided that no such appointment shall be made for promotion by non-selection.

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

Relaxation of age.

20 (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 such relaxation shall be available where the maximum age limit for promotion has been fixed above fifty years.

25 **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.

Fee concession.

30 **8.** (1) Any standard of suitability, excluding the essential and desirable qualifications, required for appointment by direct recruitment to a post may be relaxed for the orphans, if sufficient number of such candidates possessing requisite standards are not available to fill the vacancies reserved for them:

Relaxation in qualifications and experience.

Provided that no such appointment shall be made where the candidate is found unfit to hold the post.

35 (2) The experience required for appointment by direct recruitment to a post may be relaxed for the orphans, if at any stage of selection, sufficient number of such candidates possessing the requisite experience are not available to fill the vacancies reserved for them.

40 **9.** (1) Where a qualifying examination is held to determine fitness of eligible persons for promotion by non-selection and sufficient number of orphans fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of fitness required for appointment to the post, in the case of the orphans.

Reservation in case of Promotion.

45 (2) Where qualifying examination is held to determine merit of eligible persons for promotion by selection and sufficient number of the orphans fulfilling the qualifying standards are not available to fill the vacancies reserved for them, such qualifying standards may be relaxed, consistent with the minimum standards of merit required for appointment to the posts, in the case of the orphans.

10. The vacancies reserved for the orphans shall be filled by the orphans only.

Reserved vacancies to be filled by orphans only.

Abolition of Posts in an establishment.	11. 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.	
Liaison officer.	12. (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 or any direction or instruction issued by the Government regarding reservation are not contravened.	5
	(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.	10
	(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.	15
Maintenance of documents and records.	13. (1) Every appointing authority, or an officer authorised by him in this behalf, shall maintain such documents and records, and furnish every year a report on the appointments of the orphans made by direct recruitment and promotion, in such manner and at such time, as may be prescribed.	20
	(2) The appointing authority or any other officer authorised by him shall make available such documents and records for inspection, furnish such information, and render such assistance, to the liaison officer, as may be necessary, to enable him to carry out his functions under this Act.	25
Training Programme for orphans.	14. The appropriate Government shall, subject to the availability of finance and other resources, develop and organise training programmes to advance the competence of the orphans for appointment to services and posts.	
Penalty for false claim.	15. Whoever knowingly makes a false claim that he is an orphan, shall be liable to punishment for a term which may extend to three years or with fine which may extend to rupees fifty thousand or with both.	30
Penalty for issuing false certificate.	16. Whoever knowingly issues a false orphan certificate shall be liable for punishment for a term which may extend to three years or with fine which may extend to rupees fifty thousand or with both.	
Disciplinary action.	17. Where any person responsible for implementing the provisions of this Act or the rules made thereunder, intentionally contravenes any of the provisions thereof, he shall be liable for disciplinary action under the service rules applicable to such person.	35
Directions of establishments.	18. The appropriate Government may, for giving effect to the provisions of this Act or the rules made thereunder, issue such directions to establishments, as it deems fit.	
Existing office memoranda to continue.	19. All memoranda issued or purported to have been issued by the Government in relation to reservation of posts in Government services for the orphans, immediately before the commencement of this Act, shall, in so far as they relate to the matters for which provisions have been made in this Act and are not inconsistent therewith, be deemed to have been issued under this Act as if this Act had been in force on the date on which such memoranda were issued.	40
Power to make rules.	20. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.	45
	(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:—	

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

(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;

5 (d) the rank of the officer to be designated as the liaison officer under sub-section (1) of section 12;

(e) the documents and records to be maintained and the time and manner of furnishing report under sub-section (1) of section 13.

(3) Every rule made by the Government under this section shall be laid, as soon as
10 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
15 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 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Orphans do not have any identity in the society except the names and surnames given by the Orphanages. After they turn eighteen years of age, they lose this shelter also and are placed in the society without any defense. Soon they discover that their names and surnames do not entitle them to any of the benefits that a social group, as deprived as theirs, would normally have access to. Therefore, it is pertinent that the Government should recognize the orphans as a socially, economically deprived group like other Backward classes, Scheduled Castes, Scheduled Tribes and others and provide for reservation for orphans in government jobs with a view to empower the orphans to live a respectful and decent life.

Hence this Bill.

AVINASH RAI KHANNA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of this Bill.

Since the rules will relate to matters of details only, the delegation of legislation power is of a normal character.

RAJYA SABHA

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(Shri Avinash Rai Khanna, M.P.)