

Bill No. XIV of 2021

THE WOMEN'S (RESERVATION IN WORKPLACE) BILL, 2021

A

BILL

to provide for reservation of posts for women in establishments and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Women's (Reservation in Workplace) Act, 2021.

(2) It extends to the 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.

(4) It applies to all establishments owned, established, controlled, managed or financed by the Central Government and includes—

10 (i) a Ministry or Department or subordinate office or attached office of the Central Government;

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

Short title,
extent,
commence-
ment and
application.

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

(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 institutions; 5

(vi) an industry, trade or business;

(vii) a Government company as defined under sub-section (45) of section 2 of the Companies Act, 2013; 18 of 2013.

(viii) an autonomous body, organisation or institution receiving grant or aid from the Consolidated Fund of India; and 10

(5) It may also apply to the private establishments to such extent and in such manner as they may voluntarily decide to apply to their establishments.

Definitions.

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; 15

(b) “Chairperson” means the Chairperson of the Council on Women’s Welfare at Workplace, appointed under sub-clause (a) of clause (2) of section 14 of the Act;

(c) “Council” means the Council on Women’s Welfare at Workplace, set up under section 14 of the Act;

(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) “prescribed” means prescribed by rules made under this Act;

(f) “promotion by non-selection” means promotion made on the basis of seniority-cum-fitness; 25

(g) “promotion by selection” means promotion made on the basis of merit-cum-seniority;

(h) “recruitment year” means the calendar year for which the recruitment is made;

(i) “scientific or technical post” means posts 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. 30

Reservation for women in appointments by direct recruitment and promotion.

3. (1) The Central Government shall reserve not less than thirty percentage of posts for women for appointments in establishments by direct recruitment and promotion, in such manner, as may be prescribed. 35

(2) the vacancy reserved for women under sub-section (1) shall be filled in such manner, as may be prescribed.

No reservation in certain cases.

4. (1) Notwithstanding anything contained in section 3, there shall be no reservation where appointments are made— 40

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

(ii) where work is required for any emergency relief work;

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

(iv) to posts in which employment of women is prohibited or restricted by or under any law for the time being in force.

5 (2) The Central Government may, by notification in the Official Gazette, exempt any institution of national importance and Indian Institutes of Management from the application of this Act.

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

10 **5.** In the case of promotion by selection from one Group 'A' post to another Group 'A' post which carries the scale of pay, the maximum of which is equal to or less than the maximum of the scale of pay of a Director in the Central Secretariat Service or equivalent posts in other establishments, women officers, who are fit to hold the post and are relatively senior so as to be within the number of vacancies for which the select list is to be drawn, shall
15 be included in such select list and considered for appointment.

Inclusion of women officers in select list in case of promotion within Group 'A'.

6. (1) The appointment to the unreserved vacancy shall be open to all eligible persons, including women.

Unreserved vacancies to be open to women.

(2) Where such unreserved vacancy is filled by direct recruitment or promotion by a women on the basis of merit, then, such person shall be appointed against the unreserved
20 vacancy.

7. The examination fee or application fee, determined for recruitment to a service or post through competitive examination or otherwise, shall be exempted or be reduced to such extent for women as may be prescribed.

Fee concession.

25 **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 women, 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.

30 (2) The experience required for appointment by direct recruitment to a post may be relaxed for women, 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.

35 **9. (1)** Where a qualifying examination is held to determine fitness of eligible persons for promotion by non-selection and sufficient number of women 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 women.

Reservation in case of promotion.

40 (2) Where qualifying examination is held to determine merit of eligible persons for promotion by selection and sufficient number of women 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 women.

10. The vacancies reserved for women shall be filled by women only.

Reserved Vacancies to be filled by women.

45 **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 women, if it results in lowering their representation in relation to the percentage of reservation fixed for them.

Abolition of posts not to affect the representation of women.

Appointment
and duties of
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 of instruction issued by the Central Government regarding reservation are not contravened.

(2) The liaison officer shall, from time to time, inspect and verify the documents, records and reports with respect to appointments of women made by the appointing authority by direct recruitment or promotion. 5

(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. 10

(4) On receipt of the report of contravention under sub-section (3), the head of establishment shall take disciplinary action under section 16 against the person responsible for such contravention.

Maintenance
of documents
and records
and furnishing
of reports by
appointing
authority.

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 women made by direct recruitment and promotion, in such manner and at such time, as may be prescribed. 15

(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. 20

Council on
Women's
Welfare at
Workplace.

14. (1) The Central Government shall constitute a Council to be called the Council on Women's Welfare at Workplace.

(2) The Council on Women's Welfare at Workplace shall consist of the following members, namely— 25

(a) the Union Minister for Women and Child Development
Chairperson, Ex-officio,

(b) Secretary, Ministry of Women and Child Development
Member, Ex-officio,

(c) the Chairperson of the National Commission for Women 30
Member, Ex-officio,

(d) two prominent lawyers in the field of women's rights **Member**

(e) two social workers working in the field of women's rights **Member**

(3) The members of the Council, referred to in sub-clauses (c), (d) and (e) of clause (2) shall as soon as may be, choose one amongst themselves to be Vice-Chairperson of the Council for such period as they may decide. 35

(4) The Council shall make recommendations to the Central Government on—

(a) developing and organizing training programmes to advance the competence of women for appointment to services and posts;

(b) creating state bodies to carry out provisions of this Act at state level; 40

(c) providing necessary social services to enable parents to combine family obligations with work responsibilities, in particular through the promotion of establishments and development of a network of child-care facilities;

(d) formulating policies regarding flexible work schedules and other such policies that would attract and retain women in workplaces. 45

(e) any other matter relating to women's welfare at workplace, as the Council may decide.

(5) More than one half of the total number of members of the Council shall constitute the quorum at its meetings.

(6) The Council shall determine its own procedure in the performance of its functions.

(7) Every decision of the Council shall be taken at a meeting, by a majority of the members present and voting.

(8) No act or proceedings of the Council shall be invalid merely by reason of—

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(9) The Council may decide about the modalities to resolve disputes arising out of its recommendations.

(10) The term of office of the Members of the Council shall be such as may be prescribed.

(11) The Council shall, subject to such regulations as made in this behalf, appoint officers and other employees, as it may deem necessary.

(12) The Members, officers, and staff appointed by the Council subject to other conditions of service, shall be entitled to such remunerations as may be prescribed.

15. The Central Government shall take steps to incentivise private establishments to provide equal employment opportunities to women.

Central Government to incentive the private establishment.

16. 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.

Disciplinary action for contravention of provisions of Act.

17. The Central Government may, for giving effect to the provisions of this Act or the rules thereunder, issue such directions to establishments, as it deems fit.

Power to issue directions.

18. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(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 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 exemption, or 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 12;

(e) the document of 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 Central Government under this section shall be laid, as soon as may be, after it is made, before each House of the 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 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The promise of equal opportunity for women has remained as a mere promise in our country since independence. Though our Constitution has guaranteed these promises in terms of the fundamental right of equality, women are deprived of employment opportunities even if they are qualified and deserving. It is high time that the women community is unshackled from their discriminatory status in the society.

Article 15 of the Constitution of India further prohibits discrimination on the basis of sex, even as it allows for State to make special provisions for women. This is in line with the provisions on international conventions like the Universal Declaration of Human Rights (1948), the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (1979) [CEDAW]. Article 4(2) of CEDAW allows for special measures to be taken in the case of accelerating equality of men and women. This principle has been reiterated in Article 5 of Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

India has been a signatory of the United Nations and the International Labour Organisation Conventions recognising the equality of the sexes. Further, it has adopted legislations that uphold Equal Remuneration, Maternity Benefits, etc. However, women in many parts of the country are kept away from active participation in the workplace.

This Bill aims to ensure that women find a respectful position in the society by bringing an end to the discrimination meted out of them. The State shall endeavour to take a progressive step towards providing women 30% reservation in all workplaces across the country.

Hence this Bill.

TIRUCHI SIVA

FINANCIAL MEMORANDUM

Clause 14 of the Bill seeks to constitute a Council for Women's Welfare at Workplace. The Council shall function under the Chairmanship of the Union Minister for Women and Child Development and will have the Secretary of Ministry of Women and Child Development as a member, along with the Chairperson of the National Commission for Women, and two prominent lawyers and two social workers in the field of Women's Rights.

2. The creation of the Council will involve expenditure on account of office expenses, salaries and allowances of the officers and staff.

3. At this stage, it will be difficult to quantify the exact amount of expenditure of both recurring and non-recurring nature on account of the Constitution of the Council. Hence, the Bill, if enacted will involve expenditure from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Sub-clause (1) of clause 3 of the Bill empowers the Central Government to prescribe the manner of reservation by direct recruitment and promotion for women in establishments. Sub-clause (2) thereof empowers the Central Government to prescribe the manner of filling such vacancy.

2. Sub-clause (2) of clause 4 of the Bill empowers the Central Government to amend the Schedule, by notification in the Official Gazette, to include or, omit from, such Schedule any institution of national importance and Indian Institutes of Management.

3. Clause 7 of the Bill empowers the Central Government to prescribe the extent of fee concession for women.

4. Sub-clause (1) of clause 12 of the Bill empowers the Central Government to prescribe the rank of the officer who may be designated as the liaison officer.

5. Sub-clause (1) of clause 13 empowers the Central Government to prescribe the manner of maintaining documents and records, and the manner and time of furnishing report on appointments of women made by direct recruitment and promotion, by the appointing authority.

6. Clause 17 provides for Central Government to make rules for the purpose of carrying out the provisions of this Act.

7. The matters in respect of which rules may be made or notification may be issued are essentially matters of detail or procedure only. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

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(Shri Tiruchi Siva, M.P.)