

# **Karnataka Gazette Notification Dated 12-02-2014 regulating the pay, pension and other facilities of the employees of aided educational institutions-FUCTAK Response**

## **References:**

1. **Karnataka Gazette Notification:** ಸಂಖ್ಯೆ: 60 ಶಾಸನ 2013 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 12-02-2014
2. **Circulars Issued by the Department of Collegiate Education:**
  - a. Circular No: ಕಾಶಿ:01:ತ್ರಿಸೌಯೋ:2010-11 ದಿನಾಂಕ:14-03-2014
  - b. Circular No: ಸಿಸಿಇ/ಎಲ್‌ಸಿ/ಡಬ್ಲ್ಯುಪಿ/13/2014 ದಿನಾಂಕ:04-03-2014
  - c. Circular No: ಕಾಶಿ:ಪ್ರಾಕಮ:186:ಶುಲ್ಕ ಜಮೆ:2013-14 ದಿನಾಂಕ:12-03-2014 ಮಂಗಳೂರು ಪ್ರಾದೇಶಿಕ ಜಂಟಿ ವಿದೇಶಕರ ಕಚೇರಿ

## **The background:**

- I. Karnataka State Government has extended Grant-in-Aid System for private educational institutions including first grade colleges. **(Order No.ED 22 UGC 60 Dated: 7th August 1964).** This is an excellent example of Government promoting public-private partnership (P-P-P Model) in higher education.
- II. Later in 80s and 90s many new colleges were brought under grant-in-aid. The number reached almost 300. Initially all colleges were brought under grant-in-aid. Later in the existing aided institutions, when new subjects/combinations were started, the grants were extended after 7 years from the starting date. Subsequently, the Government announced the policy that new subjects/combinations in the existing aided institutions will be permitted only on self-financing basis. Although this policy has been reviewed, grants have not been extended to many institutions in higher education in recent years.
- III. When new colleges were extended grants, a question arose with regard to pay fixation, placements and pensioner benefits. Initially all benefits were extended by considering

the date of appointment even though the grants were extended much later. Even the arrears of payment were given from the date of appointment. There was no concept of notional service.

**Illustration:** A college was started in 1975. Mr.X was appointed in 1975. The college is brought under grant-in-aid in 1978. The pay fixation benefit was given from 1975. Accordingly the other benefits like placements, pension, etc were also given. The arrears from 1975 to 79 were also paid. There was a justification for this. One of the clauses for bringing the institution clearly specified that the salary of the employee shall be on par with Government employee of the same cadre from the date of the appointment. It should be noted that this was also upheld in the court of law.

- IV. Later, the government felt that arrears of pay cannot be given from the date of appointment. The pay fixation benefit could be given from the date of the appointment even though the college was not under grant-in-aid. However, the gap between the date of appointment and the date of the grants was considered to be notional. No arrears of salary fixation were paid. But the placement benefits and other benefits were extended.
- V. Subsequently, the Government felt that notional service shall not be considered for pensionary benefits-Pension, Gratuity and Earned Leave encashment. The services were considered only from the date on which the institution was brought under grant-in-aid. However, placements and other benefits already given were not affected.

**Illustration:** College was started in 1985. Grants were given from 1988. The employee appointed in 1985 retired in 2010 after 25 years of service. Pension was fixed by deducting 3 years of service (1978-1975).

This was contested by the employee. The court of law including the Supreme Court of India has upheld the contention of the employee. But in all these cases the question of regulating the Pay already extended, placement benefits already given did not arise. The issue was confined only to retirement benefits.

The concept of notional increments/notional service was a regular feature in the department of collegiate education.

Earlier, in an aided institution, if an employee is appointed, the pay fixation was done from the date of the appointment even though the approval was given later.

But later, the gap between the date of appointment and date of approval was considered as notional service for service conditions without claim for arrears of payments.

Now that an Act is passed to regulate the pay fixation, extending benefits including placements and Pension, many questions arise.

The spirit of the Act as it is understood on the basis of several negotiations the government made with Legislators and other representatives and also the assurances given on the floor of the House is as follows:

1. The responsibility of the Government here afterwards with regard to pay fixation, placement benefits and pension starts only from the date the institution is brought under grant-in aid and not from the date of the appointment of the employee.
2. **However, there is no recovery with regard to the pay fixation already done till the date of the Notification of the Act. It clearly means that those who are already given the benefits notionally will not be affected.**
3. The notional services (the gap between the date of the appointment of employee and the date the institution brought under grant-in-aid) will not be considered for pensioner benefits.

Many complications have arisen due to multiple circulars issued by the Department of Collegiate Education.

**Implications:**

1. **The Notification has been interpreted by the department as if the pay and other benefits extended shall be regulated from 1-6-1995. The reason given for making 1-6-1995 as the cut-off date is that it is the same date on which Karnataka Education Act was implemented. But giving retrospective effect to the Act by 19 years (2014-1995) is illogical, unwarranted and unjustified.**
  - a. The government started looking into the issue of notional increments only from 2001 and not from 1995. The government through the letter No. ED 130 PMC 99 dated: 12-07-2001 stated that Notional Increments shall not be considered for Pension. Please note that the circular related only to pension but not for pay fixation, placements, etc.
  - b. Subsequently, the Govt. has issued a clarification through the Circular No. ED 90 PMC 99 dt. 2-09-2003 by stating that notional increments shall not be considered for Pension and Leave benefits.
  - c. It is only in 2006 i.e., on 10-04-2006 by issuing the order No. ED 674 SEW 2005 the Govt. made it clear that Notional Service shall not be considered for Salary, Leave, Pension & Other benefits. Therefore, it is certainly an injustice to give retrospective effect from 1-6-1995.
2. The second interpretation is that whatever benefits extended to the employee by considering notional services till 1-6-1995 or later will have to be regulated by reducing the service benefits in terms of Pay, placement benefit, seniority and Pension. Even the pension already granted will come under this interpretation.

If this interpretation is accepted the consequences are severe to a large number of teaching and non-teaching employees. Even the retired members will be affected.

The terrible impact is to be understood in its perspective.

Many employees will lose 5-6 increments included in the present pay. Consequently, their placement and seniority will be affected. The designations will change. If an existing associate professor is re-designated as an assistant professor, the financial loss per month will be in several thousands of rupees. This is unimaginable. The pension of retired staff members will have to be re-fixed. **It becomes inhuman to reduce the salary or pension benefits.** Many also qualified for placements under earlier schemes and relaxation of certain requirements. If the placements are withdrawn, many of them may not qualify for placements under existing schemes. According to our understanding about 1200-1500 staff members will be affected.

3. The department circulars have required the colleges to submit the proposals by re-fixing the salary, placements and pensionary benefits under the present interpretation. This is totally uncalled for. Without understanding or making a proper interpretation of the present Act, decisions of far reaching implications cannot be taken.
4. The department circular has linked the releasing of salary arrears, DA arrears and UGC arrears with the proposals submitted by the college. It must not be tagged with the payment of salary dues.
5. The department circular has gone one step ahead by asking for re-fixation of salaries of existing staff members appointed after the grant-in-aid is extended.

**Example:** Mr.A is appointed in 1989 when a college was under grant-in-aid. The approval was given from 1991. The two notional increments given between 1989 and 1991 are to be withdrawn while re-fixing the salary according to the current interpretation. Consequently, other benefits extended to the employee also will be affected. But such an interpretation is against the spirit of the Act. The spirit of the Act is that the Government's financial responsibility towards a private educational institution is only from the date on which the grants are extended. If the institution is already under grant-in-aid and for various administrative reasons, notional service is extended, the Act must not be applied in such cases.

### The fundamental issues:

1. To what extent the Act can be made applicable
2. From what date the Act is to be made applicable
3. What actually is the issue with regard to notional pay fixation?
4. What is the financial burden to the State Government
5. In what way the issues of primary and secondary education are different from higher education?
6. What are the view points of the Teachers?
7. What amendments may be proposed to ensure that the existing teachers are not adversely affected?

### Issues and possible solutions:

SI No.	Issues	Possible Solutions
1	To what extent the Act can be made applicable From what date the Act is to be made applicable	<ul style="list-style-type: none"><li>• The Act should be made applicable for all those educational institutions which have been started on or after 1-6-1995. The institutions started prior to 1-6-95 must be exempted with regard to regulating pay and other service benefits.</li><li>• <b>However, the pension fixation may be made by not considering the notional</b></li></ul>

		<p>services for the teachers retiring after the date of Gazette Notification of the Act i.e. 12-02-2014.</p> <ul style="list-style-type: none"> <li>• It should be noted that many teachers approached the court of law on this issue only.</li> <li>• However, keeping in mind that an Act is passed in this regard, FUCTAK endorses this view. But there is a fundamental question here. When the Apex court has ruled in favour of teachers, can the State Government pass an ACT circumventing the ruling of Supreme Court by giving a retrospective effect to it? Will it pass the legal test? Individual/affected teachers are free to contest the Act passed by the Legislative Bodies as they have defeated the Orders of the Courts. Therefore, it is advisable to implement the Act prospectively i.e. from the date of the notification.</li> </ul>
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		<ul style="list-style-type: none"> <li>If 1-6-95 is considered for Pay regulations for all existing teachers, it will lead to litigations and other complications. It is also against the spirit of understanding with the legislators &amp; Teachers' Organisations.</li> </ul>
3	What actually is the issue with regard to notional pay fixation?	The existing interpretation of the department will affect a large number of teaching and administrative staff with unreasonable cut in their salaries and other benefits.
4	In what way the issues of primary and secondary education are different from higher education?	In primary and Secondary Education, the basic issue is whether notional service benefits are to be extended or not. Whereas in Higher Education, notional service benefits are already given. There is a fundamental difference.
5	What is the financial burden to the State Government	<b>The answer to question number 4 makes it clear that in respect of Primary and secondary education, the question is what will be the financial burden if notional service is extended to the staff? But in collegiate education, the question is how much the State Government will save as notional service benefits are already</b>



		granted. When financial benefits are granted by considering the notional service in case of existing teachers, the question of additional burden to the State does not arise.
6	What are the view points of the Teachers?	The benefits extended to teachers already should not be withdrawn. If the benefits are withdrawn after many years, it goes against the principle of natural justice. The Act should be limited to the benefits prospectively.
7	What amendments may be proposed to ensure that the existing teachers are not adversely affected?	<p>The Federation (FUCTAK) has no objection if the Act is implemented prospectively. Although it is not acceptable in principle, teachers may accept it since it is brought to their notice at the time of joining the service.</p> <p>The amendments may be brought in two ways:</p> <ol style="list-style-type: none"> <li>1. Amendments may be proposed in the Legislative Bodies after a thorough discussion on all possibilities</li> <li>2. Separate Rules are formed for the Act as it is customary to frame rules, exemption/relaxation may be provided with regard to the</li> </ol>

		date from which the Act is made applicable.

**What amendment is to be proposed to the Act?**

1. The underlying objective of the Act of regulating pay, pension and other benefits of private aided educational institutions need not be amended.
2. The pensioner benefits will be regulated for all the employees from 1-6-1995.
3. The pay and other service benefits may be regulated under the Act for the employees of the institutions established after 1-6-1995 and brought under grant-in-aid

ಕರ್ನಾಟಕ ಖಾಸಗಿ ಅನುದಾನಿತ ಶೈಕ್ಷಣಿಕ ಸಂಸ್ಥೆಗಳ ಸಿಬ್ಬಂದಿಗಳ (ವೇತನ, ನಿವೃತ್ತಿ ವೇತನ ಮತ್ತು ಇತರ ಸೌಲಭ್ಯಗಳ ನಿಯಂತ್ರಣ) ಅಧಿನಿಯಮ, 2014

ಕಲಮು	ಹಾಲಿ ಇರುವ ನಿಯಮ	ತಿದ್ದುಪಡಿ
ಕಲಮು ಖ (2)	ಇದು 1995 ರ ಜೂನ್ 1 ರಿಂದ ಜಾರಿಗೆ ಬಂದಿರುವುದಾಗಿ ಭಾವಿಸತಕ್ಕದ್ದು	ಇದು 1995 ರ ಜೂನ್ 1 ಅಥವಾ ನಂತರ ಪ್ರಾರಂಭವಾಗಿ ವೇತನ ಸಹಾಯಾನುದಾನಕ್ಕೆ ಒಳಪಟ್ಟಿರುವ ಖಾಸಗಿ ಶೈಕ್ಷಣಿಕ ಸಂಸ್ಥೆಗಳಿಗೆ ಜಾರಿಗೆ ಬಂದಿರುವುದಾಗಿ ಭಾವಿಸತಕ್ಕದ್ದು
ಕಲಮು 3 (2) ( ೨)	ಸಹಾಯಾನುದಾನಕ್ಕೆ ಹುದ್ದೆಯು ಸೇರುವ ದಿನಾಂಕಕ್ಕೆ ಮೊದಲು ಸಿಬ್ಬಂದಿಯು ಗಳಿಸಿದ ವೇತನ ಭದ್ರಿಗಳನ್ನು ಲೆಕ್ಕಕ್ಕೆ ತೆಗೆದುಕೊಳ್ಳುವಂತೆ ಅಥವಾ ಕಾಲಬದ್ಧ ಮುಂಬಡ್ತಿ ಯೋಜನೆ ಅಥವಾ ಸ್ವಯಂಚಾಲಿತ ಬಡ್ತಿ ಅಥವಾ ನೌಕರಿ ಮುಂಬಡ್ತಿ ಯೋಜನೆಯ ವಿಸ್ತರಣೆಯ ಮೇಲೆ ಹೆಚ್ಚುವರಿ ಮೊತ್ತದ ಸಂದಾಯಕ್ಕಾಗಿಸಹಾಯಾನುದಾನವನ್ನು ಬಿಡುಗಡೆಗೊಳಿಸುವಾಗ ಮತ್ತು ಅನುದಾನ ರಹಿತ ಅವಧಿಯಲ್ಲಿ ಸಲ್ಲಿಸಿದ ಸೇವೆಯನ್ನು ಅರ್ಹತಾದಯಕ ಸಹಾಯಾನುದಾನವನ್ನು	ಸಹಾಯಾನುದಾನಕ್ಕೆ ಹುದ್ದೆಯು ಸೇರುವ ದಿನಾಂಕಕ್ಕೆ ಮೊದಲು ಸಿಬ್ಬಂದಿಯು ಗಳಿಸಿದ ವೇತನ ಭದ್ರಿಗಳನ್ನು ಲೆಕ್ಕಕ್ಕೆ ತೆಗೆದುಕೊಳ್ಳುವಂತೆ ಅಥವಾ ಕಾಲಬದ್ಧ ಮುಂಬಡ್ತಿ ಯೋಜನೆ ಅಥವಾ ಸ್ವಯಂಚಾಲಿತ ಬಡ್ತಿ ಅಥವಾ ನೌಕರಿ ಮುಂಬಡ್ತಿ ಯೋಜನೆಯ ವಿಸ್ತರಣೆಯ ಮೇಲೆ ಹೆಚ್ಚುವರಿ ಮೊತ್ತದ ಸಂದಾಯಕ್ಕಾಗಿಸಹಾಯಾನುದಾನವನ್ನು

	<p>ವರ್ಷಗಳೆಂದು ಲೆಕ್ಕ ಹಾಕುವ ಮೂಲಕ ನಿವೃತ್ತಿ ವೇತನ ಪ್ರಯೋಜನಗಳನ್ನು ಅಂತಿಮಗೊಳಿಸುವುದಕ್ಕಾಗಿ ನಿರ್ದೇಶನ ನೀಡಿ ಸರ್ಕಾರವು ಹೊರಡಿಸಿದ ಆದೇಶಗಳು ರದ್ದುಗೊಳ್ಳುತ್ತದ್ದು. ಪರಂತು ಈಗ ರದ್ದಾಗಿರುವ ಆದೇಶದನ್ವಯ ಮತ್ತು ಕಾಲಬದ್ಧ ಮುಂಬಡ್ತಿ ಅಥವಾ ಸ್ವಯಂಚಾಲಿತ ಮುಂಬಡ್ತಿ, ನೌಕರಿ ಮುಂಬಡ್ತಿ ಯೋಜನೆಗಳು ಮತ್ತು ನಿವೃತ್ತಿ ವೇತನ ಸೌಲಭ್ಯಗಳ ಸಂಬಂಧದಲ್ಲಿ ಪಾವತಿ ಮಾಡಲಾದ ಯಾವುದೇ ಮೊತ್ತವನ್ನು ವಸೂಲಿ ಮಾಡತಕ್ಕದ್ದಲ್ಲ.</p>	<p>ಬಿಡುಗಡೆಗೊಳಿಸುವಾಗ ಮತ್ತು ಅನುದಾನ ರಹಿತ ಅವಧಿಯಲ್ಲಿ ಸಲ್ಲಿಸಿದ ಸೇವೆಯನ್ನು ಅರ್ಹತಾದಯಕ ವರ್ಷಗಳೆಂದು ಲೆಕ್ಕ ಹಾಕುವ ಮೂಲಕ ನಿವೃತ್ತಿ ವೇತನ ಪ್ರಯೋಜನಗಳನ್ನು ಅಂತಿಮಗೊಳಿಸುವುದಕ್ಕಾಗಿ ನಿರ್ದೇಶನ ನೀಡಿ ಸರ್ಕಾರವು ಹೊರಡಿಸಿದ ಆದೇಶಗಳು ರದ್ದುಗೊಳ್ಳುತ್ತದ್ದು. ಪರಂತು ಈಗ ರದ್ದಾಗಿರುವ ಆದೇಶದನ್ವಯ ಮತ್ತು ಕಾಲಬದ್ಧ ಮುಂಬಡ್ತಿ ಅಥವಾ ಸ್ವಯಂಚಾಲಿತ ಮುಂಬಡ್ತಿ, ನೌಕರಿ ಮುಂಬಡ್ತಿ ಯೋಜನೆಗಳು ಮತ್ತು ನಿವೃತ್ತಿ ವೇತನ ಸೌಲಭ್ಯಗಳ ಸಂಬಂಧದಲ್ಲಿ ಪಾವತಿ ಮಾಡಲಾದ ಯಾವುದೇ ಮೊತ್ತವನ್ನು ವಸೂಲಿ ಮಾಡತಕ್ಕದ್ದಲ್ಲ.</p> <p>ಅಲ್ಲದೆ ಹಾಲಿ ಸೇವೆಯಲ್ಲಿರುವ ಸಿಬ್ಬಂದಿಗಳಿಗೆ ಅಂದರೆ 01-06-1995 ರ ಮೊದಲು ಪ್ರಾರಂಭವಾಗಿ ವೇತನಾನುದಾನ ಸಹಾಯ ಪಡೆಯುತ್ತಿರುವ ಖಾಸಗಿ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಗಳ ಸಿಬ್ಬಂದಿಗಳಿಗೆ ಕಾಲಬದ್ಧ ಮುಂಬಡ್ತಿ ಅಥವಾ ಸ್ವಯಂಚಾಲಿತ ಮುಂಬಡ್ತಿ, ನೌಕರಿ ಮುಂಬಡ್ತಿ ಯೋಜನೆಗಳು, ಸ್ಥಾನೀಕರಣ ಹಾಗೂ ಅನುದಾನ ರಹಿತ ಸೇವೆಯನ್ನು ಪರಿಗಣಿಸಿ ಕಾಲ್ಪನಿಕವಾಗಿ ವೇತನ ನಿಗದೀಕರಣ ಮಾಡಿದ್ದಲ್ಲಿ ಅಂತಹ ಸಿಬ್ಬಂದಿಗಳ ವೇತನ ಪುನರ್ ನಿಗದೀಕರಣ ಮಾಡತಕ್ಕದ್ದಲ್ಲ.</p>
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### **Financial Implication:**

1. There is no additional financial implication with regard to existing employees as notional benefits have already been extended.
2. By regulating pay, pension and other benefits prospectively the government will save substantially the additional financial burden. It may be difficult to mention the actual amount as it varies from employee to employee.

### **Our Demands:**

1. **Please withdraw all the circulars issued by the department of Collegiate Education in this regard**
2. **Please do not link the notional pay fixation with the release of salary, DA arrears and UGC arrears as they relate to the period before passing the said Act.**
3. **Please Frame Rules for the Act by providing for exemption with regard to re-fixation of salaries as there is no additional financial burden to the state government since the benefits are already given by considering notional service.**
4. **Please Amend the Act as requested by FUCTAK by giving effect to the Act for the employees of aided institutions started after 1-6-1995 and brought under grant-in-aid later with regard to pay fixation and placement, salary advancement and other such benefits.**

### **Please note two main requests:**

1. **Please ensure that there is no recovery and no re-fixation of salary and other benefits other than pension benefits for the employees in service up to the date of Notification (12-02-2014). The Act can be implemented in its present form prospectively.**
2. **The pension may be regulated as per the Act either from 1-6-1995 or from 12-2-2014**

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