

No. 1485(2)/XVII-V-1—1(KA)-24-1985

Dated Lucknow, August 23, 1985

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Rajya Lok Sewa Ayog (Prakriya-Ka-Viniyaman) Adhiniyam, 1985 (Uttar Pradesh Adhiniyam Sankhya 23 of 1985) as passed by the Uttar Pradesh Legislature and assented to by the Governor on August 22, 1985:

THE UTTAR PRADESH STATE PUBLIC SERVICE COMMISSION
(REGULATION OF PROCEDURE) ACT, 1985

(U. P. ACT NO. 23 OF 1985)

(As passed by the Uttar Pradesh Legislature)

AN

ACT

to provide for certain matters relating to the procedure of the State Public Service Commission and the Conduct of the Business

IT IS HEREBY enacted in the Thirty-sixth Year of the Republic of India as follows :

CHAPTER I

Preliminary

Short title and commencement

1. (1) This Act may be called the Uttar Pradesh State Public Service Commission (Regulation of Procedure) Act, 1985.

(2) It shall be deemed to have come into force on June 22, 1985.

Definition

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

(a) "Chairman" means the Chairman of the Commission appointed under clause (1) of Article 316 of the Constitution and includes a person appointed under clause (1-A) of that article to perform the duties of the office of the Chairman;

(b) "Commission" means the Chairman and all other members collectively, of the Uttar Pradesh State Public Service Commission;

(c) "Controller of Examinations", means the Controller of Examinations appointed or authorised under section 8 ;

(d) "Member" means a person appointed as member of the Commission under clause (1) of Article 316 of the Constitution and includes the Chairman;

(e) "Secretary" means the Secretary of the Commission and includes any other officer of the Commission authorised by the Chairman to perform all or any of the functions of the Secretary.

CHAPTER II

Allocation of the Business of the Commission

Business to be transacted by Chairman or other members.

3. (1) The business of the Commission specified in the Schedule shall be transacted by the Chairman or the member or members, as the case may be, specified against such business; and the business so transacted shall be deemed to have been transacted by the Commission.

(2) Notwithstanding anything contained in sub-section (1), the Chairman may, if he considers necessary or expedient so to do in public interest, direct that any particular matter or business specified in the Schedule be placed before the Commission for disposal.

Business to be transacted by Commission
Delegation

4. The business of the Commission other than that specified in the Schedule shall be transacted by the Commission.

5. (1) The Commission may, subject to such directions as it may deem fit to issue, delegate any of its functions to any individual member or officer of

the Commission or to a committee comprised of members or officers of the Commission or both:

Provided that where any function is delegated to an individual member, the Chairman may appoint such other person as the Chairman may deem fit to aid and advise the member.

(2) The decision of any person or Committee to which powers have been delegated under sub-section (1) shall be communicated to the Chairman before any action is taken thereon and the Chairman may, within fifteen days of the date of such communication, direct such person or the Committee, as the case may be, for further consideration and decision. If upon such direction the person or the Committee does not change the earlier decision within fifteen days of the receipt of such direction, the matter shall be placed before the Commission whose decision shall be final and where no such direction is given the decision of the person or the committee shall be deemed to be the decision of the Commission.

(3) The decisions taken by the person or committee to which powers have been delegated under sub-section (1) shall be reported promptly to the Commission.

CHAPTER III

Business before the Commission

6. (1) A decision of the Commission at any meeting shall be by majority of the members present and voting and in the case of an equal division of votes, the Chairman shall have a casting vote. It shall be open to any member to record his dissent, if any, with or without reasons therefor, but he shall not communicate such dissent to the Government or any other authority or person.

Decision in meeting.

(2) The quorum for a meeting of the Commission shall be one-half of the total members for the time being :

Provided that no quorum shall be necessary for a meeting adjourned for want of quorum.

(3) The Chairman may postpone consideration of any business at any meeting, if he considers necessary or expedient so to do.

(4) When the Chairman is absent on leave or is unable to be present at a meeting of the Commission, the senior most member shall preside over the meeting and perform the functions of the Chairman:

Provided that the list of cases on which decisions have been arrived at and those in respect of which action has been taken during the absence of the Chairman shall be placed before the Chairman immediately on his return from leave, or on resuming duty, as the case may be.

7. (1) If the Chairman is of the opinion that a business to be transacted by the Commission is urgent and a meeting of the Commission cannot be conveniently called, and such matter may appropriately be decided by circulation, he may invite the opinion of the members by circulation of the business in the form of a proposal.

Decision by circulation

(2) If no opinion is received from a member within the time specified by the Chairman such member shall be deemed to have agreed to the proposal.

CHAPTER IV

Competitive Examination

8. (1) There shall be a Controller of Examinations who shall be a whole-time salaried officer of the Commission, and until one is so appointed, an officer not below the rank of Joint Secretary of the Commission, authorised by the Chairman in this behalf, shall be the Controller of Examinations.

Controller of examination

(2) The Controller of Examinations shall, subject to the provisions of this Act, perform such duties and functions as may be entrusted to him under the rules or orders relating to the competitive examinations conducted by the Commission.

(3) The Controller of Examinations shall be responsible for the proper and timely conduct of such examinations and for maintaining and ensuring secrecy thereof.

(4) Unless otherwise prescribed, all contracts concerning such examination shall be in writing and all documents and examination records shall be authenticated by the Controller of Examinations on behalf of the Commission. All such records shall be kept in the personal custody of the Controller of Examinations.

(5) All arrangements for the conduct of such examinations shall be made by the Controller of Examinations in consultation with the Secretary and in accordance with such directions as may be issued by the Commission in this behalf.

List of
Examiners and
paper-setters etc.

9. (1) The Controller of Examinations shall prepare for every subject, a list of persons qualified for appointment as examiners and submit the same for approval of the Commission. Such list shall be revised at least once in every three years:

Provided that a person included in the previous list shall be eligible for inclusion in the revised list.

(2) The list referred in sub-section (1) shall contain, as far as possible, information about the persons included therein in regard to their academic qualifications, teaching experience at the degree and the post-graduate levels or professional experience and, the particulars, of the earlier examinations conducted by the Commission in which they acted as examiners.

(3) The Controller of Examination shall, with the prior approval of the Chairman, appoint Paper Setters, Moderators and Valuers from amongst the persons included in the list referred to in sub-section (1).

(4) In making such appointments every care shall be taken to ensure that no person is so appointed who found guilty of misconduct by any university, Government or Government body, or against whom any inquiries or investigations may be pending on allegations of misconduct, or whose integrity is in doubt. Any person whose work as Head Examiner, Paper Setter or Valuer is found to be unsatisfactory by the Commission shall not be reappointed for that purpose.

Setting and
moderation of
question paper.

10. (1) Every question paper shall be set by three different Paper Setters, who shall not belong to the same place.

(2) Sealed question papers received from paper setters shall be kept in the custody of the Controller of Examinations.

(3) The sealed envelopes, containing question papers received from the three paper setters, shall be handed over to the concerned Moderators against a receipt.

(4) The Moderators shall moderate all the three question papers, place them in separate covers under their seal, without making any mark of identification on the cover, and hand them over to the Controller of Examinations or his nominee against a receipt.

(5) The Controller of Examinations shall choose any of the moderated question papers of a subject without opening the sealed covers and send it as such to the Press, which shall be responsible for printing the question papers including the proof-reading, and for preparing packets of question papers for all examination centres under its seal, in accordance with information furnished by the Controller of Examinations.

(6) The press shall be responsible for maintaining the secrecy of the question papers, and the Controller of Examinations shall issue necessary directions and take necessary precautions to ensure such secrecy.

CHAPTER V

Miscellaneous

11. (1) The Commission may make rules not inconsistent with the provisions of this Act for the regulation of its procedure. **Rule making power**

(2) The Commission may, if it thinks fit in the public interest, direct that the said rules or any part thereof shall not be published.

12. No consultation made with the Commission, or advice tendered by it, or examinations held by it or result at such examination or interviews conducted by the Commission or any Interview Board, or proceeding of the Commission or of any Interview Board shall be rendered invalid merely on the ground of— **Certain acts not to be invalid**

(a) any defect in appointment of the Chairman or any member of the Commission or in constitution of the Interview Board, or

(b) any vacancy in the Commission or any of its Committees or Interview Board, or

(c) any defect or irregularity not affecting the substance in any proceedings before the Commission, Committee or the Interview Board.

13. No suit, prosecution or other legal proceedings shall lie against the Commission, the Chairman, the member, the Secretary, the Controller of Examinations, the officers or any other persons deputed to assist the Commission for taking interview or otherwise, for anything done or purported to be done in good faith in exercise of any powers, duties or functions conferred or assigned by or under the Constitution or this Act or the rules made thereunder. **Protection of action in good faith**

14. (1) (i) The Uttar Pradesh State Public Service Commission (Regulation of Procedure and Conduct of Business) Act, 1974 is hereby repealed. **Repeal and savings.**

(ii) Notwithstanding such repeal—

(a) the Uttar Pradesh Public Service Commission (Procedure and Conduct of Business) Rules, 1976 shall, unless superseded by the Commission, continue to be in force except in so far as they are inconsistent with the provisions of this Act,

(b) all acts, orders, decisions, recommendations, including the conduct of any interviews, selection or competitive examination, or declaration of any results thereof by or on behalf of the Commission in accordance with the Act, referred to in clause (i) of sub-section (1) or the rules framed thereunder, shall be deemed to be, and always to have been, valid and any proceedings in relation to any interviews, selection or competitive examination pending on the date of commencement of this Act may be continued and completed in accordance with the provisions of the Act and the rules in force prior to such commencement.

(2) (i) The Uttar Pradesh State Public Service Commission (Regulation of Procedure) Ordinance, 1985, is hereby repealed.

(ii) Notwithstanding such repeal, anything done or any action taken under the Ordinance, referred to in clause (i) of sub-section (2), shall be deemed to have been done or taken under this Act, as if this Act were in force at all material times.

SCHEDULE

(See Section 3)

Specification of Business	Allocation
(1)	(2)
I. General	
(1) General Administration, sanction of expenditure, Budget and such other financial matters.	Chairman and during his absence on earned and medical leave (more than 7 days) senior-most member present.
(2) Co-ordination of Commission's work including convening of the meetings of the Commission.	Chairman.
(3) Prior approval of tour programme of, grant of casual leave, and permission to leave station to the members.	Chairman
II. Examination	
(1) Appeals from candidates whose applications are rejected.	Two members, nominated by the Chairman.
(2) Penalty imposed on candidates	.. Two members, nominated by the Chairman.
III. Recruitment Cases	
(1) Information for candidates and preliminary scrutiny cases.	One or more members nominated by the Chairman.
(2) Presiding over the Interview Board	.. Such member, other than the one who has approved the preliminary scrutiny of that service or posts as is nominated by the Chairman.
(3) Relaxation or deviation from norms and practices.	The Chairman and one or more members nominated by the Chairman.
IV. Appointments	
(1) Departmental Promotion Committee cases	One member nominated by the Chairman.
(2) <i>Ad hoc</i> appointment cases	.. One member nominated by the Chairman.
V. Services	
(1) Disciplinary cases	.. Chairman and two members nominated by him.
(2) Seniority cases	.. Chairman and two members nominated by him.
(3) Confirmation cases	.. One member nominated by the Chairman.
(4) Recruitment Rules	.. One member nominated by the Chairman and if he suggests any changes other than purely verbal changes then the Chairman.
VI. Technical	
System development and other work pertaining to technical aspect of data proceedings and Electronic Data Processing Branch.	Chairman and one member nominated by him.

By order,
B. L. LOOMBA,
Sachiv.