

## **Mormugao Port Employees (Temporary Service) Regulations, 1964**

### **1. SHORT TITLE, COMMENCEMENT AND APPLICATION :**

(1) These regulations may be called the Mormugao Port Employees' (Temporary Service) Regulations, 1964.

(2) They shall come into force with effect from 1st July, 1964. (3) Subject to the provisions of sub-regulation (4), they shall apply to all persons who hold a post under the Board but who do not hold a lien on any post under it. (4) These regulations shall not, however, apply to :-

(i) employees engaged on contract;

(ii) employees not in whole-time employment;

(iii) employees paid out of contingencies;

(iv) Persons employed in extra-temporary establishments or in work-charged establishments (other than the persons employed temporarily and who have opted for pensionary benefits);

(v) such other categories of employees as may be specified by the Board.

### **2. DEFINITIONS :**

In these Regulations, unless the context otherwise requires: (i) "Appointing authority" means the authority empowered to make appointment to the post under the Mormugao Port Employees' (Classification, Control and Appeal) Regulations, 1964.

(ii) "Board", "Chairman", "Deputy Chairman" and "Head of Department", shall have the meanings assigned to them in the Major Port Trusts Act, 1963. (iii) "Employee" means an employee of the Board.

(iv) "Temporary service" means the service of a temporary employee in a temporary post or officiating service in a permanent post, under the Board.

(v) "Service" under the Board means temporary service under the Board.

### **3. TERMINATION OF SERVICE OF EMPLOYEES IN TEMPORARY SERVICE :**

(1)(a) The services of a temporary employee, shall be liable to termination at any time by notice in writing given either by the employee to the appointing authority, or by the appointing authority to the employee.

(b) The period of such notice shall be one month. Provided that the service of any such employee may be terminated forthwith by

payment to him a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service or as the case may be for the period by which such notice falls short of one month.

**NOTE:**— Procedure to be adopted for serving notice on an employee : The following procedure shall be adopted by the appointing authority while serving notice on such employee under Clause (a) :-

(i) The notice shall be delivered or tendered to the employee in person;(ii) Where personal service is not practicable, the notice shall be served on such employee by registered post acknowledgment due at the address of the employee available with the appointing authority;(iii) If the notice sent by registered post is returned unserved, it shall be published in the newspapers and upon such publication, it shall be deemed to have been personally served on such employee on the date it was published in the newspapers.

(2)(a) Where a notice is given by the appointing authority terminating the service of the temporary employee or where the service of any such employee is terminated either on the expiry of the period of such notice or forthwith by the payment of pay plus allowances, the Board or any other authority specified by the Board in his behalf may, of its own motion or otherwise, re-open the case, and after making such inquiry it deems fit,

1. confirm the action taken by the appointing authority; or
2. withdraw the notice; or
3. reinstate the employee in service; or
4. make such order in the case as it may consider proper.

Provided that except in special circumstances, which should be recorded in writing, in no case shall be reopened under this sub-clause after the expiry of the three months-

(1).(i) from the date of notice, in a case where notice is given;

(ii) from the date of termination of service, in the case where no notice is given;

(2). Where an employee is reinstated in service under sub-clause (2), the order of reinstatement shall specify:-

(a) the amount or proportion of pay and allowances, if any, to be paid to the employee for the period of his absence between the date of his termination of his service and the

date of his reinstatement; and (b) whether the said period shall be treated as period spent on duty for any specified purposes.

**NOTE 1 : Distinction between a simple letter of resignation and notice under Regulation 3 :**

When a temporary employee submits a letter of resignation, a distinction should be drawn between a letter of resignation purporting to be a notice of termination of service and one, which is not. A notice of termination of service given by a temporary employee under Regulation 3 (1) of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, is something different from a mere letter of resignation submitted by him without any reference direct or indirect to the said regulation. While the former is an exercise of the right conferred by statutory regulations enabling a temporary employee to cease performance of his duties automatically on the expiry of the prescribed period of notice, the latter requires acceptance by the competent authority in order to become effective. Therefore, if a temporary employee submits a letter of resignation in which he does not refer to Regulation 3 (1) of these regulations or does not even say that it be treated as a notice of termination of service, the provisions of regulation 3 (1) *ibid* will not be attracted. In such a case, he can relinquish his post only when the resignation is accepted and he is relieved of his duties. It will, therefore, be possible in such circumstances to retain the temporary officer even beyond one month if it takes time to make alternative arrangements. This will not be repugnant to the provisions of these regulations in any way because when a temporary employee submits letter of resignation without invoking the provisions of the said regulations, they will not come in to the picture, notwithstanding the fact that, being a temporary employee, he is governed by these regulations.

**NOTE-2 : Standard proformae for termination of service under Regulation 3 :**

Standard proformae prescribed to be used for termination of service of temporary employees under Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, are given in the Annexures. Form I and II are meant for use in cases where the Appointing Authority is other than the Chairman. Form III and IV are to be used in cases where the Appointing Authority is the Chairman. Form V and VI are to be used by the Chairman or the Appointing Authority for termination of

service during the currency of the notice of termination of service already served on the employee.

**NOTE-3 : No provision for forfeiture of pay and allowances in lieu of notice :**

Regulation 3 enables Board to dispense with the services of a temporary employee forthwith on payment of one month's pay and allowances in lieu of notice but does not provide for the forfeiture to Board of a similar amount when the employee does not give the requisite notice. The practice of obtaining an undertaking from temporary employees regarding forfeiture of pay and allowances should be discontinued where this has not already been done.

**NOTE-4 : Reasons should not be mentioned in the termination order :**

When action is taken under Regulation 3 to terminate the services of a temporary employee, the order of termination, which should be passed by the appointing authority, should not mention the reasons for such termination.

**NOTE-5 : Non-applicability of Regulation 3 for termination of service in the case of probationers/persons on probation.**

In the cases where a provision has been specifically made in the letter of appointment for termination of service without any notice during or at the end of the period of probation (including extended period), it would be desirable to terminate the services of the probationer/person on probation in terms of the letter of appointment and not under Regulation 3(1) of the Mormugao Port Employees' (Temporary Service) Regulations, 1964.

**NOTE-6 : Services can be terminated during suspension or/ and departmental proceedings :**

(1) In the case of a temporary employee if the term of temporary post held by him at the time of suspension is likely to expire or if the otherwise becomes liable to be retrenched from service before the disciplinary proceedings are likely to be completed, it may be considered on merits whether-

(a) he should be discharged from service on the expiry of the term of the post held by him; or

(b) his services should be terminated under Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964; or

(c) the disciplinary proceedings should be continued to its logical conclusion. If it is decided to continue the disciplinary proceedings, the temporary post should be extended for an appropriate period under order of the authority competent to sanction such extension. If delay is anticipated to obtaining the sanction of the competent authority, the authority competent to dismiss or remove the employee concerned from service may issue orders extending the post without reference to the competent authority. The vacancy caused by such extension should not, however, be filled.

(2) The services of a temporary employee can be terminated under Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, while he is under suspension or/and departmental proceedings are pending against him.

**NOTE-7 : Notice pay and allowances to be paid immediately on discharge :**

Although the amended proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, provides that upon the termination of services of a temporary employee forthwith, he should be paid his pay and allowances in lieu of notice. The pay and allowances of such employees should be paid immediately on their discharge.

**NOTE-8 : Reckoning of notice period and mode of service :**

Ordinarily, when an employee is actually in service, there would not be any difficulty in serving the notice on him personally or tendering in the presence of some other officer, if he refuses to accept the same. In the cases where it is apprehended that service is likely to be evaded e.g. when the officer is on long leave, service should be terminated forthwith with an offer to pay a month's salary in lieu of notice as provided in the Regulations.

**NOTE 9 : No formal relieving is necessary on expiry of notice period :**

Once a notice is issued to a temporary employee under Regulation 3 (1) of Mormugao Port Employees' (Temporary Service) Regulations, 1964, he ceases to be in Board service on the expiry of one month from the date on which the notice was served on him. The question of formally relieving him on the due date does not arise. It should be ensured that no such employee is allowed to be kept on duty from the date on which he ceases to be in Board service.

**NOTE-10: Payment of cash equivalent of leave salary :**

1. **On termination of service** : Where the services of an employee are terminated by notice or by payment of pay and allowances in lieu of notice, or otherwise in accordance with the terms and conditions of his appointment, he may be granted *suo moto* by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date on which he ceases to be service, subject to a maximum of 240 days.
  
1. **On resignation/quitting service** : If an employee resigns or quits service, he may be granted *suo moto* by the authority competent to grant leave, cash equivalent in respect of earned leave at his credit on the date of cessation of service, to the extent of half of such leave at his credit, subject to a maximum of 120 days.

The cash equivalent payable under (i) and (ii) above shall be calculated as follows, and it shall be payable in one lumpsum as a one-time settlement. NO HRA or CCA shall be payable.

Pay admissible on		No. of days of
the date of cessation		unutilized earned
Cash plus DA admissible		leave for which
equivalent = on that date		encashment
_____ X		is admissible

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**(iii) In case of death in service** : In case an employee dies while in service, the cash equivalent of the leave salary that the deceased employee would have got had he gone on earned leave that would have been due and admissible to him but for the death on the date immediately following the death and in any case not exceeding leave salary for 300 days, shall be paid to his family without any reduction on account of pension equivalent of death-cum-retirement gratuity. In addition to the cash equivalent of leave salary admissible under this regulation, the family of the deceased employee shall also be entitled to payment of dearness allowance only.

**NOTE-11** : Where an employee, whose services have been terminated on payment of pay and allowances in lieu of a period of notice is able to secure another appointment under the Board within that period, the break in service may be condoned by the appointing authority and service in the new appointment treated as continuous with

that in the previous appointment for all purposes including fixation of pay, seniority, leave and gratuity or other retirement benefits; provided that he shall refund to the Board the pay and allowances of the former post for the unexpired portion of the notice, after his re-employment as well as any gratuity or other termination benefits in respect of his previous service.

4. **TERMINATION OF SERVICES OF EMPLOYEES IN TEMPORARY SERVICE ON GROUND OF PHYSICAL UNFITNESS:-**

Notwithstanding anything contained in Regulation 3 the service of a temporary employee may be terminated at any time without notice, on his being declared physically unfit for continuance in service by an authority, who would have been competent to declare him as permanently incapacitated in service, had his appointment been permanent.

5. **TEMPORARY GRATUITY PAYABLE TO TEMPORARY EMPLOYEES :**

(1) Subject to the provisions of Sub-regulation (1-B), a temporary employee who retires on superannuation or is discharged from service or is declared invalid for further service shall be eligible for gratuity at the rate of-

- A. One-half a month's pay for each completed year of his service, if he had completed not less than five years continuous service at the time of retirement, discharge or invalidment;
- B. One month's pay for each completed year of his service, subject to a maximum of fifteen month's pay or fifteen thousand rupees, whichever is less, if he had completed not less than ten year's continuous service at the time of retirement, discharge or invalidment.

Provided that the amount of terminal gratuity payable under this sub-regulation shall not be less than the amount which the employee would have got as a matching Board's contribution to the Provident Fund if he were a member of a Contributory Provident Fund Scheme from the date of his continuous temporary service, subject to the condition that the matching contribution shall not exceed 81/3 percent of his pay.

(1-A) In the case of a temporary employee, who is compulsorily retired from service as a disciplinary measure, the provisions of sub-regulation (1) shall apply subject to

the modification that the rate of gratuity payable in his case shall not be less than two-third of, but in no case exceeding, the rate specified in Clause (a) or, as the case may be Clause (b) of Sub-regulation (1).

**(1-B)** In the case of temporary employee, who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further service under the Board by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought voluntary retirement by giving three month's notice in writing on completion of 20 years, provisions of sub-regulation (1) shall not apply and in accordance with the provisions of Mormugao Port Employees' (Pension & Gratuity) Regulations, 1966:

**(i)** Such an employee shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, and retirement gratuity; and  
**(ii)** In the event of his death after retirement, the members of his family shall be eligible for the grant of family pension.

**(2)** In the event of death of a temporary employee while in service, his family shall be eligible for family pension and death gratuity at the same scale and under the same provisions as are applicable to permanent employees under the Mormugao Port Employees' (Pension & Gratuity) Regulations, 1966.

**(3)** No gratuity shall be admissible under this Regulation to an employee:-

**(a)** Who resigns his post or who is removed or dismissed from service as a disciplinary measure;

**(b)** Who is reemployed after retirement on superannuation or retiring pension.

Provided that a temporary employee, who resigned from service to take up, with prior permission, an appointment under a corporation or company wholly or substantially owned or controlled by the Government or in or under a Body controlled or financed by Government shall be paid terminal gratuity at the rate prescribed under Sub-Regulation (1) in respect of the service rendered by him under the Board.

Provided further that a temporary employee, who has been absorbed in a State/Central Government Public Sector undertaking of a State or Central Government, Local Body, Major Port Trust, Autonomous Body or any other organisation recognized by the



Board for the purpose with the permission of the Board, shall have an option to count the service rendered under the Board for the purpose of pension under the autonomous body, if it has a pension scheme instead of drawing the terminal gratuity under the first proviso.

(4) Where gratuity under this regulation is paid to or in respect of an employee, who is not covered by Mormugao port Employees' (Pension & Gratuity) Regulations, 1966, no other gratuity or pensionary benefit is payable

(5) For the purpose of this regulation-

1. gratuity shall be calculated on the basis of pay which the employee was receiving immediately before his retirement or on the date of his death;
2. "pay" shall mean pay as defined in the Fundamental Rule 9 (21) (a) (i).
3. period of extraordinary leave, if any, availed of by employee concerned shall be taken into account for computing the completed service on the same basis as it is taken into account for the purpose of calculation of pension and retirement gratuity/death gratuity under the Mormugao Port Employees' (Pension & Gratuity) Regulations, 1966 as amended from time to time, and
4. an increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days or earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn shall form part of the pay for purposes of calculating terminal/death gratuity.

6. **SAVING :**

All the existing instructions, which are not contrary to any of the provisions of these Regulations and all instructions, which cover matters not specifically covered by these Regulations, shall continue to be in force until they are amended, modified or cancelled.

7. **ADOPTION OF CENTRAL GOVERNMENT'S ORDERS/INSTRUCTIONS/RULES :**

In applying the foregoing regulations and in respect of matters not dealt with in these Regulations, the Central Civil Services (Temporary Service) Rules, 1965 and the orders/instructions of the Central Government issued there-under from time to time shall be followed in-so-far as they are not in-consistent with the provisions of these

Regulations, subject to such exceptions and modifications as the Board may from time to time determine.

8. **INTERPRETATION AND REMOVAL OF DIFFICULTIES :**

If any question or any difficulty arises relating to the interpretation of these regulations, it shall be referred to the Board, who shall decide it.

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**ANNEXURES**

**FORM – I**

**Notice of termination of service issued under Regulation 3(1) of the Mormugao Port Employees’ (Temporary Service) Regulations, 1964.**

In pursuance of sub-regulation (1) of Regulation 3 of the Mormugao Port Employees’ (Temporary Service) Regulations, 1964, Shri/Smt/Kum. \_\_\_\_\_ is hereby given notice that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on, or, as the case may be, tendered to him/her.

Station: \_\_\_\_\_

\_\_\_\_\_

Signature of the Appointing Authority

Date: \_\_\_\_\_

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Designation)

**ACKNOWLEDGEMENT**

I hereby acknowledge the receipt on this day the Notice of termination of my service handed over to me vide reference no. \_\_\_\_\_ dated \_\_\_\_\_.

Station: \_\_\_\_\_

\_\_\_\_\_

Signature of the Employee

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Designation)

**FORM – II**

**Order of termination of service issued under the proviso to sub-regulation (1) of Regulation of the Mormugao Port Employees' (Temporary Service) Regulations, 1964.**

In pursuance of the proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, the services of Shri/Smt/ Kum. \_\_\_\_\_ is hereby terminated forthwith. It is also directed that he/she shall be entitled to claim to sum equivalent to the amount of his/her pay plus allowances for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her service or, as the case may be, for the period by which such notice falls short of one month.

Station: \_\_\_\_\_

\_\_\_\_\_  
Signature of the Appointing Authority

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Designation)

**FORM – III**

**Notice of termination of service issued under Regulation 3(1) of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, where the Appointing Authority is the Chairman .**

In pursuance of sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, the Chairman hereby gives notice to

Shri/Smt./ Kum. \_\_\_\_\_ that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on, or, as the case may be, tendered to him/her.

By order and in the name of the Chairman.

Station: \_\_\_\_\_

Signature of the Authority empowered  
to authenticate documents in the  
name of the Chairman.

Date: \_\_\_\_\_

(Name)

\_\_\_\_\_

(Secretary)

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**ACKNOWLEDGEMENT**

I hereby acknowledge the receipt on this day the Notice of termination of my service handed over to me vide reference no. \_\_\_\_\_ dated \_\_\_\_\_.

Station: \_\_\_\_\_

\_\_\_\_\_

Signature of the Employee

Date: \_\_\_\_\_

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Designation)

**FORM – IV**

**Order of termination of service issued under the proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees’ (Temporary Service) Regulations, 1964, where the Appointing Authority is the Chairman.**

In pursuance of the proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees’ (Temporary Service) Regulations, 1964, the Chairman hereby terminates forthwith the services of Shri/Smt/Kum. \_\_\_\_\_ and directs

that he/she shall be entitled to claim a sum equivalent to the amount of his/her pay plus allowances for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her service, or as the case may be, for the period by which such notice falls short of one month. By order and in the name of the Chairman.

Station: \_\_\_\_\_

Signature of the Authority empowered to authenticate documents in the name of the Chairman.

Date: \_\_\_\_\_

\_\_\_\_\_

(Name)

\_\_\_\_\_

(Secretary)

**FORM – V**

**Order of the termination of service issued under the proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, during the currency of the notice of termination of services already served on him where the Appointing Authority is the Chairman.**

In modification of Notice no. \_\_\_\_\_ dated \_\_\_\_\_ of termination of service of Shri/Smt/Kum. \_\_\_\_\_ and in pursuance of the proviso to sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary Service) Regulations, 1964, the Chairman hereby terminates forthwith the services of Shri/Smt./Kum. \_\_\_\_\_ and directs that he/she shall be paid a sum equivalent to the amount of pay and allowances for the period by which the said notice falls short of one month calculated at the same rates at which he/she was drawing them immediately before the date of this order. By order and in the name of the Chairman.

Station: \_\_\_\_\_

\_\_\_\_\_  
Signature of the Authority empowered  
to authenticate documents in the  
name of the Chairman.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Secretary)

\_\_\_\_\_  
**FORM – VI**

**Order of the termination of service issued under the proviso to sub-regulation (1)  
of Regulation 3 of the Mormugao Port Employees' (Temporary Service)  
Regulations, 1964, during the currency of the notice of termination of service  
already served on him.**

In modification of Notice no. \_\_\_\_\_ dated \_\_\_\_\_ of termination of  
service of Shri/Smt/ Kum. \_\_\_\_\_ and in pursuance of the proviso to  
sub-regulation (1) of Regulation 3 of the Mormugao Port Employees' (Temporary  
Service) Regulations, 1964, the service of Shri/Smt./Kum. \_\_\_\_\_ are  
hereby terminated forthwith. It is also directed that he/she shall be paid a sum  
equivalent to the amount of pay and allowances for the period by which the said  
notice falls short of one month calculated at the same rates at which he/she was  
drawing them immediately before the date of this order.

Station: \_\_\_\_\_

\_\_\_\_\_  
Signature of the Appointing Authority

Date: \_\_\_\_\_

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(Name)

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(Secretary)

**FOOT NOTE :-**

**Principal regulation were published in the Gazette of India vide G.S.R 958 (E) dt. 1-7-1964.**

**SUBSEQUENTLY AMENDMENTS:-**

- 1) GSR No. 158 (E) dt 19/3/1997 (Central Government's sanction No. PR- 12016/27/95-PE-I dated 19/3/97).**
- 2) GSR No. 233 (E) dt 8/3/2000 (Central Government's sanction No. PR- 12016/6/2000-PE-I dated 8/3/2000).**
- 3) GSR No. 847 (E) dt 3/11/2000 (Central Government's sanction No. PR- 12016/4/2000-PE-I dated 3/11/2000).**