

MORMUGAO PORT EMPLOYEES' (CLASSIFICATION, CONTROL AND APPEAL) REGULATIONS, 1964

GSR.965-In exercise of the powers conferred by Section 126 read with Section 28, of the Major Trust Act 1963 (38 of 1963) the Central Government hereby makes the following regulations, namely:-

P A R T - I- GENERAL

1. SHORT TITLE AND COMMENCEMENT:-

(a) These regulations may be called the Mormugao Port Employees' (Classification Control and Appeal) Regulations 1964.

(b) They shall come into force on the 1st July, 1964.

2. DEFINITION :-

In these regulations, unless the context otherwise requires :-

(a)"Act" means the Major Port Trusts Act, 1963 (38 of 1963).

(b)"Appointing Authority" in relation to an employee means the authority prescribed as such in the Schedule.

(c)"Board", "Chairman", "Dy. Chairman" and "Head of a Department" have the meanings assigned to them in the Act.

(d)"Disciplinary Authority", in relation to the imposition of a penalty on an employee, means the authority competent under these regulations to impose on him that penalty.

(e)"Employee" means an employee of the Board and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Board and also any person in the service of the Central or a State Government or a local or other authority whose services are temporarily placed at the disposal of the Board.

(f)"Schedule" means the Schedule I and Schedule II annexed to these Regulations.

(g) "Suspension Review Committee" in relation to an employee means a Committee prescribed as such in the Schedule II.

3. APPLICATION :

(1) These regulations shall apply to all the employees of the Board, except:

(a) person in casual employment;

(b) persons subject to discharge from service on less than one month's notice; and

(c) persons for whose appointment and other matters covered by these regulations, special provision is made by or under any laws for the time being in force, in regard to the matter covered by such law.

(2) Notwithstanding anything contained in sub-regulation (1), the Board may by order exclude from the operation of all or any of these regulations or any employee or class of employees.

(3) If any doubt arises as to whether these regulations or any of them apply to any person the matter shall be referred to the Board, whose decision thereon shall be final.

4. SPECIAL PROVISION BY AGREEMENT :

Where it is considered necessary to make special provision in respect of an employee inconsistent with any of these regulations, the authority making the appointment may, with the concurrence of such employee, make special provisions and there upon these regulations shall not apply to such employees to the extent to which such special provisions are inconsistent with these regulations.

5. PROTECTION OF RIGHTS AND PRIVILEGES CONFERRED BY ANY LAW OR AGREEMENT :

Nothing in these regulations shall operate to deprive any employee of any right or privilege to which he is entitled by or under any law time being in force.

P A R T - II – CLASSIFICATIONS

6. CLASSIFICATION OF POSTS :

(1) All posts under the Board shall be, by a general or special order of the Board, be classified as follows :-

Class I Posts

Class II Posts

Class III Posts

Class IV Posts.

(2) Any order made by the competent authority and in force immediately before the commencement of these regulations relating to classifications of posts in the Port of Mormugao shall continue in force until altered, rescinded or amended by an order of the Board under sub-regulation (1).

7. APPOINTMENTS OF CLASS I POSTS :

All appointments to the posts under Board shall be made by the authorities specified in the second column of the schedule in these Regulations.

8. SUSPENSION :

(1) An employee may be placed under suspension:

(a) Where a disciplinary proceeding against him is contemplated or is pending; or

(b) Where a case against him in respect of any criminal offence is under investigation or trial;

(c) Where in the opinion of the authority hereinafter mentioned he has engaged himself in activities prejudicial to the interest of the security of the state.

(2) The order of suspension shall be made :-

(a) In the case of the Head of a Department, by the Chairman and in case of an employee holding Class I or Class II Post, by the Dy. Chairman.

(b) In any other case by the Appointing Authority.

Provided that no such order relating to an incumbent of a post covered by clause (a) of sub-regulation (1) of section 24 of the Act, shall have effect unless it is approved by the Central Government.

(3) An employee shall be deemed to have been placed under suspension by an order of appointing authority;

(a) With effect from the date of his detention, if he is detained in custody, whether on a [CRIMINAL CHARGE](#) or otherwise, for a period exceeding forty eight hours;

(b) With effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty eight hours and is not forth with dismissed or removed or compulsorily retired consequent to such conviction.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside in appeal under these regulation and the case is remitted for further inquiry or action or with any other direction, the order of his suspension shall be deemed to have continued in force on and from the date of original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set side or declared or rendered void in consequence of, or by a decision of a court of Law, and the disciplinary authority on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the authority competent to do so from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further enquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.

(6) (a) An order of suspension made or deemed to have been made under this Regulation shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where an employee is suspended or is deemed to have been suspended (Whether in connection with any disciplinary proceeding or other wise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the employee shall continue to be under suspension until the termination of all or any of such proceedings.

(c) An order of suspension made or deemed to have been made under this Regulation shall at any time be reviewed or modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate, on the recommendation of Suspension Review Committee prescribed in Schedule II.

(7) An order of suspension made or deemed to have been made under this Regulation shall be reviewed by the authority which is competent to modify or revoke the suspension before expiry of ninety days from the date of order of suspension on the recommendation of the Suspension Review Committee constituted for the purpose and pass orders either extending or revoking the suspension. Subsequent reviews shall be made before the expiry of the extended period of suspension. Extension of suspension shall not be for a period extending one hundred and eighty days at a time.

(8) Notwithstanding anything contained in Sub-Regulation (6) (a), an order of suspension made or deemed to have been made under Sub-Regulation (1) or (2) or Regulation 8 shall not be valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days:

Provided that no such review of suspension shall be necessary in the case of deemed suspension under Sub-Regulation (3), if the employee continues to be under suspension at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the employee detained in custody is released from detention or the date on which the fact of this release from detention is intimated to his appointing authority, whichever is later.

P A R T - V – PENALTIES

9. PENALTIES :

The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an employee viz;

(1) MINOR PENALTIES :

- (i) Censure
- (ii) Withholding of his promotion;
- (iii) Recovery from his pay of the whole or part of any pecuniary loss caused by him to the Board by negligence or breach of orders.
 - (a) reduction to a lower stage in the time scale of pay for a period not exceeding 3 years without cumulative effect and not adversely affecting his pension.

(iv) withholding of increments of pay.

(2) MAJOR PENALTIES :

- (v) Save as provided in clause (iii) (a), reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect of postponing the future increments of his pay;
- (vi) reduction to a lower timescale of pay, grade, post or service from which shall ordinarily be a bar to the promotion of the employee to the time-scale of pay, grade post or service from which he was reduced, with or without further directions regarding conditions of restoration to the grade or post or service from which the employee was reduced and his seniority and pay on such restoration to that grade, post or service;
- (vii) compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment under the Board;
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment under the Board.

Provided that, in every case in which the charge of acceptance from any person of any gratification, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act is established, the penalty mentioned in clause (viii) or clause (ix) shall be imposed.

Provided further that in any exceptional case and for special reasons recorded in

writing, any other penalty may be imposed.

EXPLANATION : The following shall not amount to a penalty within the meaning of this Regulation:

(i) withholding of increment of an employee for failure to pass a departmental examination in accordance with the regulations or orders governing the post or the terms of his appointment;

(ii) stoppage of an employee at the efficiency bar in the timescale on the ground of his unfitness to cross the bar;

(iii) non-promotion of an employee whether in a substantive or officiating capacity of an employee, after consideration of his case, to a grade or post for promotion to which he is eligible.

(iv) reversion of an employee officiating in a higher grade or post to a lower grade or post on the ground that he is considered to be unsuitable for such higher grade or post on any administrative grounds unconnected with his conduct.

(v) reversion of an employee appointed on probation to another grade or post to his permanent grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the regulations and orders governing such probation.

(vi) replacement of the services of an employee whose services have been borrowed from the Central or a State Government or any authority under the control of the State Government at the disposal of the authority from which the services of such employee had been borrowed;

(vii) compulsory retirement of an employee in accordance with the provisions relating to his superannuating or retirement.

(viii) termination of the services :-

(a) of an employee appointed on probation during or at the end of the period of his probation, in accordance with the terms of his appointment or the regulations and orders governing such probation;

(b) a temporary employee under regulation 5 of the Mormugao Port Employee (Temporary service) regulation, 1964. or

(c) of an employee, employed under an agreement in accordance with the terms of such agreement.

10. DISCIPLINARY AUTHORITIES :

The authorities mentioned in the Schedule shall be competent to impose the penalties on the employee of different grades and services as indicated in the Schedule.

11. PROCEDURE FOR IMPOSING MAJOR PENALTIES :

(1) No order imposing on an employee any of the penalties specified in items (iv) to (ix) of regulation 9 shall be passed except after an enquiry held, as far as may be, in a manner hereinafter provided.

(2) Where it is proposed to hold an inquiry against an employee under this Regulation the disciplinary authority shall draw up or cause to be drawn up :-

(i) the substances of the imputations of misconduct or misbehavior into definite and distinct articles of charge.

(ii) a statement of the imputations of misconduct or misbehavior in support of each article of charge which shall contain:-

(a) a statement of all relevant facts including any admission or confession made by the employee.

(b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.

(2A) The disciplinary authority shall deliver or cause to be delivered to the employee a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and a list of document and witnesses by which each article of charge is proposed to be sustained and shall require the employee to submit, within such time as may be specified, a written statement of his defence and state whether he desires to be heard in person.

EXPLANATION : In this sub-regulation and in sub-regulation (4) the expression "the disciplinary authority" shall include the authority competent under the regulations to impose upon the employee any of the penalties specified in items (i) to (iii) of regulation 9.

(3) The disciplinary authority may inquire into the charges itself or if it considers it necessary to do so, it may either at the time of communicating the charges to the employee under sub-regulation (2) or at any time then after, appoint a board of inquiry or inquiring officer for the purpose.

(4) The employee shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such official records as he may specify provided that such permission may be refused, if for reasons to be recorded in writing in the option of the disciplinary authority such records are not relevant for the purpose or it is against the Board's interest to allow him access thereto.

(5) On receipt of the written statement of defence or if no such statement is received within the time specified, the disciplinary authority or as the case may be, the board of inquiry or the inquiry officer may inquire into such of the charges as are not admitted.

(6) Where the disciplinary authority itself inquires into any article of charge or appoints an inquiring authority for holding any inquiry in to such charge, it may, by an order, appoint an employee or a legal practitioner, to be known as the "presenting officer" to present on its behalf the case in support of the article charge.

(7) The disciplinary authority shall, where it is not the inquiring authority, forward to the inquiring authority-

(i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;

(ii) a copy of the written statement of the defence, if any, submitted by the employee;

(iii) a copy of the statement of witness, if any, referred to in sub-regulation (2);

(iv) evidence proving the delivery of the documents referred to in sub-regulation (2) to the employee; and

(v) a copy of the order appointing the "Presenting Officer."

(8) The employee shall appear in person before the Inquiring authority on such day and at such time within ten working days from the date of receipt by him of the article of charge and the statement of the imputations of misconduct or misbehaviour, as the inquiring authority may, by notice in writing, specify, in this behalf, or within such further time, not exceeding ten days, as the inquiring authority may allow.

(9) (a) The employee may take the assistance of any other employee of the Board to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the presenting officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits.

(b) The employee may also take the assistance of a retired employee of the Board to present the case on his behalf, subject to such conditions as may be specified by the Board from time to time by general or special order in this behalf.

(10) If the employee who has not admitted any of the articles of charge in his written statement of defence, or has not submitted any returns statement of defence appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee thereon.

(11) The inquiring authority shall return a finding of guilt in respect of those articles of

charge to which the employee pleads guilty.

(12) The inquiring authority shall, if the employee fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the employee, may, for the purpose of preparing his defence -

(i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-regulation (2);

(ii) submit a list of witnesses to be examined on his behalf;

(iii) give notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow for the discovery or production of any documents which are in the possession of the Board but not mentioned in the list referred to in sub-Regulation (2);

(13) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forward the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the document by such date as may be specified in such requisition.

Provided that the Inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are, in its opinion, not relevant to the case.

(14) On receipt of the requisition referred to in sub-regulation (13), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority.

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the public interest or security of the state, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed, communicate the information to the employee and withdrew the requisition made by it for the production or discovery of documents.

(15) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the presenting Officer and may be cross examined by or on behalf of the employee. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses as it thinks fit.

(16) If it shall appear necessary before the close of the case on behalf of the disciplinary authority the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the employee or may itself call for new evidence or recall and re-examine any witnesses and in such case the employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of

such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned. The inquiring authority shall give the employee an opportunity of inspecting such documents before they are taken on the record. The inquiring authority may also allow the employee to produce new evidence, if it is of the opinion that the production of such evidence, is necessary, in the interest of justice.

(17) When the case for the disciplinary authority is closed, the employee shall be required to state his defence orally or in writing, as he may prefer. If the defence is made orally, it shall be recorded, and the employee shall be required to sign the record, In either case, a copy of the statement of defence shall be given to the Presenting Officer, if any, appointed.

(18) The evidence on behalf of the employee shall then be produced. The employee may examine himself in his own behalf if he so prefers. The witnesses produced by the employee shall then be examined and shall be liable to cross examine, re-examination by the inquiring authority according to the provisions applicable to the witnesses for the disciplinary authority.

(19) The inquiring authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the employee to explain any circumstances appearing in the evidence against him.

(20) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any, appointed, and the employee or permit them to file written briefs of their respective case, if they so desire.

(21) If the employee to whom a copy of the articles of charges has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this regulation, the inquiring authority may hold the inquiry ex-parte.

(22) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iii) of Regulation 9 (but not competent to impose any of the penalties specified in clauses (iv) to (ix) of Regulation 9 has itself inquired into or caused to be inquired into the articles of any charge and that authority, having regards its own findings or having regards to its decision on any of the findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (iv) to (ix) of Regulation 9 should be imposed on the employee, that authority shall forward the records of the inquiry to such disciplinary authority as its competent to impose the last mentioned penalties.

(b) The disciplinary authority to which the records are so forwarded may act the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witnesses and examine, cross examine and re-examine the witnesses and may impose on the employee such penalty as it may deem fit in accordance with these regulations.

(23) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein and is succeeded by another inquiring authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiry authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, cross-examine and re-examine any such witnesses as here in before provided.

(24) (i) After the conclusion of the inquiry a report shall be prepared and it shall contain :-

(a) the articles of charge and the statement of the imputations of misconduct or misbehavior;

(b) the defence of the employee in respect of each article of charge;

(c) an assessment of the evidence in respect of each article of charge;

(d) the findings on each article of charge and reasons therefore:

Provided that the findings on such articles of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

EXPLANATION: If in the opinion of the inquiring authority the proceeding of the inquiry establish any article of charges different from the original article of charge, it may record its finding on such article of charge.

(ii) The inquiring authority where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include:-

(a) The report prepared by it under clause (i);

(b) The written statement of defence, if any, submitted by the employee;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) Written briefs, if any, filed by the presenting officer or the employee or both during the course of the inquiry; and

(e) The orders, if any, made by the disciplinary authority and the inquiry authority in regard to the inquiry.

25. The disciplinary authority shall, if it is not the inquiring authority, consider the record of the inquiry and record its findings on each charge.

26. (i) If the Disciplinary Authority having regard to its findings on the charge is of the opinion that any of the penalties specified in terms of items (iv) to (ix) of regulation 9 should be imposed, it shall make an order imposing such penalty and shall furnish to the employee a copy of the report of the Inquiry Authority and where the Disciplinary Authority is not the Inquiry Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of Inquiry Authority.

(ii) In every case in which it is necessary to consult the Board the record of Inquiry shall be forwarded by the Disciplinary Authority along with its recommendations to the Board of passing such orders.

Note: Any disciplinary action which had been taken or is pending or an appeal/review in respect of any disciplinary action has been preferred prior to inclusion of above clause. The same shall be deemed to have been taken or pending or preferred as the case may be under these amended regulations and shall be disposed off in accordance with the provisions of these amended regulations.

(27) If the disciplinary authority having regard to its findings is of the opinion that any of the penalties specified in items (i) to (iii) of regulation 9 should be imposed, it shall pass appropriate orders in the case.

(28) Orders passed by the disciplinary authority shall be communicated to the employee who shall also be supplied with a copy of the report of the inquiry authority, and where the disciplinary authority is not the inquiring authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority, unless they have already been supplied to him.

12. PROCEDURE FOR IMPOSING MINOR PENALTIES :

(1) Subject to the provisions of sub-regulations (27) of Reg. 11 no order imposing on an employee any of the penalties specified in clauses (i) to (iii) of regulation 9 shall be made except after :-

(a) informing the employee in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-regulations (2) to (28) of Regulation 11 in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) Consulting the Board where such consultation is necessary.

(1-A) If in a case, it is proposed, after considering the representation if any, made by the employee under clause (a) of sub-regulation (1) above to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the employee or to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period, an inquiry shall, be held in the manner laid down in sub-regulations (2) to (28) of regulations 11 before making any order imposing on the employee of any such penalty.

(2) The record of the proceedings in such cases shall include :

(i) a copy of the intimation to the employee of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

- (iii) his representations, if any, and;
- (iv) the evidence produced during the inquiry;
- (v) the advice of the Board, if any;
- (vi) the findings on each imputation of misconduct or misbehavior; and
- (vii) the orders on the case together with the reasons therefor.

13. JOINT ENQUIRY :

(1) Where two or more employees are concerned, in any case, the authority competent to impose penalty of dismissal from service on all such employees may make an order directing that disciplinary action against all of them may be taken in a common proceeding .

(2) Subject to the provisions of (a), sub-section (1) of section 25 of the Act, and (b), regulation (11), any such order shall specify-

(i) The authority which may function as the disciplinary authority for the purpose of such common proceeding.

(ii) The penalties specified in regulation (9) which such disciplinary authority shall be competent to impose and

(iii) Whether the procedure prescribed in regulation (13) or regulation 16 may be followed in the proceeding.

14. SPECIAL PROCEDURE IN CERTAIN CASES :

Notwithstanding anything contained in regulations 11, 12 and 13:

(i) Where a penalty is imposed on an employee on the ground of conduct which had led to his conviction on a criminal charge; or

(ii) Where the disciplinary authority is satisfied for reasons to be recorded by it in writing that it is not reasonable practicable to follow the procedure prescribed in the said regulations; or

(iii) Where the Board is satisfied that in the interest of the security of the port it is not expedient to follow such procedure;

(iv) The disciplinary authority may consider the circumstances of the case and pass such orders thereon as it deems fit.

Provided further that the employee may be in opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i).

Provided that the approval of the Central Government shall be obtained before passing such orders in relation to a Head of Department.

15. PROVISIONS REGARDING OFFICERS BORROWED BY THE BOARD :

(1) Where an order of suspension is made or a disciplinary proceeding is taken against an employee whose services have been borrowed from the Central or a State Government or an authority subordinate thereto or a local or other authority, the authority lending his services (hereinafter in these regulations referred to as the "lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as case may be.

(2) In the light of the findings in the disciplinary proceeding taken against the employee:

(i) if it is decided that any of the penalties specified in items (i) to (iii) of regulation 9

should be imposed on him, the disciplinary authority may, subject to the provision of sub-regulation (2) of regulation 12, after consultation with the lending authority pass such orders on the case as it deemed necessary.

Provided that in the event of a different of opinion between the borrowing authority and the lending authority, the services of the employee shall be replaced at the disposal of the lending authority.

(ii) if the disciplinary authority is of the opinion that any of the penalties specified in item (iv) to (ix) of regulations 9 should be imposed on the employee, it shall replace his services at the disposal of the lending authority and transmit to the proceedings of the inquiry for such action as it deems necessary.

P A R T - I V - A P P E A L S

16. ORDERS MADE BY CENTRAL GOVERNMENT NOT APPEALABLE :-

Notwithstanding anything contained in this part, no appeal shall lie against any order made with the approval of the Central Government.

17. APPEALS AGAINST ORDERS OF SUSPENSION :-

An employee may appeal against an order of suspension to the appellate authority indicated as such in the Schedule to these Regulation.

18. APPEALS AGAINST ORDER IMPOSING PENALTIES :-

(1) The authorities mentioned in the Schedule shall be competent to entertain appeals in respect of the penalties included in the Schedule.

(2) Any employee of a Board (not being a Head of a Department) aggrieved by an order involving his reduction in rank removal or dismissal may, within the time mentioned in regulation 21 and in the manner laid down in regulation 22, prefer an appeal.

(a) to the Chairman, where such order is passed by the Dy.Chairman.

(b) to the Dy.Chairman, where the order is passed by the Head of Department or by the Officer designated below the Head of Department and competent to pass such order.

Provided that where the person, who has passed the order becomes, by virtue of his subsequent appointment as the Chairman or the Dy.Chairman, the appellate authority in respect of the appeal against the order, such person shall forward the appeal to the Board or the Chairman as the case may be and the Board or the Chairman shall be deemed to be the Appellate Authority for the purpose of this Regulation.

19. APPEAL AGAINST AN ORDER :

An appeal against an order :-

(a) stopping an employee at the Efficiency Bar in the time scale of pay on the ground of his unfitness to cross the bar;

(b) reverting him while officiating in a higher service, grade or post, to a lower service, grade or post, otherwise than as penalty;

(c) reducing or withhold the pension or denying the maximum pension admissible to him under the regulation;

(d) determining the subsistence and other allowances to be paid to him for the period of

suspension or for the period during which he is deemed to be under suspension or for any portion thereof;

(e) determining his pay and allowances:-

(i) for the period of suspension, or

(ii) for the period from the date of his dismissal removal, or compulsory retirement from service, or from the date of his reduction to a lower service, grade, post, time-scale or stage in a time-scale of pay, to the date of his reinstatement or restoration to his service, grade or post; or

(f) determining whether or not the period from the date of his suspension on from the date of his dismissal, removal, compulsory retirement or reduction to a lower service, grade, post, time-scale of pay or stage in a time-scale of pay to the date of his reinstatement or restoration to his service, grade or post shall be treated as a period spent on duty for any purpose. Shall be in case of an order made in respect of an employee, to the authority to whom, an appeal against an order imposing upon him the penalty of dismissal from service, would lie.

EXPLANATION : In these regulations:-

(i) "employee" includes a person who has ceased to be in employment of the Board.

(ii) "pension" includes additional pension, gratuity and any other retirement benefits.

20. PERIOD OF LIMITATION FOR APPEALS :

No appeal under this Part shall be entertained unless it is preferred within a period of three months from the date on which the appellant received a copy of the order appealed against.

Provided that the appellate authority may entertain the appeal after the inquiry of such period if it is satisfied that the appellant had sufficient cause for not preferring the appealed against.

21. FORMS AND CONTENTS OF APPEALS :

(1) Every person preferring an appeal shall do so separately and in his own name.

(2) The appeal shall be presented to the authority to whom the appeal lies, a copy being forward by the appellant to the authority which made the order appealed against. It shall contain all materials statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language, and shall be complete in itself.

(3) The authority which made the order appealed against shall, on receipt of a copy of the appeal, forward the same with its comments thereon together with the relevant records to the appellate authority without any avoidable delay, and without waiting for any direction from the appellate authority.

22. SUBMISSION OF APPEALS :

Every appeal shall be submitted through the authority which made the order appealed against.

Provided that a copy of memorandum of appeal may be submitted direct to the appellate authority.

23. WITHHOLDING OF APPEALS :

(1) the authority which made the order appealed against may withhold the appeal if :

(i) it is an appeal against an order from which no appeal lies; or

(ii) it does not comply with any of the provisions of regulation 22; or

(iii) it is not submitted within the period specified in regulation 21 and no cause is shown for the delays; or

(iv) it is a representation of an appeal already decided and no new facts or circumstances are adduced.

Provided that an appeal withheld on the ground only that it does not comply with the provisions of regulation 22 shall be returned to the appellant and if it is resubmitted within one month thereof after compliance of the said provisions, shall not be withheld.

(2) Where an appeal is withheld, the appellant shall be informed of the facts and the reasons thereof.

(3) At the commencement of each quarter, a list of appeals withheld by any authority during the previous quarter together with the reasons for withholding them shall be furnished by that authority to the appellate authority.

24. TRANSMISSION OF APPEALS :

(1) The authority which made the order appealed against shall without any avoidable delay transmit to the appellate authority every appeal which is not withheld under regulation 24, together with its commencements thereon and the relevant records.

(2) The authority to which the appeal lies may direct transmission to it of any appeal withheld under regulation 24 and thereupon such appeal shall be transmitted to that authority together with the comments of the authority withholding the appeal and the relevant records.

25. CONSIDERATION OF APPEALS :

(1) In the case of an appeal against an order of suspension, the appellate authority shall consider whether in the light of the provision of regulating 9 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.

(2) In the case of an appeal against an order imposing any of the penalties specified in regulation 9 the appellate authority shall consider:-

(a) whether the procedure prescribed in these regulations has been complied with, and if not whether such non compliance has resulted in violation of any of the provisions of the Act, or in failure of justice;

(b) whether the findings are justified; and

(c) whether the penalty imposed is excessive, adequate or inadequate and pass orders :-

(1) setting aside, reducing, confirming or enhancing the penalty; or

(2) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstance of the case.

Provided that :-

(i) the appellate authority shall not impose any enhanced penalty which neither such authority nor the authority, which made the order appealed against is competent in the case to impose;

(ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty; and

(iii) if the enhanced penalty which the appellate authority proposes to impose one of the penalties specified in items (iv) to (ix) of regulation 9 and an Enquirer under regulation 12 has not already been held in the case, the appellate authority, shall subject to the provisions of regulation 15, itself hold such an enquiry or direct that such inquiry to be held and thereafter on consideration of the proceedings of such enquiry and after giving the appellant an opportunity of making any representation which he may wish to make against such penalty, pass such orders as it may deem fit.

(iv) If the enhanced penalty which the appellate authority proposes to impose one of the penalties specified in clause (iv) to (ix) of Regulation 9 and an inquiry under regulation 11 has already been held in the case, the appellate authority shall make such orders as it may deem fit.

26. IMPLEMENTATION OF ORDERS IN APPEAL :

The authority which made the order appealed against shall give effect to the orders passed by the appellate authority.

P A R T – VI - (A) REVIEW

26(A)(1) Notwithstanding in these regulations :-

(i) the Central Govt.; or

(ii) the Chairman, or Dy. Chairman; or

(iii) a Head of a Department in the case of an employee serving under his control; or

(iv) the appellate authority, within six months of the date of the order proposed to be reviewed; or

(v) any other authority specified in this behalf by the Board by the general or special order and within such time as may be prescribed in such general or special order.

May at any time, either on his or its own motion or otherwise call for the records of any inquiry and review any order made under these regulations or under the rules repeal by regulation 28 from which an appeal is allowed but no appeal has been preferred, or from which no appeal is allowed, and may :-

(a) confirm, modify or set aside the order; or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order or impose any penalty where no penalty has been imposed; or

(c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or

(d) pass such other orders as it may deem fit.

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in items (iv) to (ix) of Regulation 9, or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those items, no such penalty shall be imposed except after an inquiry in the manner laid down in Regulation 12 and after giving a reasonable opportunity to the employee concerned for showing cause against the penalty proposed on the evidence adduced during the inquiry.

Provided further that no power of review shall be exercised by a Head of department unless:

(i) the authority which made the order in appeal; or
(ii) the authority to which an appeal would lie where no appeal has been preferred is subordinate to him.

(2) No proceeding for review shall be commenced until after :
(i) the expiry of the period of limitation for an appeal; or
(ii) the disposal of the appeal, where any such appeal has been preferred;
(iii) an application for review shall be dealt within the same manner as if it were an appeal under these regulations.

PART - VII - REPEAL & REMOVAL OF DOUBTS :

28. REPEAL :

(1) On the commencement of these regulations, any other rules which were in force in respect of the employee shall stand repealed :

Provided that :

(a) such repeal shall not affect the previous operation of the said rules, notifications and orders or anything done or any action taken there under;

(b) any proceeding under the said rules, pending at the commencement of these regulations shall be conducted and disposed of as far as may be in accordance with the provisions of these regulations.

(2) an appeal pending or preferred after the commencement of these regulations against an order made before such commencement shall be considered and orders thereon shall be passed in accordance with these regulations.

29. INTERPRETATION :

If any question arises as to the interpretation of these regulations, the same shall be decided by the Board.

SCHEDULE – I

Sr. No	Description of the Post	Appointing Authority	Authority competent to impose penalty		Appellate authority
			Authority	Penalty	
1	2	3	4	5	6
1.	Posts covered by Clause (a) of sub-section (1) Section 24 of the Major Port Trusts Act, 1963	Central Government after consultation with the Chairman	Chairman	(i) to (iv) (Minor Penalties)	Central Govt.
			Central Govt.	All	Central Govt.
2.	Class I posts, (other than those covered by Clause (a) of sub-section (1) of Section 24 of the Major Port Trusts Act, 1963.	Chairman	Deputy Chairman	(i) to (iv) (Minor Penalties)	Chairman
			Chairman	All	Central Government
3.	Class II	Dy. Chairman	Dy. Chairman	All	Chairman
4.	Class III	Head of a Department	Head of a Department	All	Deputy Chairman
5.	Class IV	Head of a Department	Head of a Department	All	Deputy Chairman

SCHEDULE – II

[(See Regulation 8(6)]

COMPOSITION OF SUSPENSION REVIEW COMMITTEE

Sl.No	Category of employees	Composition of Review Committee
1.	Posts covered by clause (a) of Sub-Section (1) of Section 24 of Major Port Trusts Act, 1963	(i) Secretary (Shipping) (ii) Chairman, Mormugao Port Trust (iii) Joint Secretary (Ports)
2.	Class I posts (other than those covered by clause (a) of Sub-Section (1) of Section 24 of Major Port Trusts Act, 1963).	(i) Chairman, Mormugao Port Trust (ii) Deputy Chairman (iii) Concerned HoD
3.	Class – II	(i) Deputy Chairman (ii) HoD concerned (iii) Secretary*
4.	Class – III	(i) Deputy Chairman (ii) HoD concerned (iii) Secretary*

5.	Class - IV	(i) HoD of concerned Department (ii) Secretary* (iii) Dy. HoD of concerned Department.
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(* In case the employee belonging to General Administration Dept., FA & CAO will be the member in place of Secretary).

FOOT NOTE:-

Principal Regulations were published in the Gazette of India vide GSR No.965 dt. 1-7-64

SUBSEQUENTLY AMENDED VIDE:-

- (i) Board Resolution no.143 dated 24-10-1975.**
- (ii) Board Resolution no. 181 dated 20-4-1979. Central Govt.'s sanction no. PW/PEG- 3/79 dated 26-6-1986.**
- (iii) G.S.R. no.339 (E) dated 10-4-1995.**
- (iv) G.S.R. no. 134 (E) dated 6-3-1997.**
- (v) G.S.R. no. 275 (E) dated 20/4/2004**
- (vi) G.S.R. no.731(E) dated 01/10/2014**