

MORMUGAO PORT EMPLOYEES' (ACCEPTANCE OF EMPLOYMENT AFTER RETIREMENT) REGULATIONS, 1970

1. SHORT TITLE :

These Regulations may be called the Mormugao Port Employees (Acceptance of Employment After Retirement) Regulations, 1970.

2. DEFINITIONS:

In these Regulations unless the context otherwise requires :-

(a) "Board" and "Chairman" shall have the meanings assigned to them in the Major Port Trusts Act, 1963.

(b) "Competent Authority" means the Board in respect of Head of Departments and in all other cases, Chairman. Approval for accepting employment after retirement in respect of Chairman and Deputy Chairman can be given only with the permission of the Central Government.

(c) "Employee" means the employee of the board.

(d) "Class I post" shall have the same meaning as assigned to under the Mormugao Port Employees (Classification, control and Appeal) Regulations, 1964.

(e) "Pensioner" means a Class I employee who has retired from Board's service whether governed by Pension & Gratuity Regulations or the Contributory Provident Fund Scheme of the Board.

3. APPLICATION :

These Regulations shall apply to all employees who are/where holding Class I post under the Board immediately before retirement from Board's service.

4. PERMISSION FOR EMPLOYMENT WITHIN INDIA :

(1) If an employee/pensioner who has held a Class I post under the Board immediately before his retirement (Whether governed by Pension or Contributory Provident Funds Scheme of the Board) wishes to accept any employment within India including an employment as Contractor for or in connection with the execution of public works or as an employee of such Contractor before the expiry of two years from the date of his retirement, he shall obtain the previous sanction of the competent authority to such acceptance.

Provided that an employee who was permitted by the competent authority to take up such an employment during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

(2) An employee/pensioner who is covered by these Regulations and has not obtained the necessary permission shall not be given any such contract and a condition shall be incorporated in the terms of the contract that it is liable to cancellation if either the contractor himself or any of his employee is found to be a person to whom these regulations apply and had not obtained the necessary permission.

(3) Employee's whether governed by Pension or the Provident Funds Regulations, shall be required to sign, at the time of sanctioning the retirement benefits, an undertaking that they shall not seek employment

within two year of their retirement without obtaining the previous permission of the competent authority.

NOTE: Where the competent Authority grants the permission applied for subject to any conditions or refuses such permission under sub-regulation (1) or (3) of regulation '3' the applicant may, within thirty days of receipt of the order of the Competent Authority to that effect make a representation against any such condition or refusal to the Board/Central Govt, as the case may be, and the Board/Central Govt, may make such orders thereon as it deems fit. Provided that no order other than an order canceling such condition or granting such permission without any conditions shall be made under this rule without giving the pensioner making the representation an opportunity to show cause against the order proposed to be made.

(4) Subject to the provisions of sub-regulation (5) the competent authority may, by order in writing, on an application made by an employee/pensioner grant, subject to such conditions, if any, as it may deem, necessary permission, or refuse for reasons to be recorded in the order, permission, to such employee to take up the employment specified in the application.

(5) In granting or refusing permission under sub-regulation (4) to an employee /pensioner for taking up any employment the competent authority shall have regard to the following factors, namely:

- (a)** the nature of the employment proposed to be taken up and the antecedents of the employers;
- (b)** whether his duties in the employment which he proposed to take up might be such as to bring him into conflict with the Board;
- (c)** whether the employee/pensioner while in service had any such dealing with the employer under whom he proposed to seek employment as might afford a reasonable basis for the suspicion that such employee had shown favours to such employers;
- (d)** whether the duties of the employment proposed involves liaison or contact work with the Board;
- (e)** whether his duties will be such that his previous official position or knowledge or experience under Board could be used to give the proposed employer an unfair advantage;
- (f)** the emoluments offered by the proposed employer; and
- (g)** any other relevant factor.

(6) In respect of employees of the Engineering Department, whether in the executive or administrative side, permission within two years of retirement for seeking employment as contractors or in connection with the execution of works of the Board or as employee of such contractors who are executing such works may be given very rarely and only in special circumstances.

(7) The application for permission to take up an employment within two years of retirement shall be made in the form given in the Annexure.

(8) Where within a period of sixty days of the date of receipt of an application under sub-regulation (5), the competent authority does not refuse to grant the permission applied for or does not communicate the

refusal to the applicant, the competent authority shall be deemed to have granted the permission applied for.

Provided that in any case where defective or insufficient information is furnished by the applicant and it becomes necessary to seek further clarifications and/or information from him, the period of sixty days shall be counted from the date on which the defects have been removed and/or complete information has been furnished by the applicant.

(9) Where the competent authority grants the permission applied for subject to any condition or refused such permission, the applicant may, within thirty days of the receipt of the order of the competent authority to that effect, make a representation against any such conditions or refusal and the competent authority may make such orders thereon as it deemed fit.

Provided that no order other than an order canceling such condition or granting such permission without any conditions shall be made under this sub-regulation without giving the employee/pensioner making the representation an opportunity to show cause against the order proposed to be made.

(10) If any employee/pensioner takes up any employment at any time before the expiry of two years from of his retirement without the prior permission of the competent authority or commits a breach of any condition subject to which permission to take up any employment has been granted to him under this regulation, it shall be competent for the competent authority to declare by order in writing and for reasons to be recorded there in that-

(i) if governed by the Pension Scheme of the Board, he shall not be entitled to the whole or such part of the pension for such period as the competent authority may specify in the order.

(ii) if governed by the Contributory Provident funds Scheme shall be liable to compensate the Board to the extent the competent authority may specify in the order for not honouring the undertaking made earlier to the contrary.

Provided that no such order shall be made without giving the employee concerned an opportunity of showing cause against such declaration.

Provided further that in making any order under this sub-regulation the competent authority shall have regard to the following factors, namely

(i) the financial circumstances of the employee/pensioner concerned;

(ii) the nature of and the emoluments from, the employment taken up by the employee/pensioner concerned, and

(iii) any other relevant factor.

(11) Every order passed by the competent authority under this regulation shall be communicated to the employee/pensioner

concerned.

(12) In this regulation :

(a) "employment" means:

(i) an employment in any capacity including that of an agent, under a company, Co-operative Society, firm or individual engaged in trading, commercial, industrial, financial or professional business and includes also a directorship of such company and partnership of such firm, but does not include employment under a body corporate, wholly or substantially owned or controlled by the Central or State Government.

(ii) setting up practice, either independently or as a partner of a firm, as advisor or consultant in matters in respect of which the employee/pensioner

(a) has not professional qualifications and the matters in respect of which the practice is to be set up or is carried on are related to his official knowledge or experience, or

(b) has professional qualifications but the matters in respect of which such practice is to set up are such as likely to give his clients an unfair advantage by reason of his previous official position, or

(iii) has to under take work involving liaison or contact with the offices or officers of the Board.

EXPLANATION : For the purpose of this clause 'Employment under a cooperative Society' includes the holding of any office, whether selective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and like, by whatever name called in such Society;

(c) the expression "date of retirement" in relation to an employee, re-employed after retirement, without any break, either in the same or in another Class I post under the Board or in any other equivalent post under Central or State Government, means the date on which such employee finally ceases to be re-employed in Board or Government service as the case may be.

5. PERMISSION FOR EMPLOYMENT OUTSIDE INDIA :

(1) If an employee/pensioner who has held a Class I post under the Board immediately before his retirement wishes to accept any employment under any Government outside India, he shall obtain the previous permission of the Board for such acceptance, and that-

(a) If governed by the Pension Scheme of the Board, no pension shall be payable to an employee/pensioner who accepts such an employment without proper permission in respect for any period for which he is so employed or such longer period as to

compensate the Board to the extent the competent authority may direct, and

- (b) If governed by the Contributory Provident Funds Scheme of the Board he shall be liable to compensate the Board to the extent the competent authority may direct.

Provided that an employee who was permitted by the Board to take up a particular form of employment under any Government outside India during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

EXPLANATION : For the purpose of this regulation, the expression "employment under any Government outside India" includes employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India, or an employment under an International Organisation of which the Government of India is not a member.

(2) The employee shall be required to sign an undertaking to this effect at the time of sanctioning retirement benefits.

NOTE : Where the Competent Authority grants the permission applied for subject to any conditions or refuses such permission under sub-regulation (1) or (2) of regulation 4 the applicant may, within thirty days of receipt of the order of the Competent Authority to that effect make a representation against any such condition or refusal to the Board/Central Govt. as the case may be, and the Board/Central Govt. may make such orders there on as it deems fit :
Provided that no order other than an order canceling such condition or granting such permission without any conditions shall be made under this rule without giving the pensioner making the representation an opportunity to show cause against the order proposed to be made.

6. PERMISSION NECESSARY IN RESPECT OF TEMPORARY EMPLOYEES :

Permission for acceptance of employment after retirement will be necessary even in the case of an employee who immediately before retirement held a Class-I post in an officiating or temporary capacity.

ANNEXURE :

[See Regulation 4 (1)]

Form of application for permission to accept employment within a period of two years after retirement.

1. Name of the Officer (in Block Letters)
2. Date of retirement
3. Particulars of the department in which the Officer served during the last five years preceding retirement (with duration)

Name of Department	Post held	Duration	
		From	To

4. Post held at the time of retirement and period for which held.
5. Pay scale of the post and the pay drawn by the Officer/Pensioner at the time of retirement.
6. Retirement Benefits
If governed by the Contributory Provident Fund.
 - (i) Amount of Special contribution
 - (ii) Amount of Trust's contribution.
 - (iii) Amount of any other contribution.

If governed by the Pension Scheme :

- (a) Pension expected/sanctioned (communication, if any, should be mentioned)
- (b) Gratuity, if any

7. Details regarding employment proposed to be taken
 - (a) Name of the firm/company/co-operative society etc.
 - (b) Products being manufactured by the firm/type of business carried out by the firm etc.
 - (c) Whether the official had during his official career any dealings with the firm/company.
 - (d) Duration and nature of the official dealings with firm/company etc.
 - (e) Name of the job/post held.
 - (f) Whether post was advertised, if not, how was offer made (Attach news paper cutting of the advertisement and copy of the offer of appointment if any)
 - (g) Description of the duties of the job/post.
 - (h) Remuneration offered for the post/job.
 - (i) If proposing to set up a practice, indicate.
 - (a) Professional qualifications
 - (b) Nature of proposed practice.

8. Any other information which the applicant desires to furnish in support of his request.

9. Declaration :

I here by declare that -

(i) the employment which I propose to take up will not bring me into conflict with Government/Port Administration.

(ii) My duties will not be such that my previous official position or knowledge or experience under Port Administration could be used to give my proposed employer an unfair advantage.

(iii) My duties will not involve liaison or contact with the Port Administration.

Station

: _____

Signature of the applicant

Dated : _____

Address

: _____

FOOT NOTE:-

Principal Regulations were approved vide Government's sanction No. 7/PE(24)/71 dated 03/07/1971 and subsequent amendment was published vide G.S.R. No. 760 (E) dated 19/5/1979 in the Gazette of India.

(i) GSR No. 899 (E) dated 27/11/1992.

(ii) GSR No. 715 (E) dated 23/11/1993 (Corrigendum to GSR No. 899 dtd. 27/11/1992)

(iii) GSR No. 562 (E) dated 22/9/1997.