

**New Mangalore Port Employees'
(Temporary Service)
Regulations, 1980**

NEW MANGALORE PORT EMPLOYEES' (TEMPORARY SERVICE) REGULATIONS 1980

In exercise of the powers conferred by Section 126, read with Section 28, of the Major Port Trusts Act, 1963 (38 of 1963), the Central Government hereby makes the following regulations, namely:

1. Short title commencement and application:

- (1) These regulations may be called the New Mangalore Port Employees' (Temporary Service) Regulations, 1980.
- (2) They shall come into force on the 1st day of April, 1980.
- (3) They shall apply to all persons who hold a post under the Board but who do not hold a lien on any post under that Board:

Provided that they shall not 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 establishment, if any, or in workcharged establishment;
- (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 New Mangalore Port Employees (Classification, Control and Appeal) Regulations, 1980.
- (ii) "**employee**" means an employee of the Board;
- (iii) "**temporary service**" means officiating service in a temporary or in a permanent post under the Board consisting of period of duty and leave (other than extraordinary leave otherwise than Medical Certificate).

- (iv) words and expressions used herein and not defined but defined in the Major Port Trusts Act, 1963 (38 of 1963), shall have the meanings respectively, assigned to them in that Act.

3. Termination of services of employees not in quasi-permanent service:

1 (a) The service 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 of a sum equivalent to the amount of his pay plus allowances for the period of the notice, or as the case may be, for the period by which such notice falls short of one month or any other period agreed to under clause (b) of this sub-regulation:

Provided further that the Compensatory (City and House Rent) allowances, where admissible, shall be payable on the expiry of the notice period and after it is certified by the appointing authority that the employee continued to reside during the period of notice at the station where he was last employed, notwithstanding the fact that he was not expected to return to duty at the same station.

Note:

The following procedure shall be adopted by 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 A.D. at the address of the employee available with the appointing authority;

(iii) If the notice sent by Registered Post is returned un-served, it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such employee on the date it was published in the Official Gazette.

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 the Chairman may, of its or his own motion or otherwise, reopen the case and after calling for the record of the case and after making such enquiry as it deems fit, may:-

- (i) confirm the action taken by the appointing authority; or
- (ii) withdraw the notice; or
- (iii) reinstate the employee in service; or
- (iv) make such other order in the case as it may consider proper;

Provided that no case shall be reopened under this sub-clause after the expiry of three months,-

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

(b) Where an employee is reinstated in service under sub-regulation (1), the order of reinstatement shall specify:-

- (i) the amount of proportion of pay and allowances, if any, to be paid to the employee for the period of his absence between the

date of termination of service and the date of reinstatement;
and

- (ii) whether the said period shall be treated as period spent on duty for any specified purposes.

4. Termination of temporary service on account of physical unfitness:

Notwithstanding anything contained in regulation 5, the services 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 for service had his appointment been permanent.

Note: The termination of temporary service on account of physical fitness may be resorted to only after following the procedure prescribed below:

The Head of Department should, in the first instant furnish detailed reasons for resorting to such a course. The employee will thereafter be referred to a duly constituted Medical Board for assessing the extent of physical disability for continuance in service. Based on the recommendations of the Medical Board, the employee will be offered an opportunity to accept any other alternative employment for which he is found suitable. Depending on the reaction of the employee to this offer, further action as provided for in this regulation may be taken by the Appointing Authority.

5. Terminal 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 of 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 service, subject to a maximum of fifteen months' pay or fifteen thousand rupees, whichever is less, if he had completed not less than ten years continuous service at the time of retirement, discharge or invalidment.
- (c) In the case of temporary employee who is compulsory retired from service as a disciplinary measure, the provisions of Sub-Regulation (1) shall apply, subject to modification that the rate of gratuity payable in his case shall not be less than two-third of, but in no case exceeding rate specified in Clause (a) or as the case may be (b) of Sub-Regulation (1).
- (d) In the case of temporary employee who retire from service on attaining the age of superannuation, or on his being declared to be permanently incapacitated for further service in the New Mangalore Port Trust by the appropriate Medical authority after he has rendered temporary service of not less than 10 years or who has sought voluntary retirement by giving three months notice in writing on completion of 20 years, provisions of Sub Regulation 1 shall not apply and in accordance with the provisions of Central Civil Service (Pension) Rules 1972.
- (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 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 employee under Central Civil Service (Pension) Rules 1972.

(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 re-employed after retirement.

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 Govt. or in or under a body controlled or financed by Govt. shall be paid terminal gratuity at the rate prescribed under Sub-Rule 1 in respect of the service rendered by him under the N.M.P.T.

Explanation: For the purpose of this Sub Rule "Financed substantially" means that more than 50% of the expenditure is met by cess or Central Govt. grants.

(4) Where gratuity under this regulation is paid to or in respect of an employee who is not covered by Rule 54 of the Central Civil Services (Pension) Rules, 1972, no other gratuity or pensionary benefits is payable.

(5) For the purpose of this Regulation -

- (a) gratuity shall be calculated on the basis of the last average 10 months' pay;
- (b) 'pay' shall mean pay as defined in the Fundamental Rules; and

- (c) period of ~~extraordinary leave~~, if any availed of by the employee concerned shall be taken into account for computing the completed service on the same basis as it is taken into account, for the purposes of the calculation of pension and death-cum-retirement gratuity under Rule 21 of the Central Civil Services (Pension) Rules, 1972 as amended from time to time.
- (d) an increment earned during the currency of earned leave not exceeding 120 days or during first 120 days of earned leave exceeding 120 days expiring on the date of retirement though not actually drawn may form part of the emolument for the purposes of calculating terminal/death gratuity.

Note: The words "Govt. servants" wherever occurs in these regulations shall be read as "Board employees".

Foot Note: Principal Regulation published in the G.O.I. Gazette with G.S.R. No. 146(E) dated 27-03-1980 with subsequent amendments in:

- (i) GSR No. 738 (E) dated 16-12-1991.
- (j) GSR No. 821(E) dated 21-10-1992.