

Acceptance of Employment after Retirement

CLASS I EMPLOYEES REGULATIONS, 1975. (Acceptance of Employment after Retirement)

In exercise of the powers conferred by section 28 of the Major Port Trusts Act, 1963 (38 of 1963), and in supersession of the existing regulations on the subject, the Board of Trustees of the Port of Bombay, with the approval of the Central Government, as required by sub-section (1) of section 124 of the said Act, hereby makes the following regulations, the same having been previously published in two successive issues of the Official Gazette, as required under sub-section (2) of the said section 124, namely :

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Form of Undertaking II

1. Short title and commencement

(1) These regulations may be called the Bombay Port Trust Class I Employees (Acceptance of Employment after Retirement) Regulations, 1975.¹

(2) They shall come into force on the date of publication of the sanction of the Central Government in the Official Gazette.²

1 Sanctioned by the Board by T.R.No.616 dated 11.11.1975 and by the Central Government vide MOST's letter No.PEB(86)/75 dated 8th January 1976.

2 Effective from 15th January 1976.

2. Application

These regulations shall apply to every employee who holds a class I post under the Board, but shall not apply to any such person if he is in part time employment or if he is on deputation from the Central or a State Government or other source.

3. Definitions

In these regulations, unless the context otherwise requires -

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

(b) "Class I post" means a post carrying a pay or a scale of pay the maximum of which is Rs.1,100 or more.

(c) "Commercial 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 or that of a contractor for or in connection with the execution of public works or of an employee of such contractor and includes also a directorship of such company and partnership of such firm, but does not include employment under a body corporate, wholly or a substantially owned or controlled by the Central or a State Government,

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

(a) has no professional qualifications and the matters in respect of which the practice is to be set up or carried on are relatable to his official knowledge or experience, or

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

(c) has to undertake work involving liaison or contact with the offices or employees of the Board.

Explanation - For the purpose of the clause, "employment under a co-operative society" includes the holding of any office, whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such society.

(d) "employee" means an employee of the Board.

(e) "date of retirement", in relation to an employee governed by contributory provident fund scheme, includes the date on which such employee, after having qualified for special contribution to Provident Fund, quits service.

4. Commercial employment within India

(1) No employee who has held a class I post under the Board immediately before retirement (whether governed by pension scheme or by contributory provident fund scheme) shall accept any commercial employment within India before the expiry of two years from the date of retirement without obtaining the previous permission of the Chairman.

(2) No such employee who has not obtained the previous permission of the Chairman shall be given any contract for or in connection with the execution of any works under the Board.

Note - A condition shall be incorporated in the terms of every contract for works 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 he had not obtained the necessary permission.

(3) Such an employee, whether governed by pension scheme or by contributory provident fund scheme, shall, before his retirement benefits are authorised to be paid, sign an undertaking that he shall not seek commercial employment within two years of his retirement without obtaining the previous permission of the Chairman.

(4) In case such an employee accepts a commercial employment without the previous permission of the Chairman within two years of his retirement, he shall –

(a) if governed by pension scheme, forfeit his pension in respect of the period for which he is so employed or for such longer period as the Chairman may direct; and

(b) if governed by contributory provident fund scheme, be liable to pay such compensation to the Board as the Chairman may determine for breach of the undertaking given by him under sub-regulation (3).

Provided that an employee who was permitted by the Chairman to take up a particular form of commercial employment during his leave preparatory to retirement, leave preparatory to final cessation of service or refused leave shall not be required to obtain fresh permission for his continuance in such employment, after retirement.

(5) In the case of an employee who has held a Class I post immediately before retirement in the Civil or Mechanical Engineering Department, irrespective whether he is employed in engineering or administrative duties, permission for employment, within two years of his retirement, as a contractor for or in connection with the execution of works for the Board, or as an employee of a contractor who has been awarded a contract for such works, may be given rarely and only in special circumstances.

(6) The application for permission to take up a commercial employment within two years of retirement shall be made in the form set out in the annexure to these regulations.

5. Reckoning of two-year period in case of re-employed employee

In the case of an employee who is re-employed after retirement, without any break, either in the same or another Class I post under the Board the period of two years shall be reckoned from the date on which he ceases to be so re-employed under the Board.

6. Employment after retirement under a Government outside India

(1) No employee, whether governed by pension scheme or by contributory provident fund scheme, who has held a Class I post under the Board immediately before his retirement shall accept any employment under any Government outside India without the previous permission of the Chairman.

(2) Such an employee shall, before his retirement benefits are authorised to be paid, sign an undertaking that he shall not seek any employment under any Government outside India without obtaining the previous permission of the Chairman.

(3) In case such an employee accepts an employment under a Government outside India without the previous permission of the Chairman, he shall

—

(a) if governed by pension scheme forfeit the pension in respect of the period for which he is so employed or for such longer period as the Chairman may direct, and

(b) if governed by contributory provident fund scheme be liable to pay such compensation to the Board as the Chairman may determine for breach of the undertaking given by him under sub-regulation (2).

Provided that an employee permitted by the Chairman to take up a particular form of employment under any Government outside India during his leave preparatory to retirement or final cessation of service or refused leave shall not be required to obtain fresh permission for his continuance in such employment after his 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 and control of a Government outside India, or an employment under an International Organisation of which the Government of India is not a member.

(4) Before granting permission to an employee to accept employment under a Government outside India under sub-regulation (1), the Chairman will obtain the concurrence of the Central Government.

7. Permission necessary even for employees officiating in Class I post

Permission for acceptance of commercial employment in India or employment under a Government outside India after retirement shall be necessary even in the case of an employee who immediately before retirement held a Class I post in an officiating capacity.

8. Interpretation

If any question arises relating to the interpretation of these regulations, the matter shall be referred to the Chairman whose decision thereon shall be final.

9. Repeal and Saving

Repeal and saving - All regulations corresponding to these regulations and in force immediately before the commencement of these regulations are hereby repealed.

Provided that any order made or any action taken under the regulations so repealed shall be deemed to have been made or taken under the corresponding provisions of these regulations.

ANNEXURE

Form of application to take up commercial employment within two years after retirement.

(See sub-regulation (6) of regulation 4)

1. Name of applicant :
2. Date of retirement :
3. Particulars of posts :
- held during the five :
- years immediately :
- preceding retirement :

Department	Post held	From	To
	Pay-scale Rs.		
(i)			
(ii)			
(iii)			

4. Pay and allowance :
- drawn immediately :
- before retirement :
5. Retirement benefits –
- (i) if governed by :
- contributory provident :
- fund scheme :
- (a) amount of the Board's :
- ordinary contribution :
- with interest thereon :
- (b) amount of the Board's :
- special contribution. :

(ii) if governed by pension scheme -

(a) amount of pension :

(expected/sanctioned)

(If a part of pension has

been commuted, details

thereof should be

mentioned)

(b) amount of death-cum- :

retirement gratuity

(expected/sanctioned)

6. Particulars of proposed employment –

(a) Name and address of company/ :

co-operative society/firm/

individual employer

(b) Had applicant any dealings :

with the company/co-operative

society/firm/individual employer

during the period of his

employment under the Board?

If so, the period and nature of

such dealings.

(c) Nature of the position offered :

(d) Was the position advertised ? :

If not, how was offer made ?

(e) Duties of the position offered :

(f) Does the proposed employment :
involve work of maintaining
liaison or contact with the
offices and employees of the
Board

(g) Remuneration offered :

(h) If proposed employment :
involves setting up of a
private practice,
particulars thereof

7. Any other information which :
the employee desires to
furnish

Place :

Date :

Signature of applicant

BOMBAY PORT TRUST

1. Form of undertaking to be given by Employees who have held Class I post immediately before retirement and who are governed by pension scheme.

[See regulations 4(1) and 6(2) of B.P.T. Class I Employees (Acceptance of Employment after Retirement) Regulations, 1975]

I hereby undertake that I shall not accept –

1. (i) commercial employment, as defined in clause (c) of regulation 3 of B.P.T. Class I Employees (Acceptance of Employment after Retirement) Regulations, 1975, (hereinafter referred to as the said Regulations, within India, within two years of my retirement, or
2. (ii) any employment under any Government outside India, at any time after retirement,

without obtaining the prior permission of the Chairman, Bombay Port Trust, as required by clause (1) of Regulation 4, or clause (1) of Regulation 5, as the case may be, of the said Regulations.

2. I understand that in the event of a breach being committed by me of the aforesaid undertaking, I am liable to forfeit my pension in respect of the period for which I am so employed, or for such longer period, as the Chairman may direct, in terms of the provisions of the said Regulations.

Signature _____

Name _____

Station _____

Designation

Date _____

Department

BOMBAY PORT TRUST

II. Form of undertaking to be given by Employees who have held Class I post immediately before retirement and who are governed by contributory provident fund scheme.

[See regulations 4(1) and 6(2) of B.P.T.Class I Employees (Acceptance of Employment after Retirement) Regulations, 1975]

I hereby undertake that I shall not accept –

- i. commercial employment, as defined in clause (c) of regulation 3 of B.P.T. Class I Employees (Acceptance of Employment after Retirement) Regulations, 1975, (hereinafter referred to as the said Regulations), within India, within two years of my retirement, or
- ii. any employment under any Government outside India, at any time after retirement,

without obtaining the prior permission of the Chairman, Bombay Port Trust, as required by clause (1) of Regulation 4, or clause (1) of Regulation 5, as the case may be, of the said Regulations.

2. I understand that in the event of a breach being committed by me of the aforesaid undertaking, I am liable to pay such compensation to the Bombay Port Trust, as the Chairman, Bombay Port Trust, may determine, in terms of the provisions of the said Regulations.

Signature _____

Name _____

Station _____

Designation

Date _____

Department
