

PENSION
REGULATIONS -

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A. J. : Pension etc

BOMBAY PORT TRUST
PENSION REGULATIONS

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BOMBAY PORT TRUST PENSION REGULATIONS

In exercise of the powers conferred by Section 22 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879), the Trustees of the Port of Bombay, with the approval of the Central Government, as required by the proviso to the said Section, hereby make the following regulations,* namely :-

[P.R.No.
937 dated
5th Oct.
1965]

Section I - General

1. These regulations may be called the Bombay Port Trust Pension Regulations.
2. They shall come into force with effect from 5th October 1965.
3. In these regulations unless there be something repugnant in the subject or context --
 - (a) "Chairman" means the Chairman of the Board referred to in sub-regulation (g) below.
 - ¹[(b) 'Class I', 'Class II', 'Class III' and 'Class IV' employees shall have the same meaning as assigned to them in the Bombay Port Trust Employees (Classification, Control and Appeal) Regulations, 1976.]
 - ²[(c) "Day" means a calendar day beginning and ending at midnight.
 - ²[(d) "Foreign Service" means service in which an employee receives his pay, with the sanction of the Trustees and also, if necessary, of the Central Government, from any source other than the revenues of the Trustees.

¹ Inserted
² Renumbered

by P.R.No.268 of 23-9-1980 and
MOSP Notification No.PEB-52/79
of 30-9-1981 (effective from
1-1-1973 in the case of class I
and class II posts and 1-1-1979
in the case of class III and
class IV posts..

- 1 [(e)] "Leave" means any kind of leave recognised by the leave regulations framed by the Board under section 22 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879).
- 1 [(f)] "Month" means a calendar month. In calculating a period expressed in terms of months and days, complete calendar months, irrespective of the number of days in each, should first be calculated and the odd number of days calculated subsequently.
- 1 [(g)] "Pension" includes gratuity and death-cum-retirement gratuity except when the term "pension" is used in contra-distinction to gratuity or death-cum-retirement gratuity.
- 1 [(h)] "Trustees" means "the Board" or "the Trustees of the Port of Bombay", referred to in section 4 of the Bombay Port Trust Act, 1879 (Bombay Act VI of 1879).

2 [4. These regulations apply :

- (i) To all employees appointed to the Trustees' service on or after 5th October 1965.
- (ii) To all other employees in the service of the Trustees on 4th October 1965 who have duly opted for the same in terms of the option that may be given to them.

Note:³ [(1) In the case of the 'A' Category Dock Shore Workers of the Docks Department, the date of appointment to the Trustees' service shall be reckoned, for the purposes of these regulations, as the date from which they have been continuously appointed to the 'A' Category.]

1 Renumbered by TR No.268 of 23-9-1980 and MCSR Notification No. PES-52/79 of 30-9-1981 (effective from 1-1-1973 in the case of class I and class II posts and 1-1-1979 in the case of class III and class IV posts.

2 Substituted by TR No.1234 of 1966 (w.e.f. 5-10-1965)

3 Numbered by TR No.1426 of 1971 (w.e.f. 1-1-1971)

Notwithstanding anything to the contrary contained in these regulations, 'B' Category Shore Workers of the Docks Department have been made eligible from 1st January 1971 for the benefit of these regulations. With effect from 1st January 1971 both in the case of 'A' Category Dock Shore Workers governed by these regulations and the 'B' Category Dock Shore Workers, the qualifying service will be computed in accordance with the proviso to sub-regulation 33(2).

5. An employee's claim to pension is regulated by the regulations in force at the time when his service with the Trustees terminates.

6. (a) Every pension shall be held to have been granted subject to the conditions contained in these regulations.

(b) In the matter of the application of these regulations and in respect of matters not specifically provided for herein, the corresponding provisions of the Civil Service Regulations or the Liberalised Pension Rules or the Civil Pensions (Commutation) Rules or the Family Pension Scheme for Central Government Employees, 1964, as the case may be, of the Government of India, and the various orders issued thereunder, from time to time, shall be deemed to be applicable in so far as they are not inconsistent with the provisions of these regulations and in so far as they can be adapted to the Trustees' service but subject to such exceptions and modifications as the Trustees may, from time to time, determine.

1 Inserted by T.R.No.1426 of 1971 (with effect from 1-1-1971).

Copy's @ No P/CEE-C/2830 dtd. 18.5.79 addressed to all NODS cases reg. service to pension, D.C.R. & Commutn. are disposed by the authorities specified below:

Class I *Maximum of pay scale* *Chairman*
(exclusive of Allow) *By Chairman*
Not covered by above
Class II *M (SAM)*

Other cases
Ex Gr. payment (CA/PAY/GEN-(XIV) → S.A.O. (P)
9/3/1979) Approved by FA & CA on 15/2/79

¹[(c) If any question arises relating to the interpretation of these regulations, the decision of the Board thereon shall be final and conclusive.]

²[7. (1) Future good conduct shall be an implied condition of every grant of pension. The Trustees may, by order in writing, withhold or withdraw a pension or part thereof whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.

(2) Where a pensioner is convicted of a serious crime by a Court of Law, action under sub-regulation (1) shall be taken in the light of the judgment of the court relating to such conviction.

(3) In a case not falling under sub-regulation (2), if the Trustees consider that the pensioner is prima facie guilty of grave misconduct, they shall before passing an order under sub-regulation (1) —

(a) serve upon the pensioner a notice specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit within fifteen days of the receipt of the notice or such further time, not exceeding fifteen days, as may be allowed by the Trustees such representation as he may wish to make against the proposal; and

(b) take the representation, if any, submitted by the pensioner under clause (a) into consideration.

Note: Except to the extent provided for in regulation 8, no recovery of any amount due to the Trustees can be made from the pension save at the request and with the express consent of the pensioner.]

¹ Inserted by TR No.503 of 1966 (w.e.f. 10-5-1966)

² Substituted by TR No.1113 of 1968 (w.e.f. 31-12-1968).

8. The Trustees further reserve the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to the Trustees or if in departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of his service, including service rendered upon re-employment after retirement:

Provided that -

- (a) such departmental proceedings, if instituted while the employee was in service, whether before his retirement or during his re-employment, shall, after the final retirement of the employee, be deemed to be a proceeding under this regulation and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service;
- (b) such departmental proceedings, if not instituted while the employee was in service, whether before his retirement or during his re-employment—
 - (i) shall not be instituted save with the sanction of the Trustees;
 - (ii) shall not be in respect of any event which took place more than four years before such institution; and
 - (iii) shall be conducted by such authority and in such place as the Trustees may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the employee during his service;

*Fix the pension - TR-1288 of 1970
Reserving authority C.A.*

- (c) no such judicial proceedings, if not instituted while the employee was in service whether before retirement or during his re-employment, shall be instituted in respect of a course of action which arose or an event which took place more than four years before such institution.

Explanation : For the purposes of this regulation —

- (a) a departmental proceeding shall be deemed to be instituted on the date on which the statement of charges is issued to the employee or pensioner, or, if the employee has been placed under suspension from an earlier date, on such date; and
- (b) a judicial proceeding shall be deemed to be instituted —
- (i) in the case of a criminal proceeding, on the date on which the complaint or report of the police officer, of which the Magistrate takes cognizance, is made, and
- (ii) in the case of a civil proceeding, on the date of presentation of the plaint in the Court.

Note: In a case in which a pension as such is not withheld or withdrawn but the amount of any pecuniary loss, caused to the Trustees, is ordered to be recovered from the pension, the recovery should not ordinarily be made at a rate exceeding one-third of the gross pension, originally sanctioned, including any amount which may have been commuted.

8A. (1) Where any departmental or judicial proceeding is instituted under regulation 6 or where a departmental proceeding is continued under sub-regulation (a) of the proviso thereto against an employee who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding, final orders are passed, a provisional

pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or, if he was under suspension on the date of retirement upto the date immediately preceding the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders thereon.

(2) Payment of provisional pension made under sub-regulation (1) shall be adjusted against the final retirement benefits, sanctioned to such an employee upon conclusion of the aforesaid proceeding, but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period.

Note : The grant of pension under this regulation shall not prejudice the operation of regulation 29 when final pension is sanctioned upon conclusion of the proceeding.

9. In the following cases no claim to pension is admitted :-

- (a) when an employee is appointed for a limited time only, or for a specified duty, on the completion of which he is to be discharged.
- (b) when a person is employed temporarily on monthly wages without specified limit of time or duty.
- (c) when a person's whole time is not retained for the Trustees' service, but he is merely paid for work done for the Trustees or when a person is employed on a part-time basis.
- (d) when a person holds some other pensionable office, he earns no pension in respect of an office of the kind mentioned in sub-regulation (c).
- (e) when an employee serves under a covenant which contains no stipulation regarding pension, unless the Trustees specially authorise an employee to count such service towards pension.

10.(a) No pension may be granted to an employee dismissed or removed for misconduct, insolvency or inefficiency; but to employees so dismissed or removed compassionate allowance may be granted by the Trustees when they are deserving of special consideration :

Provided that the allowance granted to any employee shall not exceed two-thirds of the pension which would have been admissible to him if he had retired on medical certificate.

(b) An employee compulsorily retired from service as a penalty may be granted pension at a rate not less than two-thirds and not more than the full invalid pension admissible to him on the date of his compulsory retirement.

10A. Where any compensation is payable to any employee under the Industrial Disputes Act, 1947, in respect of the termination of his service under circumstances entitling him to pensionary benefits under these regulations, the pensionary benefits will be reduced to the extent of the compensation payable under that Act.

11. An employee cannot earn two pensions in the same office at the same time, or by the same continuous service.

Section II - Classification of Pension

12. Pensions are divided into the following four classes :-

- (a) Compensation pension
- (b) Invalid pension
- (c) Superannuation pension
- (d) Retiring pension