

- (a) the amount subscribed by him to his Provident Fund under Regulation 8 of the Bombay Port Trust Regulations of the Provident Fund during the last 12 months of service immediately preceding the date of retirement or death

OR

- (b) "pay" as defined in Article 11(11) of the Trustees' Digest of Pay and Allowances, etc., 9th edition, which the employee was drawing or entitled to draw immediately before his retirement/death plus (i) Dearness Allowance and Compensatory (City) Allowance appropriate to such pay and (ii) the cash value of any food concession or free rations or any payment in cash in lieu of free rations or a part thereof, and also Processing Allowance at the following rates :-

	Rs
'A' and 'B' Category Shore Mandooers	16.42
Morpias	17.94
Crane Drivers, Hydraulic, 5 & 6 tons and 35 cwt. and Crane Drivers, Electric, 3 & 6 tons	18.98

whichever is more.

Notes:

- (1) In the case of an employee who was not eligible to subscribe to the Provident Fund under the Bombay Port Trust Regulations of the Provident Fund either in respect of the whole period of 12 months referred to above or a part thereof, the amount subscribed by him in respect of such period shall be taken to mean what it would have been under Regulation 8 of the Bombay Port Trust Regulations of the Provident Fund had he been eligible to subscribe.
- (2) In the case of Dock Shore Workers in Category 'A' and Crane Drivers, Hydraulic, 5 & 6 tons and 35 cwt., and Crane Drivers, Electric, 3 & 6 tons, their pay for the purposes of the above Regulation means their pay in the appropriate monthly scales of pay attached to their respective posts.

Notes:

- (1) If an employee immediately before his retirement or death while in service had been absent from duty on leave for which leave salary is payable or having been suspended had been reinstated without forfeiture of service, the emoluments which he would have drawn had he not been absent from duty or suspended shall be the emoluments for the purpose of this regulation:

Provided that any increase in pay (other than the increment referred to in Note (4)) which is not actually drawn shall not form part of his emoluments.

- (2) Where an employee immediately before his retirement or death while in service had proceeded on leave for which leave salary is payable after having held a higher appointment whether in an officiating or temporary capacity, the benefit of emoluments drawn in such higher appointment shall be given only if it is certified that the employee would have continued to hold the higher appointment but for his proceeding on leave.
- (3) If an employee immediately before his retirement or death while in service had been absent from duty on extraordinary leave or had been under suspension, the period whereof does not count as service, the emoluments which he draw immediately before proceeding on such leave or being placed under suspension shall be the emoluments for the purposes of this regulation.
- (4) If an employee immediately before his retirement or death while in service was on earned leave or leave on average pay, as the case may be, and accrued an increment which was not withheld,
- (a) during the currency of the earned leave not exceeding one hundred and twenty days, or during the first one hundred and twenty days of earned leave exceeding one hundred and twenty days, or
- (b) during the currency of leave on average pay not exceeding four months, or during the first four months of leave on average pay exceeding four months,

such increment, though not actually drawn, shall form part of his emoluments.

- (3) In the case of Dock Shore Mazdoor in Category 'B', his pay for the purpose of the above Regulations means his pay at the lowest stage of the incremental scale of pay of a 'A' Category Mazdoor plus Rs 6 in the case of such of the 'B' Category Mazdoors as were on the register on 1st January 1969.
- (4) 'B' Category Shore Workers of the Docks Department were brought under the Pension Regulations with effect from 1st January 1971 only. /

45 E. In the case of retirement/death while in service on or after 1.1.1979 of class III and class IV employees who opt for the definition of "pay" for pension as applicable to the Central Government employees, the term 'emoluments' means pay as defined in Article 11(11) of the Statutes' Digest of Pay and Allowances, Leave and Pension Regulations, 9th Edition.

Provided that the 'emoluments' for the calculation of Service Gratuity, Death-cum-Retirement Gratuity and Family Pension will be enhanced by the following amounts in the case of :

	Rs.
'A' and 'B' Category Shore Mazdoors	16.12
Marpins	17.94
Crane Drivers, Hydraulic, 5 & 6 tons and 35 cwt. and Crane Drivers, Electric, 5 & 6 tons.	18.98

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Provided further that in the case of employees who are governed by the Payments by Result Scheme, piece-rate earnings, incentive payments and such other payments which attract liability to contribute to Provident Fund will also continue to be treated as 'emoluments' for calculation of 'average emoluments'.

1 Inserted by T.R.No.268 dated 23-9-1980 and MOST's Notification No.PEB-52/79 dated 30-9-1981 (Effective from 1-1-1973 in case of class I and class II employees and 1-1-1979 in case of class III and class IV employees).

[44.A] The term "Average Emoluments" means the average calculated upon the last three years of service.

- (1) If during the last three years of his service, an employee has been absent from duty on leave other than extraordinary leave or having been suspended, has been reinstated without forfeiture of service, his emoluments, for the purpose of ascertaining the average, should be taken, as what they would have been had he not been absent from duty or suspended:

Provided always that except as provided in sub-regulation (1-A) and the proviso to Note (1) below Regulation 43 his pension must not be increased on account of increase in pay not actually drawn.

- (1-A) In the case of an employee who, while on leave preparatory to retirement, is confirmed in the higher post which he held in an officiating or temporary capacity before proceeding on such leave, his substantive emoluments in the higher post, which he would have drawn had he been on duty, shall be taken into account for the purpose of calculation of average emoluments.

- (2) If during the last three years of his service, an employee has been absent from duty on leave without allowances (not counting for pension) or suspended under such circumstances that the period of suspension does not count as service, the periods so passed should be disregarded in the calculation of the average, an equal period before the three years being included.

¹ Renumbered by T.R.No.268 dated 23-9-1960 and MOST's Notification No. PEB-52/79 dated 30-9-1981.

(3) Excepting as provided in sub-regulations (1) and (2) only, emoluments actually received can be included in the calculation. For example, when an employee is allowed to count time retrospectively towards increase of pay, but does not receive retrospectively the intermediate periodical increments, the intermediate increments are not reckoned in the calculations.

Notes:

- (1) In the case of Crane Drivers, Hydraulic, 5 & 6 tons and 35 cwt., and Crane Drivers, Electric, 3 and 6 tons the "average emoluments" shall be worked out on the basis of the monthly scales of pay attached to the posts of Crane Driver as above and not on the basis of their piece-rate earnings.
- (2) However, in the case of the employees listed in Note (1) above, the "average emoluments" worked out on the basis of Regulation 44 read with Note (1) above shall be increased by the average monthly processing allowance calculated on the following basis during the period of three years (including periods of leave with/without allowances and periods of suspension not counting as service) immediately preceding the date of retirement :-
 - (i) At 75 Paise per day for all days on which the employee is engaged, either for the whole day or for a part of the day, in work for which payment is made at piece-rates.
 - (ii) At 75 Paise for each day on which the employee is unemployed and is paid only his daily wages plus differentials provided that he was engaged, either wholly or partially, in piece-rate work on the immediately preceding day.
 - (iii) No such processing allowance shall be taken into account for any day on which the employee is engaged wholly in time-rate work or is absent due to the day being a holiday or Sunday or for other reasons or is on leave or is engaged in work falling outside the scope of the piece-rate scheme. Also, no such processing allowance shall be taken into account for a day on which the employee is unemployed and receives only his daily wage plus differentials but did not handle any piece-rate work on the immediately preceding day.

(iv) The processing allowance worked out as above shall be divided by 36 to arrive at the average processing allowance to be added to the 'average emoluments' as separately worked out on the basis of Regulation 44 read with Note (1) above.

¹ (3) In the case of the 'A' Category Dock Shore Workers of the Docks Department the 'average emoluments' shall be worked out on the basis of the monthly scales of pay attached to their respective posts and not on the basis of their piece-rate earnings.

(4) However, in the case of the 'A' Category Mazdoors and Morpias, the 'average emoluments' worked out on the basis of Regulation 44 read with Note (3) above shall be increased by the average monthly processing allowance calculated on the following basis during the period of three years (including periods of leave with or without allowance and periods of suspension not counting as service), immediately preceding the date of retirement :

(i) At 62 Paise per day in the case of a Mazdoor and at 69 Paise per day in the case of a Morpia for all days on which the employee is engaged, either for the whole day or for a part of the day, in work for which payment is made at piece-rates.

(ii) At 62 Paise in the case of a Mazdoor and at 69 Paise in the case of a Morpia for each day on which the employee receives attendance allowance provided that he was engaged either wholly or partially in piece-rate work on the immediately preceding day.

(iii) No such processing allowance shall be taken into account for any day on which the employee is engaged wholly in time-rate work or receives attendance allowance but did not handle any piece-rate work on the immediately preceding day or is engaged in work falling outside the scope of the piece-rate scheme or is on leave or is absent due to the day being a holiday or Sunday or for other reasons.

¹ Inserted by T.R.No.1234 of 1966 (w.o.f. 5-10-1965)

(iv) The processing allowance worked out as above shall be divided by 36 to arrive at the average processing allowance to be added to the 'average emoluments' as separately worked out on the basis of Regulation 44 read with Note (3) above.]

¹/(5) The provisions of Notes (3) and (4) in so far as they pertain to 'A' Category Dock Shore Mazdoors will apply mutatis mutandis to the 'B' Category Dock Shore Mazdoors with effect from 1st January 1971. The average emolument in the case of 'B' Category Shore Mazdoors shall mean the lowest stage of the incremental monthly scale of pay attached to the post of 'A' Category Dock Shore Mazdoor plus Rs 6 in the case of such of the 'B' Category Mazdoors as were on the register on the 1st January 1969.]

²44 B. In the case of a class I and class II employee retiring from service on or after 1-3-1976 and in the case of a class III and class IV employee retiring from service on or after 1-1-1979, the term 'average emoluments' means the average calculated upon the last ten months of service.

Provided that in the case of an employee eligible for payment under any type of Payment by Result Schemes the period of authorised leave other than Casual Leave, authorised absence or period under suspension during the period of ten months prior to the date of retirement shall be disregarded in the calculation of average emoluments and equal period spent on duty before the last ten months shall be included.

Note: While the period to be taken for calculation of average emoluments has been reduced, the other provisions of regulation 44 A will continue to apply mutatis mutandis.

45. Any part of an employee's pay or emoluments, which is specially intended to provide for expenses incidental to his duty, will be excluded.

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- 1 Inserted by T.R.No.1426 of 1971 (with effect from 1-1-1971)
 - 2 Inserted by T.R.No.265 of 23-9-1960 and MOST's Notification No.PNB-52/79 dated 30-9-1961 (Effective from 1-1-1975 in case of class I and class II employees and 1-1-1979 in case of class III and class IV employees).

Section VIII - Acceptance of commercial appointment
or employment under a Government
outside India after retirement

46. (a) If a pensioner, who immediately before retirement was holding a post the maximum of the pay scale attached to which is Rs.1,000 or above wishes to accept any commercial appointment before the expiry of two years from the date of his retirement, he should obtain the previous sanction of the Trustees to such acceptance. No pension shall be payable to a pensioner who accepts a commercial appointment without such sanction in respect of any period for which he is so employed or such longer period as the Trustees may direct:

Provided that an employee permitted by the appropriate authority to take up a particular form of commercial employment during his leave preparatory to retirement shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

(b) In this Regulation "commercial appointment" means employment in any capacity including that of an agent, under a company, cooperative society (other than a cooperative society whose membership is restricted to the Trustees' employees only), firm or individual engaged in trading, commercial, industrial, financial or professional business and includes also directorship of such company and a partnership of such firm.

Notes:

- (1) The expression "the date of retirement" in relation to an employee re-employed by the Trustees after retirement, without any break, either in the same or in another post of the above description shall mean the date on which such employee finally ceases to be so re-employed in the Trustees' service.

- (2) For the purpose of this Regulation employment under a cooperative society shall include the holding of any office, whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like but by whatever name called in such a society.
- (3) Normally, permission for the acceptance of a commercial appointment will be granted unless the Trustees consider --
- (a) that the pensioner while in service had any such dealings with the proposed employer as might provoke the suspicion that he had shown favour to the latter;
 - (b) that his duties will be such as might bring him in conflict with the Trustees or that the knowledge and experience gained while in Trustees' service could be used to give the proposed employer an undue advantage;
 - (c) that the employment is not of a thoroughly reputable kind.

46A. (a) If a pensioner, who immediately before retirement was held a post the maximum of the pay scale attached to which is Rs. 1,000 or over, wishes to accept any appointment under a Government outside India, he should obtain the previous sanction of the Trustees to such acceptance. No pension shall be payable to a pensioner who accepts such an employment without proper permission in respect of any period for which he is so employed or such a longer period as the Trustees direct.

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

(b) For the purpose of this Regulation "employment under a Government outside India" shall include 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.

(c) Before granting the permission under this Regulation the Trustee will obtain the concurrence of the Government of India.

Section IX - Applications for and grant of pensions

47. Every employee shall submit a formal application for pension in Form 'E'. An employee should, in his own interest, submit his formal application for pension to the Head of the Department in which he is working one year in advance of the date of his actual or anticipated retirement.

Provided that --

- (i) in cases in which the date of retirement cannot be foreseen one year in advance, the application shall be submitted immediately after the date of retirement is settled;
- (ii) an employee proceeding on leave preparatory to retirement (other than post-superannuation leave) in excess of one year shall submit the application at the time of proceeding on such leave;
- (iii) an employee proceeding on post-superannuation leave preparatory to retirement shall submit the application one year before proceeding on such leave.