

(9) As in the case of the grant of an ordinary pension, the good conduct of the recipient is an implied condition of every grant of a pension under this regulation. The Trustees reserve the right of withholding or withdrawing such a pension or any part of it if the recipient be convicted of serious crime or be guilty of grave misconduct and Trustees' decision in such matters will be final.

(10) The procedure to be followed in respect of claims arising under this regulation shall be such as may be prescribed by the Chief Accountant from time to time.

Notes: (1) Where both husband and wife are the Trustees' employees, the regulation does not debar such an employee pensioner from drawing family pension in addition to his/her pay or pension. In the event of the death of the father and mother, who were both employees, the minor children will be eligible to draw two pensions, subject to a total of Rs 150 per month, provided both the employees are entitled to family pension benefit under this regulation. (M 22)

(2) Notwithstanding anything contained in any other regulation, and subject to the provisions of Note (3) below, the family pension scheme is applicable to all permanent and temporary employees who are subject to the Bombay Port Trust Pension Regulations and who, in the event of death while in service, have completed <sup>at least</sup> ~~not~~ less than one year's continuous service as defined in Note below sub-regulation 32(1)(i).

(3) The family pension scheme under this regulation is not applicable to (i) persons re-employed in the Trustees' service after retirement unless the scheme was applicable to them on retirement preceding the re-employment, (ii) persons paid from contingencies, (iii) persons appointed on contract, (iv) casual and daily-rated employees and (v) persons appointed for a specific period on a specific job.

1 Deleted and re-numbered } by TR No.1254 of 1966 (with effect from 5-10-1965)

739

<sup>1</sup> (4) In the case of 'A' and 'B' category Dock Shore Workers of the Docks Department, the period of ~~less than~~ one year's continuous service shall be reckoned in the manner indicated in the Note below sub-regulation 32(1)(i). 'C' Category Mazdoor are excluded from the purview of the Pension Regulations and hence the Family Pension Scheme does not apply to them.]

<sup>2</sup> (11) (a) With effect from <sup>1st</sup> January 1969, i.e., in respect of family pension becoming payable for the first time on or after 1st January 1969, "pay" for the purposes of this regulation shall be same as emoluments as defined in regulation 43D.]

<sup>3</sup> (b) With effect from <sup>1st April 1983</sup> 1st March 1970 the minimum monthly family pension of Rs. <sup>40</sup> ~~25~~ specified against entry No. 3 of the table in sub-regulation (2) above shall be increased to Rs. <sup>150 (including P.R.)</sup> 40. Likewise, the monthly family pension under this regulation as on <sup>1st April 1983</sup> 1st March 1970, shall be increased to Rs. <sup>150 (including P.R.)</sup> 40 with effect from <sup>1st April 1983</sup> 1st March 1970, i.e., beginning with the family pension for the month of <sup>April 1983</sup> March 1970 payable in <sup>April 1983</sup> April 1970.]

<sup>4</sup> (12) (a) With effect from 1-10-1975, the families of the employees who retired or died prior to 1-1-1969, will be granted relief as mentioned below :-

(i) A relief to the extent of 25% of pension drawn from time to time subject to a minimum of Rs. 25 and maximum of Rs. 125 per mensem on an ad hoc basis;

- 
- 1 Inserted by T.R.No.1426 of 1971 (with effect from 1-1-1971)
  - 2 Inserted by T.R.No. 806 of 1973 (with effect from 1-1-1969)
  - 3 Re-numbered by TR No.806 of 1973 (with effect from 1-3-1970)
  - 4 Inserted by T.R.No.55 dated 28th February 1979 and MOST's letter No. PW/PEB-15/78 dated 27th April 1982.

(ii) In addition to the relief mentioned in (i) above ad hoc relief on the following rates are also admissible :-

Family Pension Range	<u>Ad hoc</u> relief in pension
(Based on original pension or on Rs.40 the minimum, whichever is more)	
1. Below Rs.85	Rs.15
2. Rs.85 and above but less than Rs.210	Rs.21
3. Rs.210 and above but less than Rs.500	Rs.25
4. Rs.500 and above	Rs.35

The quantum of relief in (i) above will be calculated on the amount which is arrived at on the following basis :

- (a) Original pension
- (b) Ad hoc relief as mentioned in (ii) above.

(b) With effect from 1-4-1977 a further relief on an ad hoc basis in addition to (a) above will be granted to the extent of 5% of pension subject to a minimum of Rs.5 and a maximum of Rs.25.7

Section VI - Qualifying Service

33. (1) (a) Except for compensation gratuity, an employer's service does not qualify till he has completed eighteen years of age.

(b) In other cases, the service of every employee begins when he takes charge of the office to which he is first appointed.

(2) Continuous temporary or officiating service under the Trustees, followed without interruption by confirmation in the same or another post, shall count in full as qualifying service except in respect of -

(i) periods of temporary or officiating service in non-pensionable establishment;

(ii) periods of casual-daily-rated service; and

(iii) periods of service paid from contingencies.

Provided that in respect of an employee who elects to be governed by these regulations in terms of the option given to him under regulation <sup>1</sup>[4(ii)], the continuous daily-rated service put in by him prior to 1st May 1946 shall, subject otherwise to the provision of this sub-regulation, count as service qualifying for pension.

<sup>2</sup>[Provided further that in the case of 'A' and 'B' Category Shore Workers of the Docks Department, the service put in by them in the 'A' and/or 'B' Categories but excluding therefrom periods of absence in circumstances not entitling them to wages or leave salary or holiday wages or attendance allowance shall, for the purposes of these regulations, be treated as qualifying for pension.

1 Substituted by T.R.No.1234 of 1966 (with effect from 9-10-1966)

2 Substituted by T.R.No.1196 of 1971 (with effect from 1-1-1971)

Provided further that, notwithstanding anything to the contrary contained in any other regulation, in the case of 'A' and 'B' Category Shore Workers of the Docks Department, their entire period of continuous enlistment as 'C' Category Mazdoors in excess of the first four years will be reckoned as qualifying service.]

(3) The service of an employee will not qualify for pension unless it conforms to the following three conditions :-

First - The service must be under the Trustees, i.e., the employee's appointment, duties and pay should be regulated by the Trustees or under conditions determined by the Trustees.

Second - The employment must be substantive and permanent.

Provided that in the case of an employee holding in a substantive capacity a permanent post on the date of his retirement, temporary or officiating service under the Trustees followed without interruption by confirmation in the same or another post shall count in full as qualifying service except in respect of :

- (i) periods of temporary or officiating service in non-pensionable establishment;
- (ii) periods of casual or daily-rated service except to the extent provided for under the proviso to sub-rule 33(2); and
- (iii) periods of service paid from contingencies.

Note: Notwithstanding anything contained in any other set of regulations applicable to non-scheduled employees, a non-scheduled employee will be deemed to be holding, in a substantive capacity, a permanent post only if he has been confirmed in a non-scheduled permanent post.

Third - The service must be paid for from the Trustees' revenues.

(4) The Trustees may, however, in the case of service paid from their revenues, even though either or both of the first two conditions mentioned in sub-regulation (3) are not fulfilled —

- (a) declare that any specified period of service rendered as a class III or class IV employee shall qualify for pension;
  - (b) in individual cases, and subject to such conditions as they may think fit to impose in each case, allow service rendered by an employee to count for pension.
- (5) (a) Service as an apprentice does not qualify.  
(b) Service as a probationer followed by confirmation in a post on pensionable establishment qualifies.
- (6) (a) When an employee is deputed out of India on duty, the whole period of his absence from India counts.  
(b) Foreign service in respect of which pension contributions have been received or remitted by the Trustees count as qualifying service.  
(c) Periods of disablement and consequent absence from duty following an injury sustained by an employee in the course of or arising out of his employment, which is not covered by special disability leave (injury leave) or other regular leave count as qualifying service provided such absences are covered by payment of compensation under the Workmen's Compensation Act, 1923.

Explanation : For the purposes of this sub-regulation the waiting period, if any, during which no compensation is payable shall be deemed to be a period covered by payment of compensation.



(7) An employee appointed to a post may add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one-fourth of his length of service or the actual period by which his age at the time of recruitment exceeds twenty-five years or a period of five years, whichever is least, if the post is one to which candidates of not less than twenty-five years of age are normally recruited.

Provided that this concession shall not be admissible to any such employee unless his actual qualifying service at the time he quits the Trustees' service is not less than ten years.

Note: The concession, under this sub-regulation, of adding a certain number of years to his qualifying service is admissible only if the employee is directly appointed to the particular post in question and not if he is appointed to that post while holding any other post under the Trustees. The Trustees will, from time to time, prepare a list of such posts in respect of which the concession under this sub-rule may be extended.

1/34. Periods of leave - With the exception of extraordinary leave, all periods of leave taken by an employee under the various leave regulations of the Trustees shall count as qualifying service. Extraordinary leave may be allowed to count for the pensionary benefits, at the discretion of the Chairman, in the following circumstances, viz., (1) if it is taken on medical certificates (2) if it is taken due to the inability of the person concerned to join or re-join duty due to civil commotion or natural calamity, provided that he has no other type of leave to his credit or (3) if it is taken for prosecuting higher scientific and technical studies.

1 Substituted by T.R.No.1439 of 1972 (with effect from 22-2-1974).

35. Notwithstanding the provisions of Regulation 34, refused leave granted under Article 65 or Rule 5B of Appendix 'D' of the Bombay Port Trust Digest of Pay and Allowances, Leave and Pension Rules, 9th Edition, or Article 85 of the Bombay Port Trust Digest of Pay and Allowances, Leave and Pension Rules, 7th Edition, or Rule 6 of Appendix 'D' to the Bombay Port Trust Rules and Regulations for Non-Scheduled Staff or Rule 10 in Chapter 27 of the Bombay Port Trust Railway Service Rules, 4th Edition, and post superannuation leave preparatory to retirement granted under Article 65 or Rule 5(A) in Appendix 'D' of the Bombay Port Trust Digest of Pay and Allowances, Leave and Pension Rules, 9th Edition, or Article 86 of the Bombay Port Trust Digest of Pay and Allowances, Leave and Pension Rules, 7th Edition, or Chapter 6 of the Bombay Port Trust Railway Service Rules, 4th Edition, shall not count as qualifying service.

Note: An employee granted 'refused' leave or post-superannuation leave preparatory to retirement shall be deemed to have quitted service from the date of compulsory retirement or on the expiry of extension of service, as the case may be, and the retirement benefits under these Regulations will be payable to him immediately after the date of compulsory retirement or on the expiry of extension of service, as the case may be, without waiting for the expiry of the 'refused' leave or the post superannuation leave preparatory to retirement. However, leave salary admissible during 'refused' leave or the post superannuation leave preparatory to retirement will be the same as admissible in the normal course reduced by the pension and the pension equivalent of the other retirement benefits under these Regulations.

36. The Trustees may at their discretion decide in the case of an employee (including a person on training for, but not actually appointed to, the Trustees' service) who is selected to undergo a course of training whether the time spent in training shall count as service qualifying for pension.

service  
 r class  
 is kind  
 e of  
 ars,  
 of more  
 a to  
 o time  
 adding  
 vice  
 ad not  
 any  
 ill,  
 a in  
 -rule  
 ary  
 various  
 service  
 y  
 ed to  
 by,  
 (5) if  
 studies



37. Periods of suspension - Time passed under suspension pending inquiry into conduct counts in full where, on conclusion of the inquiry, the employee has been fully exonerated or the suspension is held to have been wholly unjustified; in other cases, the period of suspension will not count unless the Trustees expressly declare at the time that it shall count, and then it shall count only to such extent as the Trustees may declare.

38. Resignation and Dismissals - Resignation from the Trustees' service or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.

39. (a) An employee who is dismissed, removed or compulsorily retired from the Trustees' service, but is re-instated on appeal or revision, is entitled to count his past service.

(b) The period of break in service between the date of dismissal, removal or compulsory retirement, as the case may be, and the date of reinstatement, and the period of suspension, if any, shall not count unless regularised as duty or leave by a specific order of the authority which passed the order of reinstatement.

40. Interruptions -

(1) An interruption in the service of an employee entails forfeiture of his past service, except in the following cases :-

- (a) Authorised leave of absence
- (b) Unauthorised absence in continuation of authorised leave of absence only for so long as the office of the absentee is not substantively filled; if his office is substantively filled, the past service of the absentee is forfeited.

- (c) Suspension where it is immediately followed by reinstatement, whether in the same or a different office, or when the employee dies or is permitted to retire or is retired while under suspension.
- (d) Abolition of office or loss of appointment owing to reduction of establishment.
- (e) Transfer to non-qualifying service in an establishment under the Trustees. The transfer must be made by the competent authority; an employee who resigns qualifying service cannot claim the benefit of this exception.

(2) The Trustees may, subject to the following conditions, condone interruptions in service (either between two spells of permanent or temporary service or between a spell of temporary service and permanent service or vice versa) :-

- (a) the interruptions should have been caused by reasons beyond the control of the employee concerned;
- (b) service preceding the interruption should not be of less than five years' duration and in cases where there are two or more interruptions, the total service, the pensionary benefits in respect of which will be lost if the interruptions are not condoned, should not be less than five years; and
- (c) the interruptions should not be more than of one year's duration. In cases where there are two or more interruptions, the total of the periods of all interruptions that are condoned should not exceed one year.