

## **THE COCHIN PORT EMPLOYEES (TEMPORARY SERVICE) REGULATIONS, 1964.**

G.S.R. 311 : - 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 Cochin Port Employees (Temporary Service) Regulations, 1964.
- (2) They shall come into force on the 29th day of February, 1964.
- (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 the Board.

These regulations shall not, however, apply to:-

- (i) Employees engaged on contracts ;
- (ii) Employees not in whole time employment;
- (iii) Employees paid out of contingencies;
- (iv) Persons employed in extra temporary establishment, if any, or in work charge establishments;
- (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 Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964.
- (ii) "Board", "Chairman", "Deputy Chairman", and "Head of Department" shall have the same meanings assigned to them in the Major Port Trusts Act, 1963.
- (iii) "Employee" means an employee of the Board;
- (iv) <sup>1</sup>(Deleted)
- (v) <sup>1</sup>(Deleted)
- (vi) "temporary service" means officiating service in a temporary or in a permanent post under the Board;
- (vii) "service" under the Board means temporary service under the Board.

3. <sup>1</sup>(Deleted)

4. <sup>1</sup>(Deleted)

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<sup>1</sup> Deleted vide Ministry's notification No. PR-12016/29/94-P.E.I and published in the Gazette of India under G. S. R. No. 644 (E) dated 16-8-94

## 5. <sup>1</sup>[Termination of Temporary service

(1) (a) The services of a temporary employee shall be liable to termination at any time by a 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 and on such termination the employee shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services or, as the case may be, for the period by which such notice falls short of one month.

**NOTE:** The following procedure shall be adopted by the 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 with acknowledgement due at the address of the employee available with the appointing authority
- (iii) If the notice sent by Registered post is returned unserved, 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 services of temporary employee, or where the services of such employees are terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowance, the Board or any other authority specified by the Board in this behalf or a Head of Department, if the authority is subordinate to him, may, of its own motion or otherwise, re-open the case, and after making such enquiry as it deems fit,-

- (i) Confirm the action taken by the Appointing Authority;
- (ii) Withdraw the notice,
- (iii) re-instate the employee in service, or
- (iv) make such other order in the case as it may consider proper.

<sup>2</sup>[Provided that except in special circumstances, which should be recorded in writing, no case shall be reopened under this Sub-regulation after the expiry of three months :

- (i) from the date of notice, in a case where notice is given;
  - (ii) from the date of termination of service, in a case where no notice is given;
- (b) where an employee is reinstated in service under Sub-regulation (2), 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 his service and the date of his reinstatement, and
  - (ii) "whether the said period shall be treated as a period spent on duty for any specified purpose or purposes."]

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<sup>1</sup> Substituted vide Ministry's notification No. PR-12016/29/94-P.E.I and published in the Gazette of India under G. S. R. No. 644 (E) dated 16-8-94

<sup>2</sup> Inserted vide Ministry's notification No. PR-12016/29/94-PE and published in the Gazette of India under G. S. R. 81 (E) dated 8-2-1996

- (1-B) In the case of a temporary employee who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further service under the Board by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought Voluntary retirement by giving three months notice in writing on completion of 20 years, provisions of the Sub-Regulation (1) shall not apply and in accordance with the provisions of Central Civil Services (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 a 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 employees under the CCS (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 on superannuation or retiring pension.

Provided that a temporary employee who resigned from service to taken up, with prior permission, an appointment under a corporation or company wholly or substantially owned or controlled by the Government or in or under a Body controlled or financed by Government shall be paid terminal gratuity at the rate prescribed under Sub-Regulation (1) in respect of service rendered by him under the Board.

Provided further that a temporary employee who has been absorbed in a Central Autonomous Body, with the permission of the competent authority, shall have an option to count the service rendered under the Board, for the purpose of pension under the Autonomous Body if it has a pension scheme, instead of drawing the terminal gratuity under the first proviso.

**Explanation:-** For the purpose of this Sub-Regulation.

- (i) "Central Autonomous Body" means a body which is financed wholly or Substantially from cess or Central Government grants and includes a Central Statutory Body or a Central University but does not include a Public Undertaking falling under purview of the Bureau of Public Enterprises;
  - (ii) "financed substantially" means that more than 50 percent of the expenditure is met by Cess or Central Government grants.
- (4) Where gratuity under this sub-regulation is paid in respect of an employee who is not covered by Rule 54 of the C.C.S. (Pension) Rules, 1972 no other gratuity or pensionary benefit is payable.
- (5) For the purpose of this regulation:-
- (a) Gratuity shall be calculated on the basis of pay which the employee was receiving immediately before his retirement or on the date of his death.
  - (b) "pay" shall mean-pay reckoned for calculation of pension.
  - (c) Period of extraordinary leave, if any, availed by the employee concerned shall be taken into account for computing completed service on the same basis as it is taken into account for the purpose of calculation of pension and retirement gratuity / death gratuity under Rule 21 of the C.C.S. ( Pension ) Rules, 1972, as amended from time to time, and be deleted.

- (d) An increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days of earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn, shall form part of the pay for the purposes of calculating terminal / death gratuity.

6. <sup>1</sup>(Deleted)

7. <sup>1</sup>(Deleted)

8. <sup>1</sup>(Deleted)

9. <sup>1</sup>(Deleted)

10. Notwithstanding anything contained in Regulation 5, the service of a temporary employee [<sup>1</sup>] 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 in service had his appointment being permanent.

**11. <sup>2</sup>[Terminal gratuity payable to temporary employees.**

(1) Subject to the provisions of sub-regulation 1 (B), a temporary employee who re-tires 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 his service subject to a maximum of fifteen month's 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;

Provided that the amount of terminal gratuity payable under this Sub-Regulation shall not be less than the amount which the employee would have got as a matching Board's Contribution to the Provident Fund. If he was a member of Contributory Provident Fund scheme from the date of his continuous temporary service subject to the condition that the matching contribution shall not exceed 10 percent of his pay.

(1-A) In the case of a temporary employee who is compulsorily retired from service as a disciplinary measure, the provisions of sub-regulation (1) shall apply subject to the modification that the rate of gratuity payable in his case shall not be less than two thirds of, but in no case exceeding, the rate specified in clause (a) or, as the case may be, clause (b) of Sub-Regulation (1)

12. <sup>3</sup>(Deleted)

**13. <sup>4</sup>Interpretation**

If any question arises relating to the interpretation of this regulations, it shall be referred to the Central Government who shall decide the same.

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<sup>1</sup> Deleted vide Ministry's notification No. PR-12016/29/94-PE and published in the Gazette of India under G. S. R. 81 (E) dated 8-2-1996

<sup>2</sup> Substituted vide Ministry's notification No. PR-12016/29/94-PE and published in the Gazette of India under G. S. R. 81 (E) dated 8-2-1996

<sup>3</sup> Deleted vide Ministry's notification No. PR-12016/29/94-P.E.I and published in the Gazette of India under G. S. R. No. 644 (E) dated 16-8-94

<sup>4</sup> Substituted w.e.f 26-7-77 vide Notification No.P2/1771/(I)77 dated 5-7-77