

TUTICORIN PORT EMPLOYEES (TEMPORARY SERVICE) REGULATIONS, 1979

(Published in the Gazette of India, dated 1.3.1979)

GSR 99(E) – 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 Tuticorin Port Employees (Temporary Service) Regulations, 1979,
- (2) They shall come into force on the first day of April, 1979.
- (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 that Board. Provided that they shall not apply to :-
 - (i) employees engaged on contract;
 - (ii) employees not in whole-time employment;
 - (iii) employees paid out of contingencies;
 - (iv) persons employed in extra-temporary establishment, if any, or in workcharged establishment;
 - (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 Tuticorin Port Employees (Classification, Control and Appeal) Regulations, 1979.
- (ii) "employee" means an employee of the Board;
- (iii) "temporary service" means officiating service in a temporary or in a permanent post under the Board consisting of period of duty and leave;
- (iv) words and expressions used herein and not defined but defined in the Major Port Trusts Act, 1963 (38 of 1963) shall have the meanings respectively, assigned to them in that Act.

3. Deleted

4. Deleted

5. Termination of services of temporary employees :-

- (1) (a) The service of a temporary employee, shall be liable to termination at any time by 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 unless otherwise agreed to by the appointing authority and by the employee.

Provided that the service of any such employee may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice, or as the case may be, for the period by which such notice falls short of one month or any other period agreed to under clause (b) of this

sub-regulation.

Provided further that the compensatory (city) and house rent allowances, where admissible, shall be payable on the expiry of the notice period and after it is certified by the appointing authority that the employee continued to reside during the period of notice at the station where he was last employed, notwithstanding the fact that he was not expected to return to duty at the same station.

"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, 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 of the State in which the port is situated".

2 (a) Where a notice is given by the appointing authority terminating the service of the temporary employee or where the service of any such employee is terminated either on the expiry of the period of such notice or forth with by the payment of pay plus allowances, the Board or the Chairman may, of its or his own motion or otherwise, re-open the case and after calling for the record of the case and after making such enquiry as it deems fit, may:-

- (i) confirm the action taken by the appointing authority; or
- (ii) withdraw the notice; or
- (iii) reinstate the employee in service, or
- (iv) make such other order in the case as it may consider proper;

Provided that no case shall be reopened under this sub-clause after the expiry of three months:-

- (i) in a case where notice is given, from the date of notice;

(ii) in a case where no notice is given, from the date of termination of service.

(b) where an employee is reinstated in service under sub-regulation (1) the order of reinstatement shall specify:-

(i) the amount of proportion of pay and allowances, if any to be paid to the employees for the period of his absence between the date of termination of service and the date of reinstatement; and

(ii) whether the said period shall be treated as period spent on duty for any specified purposes.

6. Termination of temporary service on account of physical unfitness:- Notwithstanding anything contained in regulation 5, the services of a temporary employee, 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 for service had his appointment been permanent.

7. Deleted

8. Deleted

9. Terminal gratuity payable to temporary employees:-

(1) A temporary employee who retires 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 months' 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 Port's contribution to the Provident Fund if he were a member of a Contributory Provident Fund Scheme from the date of his continuous temporary service, subject to the condition that the matching contribution shall not exceed 8 1/3% 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).

(1-B) In the case of temporary employees who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further service 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 sub-regulation (1) shall not

apply and in accordance with the provisions of the Central Civil Services (Pension) Rules, 1972, adopted by the Tuticorin Port Trust (Adaptation of Rules) Regulations, 1979:-

- (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 Central Services (Pension) Rules, 1972, adapted by the Tuticorin Port Trust (Adaptation of Rules) Regulations, 1979.

(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 take up with prior permission an appointment under a Corporation or a Company wholly or substantially owned or controlled by the Government or under a Body controlled or financed by Government shall be paid terminal gratuity at the date prescribed under sub-regulation (1) in respect of the service rendered by him under the board".

"Provided further that a temporary employee who has been absorbed in the 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 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 the purview of the Bureau of Public Enterprises.
- (ii) "financed substantially" means that more than 50% of the expenditure is met by Cess or Central Government grants.

4. Omitted

(5) Where gratuity under this regulation is paid to or in respect of an employee who is not covered by rule 54 of the Central Civil Services (Pension) Rules, 1972, no other gratuity or pensionary benefits is payable.

(6) For the purpose of this regulation;

- (a) gratuity shall be calculated on the basis of pay which the employee was receiving immediately before the retirement or on the date of his death;
- (b) pay shall mean pay as defined in Fundamental Rule 9 (21) (a) (i);
- (c) period of extraordinary leave if any availed of by the employee concerned shall be taken into account for computing the 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 Central Civil Services (Pension) Rules, 1972, adopted by the Tuticorin Port Trust (Adaptation of Rules) Regulations, 1979, and
- (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 purpose of calculating terminal death gratuity.

10. Deleted

Principal Regulations:

- (i) The Tuticorin Port Employees (Temporary Service) Regulations, 1979 were published vide GSR 99(E) of the Gazette of India Extraordinary, dated the 1st March, 1979.
- (ii) The Tuticorin Port Employees (Temporary Service) Amendment Regulations, 1979, published in GSR 968 of the Gazette of India, dated the 20th September, 1980.
- (iii) The Tuticorin Port Employees (Temporary Service) Amendment Regulations, 1984, published in GSR 291(E) vide Ministry of Shipping and Transport's Notification No.PW/PER-15-84, dated the 22nd March, 1985.
- (iv) The Tuticorin Port Employees (Temporary Service) Third Amendment Regulations, 1991, published in GSR 665(E), of the Gazette of India, dated the 6th November, 1991.