

VISAKHAPATNAM PORT EMPLOYEES' (RETIREMENT) REGULATIONS, 1989

In exercise of the powers conferred by Section 28 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees of the Port of Visakhapatnam, hereby makes the following Regulations, in supersession of the Visakhapatnam Port Employees' (Age of Retirement) Regulations, 1974 published in Andhra Pradesh Gazette, Dt. 18.7.1974, viz.,

1. Short Title and Commencement:

- i) These Regulations may be called the Visakhapatnam Port Employees' (Retirement) Regulations, 1989.
- ii) They shall come into force on the date on which the Central Government's approval is published in the official Gazette.

2. Definitions: In these Regulations unless the context otherwise requires,

- i) 'Board' and 'Chairman' shall have the same meaning as assigned to them under the Major Port Trusts Act, 1963.
- ii) 'Government' means the Central Government
- iii) Class-I, II, III & IV employees shall have the same meanings as assigned to them in the Visakhapatnam Port Employees' (Classification, Control and Appeal) Regulations, 1968.
- iv) 'Employee' means an employee of the Board.
- v) 'Workman' means a highly skilled, skilled, semi-skilled or unskilled artisan employed on a monthly rate of pay.
- vi) 'Ministerial Employee' means an employee of a subordinate service whose duties are entirely clerical.
- vii) 'Lien' means the title of an employee to hold substantively, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantively; and
- viii) 'Appropriate Authority' means the authority which has the power to make substantive appointments to the post from which the employee is required or wants to retire.

3. Age of Retirement:

- i) Except or otherwise provided in these Regulations, every employee who joined Board's service on or after 18.7.1974 shall retire on superannuation on the afternoon of the last day of the month in which he attains the age of sixty years.

- ii) All employees in Class-I, II and Class-III posts, other than workman appointed prior to 18.7.1974, shall also retire from service on the afternoon of the last day of the month in which they attain the age of sixty years.
- iii) A 'Workman' and an employee in Class-IV post, who joined Board's Service prior to 18-7-1974, shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years.

4. Extension of Service / Re-employment after retirement:

- a) A Workman referred to in Sub-Regulations (3) of Regulation 3 may be granted extension of service or re-employed under very special circumstances to be recorded in writing, after he attains the age of Sixty years with the sanction of the appropriate authority.

- b) An employee to whom Sub-Regulation (1) and (2) of Regulation 3 applies, may be granted extension of service or re-employed after he attains the age of sixty years with the sanction of the appropriate authority, if such extension is in the public interest and grounds thereof are recorded in writing.

Provided that no extension / re-employment under this Regulation shall be granted beyond the age of sixty years except in very special circumstances.

Provided further that the appropriate authority shall have the right to terminate the extension of service or re-employment before the expiry of such extensions / re-employment by giving a notice in writing of not less than three months in the case of a permanent employee, or one month in the case of a temporary employee, or pay and allowances in lieu of such notice.

The criteria and procedure for extension / re-employment is given in Annexure-I to these Regulations.

5. Compulsory Retirement before the age of Superannuation:

Notwithstanding anything contained in these Regulations, the appropriate authority shall, if it is of the opinion that it is in the public interest so to do, have the absolute right to retire any employee by giving him notice of not less than three months in writing or three months pay and allowances in lieu of such notice.

- i) After the employee attains the age of -

- a) Fifty years in the case of employees holding a Class-I or Class-II post in a substantive or temporary capacity and had entered Board's service before attaining the age of 35 years.
- b) Fifty five years in other cases.

Or ii) after he had completed -

- a) 30 years of qualifying service in respect of an employee who is governed by the Pension Scheme, or
- b) 30 years of service in respect of Class-III employee who is not governed by the Pension Scheme.

Provided nothing in Clause 1 applies to an employee holding Class-IV post who entered into Board's service on or before 23.7.1966.

(The second provision has been deleted with effect from 8.5.91).

- iii (a) If on a review of the case either on a representation from the employee retired prematurely or otherwise, it is decided to reinstate the employee in service, the authority ordering reinstatement may regulate the intervening period between the date of premature retirement and the date of reinstatement by the grant of leave of the kind due and admissible, including extraordinary leave, or by treating it as dies-non, depending upon the facts and circumstances of the case.

Provided that the intervening period shall be treated as a period spent on duty for all purposes including pay and allowances, if it is specifically held by the authority ordering reinstatement that the premature retirement was itself not justified in the circumstances of the case, or if the order of premature retirement is set aside by a Court of Law.

- (b) Where the order of premature retirement is set aside by a Court of Law with specific directions in regard to regulation of the period between the date of premature retirement and the date of reinstatement and no further appeal is proposed to be filed, the aforesaid period shall be regulated in accordance with the directions of the Court.
- (c) Any payment made under this regulation to an employee on his re-instatement shall be subject to adjustment of the amount, if any, earned by him through an employment during

the period between the date of compulsory retirement and the date of reinstatement. Where the emoluments admissible under this regulation are equal to or less than the emoluments earned during the employment elsewhere, nothing shall be paid to the employee.

6. Voluntary Retirement before the age of Superannuation:

1. An employee may be giving notice of not less than 3 months in writing to retire from the service of the Board;
 - i) after he has attained the age of -
 - a) Fifty years in the case of employees holding Class-I or II posts who had entered service before attaining the age of 35 years; or
 - b) Fifty five years in other cases.

- ii) After he has completed -
 - a) 30 years of qualifying service in respect of an employee who is governed by the Pension Scheme, or
 - b) 30 years of service in respect of an employee who is not governed by the Pension Scheme.
 - c) 20 years of qualifying service in respect of an employee who is governed by the Pension Scheme

Provided that (a) nothing in Clause (1) shall apply to an employee in Class-IV post who entered Board's service on or before 23.7.1966.

- b) it shall be open to the appropriate authority to withhold permission to the employee under suspension who seeks to retire under this regulation.
2. a) An employee who has elected to retire under this regulation may make a request in writing to the appointing authority to accept notice of less than three months giving reasons thereof.
 - b) On receipt of request under Clause (a) the appointing authority may consider such request for the curtailment of the period of notice of three months on merits and if it is satisfied that the curtailment of the period of notice will not cause any administrative inconvenience, the appointing authority may

relax the requirement of notice of three months on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the period of notice of three months

3. An employee who has elected to retire under this regulation and has given necessary intimation to that effect to the appointing authority, shall be precluded from withdrawing his election subsequently except with the specific approval of such authority.

Provided that the request for withdrawal shall be within the intended date of his retirement.

4. The notice of Voluntary Retirement given under this regulation shall require acceptance by the appointing authority.

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

5. The Pension and Death-cum-Retirement Gratuity of the employee retiring under Sub-regulation 1 (i) © of this regulation shall be based on the emoluments as defined under Pension Rules and the increase, not exceeding five years, in his qualifying service shall not entitle him to any notional fixation of pay for purpose of calculating Pension and Gratuity.

6. The Sub-regulation (i) (ii) © of this regulation shall not apply to an employee who retires from Board's service for being absorbed permanently in an autonomous body or a public sector undertaking to which he is on deputation at the time of seeking Voluntary Retirement.

7. (1) The qualifying service as on the date of intended retirement of the employee retiring, under Sub-regulation 1 (i), (ii) (a) (ii) (c) of this regulation, shall be increased by the period not exceeding thirty three years and it does not take him beyond the date of superannuation.

- (2) The weightage of five years under Sub-regulation (1) above, shall not be admissible in cases of those employees who are prematurely retired by the Board in public interest under Regulation 5 (1) (ii).

NOTE 1: The three months notice referred to in Regulation 5 and 6 may be given before the employee attain the age specified therein, provided that the actual retirement takes place after he has attained the relevant age or has completed the prescribed number of years of service, as the case may be.

NOTE 2: In computing the notice period of 3 months referred to in these regulations, the date of serving of the notice and the date of its expiry shall be included.

NOTE 3: An employee who is granted extension of service after he has attained the prescribed age of superannuation, shall not be promoted to another post during the period of extension.

NOTE 4: The date on which an employee attains the age of 60 years, determined with reference to the date of birth declared by the employee at the time of his appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as Matriculation Certificate or extract from Birth Register. The date of birth so declared by an employee and accepted by the appropriate authority shall not be subject to any alteration after the preparation of his Service Book and in any event, after the completion of probation period or declaration. An alteration in the date of birth of an employee can be made within such period and with the sanction of the competent authority strictly as specified in F.R. 56, Note 6 and in no other case, the request for alteration will be entertained.

NOTE 5: An employee whose date of birth is the first of a month, shall retire from service on the afternoon of the last day of the preceding month on attaining the age of sixty years.

7. Procedure for Retention in Service:

For the purpose of regulation 5, it will be necessary to determine, if retention of an employee beyond the age of 50/55 years will be in public interest. For this purpose, the procedure laid down in Annexure-III should be followed.

8. Power to relax:

The power to relax the 3 months notice period provided for Regulation 5 and 6 rests (a) with the Government in the case of Officers including Heads of Departments who were appointed by

them (b) and in other cases of employees of the Board, with the Chairman of the Board. It is not open to the appropriate authority to curtail that period in any individual case.

9. Repeals:

On the commencement of these Regulations, the Visakhapatnam Port Employees (Age of Retirement) Regulations, 1974, are repealed.

10. Central Govt. Rules to be followed in the application of these Regulations:

In applying the foregoing Regulations and in respect of matters not dealt with in these Regulations, the provisions contained in F.Rs. and Pension Rules, 1972 and the orders of the Central Government issued thereunder from time to time, shall be followed in so far as they are not inconsistent with the provisions of these Regulations, subject to such exceptions and modifications as the Board may from time to time determine.

11. Interpretation:

If any question arises relating to interpretation of these Regulations, it shall be referred to the Board who shall decide the same.

**CRITERIA FOR EXTENSION OF SERVICE / RE-EMPLOYMENT
TO THE EMPLOYEES**

1. No proposal for extension of service / re-employment beyond the age of superannuation should ordinarily be considered.
2. Extension of service / re-employment can be justified only in very rare and exceptional circumstances. Even in such cases, 60 years of age should be the deadline for non-scientific/non-technical posts and 62 years in the case of scientific/technical personnel. This should not be construed to mean that extensions of services/re-employment can be granted to non-scientific/non-technical personnel upto the age of 60 years and to scientific/technical personnel upto the age 62 years, more or less as a matter of course. The over-riding consideration for the grant of extension of service / re-employment is that it must be clearly in the public interest and in addition satisfy one of the following two conditions.
 - i) that other officers are not ripe enough to take over the job;
or
 - ii) that the retiring officer is of outstanding merit.
3. No extension of services, re-employment should be considered on the ground that a suitable successor is not available unless it is established that action to select successor had been taken well in advance, but the selection could not be finalized in time or justifiable reasons.
4. A proposal for the grant of extension of service / re-employment based merely on the consideration that the Officer's predecessor had been given extension of service/re-employment should obviously not be accepted.
5. The proforma given in Annexure-II may be utilized for sending proposal for grant of extension of re-employment to the employee beyond the age of superannuation.

Proforma for grant or extension / re-employment to Government Employees beyond the age of superannuation:

1. Designation of the Post :
2. Duration of the Post :
3. Scale and Terms of the post and pre-requisite attached, if any :
4. Whether financial sanction for the creation of the posts/continuance of post for the duration shown at (2) has been obtained :
5. Method of Recruitment :
6. Name and the terminal date of appointment of the out-going incumbent of the post:
7. Name of the Officer proposed for appointment and the service to which he belongs:
8. Full service particulars of the Officer with date of birth and Pay drawn :
9. Names of the Officers considered :
10. If promotion post, whether copies of proceedings of a Departmental Promotion Committee are being enclosed. If not, why not? :
11. Whether character role of the Officer proposed and those considered are being sent. If not, why not? :
12. (i) If the proposal involves extension/re-employment, please indicate :
 - (a) Whether the post of operational/technical or non-operational/non-technical
 - (b) Whether the officer is to be granted extension of service or re-employment.

- (c) Periods of extension/re-employment granted earlier to the Officer, if any:
- (d) Date from which extension/re-employment is to be granted :
- (e) Period of extension of service/re-employment. :
- ii) Justification for grant of extension/re-employment if the post of operational / technical :
- iii) Justification for grant of extension of service/re-employment of the post is non-technical/non-operational :
- iv) (a) The date from which it was known that vacancy would occur :
- (b) Action taken to elect a successor with chronological details :
- (c) If selection is being made, reasons why this could not be finalized in good time, and :
- (d) If proposal involves extension of service/re-employment, can some officiating or adhoc arrangements be made ending fresh appointment by proper selection? If not, why not? :

13. Whether the prescribed Integrity Certificate from the appropriate authority is enclosed :

Format of Certificate: Having scrutinized the character, role and personal file of Shri/Smt/Kum. _____

and have taken into account all other available information, I certify that he/she has a good reputation for integrity and honesty.

AUTHORITY COMPETENT TO
GRANT EXTENSION / RE-EMPLOYMENT

**PROCEDURE FOR REVIEWING THE CASES OF EMPLOYEES
FOR RETENTION IN SERVICE:**

1. The case of the employee concerned should be reviewed six months before attaining the age of 50/55 years or complete 30 years service / 30 years of qualifying service, whichever occurs earlier.
2. The following Committees shall be constituted, to which all cases shall be referred for recommendation as to whether the employees concerned should be retired from service in the public interest or whether he/she should be retained in service.

Class-I and Class-II Posts:

Chairman

Chairman of the Board or

“Deputy Chairman of the Board”

Members:

- (1) Head of the Department where the vacancy exists -
- (2) Another Head of the Department nominated by the Chairman of the Board.

Class-III & Class-IV Posts:

Chairman: Head of Department where the vacancy exists.

Members: Two Officers to be nominated by the Chairman of the Board.

3. The criteria to be followed by the Committee in making their recommendations would be as follows:
 - a) Employees whose integrity is doubtful, will be retired.
 - b) Employees who are found to be ineffective will also be retired. The basic consideration in identifying such employees should be the fitness / competence of the employee to continue in the post which he is holding.
 - c) While the entire service record of an employee should be considered at the time of review, no employee should ordinarily be retired on grounds of ineffectiveness if his service during the preceding 5 years, or where he has been promoted to a higher post during that 5 years period, his service in the higher post, has been found satisfactory.

- d) No employee should ordinarily be retired on grounds of ineffectiveness, if in any event, he would be retiring on superannuation within a period of one year from the date of consideration of his case.
4. The appropriate authority shall take further action for the recommendations of the Committee. In every case, where it is proposed to retire an employee in exercise of powers conferred by these Regulations, the appropriate authority should record in the file that it has formed its opinion that it is necessary to retire the employee in pursuance of these Regulations, in the public interest. This decision should not be an arbitrary decision or should not be based on collateral grounds.
5. The Regulations relating to premature retirement should not be used -
- a) to retire an employee on grounds of specific acts of misconduct, as a short-cut to initiating formal disciplinary proceedings; or
 - b) for reduction of surplus staff or as a measure of effecting general economy without following the regulations and instructions relating to retrenchment.
6. Once a decision has been taken by the appropriate authority to retain an employee beyond the age of fifty / fifty five years or beyond the date of completion of 30 years service / 30 years of qualifying service for pension. He would ordinarily continue in service till he attains the age of retirement. If however, the appropriate authority considers at any time after a review aforesaid that the retention of the employee will not be in the public interest, that authority may take necessary action to retire the officer by following the prescribed procedure.
7. When the appropriate authority has come to the conclusion that an employee may be prematurely retired, the three months notice referred to in Regulation 5 (i) and 5 (ii) (b) may be given before the employee attains the specified age or has completed 30 years of service, as the case may be. But, the retirement should take place after the employee has attained the relevant age or has completed 30 years of service as the case may be. A notice even longer than three months or before the employee attains the age of 50/55 years / completed 30 years service could be given but the date from which he has required to retire as specified in the notice should not be before he attains the age of 50/55 years,
- or complete 30 years service, as the case may be. In cases of

retirement under Regulation 5 (ii) of these Regulations, 1972, while the notice of such retirement could be given before the employee actually completes 30 years of service qualifying for pension, the date of expiry of the notice on which the employee's retirement would be effective should be one falling on or after the date of his completion of 30 years of service qualifying for pension. The orders requiring an employee to retire after completing 30 years qualifying service should, as a Regulation, not be issued until after the fact that the employee has indeed completed, or would be completing on the date of retirement, qualifying service of 30 years, has been verified in consultation with the account / audit officer concerned.

8. While computing the notice period of not less than three months, under these regulations, the date of service of the notice and the date of its expiry shall be excluded. The date of premature retirement of an employee should be on the forenoon of the day (which should be treated as a non-working day) following the day of expiry of the notice.
9. The notice of retirement served on an employee in pursuance of these regulations will be as in the forms set out in Annexures IV and V.
10. In case where an employee refuses to accept the service of notice of retirement or order of retirement along with cheque / cash equivalent to three months' pay and allowances, it should be ensured that the refusal of the employee is witnessed by two officers. In such case, a copy of the notice / order of retirement may be sent under registered post with acknowledgement due to the individual concerned at the last officially known address, with covering letter, stating that the original notice / order of retirement was taken by such and such for delivery to him / her on such and such date and that he / she refused to accept the same and in the said circumstances, its copy is being sent by registered post for his / her record. In such a case, the date of effect of the notice of retirement / order of retirement would be from the fore-noon of the date following the date of refusal by the individual (witnessed by two officers where the person concerned has refused to accept the cheque / cash equivalent to three months pay and allowances, the same procedure that is followed in case where an employee has failed to accept his / her dues from an employee may be followed, in so far as its disbursement is concerned.

11. An employee who has been served with a notice order of premature retirement; under the provisions mentioned above, may submit a representation within three weeks from the date of service of such notice / order.
12. On receipt of 4 representation, the Administration / Ministry / Department / Office should examine the same to see whether it contains any new facts or any new aspect of a fact already known but which was not taken into account at the time of issue of notice / order of premature retirement. This examination should be completed within two weeks, from the date of the receipt of the representation. After such examination, the case should be placed before the appropriate Committee for consideration. The composition of the Committee for the purpose of consideration of the regulations against premature retirement shall be as indicated in Annexure - IV.
13. The Committee considering the representation shall make its recommendation on the representation within two weeks from the date of receipt of the reference from the Departments concerned. The authority which is empowered to pass final orders on the representation should pass its orders within two weeks from the date of receipt of the recommendations of the Committee on the representation.
14. If, in any case, it is decided to reinstate a prematurely retired employee in a service after considering his representation in accordance with these instructions, the period intervening between the date of premature retirement and the date of reinstatement may be regulated by the authority ordering reinstatement to duty or as leave or dies non, as the case may be, taking into account the merits of each case.
15. In the case of an employee who had been prematurely retired on grounds of inefficiency and by the time the Committee to consider the representation against such premature retirement was unjustified, the date of superannuation of the employees have already arrived or had passed, it has been decided that the authorities empowered to pass final orders, may at their discretion reinstate the superannuated employees notionally with effect from the date of compulsory retirement and treat the period up to the date of superannuation, as duty, leave or dies-non may be considered appropriate by the competent authority.

16. Representations from employees who have been served with a notice / order of premature retirement, but have obtained Stay Order(s) from the Court against the order / notice of premature retirement, need not be considered by the concerned departments or sent up to the Committee until the disposal of the Court case. Thereafter, the cases may be examined as outlined above.
17. In order to ensure that the review is undertaken regularly and in due time departments maintain a suitable register for registers of employees under their control who are due to attain the age of 50/55 years or complete 30 years of service, as the case may be. This Register should be scrutinized at the beginning of every quarter by a senior officer in the Department and the review undertaken according to the following schedule:

Quarter in which review is to be made Cases of employee who will be attaining the age of 50/55 years or will be completing 30 years of service or 30 years of service qualifying for Pension as the case may be, in the Quarter indicated as below to be reviewed.

- | | |
|------------------------|--------------------------------------|
| 1. January to March | July to September of the same year |
| 2. April to June | October to December of the same year |
| 3. July to September | January to March of the same year |
| 4. October to December | July to September of the same year |

NOTE: Principal Regulations:

The Visakhapatnam Port Employees (Retirement) Regulation, 1989, have been approved by the Ministry of Surface Transport (Ports Wing), vide their Notification No.PR-12012/11/89-PE-I, dt.19.12.1989, and subsequently amended vide

1. Notification No.PR-12015/3/91 PE-I, dt.8.5.1991

ANNEXURE-V

FORM OF NOTICE TO RETIRE AN EMPLOYEE WITH PAY IN LIEU OF NOTICE

ORDER

WHEREAS THE _____
(Appropriate Authority) is of the opinion that it is in the public interest to do so:

Now, therefore, in exercise of the powers conferred by Regulation (5) of Visakhapatnam Port Trust Employees (Retirement) Regulations, 1979, the _____ (appropriate authority) hereby retires Shri/Smt./Kum. _____ with immediate effect, he/she having already obtained the age of 50/55 years or having already completed 30 years of service / 30 years of service qualifying for pension on the _____

_____ Shri/Smt/
Kum. _____

_____ shall be paid a sum equivalent to the amount of his/her pay plus allowances for a period of three months calculated at the same rate at which he/she was then drawing, immediately before his/her retirement.

SIGNATURE
DESIGNATION OF THE
APPROPRIATE AUTHORITY

To
Shri/Smt/ _____

ACKNOWLEDGEMENT

I, _____, now holding the
post of _____

Hereby acknowledge the receipt of the original of the order of retirement as aforesaid along with cash or crossed cheque No. _____ dated _____ for Rs. _____ (Rupees _____ only)

Countersigned _____ (SIGNATURE)

Name: _____ Designation: _____

Designation: _____ Place: _____

Place: _____

Date: _____

SAR/ _____