

THE COCHIN PORT EMPLOYEES (CLASSIFICATION, CONTROL AND APPEAL) REGULATIONS, 1964

G.S.R. 319 In exercise of the powers conferred by Section 126 read with Section 28 of the Major Port Trust Acts, 1963 (38 of 1963), the Central Government hereby makes the following regulations namely:-

PART I - General

1. Short title and Commencement

- (a) These regulations may be called the Cochin Port Employees (Classification, Control and Appeal) Regulations, 1964,
- (b) They shall come into force on the 29th February, 1964.

2. Definitions

In these regulations, unless the context otherwise requires:-

- (a) 'Act' means the Major Port Trusts Act, 1963 (38 of 1963);
- (b) 'Appointing Authority' in relation to an employee means the authority prescribed as such in the Schedule;
- (c) ¹Board, Chairman, Deputy Chairman and Head of Department have the meanings assigned to them in the Act.
- (d) 'Disciplinary Authority' in relation to the imposition of a penalty on an employee, means the authority competent under these regulations to impose on him that penalty;
- (e) 'Employee' means an employee of the Board and includes any such person on foreign service or whose services are temporarily placed at the disposal of the Board and also any person in the service of the Central or State Government or a local or other authority whose services are temporarily placed at the disposal of the Board;
- (f) 'Schedule' means the Schedule to these regulations.

3. Application

- (1) These regulations shall apply to all the employees of the Board, except-
 - (a) Persons in casual employment
 - (b) Persons subject to discharge from service on less than one Month's notice (and²)
 - (c) [²]
- (2) Notwithstanding anything contained in sub-regulation (1) the Board may by order exclude from the operation of all or any of these regulations any employee or class of employees.

¹ Substituted w. e. f. 4-11-86 vide Notification No. PW-PER-38 / 85 dated 4-11-86 published in the Govt. of India Gazette dated 4-11-86 under G.S.R. 1178 (E)

² Deleted w. e. f. 4-11-86 vide Notification No. PW-PER-38 / 85 dated 4-11-86 published in the Govt. of India Gazette dated 4-11-86 under G.S.R. 1178 (E)

(3) If any doubt arises as to whether these regulations or any of them apply to any person, the matter shall be referred to the Central Government ¹for decision.

4. ²Deleted

5. Protection of rights and privileges conferred by any law or agreement

Nothing in these regulations shall operate to deprive any employee of any right or privilege to which he is entitled-

- (a) by or under any law for the time being in force, or
- (b) by the terms of any agreement subsisting between such person and the Board

PART II - Classification

6. Classification of posts

(1) All posts under the Board other than those ordinarily held by persons to whom these regulations do not apply, shall by a general or special order of the Board be classified as follows :-

- Class I** Posts, that is to say, posts carrying a pay or a scale of pay the maximum of which is more than Rs. 1,099/-
- Class II** Posts, that is to say, posts carrying a pay or a scale of pay the maximum of which is more than Rs. 650/-, but not more than Rs. 1,099/-
- Class III** Posts, that is to say, posts carrying a pay or a scale of pay the maximum of which is more than Rs.160/-, but not more than Rs. 650/-
- Class IV** Posts, that is to say, posts carrying a pay or a scale of pay the maximum of which is not more than Rs. 160/-

(2) Any order made by the competent authority and in force immediately before the commencement of these regulations relating to classification of posts in the port of Cochin shall continue in force until altered, rescinded or amended by an order of the Board under sub-regulation (1)

³[**Explanation:** The competent authority for the purpose of Sub-regulation (2) is the authority which was competent to issue an order relating to classification of posts in the Port of Cochin immediately before the commencement of this regulations, i. e. the Central Govt. in respect of Class I and Class II posts or the Administrative Officer in respect of Class III and Class IV posts]

(3) ³[Notwithstanding anything contained in sub-regulation (1) the Board shall reclassify the posts as class I, Class II, Class III and Class IV from time to time depending upon the revision of scales of pay of the employees of the Board]

¹ Deleted and substituted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India vide GSR 843 (E) dated 31-10-2000

² Deleted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India vide GSR 843 (E) dated 31-10-2000

³ Inserted w.e.f. 16-12-87 vide Notification No.PR-19024 (1) 86 PE-I (Vol.V) dated 16-12-87 published in the Govt. of India Gazette under G.S.R. 988 (E) dated 16-12-87

PART III -Appointing Authorities

7. Appointments to Class I Posts

- (1) All appointments to Class I posts under the Board (other than posts covered by clause (a) of sub-section (1) of Section 24 of the Act) shall be made by the Chairman.
- (2) All appointments to posts covered by clause (a) of sub-section (1) of Section 24 of the Act shall be made by the Central Government after consultation with the Chairman.

8. Appointments to other posts

All appointments other than the appointments referred to in regulation 7 shall be made by the authorities specified in this behalf in the Schedule.

PART IV- Suspension

9. Suspension

- (1) An employee may be placed under suspension -
 - (a) Where a disciplinary proceeding against him is contemplated or is pending, or
 - (b) Where a case against him in respect of any criminal offence is under investigation or trial.
- (2) The order of suspension shall be made -
 - (a) in the case of an employee holding a post referred to in the clause (a) of sub-section (1) of section 24 of the Act, by the Chairman;
 - (b) in any other case by the Appointing Authority:

Provided that no such order relating to an employee referred to in clause (a) shall have effect until it is approved by the Central Government.
- (3) An employee who is detained in custody, ^[1] for a period exceeding 48 hours shall be deemed to have been suspended with effect from the date of detention, by an order of the Chairman or the Appointing Authority, as the case may be, and shall remain under suspension until further orders are made by the Chairman or the Appointing Authority.
- (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside in appeal under these regulations and the case is remitted for further enquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.
- (5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee is set aside or declared or rendered void in consequence of, or by a decision of a Court of Law, and the Disciplinary Authority on a consideration of the circumstances of the case, decides to hold a further enquiry

¹ Deleted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India vide GSR 843 (E) dt. 31-10-2000

against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the employee shall be deemed to have been placed under suspension by the authority competent to do so from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

¹[Provided that no such further enquiry shall be ordered unless it is intended to meet a situation where the Court has passed an order purely on technical grounds without going into the merits of the case]

- (6) An order of suspension made or deemed to have been made under this regulation may, at any time, be revoked by the Authority which made or is deemed to have made the order or by any Authority to which that Authority is subordinate,
- (7) ²[An order of suspension made or deemed to have been made under this regulation shall be reviewed by the authority competent to modify or revoke the suspension, before expiry of ninety days from the date of order of suspension, on the recommendation of the review committee constituted for the purpose and pass orders either extending or revoking the suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time.
- (8) Notwithstanding anything contained in Sub-regulation (6), an order of suspension made or deemed to have been made under Sub-regulation (1) or (3) of this Regulation shall not be valid after a period of ninety days unless it is extended after a review for a further period before the expiry of ninety days.]

PART V- Discipline

10. Nature of penalties

The following penalties may, for good and sufficient reasons and, as hereinafter provided, be imposed on an employee namely :-

³[Minor penalties]

- (i) Censure;
- (ii) ⁴[withholding of promotion for a minimum period of six months and maximum period of 3 years.]
- (iii) recovery from pay of the whole or part of any pecuniary loss caused to the Board by negligence or breach of orders;
 - ⁵[(a) reduction to lower stage in the time scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting his pension.]
- (iv) ³withholding of increments of pay for a minimum period of six months and a maximum period of 3 years.

¹ Inserted w.e.f. 16-12-87 vide Notification No. PR-19024 (1) 86 PE-I (Vol.V) dated 16-12-87 published in the Govt. of India Gazette dated 16-12-87 under G.S.R. 988 (E).

² Inserted w.e.f. 16-6-2005 vide Ministry of Shipping Notification No. PR-12016/3/2005-PE-I and published under G.S.R. 404 (E) dated 16-6-2005

³ Inserted w.e.f. 24-8-2004 vide Ministry of Shipping Notification No. PR-12016/8/2004-PE-I and published in the Gazette of India under G.S.R. 539 (E) dated 24-8-2004

⁴ Substituted w.e.f. 24-8-2004 vide Ministry of Shipping Notification No. PR-12016/8/2004-PE-I and published in the Gazette of India under G.S.R. 539 (E) dated 24-8-2004

⁵ Inserted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India vide GSR 843 (E) dt. 31-10-2000

¹[Major Penalties].

²

- (v) ³[reduction to a lower stage in the time scale of pay for a specified period, with further directions as to whether or not the employee will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will or will not have the effect to postponing the future increments in his pay.]
- (vi) ⁴[reduction to lower time scale of pay, grade or post or service which shall ordinarily be a bar to the promotion of the employee to the time scale of pay, grade, post or service from which he was reduced with or without further directions regarding conditions of restoration to the grade or post or service from which the employee was reduced and his seniority and pay on such restoration to that grade, post or service]
- (vii) compulsory retirement;
- (viii) removal from service which shall not be a disqualification for future employment;
- (ix) dismissal from service which shall ordinarily be a disqualification for future employment.

Explanation :- The following shall not amount to a penalty within the meaning of this regulations:-

- (i) withholding of increments of an employee for failure to pass a departmental examination in accordance with the regulations or orders governing the post or the terms of his appointment.
- (ii) stoppage of an employee at the efficiency bar in the time-scale on the ground of his unfitness to cross the bar;
- (iii) non-promotion whether in a substantive or officiating capacity of an employee, after consideration of his case, to a grade or post for promotion to which he is eligible.
- (iv) reversion to a lower grade or post of an employee officiating in a higher grade or post on the ground that he is considered, after trial, to be unsuitable for such higher grade or post on administrative grounds unconnected with his conduct.
- (v) reversion to his permanent grade or post of an employee appointed on probation to another grade or post during or at the end of the period of probation in accordance with the terms of his appointment or the regulations and orders governing probation;
- (vi) replacement of the service of an employee whose services have been borrowed from the Central or a State Government or an authority under the control of the Central or State Government at the disposal of the Authority which had lent his services;
- (vii) Compulsory retirement of an employee in accordance with the provisions relating to his superannuation or retirement ;

¹ Inserted w.e.f. 24-8-2004 vide Ministry of Shipping Notification No. PR-12016/8/2004-PE-I and published in the Gazette of India under G.S.R. 539 (E) dated 24-8-2004

² Renumbered vide Ministry of Shipping Notification No. PR-12016/8/2004-PE-I and published in the Gazette of India under G.S.R. 539 (E) dated 24-8-2004

³ Substituted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India under GSR 843 (E) dt. 31-10-2000

⁴ Inserted vide Ministry's Notification No. H-11011 / 2 /97-PE-I and published in Gazette of India under GSR 843 (E) dt. 31-10-2000

(viii) Termination of the service -

- (a) of an employee appointed on probation during or at the end of the period of probation, in accordance with the terms of his appointment or the regulations and orders governing probation; or
- (b) of an employee, employed under an agreement in accordance with the terms of such agreement.
- (c) of a temporary employee under regulation 5 of the Cochin Port Employees (Temporary Service) Regulations, 1964.

11. Disciplinary Authorities

The authorities mentioned in the Schedule shall be competent to impose the penalties on the employees of different grades and services as indicated in the Schedule.

12. Procedure for imposing major penalties

- (1) No order imposing on an employee any of the penalties specified in items (iv) to (vii) of Regulation 10 shall be passed except after an enquiry held, as far as may be, in the manner hereinafter provided.
- (2) The Disciplinary Authority shall frame charges on the basis of the allegations on which the inquiry is proposed to be held. Such charges, together with a statement of the allegations on which they are based shall be communicated in writing to the employee, and he shall be required to submit, ¹[within a period of 20 days] (a) to such Authority or (b) where a Board of Inquiry or Inquiring Officer has been appointed under sub-regulation (3) to that Board or Officer, a written statement of his defence and also to state whether he desires to be heard in person.

Explanation :- In this Sub-Regulation and in Sub-Regulation (4) the expression “the Disciplinary Authority”, shall include the authority competent under the Regulations to impose upon the employee any of the penalties specified in items (i) to (iii) (a) of Regulation 10,

- (3) The Disciplinary Authority may inquire into the charges itself or if it considers it necessary so to do, it may, either at the time of communicating the charges to the employee under sub-regulation (2) or at any time thereafter, appoint a Board of Inquiry or Enquiring Officer for the purpose.
- (4) The employee shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such official records as he may specify provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the Disciplinary Authority such records are not relevant for the purpose or it is against the Board’s interest to allow him access thereto.
- (5) On receipt of the written statement of defence or if no such statement is received within the time specified, the disciplinary authority or as the case may be, the Board of Inquiry or the Inquiring Officer may inquire into such of the charges as are not admitted.
- (6) The Disciplinary Authority may nominate any person to present the case in support of the charges before the Authority inquiring into the charges (hereinafter referred to

¹ Substituted vide Ministry’s Notification No. H-11011 / 2 / 97 - PE-I and published in the Gazette of India vide G.S.R. 843 (E). dated 31-10-2000

as the Inquiring Authority). The employee may present his case with the assistance of any other employee.

¹[including a retired employee who retired from services not earlier than 3 years from the date of commencement of the assistance] but may not engage a legal practitioner for the purpose unless the person nominated by the disciplinary authority is a legal practitioner or unless the disciplinary authority, having regard to the circumstances of the case, so permits.]

²[provided that an employee shall not take the assistance of any other employee who has pending disciplinary cases on hand in which he has to give assistance and that of a retired employee who has three pending disciplinary cases on hand in which he has to give assistance].

- (7) The Inquiring Authority shall, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The employee shall be entitled to cross examine witness examined in support of the charges and to give evidence in person. The person presenting the case in support of the charges shall be entitled to cross-examine the employee and the witness examined in his defence. If the Inquiring Authority declines to examine any witness on the ground that his evidence is not relevant or material, it shall record its reason in writing.
- (8) At the conclusion of the inquiry, the Inquiring Authority shall prepare a report of the inquiry, recording its findings on each of the charges together with reasons therefor. if in the opinion of such Authority, the proceedings of the inquiry establish charges different from those originally framed, it may record findings on such charges provided that findings on such charges shall not be recorded unless the employee has admitted the facts consulting them or has had an opportunity of defending himself against them.
- (9) The Board may, from time to time, prescribe time limits within which the various stages of enquiry should be completed, namely inspection of documents by the accused employee, request for access to additional records, inspection of such additional records and submission of statement by the accused employee on the charges made against him, such time limits may be pre-scribed in respect of enquiries connected with the imposition of major as well as minor penalties.
- (10) The record of the inquiry shall include.
 - (i) the charges framed against the employee and the statement of allegations furnished to him under sub-regulation (2);
 - (ii) his written statement of defence, if any;
 - (iii) the oral evidence taken in the course of the inquiry;
 - (iv) the documentary evidence considered in the course of the inquiry;
 - (v) the orders, if any, made by the Disciplinary Authority and the Inquiring Authority in regard to the inquiry, and

¹ Substituted w.e.f. 28-7-79 vide Ministry of Shipping & Transport Notification No.PEX-3 / 79 dated 12-7-79 published in the Gazette of India dated 28-7-79 under G.S.R.998

² Inserted w.e.f. 28-7-79 vide Ministry of Shipping & Transport Notification No.PEX-3 / 79 dated 12-7-79 published in the Gazette of India dated 28-7-79 under G.S.R.998

(vi) a report setting out the findings on each charge and the reasons therefor.

- (11) The Disciplinary Authority shall, if it not the Inquiry Authority, consider the record of the inquiry and record of his findings on each charge.
- (12) ¹If the Disciplinary Authority having regard to its findings on all or any of the articles of charges and on the basis of the evidence adduced during the inquiry, is of the opinion that any of the penalties specified in terms (vi) to (vii) of Regulation 10 should be imposed on the employee, it shall make an order imposing such penalty and it shall not be necessary to give the employee any opportunity of making representation on the penalty proposed to be imposed

Provided that in every case in which prior approval of the Central Government is necessary, the record of the inquiry shall be forwarded by the Disciplinary Authority to the Central Govt. for passing order.

- (13) If the Disciplinary Authority having regard to its findings is of the opinion that any of the penalties specified in items ²[(i) to (iii) (a)] of Regulation 10 should be imposed, it shall pass appropriate orders in the case.
- (14) Orders passed by the Disciplinary Authority shall be communicated ³[within a period of 30 days] who shall also be supplied with a copy of the report of the Inquiring Authority, and where the Disciplinary Authority is not the Inquiring Authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the Inquiring Authority, unless they have already been supplied to him.

13. Procedure for imposing minor penalties

- (1) No order imposing any of the penalties specified in item ²[(i) to (iii) (a)], of Regulation 10 shall be passed except after -
- (a) informing in writing the employee of the proposal to take action against him and of the allegations on which it is proposed to be taken and giving him an opportunity to make any representation he may wish to make against such proposal;
 - (b) such representation, if any, is taken into consideration by the Disciplinary Authority, and
 - (c) consultation with the Central Govt. where such consultation is necessary.
- (2) The record of the proceedings of such cases shall include
- (i) a copy of the intimation to the employee of the proposal to take action against him;
 - (ii) a copy of the statement of allegations communicated to him;
 - (iii) his representation, if any, and
 - (iv) the orders on the case together with the reasons therefor.

¹ Substituted w.e.f. 4-8-79 vide Ministry of Shipping & Transport Notification No.PEX-17 / 79 dated 11-7-79 published in the Gazette of India dated 4-8-79 under G.S.R.1227

² Substituted vide Ministry's Notification No. H-11011 / 2 / 97 - PE-I and published in the Gazette of India vide G.S.R. 843 (E). dated 31-10-2000

³ Inserted vide Ministry's Notification No. H-11011 / 2 / 97 - PE-I and published in the Gazette of India vide G.S.R. 843 (E). dated 31-10-2000

14. Joint Enquiry

- (1) Where two or more employees are concerned, in any case, the Chairman or Authority competent to impose a penalty of dismissal from service on all such employees may make an order directing that disciplinary action against all of them may be taken in a common proceeding.
- (2) Subject to the provisions of (a) sub-section (1) of Section 25 of the Act, and (b) regulation 11, any such order shall specify-
 - (i) the Authority which may function as the Disciplinary Authority for the purpose of such common proceeding.
 - (ii) the penalties specified in Regulation 10 which such Disciplinary Authority shall be competent to impose; and
 - (iii) whether the procedure prescribed in Regulation 13 or Regulation 16 may be followed in the proceeding.

15. Special procedure in certain cases

Notwithstanding anything contained in regulations 12, 13 and 14 -

- (i) where the penalty is imposed on an employee on the ground of conduct which had led to his conviction on a criminal charge; or
- (ii) Where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to follow the procedure prescribed in the said regulations; or
- (iii) where the Chairman is satisfied that in the interest of the security of the Port it is not expedient to follow such procedure;

The Disciplinary Authority may consider the circumstances of the case and pass such orders thereon as it deems fit.

Provided that the approval of the Central Government shall be obtained before passing such orders in relation to an employee holding a post referred to in Clause (a) of sub-section (1) of Section 24 of the Act.

16. Provisions regarding Officers borrowed by the Board

- (1) Where an order of suspension is made or disciplinary proceeding is taken against an employee whose services have been borrowed from the Central or State Government or an Authority subordinate thereto or a local or other Authority, the Authority lending his services, (hereinafter in this Regulations referred to as the "lending authority") shall forthwith be informed of the circumstances leading to the order of his suspension or the commencement of the disciplinary proceeding, as the case may be.
- (2) In the light of the findings in the disciplinary proceeding taken against the employee -
 - (i) if it is decided that any of the penalties specified in items (i) to (iii) (a), of Regulation 10.

Should be imposed on him, the Disciplinary Authority may, subject to the provisions of Sub-Regulation (2) of Regulation 12, after consultation with the lending authority, pass such orders on the case as it deems necessary.

Provided that in the event of a difference of opinion between the borrowing authority and the lending authority, the services of the employee shall be replaced at the disposal of the lending authority.

- (ii) if the Disciplinary Authority is of the opinion that any of the penalties specified in items (iv) to (vii) of Regulation 10 should be imposed on the employee, it shall replace his services at the disposal of the lending authority and transmit to it the proceedings of the inquiry for such action as it deems necessary.

PART VI- APPEALS

17. (Deleted)

18. Appeals against orders of suspension

An employee may appeal against an order of suspension to the authority, to which the authority which made or is deemed to have made, the order is immediately subordinate.

19. Appeals against orders imposing penalties :

- (1) The authorities mentioned in the Schedule shall be competent to entertain appeals in respect of the penalties indicated in the Schedule
- (2) ¹[Any employee of the Board aggrieved by an order involving his reduction in rank, removal or dismissal may, within the time mentioned in regulation 21 and in the manner laid down in regulation 22 prefer an appeal
 - (a) to the Central Government, where such order is passed by the Chairman.
 - (b) to the Chairman, where such order is passed by the Deputy Chairman.
 - (c) to the Dy. Chairman, where such order is passed by the Appointing Authority.

Provided that where the person who has passed the order becomes, by virtue of his subsequent appointment as the Chairman the Appellate Authority in respect of the appeal against the order, such person shall forward the appeal to the Central Government and the Central Government in relation to that appeal shall be deemed to be the Appellate Authority for the purpose of this Regulation.

Provided further that where the person who has passed the order becomes by virtue of his subsequent appointment as the Deputy Chairman the Appellate Authority in respect of the appeal against the order, such person shall forward the appeal to the Chairman and the Chairman in relation to that appeal shall be deemed to be the appellate authority for the purpose of this regulation.]

20. An appeal against an order -

- (a) Stopping an employee at the efficiency bar in the time scale on the ground of his unfitness to cross the bar.
- (b) reducing or withholding the pension or denying the maximum pension admissible under the rules;

¹ Substituted with effect from 4-11-86 vide Ministry's Notification No.PW-PER - 38 / 85 dated 4-11-86 published in the Govt. of India Gazette under G.S.R.1178 (E) dated 4-11-86.

- (c) determining the pay and allowances for the period of suspension to be paid to an employee on his re-instatement or determining whether or not such period shall be treated as a period spent on duty for any purposes; and
- (d) reverting to a lower grade or post, an employee officiating in higher grade or post other-wise than as a penalty;

shall lie, in the case an order made in respect of any employee, to the authority to whom an appeal against an order imposing upon him the penalty of dismissal from service would lie

Explanation : In this regulation -

- (i) "employee" includes a person who has ceased to be in the employment of the Board;
- (ii) "pension" includes additional pension, gratuity and any other retirement benefit.

21. Period of limitation for appeal

No appeal under this Part shall be entertained unless it is preferred within three months from the date on which the appellant receives a copy of the order appealed against:

Provided that the Appellate Authority may entertain the appeal after the expiry of such period if it is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

22. Form and contents of appeals

- (1) Every person preferring an appeal shall do so separately and in his own name.
- (2) The appeal shall be addressed to the authority to whom the appeal lies shall contain all material statements and arguments on which the appellant relies, shall not contain any disrespectful or improper language and shall be complete in itself.

23. Submission of appeals

Every appeal shall be submitted through the authority which made the order appealed against;

Provided that a copy of the memorandum of appeal may be submitted direct to the appellate authority.

24. Withholding of appeal

- (1) the authority which made the order appealed against may withhold the appeal if -
 - (i) it is an appeal against an order from which no appeal lies; or
 - (ii) it does not comply with any of the provisions of regulation 22, or
 - (iii) it is not submitted within the period specified in regulation 21 and no cause is shown for the delay; or
 - (iv) it is a representation of an appeal already decided and no new facts or circumstances are adduced;

Provided that an appeal withheld on the ground only that it does not comply with the provisions of regulation 22 shall be returned to the appellant and if it is resubmitted within one month thereof after compliance of the said provision, shall not be withheld.

- (2) Where an appeal is withheld, the appellant shall be informed of the facts and the reasons therefore.
- (3) At the commencement of each quarter, a list of appeals withheld by any Authority during the previous quarter together with the reasons for withholding them shall be furnished by that Authority to the Appellate Authority.

25. Transmission of appeals

- (1) The Authority which made the order appealed against shall, without any avoidable delay, transmit to the Appellate Authority every appeal which is not withheld under Regulation 24, together with its comments thereon and the relevant records.
- (2) The Authority to which the appeal lies may direct transmission to it of any appeal withheld under Regulation 24 and thereupon such appeal shall be transmitted to that authority together with the comments of the authority withholding the appeal and the relevant records.

26. Consideration of appeals

- (1) In the case of an appeal against an order of suspension, the Appellate Authority shall consider whether in the light of the provisions of regulation 9 and having regard to the circumstances of the case, the order of suspension is justified or not and confirm or revoke the order accordingly.
- (2) In the case of an appeal against an order imposing any of the penalties specified in regulation 10 the appellate authority shall consider -
 - (a) whether the procedure prescribed in these regulations has been complied with, and if not whether such non-compliance has resulted in violations of any of the provisions of the act or in failure of justice
 - (b) whether the findings are justified; and
 - (c) whether the penalty imposed is excessive, adequate or inadequate; and pass orders-
 - (i) setting aside, reducing, confirming or enhancing the penalty or
 - (ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that -

- (i) the Appellate Authority shall not impose any enhanced penalty which neither such authority nor the authority which made the order appealed against is competent in the case to impose;
- (ii) no order imposing an enhanced penalty shall be passed unless the appellant is given an opportunity of making any representation which he may wish to make against such enhanced penalty; and
- (iii) if the enhanced penalty which the Appellate Authority proposes to impose is one of the penalties specified in items (iv) to (vii) of Regulation 10 and an enquiry under Regulation 12 has not already been held in the case, the Appellate Authority shall subject to the provisions of Regulation 15, itself hold

such an enquiry or direct that such enquiry to be held and thereafter on consideration of the proceedings of such enquiry and after giving the appellate an opportunity of making any representation which he may wish to make (only on the basis of the evidence adduced during such inquiry) against such penalty, pass such orders as may deem fit.

27. Implementation of orders in appeal

The authority which made the order appealed against shall give effect to the orders passed by the Appellate Authority.

PART VII - Repeal and Removal of Doubts

28. Review

(1) Notwithstanding anything contained in these Regulations -

- (i) the Central Government
- (ii) (Deleted)
- (iii) the Chairman or
- (iv) the Appellate Authority, within six months of the date of the orders proposed to be reviewed, may at any time, either on his or its own motion or otherwise, call for the records of any inquiry and review any order made under these Regulations or under the rules repealed by Regulation 29 from which an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed and may;
 - (a) confirm, modify or set aside the order; or
 - (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
 - (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or
 - (d) pass such other orders as it may deem fit.

Provided that no order imposing or enhancing any penalty shall be made by any reviewing authority unless the employee concerned has been given a reasonable opportunity of making a representation against the penalty proposed; and where it is proposed to impose any of the penalties specified in clauses (iv) to (vii) of Regulation 10 or to enhance the penalty imposed by the order sought to be reviewed to any of the penalties specified in those clauses, no such penalty shall be imposed except after an inquiry in the manner laid down in regulation 12 and after giving a reasonable opportunity to the employee concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry.

(2) No proceedings for review shall be commenced until after

- (i) the expiry of the period of limitation for an appeal or
- (ii) the disposal of the appeal, where any such appeal has been preferred,

- (3) An application for review shall be dealt with in the same manner as if it were an appeal under these Rules.

29. Repeal

- (1) On the commencement of these regulations, any other rules which were in force in respect of the employee shall stand repealed;

Provided that -

- (a) Such repeal shall not affect the previous operation of the said rules, notification and orders or anything done or any action taken thereunder;
- (b) any proceeding under the said rules pending at the commencement of this regulations shall be conducted and disposed of as far as may be in accordance with the provisions of these regulations.
- (2) An appeal pending or preferred after the commencement of these regulations against an order made before such commencement shall be considered and orders thereon shall be passed, in accordance with these regulations.
- (3) ¹[The disciplinary action initiated under the provisions of the “Rules for the regulation of the conditions of employment of the Industrial Staff of Cochin Port” and pending on the date of publication of the approval of the Central Government to the Cochin Port Employees (CC&A) Amendment Regulations, 1986 in the Gazette of India, shall be continued on the basis of the said rules]

30. Removal of Doubts

Where a doubt arises as to whether any authority is subordinate or higher than any other authority or as to the interpretation of any of the provisions of this regulations, the matter shall be referred to the Central Government whose decision thereon shall be final.

¹ Inserted with effect from 4-11-86 vide Notification No. PW-PER-38 / 85 dated 4-11-86 published in the Govt. of India Gazette dated 4-11-86 under G.S.R. 1178 (E)

¹SCHEDULE
(Regulation-2)

Sl. No.	Description of Post	Appointing Authority	Authority competent to impose penalty		Appellate Authority
(1)	(2)	(3)	(4)	(5)	(6)
I.	Posts covered by Clause (a) of Sub-section (1) of Section 24 of Major Port Trusts Act, 1963	Central Govt. after consultation with the Chairman	Chairman	(i) to (iv) (Minor Penalties)	Central Govt.
			Central Govt.	All	Central Govt.
II.	Class I Posts (other than those covered by Clause (a) of Sub-section (1) of Section 24 of the Major Port Trusts Act, 1963	Chairman	Deputy Chairman	(i) to (iv) (Minor Penalties)	Chairman
			Chairman	All	Central Govt.
III.	Class II	Deputy Chairman	Deputy Chairman	All	Chairman
IV.	Class III	Head of Department	Head of Department	All	Deputy Chairman
V	Class IV	Head of Department	Head of Department	All	Deputy Chairman

¹ Substituted w.e.f. 24-8-2004 vide Ministry of Shipping Notification No. PR-12016/8/2004-PE-I and published in the Gazette of India under G.S.R. 539 (E) dated 24-8-2004