

THE COCHIN PORT EMPLOYEES (RETIREMENT) REGULATIONS, 1977

Approved vide Ministry of Shipping & Transport Notification No. PEX-48 / 77 dated 23-5-1978 and published in Part II Section III sub-section I of Gazette of India dated 10-6-1978 under GSR No. 750.

1. Short title, commencement and application

- (a) These regulations may be called The Cochin Port Employees (Retirement) Regulations, 1977.
- (b) They shall come into force on the date of their publication in the official Gazette.
- (c) ¹[These Regulations shall apply to all employees of the Board.]

2. Definitions

In these regulations unless the context otherwise requires,

- (i) 'Board' and 'Chairman' shall have the meanings assigned to them under the Major Port Trusts Act, 1963.
- (ii) ²[Class I, Class II, Class III and Class IV posts shall have the meanings respectively assigned to them as under.

Class I Posts i.e., posts carrying a scale of pay the maximum of which is more than Rs. 1930/- in terms of the pay scales approved vide Ministry of Surface Transport's letter No. PW / PEO-2 / 84 dated 1-2-84 or as may be revised from time to time.

Class II posts i.e., posts carrying a scale of pay the maximum of which is not more than Rs. 1930/- in terms of the pay scales approved vide MOST'S letter No. PW / PEO-2 / 84 dated 1-2-84 or as may be revised from time to time.

Class III posts i.e., posts carrying a scale of pay the maximum of which is more than Rs. 1580/- but not more than Rs.2800/- in terms of the pay scales approved vide MOST'S letter No. LB-12011/1/86- R.O.(Vol-II)Dated 3.8.89 or as may be revised from time to time.

Class IV posts i.e., posts carrying a scale of pay the maximum of which is not more than Rs. 1580/- in terms of the pay scales approved vide MOST'S letter No. LB-12011 / 1 / 86 - R.O. (vol. II) dated 3--8-89 or as may be revised from time to time.]

- (iii) 'Employee' means an employee of the Board.

3. ³[Age of Retirement

Except as otherwise provided in these Regulations, every employee shall retire from service on the afternoon of the last day of the month in which he attains the age of sixty years

Provided that an employee whose date of birth is the first of a month, shall retire from

¹ Substituted w.e.f. 31-3-2001 vide Ministry's Notification No. PR-12016/55/2000-PE-I published in the Gazette of India under GSR 22 (E) dated 12-1-2001

² Substituted vide Ministry's Notification No. PR-12012 / 15 / 90 –PE-I published in the Gazette of India under GSR 634 (E) dated 13-7-1990

³ Substituted w.e.f. 30-9-2007 vide Ministry's Notification No. PR-12016 / 8 / 2008-PE-I dated 14-09-2009 published in the Gazette of India under GSR 685 (E) dated 17-09-2009

service on the afternoon of the last day of the preceding month on attaining the age of sixty years.]

4. ¹[Extension of service / re-employment after retirement

No employee shall be granted extension in service beyond the age of superannuation.

Provided that a specialist in Medical or Scientific fields, may in the interest of the Board be granted extension of service by the Chairman up to be age of sixty two years if such extension is in public interest and the grounds for such extension are recorded in writing.

Provided further that the appropriate authority shall have the right to terminate the extension of service before the expiry of such extension by giving a notice in writing of not less than 3 months in the case of a permanent or a quasi-permanent employees, or, of one month in the case of a temporary employee, or pay and allowance in lieu of such notice.]

5. Compulsory retirement before attaining the age of superannuation

Notwithstanding anything contained in these regulation, the Chairman shall, if he is of the opinion that it is in the Board's and / or public interest to do so have the absolute right to retire any employee at any time by giving him notice of not less than 3 months in writing or by giving 3 month's pay and allowance in lieu of such notice:-

(a) after he has attained the age of -

- (i) 50 years if he is in Class I or Class II service or post and had entered Board's service before attaining the age of 35 years and
- (ii) 55 years in any other case.

OR

(b) after he has completed -

- (i) 30 years of qualifying service in respect of employees who are governed by any pension rules / regulations and
- (ii) 30 years of service in respect of Class III employees who are not governed by any pension rules / regulations of the Cochin Port Trust.

NOTE

To determine if the retention of an employee in service beyond the age service as the case may be prescribed in this regulation shall be in the interest of the Board reviews will be made in accordance with the procedure laid down by the Chairman from time to time with the approval of the Central Government.

6. Voluntary retirement before attaining the age of superannuation

An employee may, by giving notice of not less than 3 months in writing, retire from the service of the Board -

(a) after he has attained the age of -

- (i) 50 years if he is in Class I or Class II service or post and had entered Board's service before attaining the age of 35 years and
- (ii) 55 years in any other case.

OR

¹ Substituted w.e.f. 30-9-2007 vide Ministry's Notification No. PR-12016 / 8 / 2008-PE-I dated 14-09-2009 published in the Gazette of India under GSR 685 (E) dated 17-09-2009

(b) after he has completed -

- (i) 30 years of qualifying service in respect of employees who are governed by any pension rules / regulations and
- (ii) 30 years of service in respect of Class III employees who are not governed by any pension rules / regulations of the Cochin Port Trust.

NOTE 1. It shall be open to the Chairman to with - hold permission to an employee who is under suspension and who seeks to retire under this regulation.

NOTE 2. 3 months notice referred to in regulations 5 and 6 above may be given before the employee attains the age or completes the number of years of service specified therein provided that the actual retirement takes place after he has attained the age or has completed the prescribed number of years of service as the case may be.

ANNEXURE

Criteria and procedure for grant of extension of services / re-employment to employees beyond the age of superannuation

- 1) No proposal for extension of service / re-employment beyond the age of superannuation should ordinarily be considered.
- 2) Extension of service / re-employment shall be justified only in very rare and exceptional circumstances. Even in such cases, 60 years shall be the dead line for non-scientific / nontechnical personnel and 62 years in the case of scientific / technical personnel. The overriding consideration for the grant of extension of service / re-employment shall be that it should be clearly in the Board's interest and in addition should satisfy one of the following two conditions.
 - i) that other employees are not ripe enough to take over the job; or
 - ii) that the retiring employee is of outstanding merit
- 3) No extension of service / re-employment shall be considered on the ground that a suitable successor is not available unless it is established that action to select a successor had been taken well in advance but the selection could not be finalised in time for justifiable reasons.

Procedure for Review Contemplated under the Note below Regulation 5 of the Cochin Port Employees (Retirement) Regulations, 1977

1. Cases of employees in Class I and Class II service or post who had entered Board's service before attaining the age of 35 years shall be reviewed six months before they attain the age of 50 years or complete 30 years of qualifying service, whichever occurs earlier.

In the case of any other employees, the review shall be made six months before he attains the age of 55 years or completes 30 years of qualifying service or 30 years of service in respect of Class III employees who are not governed by any pension Rules, whichever occurs earlier.

NOTE: The Committee however, reserve the right to review the case of any employee in Class I and II service or post again at any time thereafter till his superannuation.

2. The review aforesaid shall be made by the Committee constituted for the purpose the composition of which will be as follows:

Classification	Composition
Class 1 & II employees	Deputy Chairman as Chairman. Head of the Department concerned and another Head of the Department to be nominated by the Chairman as members
Class III & IV employees	Head of the Department concerned as Chairman. Divisional Officer concerned or senior most officer under the Head of Department and another Class I Officer to be nominated by the Chairman as members.

When reviewing cases of Scheduled Caste and / or Scheduled Tribe employees, the committees concerned will have an Officer from the Scheduled Caste or Scheduled Tribe community, whom the Chairman may nominate.

Provided that if the committees constituted as above already include in the normal course an Officer from the Sch. Caste or Sch. Tribe community, further nomination of an Officer represent-ing these communities is not required.

3. The review shall be made in accordance with the following procedure.
 - (a) Employees whose integrity is doubtful shall be retired.
 - (b) Employees, who are found to be ineffective shall also be retired. The basis consideration in identifying such employees should be the fitness / competence of the employee to continue in the post which he is holding. If he is not found fit to continue in his present post, his fitness / competence to continue in the lower post, from where he had been previously promoted, should be considered.
 - (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 preceeding 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 ground 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 provision for premature retirement should not be used :-
 - (i) to retire an employee on grounds of specific acts of misconduct, or misdemeanour as a short-cut to initiating formal disciplinary proceeding; or
 - (ii) for reduction of surplus staff or as a measure of effecting general economy, without following the rules and instructions relating to retrenchment.
5. The committee after review of the cases shall forward the paper with its findings to the Chairman of the Board for necessary action as per provision in regulation 5 of the Cochin Port Employees (Retirement) Regulations, 1977. In every case, where it is proposed to retire an employee in exercise of the powers conferred by the said regulations, the Chairman of the Board should record in the file that he has formed his opinion that it is necessary to retire the employee in pursuance of the aforesaid regulations in the Board's and or public interest.
6. (i) In case the Chairman of the Board, after the relevant review, comes to the conclusion that the employee is not fit for being retained in the present post, but could be retained in the next lower post from which he was promoted, a notice in the prescribed form should be served in such a case on the employee retiring him from service in pursuance of the provisions of the relevant regulation. Simultaneously, it may be explained to him in a covering letter that his continuance for service beyond the age of 50 / 55 years or after the completion of 30 years of service / 30 years qualifying service, as the case may be, could be considered, if he is willing to be reverted to the lower post held by him previously in case he indicates his willingness to work in the lower post and gives a written request for being so reverted, the notice may be withdrawn and he may be reverted and continued in the lower post.

(ii) The employees who seek reversion to lower posts in lieu of premature retirement should be made eligible for consideration for promotion only after they have put in a period of two years in the lower Post after such reversion. The promotion will not be automatic but such employee could be considered for promotion alongwith others in accordance with the normal rules, by the Departmental Promotion Committee on the basis of subsequent records in the lower post.
7. Once a decision has been taken by the Chairman of the Board to retain an employee beyond the, age of 50 years in the case of employees referred to in clause (a) (i) of the said regulation 5, or beyond the age of 55 years in the case of others or beyond the date of completion of 30 years service under regulation 5 (b) (ii) or 30 years of qualifying service for pension under regulation 5 (b) (i) of the Cochin Port Employees (Retirement) Regulations, 1977, he would ordinarily continue in service till he attains the age of retirement. If however, the Chairman of the Board considers at any time after a review aforesaid that the retention of the employee will not be in the Board's and / or public interest he may take necessary action to retire the employees by following the procedure laid down herein.
8. When the Chairman of the Board has come to the conclusion that the employee may be prematurely retired, the 3 months notice referred to in the said regulation 5 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 3 months or before the employee attains the age of 50 / 55 years / completing 30 years of service could be given; but the date from which he is required to retire as specified in the notice should be before he attains the age of 50 / 55 years or completes 30 years of service, as the case may be. Similarly, in cases of retirement under clause (h) (i) of the said Regln.5, 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 completing 30 years service qualifying for pension.

9. While computing the notice period of not less than three months referred to in the said regulation 5, the date of service of the notice and date of its expiry shall be excluded the date of premature retirement of the employees 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.
10. The notice of retirement served on an employee in pursuance of the said regulation 5 will be as in the forms attached hereto. While form I may be used to serve the notice of retirement in a case where the employee has already attained the age of 50 / 55 years or completed 30 years of qualifying service / 30 years of service, as the case may be, form II may be used in a case where it is decided to serve the notice of retirement before the employee actually attains the age of 50 / 55 years or completes 30 years of qualifying service / 30 years of service as the case may be. The proforma for ordering retirement in the Board's and / or public interest forthwith under the said regulation 5 where it is decided to dispense with the three month's notice will be as in form III.
11. In a 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, either in Class I or Class II posts. In such a 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 a 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 forenoon of the date following the date of refusal by the individual (witnessed by two officers, either in Class I or Class III posts) where the person concerned has refused to accept the cheque / cash equivalent of three months pay and allowances, the same procedure that followed in case where an employee has failed to accept his / her dues from the Board may be followed, in so far as its disbursement is concerned.

PROCEDURE FOR DEALING WITH REPRESENTATIONS AGAINST NOTICE ORDER OF PREMATURE RETIREMENT.

1. Representations against a notice / order of premature retirement received from an employee after a period of three weeks from the date of service of such notice or order shall not ordinarily be entertained.
2. On receipt of a representation, the Port's Secretariat should examine the same to see whether it contains any new fact or any new aspect of fact already known but which was not taken into account at the time of issue of notice / order of premature retirement. The examination should be completed, as far as possible, within two weeks from the date of receipt of representation. After such examination, the case should be submitted to the Committee constituted for the purpose for consideration. The composition of this committee shall be as follows:

Classification	Composition
Class 1 & II employees	Deputy Chairman as Chairman and 2 Head of Departments other than the officer included in the Committee which considered the case for premature retirement to be nominated by the Chairman as members. Final orders shall be passed by the Chairman of the Board in consideration of the report of the Committee.
Class III & IV employees	Same committee which earlier considered the case of the employee representing against his premature retirement with the modification that it should also include another senior Class I Officer (to be nominated by the Chairman) who was not in the said Committee earlier. Final orders shall be passed by the Chairman of the Board in consideration of the Report of the committee.

When dealing with cases of representations from Scheduled Caste and / or Scheduled Tribe employees, the Committees concerned will have an officer from the Scheduled caste or Scheduled Tribe community whom the Chairman may nominate.

Provided that if the Committees constituted as above already include in the normal course an officer from the Scheduled Caste or Scheduled Tribe community, further nomination of an officer representing these communities is not required.

3. The Committee considering the representation should make its recommendations on the representation as far as possible, within two weeks from the date of receipt of the representation by it from the Port's secretariat. The Chairman of the Board shall pass his final orders, as far as possible, within two week from the date of receipt of the recommendations of the Committee on the representation.
4. If in any case, it is decided to re-instate a prematurely retired employee in service after considering his representation the period intervening between the date of premature retirement and the date of re-instatement shall be regulated by the authority ordering re-instatement as duty, or as leave or as dies-non, as the case may be, taking into account the merits of each case.
5. In the case of employees who had been prematurely retired on grounds of inefficiency and by the time the Committee to consider the representation against such premature retirement comes to the conclusion that premature retirement was unjustified, the date of superannuation has already been passed or arrived, the authority empowered to pass

final orders, may at his discretion, re-instate the superannuated employees notionally with effect from the date of compulsory retirement and treat the period upto the date of superannuation, as duty, leave or dies-non, as may be considered appropriate.

6. Representations from employees who have been served with a notice / order of premature retirement, but have obtained stay order (s) from a Court against the order / notice of premature retirement, need not be considered by the Secretariat nor submitted to the Committee until the disposal of the Court case. Thereafter the cases may be examined as outlined above but also taking into account any material of a substantive nature that may feature in the Court Judgement.

ORDER

WHEREAS the Chairman of the Board is of the opinion that it is in the Board's and / or public interest to do so:

Now, THEREFORE in exercise of the powers conferred by clause ¹ of regulation 5 of the Cochin Port Employees (Retirement) Regulations, 1977 the Chairman of the Board hereby gives notice to(name) (designation) that he, having already attained the age of fifty / fifty five years or having completed thirty years of service qualifying for pension on the shall retire from service on the forenoon of ²..... on the forenoon of the day following the date of expiry of three months computed from the date following the date of service of this notice on him.

(Signature)
Chairman of the Board.

To.

Shri / Smt
.....

ACKNOWLEDGEMENT

I now holding the post of
..... hereby acknowledge the receipt of the original notice of the order of retirement as aforesaid.

Coutersigned

Name
Designation
Place
Date

Sd /-

Name
Designation
Place
Date

¹ Here state (a) (i) or (ii) or (b) (i) or (ii) as the case may be

² The date following the date on which he attains the age of 50 / 55 years completes 30 years of service / thirty years of service qualifying for pension

ORDER

WHEREAS the Chairman of the Board is of the opinion that it is in the Board's and / or public interest to do so:

Now, THEREFORE in exercise of the powers conferred by clause ¹ of regulation 5 of the Cochin Port Employees (Retirement) Regulations, 1977 the Chairman of the Board hereby gives notice to(name) (designation) that he, on attained the age of fifty / fifty five years or on completed thirty years of service or thirty years of service qualifying for pension on the20 , shall retire from service on the forenoon of ²..... on the forenoon of the day following the date of expiry of three months computed from the date following the date of service of this notice on him whichever is earlier.

(Signature)
Chairman of the Board.

To.

Shri / Smt
.....

ACKNOWLEDGEMENT

I now holding the post of
..... hereby acknowledge the receipt of the original notice of the order of retirement as aforesaid.

Coutersigned

Name
Designation
Place
Date

Sd /-

Name
Designation
Place
Date

¹ Here state (a) (i) or (ii) or (b) (i) or (ii) as the case may be

² The date following the date on which he attains the age of 50 / 55 years completes 30 years of service / thirty years of service qualifying for pension

ORDER

WHEREAS the Chairman of the Board is of the opinion that it is in the Board's and / or public interest to do so:

Now, THEREFORE in exercise of the powers conferred by clause of regulation 5 of the Cochin Port Employees (Retirement) Regulations, 1977 the Chairman of the Board hereby retires Shri/Smt./Kum (name) with immediate effect, he/she having already the age of 50 / 55 years or having already completed 30 years of service / 30 years of qualifying service for pension on the (date). 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 drawing them immediately before his/her retirement.

(Signature)
Chairman of the Board.

To.

Shri / Smt
.....

ACKNOWLEDGEMENT

I now holding the post of in the Department 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)

Coutersigned

Name
Designation
Place
Date

Sd /-

Name
Designation
Place
Date