

SCHEDULE

In exercise of the powers conferred by Section 28 read with Section 124 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees of the Port of Calcutta hereby makes the following Regulations namely:-

1. Short title and commencement :

(i) These regulations may be called the Calcutta Port Trust Class I Employees ' (Acceptance of Employment after Retirement) Regulations, 1986.

(ii) They shall come into force on the date of publication of the sanction of the Central Government in the official gazette.

2. Application :

These Regulations shall apply to every employee who holds Class I post or holds lien on Class I post under the Board, immediately before his retirement, but shall not apply to any such person if he is in part time employment or on deputation from the Central or State Government or other source.

3. Definition

In these Regulations unless there is anything repugnant in the subject or context -

(a) 'Board' and 'Chairman' shall have the meaning assigned to them in the major Port Trust Act, 1963 (38 of 1963).

(b) "Class I post" shall have the same meaning as assigned to it under the Calcutta Port Trust Employees' (Classification, Control & Appeal) Regulations and shall be deemed to include a post classified as Class I post from time to time by the Board.

(c) " Commercial employment" means employment in any capacity including that of an agent under a company, co-operative society, firm, or individual engaged in trading, commercial, industrial, financial or professional business, or that of a contractor for or in connection with the execution of public works, or of an employee of such contractor and includes also a directorship of such company and a partnership of such firm, but shall not include employment under a body corporate, owned or controlled by the central or a State Government.

It also includes setting up practice, either independently or as a partner of a firm, as an adviser or consultant in matters in respect of which a retired employee -

(i) has no professional qualifications and the matters in respect of which the practice is to be set up or is carried on are relatable to his official knowledge or experience, or

(ii) has professional qualifications but the management in respect of which such practice is to be set up are such as are likely to give his clients unfair advantage by reason of his previous official position, or

(iii) has to undertake work involving liaison or contact with the offices or officers of the Board.

Explanation : For the purpose of this clause, the expression 'employment under a co-operative society includes the holding of any office, whether elective or otherwise, such as that of President, Chairman, Manager, Secretary, Treasurer and the like, by whatever name called in such a society.

(d) 'Competent Authority' shall mean the 'Chairman of the Board' for the purpose of these Regulations.

(e) 'Employee' means a retired employee of the Board who held a Class I post or held a lien on Class I post under the Board immediately before his retirement.

4. **Commercial employment within India:**

(1) No employee whether governed by the Pension or Contributory Provident Fund Scheme, shall accept any commercial employment within India before the expiry of two years from, the date of his retirement without obtaining the previous permission of the Chairman.

Provided that an employee permitted by the Chairman to take up a particular form of commercial employment during his leave preparatory to retirement /post superannuation leave shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

Explanation :

*[For the purpose of these regulations, the expression 'date of retirement' in relation to an employee governed by Pension or CPF Scheme shall be deemed to include the date on which such an employee ceases to be in service and in relation to an employee re-employed after retirement either in the same or in another Class-I post under the Board, shall mean the date on which such employee finally ceases to be so re-employed under the Board.]

5. In granting or refusing permission under sub-rule (4) above to a retired employee whether on Pension Scheme or on Contributory Provident Fund Scheme for taking any commercial employment, the following factors should be taken into consideration :

(a) the nature of employment proposed to be taken up and the antecedent of the employer, viz, the proposed employment is of a thoroughly reputable kind.

(b) Whether his duties in the employment which he proposes to take up might be such as to bring him into conflict with the Board.

(c) Whether the retired employee either on Pension Scheme or on Contributory Provident Fund Scheme had any such dealing with the employer under whom he proposed to seek employment as might afford a reasonable basis for suspicion that such pensioner had shown favours to such employer;

(d) Whether the duties of the commercial employment proposed, involve liaison or contract work with any department under the Board.

(e) Whether his commercial duties will be such that his previous official position or knowledge or experience under the Board could be used to give the proposed employer an unfair advantage.

(f) the emoluments offered by the proposed employer.

(g) Whether there is any exceptional circumstances which would make a refusal of permission a real hardship ; and

(h) any other relevant factor.

NOTE:

(i) Employment involving the work of maintaining liaison or contract with the Board will not be considered as employment of a thoroughly reputable kind.

(ii) The reputation of the firm which offers employment will also be taken into account while granting permission under this regulation. For instance, employment under a firm which is black-listed by Government will not be considered as employment of a thoroughly reputable kind.

(iii) In respect of officers of the Engineering Department, whether in the executive or administrative side, permission within two years of retirement as contractors for or in connection with the execution of works of the Board or as employees of such contractors who are executing such works, may be given very rarely and only in special circumstances.

6. Subject to the provisions of rule (5) above the Chairman may by order in writing on an application made by a retired employee either on Pension or on Contributory Provident Fund Scheme grant, subject to such condition, if any, as he may deem necessary, permission, or refuse for reasons to be recorded in the order, permission to such retired employee to take up the commercial employment specified in the application.

7. Where within a period of sixty days of the date of receipt of an application under rule (6) above, the Chairman does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, it may be deemed that permission has been granted.

8. Where the Chairman grants the permission applied for subject to any condition or refuses such permission, the applicant may, within thirty days of the receipt of the order of the Chairman to that effect make a representation against any such condition or refusal and the Chairman may make such orders thereon as he deems fit;

Provided that no order other than an order canceling such condition or granting such permission without any condition shall be made under this rule without giving the retired employee whether on Pension Scheme or on Contributory provident Fund Scheme making the representation an opportunity to show cause against the order proposed to be made.

9. **Employment under a Government outside India :**

If the Pensioner wishes to accept any employment under any Government outside India, he shall obtain the previous permission of the Chairman for such acceptance, and no pension, shall be payable to a pensioner who accepts such an employment without proper permission in respect of any period for which he is so employed or such longer period as the Chairman may direct.

Provided that an employee permitted by the Chairman to take up a particular form of employment under a Government outside India during his leave preparatory to retirement/post superannuation leave, shall not be required to obtain subsequent permission for his continuance in such employment after retirement.

Explanation :

The expression 'Employment under a Government outside India' includes employment under a local authority or corporation or any other institution or organisation which functions under the supervision or control of a Government outside India or an employment under an International Organisation of which the Government of India is not a member.

10. **Undertaking :**

Every employee, whether governed by the pension or Contributory Provident Fund Scheme, shall be required to sign at the time of sanctioning the retirement benefits, an undertaking to the effect that he will not accept, without obtaining the previous permission of the Chairman, (i) any commercial employment as defined in these Regulations within India before the expiry of two years from the date of his retirement and (ii) any employment under a Government outside India; and that he will be bound by the provisions of these regulations.

11. The application for permission under these regulations shall be made in the form given in [Annexure-'A'](#).

12. **Penalty :**

If any retired employee whether on Pension or on Contributory Provident Fund Scheme take up any commercial employment at any time before the expiry of the two years from the date of his retirement without the prior permission of the Chairman or commits a breach of any condition subject to which permission to take up any commercial employment has been granted to him under these regulations -

(i) it shall be competent for the Chairman to declare by order in writing and for reasons to be recorded therein that he shall not be entitled to the whole or such part of the pension and for such period as may be specified in the order (if he is pensioner).

(ii) he shall be liable to compensate the Board to the extent as may be specified by the Chairman in his order (if he is governed by Contributory Provident Fund Scheme).

Provided that no such order shall be made without giving the retired employee, whether on Pension or on Contributory Provident Fund Scheme, concerned an opportunity of showing cause against such declaration.

Provided further that in making any order under this sub-rule, the Chairman shall have regard to the following factors namely :

(a) the financial circumstances of the retired employee, whether on pension or on Contributory Provident Fund Scheme, concerned,

(b) the nature of and the emoluments from the commercial employment taken up by the retired employee, whether on pension or on Contributory Provident Fund Scheme, concerned and,

(c) any other relevant factor.

13. Every order passed by the Chairman under these regulations shall be communicated to the retired employee whether on pension or on Contributory Provident Fund Scheme as the case may be.

14. **Permission in respect of temporary employees :**

Permission under these regulations will be necessary even in the case of an employee who immediately before retirement held a Class-I post in an officiating or temporary capacity.

15. **Interpretation :**

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

16. **Repeal and savings :**

All rules and regulations which the Board adopted from time to time contrary to or inconsistent with and in force immediately before the commencement of these Regulations shall stand repealed.

Provided that any order made or any action taken under the Rules and Regulations so repealed shall be deemed to have been made or taken under the corresponding provisions of these Regulations.

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Annexure - 'A'

Form of application for permission to accept commercial employment within a period of two years after retirement.

1. Name of the Officer (In block letters)
2. Date of retirement.
3. Particular of employment in which the officer served during the last five years proceeding retirement (with duration).

Name of Department / Office	Post held	Duration
		From To

4. Post held at the time of retirement and period for which held.
5. Pay scale of the post and the pay drawn by the officer at the time of retirement
6. Pensionary benefits.

Pension expected / sanctioned (Commutation if any should be mentioned)	Gratuity, if any
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7. Details regarding commercial employment proposed to be taken up :
 - a. Name of the Firm/Company/Cooperative Society etc.
 - b. Whether the official had, during his official career, any dealings with the firm etc.

***Note :** If the official had no dealings with the firm, company etc. in which employment is offered it may also be indicated whether the official had dealings with any other firm, company etc. under the control of the proposed employer. If so, details may be given at (c) below.

- c. Duration /nature at the official dealings with the firm.

- d. Name of job/post offered.
- e. Whether post was advertised, if not, how was offer made.
- f. Description of the duties of the job/post.
- g. Does it involve liaison/ contract work with the Government departments.
- h. Remuneration offered for the post/job.
- i. Any information which the applicant desires to furnish in support of his request.

Station:

Date :

Signature.

Note: The Calcutta Port Trust Class-I Employees' (Acceptance of Employment after Retirement) Regulations, 1986 were amended vide Calcutta Port Trust Class-I Employees' (Acceptance of Employment after Retirement) 1st Amendment Regulations, 1992 published in Gazette of India, Extraordinary Part-II on 8th April, 1992 vide GSR No. 166..

*Substituted by first Amendment Regulations