

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

(Department of Shipping)

(PORTS WING)

NOTIFICATION

New Delhi, the 25th March, 2009

G.S.R. 198(E).—In exercise of the powers conferred by sub-section (1) of Section 124 read with sub-section (1) of Section 132 of the Major Port Trusts Act, 1963 (38 of 1963), the Central Government hereby approves the Kolkata Port Trust Employees' (Pension) Second Amendment Regulations, 2009 made by the Board of Trustees for the Port of Kolkata and set out in the Schedule annexed to this notification.

2. The said regulations shall come into force on the date of their publication in the Official Gazette.

SCHEDULE

Kolkata Port Trust Employees' (Pension) Second Amendment Regulations, 2009

In exercise of the powers conferred by Section 28 of the Major Port Trusts Act, 1963 (38 of 1963) and with the sanction of the Central Government under Section 124 (1) of the said Act, the Board of Trustees for the Port of Kolkata hereby makes the following Regulations to amend the Kolkata Port Trust Employees' (Pension) Regulations, 1988.

1. Short title and commencement :

- (i) These Regulations may be called the "Kolkata Port Trust Employees' (Pension) Second Amendment Regulations, 2009".
- (ii) These shall come into force with effect from the date on which the Central Government's Notification is published in the Official Gazette.

2. After Regulation 37 (1) of Calcutta Port Trust Employees' (Pension) Regulations, 1988, the following Sub-Regulation shall be added—

Sub-Regulation 37(1A) :

- (a) When an employee disappears, leaving his family, the family can be paid in the first instance the salary due, leave encashment due and the amount of GPF having regard to the nomination made by the employee.
- (b) After the lapse of the period of one year, other benefits like retirement or death Gratuity/Family Pension may also be granted to the family subject to fulfilment of the following conditions :—
 - (i) The family must lodge a report with the concerned police station and obtain a report that the employee has not been traced after all efforts made by the police.
 - (ii) An Indemnity Bond in the prescribed proforma (Annexures I & II) should be taken from the nominee/dependents of the employee that all payments will be adjusted against the payments due to the employee in case he appears on the scene and makes any claim.
- (c) All Port dues outstanding against the concerned employee will be assessed and recovery effected in accordance with the Rules and other instructions in force for effecting recovery of port dues.

- (d) The family shall apply to the concerned Head of the Department for grant of Family Pension and Gratuity, after one year from the date of disappearance of the employee, in accordance with the prescribed procedure for sanction of Family Pension and death/retirement Gratuity. In case the disbursement of death/retirement Gratuity is not effected within 3 months of the date of application, the interest shall be paid at the rate applicable and responsibility fixed.
- (e) The above provisions regulate genuine cases of disappearance under normal circumstances and not cases in which employees disappear after committing frauds, etc. In latter type of cases, the Family Pension needs to be sanctioned only on the employee being acquitted by the Court of Law or after the conclusion of the disciplinary proceedings, etc, as the case may be.
- (f) Family Pension under the above provisions is admissible at ordinary rates only as these provisions do not raise an express presumption of death of employee who is treated as 'missing' only. If Family Pension on enhanced rates is sought to be sanctioned by the nominee/dependent, he/she will have to raise express presumption of death of the employee under Sections 107 and 108 of Indian Evidence Act, 1872 and follow the prescribed procedure in this regard, action in regard to which can be initiated only after a lapse of 7 years from the FIR's date.
- (g) Family Pension shall be sanctioned and paid one year after date of lodging the FIR, will accrue from the date of lodging the FIR or expiry of leave of the employee who has disappeared, whichever is later.
- (h) Pensionary benefit will be based on the emoluments drawn by the employee and the rules/orders applicable to him as on the last date he was on duty including authorized periods of leave.
- (i) Amount of death Gratuity payable to the family of a missing employee shall not exceed the amount which would have been payable as retirement Gratuity if the person had retired. The difference between retirement Gratuity and death Gratuity shall be, subsequently, payable after the death is conclusively established or on the expiry of seven years' period from the date of missing.
- (j) The above provisions will also be applicable in the case of missing pensioner mutatis mutandis.
- (k) Family Pension in respect of a missing employee/pensioner will not be accrued prior to 29-08-1986, i.e. the date on which the orders on the subject were issued by the Govt.

[F.No. PR-12016/20/08-PE-1]

RAKESH SRIVASTAVA, Jt. Secy.

Note.— The principal Regulations were published in the Gazette of India, Part II, Section 3, Sub-section (i) vide No. G.S.R. 712(E) dated 17-6-1988, subsequently amended vide.

(i) No. G.S.R. 472(E) dated 4-5-1992.

Annexure-I

(To be executed on Non-Judicial Stamp Paper of Rs. 50/- only)

INDEMNITY BOND

[In the case of missing employee]

Know All Men by these presents that I/We (a).....
 (b)....., the wife/son/brother/nominee, etc. of (c)....., who was holding the post of.....in Department of the Kolkata Port Trust is reported to 'have been missing since(hereinafter referred to as 'missing employee') resident of(hereinafter called "the Obligor") and
 (d)..... son/wife/daughter of Sriresident ofand.....son/wife/daughter ofresident ofthe sureties for and on behalf of the Obligor (hereinafter called "the Sureties") are held firmly bound to Board of Trustees for the Port of Kolkata (hereinafter called "the Trustees") in the sum of Rs.(in words) equivalent of the amount on account of payment of salary, leave encashment, PF, Retirement/Death Gratuity and each and every sum being the monthly family pension will and truly to be paid to the Trustees, on demand and without a demand together with simple interest @ 6% p.a. from the date of payment thereof until repayment for which payment we bind ourselves and our respective heirs, executors, administrators, legal representatives, successors and assigns by these presents.

Signed this day of two thousand and

Whereas (c) was at the time of his disappearance in the employment of the Trustees receiving a pay at the rate of Rs. (in words) only per month from the Trustees.

And whereas the said (c)..... Disappeared on the day of 20..... and there was due to him at the time of his disappearance the sum equivalent of (i) salary due, (ii) leave encashment, (iii) PF and (iv) Retirement/Death Gratuity.

And whereas the Obligor is entitled to family pension at enhanced rate of Rs. (Rupees only) upto and thereafter at normal rate of Rs. plus admissible dearness relief thereon.

And whereas the Obligor has represented that he/she is entitled to the aforesaid sum and approached the Trustees for making payment thereof to avoid undue delay and hardship.

And whereas the Trustees has agreed to make payment of the said sum of Rs. (in words) and monthly family pension at enhanced rate @ Rs. (in words) only upto and thereafter at normal rate of Rs. and dearness relief thereon to the Obligor upon the Obligor and the Sureties entering into a Bond in the above-mentioned sum to indemnify the Trustees against all claims to the amount so due to the aforesaid missing employee.

And whereas the Obligor and at his/her request the Surety/Sureties have agreed to execute the Bond in the terms and manner hereinafter contained.

Now the condition of this Bond is such that, if after payment has been made to the Obligor, the Obligor and/or the Surety/Sureties shall in the event of a claim being made, by any other person or the missing employee on appearance, against the Trustees with respect to the aforesaid sum of Rs. (in words) and the sums paid by the Trustees monthly pension and relief as aforesaid then refund to the Trustees the said sum of Rs. (in words) and each and every sum paid by the Trustees as monthly pension and relief together with simple interest @ % per annum and shall, otherwise, indemnify and keep the Trustees harmless and indemnified against and from all liabilities in respect of the aforesaid sums and all costs incurred in consequence of the claim thereto, then the above-written Bond or obligation shall be void and of no effect but otherwise it shall remain in full force, effect and virtue.

And these presents also Witness that the liability of the Surety/Sureties hereunder shall not be impaired or discharged by reason of time being granted by or any forbearance, act or omission of the Trustees whether with or without the knowledge or consent of the Surety/Sureties in respect of or in relation to the obligations or conditions to be performed or discharged by the Obligor or by any other method or thing whatsoever which under the law relating to sureties would but for this provision shall have no effect of so releasing the Surety/Sureties from such liability nor shall it be necessary for the Trustees to sue the Obligor before suing the Surety/Sureties or either of them for the amount due hereunder.

In Witness whereof the Obligor and the Surety/Sureties hereto have set and subscribed their respective hands hereunto on the day, month and year above-written.

.....
(Signature of obligor)

Signed by the above named 'Obligor'

in the presence of :

Signed by the above
named Surety/Sureties
in presence of :

Signature of Witnesses :

Signature of Sureties :

1.

Office: Department :

Designation :

1.

S/O Address :

2.....

2.

Office :
 Department :
 Designation :

S/O
 Address :

Accepted for and on behalf of the Trustees for the Port of Kolkata by

SriFA & CAO / Sr. OSD(F) / Adl. CAO / Sr. Dy. CAO of Kolkata

Port Trust in presence of Sri

Signature of the

FA & CAO / Sr. OSD(F) / Adl. CAO / Sr. Dy. CAO

Kolkata Port Trust

Witness :

Note I.— (a) Full name of the claimant referred to as the 'Obligor'.

(b) State relationship of the 'Obligor' to the 'missing employee'.

(c) Name of the 'missing employee'.

(d) Full name or names of the Sureties with name or names of the father(s)/husband(s) and place of residence.

Note II.— The Obligor as well as the sureties should have attained majority so that the bond may have legal effect or force.

Note III.— The rate of simple interest will be as prescribed by the Trustees from time to time. It is 6% p.a. on the date of issue of the OM.

Annexure—II

(To be executed on Non-Judicial Stamp Paper of Rs. 50)

INDEMNITY BOND

[In the case of missing pensioner]

KNOW ALL MEN by these presents that I/We (a).....
 (b), the widow/son/brother/nominee, etc. of (c),
 who had retired from the post of Department of the Kolkata Port
 Trust vide Pension case No. and Roll No. and who was in receipt of pension from Is reported
 to have been missing since.....(hereinafter referred to as 'missing pensioner') resident of (hereinafter
 called "the Obligor") and (d)..... son/wife/daughter of Sri
 resident of..... and son/wife/daughter of Sri
 resident of, the sureties for and on behalf of the Obligor (hereinafter called "the Sureties")
 are held firmly bound to the Board of Trustees for the Port of Kolkata (hereinafter called "the Trustees") in each and every
 sum being the arrears of pension and monthly family pension and relief thereon well and truly to be paid to the Trustees, on
 demand and without a demur together with simple interest at the rate of% per annum from the date of payment
 until repayment for which payment we bind ourselves and our respective heirs, executors, administrators, legal representatives,
 successors and assigns by these presents.

Signed this day of..... two thousand and.....

WHEREAS (c) was at the time of his disappearance a Trustees' pensioner
 receiving a pension at the rate of Rs. (in words) only per month and dearness relief
 thereon from the Trustees.

AND WHEREAS the said (c)..... disappeared on the.....day
 of.....20..... and there was due to him at the time of his disappearance the sum equivalent of arrears of
 pension due.

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AND WHEREAS the Obligor is entitled to family pension at enhanced rate of Rs..... (Rupeesonly) upto and thereafter at normal rate of Rs. (Rupeesonly) plus admissible dearness relief thereon.

AND WHEREAS the Obligor has represented that he/she is entitled to the aforesaid sum and approached the Trustees for making payment thereof to avoid undue delay and hardship.

AND WHEREAS the Trustees has agreed to make payment of the said sum of Rs. (in words) and monthly family pension at enhanced rate @ Rs(in words) only upto and thereafter at normal rate of Rs. plus dearness relief thereon to the Obligor upon the Obligor and the Sureties entering into a bond in the above-mentioned sum to indemnify the Trustees against all claims to the amount so due to the aforesaid missing pensioner.

AND WHEREAS the Obligor and at his/her request the Surety/Sureties have agreed to execute the Bond in the terms and manner hereinafter contained.

NOW THE CONDITION OF THIS BOND is such that, if after payment has been made to the Obligor, the Obligor and/or the Surety/Sureties shall in the event of a claim being made, by any other person or the missing pensioner on appearance, against the Trustees with respect to the aforesaid sum of Rs..... (in words) and the sums paid by the Trustees as monthly family pension and relief as aforesaid then refund to the Trustees the said sum of Rs.(in words) and each and every sum paid by the Trustees as monthly family pension and relief together with simple interest @.....% per annum and shall, otherwise, indemnify and keep the Trustees harmless and indemnified against and from all liabilities in respect of the aforesaid sums and all costs incurred in consequence of the claim thereto THEN, the above-written Bond or obligation shall be void and of no effect but otherwise it shall remain in full force, effect and virtue.

AND THESE PRESENTS ALSO WITNESS that the liability of the Surety/Sureties hereunder shall not be impaired or discharged by reason or time being granted by or any forbearance act or omission of the Trustees whether with or without the knowledge or consent of the Surety/Sureties in respect of or in relation to the obligations or conditions to be performed or discharged by the Obligor or by any other method or thing whatsoever which under the law relating to sureties would but for this provision shall have no effect of so releasing the Surety/Sureties from such liability nor shall it be necessary for the Trustees to sue the Obligor before suing the Surety/Sureties or either of them for the amount due hereunder, and the Trustees agrees to bear the stamp duty, if any, chargeable on these presents.

IN WITNESS WHEREOF the Obligor and the Surety/Sureties hereto have set and subscribed their respective hands hereunto on the day, month and year above-written.

.....
(Signature of obligor)

Signed by the above named 'Obligor'
in the presence of :

Signed by the above
named surety/sureties
in presence of :

Signature of Sureties :

1.....

Office :
Department :
Designation :

2.....

Office :
Department :
Designation :

Signature of Witnesses :

1.....

S/O
Address :

2.....

S/O
Address :

Accepted for and on behalf of the Trustees for the Port of Kolkata by

Sri FA & CAO / Sr. OSD(F) / Addl. CAO / Sr. Dy. CAO of Kolkata

Port Trust in presence of Sri

Signature of the

FA & CAO / Sr. OSD(F) / Addl. CAO / Sr. Dy. CAO

Kolkata Port Trust

Witness :

Note I.— (a) Full name of the claimant referred to as the 'Obligor'.

(b) State relationship of the 'Obligor' to the 'missing pensioner'.

(c) Name of the 'missing pensioner'.

(d) Full name or names of the Sureties with name or names of the father(s)/husband(s) and place of residence.

Note II.— The Obligor as well as the Sureties should have attained majority so that the bond may have legal effect or force.

Note III.— The rate of simple interest will be as prescribed by the Trustees from time to time. It is 6% p.a. on the date of issue of the OM. s