

# **VISAKHAPATNAM PORT EMPLOYEES (TEMPORARY SERVICE) REGULATIONS, 1991 WITH EFFECT FROM 26.07.1991**

In exercise of the powers conferred by Section-28 of the Major Port Trusts Act, 1963 (38 of 1963), the Board of Trustees of the Visakhapatnam Port Trust hereby makes subject to the approval of Central Government under Section-124 of the above Act, the following Regulations, in Supersession of the Visakhapatnam Port Employees (Temporary Service) Regulations, 1964, published as G.S.R. 321, dt.24-2-64, in the Gazette of India.

## **1. Short title and commencement :**

1. These Regulations may be called the Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991.
2. They shall come into force on the date of their publication in the official Gazette.
3. They shall apply to all persons who hold a post under the Board but who do not hold a lien on any post under that Board. These regulations shall not, however, apply to:
  - i) Employees engaged on contract;
  - ii) Employees not in whole-time employment;
  - iii) Employees paid out of contingencies;
  - iv) Persons employed in extra-temporary Establishment if any, or in work charged establishments other than the persons employed temporarily and who have opted for pensionary benefits;
  - v) Such other categories of employees as may be specified by the Board.

**2. Definitions:** In these regulations, unless the contract otherwise requires :

- a) "appointing authority" means the authority empowered to make appointment to the post under the Visakhapatnam Port Employees' (Classification, Control and Appeal) Regulations.
- b) "Board" "Chairman", "Deputy Chairman" and "Head of a

Department" shall have the same meanings assigned to them in the Major Port Trusts Act, 1963.

- c) Employee means an employee of the Board.
- d) "Temporary Service" means officiating service in a temporary or in a permanent post under the Board.
- e) "Service" under the Board means temporary service under the Board.

### **3. Termination of Temporary Service :**

1. (a) The services of a temporary employee, shall be liable to termination at any time by a notice in writing given either by the employee to the appointing authority or by the appointing authority to the employee.
- (b) The period of such notice shall be one month.

Provided that the service of any such employee may be terminated forthwith and on such termination the employee shall be entitled to a claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services or, as the case may be for the period by which such notice falls short of one month.

**NOTE :** The following procedure shall be adopted by the appointing authority while serving notice on such employee under clause (a):-

- i) The notice shall be delivered or tendered to the employee in person.
- ii) Where personal service is not practicable the notice shall be served on such employee by registered post acknowledgement due to the address of the employee available with the appointing authority.
- iii) If the notice sent by registered post is returned unserved, it shall be published in the local news paper or the newspaper having circulation in the area in which he resides and upon such publication, it shall be deemed to have been personally served on such employee on the date it was published in the local News Paper as mentioned above.

2. a) Where a Notice is given by the appointing authority terminating services of a temporary employee, or where the services of any such employee is terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowances, the Board or any other authority specified by the Board in this behalf may, of its own motion or otherwise, re-open the case, and after making such enquiry as it deems fit; -

- i) Confirm the action taken by the appointing authority.
- ii) Withdraw the notice
- iii) Reinstatement the employee in service; or
- iv) Make such other order in the case as it may consider proper;

Provided that except in special circumstances, which should be recorded in writing, no case shall be reopened under this sub-regulation after the expiry of three months:-

- i) from the date of notice, in a case where notice is given;
  - ii) from the date of termination of service in case where no notice is given.
- (b) Where an employee is re-instated in service under sub-regulation (2), the order of re-instatement shall specify-
- i) the amount or proportion of pay and allowances, if any, to be paid to the employee for the period of his absence between the date of termination of his services and the date of his re-instatement; and
  - ii) Whether the said period shall be treated as a period spent on duty for any specified purpose or purposes.

**NOTE :** Standard proforma prescribed to be used for termination of services of temporary employees under this regulation are given in Forms-I, II and III.

#### **4. Termination of temporary service on account of Physical unfitness:**

Notwithstanding anything contained in Regulation-3, the services of a temporary employee may be terminated at any time without notice on his being declared physically unfit for continuance in service by an authority who would have been competent to declare him as permanently incapacitated for service had his appointment been permanent.

## 5. Terminal gratuity payable to temporary employees :

- 1) Subject to the provisions of sub-regulation-3, a temporary employee who retires on superannuation or is discharged from service or is declared invalid for further service shall be eligible for gratuity at the rate of-
  - a) One-half of a month's pay for each completed year of his service, if he had completed not less than five years continuous service at the time of retirement, discharge or invalidment.
  - b) One month pay for each completed year of his service, subject to a maximum of fifteen months pay or fifteen thousand rupees, whichever is less, if he had completed not less than ten years continuous service at the time of retirement, discharge or invalidment;

Provided that the amount of terminal gratuity payable under this sub-regulation shall not be less than the amount which the employee would have got as a matching board contribution to the provident fund if he were a member of a contributory provident fund scheme from the date of his continuous temporary service subject to the condition that the matching contribution shall not exceed  $8 \frac{1}{3}$  percent of his pay.

- 2) In the case of a temporary employee who is compulsorily retired from service as a disciplinary measure, the provisions of sub-regulation (1) shall apply subject to the modification that the rate of gratuity payable in his case shall not be less than two-thirds of, but in no case exceeding the rate specified in Clause (a) as the case may be, Clause (b) of sub-regulation (1).
- 3) In the case of a temporary employee who retires from service on attaining the age of superannuation or on his being declared to be permanently incapacitated for further board service by the appropriate medical authority, after he has rendered temporary service of not less than ten years or who has sought Voluntary Retirement by giving three months notice in writing on completion of 20 years service, provision of sub-regulation (1) shall not apply in accordance with, the provisions of Central Civil Service (Pension) Rules, 1972.



- 1) Such an employee shall be eligible for the grant of superannuation, invalid or retiring pension, as the case may be, and retirement gratuity; and
- 2) In the event of his death after retirement, the members of his family shall be eligible for the grant of family pension.
4. In the event of death of a temporary employee while in service, his family shall be eligible for family pension and death gratuity at the same scale and under the same provisions as are applicable to permanent employees under the CCS (Pension), 1972.

No gratuity shall be admissible under this regulation to an employee, -

- (a) Who resigns his post or who is removed or dismissed from service as a disciplinary measure;
- (b) Who is re-employed after retirement on superannuation or retiring pension.

Provided that a temporary employee who resigned from service to take up, with prior permission, on appointment under a corporation or company wholly or substantially owned or controlled by the Board or in or under a body Controlled or Financed by Board shall be paid terminal gratuity at the rate prescribed under Sub-regulation (1) in respect of the service rendered by him under the Board;

Provided further that a temporary employee who has been absorbed in a Central Autonomous body, with the permission of the present department, shall have an option to count the service rendered the Board for the purpose of pension under the autonomous body if it has a pension scheme, instead of drawing the terminal gratuity under the first proviso.

**EXPLANATION :** For the purpose of this sub-regulation -

- (i) 'Central Autonomous Body means a body which is financed wholly or sub-stantially from cess or Central Government grants and includes a Central statutory body or a Central University but does not include a public undertaking falling under the purview of the Bureau of Public Enterprises;
- (ii) "Financed substantially" means that more than 50% of the expenditure is met by cess or Central Government grants".

6. Where gratuity under this regulation is paid to or in respect of an employee who is not covered by the Central Civil Services (Pension) Rules, 1972, no other gratuity or pensionary benefit is payable.

**7. For the purpose of this regulation:**

- (a) Gratuity shall be calculated on the basis of pay which the employee was receiving immediately before his retirement or on the date of his death;
- (b) "Pay" shall mean pay as defined in Fundamental Rule-9 (21) (a) (i)
- (c) Period of extraordinary leave, if any availed of by the employee concerned shall be taken into account for computing the completed service on the same basis as it is taken into account for the purpose of calculation of Pension and retirement gratuity / death gratuity under Central Civil Services (Pension) Rules, 1972 as amended, from time to time, and
- (d) an increment earned during the currency of earned leave not exceeding 120 days or during the first 120 days of earned leave exceeding 120 days expiring on the date of retirement, though not actually drawn, shall form part of the pay for purposes of calculating terminal/death gratuity".

**6. Interpretation :**

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

**NOTE :**

**PRINCIPAL REGULATIONS :** The Visakhapatnam Port Employee's (Temporary Service) Regulations 1964 vide, originally issued by the Government vide, GSR 321 dt.24.2.1964. These regulations were subsequently amended vide, Ministry's letters mentioned below:-

- 1. Notification No.PEV-9/75 dt. 20.2.1976
- 2. Notification No.PEV-32/76 dt. 6102.1976

SECRETARY  
VISAKHAPATNAM PORT TRUST  
VISAKHAPATNAM-530 035

**FORM-I**

(See Reg. -3)

Notice of termination of service issued Regulation-3 (i) of the Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991.

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In pursuance of Sub-regulation (1) of Regulation-3 of the Visakhapatnam Port Employees' (Temporary Services) Regulations, 1991 I, \_\_\_\_\_

(Name and Designation)

hereby giving notice to Sri/Smt.Kum. \_\_\_\_\_  
that his/her services shall stand terminated with effect from the date of expiry of a period of one month from the date of which this notice is serviced on, or as the case may be tendered to him/her.

Station :

SIGNATURE OF THE APPOINTING  
AUTHORITY.

Date : -

**ACKNOWLEDGEMENT**

I hereby acknowledge the receipt on this day  
of the notice of termination from service.

Station:

SIGNATURE OF THE INDIVIDUAL

Date:

DESIGNATION:

**FORM – II**

(See Regn – 3)

Order of termination of service issued under the proviso to sub-regulation (2) of Regulation-3 of the Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991.

In pursuance of the Proviso to sub-regulation (1) of Regulation-3 of the Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991, |

\_\_\_\_\_  
hereby

(Name and Designation)

terminate forthwith the services of Shri/Shrimathi/  
Kumari\_\_\_\_\_

\_\_\_\_\_ and direct that he/she shall be entitled to claim a sum equivalent to the amount of his/her pay plus allowances for the period of notice at the same rates at which he/she was drawing them immediately before the termination of his/her service, or, as the case may be, for the period by which such notice falls short of one month.

SIGNATURE OF THE APPOINTING

AUTHORITY

Station:

Date:



**FORM - II**

(See Regn. - 3)

Order of termination of Service issued under the Proviso to Sub-Regulation (1) of Regulation-3 of Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991, during the currency of the Notice of termination of Services already served on him.

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In modification of Notice No. \_\_\_\_\_  
dated \_\_\_\_\_ of termination of service of Sri/Shrimati/Kumari

\_\_\_\_\_ and in  
pursuance of the Proviso to Sub-Regulation (1) of Regulation-3 of the  
Visakhapatnam Port Employees' (Temporary Service) Regulations, 1991,  
I hereby terminate forthwith the services of Sri/Smt./Kum. \_\_\_\_\_

\_\_\_\_\_ and direct that he/she shall be paid to  
sum equivalent to the amount of pay and allowances for the period by  
which the said notice falls short of one month calculated at the same  
rates at which he/she was drawing them immediately before the date  
of this order.

SIGNATURE OF THE APPOINTING  
AUTHORITY

Station:

Date: