

**MINISTRY OF SURFACE TRANSPORT**

(Port Wing)

New Delhi, the 6<sup>th</sup> January 1988

**NOTIFICATION**

G.S.R. 14(E) - In exercise of the powers conferred by Section 126 read with Section 28 of the Major Port Trust Act, 1963 (38 of 1963), the Central Government hereby makes the following first regulations, namely:-

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

- (1) These regulations may be called the Nhava Sheva Port Trust Employees (Classification, Control and Appeal) Regulations, 1988.
- (2) They shall come into force on the date of their publication in the Gazette of India.

**2. Application:-**

- (1) These regulations shall apply to every employee of the Board, but shall not apply to –
  - (a) person in casual employment;
  - (b) person liable to be discharged from service on less than one month's notice and
  - (c) persons for whom special provision is made in respect of the matters covered by these regulations, by or under any law for the time being in force or by or under any agreement entered into by or with the previous approval of the Board before or after the commencement of these regulations in regard to matters covered by such special provision.
- (2) Notwithstanding anything contained in sub-regulations (1), the Board may by order exclude from the operation of all or any of these regulations, any class or classes of employees.
- (3) If any doubt arises as to whether these regulations or any of them apply to any persons, the matter shall be referred to the Board for its decision.

**3. Definitions: -**

In these regulations, unless the context otherwise requires:-

- (a) "Act means the Major Port Trust Act, 1963 (38 of 1963);
- (b) "appointing authority" in relation to an employee means the authority specified as such in the Schedule;
- (c) Board", "Chairman", and "Head of Department" means the Board, Chairman, Dy. Chairman and Head of Department of Nhava Sheva Port Trust;

(d) "disciplinary authority" in relation to an employee means the authority specified in column 3 of the schedule.

(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 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 annexed to these regulations;

**PART - II**  
**CLASSIFICATION**

**4. Classification of Posts -**

1) All posts under the Board shall be classified as follows:

Class I Posts - Scale carrying a maximum of not less than rupees 1980.

Class II Posts - Scale carrying a maximum of rupees 1715 and above, but below rupees 1980.

Class III Posts - Scale carrying a maximum of rupees 927 and above, but below rupees 1715.

Class IV Posts - Scale carrying a maximum of less than Rupees 927.

**PART-III**  
**APPOINTING AUTHORITIES**

**5. Appointment to Posts:**

(1) All appointments to the posts specified in Column 1 of the Schedule shall be made by the authorities specified in corresponding entry in Column 2 of the said Schedule.

(2) Powers to make appointments to posts exercisable by an authority specified in the Schedule may also be exercised by an authority, higher in rank than that authority.

**PART - IV**  
**SUSPENSION**

**6. Suspension:-**

- (1) An employee may be placed under suspension –
- (a) where a disciplinary proceeding against him is contemplated or is pending; or
  - (b) where in the opinion of the disciplinary authority he has engaged himself in activities prejudicial to the interests of security of State, or
  - (c) where a case against him in respect of any criminal offence is under investigation, inquiry or trial.
- (2) The order of suspension shall be made –
- (a) in the case of an employee holding a post referred to in 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 holding a post referred to in Clause (a) of sub-section (1) of section 24 of the Act shall have effect until it is approved by the Central government.

- (3) An employee shall be deemed to have been placed under suspension by an order of the appointing authority –
- (a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise, for a period exceeding forty-eight hours.
  - (b) with effect from the date of his conviction if in the event of a conviction for an offence he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

**Explanation:** The period of forty-eight hours referred to in clause (b) shall be computed from the commencement of the imprisonment after the conviction and for this purpose intermittent periods of imprisonment, if any, shall be taken into account.

- (4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon an employee under suspension is set aside in appeal or on revision under these regulations and the case is remitted for further inquiry 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 the 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 inquiry 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:

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) (a) An order of suspension made or deemed to have been made under this regulation shall continue to remain in force until it is modified or revoked by the authority competent to do so.
- (b) Where an employee is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise) and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may for reasons to be recorded by him in writing direct that the employee shall continue to be under suspension until the termination of all or any of such proceedings.
- (7) An order of suspension made or deemed to have been made under this regulation may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate.

## **PART - V** **DISCIPLINE**

### **7. Penalties:**

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

#### **Minor penalties:**

- (i) Censure:
- (ii) Withholding of promotion

- (iii) recovery from pay of the whole or part of any pecuniary loss caused by the employee to the Board by negligence or breach of orders;
- (iv) withholding of increments of pay;

**Major penalties:**

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

**Explanation :** The following shall not amount to a penalty within the meaning of this Regulation, namely:

- (i) withholding of increments of an employee for his 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 scale of pay 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 scale or post for promotion to which he is eligible.
- (iv) reversion to a lower scale or post of an employee officiating in a higher grade or post on the ground that the employee is considered, after trial, to be unsuitable for such higher post or on administrative grounds unconnected with the employee's conduct.

- (v) reversion to permanent scale or post of an employee appointed on probation to another scale 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 services of an employee whose services have been borrowed from the Central or a State Government or any authority under the control of the Central or a State Government or a local or other authority 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.
- (viii) termination off the services:
  - (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 under an agreement in accordance with the terms of such agreement.
  - (c) of a temporary employee under rule 5 of the Nhava Sheva Port Trust Employees (Temporary Service) Regulations, 1987.

**8. Penalty for misconduct committed prior to recruitment -**

The penalty specified in regulation 7 may be for good and sufficient reasons as hereinafter provided, be imposed on an employee appointed through direct recruitment in respect of misconduct committed before his employment if the misconduct was of such a nature as has a rational connection with the present employment and renders him unfit or unsuitable for continuing in service.

**9. Authority to institute proceedings - The Chairman may:-**

- a) institute disciplinary proceedings against any employee:
- b) Direct disciplinary authority to institute disciplinary proceedings against any employee on whom that disciplinary authority is competent to impose under these regulations any of the penalties specified in regulation 7.

**10. Disciplinary authority ;**

The authorities specified in Column 3 of the Schedule shall be competent to impose the penalties specified in corresponding entry Column 4 of the said Schedule.

A disciplinary authority competent under these regulations to impose any of the penalties specified in Clauses (i) to (iv) of regulation 7 may institute disciplinary proceedings against any employees for the imposition of any of the penalties specified in regulation 7 notwithstanding that such disciplinary authority is not competent under these regulations to impose penalties specified in clause (v) to (ix) of regulation 7.

**11. Procedure for imposing major penalties:**

- (1) No order imposing any of the penalties specified in clauses (v) to (ix) of regulation 7 shall be made except after an inquiry held, as far as may be in the manner provided in this regulation and regulation 12.
- (2) Whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehavior against an employee, it may itself inquire into, or appoint an authority to enquire into the truth thereof.

**Explanation :-** Where the disciplinary authority itself holds the enquiry, any reference in sub- regulation (7), sub-regulation (20) or sub- regulation (22) to the inquiring authority shall be construed as a reference to the disciplinary authority.

- (3) Where it is proposed to hold an inquiry against an employee under this regulation or regulation 12, the disciplinary authority shall draw up or cause to be drawn up.
  - (i) the substance of the imputations of misconduct or misbehavior into definite and distinct articles or charge;
  - (ii) a statement of the imputation of misconduct or misbehavior in support of such article of charges which shall contain –
    - (a) a statement of all relevant facts including any admission or confession made by the employee,
    - (b) a list of documents by which, and a list of witnesses by whom, the articles of charge are proposed to be sustained.
- (4) The disciplinary authority shall deliver or cause to be delivered to the employee a copy of the articles of charge, the statement of the imputation of misconduct or misbehavior and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the employee to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.
- (5) (a) On receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are

not admitted or if it considers necessary so to do, appoint under sub-regulation (2), an inquiring authority for the purpose and where all the articles of charge have been admitted by the employee in his written statement of defence, the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in regulation 12.

- (b) If no written statement of defence is submitted by the employee, the disciplinary authority may itself inquire into the articles of charge or may, if it considers it necessary so to do, appoint under sub-regulation (2), inquiring authority for the purpose.
  - (c) Where the disciplinary authority itself inquires into any articles of charge or appoints an inquiry authority for holding an inquiry into such charge, it may, by an order, appoint any person to be known as the "Presenting Officer" to present on its behalf the case in support of the articles of charge.
- (6) The disciplinary authority shall where it is not the inquiring authority, forward to the inquiring authority -
- (i) a copy of the articles of charge and the statement of the imputations of misconduct or misbehavior;
  - (ii) a copy of the written statement of defence, if any, submitted by the employee;
  - (iii) a copy of the statement of witnesses, if any, referred to in sub-regulation (3);
  - (iv) evidence proving the delivery of the documents referred to in sub-regulation (3) to the employee; and
  - (v) a copy of the order appointing the "Presenting Officer".
- (7) The employee shall appear in person before the inquiring authority on such day and at such time within ten working days from the date of receipt by him of the articles of charge and the Statement of the imputations of misconduct or misbehavior, as the inquiring authority may, by a notice in writing, specify in this behalf or within such further time, not exceeding ten days, as the inquiring authority may allow.
- (8) The employee may take the assistance of any other employee to present the case on his behalf, but shall not engage a legal practitioner for the purpose unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or the disciplinary authority, having regard to the circumstances of the case, so permits.

**NOTE:** The employee shall not take the assistance of any employee who has two pending cases in which he has to give assistance, but may take the assistance of a retired employee of the Board or Government, subject to such conditions as may be specified from time to time by the Board.



- (9) If the employee who has not admitted any of the articles of charge in his written statement of defence or has not submitted any written statement of defence, appears before the inquiring authority, such authority shall ask him whether he is guilty or has any defence to make and if he pleads guilty to any of the articles of charge, the inquiring authority shall record the plea, sign the record and obtain the signature of the employee thereon.
- (10) The inquiring authority shall return a finding of guilty in respect of those articles of charge to which the employee pleads guilty.
- (11) The inquiring authority shall, if the employee fails to appear within the specified time or refuses or omits to plead, require the Presenting Officer to produce the evidence by which he proposes to prove the articles of charge, and shall adjourn the case to a later date not exceeding thirty days, after recording an order that the employee may, for the purpose of preparing his defence.
- (i) inspect within five days of the order or within such further time not exceeding five days as the inquiring authority may allow, the documents specified in the list referred to in sub-regulation (3);
  - (ii) submit a list of witnesses to be examined on his behalf,

**NOTE:** If the employee applies orally or in writing for the supply of copies of the statements of witness mentioned in the list referred to in sub-regulation (3), the inquiring authority shall furnish him with such copies as early as possible and in any case not later than three days before the commencement of the examination of the witness of the disciplinary authority.

- (iii) give a notice within ten days of the order or within such further time not exceeding ten days as the inquiring authority may allow, for the discovery or production of any documents which are in the possession of the Board but not mentioned in the list referred to in sub-regulation (3)

**Note :-** The employee shall indicate in the notice the relevance of the documents required by him to be discovered or produced by the Board.

- (12) The inquiring authority shall, on receipt of the notice for the discovery or production of documents, forwarded the same or copies thereof to the authority in whose custody or possession the documents are kept, with a requisition for the production of the documents by such date as may be specified in such requisition.

Provided that the inquiring authority may, for reasons to be recorded by it in writing, refuse to requisition such of the documents as are in its opinion, not relevant to the case.

- (13) On receipt of the requisition referred to in sub-regulation (12), every authority having the custody or possession of the requisitioned documents shall produce the same before the inquiring authority:

Provided that if the authority having the custody or possession of the requisitioned documents is satisfied for reasons to be recorded by it in writing that the production of all or any of such documents would be against the interest of the Port Trust, it shall inform the inquiring authority accordingly and the inquiring authority shall, on being so informed communicate the information to the employee and withdraw the requisition made by it for the production or discovery of such documents.

- (14) (a) On the date fixed for the inquiry, the Oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority.
- (b) The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the employee.
- (c) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter, without the leave of the inquiring authority.
- (d) The inquiring authority may also put such questions to the witnesses as it thinks fit.
- (15) (a) If it appears necessary before close of the case on the side of the disciplinary authority, the inquiring authority may, in its discretion, allow the Presenting Officer to produce evidence not included in the list given to the employee or may itself call for new evidence or recall and re-examine any witness and in such case the employee shall be entitled to have, if he demands it, a copy of the list of further evidence proposed to be produced and an adjournment of the inquiry for three clear days before the production of such new evidence, exclusive of the day of adjournment and the day to which the inquiry is adjourned.
- (b) The inquiring authority shall give the employee an opportunity of inspecting such documents before they are taken on the record.
- (c) The inquiring authority may also allow the employee to produce new evidence if necessary in the interest of justice.

**NOTE** :- New evidence shall not be permitted or called for and no witness shall be recalled to fill up any gap in the evidence. Such evidence may be called for only when there is an inherent lacuna or defect in the evidence which has been produced originally.

- (16) (a) When the case for the disciplinary authority is closed, the employee shall be required to state his defence orally or in writing as he may prefer.
- (b) If the defence is made orally, it shall be recorded and the employee shall be required to sign the record; in either case, a copy of the statement of defence, shall be given to the Presenting Officer, if any, appointed.
- (17) (a) The evidence on behalf of the employee shall then be produced and the employee may examine himself on his side if he so prefers.
- (b) The witness produced by the employee shall then be examined and may be cross- examined on behalf of the disciplinary authority.
- (18) The inquiring authority may, after the employee closes his case, and shall, if the employee has not examined himself, generally question him on the circumstance appearing against him in the evidence for purpose of enabling the employee to explain any circumstances appearing in the evidence against him.
- (19) The inquiring authority may, after the completion of the production of evidence, hear the Presenting Officer, if any appointed and the employee, or permit them to file written briefs of their respective cases if they so desire.
- (20) If the employee, to whom a copy of the articles of charges has been delivered, does not submit the written statement of defence on or before the date specified for the purpose or does not appear in person before the inquiring authority or otherwise fails or refuses to comply with the provisions of this regulation, the inquiring authority may hold the inquiry exparte.
- (21) (a) Where a disciplinary authority competent to impose any of the penalties specified in clauses (i) to (iv) of regulation 7, but not competent to impose any of the penalties specified in clauses (v) to (ix) of regulation 7, has itself inquired into or caused to be enquired into the articles of any charge and that authority, having regard to its own findings of any inquiring authority appointed by it, is of the opinion that the penalties specified in clauses (v) to (ix) of regulation 7 should be imposed on the employee, that authority should forward the records of the inquiry to such disciplinary authority as is competent to impose the last mentioned penalties.
- (b) The disciplinary authority to which the records are so forwarded may act on the evidence on the record or may, if it is of the opinion that further examination of any of the witnesses is necessary in the interest of justice, recall the witness and examine, cross-examine and re-examine the witness and may impose on the employee such penalty as it may deem fit in accordance with these regulations.

- (22) Whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry, ceases to exercise jurisdiction therein, and is succeeded by another inquiring authority which has, and which exercise, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor or partly recorded by its predecessor and partly recorded by itself.

Provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine and re-examine any such witness as herein before provided.

- (23) (i) After the conclusion of the inquiry, a report shall be prepared and it shall contain-
- (a) the articles of charge and the statement of imputations of misconduct or misbehavior;
  - (b) the defence of the employee in respect of each article of charge;
  - (c) an assessment of the evidence in respect of each article of charge;
  - (d) the findings on each article of charge and the reasons therefore.

**Explanation** - If in the opinion of the inquiring authority, the proceedings of the inquiry establish any article of charge different from the original articles of charge, it may record its findings on such article of charge:

Provided that the findings on such article of charge shall not be recorded unless the employee has either admitted the facts on which such article of charge is based or has a reasonable opportunity of defending himself against such article of charge.

- (ii) The inquiring authority where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include -
  - (a) the report prepared by it under clause (i);
  - (b) the written statement of defence, if any, submitted by the employee;
  - (c) the oral and documentary evidence produced in the course of the inquiry;

- (d) the written briefs, if any, filed by the Presenting Officer or the employee or both during the course of inquiry, and
- (e) the orders if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.

**12. Action on the Inquiry report -**

- (1) The disciplinary authority, if it is not itself the inquiring authority, may, for reasons to be recorded by it in writing, remit the case to the inquiring authority for further inquiry and report. The inquiring authority shall there upon proceed to hold the further inquiry according to the provision of regulation 11 as may be.
- (2) The disciplinary authority shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement, and record its own findings on such charge, if the evidence on record is sufficient for the purpose.
- (3) If the disciplinary authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (i) to (iv) of regulation 7 should be imposed on the employee, it shall notwithstanding anything contained in regulation 13 make an order imposing such penalty.
- (4) If the disciplinary authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (v) to (ix) of regulation 7 should be imposed on the employee, it shall make an order imposing such penalty and it shall not be necessary to give the employee an opportunity of making representation on the penalty proposed to be imposed

Provided that in every case where it is necessary to consult the Central Government the record of inquiry shall be forwarded by the disciplinary authority along with its recommendations to the Central government for passing order.

**13. Procedure for imposing Minor penalties -**

- (1) No order imposing any of the penalties specified in clauses (i) to (iv) of regulation 7 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 any representation he may wish to make against the proposal;

- (b) holding an inquiry in the manner laid down in sub-regulations (3) to (23) of regulation 11, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;
  - (c) taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;
  - (d) recording a finding on each imputation of misconduct or misbehavior, and
  - (e) consulting the Central Government 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 imputations of misconduct or misbehavior delivered to him;
  - (iii) his representation, if any;
  - (iv) the evidence produced during the inquiry;
  - (v) the advice of the Central Government, if any;
  - (vi) the findings on each imputation of misconduct or misbehavior, and
  - (vii) the orders on the case together with the reasons therefore.
- (3) Notwithstanding anything contained in clause (b) of sub-regulation (1), if in a case it is proposed, after considering the representation, if any, made by the employee under clause (a) of that sub-regulation to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the employee or to withhold increments of pay with cumulative effect for any period, an inquiry shall be held in the manner laid down in sub-regulations (3) to (23) of regulation 11, before taking an order imposing on the employee any such penalty.

#### **14. Communication of Orders -**

Orders made by the disciplinary authority shall be communicated to the employee who shall also be supplied with a copy of the report of the inquiry,

if any, held by the disciplinary authority, and a copy of its findings on each article of charge, or where the disciplinary authority is not the inquiring authority, a copy of the report of the inquiring authority and a statement of the findings of the disciplinary authority together with brief reasons for its disagreement, if any, with the findings, of the inquiring authority (unless they have already been supplied to him).

**15. Common Proceedings -**

- (1) Where two or more employees are concerned, in any case the Chairman or the 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.

**NOTE:** If the authorities competent to impose the penalty of dismissal on such employees are different, an order for taking disciplinary action in a common proceeding may be made by the highest of such authorities with the consent of the other authorities.

- (2) Subject to the provisions of sub-section (1) of section 25 of the said Act, and regulation 10, any such order shall specify,-
- (i) the authority which may function as the disciplinary authority for the purpose of such common proceedings;
  - (ii) the penalties specified in regulation 7 which such disciplinary authority shall be competent to impose, and
  - (iii) whether the procedure prescribed in regulation 11 and 12 or regulation 13 or regulation 18 may be followed in the proceeding.

**16. Special procedure in certain cases-Notwithstanding anything contained in regulations 11, 13 and 15.**

- (i) where a 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 hold an inquiry in the manner provided in these 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 for passing such orders in relation to an employee referred to in clause (a) of sub section (1) of section 24 of the Act.

**17. Provision regarding officers lent by the Board -**

- (1) Where the services of an employee are lent by the Board to a State or Central Government or an authority subordinate to them or a local or other authority (hereinafter in this regulation referred to as "the borrowing authority"), the borrowing authority shall have the powers of the appointing authority for the purpose of placing such employee under suspension and of the disciplinary authority for the purpose of conducting disciplinary proceedings against him:

Provided that the borrowing authority shall forthwith inform the Board of the circumstances leading to the order of suspension of such employee or the commencement of the disciplinary proceedings; as the case may be.

- (2) In the light of the findings in the disciplinary proceedings conducted against an employee, -
- (i) if the borrowing authority is of the opinion that any of the penalties specified in clauses (i) to (iv) of regulation 7 should be imposed on the employee, it may, after consultation with the Board, make 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 Board, the services of an employee shall be replaced at the disposal of the Board.

- (ii) if the borrowing authority is of the opinion that any of the penalties specified in clauses (v) to (ix) of the regulation 7 should be imposed on the employee, it shall replace his services at the disposal of the Board and transmit to it the proceedings of the inquiry and thereupon the Board may pass such orders as it may deem necessary:

Provided that before passing any such order, the disciplinary authority shall comply with the provisions of these regulations.

**Explanation :-** The disciplinary authority may make an order under this clause on the record of the inquiry transmitted to it by the borrowing authority or after holding such further inquiry as it may deem necessary as far as may be in accordance with regulation 11.

**18. Provisions regarding officers borrowed by the Board -**

- (1) Where an order of suspension is made or a disciplinary proceedings is taken against an employee whose services have been borrowed from the Central Government or a State Government or an authority subordinate thereto or a



local or other authority, the authority lending his services (hereinafter in these regulations referred to as "the lending authority"), shall forthwith be informed of these circumstances leading to the order of his suspension or the commencement of the disciplinary proceedings as the case may be.

- (2) In the light of the findings in the disciplinary proceedings taken against the employee-
- (i) if it is decided that any of the penalties specified in clauses (i) to (iv) of regulation 7 should be imposed on him, the disciplinary authority may, subject to the provisions of sub-regulation (3) 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 clauses (v) to (ix) of regulation 7 should be imposed on the employee, it shall replace his services at the disposal of the lending authority and transmit it with the proceedings of the inquiry for such action as it deems necessary.

## **PART VI** **APPEALS**

### **19. Orders not appealable -**

Notwithstanding anything contained in this part, no appeal shall lie against (i) any orders made with the approval of the Central Government; (ii) any order passed by the inquiring authority in the course of an inquiry under regulation 11.

### **20. Appeal 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.

### **21. Appeal against orders Imposing penalties -**

The authorities mentioned in the Schedule shall be competent to entertain appeal against the order imposing the penalties indicated in the schedule:

Provided that where the person who made the order appealed against becomes, by virtue of his subsequent appointment, the appellate authority in respect of such order, an appeal against such order shall lie 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.

## **22. Appeals in other cases -**

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 to the employee;
- (c) determining the pay and allowances for the period of suspension to be paid to an employee on his reinstatement or determining whether or not such period shall be treated as a period spent on duty for any purpose; and
- (d) reverting to a lower scale or post an employee officiating in a higher scale or post otherwise than as a penalty;
- (e) an order which deems or varies to his disadvantage his pay, allowances, pension or other conditions of service as regulated by regulations or which interprets to his disadvantage the provisions of such regulation:
- (f) determining the subsistence and other allowances to be paid to him for the period of suspension or for the period during which he is deemed to or for any portion thereof.

Shall lie, in the case of 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 benefits.

## **23. Period of limitation for appeals -**

No appeal preferred under this part shall be entertained unless such appeal is preferred within a period of forty-five days from the date on which a copy of the order appealed against is delivered to the appellants:

Provided that the appellate authority may entertain the appeal after the expiry of the period, if it is satisfied that the appellant had sufficient causes for not preferring the appeal in time.

**24. 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 dis-respectful or improper language and shall be complete in itself.

**25. 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.

**26. Withholding of appeals -**

**(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 24; or
- (iii) it is not submitted within the period specified in regulation 23 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 24 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.

**27. 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 26 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 26 and thereupon such appeal shall be transmitted to that authority together with the comments of the authority withholding the appeal and the relevant records.

**28. Consideration of appeal -**

- (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 6 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 7 or enhancing any penalty imposed under the said regulation, the appellate authority shall consider-
  - (a) Where the procedure laid down in these regulations has been complied with and if not, whether such non-compliance has resulted in denial of justice;
  - (b) Whether the findings of disciplinary authority are warranted by the evidence on the record; and
  - (c) whether the penalty imposed is adequate, inadequate or revise and pass orders -
    - (i) confirming, enhancing, reducing or setting aside the penalty; or
    - (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:

Provided that -

- (i) if the enhanced penalty which the appellate authority proposed to impose is one of the penalties specified in clauses (v) to (ix) of regulation 7 and an inquiry under regulation 11 has not already been held in the case, the appellate authority shall, subject to the provisions of regulation 16, itself hold such enquiring in accordance with the provisions of regulations 11 and 12 and thereafter, on a consideration of the proceedings of such inquiry make such orders as it may deem fit;
- (ii) if the enhanced penalty which the appellate authority propose to impose is one of the penalties specified in clauses(v) to (ix) of regulation 7 and an inquiry under regulation it has already been held

in the case, the appellate authority shall, make such orders as it deem fit; and

- (iii) no order imposing an enhanced penalty shall be made in any other case unless the appellate has been given a reasonable opportunity, as far as may be in accordance with the provisions of regulation 11, of making a representation against such enhanced penalty.
- (3) In an appeal against any order specified in regulation 20 to 22, the appellate authority shall consider all the circumstances of the case and make such orders as it may deem just and equitable.

**29. 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**  
**REVISION**

**30. Revision -**

- (1) Notwithstanding anything contained in these regulations, -

- (i) The Central Government; or
- (ii) The Chairman

may at any time either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these regulations from which an appeal is allowed, but no appeal has been preferred or from which no appeal is allowed, after consultation with the Central Government where such consultation is necessary, 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 order as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising 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 (v) to (ix) of regulation 7 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in the said clauses; no such penalty shall be imposed except after an inquiry in the manner laid down in regulation 11 and 12 and except after consultation with the Central Government where such consultation is necessary:

Provided further that no power of revision shall be exercised by the Chairman, unless,-

- (i) the authority which made the order in appeal;  
or
  - ii) the authority to which an appeal would lie where no appeal has been preferred, is sub-ordinate to him.
- (2) No proceedings for revision 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 revision shall be dealt with in the same manner as if it were an appeal under these regulations.

**PART - VIII**  
**MISCELLANEOUS**

**31. Service of Orders, notices etc. -**

Every order, notice and other process made or issued under these regulations shall be served in person on the employee concerned or communicated to him by registered post:

Provided that if a notice or order or other process made or issued under these regulations sent by registered post is refused by the employee, it shall be deemed to have been served on him.

- 32.** Power to relax time-limit and condone delay Save as otherwise expressly provided in these regulations, the authority competent under these regulations to make any order may, for good and sufficient reasons or if, sufficient cause is shown, extend the time specified in these regulations for anything required to be done under these regulations or condone any delay.

**33. Interpretation -**

Where a doubt arises as to whether any authority is subordinate to or higher than any other authority or as to the interpretation of any of the provisions of these regulations, the matter shall be referred to the Board for decision.

**THE SCHEDULE**

**[See regulations 2(b), 2(f), 5(2)10 and 21]**

Description of posts	Appointing authority	Authority Competent to impose penalties which it may impose with reference to clauses (I) to (ix) in regulation (7)		Appellate Authority
		Authority	Penalties	
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
I. Posts covered by Clause (a) of sub-section (1) of section 24 of the Major Port Trusts Act, 1963.	Central Government after consultation with the Chairman	(a) Chairman (b) Chairman with prior approval of Central Government.	(i) to (iv) (v) to (ix)	Central Government Central Government
Other Class I Posts	Chairman	Chairman	All	Central Government
Classes II Posts	Dy. Chairman	Dy. Chairman	All	Chairman
Class III & IV posts	Head of the Department	Head of the Department	All	Dy. Chairman

[F. No. PR- 12013/5/86-PE-I]  
YOGENDRA NARAYAN, Jt. Secy.