

JAWAHARLAL NEHRU PORT TRUST EMPLOYEES (FOREIGN SERVICE) REGULATIONS 1994

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MINISTRY OF SURFACE TRANSPORT

(Ports Wing)

NOTIFICATION

New Delhi, the 18th October, 1994

G.S.R. 757 (E) - In exercise of the powers conferred by sub-section (i) of Section 124, read with sub-section (i) of Section 132 of the Major Ports Act, 1963 (38 of 1963), the Central Government hereby approves the Jawaharlal Nehru Port Trust Employees (Foreign Services) Regulations, 1994 made by the Board of Trustees for the Port of Jawaharlal Nehru and set out in the Schedule annexed to this notification.

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

[No. PR-12016/43/93-PE-I]

ASHOK JOSHI, Jt. Secy.

SCHEDULE

JAWAHARLAL NEHRU PORT TRUST EMPLOYEES

(FOREIGN SERVICE)

REGULATIONS 1993

CHAPTER I

INTRODUCTION

In exercise of the powers conferred under Section 28 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees of the Jawaharlal Nehru Port hereby makes the following regulations namely :-

SHORT TITLE AND APPLICATION :

1. These regulations shall be called the Jawaharlal Nehru Port Trust Employees (Foreign Service) Regulations 1994 and they shall be applicable to all employees from such date as the Central Government shall notify in that behalf in the Gazette of India.

CHAPTER II

DEFINITIONS:

2. In these regulations unless there is anything repugnant in the context or subject :-

- (1) ACT means the "MAJOR" "PORT TRUSTS ACT-1963" and any statutory amendments thereto.
- (2) Board Chairman Deputy Chairman and Heads of Departments shall have the same meaning as respectively assigned to them in the Act.
- (3) CADRE means the strength of a service or a part of a service sanctioned as a separate unit.
- (4) 'COMPENSATORY ALLOWANCE' means an allowance included in the Schedule or approved for inclusion in the Schedule or granted under or any other regulations to meet personal expenditure necessitated by the special circumstances in which duty is performed. It includes travelling allowance.
- (5) 'COMPETENT AUTHORITY' means the Appointing authority as defined in the Jawaharlal Nehru Port Trust Employees Classification, Control and Appeal Regulations, or such other authority subordinate to the Competent Authority to which a power has been delegated by the Board.
- (6) DUTY is deemed to include :-
 - (a) Service is as probationer or apprentice provided that such service is followed by confirmation.
 - (b) Joining time as hereinafter defined
 - (c) A course of instruction or training in India or abroad and
 - (d) Such periods of authorised absence as may be decided as duty under the provisions of these and or any other regulations framed under the Act.
- (7) EMPLOYEE means any person appointed to post on a fixed pay or a time scale of pay borne on the Schedule or approved to be borne on the Schedule.
- (8) FOREIGN SERVICE means service in which an employee receives pay with the sanction of the competent authority from any source other than the General Account of the Port.
- (9) GOVERNMENT means the Government of India.
- (10) JOINING TIME means time allowed to an employee on transfer to join a new post or to

travel to or from a station to which he is transferred.

(11) LEAVE SALARY shall have the same meaning as defined in the Jawaharlal Nehru Port Trust Employees Leave Regulations.

(12) LIEN means the right of an employee to hold substantively either immediately or on the termination of a period or periods of absence, a permanent post, to which he has been appointed substantively.

Explanation :

An employee shall be confirmed in a permanent post only once in the service of the Board Confirmation will be made after completion of the probation to the satisfaction of the competent authority on a permanent post held by the employee after entry to the service of the Board. Regular appointment to any other permanent post in their service of the Board after confirmation on a permanent post will entitle the employee to hold lien on that other permanent post.

(13) PAY means the amount drawn monthly by an employee as :-

- (i) the pay (other than special pay or pay granted in view of his personal qualifications), which has been sanctioned for a post held by him subsequently or in an officiating capacity or to which he is entitled by reason of his position in the service to the Board and includes pay drawn in a temporary post.
- (ii) Special pay personal pay, and
- (iii) any other emoluments which may be classed as pay by the Board with the prior approval of the Government.

(14) TRAVELLING ALLOWANCE means an allowance granted to an employee to cover the expenses which he incurs on travelling in the course of his employment. It includes allowances granted for the maintenance of any mode of conveyance.

(15) Any term which is not defined above but defined in the Jawaharlal Nehru Port Trust (General Conditions of Service) Regulations will have the same meaning as assigned to the term in these regulations.

CHAPTER III

FOREIGN SERVICE

3. Foreign Service only with consent of employee-

- (1) No employee shall be transferred to foreign service against his will.
- (2) No employee shall be transferred to foreign service outside India without prior approval of the Central Govt.

4. General Principle of foreign service - A transfer to foreign service is not admissible unless--

- (i) The duties to be performed after transfer are such as should, in the opinion of the competent authority be rendered by an employee.
- (ii) The employee transferred holds at the time of transfer lien on a permanent post.

5. Date of commencement of foreign service during leave If an employee is transferred to a foreign service while on leave, he ceases from the date of the such transfer to be on leave and to draw leave salary.

6. Position of employee on foreign service in the cadre An employee transferred to a foreign service shall remain in the cadre in which he was included in substantive or officiating capacity immediately before his transfer and may be given such substantive or officiating promotion while on foreign service in the cadre as the competent Authority may decide. In giving promotion such authority shall also take into account the nature of work performed in foreign service.

7. Procedure for fixation of terms and conditions of foreign service -

- (1) An employee in foreign service will draw pay from the foreign employer from the date on which he relinquishes charge of his post in the board's service.

The amount of his pay the amount of joining time admissible to him his pay during such joining time and other conditions of transfer will be fixed by the component Authority in consultation with the foreign employer.

- (2) The terms and conditions of an employee's transfer to foreign services should be settled well in advance in consultation with the foreign employer and communicated to the foreign employer before the employee is released to

take up the foreign service. Standard terms and conditions of foreign service are specified in the Annexure.

- (3) No employee will be permitted to receive any remuneration or enjoy any concession which is not communicated to the foreign employer.
- (4) The terms granted to the employee must not be such as to impose an unnecessarily heavy burden on the foreign employer.
- (5) The terms granted must not be so greatly in excess of the remuneration which the employee receives in the Board's service as to render foreign service appreciably more attractive than Board Service. However if his transfer to foreign service involves the assumption of duties and responsibilities of far greater importance than those attached to his post in Board service his pay in foreign service may be specifically fixed with due regard both to his status and pay in Board Service and to the nature of the work for which he is transferred.
- (6) The Competent Authority may sanction the grant of the following concessions by the foreign employer :-
 - (i) The payment of contributions towards leave salary and pension under these regulations.
 - (ii) The grant of travelling allowance under the regulations framed by the foreign employer.
 - (iii) The grant of free and furnished residential accommodation.
- (7) Restriction in pay increase while in foreign service. - In order that no employee receives an abnormal pay increase by virtue of being posted on foreign service the competent authority will ensure that the pay in the scale of pay of the post in foreign service should not exceed the pay in the parent department by more than the amounts shown below :-

For employees in receipt of basic pay above Rs. 2200/-	12% of basic pay or Rs. 330 whichever is more
For employees in receipt of basic pay above upto Rs. 2200/-	15% of basic pay or Rs. 200 whichever is more

- (8) Promotion in foreign service with previous consent of foreign employer when a person in

foreign service is promoted to another post by the foreign employer the foreign employer should obtain the concurrence of the lending authority prior to the promotion.

- (9) Payment of project allowance in addition to deputation duty allowance :

Any project allowance admissible in a project area may be drawn in addition to deputation (duty) allowance.

- (10) Option to draw pay :- An employee of foreign service may elect to draw either the pay in the scale of pay of the post in foreign service as may be fixed from time to time or his basic pay as fixed from time to time in the Board service plus personal pay if any : plus deputation (duty) allowance when he receives a proforma promotion in Board's service or he is reverted to lower grade in the Board's service or is appointed to another post in the foreign service or in the scale of pay of the foreign service post or that of the post held by him in Board's service is revised he may be allowed fresh option.
- (11) Period of foreign service :- The period of foreign service shall be subject to the maximum of three years in all cases except for those posts where a longer period of tenure is prescribed. An extension beyond this limit may be granted by the foreign employer after obtaining the sanction of the Chairman provided that no deputation (duty) allowance will be allowed for extension beyond the fourth year.

8. Deputation (Duty) Allowance :

- (1) The deputation (duty allowance) admissible shall be at the following rates :-
 - (i) 5% of the employee's basic pay subject to a maximum of Rs. 250 when the transfer is within the same station and
 - (ii) 10 percent of the employee's basic pay subject to a maximum of Rs. 500 per mensem in all other cases.

Provided that the basic pay plus the deputation (duty) allowance shall at no time exceed Rs. 7300 per month.

- (2) The deputation (duty) allowance shall further be so restricted that the basic pay of the employee in his parent department from time to time plus

the deputation (duty) allowance does not exceed the maximum rate of the scale of the pay of the post held on deputation or where the post on deputation has a fixed amount of pay that fixed amount.

- (3) Basic pay will include special pay where special pay was sanctioned to an employee on a post in addition to a scale of pay in lieu of a separate scale of pay for the post in the parent department. He shall be allowed to draw such special pay in addition to the duty (deputation) allowance.

- (4) While an employee is in foreign service
(i) Contributions towards the cost of his pension shall be paid to the General Account of the Port on his behalf.

- (ii) If the foreign service as in India contributions shall be paid on account of the cost of leave salary also.

- (iii) Contribution due under sub-regulation (1) and or (2) shall be paid by the employee himself; unless the foreign employer consents to pay them. They shall not be payable during leave taken while in foreign service.

- (iv) By special arrangements made under Regulation (2) the foreign employer may be required to make contributions on account of leave salary in the case of foreign service out of India also.

9. **Leave salary contribution** - The rate of monthly contribution for leave salary of employees governed by the Jawaharlal Nehru Port Trust (Leave) Regulations, is 11 percent of the pay drawn in the foreign service.

10. **Rates of monthly contribution of pension** Rates of Monthly Contribution of Pension shall be expressed as percentage, which depends on the class of service to which the employee belongs and his length of service and is calculated on the maximum monthly pay of the post held by him at the time of his proceeding on foreign service, or of the post if any to which he receives proforma promotion while on foreign service together with D.A., A DA; Ad hoc D.A. and or interim relief which is treated as pay.

Rates of monthly contribution of pension are as follows:

Year of service Rates of monthly contribution expressed as percentage of the maximum monthly pay of the post in the officiating/substantive grade as the case may be held by the officer at the time of proceeding on foreign service.

	Class I	Class II	Class III	Class IV
1 Year	7%	6%	5%	4%
2 "	7%	6%	6%	4%
3 "	8%	7%	6%	5%
4 "	8%	7%	7%	5%
5 "	9%	8%	7%	5%
6 "	10%	8%	7%	6%
7 "	10%	9%	8%	6%
8 "	11%	9%	8%	6%
9 "	11%	10%	9%	7%
10 "	12%	10%	9%	7%
10-11 "	12%	11%	10%	7%
11-12 "	13%	11%	10%	8%
12-13 "	14%	12%	10%	8%
13-14 "	14%	12%	11%	8%
14-15 "	15%	13%	11%	9%
15-16 "	15%	13%	12%	9%
16-17 "	16%	14%	12%	9%
17-18 "	16%	14%	13%	10%
18-19 "	17%	15%	13%	10%
19-20 "	17%	15%	13%	10%
20-21 "	18%	16%	14%	11%
21-22 "	18%	16%	14%	11%
22-23 "	19%	17%	15%	11%
23-24 "	20%	17%	15%	12%
24-25 "	20%	17%	16%	12%
25-26 "	21%	18%	16%	12%
26-27 "	21%	18%	16%	13%
27-28 "	22%	19%	17%	13%
28-29 "	23%	19%	17%	13%
29-30 "	23%	20%	18%	13%
Over 30 "	23%	20%	18%	14%

Rates of contributory Provident Fund Contributions:-

- (1) An employee who is subscriber to the Jawaharlal Nehru Port Trust Contributory Provident Fund and who is transferred to foreign service shall pay Monthly Subscriptions to such fund calculated on the rate of pay drawn in the foreign service.
- (2) The foreign employer or the employee himself shall in addition, also pay for the period of active foreign service a contribution determined by the formula $X+XY$ where X is the amount which would have been credited every month to the employees account in the contributory provident fund had he not proceeded on foreign service, and the rate of pay drawn by him in foreign service shall be regarded as his emoluments for this purpose and Y is the fraction which the amount recoverable as leave salary contribution bears to pay drawn in foreign service:

Provided that the amount of contribution payable on percentage basis shall be rounded off to the nearest rupee, fractions equal to 50 paise being rounded off to the next higher rupee.

12. Purpose of leave salary and pension contribution :-

- (1) The pension contribution shall be designed to secure to the employee the pension that he would have earned by service under the Board if he had not been transferred to foreign service.
- (2) The rates of contributions for leave salary will be designed to secure to the employee leave salary on the scale and under the conditions applicable to him.

13. Waiver of leave salary and pension contribution :-

In case of transfer to foreign service the Board may :-

- (i) remit the contributions due in any specified case or class of cases; and
- (ii) prescribe the rate of interest, if any, to be levied on over the contribution.

14. Terms of payment of leave salary and pension contribution:-

- (1) Contributions for leave salary or pension due in respect of an employee in foreign service shall be paid annually within fifteen days from the end of each financial year or at the end of the foreign service, if the foreign service, expires before the end of a financial year and if the payment is

not made within the said period interest must be paid to the Board on the unpaid contribution at the rate of two paise per day per rupees one hundred from then date of expiry of the period aforesaid up to the date on which the contribution is finally paid. The interest shall be paid by the employee or the foreign employer liable to make such contribution as the case may be,

- (2) The leave salary and pension contribution shall be paid separately and no dues recoverable from the Board on any account shall be set off against these contributions.

- (3) An employee on foreign service may not elect to withhold contributions and to forfeit the right to count as duty in the Board's service, the time spent in foreign employment. The contribution paid on his behalf maintains his claim to pension, or to pension and leave salary as the case may be, in accordance with the rules applicable to him. Neither he nor the foreign employer has any right of property in a contribution paid and no claim for refund shall be entertained.

15. Prohibition of acceptance of pension from foreign employer :-

An employee transferred to a foreign service shall not without the sanction of the Chairman accept a pension or gratuity from the foreign employer in respect of such service.

16. Grant of leave during foreign service :-

An employee in foreign service in India shall not be granted leave otherwise than in accordance with the rules applicable to him in the Board's service and he shall not take leave or receive leave salary from the Board unless he actually quits duty and goes on leave.

17. Payment of leave salary & pension contribution mandating :-

A condition to the effect that "payment of pension contribution and leave salary contribution whether by the foreign employer or by the employee himself shall be inserted in the order sanctioning the transfer on foreign service. Where the transferee employee himself is liable to pay the contributions on account of pension contributory provident fund and leave salary it shall be necessary to secure a letter from the

transferee addressed to foreign employer requesting the foreign employer to pay to the Board from his salary a specific monthly sum as foreign service contributions so as to enable the foreign employer to lawfully and authorisedly effect the necessary deduction from the employees salary and remit it to the Board.

18. Medical benefit mandatory :-

No employee shall be transferred to foreign service unless the foreign employer undertakes to provide him with medical privileges and facilities not inferior to those which he would have enjoyed in the service of the Board.

19. Disability leave salary mandatory:-

(1) The foreign employer shall in the case of employees transferred to foreign service accept liability for leave salary in respect of disability leave granted on account of disability incurred during the period of foreign service even though such disability manifests itself after the termination of foreign service.

(2) The leave salary charges for such leave shall be recovered by the employee directly by the employee directly from the foreign employer, and a condition to this effect should be inserted in the terms of the order sanctioning the transfer to foreign service.

20. Transfer of a foreign service to another :-

In the case of an employee who proceeds on transfer from one foreign employer to another without reverting to the Boards service the transit pay, allowances and transfer travelling allowance shall be borne by the foreign employer to whom the employee proceeds on transfer.

21. Payment of dearness allowance on death :

The amount of dearness allowance payable to an employee who retires or dies while in foreign service shall be paid to him by the Board as a part of cash equivalent of leave salary in lieu of unutilised leave admissible to him at the time of his retirement or demise.

JOINING TIME

22. Joining time shall be granted to an employee who is transferred with the approval of the competent authority to enable him to join the new post either at the same or a new station No joining time is admissible in cases of temporary transfer for a period not

exceeding 180 days only the actual transit time, as admissible in case of journeys on tour may be allowed.

23. Commencement of joining time :-

The joining time shall commence from the date of relinquishment of charge of the old post if the charge is made over in the forenoon or the following date if the charge is made over in the afternoon.

24. Amount of joining time pay :-

(i) Not more than one day's joining time shall be allowed to an employee to join a new post within the same station or which does not involve a change of residence from one station to another.

Explanation : For this purpose, the term same station will be interpreted to mean the area falling within the jurisdiction of the municipality or corporation including such of suburban in municipalities notified areas or cantonments as are contiguous to the named municipality etc.

(ii) In cases involving transfer from one station to another and also involving change of residence the employee shall be allowed joining time with reference to the distance between the old headquarters and the new headquarters by direct route and ordinary mode(s) of travel as indicated in the following schedule. When a holiday or holidays follow joining time the normal joining time may be deemed to have extended to cover such holidays.

Distance between the old head quarters and new head quarters	Joining time admissible	Joining time admissible where the transfer necessarily involves continuous travel by road for more than 200 kms.
1,000 Km or less	10 days	12 days
More than 1000 Kms	12 days	15 days
More than 2000 Kms	15 days except in cases of travel by air for which the maximum will be 12 days.	15 days

NOTE : Distance means actual distance and not weighted mileage for which fare is charged by the Railways in certain ghat hill sections

- (iii) Extension of joining time beyond the limits indicated above can be granted upto the maximum limit of 30 days by the Dy. Chairman and beyond 30 days by the Chairman the guiding principle being that the total period of joining time should be approximately equal to 8 days for preparation PLUS reasonable transit time PLUS holidays, if any following the extended joining time. While computing the transit time, allowance could be made for the time unavoidably spent due to disruption of transport arrangements caused by strike or natural calamities, or the period spent awaiting the departure of a steamer.

25. Joining time pay :

Joining time shall be regarded as period of time spent on duty and during that period the employee concerned shall be entitled to be paid joining time pay equal to the pay which was drawn by him before relinquishment of charge in the old post. He will also be entitled to Dearness Allowance if any appropriate to the joining time pay. In addition he will be entitled to draw compensatory allowance like City Compensatory Allowance and House rent allowance as applicable to the old post from which he was transferred. He shall not be entitled to receive convenance allowances.

26. Credit of non-availed joining time to leave account:

- (i) When an employee join the new post without availing himself of full joining time by reasons that-
 - (a) he is ordered to join the new post at a new place of posting without availing of full joining time to which he is entitled or
 - (b) he proceeds alone to the new place of posting and joins the post without availing full joining time and takes his family later within the permissible period of time for claiming travelling allowance for the family.

The number of days of joining time admissible subject to the maximum 15 days reduced by the number of days of joining time actually availed shall be credited to his leave account as earned leave subject to a ceiling on maximum accumulation of earned leave as laid down in the JNPT (Leave) Regulations.

27. Combination of joining time with leave.

Joining time may be combined with regular leave of any kind or duration except casual leave.

28. Overstayal of joining time misbehaving

An employee who does not join his post within his joining time is not entitled to pay or leave salary after the end of the joining time. wilful absence from duty after the expiry of joining time may be treated as misbehaviour.

29. No joining time as voluntary transfer :

Joining time is not admissible in the case or transfer of an employee on his request.

CHAPTER IV

- 30.** If any question arises as to the interpretation of these Regulation it shall be referred to the Board which shall be guided by the instructions issued by the Central Govt. on the subject from time to time so far as they are not inconsistent with these Regulations.

- 31.** Where the Chairman is of the opinion that the operation of any of these regulations may cause undue hardship to any employees or class of employees or any particular person he may by order for reasons to be recorded in writing relax the requirements of these Regulations to such extent and subject to such conditions as he may consider necessary for mitigating the hardship in just and equitable manner and make a report to the Board.

Annexure

STANDARD TERMS & CONDITIONS OF FOREIGN SERVICE

- (1) Period of deputation _____ years from _____ (dated to be given)

- (2) Pay :

- (i) If the transfer is in the public interest) During the period of deputation Shri _____ will have the option either to gets his pay fixed in the foreign service post under the operation of the normal rules or to draw pay of the post held by him in JNPT plus a deputation (duty) allowance:

- (ii) (If the transfer is not in the public interest)
During the period of deputation Shri _____ will be entitled to pay in the scale of the post of Rs _____ due under the operation of the normal rules.

- (3) Dearness Allowance : Shri _____ will be entitled to dearness allowance under the rules of the JNPT or under the rules of the foreign Employer according as he retains his scale of pay under the JNPT or he draws pay in the scale attached to the post under the foreign employer.
- (4) Local Allowance like Compensatory (City) Allowance & HRA :- To be regulated under the rules of the foreign Employer but the Foreign employer may at its discretion allow these allowances under the rules of the JNPT.
- (5) Children's Educational Assistance : During the period of foreign service Shri _____ will be eligible to claim the Children's Education Allowance as admissible under the rules of JNPT and liability in this regard will devolve on the foreign employer.
- (6) Joining Time pay and Transfer T.A. :- He will be entitled to T.A. and joining time both on joining the post on deputation and on reversion therefrom to the JNPT under the rules of the Foreign Employer. The expenditure on this account will be borne by the Foreign Employer.
- (7) T. A. or Journey on Duty during the period of deputation : To be regulated under the rules of the Foreign Employer.
- (8) Leave & Pension :- During the period of Foreign Service he will continue to be governed by the leave encashment & pension rules of the JNPT applicable to him before such transfer. Liability on account of compensatory allowance during leave shall be borne by the foreign employer. The foreign employer or the employee on foreign service as the case may be shall pay leave salary and pension contributions to the JNPT as prescribed by JNPT from time to time.
- (9) Provident Fund benefits :- During the period of foreign service he will continue to subscribe to the provident fund of JNPT in accordance with the rules of such Fund.
- (10) Extraordinary pension/ gratuity:- This will be regulated in accordance with the rules of the JNPT.
- (11) Leave Travel concession :- He will continue to be entitled to leave travel concession under the rules of the JNPT as amended from time to time and the cost thereof will be borne by the foreign employer.
- (12) Medical Concessions :- He will be entitled to those concessions under the rule of the Foreign Employer. They should not be lower than those admissible under the rules of the JNPT.

[No. P.R-12016 43 93-P.E.I.]

ASHOKE JOSHI Jt. Secy.