

The Orissa Gazette



EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 1833 CUTTACK, TUESDAY, AUGUST 9, 2011 / SRAVANA 18, 1933



FAX : 2562822/2560955
Tel. : 2564033/2563924
EPABX : 2561908/2562847
E-mail: paribesh@sancharnet.in
website : www.ospcboard.org

STATE POLLUTION CONTROL BOARD, ORISSA

[DEPARTMENT OF FOREST & ENVIRONMENT, GOVERNMENT OF ORISSA]
Paribesh Bhawan, A/118, Nikantarnagar, Unit-VIII,
Bhubaneswar - 751 012, INDIA

NOTIFICATION

Bhubaneswar, the 23rd July, 2011

No.I-Estt (Misc)12/07-08/12162. In exercise of powers conferred by Sub Section 3(A) of Section-12 of the Water (Prevention & Control of Pollution) Act, 1974, (Central Act-6 of 1974), the State Pollution Control Board, Orissa hereby makes the Orissa State Pollution Control Board (Employees) Pension Regulations-2011 with the approval of the Govt. of Orissa communicated by the Forest & Environment Department G.O. No.ENV-F.E-7/2011/13005/F&E, Dt.19.07.2011, which has been duly concurred by the Finance Department, Govt. of Orissa vide UOR No. 2813/PSF, Dt.18.05.2011 and vetted by Law Department, Govt. of Orissa vide UOR No.1147/L, Dt.22.6.2011 for payment of Pension, Gratuity and related Pensionary benefits to the employees of the Board who have been appointed prior to the 1st Day of January, 2005 and who will opt to be regulated under the prescribed regulations.

By order of Chairman
(Siddhanta Das)
Member Secretary

NOTIFICATION
CHAPTER-I
PRELIMINARY

100 9
107 6
108 1
109 1

In exercise of the powers conferred by clause (b) of sub-section (3 A) of section 12 of the Water (Prevention and Control of Pollution) Act, 1974 (Act 6 of 1974) the Orissa State Pollution Control Board with the approval of the State Government do hereby make the following regulations regulating the pensionary matters of its employees, namely:-

1. **Short title and commencement:** (1) These regulations may be called the Orissa State Pollution Control Board (Employees) Pension Regulations – 2011.

(2) They shall come into force on the date of their publication in the Orissa Gazette.

2. **Application: These Regulations shall apply to:-** (1) Employees who have been appointed prior to the 1st day of January, 2005 shall be entitled either to the benefits of pension including commutation of pension, gratuity and family pension, under these regulations or to the benefit of Employees Provident Fund introduced on 01.10.1987 and subsequently to Employees Pension Scheme, 1995 on exercising options.

(2) In the case of employees opting or deemed to have opted for the Pension Scheme, the amount contributed by the Board to their Employees Provident Fund Account together with interest accrued thereon till the date of their receiving pension shall be credited to the Pension Fund of the Board as per the provisions of regulation 4.

(3) The employees under the Pension scheme shall subscribe to a Provident Fund account and the employee's share and the interest thereon already accrued shall be deposited in this account, which shall be opened and operated by the Board, in the manner as prescribed in these regulations.

3. **Exercise of Option :** (1) Every employee who is willing to come under these regulations will have to exercise option in writing within one month from the date of issue of notice to that effect or before these regulations are approved:

Provided that in case of an employee who is on leave or on deputation or under suspension on the date of issue of the notice, the said option shall be exercised not later than one month after return from such leave, deputation or on reinstatement of duty as the case may be.

(2) If the option is not exercised by any individual employee within the time limit referred to above, it will be deemed that he has not opted for coming under these regulations.

(3) The option as provided in 2 (1) of these regulations shall be exercisable once only in respect of either scheme which shall be final irrespective of any change that may be made in any such scheme from time to time. The fact of exercising option shall be recorded in relevant service records of the employee.

4. **Pension Fund** : (1) The Board shall create a pension fund with a corpus of Rs. 9.66 crores in respect of those employers who opt to come over to these regulations, for operationising the pension scheme. The fund shall be administered by a Trust constituted by the Board. Further, the Board will make annual recurring contribution limited to Rs. 60 lakhs to this Fund out of Board's own resources without any financial assistance or any other grant from the State Government. The Board shall not have power to enhance the quantum of annual contribution to the fund.

(2) The liabilities towards retirement benefits of the employees under these regulations shall be fully met from the pension fund only.

5. **Definitions** : (1) In these regulations unless there is any thing repugnant in the context:

- a) 'Board' means the Orissa State Pollution Control Board or any other name to be notified by the State Government from time to time, constituted under section-4 of the Water (Prevention & Control of Pollution) Act, 1974.
- (b) 'Board of Trustee' means Trustee of the Orissa State Pollution Control Board (Employees) Pension Fund appointed under regulation-4 of Chapter-I of these regulations.
- (c) 'Day' means the Calendar day beginning at the zero hour of the mid-night and ending at the zero hour of the next midnight.
- (d) 'Employee' means a person employed to the whole time service of the Board whether he/she is on permanent or temporary employment.
- (e) 'Emolument' means the basic pay which has been sanctioned for a post held by the employee substantively or in an officiating capacity or to which he is entitled to be reason of his position and which the employee was receiving immediately before retirement or on the date of death and includes grade pay, special pay or personal pay which may be specially classed as pay by the Board for this purpose.
- (f) 'Family' means husband or wife of the employee as the case may be and the children, step children and parents of the employee who are wholly dependant on him/her, but does not include the sons of age 25 years and above, married daughter and legally separated spouse or children.
- (g) 'Family Pension' means the family pension admissible under these regulations.
- (h) 'Foreign Service' means the service in which an employee receives his pay with the sanction of the Board from any other sources other than the Board's fund.

- (i) 'Form' means a Form appended to these regulations.
- (j) 'Fund' means the Orissa State Pollution Control Board (Employees) Pension Fund.
- (k) 'Gratuity' means and includes:-
 - (i) 'Service Gratuity' payable as per Payment of Gratuity Act-1972 adopted by the Board.
 - (ii) 'Death Gratuity' payable as per Payment of Gratuity Act-1972 adopted by the Board.
 - (iii) 'Retirement Gratuity' payable as per Payment of Gratuity Act-1972 adopted by the Board.
- (l) **Qualifying Service** – 'Qualifying Service' means the service rendered by an employee which shall be taken into account for the purpose of pensionary benefits as admissible under these regulations.
- (m) **Retirement benefits** includes pension or service gratuity and death gratuity or retirement gratuity where admissible as per provision under payment of Gratuity Act-1972 (Adopted by the Board).
- (n) **Trust** means the Trust of the Orissa State Pollution Control Board (Employees) Pension Fund constituted under regulation-4 of Chapter – 1.

(2) The words and expressions used in these regulations but not defined shall have the same meaning and expressions as contained in service regulations of the Board.

CHAPTER - II
GENERAL CONDITIONS FOR GRANT OF PENSION

6. **Last Working Day** - (1) The day on which an employee retires or is retired or is discharged or is allowed to resign from service, as the case may be, shall be treated as the last working day. The date of death shall also be treated as the last working day for this purpose.

(2) Subject to satisfactory service, an employee shall be entitled to pension provided that the employee concerned has completed at least ten years of qualifying service.

7. **Pension subject to future good conduct** : Future good conduct shall be an implied condition for grant of pension and its continuance under these regulations.

8. **Withholding or withdrawal of pension**: (1) The competent authority (not below the appointing authority) may, by order in writing, withhold or withdraw the pension or a part thereof whether permanently or for a specified period, if the pensioner is convicted in a serious crime or is found guilty of grave misconduct:

Provided that where a part of pension is withheld or withdrawn the amount of such pension shall not be reduced below the amount of minimum pension payable under these regulations.

Provided further that the competent authority before passing an order shall serve a notice on the pensioner specifying the action proposed to be taken against him and the ground on which it is proposed to be taken and calling upon him to submit within 15 days from the date of receipt of the notice, such representation as he may wish to make against the proposal and the said authority shall take into consideration the representation, if any, submitted by the pensioner and pass the final order.

(2) An appeal against an order for withdrawal or withholding of pension shall lie with the Board if the order is passed by the Chairman and to the Government of Orissa, if the order is passed by the Board.

9. **Limitations of number of pensions**: An employee shall not earn two pensions in the same service or post at the same time or by the same continuous service.

10. **Qualifying service for pension**: Service does not qualify for pension unless it is rendered in a pensionable establishment or against a pensionable post and paid from Board's fund.

11. **Commencement of qualifying service**: Subject to the provisions of these regulations, qualifying service of an employee shall commence from the date he takes the charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:

Provided that the period of officiating or temporary service must have been followed by substantive appointment without interruption in the same post or in another post under the Board.

12. Counting of service on probation: The period of service on probation against a post shall qualify for pension if followed by regular appointment in the same or another post.

13. Counting of service for fraction of a year: If the period of service of an employee includes period of service of less than one year, but more than 6 months, it shall be treated as one year and if such period is less than 6 months it shall be ignored.

14. Counting of Military Services: An employee who has rendered service under a defence establishment of Government of India before appointment in the Board may opt either;

- (1) to continue to draw the military pension in which case his former military services shall not count as qualifying service ; or
- (2) to cease to draw his pension and refund : - The pension already drawn after re-employment, and the value received for the commutation of a part of the military pension and count military service as qualifying service:

Provided that the pension drawn prior to the date of appointment in the Board shall not be required to be refunded; and the amount of pension which was ignored for fixation of his pay shall be refunded by him.

15. Counting of periods spent on leave: (1) All leave during service of an employee for which leave salary is payable and all extraordinary leave granted on medical certificate or due to his inability to join duty on account of civil commotion or for prosecuting higher scientific or technical studies shall count as qualifying services.

(2) Period of unauthorized leave of absence of joining time for which no joining time pay and allowances are admissible do not count for pension.

16. Counting of period spent on training: The Board may, by order, decide whether the time spent by an employee under training either before or after his joining shall count as qualifying service.

17. Counting of periods of suspension: Period of suspension of an employee pending inquiry shall count for qualifying service where on conclusion of such inquiry has been fully exonerated and in other cases the period of suspension shall not count as qualifying service unless the authority competent to pass the order expressly declares so.

18. Counting of periods spent on deputation on foreign service: Period of deputation of an employee to another organization in India will count as qualifying service provided that the said organization or the employee pays the pensionary contribution to the Board, for the period the employee has rendered service in the deputation post.

19. Forfeiture of service on resignation or dismissal or termination:

(1) Resignation or dismissal or termination of an employee from the service shall entail forfeiture of past service, and consequently shall not qualify for pension.

(2) The resignation shall not entail forfeiture of past service if it has been submitted to take up another appointment whether temporary or permanent under the State Government / Board / Corporation where service qualifies for pension, provided that the employee concerned must have obtained the prior permission in this regard.

(3) Interruption in service in a case falling under sub-regulation (2) due to the two appointments being at different stations, not exceeding the joining time as permissible under the rules of transfer shall be covered by grant of leave of any kind due to the employee on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to him.

20. Effect of interruption of Service: An interruption in the service of an employee entails forfeiture of past service except in the following cases:

- (1) authorized leave of absence ;
- (2) unauthorized absence in continuation of authorized leave of absence;
- (3) suspension where it is followed by reinstatement whether in the same or a different post or where the employee dies or is permitted to retire or retired on attaining the age of compulsory retirement while under suspension ;
- (4) transfer to non-qualifying service in an establishment under the control of Government/ Board, such transfer must have been ordered by a competent authority in the public interest ;
- (5) joining time while on transfer from one post to another;
- (6) not withstanding the provision contained in sub-regulation (1), the appointing authority may by order regularize retrospectively the periods of absence without leave application by sanctioning extraordinary leave.

21. Condonation of interruption in Service : The competent authority (not below the appointing authority) may condone the interruptions in the service of an employee, if applicable for, on such conditions as it may think fit to impose.

22. Period of deputation in the Board : Previous service of an employee on deputation to Board from another organization who has later absorbed in the Board's service may count as qualifying service if the employee pays to the pension fund of the Board the amount of retirement benefits drawn by him from his previous employer together with 6% simple interest per annum upto the date of payment or Previous Employer's share of EPF contribution with interest thereon will be paid to pension fund of the Board.

23. Addition to qualifying service in exceptional circumstance: The Board, in exceptional circumstances may add to the service of an employee for a period not exceeding one fourth of the length of his service or actual period by which his age at the time of recruitment exceeds 32 years of age or a period of five years whichever is least for qualifying superannuation pension only. The circumstance under which such addition to the qualifying service is required is given below.

The service condition wherein there is provision of direct recruitment or persons having Post Graduate Research or specialized qualification or experience in Scientific technological or professional field and wherein there is relaxation of age for such recruitment.

Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time of quitting Board's service is not less than 10 years.