

Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954

WEST BENGAL

India

Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954

Act

1954-PART-2-SECTION-3-PAGE-2483-DEEMED-TO-BE-IN-FORCE-BY-V of 1954

- Published on 19 October 1954
- Not commenced
- [This is the version of this document from 19 October 1954.]
- [Note: The original publication document is not available and this content could not be verified.]

S.R.O. 3268, dated 19th October, 1954. - In exercise of the powers conferred by sub-section (5) of Section 25-A of the Indian Merchant Shipping Act, 1923 (21 of 1923), the Central Government makes the following rules, namely :-

Part I

General

1. (i) These rules may be called the Indian Merchant Shipping (Seamen's Employment Office, Calcutta) Rules, 1954.

(ii) They shall come into force with effect from such date [*] as the Central Government may, by notification in the Official Gazette appoint.

2. In these rules, unless the context otherwise requires---

(i) 'Act' means the Indian Merchant Shipping Act, 1923 (21 of 1923); (ii) 'Appellate Authority' means such person or body of persons as may be appointed in this behalf by the Central Government; [(iii) 'Board' means the Seamen's Employment Board (Foreign-going) or the Seamen's Employment Board (Home Trade), as the case may be, set up under rule 5;] (iv) 'Company Roster' means the Roster of seamen prescribed in rule 22; (v) 'Employment Office' means the Seamen's Employment

Office, Calcutta, established in accordance with the provisions of Section 25A of the Indian Merchant Shipping Act;(vi)'General Roster' means the Roster of seamen prescribed in rule 19;(vii)'Medical Authority' means Medical Officer or Officers appointed under rules framed under Section 26A for the medical examination of seamen;(viii)'Prescribed' means prescribed by the Director-General of Shipping;(ix)'Registered' means registered at the Employment Office in accordance with the provisions of these rules;(x)'Roster' means either the General Roster prescribed in rule 19 or the Company Roster prescribed in rule 22 as the case may be;(xi)'Section' means a section of the Act;(xii)'Shipowner' includes his agent or representative;(xiii)'The Director' means the Director of the Employment Office;(xiv)'The Register' means the Register of Seamen provided for in rule 11.

3. All words and expressions not defined in these rules but defined in the Act, shall, unless the context otherwise requires, have the same meanings as respectively assigned to them under the Act.

4.

(1)The Central Government shall appoint a Director and, if necessary, one or more Deputy and Assistant Directors, for the Employment Office;(2)Subject to the general or specific orders of the Director, a Deputy Director or an Assistant Director may perform any functions of the Director and any functions so performed shall be deemed to have been performed by the Director;(3)Notwithstanding anything contained in sub-rules (i) and (ii), Central Government may appoint any person to perform such functions in relation to the Employment Office as may be assigned to him, and when such person is so appointed, reference in these rules to the Director shall be construed as a reference also to such person in respect of the functions so assigned to him.

Part II

Seamen's Employment Board

5. [(1) The Central Government shall, as soon as maybe, appoint, by notification in the Official Gazette, two Seamen's Employment Boards-one for foreign-going seamen and the other for home-trade seamen. The first Board shall be known as "Seamen's Employment Board (Foreign-going)" and the second as "Seamen's Employment Board (Home Trade)".]

(2)The Board shall consist of such number of members representing the Government, shipowners and seamen as the Central Government may, from time to time, determine.(3)The members of the Board representing the Central Government, shipowners and seamen shall, as far as possible, be equal in number and shall be appointed by the Central Government : Provided that the members representing the shipowners and seamen shall be appointed after consultation with the interests concerned.(4)The Chairman of the Board and, if necessary, a Vice-Chairman shall be appointed by

the Central Government from among the members representing the Government on the Board.(5)The functions of the Board, in addition to those specified in these rules, the term of office of members, the manner of filling vacancies among members and the procedure for the conduct of the business, of the Board shall be such as may be determined from time to time by the Central Government.(6)Members representing shipowners and seamen shall be entitled to receive such fees for attending the meetings of the Board and of its sub-committees, if any, as may from time to time be fixed by the Central Government.(7)No act done or proceeding taken by the Board under these rules shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.

Part III

Registration

6. With effect from a date to be notified in the Official Gazette by the Director-General of Shipping, no person shall be eligible for engagement as a seaman at Calcutta unless he is duly registered at the Employment Office and is in possession of a Registration Book issued under rule 14.

7. [1]] No person shall be eligible for registration at the Employment Office unless he----

(i)(a)holds a valid Continuous Discharge Certificate issued from Calcutta; or(b)holds a valid Continuous Discharge Certificate issued from any other port in India and has been customarily recruited from Calcutta;(ii)holds a valid certificate of physical fitness issued by a Medical Authority;(iii)is within such age limits as may be prescribed from time to time; and[(iv) fulfils such other conditions as may be prescribed from time to time by the Director-General of Shipping after consultation with the Board :]Provided that in exceptional circumstances and for reasons to be recorded in writing the Director may permit the registration of any person not satisfying any of the above requirements.[(2) Notwithstanding anything contained in sub-rule (1), the Director-General of Shipping, after consultation with the Board, may prescribe separate conditions of eligibility for registration of seamen desirous of employment only on home-trade ships.]

8. Application for registration shall be made in such form and shall be accompanied by such documents as may be prescribed by the Director.

9. An application for registration shall be made personally by the applicant and shall be presented to such official and between such hours of the day as the Director may from time to time appoint in this behalf.

10. All applications for registration duly submitted shall be scrutinised and the names of such applicants as satisfy the requirements of rule 7 shall be approved for registration by the Director :

Provided that, for sufficient reasons recorded in writing, the Director may in his discretion reject any such application.

11. The Director shall cause the particulars of all persons approved for registration to be entered in a Register of Seamen.

12. The Register of Seamen shall be maintained in such form as the Director may prescribe.

13. The Director shall allot to each seaman accepted for registration, a distinct Registration Number which shall be prominently marked on all official documents issued to the seaman.

14. A Registration Book prepared in such form as the Director may prescribe shall be issued to every seaman registered at the Employment Office.

15. Once the name of a person has been registered at the Employment Office, it shall continue to be so registered until it is cancelled or removed from the Register in accordance with the provisions of rules 49 and 50.

16. If upon scrutiny under rule 10, the Director rejects an application, he shall inform the applicant in writing of the reasons for such rejection.

17. Any person whose application is rejected may, within 30 days of his being informed of such rejection, appeal to the Appellate Authority whose decision in the matter shall be final.

18. Notwithstanding anything contained in these rules but always subject to the provision of rule 7, the Director-General of Shipping may, in exceptional circumstance, by an order in writing, declare that any individual seaman or group of seamen, or any Class or Category of seamen shall be deemed to have been registered at the Employment Office and thereafter it shall not be necessary for such seaman, group of seamen or Class or Category of Seamen to apply for registration.

Part IV

Rosters

19. The Director shall cause a General Roster of seamen to be maintained in such form as he may prescribe and in accordance with the rules hereinafter contained.

20. The names of only such seamen shall be entered on the Roster as are registered at the Employment Office.

21. The General Roster shall have separate sections for such categories of seamen as may be prescribed after consultation with the Board.

22. On application by a shipping company or a group of shipping companies, the Director may maintain separate rosters for all or any of the categories in respect of the seamen customarily employed by that shipping company or group of shipping companies. Such rosters shall be called "Company Rosters" [(Foreign-going) and Company Rosters (Home-trade).]

23. The name of a seaman may be entered in the General Roster or in a Company Roster but not in both :

Provided that no name shall be entered in a Company Roster unless the Company and the seamen concerned have consented in writing to such name being so entered.

24. Once a seaman is accepted for a Company Roster, his name shall continue to be so entered until a change in this behalf is permitted by the Director on the request either of the seaman or the shipping company. The Director shall not, save in exceptional circumstances, permit such change oftener than once in any year.

25. The Shipping Master of the port shall give prior intimation of the time of all discharges of seamen to the Director.

26. For the purpose of facilitating registration or compilation of Rosters, the Director may be present at the time of any discharge.

27. A shipowner who discharges crews at Calcutta or discharges, at any other place, crews which had been recruited through the Employment Office, shall furnish the names and other particulars of such seamen to the Director in such form as he may prescribe.

28. Names shall be entered in the Rosters in accordance with such procedure as may be prescribed after consultation with the Board. A name thus entered shall continue to be borne on the Roster until it is cancelled under rule 40 or sub-rule (i) of rule 51.

Part V

Supply Of Seamen

29. All shipowners seeking to engage seamen at Calcutta shall furnish to the Director indents for the various categories of seamen in respect of specific ships as soon as such requirements become known and, in any case, not less than fifteen days in advance of the date when the seamen are actually required. In urgent cases, the Director may, in relaxation of the preceding requirement, accept such indents from the shipowners at shorter notice.

30. On receipt of indents from shipowners, the Director shall arrange to call up the requisite number of seamen from the appropriate roster in accordance with such procedure as may be prescribed after consultation with the Board.

31. Seamen who report to the Employment Office on or before the due date in response to the call under rule 30 shall be eligible for employment in the order in which their names stand in the relevant rosters.

32. Seamen who report to the Employment Office after the due date shall be eligible for employment in such order as may be prescribed after consultation with the Board.

33. [(1)] Seamen who are eligible for employment [on foreign-going ships] shall be issued Muster Cards indicating the order of their eligibility for employment, provided that---

(i)their certificate of physical fitness is valid; and(ii)that they possess requisite health certificate for international travel.[(2) Home-trade seamen shall be issued Muster Cards in accordance with such

procedure as may be prescribed by the Director-General of Shipping after consultation with the Board.]

34. Seamen who are issued Muster Cards may be required by the Director to be present at the Employment Office during such hours as the Director may notify.

35. The Director shall offer to shipowners the services of the seamen of each category as are eligible and available for employment on the principle of rotation.

36.

(1)A shipowner shall as a rule engage seamen for employment in the order in which they are offered :Provided that for reasons stated to the satisfaction of the Director-(a)the shipowner may reject any seaman so offered; and(b)any seaman may refuse engagement on any ship for which he is proposed or selected.(2)The Director-General of Shipping may, after consulting the Board, lay down guiding principles for enabling the Director to determine whether the reasons advanced for rejecting a seaman or a ship are satisfactory.

37. When requisite eligible seamen are not available for employment, the Director may, notwithstanding anything contained in these rules, offer to a shipowner the services of any persons who are available for employment, provided that the shipowner shall be free to reject any of the persons so offered.

38. When a shipowner requires a substitute in the place of a seaman who was previously recruited through the Employment Office and whose services are within 24 hours before the ship is due to sail, lost by death, desertion or other unforeseen cause, the recruitment shall, where practicable be made through the Employment Office but when not practicable the shipowner may recruit a person of his choice but he shall as soon as possible furnish to the Director of the Employment Office full particulars of the substitute so recruited.

39. If at any time the Director-General of Shipping finds that the available volume of employment is inequitably distributed between Company Rosters and General Roster or between Company Rosters inter se, he shall, after consulting the Board, take such action as may be necessary to bring about

equitable distribution.

40. When a seaman has been selected and engaged, his name in the roster shall stand cancelled.

41. Notwithstanding anything contained in these rules, the Director may permit shipowners to re-engage such seamen as are discharged before the completion of such period of service as the Director-General of Shipping may from time to time prescribe after consulting the Board.

42. The cases of all seamen who fail to get selected on three successive occasions when their services are offered to the shipowners shall from time to time be reviewed by the Director in accordance with such principles and procedure as may be prescribed after consulting the Board.

Part VI

Miscellaneous

43. Seamen shall be eligible for promotion from one category to another on the basis of such principles as may be laid down by the Director-General of Shipping after consultation with the Board. All promotions shall be sanctioned by the Director on the basis of principles thus laid down.

44. Promotions during voyage may be sanctioned by the shipowners, but such promotions shall be temporary and shall not entitle the seamen to be put on the roster of the categories to which they may have been thus temporarily promoted unless the Director sanctions the promotions permanently in accordance with the provisions of rule 42.

45. In the event of a Registration Book being torn, mutilated or lost, a duplicate may be issued to the seaman concerned on payment of a fee of Rs. 2 only.

46. Notwithstanding anything contained in these rules--

(a) all persons employed by shipowners on a permanent basis and in respect of whom one or more declarations to this effect are filed by the shipowners concerned at the Employment Office; and (b) all persons employed as Clerks, Wireless Operators, Musicians or Vishiwallas or in any other capacity

specified in this behalf by the Director, shall for the purpose of sub-section (3) of Section 25A be deemed to have been engaged through the Employment Office, and nothing in these rules shall apply to the employment of such persons.

47. The Director shall exercise his powers under these rules subject to the supervision, direction and control of the Director-General of Shipping and of such other Officer as the Central Government may appoint in this behalf.

48. For the purpose of preventing seamen from being taken on board any ship in contravention of the provisions of these rules, the Director, Deputy Director or Assistant Director of the Employment Office or any other person duly authorised by the Central Government in this behalf may enter at any time on board any such ship upon which he has reason to believe that seamen from the port where the Employment Office is in existence, have been shipped, and may muster and examine the several seamen employed therein.

49.

(1)The Director may cancel, under advice to the shipping company in the event of the man being on the Company Roster, the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time when the Shipping Master reports that a seaman has been adversely reported upon by the shipowner in respect of character, discipline or ability, or that he has been found guilty of any of the following : (a) offences such as smuggling or theft; (b) desertion; (c) misbehaviour during the period of engagement. (2) The Director may also cancel the registration of a seaman permanently or he may suspend the seaman's registration for any specified period of time (a) on his being found guilty of misbehaviour within the premises of the Employment Office; or (b) on his being found guilty of using or attempting to use a false document or making a false declaration for getting his name registered at the Employment Office or for obtaining employment through the employment office. Explanation. - Any person found in possession of a false document within the premises of the Employment Office shall be deemed to have attempted to obtain employment by using the false document.

50. The Director shall cancel the registration of a seaman (i) on his attaining such age as the Director-General of Shipping may from time to time, after consultation with the Board, specify for the retirement of persons from the seafaring profession.

(ii) on his being declared permanently unfit for the seafaring profession by a Medical Authority; [(iii) (a) On his giving or offering or attempting to give or offer directly or indirectly any illegal gratification to any official of the Employment Office or to any other person; or (b) On his

accepting or demanding or attempting to take or demand directly or indirectly any illegal gratification from any other seaman or candidate seaman registered or unregistered;][(iv) [(a)On his failure to respond to a call notice and to report to the Seamen's Employment Office within such time as may be prescribed by the Director-General of Shipping in consultation with the Board :Provided that no registration of a seaman shall be cancelled under this sub-clause, until he has been given a reasonable opportunity of being heard in the matter; or](b)On his failure to get selected on three consecutive occasions at the muster due to adverse reports of the Master or shipowner in respect of his ability or conduct provided that the Director, after reviewing his case under rule 42, is satisfied that there is no possibility of his being accepted by any shipowner; or(c)On his failure to produce a certificate of fitness from a medical authority or any other authority prescribed by the Director-General of Shipping within such period as may be fixed by him in consultation with the Board.]

51. (i) The name of any seaman whose registration is cancelled or suspended shall be removed from the roster in which it may have been entered earlier.

(ii)The name of a seaman whose registration is suspended only for a specified period of time may be re-entered in the roster at the bottom, on the date of the expiry of the period of suspension.

52. A seaman whose registration is cancelled or suspended by an order of the Director, may, within 30 days of his being informed of such order, appeal to the Appellate Authority whose decision shall be final.

Part VII

Temporary and Transitional Provisions

53. Any seaman on Articles at the time when these rules come into force shall upon discharge, if he is desirous of further recruitment as seaman at Calcutta, apply to the Director for registration at the Employment Office.

54. Any seaman on Articles at the time when these rules come into force if he is desirous of recruitment as seaman at Calcutta shall apply for registration at the Employment Office.

55. Notwithstanding anything contained in these rules, names of seamen who apply for registration under rule 53 shall be entered in the roster in accordance with such procedure as may be prescribed after consultation with the Board.

56. Notwithstanding anything contained in these rules, the Director may, in respect of seamen on Articles when these rules come into force and who are accepted for registration, maintain separate ad hoc rosters in accordance with such procedure as may be prescribed after consultation with the Board.

57. Notwithstanding anything contained in Parts III, IV and V of these rules, the Director-General of Shipping may at the inception of the Employment Office and until such time thereafter not exceeding six months as he may consider necessary, prescribe after consultation with the Board such procedure for the registration, supply and promotion of seamen as he may deem appropriate.

[57-A. Notwithstanding anything to the contrary contained in Parts III, IV and V of these rules, the Director-General of Shipping may for such period not exceeding six months with effect from the date of this notification as he may consider necessary, prescribe, after consultation with the Board, such procedure for the registration and supply of home-trade seamen as he may deem appropriate.]

58. Where in these rules the Director-General of Shipping is required to act after consultation with the Board, he may, until the establishment of the Board, act in his discretion provided that any action so taken shall, as soon as may be after the establishment of the Board, be brought to the notice of the Board, and the Director-General may, after ascertaining the views of the Board, take such further action as he may deem appropriate.