

Maharashtra Housing and Area Development Authority (Absorption, Seniority Pay and Allowances) Rules, 1980

MAHARASHTRA

India

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Rule

MAHARASHTRA-HOUSING-AND-AREA-DEVELOPMENT-AUTHORITY- of 1980

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Maharashtra Housing and Area Development Authority (Absorption, Seniority Pay and Allowances) Rules, 1980 Published vide Notification No. G. N., P.W. & H. D., No. ARD. 1078/(109)/Desk-44, dated 28th March, 1980 (M. G., Part 4B, p. 314) In exercise of the powers conferred by sub-section (1) and clause (i) of sub-section (2) of section 184, read with sub-section (5) of section 19 of the Maharashtra Housing and Area Development Act, 1976 (Maharashtra XXVIII of 1977), and of all other powers in that behalf, read with the Order No. G.S.R. 47(E), date the 17th February, 1980 of the President of India, the Governor of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section 184, namely :-

1. Short title and commencement.

(1) These rules may be called Maharashtra Housing and Area Development Authority (Absorption, Seniority Pay and Allowances) Rules, 1980. (2) These rules shall come into force at once.

2. Definitions.

- (I) In these rules, unless the context requires otherwise, -(1) "Absorbed employee" means a person who was a whole-time employee of any existing Board immediately before the appointed day, but does not include a person on deputation to any existing Board, and who holds a lien on any post in the Government or in any local authority or corporation constituted under any law for the time

being in force;(2)"Act" means the Maharashtra Housing and Area Development Act, 1976 (Maharashtra XXVIII of 1977);(3)"Appointing Authority" means the Authority competent to appoint an absorbed employee;(4)"Basic Pay" means the amount drawn monthly by an absorbed employee as pay as defined in rule 9(39)(a)(i) of the Bombay Civil Services Rules, 1959 this is to say, pay exclusive of special pay, pay granted in lieu of the personal qualifications, technical pay, personal pay or other emoluments specially classed as pay;(5)"Equivalent post" means -(i)a post sanctioned by Government with effect from the appointed day in the organisational set-ups of the Authority and the Boards on the establishment of the Maharashtra Housing and Area Development Authority on the prescribed pay-scale, as further revised by Government Resolution, Public Works and Housing Department, No. ARD. 1078/(87)/DSK-35, dated the 24th January, 1980;(ii)any other post which may be declared by the Authority as equivalent to a post, whether permanent or temporary, sanctioned by Government or the existing Board in the former Maharashtra Housing Board constituted under the Bombay Housing Board Act, 1948 (Bombay LXIX of 1948), the Vidarbha Housing Board constituted under the Madhya Pradesh Housing Board Act, 1950 (M. P. Act XLIII of 1950), the Bombay Building Repairs and Reconstruction Board constituted under the Bombay Building Repairs and Reconstruction Board Act, 1969 (Maharashtra XLVII of 1969) and the Maharashtra Slum Improvement Board constituted under the Maharashtra Slum Improvement Board Act, 1973 (Maharashtra XXIII of 1973) and held by absorbed employee immediately before the appointed day in a permanent or temporary capacity and hereinafter referred to as "the corresponding post" in the existing Board;(6)"Government" means the Government of Maharashtra;(7)"Officiating" or "Officiated" refers to periods of service during which an absorbed employee had actually officiated as also periods during which he would have officiated but for the following reasons, namely(i)Leave during which but for the absorbed employee proceeding on such leave, he would have continued to officiate in the same post or post on the same pay-scale;(ii)Appointment to a higher post during which but for such an appointment the absorbed employee have continued to hold such post;(iii)Appointment on another post during which the condition necessary for eligibility for the benefit of the next below rule would operate;(iv)Foreign service during which but for such service the absorbed employee would have continued to officiate in such post;(v)Suspension followed by reinstatement in the same post where period of suspension is treated as duty or leave;(vi)Deputation on training during which period the absorbed employee was considered as on duty and would have officiated in the post but for such training;(vii)Such joining time during which the absorbed employee would have continued to hold the same post;(8)"Post of absorption" means the cadre of the post in the authority in which an absorbed employee is absorbed or is deemed to have been absorbed, irrespective of whether the post is permanent or temporary;(II)Words and expressions used in these rules, but not defined herein, shall have the meanings, respectively assigned to them in the Act.

3. Absorption of whole-time employee of existing Board.

- A person who was a whole-time employee of any existing Board immediately before the appointed date shall, subject to the provision of sections 22 and 23 of the Act, on and from that day become and stand absorbed as an employee of the authority.

4. Absorption how to be made.

(1)The Appointing Authority concerned shall as soon as it may be after the equivalent posts are declared by the Authority, issue an order absorbing such employee as on the appointed day and such absorption shall be in equivalent post :Provided that, such employee may be absorbed in the lower post if an equivalent post is not available in the sanctioned establishment and if he(a)was the substantive holder of a corresponding post in the existing Board but had been appointed substantively to that post by an order issued on and after 1st January, 1975;(b)had officiated in the corresponding post or post on the same time-scale in the existing Board after the 1st January, 1975 while holding a lien on any other permanent post;(c)was a temporary employee of any existing Board :Provided further that, in the case of a permanent employee and who had officiated in the corresponding post or post on the same time-scale in the existing Board after 1st January, 1975, such lower post shall not be lower than the permanent post (or the post equivalent thereto) to which he was appointed in the substantive capacity by an order issued on and after 1st January, 1975, of the post (or the post equivalent thereto) held by him in an officiating capacity prior to 1st January, 1975.(2)A person who may under the first proviso to sub-rule (1) be absorbed in a lower post shall be the person who is due for revision on the basis of the seniority lists prepared in accordance with rule 9.(3)Where under these rules, an absorbed employee may not be absorbed in a lower post and an equivalent post is not available for his absorption within sanctioned establishment, the Appointing Authority shall, before issuing the orders of absorption, obtain orders of the Authority about the post in which such absorbed employee shall be absorbed.

5. Position of employee in a permanent post in existing Boards.

- An employee of any existing Board who was the substantive holder of a permanent post in an existing Board shall be deemed to be the permanent holder of the post or a post equivalent thereto for all purposes irrespective of the fact whether on or after the 5th December, 1977 he holds a lien on permanent post or not.

6. Power of Government and Competent Authority regarding absorption.

(1)Notwithstanding anything contained in these rules, Government may direct that an employee of any existing Board or class of employees of any existing Board shall be absorbed otherwise than in accordance with these rules subject to the provisions of section 22 of the Act.(2)Nothing in these rules shall be deemed to prevent or to have prevented a Competent Authority from passing in relating to an employee of an existing Board any order effecting his continuance in the post in which he is absorbed under these rules.

7. Equation of posts.

(1)Subject to sub-rule (ii) of rule 6 the Authority shall, with the previous approval of the Government, declare a post or a cadre in any existing Board as equivalent to a post or a cadre in the organisational set-ups of the Authority and the Boards sanctioned by Government on the

establishment of the Authority.(2)For the purpose of declaring equivalent posts under sub-rule (1) the authority shall consider the nature and duties of a post, the responsibilities and powers exercised by the officer holding a post, the extent of territorial or other charge held or responsibilities discharged, the minimum qualifications, if any, prescribed for recruitment to the post and the salary or pay-scale of the post in any existing Board.

8. Allocation of the employees.

- The Authority shall issue orders in writing allocating the employees belonging to the regional level cadres, as may be determined by rules from time to time, to the four Boards constituted under section 18 of the Act, on the basis of the availability of posts in the Boards.

9. Seniority.

(1)Subject to the provisions of these rules, seniority of an absorbed employee in the posts or cadre of absorption as on the appointed day shall be determined by the length of continuous service whether officiating or permanent, rendered by him immediately before that date in a corresponding post or posts on the same time-scale in the existing Board excluding the periods of fortuitous appointments which are in the nature of stop-gap arrangements.(2)For the purpose of sub-rule (1) continuous service shall, notwithstanding the date on which it actually commenced, be deemed to have commenced, -(a)in the case of an absorbed employee other than the one covered by clause (b), who in the existing Board was assigned seniority otherwise than on the basis of length of continuous service, from the date on which his continuous service would have commenced, had he been appointed to the corresponding post in the order of seniority as on 4th December, 1977 of the employees of the existing Board, absorbed in the same cadre from the same Board;(b)in the case of an absorbed employee appointed by direct recruitment to the corresponding post and given a higher seniority for special considerations such as higher qualifications, age, experience, income and like factors before appointment to the service in the existing Boards, from the date preceding the date on which the service of the absorbed employee next below him in the same cadre according to the seniority inter se in the former Board on 4th December, 1977 commenced.(3)Notwithstanding anything contained in this rule, the Government may, where it appear necessary either suo motu or on representation or on recommendation of the Authority for the removal of the anomalies or for securing just and equitable treatment to the absorbed employees, direct that the seniority of an absorbed employee or class of absorbed employees shall be fixed in such manner as it may by general or special order prescribe.(4)Where the length of service in the corresponding post in the existing Board is equal, an absorbed employee senior in age shall be deemed to be senior.(5)Notwithstanding anything contained in the foregoing rules, seniority, inter se of absorbed employees of the existing Board, who before appointed date, belonged to the same Board, as it existed before that date, shall not be disturbed except by general or special orders of the Government.

10. Pay-scale.

(1)The pay-scale applicable to an absorbed employee shall except where Government otherwise directs be, -(i)the pay-scale of the post sanctioned by the Government with effect from 5th December, 1977 in the organisational set-ups of the Authority and the Boards on the establishment of the Authority as further revised by Government Resolution, Public Works and Housing Department, No. ARD. 1078/(87)/D-35, dated the 24th January, 1980;(ii)approved pay-scale of any other corresponding post which may be declared by the Authority as equivalent to a post whether permanent or temporary sanctioned by Government in the former Maharashtra Housing Board constituted under the Housing Board Act, 1948 (Bombay LXIX of 1948), the Vidarbha Housing Board constituted under the Madhya Pradesh Housing Board Act, 1950 (M. P. Act XLIII of 1950), the Bombay Building Repairs and Re-construction Board constituted under the Bombay Building Repairs and Reconstruction Board Act, 1969 (Maharashtra XLVII of 1969) and the Maharashtra Slum Improvement Board constituted under the Maharashtra Slum Improvement Board Act, 1973 (Maharashtra XXIII of 1973) and held by an absorbed employee immediately before the appointed day in a permanent or temporary capacity.(2)The absorbed employee of the Authority shall opt to retain pay-scale as mentioned in either clause (i) or clause (ii) of sub-rule (1).(3)The option made under sub-rule (2) above shall be exercised in writing by the absorbed employee within three months from the date of absorption and shall be intimated by him -(a)if he is member of the staff of the Authority, to the Chief Officer concerned of the Board; and(b)if he is an officer of the Authority, to Financial Controller of the authority.A copy of such option shall be submitted by the absorbed employee to the Chief Executive Officer of the Authority.(4)The option once exercised shall be final and if it is not exercised within the prescribed period and in the prescribed manner, the pay-scale applicable to the absorbed employee shall be the pay-scale mentioned in clause (i) of sub-rule (1).

11. Fixation of pay.

(1)The pay of an absorbed employee as on the appointed day in the scale of pay applicable to him under these rules shall, except where the Government by special order directs otherwise and subject to the other provisions of these rules, be fixed under the Bombay Civil Services Rules, 1959, as if the pay of his post has changed.(2)Where an absorbed employee was, immediately before the appointed day, in receipt of special pay which would be declared by the Authority with the prior approval of the Government in lieu of higher time-scale and the post in which he is absorbed on or after that day, does not carry any special pay, the basic pay for the purpose of all these rules shall be basic pay admissible in the pay-scale applicable immediately before the appointed day increased by an amount equal to the special pay drawn.

12. Rates of allowances admissible to absorbed employees.

- The allowances such as Dearness Allowance, House Rent Allowance, Compensatory Local Allowance, Uniform Allowance and the like admissible to an absorbed employee on or after (he appointed day shall, unless otherwise prescribed by the Government be the allowances at the rate sanctioned to the corresponding posts in the Government Departments or Offices and as modified from time to time for Government servants serving in the area, posts and pay-scales etc., as the case

may be.

13. Arrears of pay and allowances to absorbed employees when payable.

- The arrears of pay and allowances which may become due to an absorbed employee on the fixation of his pay on the appointed day under these rules shall be payable only with effect from the date of he (she) became available for service in the Authority or deemed to have become available, but for the causes mentioned in clause (7) of sub-rule (1) of rule 2.