

MS (CDC) Rule - seamen sailing on board Offshore Supply Vessels or home trade ships or passenger ships

DGS Order No. 6 of 2001

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Dated: June 6, 2001

The Merchant Shipping (Continuous Discharge Certificate) Rules, 1993 were amended vide the Ministry of Surface Transport Notification G.S.R. 270 (E) dated 16.3.1995 wherein inter alia a new sub rule 4 (8) was inserted which relaxed the age limit for scheduled tribe applicants from the Union Territories of Andaman, Nicobar and Lakshadweep Islands upto a maximum of thirty five years subject to certain conditions, notwithstanding anything contained in sub rules 4 (2) to 4 (7).

2. Subsequently the MS (CDC) Rules were again amended vide Notification GSR No.421 dated 15th December, 1997, which inter alia inserted another sub-Rule 4(9) which provided for issue of CDCs to seamen who had been sailing on board Offshore Supply Vessels or home trade ships or passenger ships in any capacity for a minimum of 12 months in the case of service on board OSVs and six months in the case of home trade or passenger ships subject to the fulfillment of certain conditions. This amendment was made pursuant to the recommendation of the Praveen Singh Committee which recommended a onetime regularization of seamen by issue of CDCs to seamen who were already sailing on board OSVs or home trade or passenger ships without CDCs.

3. The intention of the Government was to issue CDCs to such seamen in relaxation of the existing conditions prescribed under the MS (CDC) Rules such as age limit, educational qualifications and training and CDCs have in fact been issued to seamen who were sailing on OSVs, home trade and passenger ships who fulfilled the conditions prescribed under Rule 4(9) in relaxation of the conditions prescribed under sub rules 4(2) to 4(5) though sub rule 4(9) does not contain the words, "Notwithstanding anything contained in sub rules (2) to (5).....", on the lines of the similar clause in sub-rule 4 (8) meant for members of a Scheduled Tribe in relation to A & N Islands and UT of Lakshadweep notified vide GSR No.270(E) dated 16th March 1995.

4. Strictly speaking, without the above non- obstante clause, the other sub-rules of the original Rule 4 of M.S.(CDC) Rules, 1993 as amended will apply for the operation of sub rule 4 (9) and the age limit, educational qualifications and pre-sea training as stipulated in sub rules(2) ,(3) & (5) will have to be met in order to get the benefit of sub rule 9 of Rule 4 of M.S. (CDC) Rules as amended in 1997. However, it is observed all along Rule

4(9) has been implemented as if it contains a non-obstante clause similar to Rule 4(8) which was notified vide GSR No.270(E) dated 16th March,1995. The Directorate General of Shipping and all the Shipping Offices have taken the view that the sub rule 4(9) which was notified in December, 1997 in pursuance of the Praveen Singh Committee's recommendations was meant to facilitate issuance of CDCs to the existing seafarers in Home Trade, Passenger and Off Shore Support Vessels, solely on the basis of their experience, without applying age, educational qualifications and pre sea training, which are mandatory for new entrants and accordingly been issuing CDCs to those applicants who fulfill the conditions prescribed under the said sub rule. This erroneous interpretation of sub rule (9) of rule 4 of M S.(CDC) Rules, is in keeping with the spirit of the Praveen Singh Committee's Report, based on which the said CDC Rules were amended.

5. In the light of the foregoing circumstances, having taken into careful consideration the Praveen Singh Committee's Report for issuance of CDCs to the existing seafarers of Home Trade, Passenger and Off Shore Support Vessels, the Director General of Shipping is satisfied that Rule 4(9) of the M.S. (CDC) Rules has to be interpreted as if it contains a non-obstante clause exempting it from the operation of sub rules 4(2) to 4(5) of the MS (CDC) Rules. Therefore, in exercise of the powers conferred by clause (1) of section 456 of the Merchant Shipping Act, 1958, on the Central Government, read with notification issued by the Government of India, vide S.O.No.3144 dated 17th December, 1960, delegating the said powers to the Director General of Shipping, the Director General of Shipping is pleased to direct that Rule 4(9) of the M.S. (CDC) Rules, as amended in 1997, may be applied with effect from the date of the notification, namely, from 16 December 1997, to all seafarers who have the relevant experience and fulfill the conditions prescribed under the said sub rule, notwithstanding anything contained in Sub rules (2), (3) and (5) of Rule 4 of the M.S. (CDC) Rules subject to the condition that the application was received in any of the shipping offices on or before the cut-off date prescribed under DG Shipping Order No.5 dated 04th June 2001.

Sd/-

(D.T. Joseph)

Director General of Shipping

& ex-officio Additional Secretary

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