

MERCHANT SHIPPING NOTICES

Merchant Shipping Notice No: 9/2001

SUBJECT: ISSUANCE OF CDCs WITHOUT ANY CLASSIFICATION SUCH AS HOME TRADE, FOREIGN GOING OR HOTEL STAFF

Whereas there is no provision in the Merchant Shipping Act, 1958, classifying the continuous discharge certificate given to seamen, as belonging to home-trade or foreign-going, whereas there is no provision in any of the Merchant Shipping (Continuous Discharge Certificate) Rules notified from time to time by the Central Government, classifying the continuous discharge certificate given to seamen, as belonging to home trade or foreign going, whereas however a distinction was being made between the home-trade and foreign-going ships in accordance with the definitions found in the Merchant Shipping Act, 1958,

And, whereas in actual practice the Seamen's Unions have tended to grow on the lines of home-trade, off-shore and foreign going, sometimes leading to contesting a majority union status in parts of the industry, and whereas agreements with shipowners tend to be different for home trade, off-shore and foreign-going unions,

And, whereas in the meeting held on 24 April, 2000 by the Director General of Shipping in his office the representatives belonging to the concerned Unions were present and agreed to the interpretation and discussion that the rules do not make any distinction between home-trade and foreign-going in the matter of CDCs, the minutes were drawn up accordingly,

And, whereas in Writ Petition No.1389 of 2000, filed in the High Court of Bombay, the National Union of Seafarers of India contested the position that there is no distinction between home-trade and foreign-going CDCs and that the Shipping companies need not approach Director General of Shipping for any so-called conversion of CDCs from one to the other, and whereas in the said writ petition No.1389 of 2000, the interim orders were issued on 14th November, 2000 in terms of prayer clause (d) of the Petition, that pending disposal, the respondents be directed not to allow conversions of home trade CDCs to foreign going CDCs and all concerned to be prohibited/injuncted/restrained from employing seamen holding home-trade CDCs in foreign going vessels,

And, whereas in Writ Petition No.98 of 2000, filed in the High Court of Calcutta, Circuit Bench, Port Blair, the Hinterland Seamen's Union contested whether the Shipping Master, while issuing CDC, can categorize the same as CDC for home-trade, foreign going or hotel-staff, and whereas the National Union of Seafarers of India were added as Respondents to that writ Petition No.98 of 2000, and whereas on 9 April 2001, the writ in the nature of Mandamus has been issued

directing the respondents or their men, agents and/or servants to issue CDC as per the CDC Rules, 1993 without classifying the same as home-trade, foreign-going or hotel-staff,

And, Whereas the Director General of Shipping has been directed by High Court of Calcutta, Circuit Bench at Port Blair to issue forthwith a Circular to all Shipping Masters at Mumbai/Kolkata and Chennai and Port Blair to issue CDC without classifying the same as home-trade, foreign-going and hotel staff and further to issue a circular to all such Shipping Masters and all concerned that the CDC which have been issued already with any such classification shall be treated at par and no distinction shall be made on the basis of such classification for the purpose of employing a seaman possessing such classified CDCs for being employed in a home trade ship or foreign-going vessel,

Now, therefore, the Director General of Shipping and ex-officio Additional Secretary to Government of India, is hereby pleased to issue the following circular:-

(a) The Shipping Master at Mumbai, Kolkatta and Chennai are hereby directed to issue CDCs as per M.S. (CDC) Rules, 1993 as amended from time to time, without any classification as Home-trade, Foreign-Going or Hotel Staff.

(b) Further, all Shipping Masters, all the Officers who are authorized to carry out the function of Shipping Masters at the other ports at which no separate shipping office is established, all Mercantile Marine Department surveyors carrying out port state and flag state inspections, and all concerned are hereby directed to treat the CDCs which have been issued already with such classification at par, and to make no distinction on the basis of such classification for the purpose of employing a seamen possessing such classified CDCs for being employed in home-trade ship or foreign-going ship.

This M.S. Notice shall come into effect immediately.