

# **RECRUITMENT OF SEAFARERS AND ISSUE OF SEAFARERS' IDENTITY DOCUMENTS IN INDIA**

**Presentation by  
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## **Introduction**

1.1 India is home to the second largest number of seafarers after the Philippines. It is estimated that there are over 120000 seafarers from India including about 20,000 officers and over 100,000 seamen. Since the tonnage of the Indian owned fleet is only about 7 million tones, a majority of these seafarers are employed on foreign flag vessels.

1.2 The issue of seafarer's identity documents is of paramount importance to these seafarers to facilitate their easy professional movement across countries to join vessels or to return to their home countries on signing off. The existence of a transparent and well organized recruitment system in the public or private sector is important to ensure that jobs are available to qualified and trained personnel, that the seafarer's wages and terms of employment are clearly laid down in a written contract to be signed at the time of recruitment, that he is not exploited or abandoned in some foreign land, that his wages are paid correctly and promptly and corruption and bribery by unscrupulous recruiting agents is firmly curbed.

1.3 The Shipping Master is responsible for the issue of seafarer's identity documents and the Seamen's Employment Office has been responsible for ensuring the fair recruitment of seafarers in India. However, the role of the SEO has undergone a change in the recent past.

## **2. Legal background for recruitment of seafarers**

2.1 Under Section 12 of the Merchant Shipping Act, the Central Government may by notification in the official gazette establish at any port in India a Seamen's Employment Office and shall appoint thereto a Director and as many Deputy Directors and Assistant Directors as may be considered necessary who shall exercise their powers and discharge their duties subject to the general control of the Central Government or of any intermediate authority which the Central Government may specify in this behalf.

2.2 Further as per Section 12(4) of the M.S. Act, the Central Government may direct that at any port at which no separate Seamen's Employment Office is established, the functions of the SEO in that port shall be discharged by such person or body or persons as may be specified by the Govt. in a notification issued in the Gazette.

2.3 Under Section 95 of the Act, the business of the SEO shall be

(a) to regulate and control –

(i) the supply of such categories of seamen and for such class of ships as may be prescribed;

(ii) the recruitment of persons for employment as seamen and the retirement of seamen from such employment;

(iii) the promotion of seamen or changes of their categories;

(b) to maintain registers of seamen in respect of the categories prescribed under sub-clause (i) of clause (a);

(c) to perform such other duties relating to seamen and merchant ships as are, from time to time, committed to them by or under this Act.

2.4 Under clause (2) of Section 95 of the MS Act, where a Seamen's Employment Office exists at any port, no person shall receive or accept to be entered on board any merchant ship any seaman unless such seaman has been supplied by the SEO. Supply or engagement of seamen in contravention of the provisions of the Merchant Shipping Act is prohibited under Section 96 of the Act. Receipt of remuneration from any person seeking employment as a seaman for providing him with employment, other than the fees authorized by the Act is also prohibited under Section 97 of the Act.

### **3. Seamen Employment Offices**

3.1 Under the above mentioned provisions of the Act, SEOs were set up at Mumbai in 1954, and Calcutta in 1955. Both these offices are headed by a Director. In Chennai, the SEO was set up in 23.4.1993 and the functions of the SEO are being carried out by the Seamen's Welfare Officer.

3.2 The main functions of the SEO are selection of candidates for training and their employment in Deck/Engine Room/Saloon Department as per the principle of rotation, dealing with disciplinary cases of seamen, arranging promotions of seamen from lower category to higher category on the principle of seniority-cum-merit, dealing with all matters relating to medical examination of seamen and maintenance of registers of seamen by category.

### **4. Patterns of recruitment**

#### **a. General Roster**

4.1 Earlier the seamen were required to be registered with the SEO from where the shipowners used to indent their requirement and the SEO used to select the seamen based on the principle of rotation based on seniority in the roster and supply the required number of seamen to the company. This ensured equal opportunity of employment by the principle of rotation to all seamen but the companies especially the foreign shipping companies were unhappy with this system as they did not have the freedom to select younger crew of their choice.

#### **b. Company Roster**

4.2 To reduce procedural delays, the SEO maintained a separate company roster for a company or a group of companies comprising of seamen customarily employed by those companies and the principle of rotation was adopted within this roster only.

#### **c. Retainer Scheme**

4.3 Subsequently as a measure of partial liberalization, the companies were allowed to maintain and build up their own roster out of seamen registered with the SEO at Bombay.

#### **d. Recruitment by shipowners from open market**

4.4 In August, 1997, the Directorate General of Shipping decided to fully liberalize the system of recruitment of seamen in India to facilitate the recruitment of seamen of their choice by the shipping companies. Accordingly the fresh registration of seamen at the SEOs was stopped and companies were allowed the liberty of recruiting trained and qualified CDC holders as seamen to man their vessels.

### **5. Problems observed in the current pattern of recruitment of seamen**

5.1 Though the Directorate has fully liberalized the system of recruitment of seamen in India to facilitate shipowners to recruit qualified CDC holding crew of their choice to man their vessels, it has been observed in practice that the system is still not free from defects.

5.2 The Directorate has been receiving complaints from seamen that when they approach some of the shipping companies for jobs, the seamen are first referred to a particular union in Mumbai to obtain a No Objection Certificate before recruitment. It is also reported that the union is collecting a large amount of money as donation to the various trusts operated by the union before issuing the NOC which would appear to violate the provisions of Section 97 of the MS Act which prohibits any person from demanding or receiving any remuneration from any seafarer in return for providing him with employment. This Directorate has also proposed amendment of this provision to include the collection of donations,

union subscription fees under its ambit etc. The penalty presently provided for this violation under Section 436 of the MS Act is only Rs 100 which is also being amended to provide for a stiffer penalty.

5.3 In Chennai, a union has obtained an order from a City Civil Court directing that a particular shipping company in Chennai should recruit seamen only through the union. As this appears to be a violation of the fundamental rights of freedom of association, this Directorate has advised the shipping company concerned to appeal against the order.

## **6. ILO Convention 179 pertaining to recruitment and placement of seafarers**

6.1 This Directorate has also been receiving numerous complaints regarding non-payment of wages, abandonment, poor service conditions and cases of missing or dead seafarers involving cases of recruitment of seafarers by some private manning agents and foreign based shipping companies. In most such cases, it is observed that the seamen did not possess any valid identity documents nor did he sign on any Articles of Agreement before the Shipping Master as required under the provisions of the MS Act.

6.2 This matter was discussed in detail at a tripartite meet involving the Government, shipping companies and seafarers' unions recently at a seminar held by the Directorate in collaboration with the ILO and the seminar strongly recommended the ratification of ILO Convention No. 179 to the Government.

6.3 Among other things this Convention provides for the registration of manning agents, supervision of all recruitment and placement agencies by a competent authority, require that adequate measures are taken by the recruitment agencies to ensure that the seafarers are not abandoned at a foreign port and ensure a system of protection of seafarers by way of insurance or appropriate measures to compensate seafarers for monetary losses that may occur due to the failure of a recruitment and placement agency to meet its obligations to a seafarer.

6.4 The Government is currently examining the legislation which is required to be introduced to implement the provisions of the above Convention.

## **7. Shipping Master's Office**

### **a. Legal background.**

7.1 Under Section 11 of the MS Act, the Central Government may, by notification in the Official Gazette, establish a shipping office at every port in India and appoint thereto a shipping master and deputy as well as assistant shipping masters.

7.2 Under Section 89 of the MS Act, it shall be the duty of the shipping masters to superintend and facilitate the engagement and discharge of seamen in the manner provided in the MS Act, to provide means for securing the presence on board at the proper time of the seamen who are so engaged, to facilitate the making of apprentice ship to the sea service and to hear and decide disputes between a master, owner and agent and any of the crew of the ship.

#### **b. Continuous Discharge Certificate**

7.3 The Shipping Master is responsible for issuing the seafarer's identity document viz. the Continuous Discharge Certificate under the MS (CDC) Rules. Under Section 99, no person shall engage or carry to sea any seaman under the MS Act in any ship except home trade ships of less than 200 tonnes gross from any port in India unless the seaman is in possession of a certificate of discharge or a continuous certificate of discharge issued under the MS Act.

### **8. Amendments to CDC Rules**

8.1 The CDCs are issued under the provisions of the MS CDC Rules framed under Section 457 of the MS Act. These rules lay down the eligibility criteria including citizenship, educational qualifications, age limit, technical qualifications, training requirements, experience requirements in certain cases and medical fitness requirements all of which have to be satisfied by an applicant for the issue of a CDC.

8.2 Over the last several years, certain problems were observed in the implementation of the CDC Rules. The age limit was felt to be too restrictive and hindered the chances of applicants from rural areas who took a longer period of time to acquire the necessary educational and technical qualifications prescribed in the rules. The necessity for sponsorship of an applicant by a shipping company was observed to be an avenue for corruption. The need for renewing the CDC every 5 years was perceived to be an irritant. The technical qualifications prescribed for petty officers was found to be vague and needed to be expanded to include various technical streams considered relevant for employment on board ships. All applicants for CDCs are now required to undergo the STCW courses. A large number of Indian seamen were employed on board foreign flag vessels without being in possession of Indian CDCs and were sailing on the strength of only their passports or on the strength of foreign CDCs for various reasons.

8.3 All these problems/issues have been examined in detail and the ship owners and unions were consulted by the Directorate recently at a tripartite meeting after which a comprehensive proposal for the amendment of the CDC Rules has been prepared and forwarded to the Ministry for notification in the Gazette.

## **9. ILO Convention No. 108 pertaining to Seafarer's Identity Documents**

9.1 The need for adopting a universally acknowledged format for the seafarer's identity document was discussed at a tripartite seminar of the Government, ship owners and seafarers' unions organized recently by this Directorate in collaboration with the ILO. The seminar examined the ILO Convention No. 108 which provides for the issue by a country to its nationals of a seafarers' identity document which would greatly facilitate the professional movement of seafarers into countries which has ratified this Convention and also facilitate the grant of shore leave. The seminar has recommended the ratification of this Convention by the Government and the Government is examining the introduction of suitable legislation to implement the provisions of this Convention.