

Chandigarh Consumer Protection Rules, 1987

No. DFSO-CCPC-87/7312.—In exercise of the powers conferred by sub- section (2) of section 30 of the Consumer Protection Act, 1986 (68 of 1986), read with Government of India, Ministry of Food and Civil Supplies Department of Civil Supplies, Notification bearing S.O.No. 469(E), dated the 15th May, 1987, the Administrator, Union Territory, Chandigarh, is pleased to make the following rules, namely :-

1. Short title and commencement.— (1) These rules may be called the Chandigarh Consumer Protection (Amendment) Rules, 2017.

(2) They shall come into force on such date as the Administrator, may, by notification in the Chandigarh Administration Gazette, appoint.

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

- (a) "Act" means the Consumer Protection Act, 1986 (68 of 1986) ;
- (b) "agent" means a person duly authorised by a party to present any complaint or appeal or reply on its behalf before the State Commission or the District Forum ;
- (c) "appellant" means a party which makes an appeal against the order of the District Forum ;
- (d) "memorandum" means memorandum of appeal filed by the appellant ;
- (e) "opposite party" means a person who answers complaint or claim ;
- (f) "president" means the President of the State Commission or District Forum as the case may be ;
- (g) "respondent" means the person who answers any memorandum of appeal ; and
- (h) "State" means Union Territory of Chandigarh.

3. Salaries and allowances and terms and conditions of the President and members of the District Forum [Section 10(3)]— *(1) The President of the District Forum shall receive the salary of the Judge of the District Court if appointed on whole time basis or an honorarium of Rs. 200 (Rupees two hundred only) per day for sitting, if appointed on part-time basis. Other members if sitting on whole time basis, shall receive a consolidated honorarium of {Rs. 20000} (Rupees Twenty thousand only) per month or member who are appointed from judicial side or some other Government Job, they can opt for fixed remuneration or they can get last pay drawn minus pension.* *(Amended vide notification dated 28.03.2018)*

** (1A) The Member of the District Forum Shall be entitled to conveyance Allowance @ Rs.3000/- (Rupeesthreethousandonly) per month.

** (1B) The Member of the District Forum shall be entitled to reimbursement of their own mobile phone bill upto Rs 1000/- per month or actual bill, whichever is less

*** (Inserted vide notification dated 12.06.2012)*

(2) The President and the members of the District Forum shall be entitled for such travelling allowance and daily allowance on official tour as are admissible to Grade I Officer of the Administration of Union Territory of Chandigarh.

(3) Before appointment, the President and members of the District Forum shall have to take an undertaking that he does not and will not have any such financial or other interests as is likely to affect prejudicially his functions as a member.

(4) In addition of provisions of section 10 (2), the Administrator, may remove from the office, the President and members of a District Forum who :—

- (a) has been adjudged an insolvent ; or
- (b) has been convicted of an offence which in the opinion of the Administrator, Union Territory of Chandigarh, involves moral turpitude ; or
- (c) has become physically or mentally incapable of action as such member ; or
- (d) has acquired such financial or other interest as is likely to effect prejudicially his functions as a member ; or
- (e) has so abused his position as to render his continuance in office, prejudicial to the public interest ; or

(f) remain absent in three consecutive sittings except for reasons beyond his control.

Provided that the President or member shall not be removed from his office on the ground specified in clauses (d), (e) and (f) of sub-rule (4) except on an inquiry held by the Government in accordance with such procedure as it may specify in this behalf and finds the President or member to be guilty of such ground.

(5) The terms and conditions of the service of the President and members of the District Forum shall not be varied to their disadvantage during their tenure of Office.

(6) Where any vacancy occurs in the office of the President of the District Forum, the senior most (in order of appointment) member of District Forum, holding office for the time being, shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the District Forum.

(7) When the President of the District Forum is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order to the appointment) member of the District Forum shall discharge the functions of the President until the day on which the President resumes the charge of his functions.

(8) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which have been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

4. Place of sitting and other matters relating to District Forum [Section 14(3)]—(1) The office of the District Forum shall be located at Chandigarh.

(2) The working days and the office hours of the District Forum shall be the same as that of Union Territory Administration of Chandigarh.

(3) The official seal and emblem of the District Forum shall be as such as the Union Territory, may specify.

(4) Sitting of the District Forum, as and when necessary, shall be convened by the President.

(5) No act or proceedings of the District Forum shall be invalid by reason only of the existence of any vacancy among its members or any defect in its constitution.

(6) The Chandigarh Administration shall appoint such staff, as may be necessary to assist the District Forum in its day to day work and perform such other functions as are provided under these rules, or assigned to it by the President.

(7) Where the opposite party admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merits of the case and documents present before it.

(8) If during the proceedings conducted under section 13, the District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or its authorised agent to appear before the District Forum on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the District Forum on such day, the District Forum may in its discretion either dismiss the complaint for default or decide it on merits. Where the opposite party or its authorised agent fails to appear on the day of hearing, the District Forum may decide the complaint ex- parte.

(9) While proceeding under sub-rule (8), the District Forum may, on such terms as it may think fit and at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.

(10) Orders of the District Forum shall be signed and dated by the members of the District Forum constituting the Bench and shall be communicated to the parties free of charge.

5. Procedure to be adopted by the District Forum for analysis and testing of the goods
[Section 13 (1) (c)]

(1) Under section 13 (1) (c) if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the samples of such goods, the District Forum shall seal it and fix labels on the containers carrying following information :—

- (i) name and address of the appropriate laboratory to whom sample will be sent for analysis and test ;
- (ii) name and address of the District Forum ;
- (iii) case number ;
- (iv) seal of the District Forum.

(3) The sample will be sent to the appropriate laboratory by the District Forum for sending report within 45 days or within such extended time as may be granted by the District Forum after specifying the nature of the defect alleged and date of submission of the report.

6. Salary and other allowances and terms and conditions of the President and members of the State Commission
[Section 16.(2)]—*(1) The President of State Consumer Disputes Redressal Commission shall receive the salary of the Judge of High Court, if appointed on whole time basis or a consolidated honorarium of Rs. 350 (Rupees three hundred and fifty) per day for the sitting if appointed on part-time basis. Other members, if sitting on whole time basis, shall receive a consolidated honorarium of {Rs.40,000} (Rupees Forty thousand only) per month or Member who are appointed from judicial side or some other Government Job, they can opt for fixed remuneration or they can get last pay drawn minus pension.* (Amended vide notification dated 28.03.2018) **

(1A) The Member of the State Commission shall be entitled to conveyance Allowance Rs. 3000/- (Rupees three thousand only) Per Month.

** (1B) The Member of the State Commission shall be entitled to reimbursement of their own mobilephone bill upto Rs.1000/-per month or actual bill,whichever is less.

** (Inserted vide notification dated 12.06.2012)

(2) The President and the members of the State Commission shall be eligible for such travelling allowance and daily allowance on official tour as are admissible to Grade I Officer of the Union Territory Administration of Chandigarh.

(3) President and the member of the State Commission shall hold office for a term of 5 years or upto the age of 70 years whichever is earlier and shall not be eligible for renomination on his completion of a term of 5 years or on his attaining the age of 70 years :

Provided that President and member may :—

- (a) by writing under his hand and addressed to the Administrator, Union Territory of Chandigarh, resign his office any time ;
- (b) be removed from his office in accordance with provision of sub-rule (5).

(5) The Administrator of Union Territory of Chandigarh may remove from Office, President or a member of the State Commission who,—

- (a) has been adjudged an insolvent ; or
- (b) has been convicted of an offence which in the opinion of the Administrator of Union Territory, Chandigarh, involves moral turpitude ; or
- (c) has become physically or mentally incapable of acting as such member ; or
- (d) has acquired such financial or other interest as is likely to effect prejudicially his functions as a member ; or
- (e) has so abused his position as to render his continuance in office, prejudicial to the public interest ; or
- (f) remain absent in three consecutive sittings except for reasons beyond his control.

Provided that the President or member shall not be removed from his office on the ground specified in clauses (d), (e) and (f) of sub-rule (5) except on an inquiry held by the Government in accordance with such procedure as it may specify in this behalf and finds the President or member to be guilty of such ground.

(6) Before appointment, the President and members of the State Commission shall have to take an undertaking that he does not and will not have any such financial or other interests as is likely to affect prejudicially his functions as such member.

(7) The terms and conditions of the service of the President and the members of the State Commission shall not be varied to their disadvantage during their tenure of Office.

(8) Every vacancy caused by resignation and removal of the President or any other member of the State Commission under sub-rule (4) or otherwise shall be filled by fresh appointment.

(9) Where any vacancy occurs in the office of the President of the State Commission, the senior most (in order of appointment) member holding office for the time being, shall discharge the functions of the President until a person appointed to fill such vacancy assumes the office of the President of the State Commission.

(10) When the President of the State Commission is unable to discharge the functions owing to absence, illness or any other cause, the senior most (in order to the appointment) member of the State Commission shall discharge the functions of the President until the day on which the President resumes the charge of his functions.

(11) The President or any member ceasing to hold office as such shall not hold any appointment in or be connected with the management or administration of an organisation which have been the subject of any proceeding under the Act during his tenure for a period of 5 years from the date on which he ceases to hold such office.

7. Place of sitting and other matters relating to State Commission [Section 14(3) read with Section 18].—(1) Office of the State Commission shall be located at Chandigarh.

(2) The working days and the office hours of the State Commission shall be the same as that of the Union Territory Administration of Chandigarh.

(3) The official seal and emblem of the State Commission shall be such as the Administration of Union Territory, may specify.

(4) Sitting of the State commission, as and when necessary, shall be convened by the President.

(5) No act or proceedings of the State Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in its constitution thereof.

(6) The Administration of Union Territory, shall appoint such staff, as may be necessary to assist the State Commission in its work and perform such other functions as are provided under these rules or assigned to it by the President.

(7) Where the opposite party admits the allegation made by the complainant, the State Commission shall decide the complaint on the basis of the merit of the case and documents present before it.

(8) If during the proceedings conducted under section 13, State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or his authorised agent to appear before the State Commission on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the State Commission on such day, the State Commission may in its discretion either dismiss the complaint for default or decide it on merits. Where the opposite party or its

authorised agent fails to appear on the day of hearing, the State Commission may decide the complaint ex-parte.

(9) While proceeding under sub-rule(8), the State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of the complaint but not more than one adjournment shall ordinarily be given and the complaint should be decided within 90 days from the date of notice received by the opposite party where complaint does not require analysis or testing of the goods and within 150 days if it requires analysis or testing of the goods.

(10) Orders of the State Commission shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

8. Procedure for hearing appeal [Section 15]— (1) Memorandum shall be presented by the appellant or his authorised agent to the State Commission in person or sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by the certified copy of the order of the District Forum appealed against and such of the documents as may be required to support grounds or objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of the period of limitation as specified in the Act, the memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which the appellant relies to satisfy the State Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies of the memorandum to the State Commission for official purposes.

(6) On the date of hearing or on any other day to which hearing may be adjourned, it shall be obligatory for the parties or their authorised agents to appear before the State Commission. If appellant or his authorised agent fails to appear on such date, the State Commission may, in its discretion, either discuss the appeal or decide it on the merit of the case. If respondent or his authorised agent fails to appear on such date, the State Commission shall proceed ex-parte and shall decide the appeal ex-parte on the merits of the case.

(7) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objection not set forth in the memorandum but the State Commission, in deciding the appeal, shall not confine to the grounds of objection set forth in the memorandum or taken by leave of the State Commission under this rule :

Provided that the Commission shall not rest its decision on any other grounds unless the party who may be affected thereby, has been given, at least one opportunity of being heard by the State Commission.

(8) State Commission may, on such terms as it may think fit and at any stage, adjourn the hearing of the appeal, but not more than one adjournment shall ordinarily be given and the appeal should be decided within 90 days from the first date of hearing.

(9) Order of the State Commission on appeal shall be signed and dated by the members of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

COMMENTS

Sufficient reason - Condonation of delay - Appellant failed to prove that he was prevented from filing the appeal from any sufficient reason - Delay of one month and 4 days remained

unexplained - Each day of delay must be explained - Appeal dismissed as time barred under Rule 8 (2) of the Rules, 1987 - *Vice Chairman, D.D.A. v. O.P. Gauba's case* 1995(2) C.P.C. 239 N.C. reiterated - *Preetinder Singh Lehl v. Chief Administrator, Punjab Urban Planning and Development Authority*, 2004(2) CPC 333 Chd.
