

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CWP No.21532 of 2016 (O&M)**

**Date of Decision:21.12.2017**

Karam Chand Sharma

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. H.C.Arora, Advocate,  
for the petitioner.

Ms. Monica Chhibber Sharma, Senior DAG, Punjab.

**TEJINDER SINGH DHINDSA, J.**

Petitioner retired as Chief Manager, Punjab National Bank. Vide order dated 05.08.2013 (Annexure P-1), petitioner was appointed as Member, District Consumer Disputes Redressal Forum, Sangrur.

Petitioner has filed the instant petition assailing the order dated 25.03.2014 (Annexure P-5) issued by the Registrar, State Consumer Disputes Redressal Commission, Punjab and whereby the claim of the petitioner for fixation of remuneration as last pay drawn minus pension has been declined.

Learned counsel for the parties have been heard at length and pleadings on record have been perused.

The matter with regard to honorarium of Members of the Punjab State Consumer Disputes Redressal Commission/Members of First Additional Bench and District

Consumer Forums came up for examination and order dated 30.10.2013 was issued by the Secretary to Government of Punjab, Department of Food Civil Supplies and Consumer Affairs (Annexure P-6) and wherein the following decision was taken:

***“Members 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.”***

Apparently, the State Consumer Disputes Redressal Commission, Punjab vide communication dated 05.12.2013 sought clarification in relation to order dated 30.10.2013 (Annexure P-6) from the second respondent i.e. Secretary to Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Consumers Protection Act Branch. It would be useful to extract hereunder the communication dated 05.12.2013, whereby clarification was sought:

***“STATE CONSUMER DISPUTES REDRESSAL COMMISSION, PUNJAB, DAKSHIN MARG, SECTOR 37-A, CHANDIGARH.***

***No.SCDEC/Pb/13/14189***

***Dated: 05/12/13***

***To***

***The Secretary to Govt. of Punjab,  
Department of Food, Civil Supplies &  
Consumer Affairs, Punjab, CPA Branch,  
Chandigarh.***

***Sub: Clarification regarding honorarium/remuneration  
admissible to the Members of the State Commission and  
District Fora.***

*Sir,*

*I am directed to refer to order dated 30.10.2013 bearing Endst.No.1/25/2010-1CPA/266-271 dated 31.10.2013 restoring provision No.6 contained in order dated 16.3.2012 issued vide Endst.No.1/25/2010-1CPA/158-163 dated 26.3.2012 and this Commission's letter No.SCDRC/PB/12/11144 dated 21.08.2012 on the subject cited above and to say that orders of the Government dated 16.03.2012 and 30.10.2013 are being implemented by fixing the honorarium of the Members retired from the judicial side or some other Government job, as per the clarification issued vide Memo. 1/25/10-1 CPA/329 dated 3.8.2012.*

*However, there are cases where the Members have retired from public sector undertakings such as Boards, Electricity Board (now PSPCL etc.) Corporation, Nationalized Banks, semi-government, Organisation/ public sector undertakings. Therefore, the expression 'Government job' needs clarification to the effect whether the service rendered by the Members in such like organizations falls within the definition of the 'government job'.*

*It is, therefore, requested to kindly clarify as to whether the expression 'government job' includes the service rendered in some Board, Electricity Board (now PSPCL etc.) Corporation, Nationalized Banks, Semi-Govt.*

*Organization/Public Sector Undertakings etc. so that the claim of Members coming from these Boards/Corporations/Banks/Organizations can be considered.*

*Yours faithfully,*

*Sd/-  
Registrar.”*

In response, a clarification was issued vide memo dated 17.01.2014 (Annexure P-7) which is in the following terms:

*“GOVERNMENT OF PUNJAB  
FOOD CIVIL SUPPLY AND CONSUMER AFFAIRS  
DEPARTMENT  
(CONSUMERS PROTECTION ACT, BRANCH)*

*To*

*Registrar,  
Punjab State Consumer Disputes Redressal Commission,  
Plot No.1037, Sector 37-A, Chandigarh.  
Memo No.1/25/2010-1 C.P.A./148645/1*

*Dated, Chandigarh : 17.01.2014*

*Subject: Circular regarding honorarium payable to the Members of District Consumer Forum and Punjab State Consumer Disputes Redressal Commission.*

*This has reference to your letter No.S.C.D.R.C./Punjab/2013/14189 dated 05.12.2013 on the above subject.*

*The aforesaid matter has been taken up with the Finance Department and the Finance Department has advised that the employees retired from Boards and*

**Corporations in case of their appointment as Members of Punjab State Consumer Disputes Redressal Commission and District Consumer Forums, in case they desire, they may opt for consolidated honorarium or may give option for getting remuneration on the basis of last pay drawn on retirement minus pension** which would regulate their remuneration.

*This letter has been issued on the basis of advice received from Finance Department vide their letter No.12/13/2008-5VKS/1204, dated 01.01.2014.*

*Sd/-  
Joint Secretary, Food Supplies.”*

Petitioner who was drawing a fixed honorarium at the rate of Rs.18,000/- p.m. as Member, District Consumer Disputes Redressal Forum, Sangrur submitted an option to be released honorarium as per last pay drawn minus pension. Petitioner also enclosed along with the option letter the requisite documents from his previous employer i.e. Punjab National Bank. Such option stands declined vide order dated 25.03.2014 (Annexure P-5).

The short issue that arises for consideration is as to whether the expression '**Corporation**' as per clarification dated 17.01.2014 (Annexure P-7), issued by the State Government would take within its sweep even the Punjab National Bank?

Such issue is no longer res integra.

Punjab National Bank Limited initially was a Banking Company. As a result of the enactment of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereinafter referred to as the Companies Nationalization Act), the undertaking of the Punjab National Bank Limited was transferred and vested in Punjab National Bank a 'body corporate' constituted under the provisions of the said Act.

An issue came to be examined by the ***Hon'ble Supreme Court of India in Ashok Marketing Limited Vs. Punjab National Bank 1991, AIR (SC) 855*** as regards premises belonging to a nationalized Bank whether falling within the ambit of the definition of "Public Premises" contained in Section 2 (e) of the Public Premises Act. The precise question that came for consideration was whether a nationalized Bank is a Corporation established by or under a Central Act and is owned or controlled by the Central Government. In such regard, the Apex Court observed as follows:-

***"Reference has already been made to the provisions of the Banks Nationalization Act which show that the nationalized bank has been constituted as a distinct juristic person by the Act and it is owned by the Central Government. There are other provisions in the Banks Nationalization Act which show that the general superintendence, direction and management of the affairs of the business of the bank is vested in a Board of Directors constituted by the Central Government and the Central Government has***

*the power to remove a person from the membership of the Board of Directors (Sections 7(2) and 7(3)) and in the discharge of its functions the Bank is to be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Governor of the Reserve Bank, give (Section 8). This indicates that the nationalized bank has all the attributes of the new pattern of public corporation.*

*Merely because the expression 'body corporate' has been used in relation to the nationalized banks in Section 3(4) of the Banks Nationalization Act and the expression 'corporation' has not been used, does not mean that the nationalized bank is not a corporation. The expression 'body corporate' is used in legal parlance to mean 'a public or private corporation' (Black's Law Dictionary P.159).*

It was concluded as under:

*“Keeping in view the provisions of the Punjab National Banks Nationalization Act we are of the opinion that the nationalized bank is a corporation established by a Central Act and it is owned and controlled by the Central Government. The premises belonging to a nationalized bank are public premises under Section 2 (e) (2) (ii) of the Public Premises Act. We are, therefore, unable to accept the contention of Shri Yogeshwar Prasad that premises belonging to a nationalized bank do not fall within the ambit of the definition of public premises’*

***contained in Section 2(e) of the Public Premises Act."***

The Punjab National Bank having been held to be a Corporation of the Central Government by the ***Hon'ble Supreme Court in Ashok Marketing Limited's case (supra)***, claim of the petitioner seeking remuneration as per last pay drawn minus pension would be covered in the light of the clarification dated 17.01.2014 (Annexure P-7) issued by the Government of Punjab, Department of Food Civil Supplies and Consumer Affairs, Consumers Protection Act Branch.

Accordingly, petition is allowed. The impugned order dated 25.03.2014 (Annexure P-5) is set aside.

Directions are issued to release to the petitioner the financial benefits on the basis of fixing his honorarium while serving as Member of District Consumer Disputes Redressal Forum, Sangrur as last pay drawn minus pension as per option exercised by him.

Needful be done within a period of three months from the date of receipt of a certified copy of this order.

Disposed of.

**21.12.2017**

vandana

**(TEJINDER SINGH DHINDSA)  
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

No