

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24497-2021 (O&M)
Date of decision : 15.09.2022

Kanwaljeet Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vishal Sharma, Advocate,
for the petitioner.

Ms. Anu Chatrath, Addl.A.G., Punjab.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for directing the respondents to appoint the petitioner as Member, District Consumer Disputes Redressal Commission, Punjab ('for short, 'the District Commission'), as per advertisement dated 09.01.2021 (P-3), interview of which was held on 23.08.2021, while ignoring the higher qualification of petitioner. Further prayer is for quashing the final selection list issued by the respondent-department (P-12 & P-13).

2. Facts are not in dispute.

3. Government of Punjab, Department of Food, Civil Supplies & Consumer Affairs (for short, 'the State Government'), invited applications for filling up 32 (thirty-two) posts of Members in

the District Consumer Commissions vide public notice dated 09.01.2021, and relevant part of the same reads as under:-

“Department of Food, Civil Supplies and Consumer Affairs, Punjab

DETAILED NOTICE

Applications are invited from suitable candidates for appointment for Thirty-two posts of Members in the District Consumer Commission in the State of Punjab on whole time basis established under the Consumer Protection Act, 2019. The number of vacancies may increase or decrease for any reason whatsoever such as resignation or relieving of Members or as ordered by the Hon'ble Punjab and Haryana High Court in various pending Court Cases. Number of vacant posts of Members are as hereunder:-

<i>Sr. No.</i>	<i>Name of District Commission</i>	<i>Total No. of Vacant posts</i>
<i>1.</i>	<i>Amritsar</i>	<i>2</i>
<i>2.</i>	<i>Barnala</i>	<i>2</i>
<i>3.</i>	<i>Bathinda</i>	<i>2</i>
<i>4.</i>	<i>Ferozepur</i>	<i>2</i>
<i>5.</i>	<i>Fatehgarh Sahib</i>	<i>1</i>
<i>6.</i>	<i>Faridkot</i>	<i>1</i>
<i>7.</i>	<i>Gurdaspur</i>	<i>2</i>
<i>8.</i>	<i>Hoshiarpur</i>	<i>2</i>
<i>9.</i>	<i>Jalandhar</i>	<i>1</i>
<i>10.</i>	<i>Kapurthala</i>	<i>2</i>
<i>11.</i>	<i>Ludhiana</i>	<i>2</i>
<i>12.</i>	<i>Mansa</i>	<i>1</i>
<i>13.</i>	<i>Moga</i>	<i>2</i>
<i>14.</i>	<i>Muktsar Sahib</i>	<i>1</i>
<i>15.</i>	<i>Patiala</i>	<i>2</i>

16.	<i>Roopnagar</i>	<i>1</i>
17.	<i>Sangrur</i>	<i>1</i>
18.	<i>S.A.S. Nagar</i>	<i>2</i>
19.	<i>S.B.S. Nagar</i>	<i>2</i>
20.	<i>Tarantaran</i>	<i>1</i>
	<i>Total</i>	<i>32</i>

Eligibility Criteria

As per rule 4(2) of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 which are made under the provisions of the Consumer Protection Act 2019 describes as hereunder:-

4(2) "A person shall not be qualified for appointment as member unless

(a) is of not less than thirty-five years of age.

(b) possesses a bachelor's degree from a recognised University; and

(c) is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine."

Tenure

The appointment shall be on whole time basis for a period of 4 years or up to the age of 65 years, whichever is earlier.

Qualifications

1. The Applicant must have passed Matriculation with Punjabi as one of the compulsory or elective subject or any other equivalent examination in Punjabi language.

2.1 In case of serving officials:-

(i) Applicant must have obtained 'No Objection Certificate' (NOC) from his employer.

(ii) In case any departmental or any other proceedings including criminal case has been initiated, pending or decided in the past against the officer under relevant Service Rules, details of the same may be furnished.

2.2 In case of retired officers, the date of superannuation and "No Inquiry Certificate" will be necessary from the last employer.

2.3 ACR dossiers with ACRs of last 10 years of applicant.

2.4 Candidates having judicial background are required to furnish copies of their ten best judgments/other judicial orders passed by them along with their application form.

3. Selection of the Members of the District Consumer Commission will be made by the Selection Committee prescribed in the Rule 6 of the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020

which are made under the provisions of the Consumer Protection Act 2019.

4. *Every appointment of a Member shall be subject to submission of a certificate of physical fitness signed by a civil surgeon or District Medical Officer to his medical fitness.*

5. *Before appointment, the selected candidate shall have to furnish an undertaking that he does not and will not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.*

Oaths of office and secrecy:- Every person appointed to be a Member, before entering upon his office make and subscribe an oath of office and secrecy in Forms I and II annexed.

Declaration of Financial and other interest:- A Member, before entering upon his office, declare his assets, and his liabilities and other interests.

Disqualifications:-

A person shall be disqualified for appointment as a member, if he:-

- (a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or*
- (b) has been adjudged as an insolvent; or*
- (c) is of unsound mind and stands so declared by a competent court; or*
- (d) has been removed or dismissed from the service of the State Government or Central Government or A body Corporate owned or controlled by such Government; or*
- (e) has, in the opinion of the State Government, such financial or other interest as is likely to prejudicially affect his functions as the Member.*

The selection of member or the president shall be regulated as per the provision of Rule 4(3) of Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020. Meaning thereby that selection of woman member or women president shall be dependent on the constitution of the District Commission.

All other terms and conditions of the appointment of the Member shall be governed by the Consumer Protection Act, 2019 as well as the Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 available at website www.foodsuppb.gov.in

It is made clear only applications filled online at link available at www.foodsuppb.gov.in till the cut off date i.e 10/02/2021 till 5:00 PM and complete in all aspects with application fee of Rupees 1000/- (Rupees One Thousand Only) paid online and with requisite documents attached shall be considered. Any application found incomplete in any manner, would be rejected in scrutiny and no intimation regarding the same shall be sent to applicant.

*Principal Secretary to Govt of Punjab
Department of Food, Civil Supplies &
Consumer Affair”*

4. In response to aforesaid public notice, petitioner submitted his application within stipulated period for the post of Member in the

District Commissions of Fatehgarh Sahib & Sangrur vide separate applications.

5. Thereafter, vide notice/announcement dated 28.06.2021, present petitioner was made ineligible on the premise that he is not having 15 years' experience as per the Consumer Protection Act, 2019 (for short, 'the Act of 2019') and he was promoted in higher grade only in 2013. For reference, relevant part of the impugned notice reads as under:-

*“NOTICE/ANNOUNCEMENT
SELECTION FOR THE POST OF MEMBERS, DISTRICT
CONSUMER DISPUTES
REDRESSALS, COMMISSIONS IN PUNJAB
APPLICANTS WHO ARE NOT ELIGIBLE AS PER THE
CONSUMER ACT, 2019*

<i>SR. No.</i>	<i>Name of Candidate for the post of Member</i>	<i>Remarks</i>
<i>1.</i>	<i>Kanwaljit Singh son of Surjit Singh</i>	<i>Not Eligible (15 years experience not as per the C.P. Act. He was promoted in Higher Grade only in 2013</i>
<i>2. to 36.</i>	<i>.....</i>	<i>.....</i>

*Additional Director
Department of Food, Civil Supplies
and Consumer Affairs”*

Later on, rejection of petitioner was corrected and he was allowed to appear for interview.

6. Respondents issued Notice/Announcement dated 14.08.2021 (P-11), thereby, publishing the list of candidates who

were provisionally allowed to appear for interview scheduled to be held on 23.08.2021 and relevant part of the same reads as under:-

“GOVERNMENT OF PUNJAB
DEPARTMENT OF FOOD, CIVIL SUPPLIES &
CONSUMER AFFAIRS
(CONSUMER PROTECTION ACT BRANCH)
NOTICE/ANNOUNCEMENT
SELECTION FOR THE POST OF
MEMBER, DISTRICT CONSUMER DISPUTES
REDRESSAL COMMISSIONS IN PUNJAB

List of candidates who have been provisionally allowed to appear for interview scheduled to be held on 23.08.2021

<i>ROLL NO.</i>	<i>NAME (Sh./Smt.)</i>	<i>FATHER'S/HUSBAND'S NAME (Sh./Smt.)</i>
<i>1. to 45.</i>		
<i>46.</i>	<i>Kanwaljeet Singh</i>	<i>Surjit Singh</i>
<i>47. to 92</i>		

Schedule for interview

VENUE COMMITTEE ROOM OF HON'BLE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

<i>DATE</i>	<i>ROLL NO.</i>	<i>REPORTING TIME</i>
<i>23.08.2021</i>	<i>01 to 23</i>	<i>1:00 PM (in Court Room No.5)</i>
	<i>24 to 46</i>	<i>2:30 PM (in Court Room No.5)</i>

Manjeet Singh
Superintendent
14-08-2021”

7. Ultimately, respondents issued orders dated 06.10.2021 and 14.10.2021 (P-12 & P-13, respectively), whereby, 16 + 7 = 23 candidates were appointed as Members of various District Commissions, including one Sh. Manjit Singh Bhinder as Member,

District Commission, Fatehgarh Sahib. However, no one was appointed to the post at Sangrur.

8. Hence, present writ petition.

9. It was contended on behalf of petitioner that Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the Presidents and members of the State Commission and District Commission) Rules, 2020 (for short, 'the Rules of 2020') provide that Selection Committee shall make recommendations taking into account the suitability, record of past performance, integrity and adjudicatory experience. Also submitted that as per Rule 6(9), a candidate having adjudicatory experience and record of past performance etc. be taken into consideration while making recommendations. The adjudicatory experience with basic qualifications should be considered as the most relevant factor while making recommendations. Further contended that petitioner is having experience of 22 years as an Advocate and 05 years as Member, District Commission, SBS Nagar and while working as such, decided about 300 cases, but despite that, petitioner has been ignored and not been appointed as a Member of District Commission. Further submitted that even the earlier selection of the petitioner as Member, District Commission, SBS Nagar, was made on the basis of his merit and as such, the orders dated 06.10.2021 & 14.10.2021 issued by respondents vide which $16 + 7 = 23$ candidates were appointed as Members, District Commissions, are arbitrary and politically motivated.

10. On the other hand, learned State counsel contended that petitioner submitted experience certificate dated 06.08.2013 issued by the Bar Association, Nabha, along with the application form for the post in question to the effect that he had been practicing as an Advocate since 29.08.2001. Also contended that on earlier occasion also, he submitted the same certificate along with his application for the post of Member, District Commission, SBS Nagar against which petitioner was appointed vide order dated 26.03.2016 and worked as such w.e.f. 11.04.2016 to 10.04.2021. Thus, petitioner was having an experience of 14 years 8 months as an Advocate (29.08.2001 to 10.04.2016) and 5 years as Member, District Commission (11.04.2016 to 10.04.2021). Also contended that Sh. Manjit Singh Bhinder has already been appointed against the post in question at District Fatehgarh Sahib; however, petitioner has neither assailed his appointment; nor impleaded him as party-respondent in the present case and as such, no adverse order can be passed in his absence.

11. Heard learned counsel for the parties and perused the records.

12. Rule 4 of Rules of 2020 provides qualification for appointment of a Member of District Commission and for reference, relevant portion of the same is reproduced as under:-

“4. Qualifications for appointment of President and member of District Commission.—

(1)

(2) A person shall not be qualified for appointment as member unless he-

(a)

(b); and

(c) *is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine.*”

The above Rule lays down that a person shall not be qualified for appointment unless he is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, etc. Besides this, even in the advertisement, under the eligibility criteria, the above condition of not less than 15 years’ experience in various fields has been specifically incorporated.

13. It is pertinent to mention here that as per para 2.4 of the qualifications stipulated in the advertisement, the candidates having judicial background are required to furnish copies of their 10 best judgments/other judicial orders passed by them along with their application form.

14. Apart from above, the selection criteria adopted for Member of a District Commission *inter alia* contains allocation of marks for academic qualification, experience and interview. For reference, relevant part of the same is reproduced as under:-

**“MINUTES OF THE MEETING OF THE
SELECTION COMMITTEE FOR SELECTION OF
MEMBER OF THE STATE COMMISSION AND
PRESIDENT/ MEMBER OF THE DISTRICT
COMMISSIONS IN THE STATE OF PUNJAB, HELD
ON 23.08.2021 at 02:00 PM**

*Present: Hon’ble Mr. Justice Rajan Gupta, Chairman.
Sh. Rahul Tiwari, IAS, Secretary, Food, Civi
Supplies and Consumer Affairs, Member.
Smt. Jaspreet Talwar, IAS, Principal
Secretary, Water Supply and Sanitation,
Member.*

***Re:- To decide the criteria to be adopted for
appointment of Member of the District
Commissions in the State of Punjab.***

.....

The Selection Committee has discussed the matter regarding fixation of criteria and procedure for allocation of marks, selection and recommendation of suitable names to the State Government for appointment to the vacant posts of Members of District Commissions in the State of Punjab. For the aforesaid selection, an interview of the shortlisted candidates is to be conducted. The Selection Committee resolves to adopt the following criteria/procedure for allocation of marks out of a total of 100 marks.

Academic qualification

*For the post of Member (where minimum qualification as per rules is Graduation/Bachelor’s Degree) there shall be **10 Marks** for academic*

qualification. The allocation of marks for academic qualification will be as follows:-

Graduation (1st Division) - 4 Marks

Graduation (2nd Division) - 2 Marks

Post Graduation (1st Division) - 3 Marks

Post Graduation (2nd Division) - 2 Marks

Ph.D. - 3 Marks

Marks of only one Post Graduation Degree (having highest marks) and one Ph.D. shall be followed.

Experience

As per rules, a person shall not be qualified for appointment as Member, unless he is a person of ability, integrity and standing, and having special knowledge and professional experience of not less than fifteen years in consumer affairs, law, public affairs, administration, economics, commerce, industry, finance, management, engineering, technology, public health or medicine. As such, 1.0 mark (upto maximum of 20 marks) shall be awarded for every year of such experience beyond the minimum mandatory period of 15 years.

Interview

There shall be an interview/viva-voce of 70 marks. The candidates would be assessed on the basis of the following:-

- (i) knowledge and ability to apply law in different facts and circumstances;*
- (ii) ability to communicate with counsels, witnesses and parties calmly and courteously;*
- (iii) integrity on the basis of record;*

- (iv) *ability to handle the workload;*
- (v) *alertness, intelligence, outlook and bearing of the candidate;*
- (vi) *Ability of analysis and cogent drafting of orders; and,*
- (vii) *Vision for the assignment.*

Final result shall be prepared by adding marks of academic qualification, experience and interview.”

15. Records reveal that Selection Committee awarded total 29 marks to the petitioner (R-1) and which reads as under:-

***“INTERVIEW GRADE/MARKS SHEET OF
CANDIDATES FOR THE POST OF MEMBER,
DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, PUNJAB***

23.08.2021

<i>Sr. No.</i>	<i>Roll Nos.</i>	<i>Name</i>	<i>Father's/Husband's Name</i>	<i>Grade/ Marks</i>
<i>1 to 45</i>				
46.	46	<i>Kanwaljeet Singh</i>	<i>Surjit Singh</i>	23

Member Member Chairman”

*“Roll Number wise complete result for the post of Member
District Consumer Disputes Redressal Commission in the
State of Punjab*

(Interview held on 23.08.2021 & 24.08.2021)

<i>Sr.</i>	<i>Roll Nos.</i>	<i>Name</i>	<i>Father's/ Husband's Name</i>	<i>Gender</i>	<i>District applied for</i>	<i>Qual.</i>	<i>Exp.</i>	<i>Total out of 30 mark s</i>	<i>Interview Marks</i>	<i>Grand Total</i>
<i>1 to 45.</i>	...	...	...	...	...	...	...	...	...	...
46.	46	<i>Kanwaljeet Singh</i>	<i>Surjit Singh</i>	<i>Male</i>	<i>Fatehgarh Sahib, Sangrur</i>	2	4	6	23	29
<i>47. to 92</i>	...	...	...	...	...	...	...	...	...	...

16. Undisputedly, as per the application form of petitioner, he completed his Bachelor of Laws degree in the year 2001 in 3rd Division and Masters of Law in the year 2004 with 2nd Division. A perusal of the above academic qualification prescribed in the Selection Criteria shows that there is no mark for Graduation in 3rd Division, but 02 marks are assigned for Post Graduation in 2nd Division. Therefore, he has rightly been awarded 02 marks for the qualification in the final result.

17. Still further, as per Selection Criteria, 01 mark (upto maximum of 20 marks) shall be awarded for every year of such experience **beyond** the minimum mandatory period of 15 years. In column 15 of the application form which deals with the relevant experience, petitioner himself specifically mentioned that he is having 14 years and 07 months experience as an Advocate and 04 years and 10 months of experience as a Member of District Commission. In total, petitioner is having 19 years and 05 months' experience in Consumer Affairs & Law, etc. and as per the Selection Criteria, 1 mark for experience of every year beyond the minimum mandatory experience of 15 years shall be awarded; meaning thereby, he is entitled to 04 marks for experience of 04 years which he has completed beyond the mandatory period of 15 years provided in the Selection Criteria. Therefore, he has rightly been awarded 04 marks for experience. Further argument raised by the petitioner that during his tenure as a Member in the District Commission, he delivered about 300 judgments, so he should be placed higher in merit has no weight in law for the simple reason that as per the qualification prescribed in the

advertisement, candidates have to furnish copies of their 10 best judgments/orders which is one of the ground of assessment of the candidate. The purpose of calling for the judgments is to check the quality and ability of drafting of orders etc. and not to weigh them quantitatively. The petitioner has not alleged any *mala fide* against the Selection Committee. Moreover, this Court is not sitting in an appeal against the recommendations made by the Selection Committee. Thus, argument of petitioner that he deserves to be placed higher in merit on the basis of experience and qualification as compared to the other candidates is wholly untenable and hereby rejected.

18. Concededly, the appointed candidate (Sh. Manjit Singh Bhinder) has not been impleaded as a party respondent by the petitioner for the reasons best known to him. In view of the old legal maxim i.e. *audi alteram partem*, it is quite elementary that no one should be condemned unheard.

19. In view of the above, this Court does not find any merit in the instant petition; thus, same is hereby dismissed.

15.09.2022
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
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Whether Reportable :	Yes	No
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