

No. 9/11/2019-CPU
Government of India
Ministry of Consumer Affairs, Food & Public Distribution
Department of Consumer Affairs

Krishi Bhawan, New Delhi
The 19th December, 2022

Circular

Subject: Draft Central Consumer Protection Authority (Selection, Term of Office and Other terms and Conditions of Service of Chief Commissioner and Commissioners) Rules, 2022 –reg.

A draft of the Central Consumer Protection Authority (Selection, Term of Office and Other terms and Conditions of Service of Chief Commissioner and Commissioners) Rules, 2022 is placed on the website of D/o Consumer Affairs with a view to elicit comments/suggestions thereon from stakeholders.

2. The comments/suggestions, if any, may be furnished to this Department on e-mail id – pk.tyagi13@nic.in, **within 15 days** from the date of publishing of the draft rules under reference on Department of Consumer Affairs' website.

Encl: As above.



(P. K. Tyagi)

Under Secretary to the Govt. of India

Copy to:-

The Technical Director, NIC Unit, Department of Consumer Affairs with the request to upload the draft rules under reference on the departmental website.

[To be published in the Gazette of India, Part II, Section 3, Sub-section (i)]

Government of India

Ministry of Consumer Affairs, Food and Public Distribution

(Department of Consumer Affairs)

New Delhi, the2022

NOTIFICATION

G.S.R..... In exercise of the powers conferred by clauses (f) and (g) of sub-section (2) of section 101, read with sub-section (2) of section 10 and section 11 of the Consumer Protection Act, 2019 (35 of 2019), the Central Government hereby makes the following rules, namely:---

CHAPTER I

PRELIMINARY

1. Short title and commencement.--(1) These rules may be called the Central Consumer Protection Authority (Selection, Term of Office and Other terms and Conditions of Service of Chief Commissioner and Commissioners) Rules, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-- (1) In these rules, unless the context otherwise requires,-

- a. 'Act' means the Consumer Protection Act, 2019 (35 of 2019);
- b. 'Central Authority' means the Central Consumer Protection Authority established under section 10 of the Act;

c. 'Chief Commissioner' and 'Commissioner' means the Chief Commissioner and the Commissioners referred to in sub-section (2) of section 10 of the Act.

(2) All words and expressions used herein and not defined shall have the meanings respectively assigned to them under the Consumer Protection Act, 2019 (35 of 2019).

3. Composition of the Central Authority.--- (1) The Central Authority shall consist of the Chief Commissioner and not less than five Commissioners.

(2) The Chief Commissioner and the Commissioners shall be appointed on a whole-time basis.

CHAPTER II

APPOINTMENT OF CHIEF COMMISSIONER AND COMMISSIONER

4. Term of Office of Chief Commissioner and Commissioner.—A Chief Commissioner or Commissioner shall hold office for a term of five years from the date on which he assumes office or until he attains the age of sixty-five years, whichever is earlier, and he shall be eligible for reappointment.

5. Qualifications for appointment of Chief Commissioner and Commissioners.— A person shall not be qualified for appointment, unless he is a person of ability, integrity, and standing and having special knowledge of, and professional experience of not less than twenty-five years in the case of Chief Commissioner and not less than twenty years in the case of a Commissioner in law, public affairs, administration, economics, business, commerce, industry, finance, management, technology, advertising, public health, medicine, food, product safety, standardisation, quality management or in any other matter which, in the opinion of the Central Government, may be useful to the Central Authority.

6. Disqualification.—No person,--

(a) who has entered into or contracted a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into or contracted a marriage with any person

shall be eligible for appointment as Chief Commissioner or Commissioner:

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this.

7. Manner of Selection.—(1)The Central Government shall appoint the Chief Commissioner and the Commissioners from a panel of names recommended by a Selection Committee consisting of:

- a. Cabinet Secretary- Chairperson;
- b. Secretary, Department of Commerce, Government of India- Member
- c. Secretary, Department of Personnel and Training, Government of India- Member
- d. Secretary, Department of Consumer Affairs, Government of India- Member

(2) The Central Government shall, within three months from the date of occurrence of any vacancy by reason of death, resignation or removal of a Commissioner, and four months before the superannuation or completion of his term of office, make a reference to the Selection Committee for the filling up of the vacancy.

(3) On a reference made by the Central Government, the Selection Committee shall recommend a panel in respect of each vacancy that has been referred to the Selection Committee.

(4) The Selection Committee shall make its recommendations to the Central Government, within a period not exceeding four months from the date of reference made under sub-rule (2) or (3).

(5) The Selection Committee may regulate its own procedure for the purpose of sub-rule (4):

Provided that any procedure for selection of names for inclusion in the panel referred to in sub-rule (3) shall be initiated by inviting applications for the relevant vacancies by way of public notice, and only applications received in response to such notice shall be considered for appointment.

(6) Before recommending any person for appointment as a Chief Commissioner or Commissioner, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to prejudicially affect his functions as a Chief Commissioner or Commissioner.

(7) Every person appointed to be a Chief Commissioner or Commissioner shall, before entering upon his office, make and subscribe to an oath of office and of secrecy before the Minister in charge of the Department of Consumer Affairs in the Form I and Form II, respectively, as specified in the Schedule annexed to these rules.

(8) Every Chief Commissioner or Commissioner shall, before entering upon his office, declare his assets, and his liabilities and financial and other interests.

8. Selection for re-appointment.—(1) An application for re-appointment shall be considered in the same manner as that for the original appointment, along with all the persons shortlisted in response to the vacancy circular.

(2) While making its assessment for suitability to a post, the Committee may give additional weightage to the persons seeking re-appointment for their experience in the Central Authority and while doing so, shall take into account, the performance of the person while working as a Chief Commissioner or Commissioner in the Central Authority.

9. Medical fitness of the Chief Commissioner or Commissioner.-No person shall be appointed as the Chief Commissioner or Commissioner in the Central Authority unless he is declared medically fit by an authority specified by the Central Government in this behalf.

10. Casual Vacancy.-(1) In the event of the occurrence of a vacancy, whether by reason of death, resignation, removal or otherwise, in the office of the Chief Commissioner, the senior-most Commissioner shall act as the Chief Commissioner, until the date on which a new Chief Commissioner, appointed in

accordance with the provisions of these rules to fill such vacancy, enters upon his office.

(2) When the Chief Commissioner is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Commissioner shall discharge the functions of the Chief Commissioner until the date on which the Chief Commissioner resumes the charge of his functions.

CHAPTER III

RESIGNATION OR REMOVAL OF CHIEF COMMISSIONER AND COMMISSIONER

11. Resignation.-A Chief Commissioner or Commissioner may resign his office by giving notice of not less than three months, in writing under his hand, to the Central Government.

Provided that a Chief Commissioner or Commissioner shall, unless he is permitted by the Central Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

12. Removal of Chief Commissioner or Commissioner.—(1)The Central Government shall by order remove from office a Chief Commissioner or Commissioner, who—

- a. has been adjudged as an insolvent; or
- b. has been convicted of an offence which involves moral turpitude; or
- c. has engaged at any time, during his term of office, in any paid employment;
or
- d. has acquired such financial or other interest as is likely to prejudicially affect his functions as a Commissioner; or
- e. has so abused his position as to render his continuance in office detrimental to the public interest; or
- f. has become physically or mentally incapable of acting as a Commissioner.

(2) A Chief Commissioner or Commissioner shall not be removed from his office

under clauses (c) to (f) of sub-rule (1) except by an Order made by the Central Government after an inquiry under rule 13 conducted by a Committee constituted by the Central Government in this behalf, in which such Chief Commissioner or Commissioner has been informed of the charges against him and has been given a reasonable opportunity of being heard in respect of those charges.

13. Procedure for inquiry of misbehaviour or incapacity of a Chief Commissioner or Commissioner.—

(1) If a written complaint is received by the Central Government, alleging any definite charge of misbehaviour or incapacity to perform the functions of the office in respect of a Chief Commissioner or Commissioner, the Department of Consumer Affairs in the Central Government shall make a preliminary scrutiny of such complaint.

(2) If on preliminary scrutiny, the Department of Consumer Affairs in the Central Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehaviour or incapacity of a Chief Commissioner or Commissioner, it shall make a reference to the Committee constituted under sub-rule (1) of rule 7 to conduct the inquiry.

(3) The Committee shall complete the inquiry within such time or such further time as may be specified by the Central Government.

(4) After conclusion of the inquiry, the Committee shall submit its report to the Central Government stating its findings and the reasons for such findings on each of the charges separately with such observations on the whole case, as it may think fit.

(5) The Committee shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.

CHAPTER IV

SALARY AND ALLOWANCES

14. Salary and allowances of Chief Commissioner and Commissioner.--

- (1) The Chief Commissioner shall be paid a salary of Rs. 2,25,000/- (fixed) per month.
- (2) The Commissioner shall be paid a salary in the pay level of Rs.1,82,200-2,24,100 [Level-15 of the pay matrix] per month.
- (3) In case of a person appointed as the Chief Commissioner or a Commissioner is in receipt of any pension, the pay of such person shall be reduced by the gross amount of pension drawn by him.
- (4) The Chief Commissioner and Commissioners shall be entitled to draw allowances and benefits as are admissible to a Government of India officer holding Group 'A' post carrying the same pay.
- (5) The salary, allowances and other terms and conditions of service of the Chief Commissioner or a Commissioner shall not be varied to his disadvantage after appointment.

CHAPTER V

PENSION, GRATUITY, PROVIDENT FUND AND LEAVE

15. Pension, Gratuity and Provident Fund. –(1)The Chief Commissioner and Commissioners shall be governed by the provisions of the Contributory Provident Fund Rules (India), 1962 and no option to subscribe under the General Provident Fund (Central Services) Rules, 1960 shall be available.

(2) No additional pension and gratuity shall be admissible for service rendered in the Central Authority.

16. Leave –(1)A Chief Commissioner and Commissioner shall be entitled to thirty days of Earned Leave for every year of service.

(2) Casual Leave not exceeding eight days may be granted to the Chief Commissioner or Commissioner in a calendar year.

(3) Payment of leave salary during leave shall be governed by rule 40 of the Central Civil Services (Leave) Rules, 1972.

(4) A Chief Commissioner or Commissioner shall be entitled to encashment of leave in respect of the earned leave standing to his credit, subject to the condition that maximum leave encashment, including the amount received at the time of retirement from previous service shall not in any case exceed the prescribed limit under the Central Civil Service (Leave) Rules, 1972.

(5) The leave sanctioning authority for,
(a) the Commissioner, shall be the Chief Commissioner; and,
(b) the Chief Commissioner, shall be the Central Government, who shall also be sanctioning authority for the Commissioner in case of absence of the Chief Commissioner.

CHAPTER VI

MISCELLANEOUS

17. Travelling and Daily Allowances—The Chief Commissioner or the Commissioners while on tour within India or on transfer (including the journey undertaken on the completion of their tenure with the Authority to proceed to their hometown) shall be entitled to the travelling allowance, daily allowance, transportation of personal effects and other similar matters at the same rates as are prescribed for the officers of the Government of India holding Group A post carrying the same pay.

18. Official visits abroad.—(1) Official visits abroad by the Chief Commissioner and Commissioners shall be undertaken only in accordance with orders issued by the Central Government and they shall be entitled to draw such allowances in respect of such visits as are prescribed for the officers of the Government of India holding Group A post carrying the same pay.

(2) The Central Government shall be the sanctioning authority for foreign travel to the Chief Commissioner or Commissioner.

19. Leave Travel Concession.--The Chief Commissioner or Commissioners shall be entitled to Leave Travel Concession at the same rates as are prescribed for the officers of the Government of India holding Group A post carrying the same pay.

20. Facility for Medical Treatment. — (1) The Chief Commissioner or Commissioners shall be entitled to medical treatment and hospital facilities as provided in the Central Government Health Scheme to a retired Government servant.

(2) At places where the said Scheme is not in operation, the entitlement shall be as per the facilities provided in the Central Service (Medical Attendance) Rules, 1944.

21. Other conditions of service.—(1) The terms and conditions of service of a Chief Commissioner or Commissioner with respect to which no express provision has been made in these rules, shall be such as are admissible to a Group 'A' Officer of the Government of India of a corresponding status.

(2) A Chief Commissioner or Commissioner shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or be connected with the management or administration of, any enterprise which has been a party to a proceeding before the Central Authority under the Act:

Provided that nothing contained in this rule shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in Section 2(45) of the Companies Act, 2013.

22. Power to relax.—Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provisions of these rules with respect to any class or category of persons.

23. Interpretation.—If any question arises relating to the interpretation of these rules, the decision of the Central Government thereon shall be final.

SCHEDULE

[See sub-rule (7) of Rule 7]

FORM I

Form of Oath of Office for the Chief Commissioner and Commissioner in the Central Authority

I, A. B., having been appointed as the Chief Commissioner/Commissioner in the Central Consumer Protection Authority do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Chief Commissioner/Commissioner in the Central Authority to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of land.

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FORM II

Form of Oath of Secrecy for the Chief Commissioner/Commissioner of the Central Authority

I, A. B., having been appointed as the Chief Commissioner/Commissioner of the Central Consumer Protection Authority do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or

persons any matter which shall be brought under my consideration or shall become known to me as Chief Commissioner/Commissioner of the Central Authority except as may be required for the due discharge of my duties as the Chief Commissioner/Commissioner of the Central Authority.

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