

**U. T. ADMINISTRATION OF DAMAN & DIU  
FOOD & CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPARTMENT,  
COLLECTORATE, MOTI DAMAN.**

No. 3/3/COL/DMN/CSD/Cons. Forum/Rules/2018-19/2017

Dated: - 26/12/2018

**NOTIFICATION**

In exercise of the powers conferred by Sub-section (2) of section 30 of the Consumer Protection Act, 1986 (Central Act 68 of 1986) and in supersession of the rules made earlier vide Notification No.4-45-87/CSD/232 dated 23/04/1991, the Administrator of Daman and Diu hereby makes the following rules, namely:-

**1. Short title and commencement: -**

- 1) These rules may be called Daman and Diu Consumer Protection (Amendment) Rules, 2018.
- 2) They shall come into force on the date of their publication in the Official Gazette.

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

- a) "Act" means the Consumer Protection Act 1986 (Central 68 of 1986);
- b) "Administrator" means the Administrator of Union Territory of Daman and Diu appointed by the President under Articles 239 of the Constitution;
- c) "Agent" means a person duly authorized by a party to present any complaint or appeal or reply on its behalf before the State Commission or the District Forum;
- d) "Appellant" means a party which makes an appeal against the order of the District Forum;
- e) "District Forum" means the District Consumer Disputes Redressal Forum established under clause (a) of section 9 of the Act;
- f) "Memorandum" means memorandum of appeal filed by the appellant;
- g) "Member" means a Member of the District Forum appointed under sub-section (1) (b) of Section 10 of the Act; or a Member of the State Commission appointed under sub-section (1)(b) of Section 16 of the Act, as the case may be;
- h) "Opposite party" means a person who answers complaint or claim;
- i) "President" means the President of the District Forum appointed under sub-section (1)(a) of Section 10 of the Act; or the President of the State Commission appointed under sub-section (1)(a) of Section 16 of the Act, as the case may be;
- j) "Respondent" means the person who answers any memorandum of appeal;
- k) "Selection committee" means the Selection Committee constituted under section 10(1A) or section 16(1A), as the case may be;
- l) "State Commission" means the State Consumer Disputes Redressal Commission established under clause (b) of section 9 of the Act;
- m) "Union Territory" means Union Territory of Daman and Diu;
- n) Words and expressions used in these rules and not defined but defined in the Act shall have the same meaning respectively assigned to them in the Act.

**3. Mode of appointments in District Forum:-**

- (1) President of a District Forum shall be appointed either:
  - (a) by direct appointment or
  - (b) on deputation from amongst the serving District Judges.

Provided that appointment of a serving District Judge shall not be made without the concurrence of the High Court.

Provided further that where the pendency of complaints at the starting of the year before a District Forum does not exceed five hundred or the average number of complaints filed in the last three years does not exceed five hundred, the appointment may be made on part-time basis.

(2) Notwithstanding the provisions in sub-rule (1), if the U.T. of Daman & Diu is of the view that the work can be managed by assigning additional charge to a serving District Judge, it may do so with the concurrence of the Chief Justice of the High Court.

(3) Members of the District Forum shall be appointed on whole-time basis or part-time basis.

Provided that the number of posts for whole-time appointment shall be identified by the U.T. Administration of Daman & Diu in consultation with the President of the State Commission.

Provided further that where the pendency of complaints at the starting of the year before a District Forum does not exceed five hundred or the average number of complaints filed in the last three years does not exceed five hundred, the appointment may be made on part-time basis.

(4) In the event of pendency of complaints at the starting of the year before a District Forum Exceeding one thousand five hundred or the average number of complaints filed in the last three years exceeding one thousand, the U.T. Administration of Daman & Diu may establish an additional District Forum in the District.

(5) Presidents and Members appointed on part-time basis shall function for such number of days in a week as may be decided by the President of the State Commission in consultation with the U.T. Administration of Daman & Diu, taking into consideration the work load of the District Forum.

Provided that the number of working days shall not be less than two in a week and the President and Members, appointed on part-time basis, will observe regular office hours on their working days.

(6) Presidents and Members while acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

#### **4. Mode of appointment in the State Commission:-**

(1) President of the State Commission may be appointed on whole time basis or by assigning additional charge to a sitting judge of the High Court.

Provided that appointment of a sitting High Court Judge, either on whole time basis or on additional charge basis, shall not be made without the concurrence of the Chief Justice of the High Court.

(2) Members of the State Commission shall be appointed either by;

(a) direct appointment or

(b) on deputation from the amongst the Government servants, who are qualified to hold the post.

Provided that a serving judicial officer shall not be appointed without concurrence of the Chief Justice of the High Court.

Provided further that where the pendency of complaints and appeals at the starting of the year before the State Commission does not exceed five hundred or the average number of complaints and appeals filed in the last three years does not exceed five hundred, the appointment may be made on part-time basis.



- (3) Members appointed on part-time basis shall function for such number of days in a week as may be decided by the President of the State Commission in consultation with the U.T. Administration of Daman & Diu taking into consideration in the work load of the District Forum.

Provided that number of working days shall not be less than two in a week and the Members, appointed on part-time basis, will observe regular office hours on their working days.

- (4) Presidents and Members while acting or purporting to act in pursuance of any of the provisions of this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

#### 5. Selection of the President and Members of District Forum:-

- (1) Matters relating to appointment of President and Members of District Forum shall be processed by the President of the State Commission.
- (2) The process of appointments shall be initiated at least six months before the vacancy arises.
- (3) If a post falls vacant due to resignation or death of a President or a Member or creation of a new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.
- (4) The Advertisement of a vacancy, inviting applications for the posts from eligible candidates will be published in leading newspapers and also circulated in such other manner as the President of the State Commission may deem appropriate.
- (5) Selection of President and Members of District Forum shall be made by the Selection Committee constituted under sub-section (1A) of section 10 of the Act.
- (6) After scrutiny of the applications received till the last date specified for receipt of applications, list of eligible candidates along with their applications shall be placed before the Selection Committee.
- (7) The Selection Committee shall short-list the applicants in the following manner, namely-
  - (a) In case of candidates having judicial background, on the basis of the judgments and other judicial orders passed by such candidates;
  - (b) In case of candidates having experience of working under the Central Government or any State Government or an undertaking under the Central Government or the State Government, on the basis of their available Annual Confidential Reports for the last ten years and their experience relevant to the post applied for;
  - (c) In other cases, on the basis of performance in a written test consisting of two papers as per the following scheme. The qualifying marks in each paper shall be 50%:

Paper	Topics	Nature of test	Max. marks	Duration
Paper- I	(a) General Knowledge and current affairs (b) Knowledge of Constitution of India (c) Knowledge of various Consumer related Laws as indicated in the schedule.	Objective Type	100	2 hours
Paper- II	(a) One Essay on topics chosen from issues on trade & commerce, consumer related issues or Public Affairs (b) One case study of a consumer case for testing the abilities of analysis and cogent drafting of orders.	Descriptive type	100	3 hours

- (8) The selection committee shall interview all shortlisted candidates in which marks may be awarded giving due weightage to the personality, relevant past experience, knowledge of law, special achievements, aptitude and vision for the assignment to be taken up.
- (9) The selection committee shall recommend a panel of names of candidates for appointment as President or Member, as the case may be, from amongst the candidates in the order of merit for consideration of the U.T. Administration of Daman & Diu.
- (10) The U.T. Administration of Daman & Diu shall verify or cause to be verified the credentials and antecedents of the recommended candidates.
- (11) Every appointment of a President or Member shall be subject to submission of a certificate of physical fitness as indicated in the annexure signed by a civil surgeon or District Medical Officer.
- (12) Before appointment, the selected applicant 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 President or Member.

**6. Selection of the President of the State Commission. –**

- (1) The Process of appointment shall be initiated by the U.T. Administration of Daman & Diu at least six months before the vacancy arises.
- (2) If a post falls vacant due to resignation or death of a President or creation of a new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.
- (3) The Selection Committee constituted under sub-section (1A) of section 16 of the Act, shall recommend, through a search and selection process after assessing suitability on the basis of merit and experience, a candidate with another candidate in the waiting list, for consideration of the U.T. Administration of Daman & Diu.
- (4) The candidates under consideration shall be clear from the vigilance angle.
- (5) The U.T. Administration of Daman & Diu shall appoint the selected candidates after consultation with the Chief Justice of the High Court.
- (6) Every appointment of the President shall be subject to submission of a certificate of physical fitness as indicated in the annexure signed by a civil surgeon or District Medical Officer.
- (7) 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 President.

**7. Selection of Members of the State Commission. –**

- (1) The process of appointments shall be initiated by the President of the State Commission at least six months before the vacancy arises.
- (2) If a post falls vacant due to resignation or death of a Member or creation of a new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.
- (3) The Advertisement of a vacancy, inviting applications for the post from eligible candidates will be published in leading newspapers and also circulated in such other manner as the President of the State Commission may deem appropriate.
- (4) Selection of Members of the State Commission shall be made by the Selection Committee constituted under sub-section (1A) of section 16 of the Act.
- (5) After scrutiny of the applications received till the last date specified for receipt of applications, a list of eligible candidates along with their applications shall be placed before the Selection Committee.



- (6) The Selection Committee shall short-list the applicants in the following manner, namely –
- In case of candidates having judicial background, on the basis of the judgments and other judicial orders passed by such candidates;
  - In the case of candidates having experience of working under the Central Government or any State Government or an undertaking under the Central Government or the State Government, on the basis of their available Annual Confidential Reports for the last ten years and their experience relevant to the post applied for;
  - In other cases, on the basis of a written test of two papers as per the following scheme. The qualifying marks in each paper shall be 50%.

Paper	Topics	Nature of test	Max. marks	Duration
Paper- I	(a) General Knowledge and Current Affairs (b) Broad features of the Code of Civil Procedure (c) Knowledge of various Consumer related Laws as indicated in the schedule (d) Knowledge of Constitution of India	Objective Type	100	2 hours
Paper- II	a) One Essay on topics chosen from issues on trade & commerce, consumer related issues or Public Affairs b) One case study of a consumer case for testing the abilities of analysis and cogent drafting of orders.	Descriptive type	100	3 hours

- The Selection Committee shall interview all the shortlisted candidates and award marks with due weightage to the personality, relevant past experience, quality of the judgments, knowledge of law, special achievements, aptitude and vision for the assignment to be taken up.
- The selection committee shall recommend a panel of names of candidates for appointment as Member from amongst the candidates in the order of merit for the consideration of the U.T. Administration of Daman & Diu.
- The U.T. Administration of Daman & Diu shall, verify or cause to be verified the credentials and antecedents of the recommended candidates.
- Every appointment of a Member shall be subject to submission of a certificate of physical fitness as indicated in the annexure signed by a civil surgeon or District Medical Officer to his medical fitness.
- Before appointment, the selected candidates 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.

**8. Salaries/ Remunerations of the whole-time President and Members of District Forum.**

- A serving District Judge, appointed on deputation basis, shall be entitled to pay and allowances of a District Judge in the super time scale of pay.
- A whole-time President other than serving or retired District Judge shall receive a consolidated remuneration equivalent to pay at the minimum of the scale of pay of a District Judge plus other allowances as admissible.
- A whole-time Member shall be paid a consolidated remuneration equal to the pay at the minimum of the scale of pay of a Deputy Secretary of the Union Territory of Daman & Diu plus other allowances as admissible.

- (4) Fixation of pay of the retired Government servants appointed to the posts of President or Members on whole time basis shall be on the basis of the pay last drawn reduced by the amount of pension plus other allowances as admissible to a re-employed pensioner;
- (5) There shall be an annual upward revision of the remuneration of whole-time appointees at the rate of 3%.

**9. Salaries/ Remunerations of the part-time President and Members of District Forum:-**

- (1) A part time President shall be paid consolidated remuneration of rupees five thousand in class X cities, rupees four thousand in class Y cities and rupees three thousand in other places, per day of sitting.
- (2) A part time Member shall be paid a consolidated remuneration of rupees four thousand in X class cities, rupees three thousand and five hundred in Y class cities and rupees two thousand and five hundred in other places, per day of sitting.
- (3) Remuneration of the part-time appointees shall be reviewed every three years taking into consideration the consumer price index.
- (4) Remuneration in the case of appointments made on additional charge basis shall be governed by the relevant provisions in the Financial Rules.

**10. Salaries/ Remuneration of the whole-time President and Members of the State Commission. –**

- (1) President of the State Commission shall receive the salary, allowances and other perquisites as are admissible to a sitting judge of the High Court of the State.
- (2) A whole-time Member of the State Commission shall be paid a remuneration equivalent to the pay at minimum of the scale of pay of an Additional Secretary in the U.T. of Daman & Diu and other allowances as admissible.

Provided that serving Government servants appointed on deputation basis shall be entitled to salary and allowances under the provisions applicable to deputationists.

Fixation of pay of the persons retired from Government service, appointed to the posts of President or Member on whole time basis, shall be on the basis of the pay last drawn reduced by the amount of pension.

**11. Salaries/ Remuneration of the part-time Members of the State Commission. –**

- (1) A part-time Member of the State Commission shall be paid a consolidated remuneration of rupees five thousand in X class cities, rupees four thousand in Y class cities and rupees three thousand in other places, per day of sitting.
- (2) Remuneration of the part-time appointees shall be reviewed every three years taking into consideration the consumer price index.
- (3) Remuneration in the case of appointments made on additional charge basis shall be governed by the relevant provisions in the Financial Rules as amended.

**12. Leave and Medical treatment and hospital facilities to the whole-time appointees:**

Whole-time appointees shall be entitled to leave, LTC, medical treatment and hospital facilities as per the provisions applicable to Group A Government servants in the U.T. Administration of Daman & Diu.

13. The Salary, remuneration and other allowances shall be defrayed out of the Consolidated Fund of the U.T. Administration of Daman & Diu from the consolidated of India.

14. The terms and conditions of the service of the President and the Members of the District Forum and the State Commission shall not be varied to their disadvantage during their tenure of office.



**15. Removal of President and Members of State Commission and District Forum from office in certain circumstances. –**

- (1) The U.T. Administration of Daman & Diu may remove from office, the President or any Member, who, -
- a) Has been adjudged as an insolvent; or
  - b) Has been convicted of an offence which, in the opinion of the U.T. Administration of Daman & Diu, involves moral turpitude; or
  - c) Has become physically or mentally incapable of acting as the President or the Member; or
  - d) Has acquired such financial or other interest as is likely to affect prejudicially his functions as the President or a Member; or
  - e) Has so abused his position as to render his continuance in office prejudicial to the public interest; or
  - f) Remains absent in three consecutive sitting except without leave or for reasons beyond his control.
- (2) Notwithstanding anything contained in sub rule (1) the President of the State Commission shall not be removed from his office on the grounds specified in clauses (d), (e) and (f) of that sub-rule except after an inquiry held by a sitting Judge of the High Court nominated by the Chief Justice of the High Court in which the President of the State Commission has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.
- (3) Notwithstanding anything contained in sub-rule (1) a Member of the State commission, President or Member of the District Forum shall not be removed from his office on the grounds specified in clauses (d), (e) and (f) of that sub-rule except after an inquiry held by a Member of the National Commission nominated by the President of the National Commission, in which the President or Member of the District Forum or the Member of the State Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty.

**16. Place of sitting and other matters relating to District Forum:-**

- 1) The office of the District Forum shall be located at the head quarters of the District, where the Administrator decides.
- 2) The official seal and emblem of the District Forum shall be such as the Administrator may specify.
- 3) Sitting of the District Forum, as and when necessary shall be convened by the president.
- 4) No act or proceeding 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.
- 5) The Administrator 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. The salary payable to such staff shall be defrayed out of the Consolidated Fund of India.
- 6) Where the opposite party admits the allegation made by the complainant, the District Forum shall decide the complaint on the basis of the merit of the case and documents presented before it.
- 7) If during the proceedings conducted under section 13, District Forum fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or its authorized 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 authorized 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 merit Where the opposite party or its authorized agent fails to appear on the day of hearing, the District Forum may decide the complaint ex-party.

- 8) 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.
- 9) 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.

**17. Procedure to be adopted by the District Forum for analysis and testing of the goods:-**

- 1) Under clause (c) of sub section of Section 13 of the Act, 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 stamp 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 shall 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.

**18. Place of sitting and other matters relating change as per charges in Rule 16 of the State Commission:-**

- 1) Office of the State Commission shall be located in head quarter of the Union territory.
- 2) The official seal and emblem of the State Commission shall be such as the Administrator specify.
- 3) Sitting the State Commission as and when necessary shall be convened by the president.
- 4) No act or proceedings of the State Commission shall be invalid by reasons only of existence of any vacancy among its members or arty defect in its constitution thereof;
- 5) The Administrator shall appoint such staff, as may be necessary to assist the State Commission in it work and perform such other functions as are provided under these rules or assigned to it by the president. The salary payable to such Staff shall be defrayed out of the Consolidated Fund of India.
- 6) Where the opposite party admits the allegation made by the complainant, the State Commission shall decide complaint on the basis of the merit of the case and documents presented before it;
- 7) If during the proceedings conducted under section 13, the State Commission fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or his authorized agent to appear before the State Commission on such date of hearing or any after date on which hearing could be adjourned. Where the complainant and his authorized 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 authorized agent fails to appear on the day of hearing, the State Commission may decide the complaint ex-parte.
- 8) While proceedings 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 shall he 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 requires analysis or testing of the goods.

- 9) 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.

## 21. Procedure for hearing appeal:-

- 1) Memorandum shall be presented by the appellant or his authorized agent to the State Commission in person or sent by registered post addressed to the State Commission.
- 2) Every memorandum filed under sub rule (1) shall be in legible handwriting preferably typed and shall sent forth concisely under distant 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 of objection mentioned in the memorandum.
- 4) When the appeal is presented after the expiry of period of limitation as specified in the Act, memorandum shall be accompanied by an application supported by an affidavit setting forth the fact on which 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) The appellant shall not, except by leave of the State Commission, urge or be heard in support of any ground of objections 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 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.

- 7) Order of the State Commission on appeal shall be signed and dated by the member of the State Commission constituting the Bench and shall be communicated to the parties free of charge.

By order in the name of the Administrator  
Daman & Diu and Dadra & Nagar Haveli

  
(Harminder Singh)  
Deputy Secretary (F&CS),  
Daman & Diu