CHAPTER V

PERSONNEL AND FINANCIAL ASPECTS

A government is a complex of organisations to look after the safety and welfare of the people. After the attainment of Independence, the main purpose of the state policy has been to usher in rapid socio-economic development for raising the living standards of the masses suffering from abject poverty, disease, hunger, ignorance, corruption et al. Human resource in any organisation, be it public, private or cooperative, constitute perhaps, the most vital assets of an organisation. An organisation will fail if its human resources are not competent to execute the work assigned to them. It has been rightly stated that, "good administration is a composite of effective organisation, adequate material facilities and qualified personnel." Even poorly devised machinery may be made to work if it is manned with well-trained, intelligent, imaginative and devoted staff. On the other hand, the best planned organisation may produce unsatisfactory results if it is operated by mediocre or disgruntled people. Moreover, people are the only assets of an organisation that is appreciated over a period of time while all the other assets depreciate. The human resource thus, plays a vital role in the success of an organisation. The Forum or the Commission is no exception to this rule.

When the Forum and the State Commission were constituted it had a skeletal staff whose number has increased manifold during the

last one decade. Due to the growing awareness amongst the consumers a sharp increase in the number of complaints has resulted in the increased workload of the State Commission and the District Forum. The number of complaints has increased on an average of 80 complaints per year in the State Commission and 700 per year in the District Forum. In fact, another District Forum has been established within these 10 years of the formulation of the Act. In this chapter we shall discuss the administrative set-up and Financial Administration of the Consumer Disputes Redressal Agencies. Part I deals with some aspects of the three-tier machinery and Part II has been devoted to the budgeting procedure of this machinery.

**ADMINISTRATIVE SET-UP OF THE CONSUMER DISPUTES REDRESSAL AGENCIES**

**National Commission.** (National Consumer Disputes Redressal Commission)

The National Commission is the apex body at the centre to settle the disputes under the Consumer Protection Act, 1986. The National Commission consists of a President who is the Judge of the Supreme Court and four other members and one of them is a woman. The four other persons should have ability, integrity and standing with adequate knowledge or experience relating to economics, law,

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3 Ameet Awasthi vs. Chandigarh administration and others. C.W.P.No. 7737 of 1996. (writ petition -p.8) He pointed out that in view of the amendments made in the act permission/sanction of the Government of India is not necessary for creation of posts to provide staff to the District Forum-II and, therefore, the respondents should take immediate steps to make District Forum-II functional by providing space, staff, furniture, library etc. He argued that the working conditions of the present Forum are deplorable because only one room had been provided for sitting of the President, members, staff, advocates and the public and even the record was kept in the same room which compelled majority of the people to stand outside the room without any protection.

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commerce, accountancy, industry, public affairs or administration to be appointed as members of the Commission.4

The appointment of the President is made by the Central Government on the recommendation of the Selection Committee consisting of the Judge of the Supreme Court, the Secretary in the Department of Legal Affairs and the Secretary in charge of Consumer Affairs in the Government of India. The President is appointed by the Chief Justice of India.

The members of the National Commission hold office for a term of five years or up to seventy years of age, whichever is earlier and are not eligible for reappointment.5 The Central Government also appoints functionaries to assist the National Commission in its day to day working. It also fixes the Salary or honorarium and other allowances payable to the members. The salary payable to such staff is charged on the Consolidated Fund of India.

The President or the members of the National Commission can be removed by the Central Government on the following ground if :-

I) he has been adjudged insolvent; or

2) he has been convicted of an offence involving moral turpitude; or

3) he is physically or mentally incapable of performing his duties;

4See Section 20 of the Act.

5 Section 10 of the Act gives security of tenure to members of district forum for a period of five years or up to the age of 65 whichever is earlier. For President and members of commissions the tenure is fixed by the rules framed by the respective government. Recently the work of National Commission remained paralysed as the government failed to appoint new members or extend the term of appointment on yearly basis. Almost after an absence of five months, terms of 3 members were extended for another year.
4) he has acquired financial or other interest; or
5) he has abused his position prejudicial to public interest.

In case of vacancy in the office of the President or if he is unable to perform his duties, the same are performed by a person, who is qualified to be appointed as President of National Commission. It means that the National Commission being a quasi-judicial body can be presided over only by a person with judicial knowledge. It cannot be presided over by senior most member who may not have expertise in administration of various laws.

State Consumer Disputes Redressal Commission

The second in the hierarchy of redressal agencies is the State Commission. It consists of a President, who is a Judge of a High Court, and he is appointed by the State Government and two other members who are persons of ability, integrity and standing and have adequate knowledge or experience in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration one of whom is a woman.

Prior to 1993, no rules or conventions existed regarding the mode of their selection or appointment. However, in view of the widespread criticism by the consumer associations and even by some of the officers of the redressal agencies the Amendment Act, 1993 has considerably streamlined the whole process of selection and

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6 Prior to the CPA amendment 1993, the term was stated to be for ten years. It was reduced to 5 years. Another significant change that the 1993 amendment brought about relates to the reappointment. Earlier reappointment was permissible but not after 1993.

appointment of the members of the State Commission. It is suggested that the non-members of the redressal agencies should have certain prescribed minimum education qualification. This view has also been supported by the Central Consumer Protection Council.  

Under the amendment Act, 1993 it is obligatory on the part of government to appoint the President only after consultation with the Chief Justice of the High Court. Prior to the 1993 amendment, a State Government could appoint any sitting or retired Judge as the President of the State Commission without any such consultation. However, this provision has helped in curtailing, the unbridled powers of the State Government to a certain extent.

Another significant feature specifically laid down is that the appointment of the members is to made by the State Government on the recommendation of the Selection Committee.

The selection committee consists of:

1. President of the State Commission as chairman.
2. Secretary to the Law Department of the State.
3. Secretary, in charge of Department dealing with Consumer Affairs in the State as its members.

Similarly, prior to the 1993 amendment, the State Government was vested with the power to fix the tenure. However, after the 1993 amendment, the tenure of the members has been fixed to five years or up to the age of sixty-seven years, whichever is earlier and they are not eligible for re-appointment. The fixation of salary or

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8 Central Consumer Protection Council in its meeting held on 31-5-1997 at New Delhi.
9 See Section 20 of the Act.
honorarium and other allowances payable to and the other terms and conditions of the members of the State Commission have been left to the State Government. It is suggested that certain minimum age limit for the members of the State Commission and the District Forum should also be prescribed. This view has also been supported by the Central Consumer Protection Council.

The Act does not provide any specific provision for the removal of the President or members of the State Commission. However, the Consumer Protection Rules framed by the States under the Act have laid down almost similar provisions as National Commission for such removal. According to these provisions, the State Government can remove from office, the President or member of the State Commission, on the following grounds if he: -

a) has been adjudged an insolvent; or
b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude; or
c) has become physically or mentally incapable of acting as such President; or
d) has acquired such financial or other interest as is or a member, as the case may be; or
e) has so abused his position as to render his continuance in office prejudicial or public interest.

However, the President or a member can not be removed from office on the grounds specified in clause (d) or (e) above, except on an inquiry held by the State Government and if the President or the member is

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11 CCPC at the XIXth meeting held on 28-10-1998 at New Delhi.
guilty of such grounds. Thus, the powers of the State Government to remove the President or member on the ground of having acquired financial or other interest or abuse of his position are to be exercised subject to an inquiry and report. This procedure has been adopted to secure the independence of the State Commission. Apart from this, if a vacancy may occur after the expiry of the term, or by resignation the vacancy is filled up by fresh appointment. It is suggested that functioning of the State Commission and District Forum can be improved by filling up the vacant posts of the President and members in time and also to dispose of cases within the time norms prescribed and by holding regular sittings of the Courts.  

The District Forum

Each District Forum consists of a President and two other members. The State Government on the recommendation of a Selection Committee appoints all of them. Prior to the 1993 amendment, the power of appointments of President and members of the District Forum were exclusively vested in the State Government. There was no provision in the Act to provide for the constitution of any selection committee and to recommend the appointment of the President and the members of the District Forum to the State Government.

Before appointment, the President and members of the District Forum have to make an individual undertaking that he will not have financial or any other interest as is likely to affect prejudicially his functions as a member.

The President of the Forum is a qualified District Judge with two other members, having ability, integrity and standing, and adequate

12 Based on the interview with the functioneries held on 10-4-1997.
knowledge or experience in dealing with the problems relating to economics, law, commerce, accountancy, industry, public affairs or administration and one of them is a woman.\textsuperscript{13} The intention of having the members from other than the legal professions is that the District Forum should be able to understand and appreciate the overall economic and social impact while deciding the issues under the Act. The inclusion of a woman as a member of the District Forum is of considerable importance keeping in view the nature and functioning of the Forum. It is suggested that entrance of bureaucrats as members in the redressal agencies is not positive. Their long alignment with the public sector hampers the decision-making activity.\textsuperscript{14}

Prior to the 1993 amendment, the working of the Act revealed that the provision for appointment of a lady social worker as a member of the District Forum was not fairly and properly used since there was no other qualification prescribed except she should be a lady social worker. But, now this provision has been amended and a woman having qualification prescribed for the members has been substituted for the lady social worker.

Besides, the President of the District Forum can be one who is qualified to be a District Judge. But the President of a State Commission should be a person who is a Judge of a High Court and the President of the National Commission should be a person who is a Judge of the Supreme Court. Thus the President of the State Commission and the National Commission can be a sitting Judge or a retired Judge of the High Court and of the Supreme Court, whereas the President of the District Forum could even be a person who is qualified to be a District Judge.

\textsuperscript{13} See Section 10 of the Act.
\textsuperscript{14} Based on the interview with the functionaries held on 19-1-1998.
The Table below shows the representation in the Consumer Disputes Redressal Agencies (see chart 5.1)

**TABLE 5.1**

THE REPRESENTATION OF THE PRESIDENT AND MEMBERS OF THE CONSUMER DISPUTES REDRESSAL AGENCIES

<table>
<thead>
<tr>
<th>Post held by the President and members</th>
<th>National Commission</th>
<th>State Commission</th>
<th>District Forum</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Judge</td>
<td>7</td>
<td>3</td>
<td>4</td>
<td>14 (37.85)</td>
</tr>
<tr>
<td>Educationist</td>
<td>4</td>
<td>3</td>
<td>6</td>
<td>13 (35.13)</td>
</tr>
<tr>
<td>Bureaucrat</td>
<td>2</td>
<td>2</td>
<td>-</td>
<td>04 (10.81)</td>
</tr>
<tr>
<td>Advocate</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>02 (05.40)</td>
</tr>
<tr>
<td>Social Worker</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>04 (10.81)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>14</strong></td>
<td><strong>9</strong></td>
<td><strong>14</strong></td>
<td><strong>37 (100.00)</strong></td>
</tr>
</tbody>
</table>

(Figures in parenthesis are percentages)

It is observed from the Table that during the past one-decade, a total number of Presidents and members appointed in the National Commission, State Commission and District Forum is 37. Out of this, the largest (37.85) percentage pertains to the Judges who have a total legal background accompanied by the educationist who form 35.13 percent, they are followed by an equal number of Bureaucrats and Social workers at 10.81 percent. A small (5.40) percentage of Advocates have also been appointed as prescribed in the Act. It is also evident from the appointment, that since the largest majority is of the judges and advocates and the kind of experience they have after having worked in the courts, the procedures of the consumer disputes Redressal Agencies are bound to be affected.

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CHART 5.1

REPRESENTATION OF THE PRESIDENT AND THE MEMBERS IN THE CDRA's

- Judge: 37.85%
- Social Worker: 10.81%
- Advocate: 5.46%
- Bureaucrat: 10.61%
- Educationist: 35.13%
The Table below shows period of service of the Presidents and members of Consumer Disputes Redressal Agencies. (see chart 5.2)

### TABLE 5.2

**THE TENURE OF THE PRESIDENT AND MEMBERS OF THE CONSUMER DISPUTES REDRESSAL AGENCIES**

<table>
<thead>
<tr>
<th>Tenure of Presidents / Members In Years</th>
<th>National Commission</th>
<th>State Commission</th>
<th>District Forum I</th>
<th>District Forum II</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>04 (10.81)</td>
</tr>
<tr>
<td>1-2</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>04 (10.81)</td>
</tr>
<tr>
<td>2-3</td>
<td>1</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>02 (05.40)</td>
</tr>
<tr>
<td>3-4</td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>2</td>
<td>05 (13.53)</td>
</tr>
<tr>
<td>4-5</td>
<td>7</td>
<td>6</td>
<td>6</td>
<td>1</td>
<td>20 (54.05)</td>
</tr>
<tr>
<td>5-10</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>02 (05.40)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>14</strong></td>
<td><strong>9</strong></td>
<td><strong>10</strong></td>
<td><strong>4</strong></td>
<td><strong>37 (100.00)</strong></td>
</tr>
</tbody>
</table>

(Figures in parenthesis are percentages)

The above Table shows that 54.05 per cent pertains to those respondents who completed their tenure of five years as prescribed in the Act. In the past one decade, 21.62 per cent left within two years and 13.53 per cent left after serving for four years. However, a significantly small 5.40 per cent left after three years. An interesting fact that came to light was that 5.40 per cent of respondents were reappointed to avail their services by the National Commission.
CHART 5.2

TENURE OF THE PRESIDENT AND MEMBERS OF THE CDRA'S

- 5-10 years: 54.05%
- 4-5 years: 10.91%
- 3-4 years: 13.53%
- 2-3 years: 5.40%
- 1-2 years: 10.91%
- 0-1 years: 0.05%
- 0-1 years: 0.05%
- 0-1 years: 0.05%
- 0-1 years: 0.05%
- 0-1 years: 0.05%
Some Aspects of Personnel Administration

Personnel administration is an integral part of any organisation. It helps to coordinate the efforts of the people so that they can work together to accomplish their set tasks. In fact, the success of any administration, therefore, depends largely upon the efficient and coordinated working of the human beings. But to get the maximum out of human beings requires conscious efforts on the part of top management. It requires sound personnel administration, which is concerned with the creation of harmonious working relationships among its participants and brings about their outmost individual development. It can, thus, be derived that the entire machinery of any organisation will break down if the problems of personnel administration are not adequately solved.

The main aim of personnel administration in an organisation is to bring together and develop into an effective organisation the men and women who make up an enterprise and having regard for the well being of the individual and of working groups, to enable them to make their best contribution to its success. In fact, organisation effectiveness is greatly influenced by the capabilities of the administration and by the knowledge, skills, motivation and productivity of men who work within the organisation. It is therefore, imperative that the various aspects of personnel administration such as recruitment, placement of employees, remuneration, promotion, training etc. are planned in such a way that it carries out general administrative functions with the threefold objective of maximizing satisfaction of the employees meeting organisation goals, effectively and adequately contributing to the social and political aspects of the community life. Hence it is important that an in depth study of these aspects be conducted as it forms the back bone of the organisation.
The procedure for the recruitment of the employees should be so designed as to attract a suitable number of candidates who are qualified to meet established standard for work and for conduct.\(^{15}\) By applying tested procedures in their early stages of employment process, management can do much to ensure that each new employee understands how he can best contribute to organisational goals and is willing and able to do his share as a participating member.\(^ {16}\) Positively, a sound recruitment process strivers to maximize the mobilization of skills and talents and so as to place the right man on the job. Negatively, the recruitment aims at eliminating the persons not duly qualified for the position. In this context, it is opined that, the core design of progressive recruitment process in any organisation is the reduction, if not the elimination of favoritism, nepotism and incompetence in the selection process. Filling the post with incompetent persons not only weakens the organisation, but also increases the possibility that an incompetent group will take it over later.\(^ {17}\)

**Recruitment and Recruitment Process**

A proper selection and placement of new employees is a prerequisite for the development of an effective work force in any organisation. The aim should be to ensure as far as possible that a fair chance of being successful and at the same time well adjusted to their work and surrounding circumstances. Recruitment is the process of exhausting all the sources for finding prospective employees and

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stimulating them to apply for jobs in the organisations. The State Commissions and the District Forum in this context depends on three major sources, namely, employment exchange, deputation and promotion.18

**Employment Exchange**

Most of the organisations, today, depend upon direct recruitment of its employees as it widens the areas of selection and it is possible to tap a much wider source of supply. However, in the present organisations under investigation emphasis in the initial stage was given by the administration to recruit its functionaries through employment exchange.

In this regard to know the perceptions of the employees after a brief interrogation it was revealed to the investigator that more than 50 per cent of the employees were appointed through the employment exchange while more than one third employees working in the State Commission and District Forum were appointed on deputation from the High Court and the District Court for the simple reason of their legal background and the rest from the other departments were deputed.

On further investigation it was revealed by the administration that to invite applications through employment exchange was both popular and resourceful way to get qualified and experienced personnel. Moreover, they charge neither the employer nor the prospective employee for their service because they have a public

responsibility to serve both. In fact, it is described as a clearing house of job information.

The applications through the employment exchange are screened to obtain applicants who fit the organisation's needs as also the image of good, reliable employee and to screen out those who don't. Since the State Commission and the District Forum did not have printed application forms as such the candidates were asked to submit applications on plain paper with all required information. In a majority of cases unwanted information was furnished, whereas, in certain instances, the needed information was not supplied. That is why some of the scholars have stressed the need for printed application forms. The printed application forms can concisely provide the factual information needed for evaluating the candidate's suitability. It ultimately saves time and can also be used as a useful device for storing information for later references. Elaborating the need for printed application forms, which are to be filled up by the candidate's ability to write clearly, to organise their thought and present facts clearly.

The applications received by the due date are processed and compiled which are submitted to the State Commission. There is however, no set policy with respect to the number of applicants and the number of candidates called for the interview in relation to the number of posts. Generally, the President of the State Commission ticks the applicants who are called for the interview.

The eligible candidates are directly called for the interview after the written test. The President of the State Commission who is the appointing authority conducts the interview. He may or may not invite other members for the said interview.
For the appointment of its employees, the interview method is followed which requires a person to answer the interviewer generally in a face to face contact to the other person or persons. In this way, the appointing authority gathers more information and that too in a greater depth.

Another requirement expected of the employees before placement is that they are required to get themselves examined for physical fitness. The objective is to obtain information on the health of a selected candidate and to ensure that he is not suffering from any contagious or serious disease.

Staffing process is not deemed to be complete with the selection of the candidates. The selected candidates have to be assigned to the jobs according to their choice and responsibilities. This process is known as placement, and proper placement of candidates is of considerable importance to an organisation. It has been pointed out that placement is the process of putting right persons on right jobs to avoid all misplacements and likely displacements.19 The District Forum/State Commission does not seem to be much aware of the importance of placement in the staffing process. The selected employees are asked to join the District Forum / State Commission and further details about the job is given by the head secretary (Private Secretary to the Commission). During informal discussion, it was found that for weeks together no work was assigned to them and that the work was allotted to them without ascertaining their choice or capabilities. In many cases, it was observed that the employees did not know as to what was expected of them on the job.

Deputation

Although preference was given to employment exchange, in the initial stage, the actual position has reversed. Borrowing of services of employees by one department from other departments constitutes one of the most commonly used sources of recruiting the personnel. This source is popularly known as deputation. It has been opined that where posts are filled by deputation, no definite policy has been evolved for deputation of persons. Even in the same department the policy changes with the change in the personnel at the helm of affairs. Most of the times persons are taken on deputation irrespective of the needs of the post or requirements of the qualifications for the discharge of duties in the deputation posts.\textsuperscript{20} The reliance of the District Forum / State Commission on the Chandigarh Administration and High Courts in the matter of deputation can be seen from two angles. Firstly, there has been a common feeling that District Forum/ State Commission have, by and large, failed to attract efficient and competent body of personnel because the posts do not provide much scope for personnel growth and career development. Deputation of officials from other departments or High Court can however, save from the difficulty of securing the services of suitable and reliable persons. Secondly, the administration itself prefers the system of deputation of employees, because it enables them to smooth the relationship between their organisation and the administration.

During informal discussions it was found that the employees had developed resentment against the system of deputation in the Forum/ Commission. In order to elicit their views, a few questions

were added in the interview schedule. The responses of the employees are tabulated below:

**TABLE 5.3**

**RESPONSE OF THE EMPLOYEES ON DEPUTATION**

<table>
<thead>
<tr>
<th>QUESTION</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deputationists are more experienced and knowledgeable in the field of legal matters/process</td>
<td>(45.80)</td>
<td>(54.20)</td>
</tr>
<tr>
<td>People with great push get chance to come on deputation</td>
<td>(75.00)</td>
<td>(25.00)</td>
</tr>
<tr>
<td>Deputationists maintain link with high ups to stay for a longer period.</td>
<td>(62.50)</td>
<td>(37.50)</td>
</tr>
<tr>
<td>They come to get more financial benefits</td>
<td>(83.30)</td>
<td>(16.70)</td>
</tr>
<tr>
<td>They are committed to the goals of the Forum/Commission</td>
<td>(33.30)</td>
<td>(66.70)</td>
</tr>
<tr>
<td>They block the promotion</td>
<td>(60.00)</td>
<td>(40.00)</td>
</tr>
<tr>
<td>Their attitude towards colleagues is cooperative</td>
<td>(37.50)</td>
<td>(62.50)</td>
</tr>
<tr>
<td>You like their stay</td>
<td>(33.30)</td>
<td>(66.70)</td>
</tr>
<tr>
<td>Do you like their permanent absorption</td>
<td>(37.50)</td>
<td>(62.50)</td>
</tr>
</tbody>
</table>

Note: (figures in brackets indicate percent share of the total respondents.)

Reaction of the employees on the issue of deputation:

The analysis of the Table 5.3 reveals the following facts:

1). That 45.80 per cent of the employees feel that deputationists are more experienced and knowledgeable in the field of legal matters and process as against 54.20 per cent,
2). A big majority 75 per cent of the employees believes that people with great push get chance to come on deputation.

3). Most of the employees 62.50 per cent agreed that deputationists maintain link with high ups to stay for a longer period.

4). A significantly large majority of employees 83.30 per cent stated that the deputationists come to get more financial benefits only.

5). A small percentage 33.30 felt that the deputationists are committed to the goals of the commission and the District Forum.

6). Again a small percentage 37.50 per cent believes that their attitude towards colleagues is cooperative.

7). A majority of 60 per cent of the employees think that they block the promotion.

8). Only a few 33.30 per cent agreed that they liked their stay.

9). Only a small 37.50 per cent of employees were unmindful of their permanent absorption.

Promotion

Promotion is yet another method of recruitment. It is the process of filling up vacancies from within from a given position to a higher grade involving a change of duties to a more difficult type of work and greater responsibilities, accompanied by a change of title and usually an increase in pay. Promotion is the least expensive source of employment vis-a-vis direct recruitment. As such, this
method has an edge over the direct recruitment method. It is opined that as a result of this method the morale of the employees in general is raised because the employees are thereby given concrete evidence that they are preferred over outsiders when vacancies occur. It has also been remarked that this type of policy is advantageous to the organisation, because it has already made a certain training investment on its employees. It will also try to get the best possible return from this investment by utilizing the services of its personnel in the highest possible positions.

One of the crucial problems in the process of promotion is to decide about its basis or principles. The number of aspirants is always more than the number of vacancies. It has been rightly pointed out that if promotion is not effected judiciously, there is a danger that it would breed discontent, diminution of incentive and general impairment of morale.\(^\text{21}\) It has a direct bearing on the efficiency of the administration.

During an informal discussion with the employees it was found that in the last one decade only 8 per cent employees were promoted. Nearly 42 per cent employees claimed that their chances of promotion seemed bleak as more and more deputationists are being associated. They said that the State Commission was in a better position to evaluate those who had been working under them rather than the candidates who come on deputation.

The promotion can be based on either seniority, or merit, or a blend of the two i.e. seniority and merit. Though in the State Commission and the District Forum, there are no well-defined

rules to which the Commission must adhere to. The President of the State Commission enjoys the authority to select its employees from the State Commission and the District Forum that he does on the basis of seniority alone. The employees lamented that there is absence of opportunities in this organisation as no policy has been framed which could bring clarity in the role and functions of the organisation. This clearly shows that incumbents were not being considered for promotion. The confidence of the employees is shaken when undue favours are shown to other employees. This is also harmful for the morale of the employees of the organisation.

In fact, promotion on the basis of seniority alone is not considered as a sound system of recruitment. It ignores merit and ability of employees. It is opined that "excessive emphasis on seniority, however may violate employees attitude about the right way of getting ahead." In other words, it acts as a constraint in the development of high standard of performance. Employees would not find it worthwhile to do their best because time would push them up in the ladder of privilege and position. In this context, it is insisted that promotion should be a reward to encourage those employees who make a successful effort to increase their knowledge or skill and who maintain a high level of productivity. The present method adopted by the President of the State Commission lacks fairness and equity among the employees for the successful functioning of the organisation.
FINANCIAL ADMINISTRATION

In the preceding section, emphasis had been made on the study of personnel aspects of the Consumer Disputes Redressal Agencies. Here the emphasis is on financial administration i.e. how the budget is prepared, accounts are maintained and audited, the functionaries involved in the financial administration of the Consumer Disputes Redressal Agencies. Finance and administration are so intermixed that no one has the utility without the other. All administrative activities involve expenditure of money for hiring personnel, for buying materials and machinery. Thus, sound financial administration is of vital importance to government. As revenue is drawn from the citizens of the country, it becomes the moral duty of the government also to spend money efficiently and economically. Inefficient financial administration may blast the prospects of any organisation and if the organisations are government organisations then it may result in the failure of the government and the economy of the country may be shattered.

Article 112 of the Constitution of India provides for the presentation of an annual financial statement of the estimated receipts and expenditure of the government of India for the ensuing financial year before both the houses of Parliament. In financial terminology, this financial statement is called the budget. It is an

24 Act of 1919, Sec.67 (A-1) gives the statutory definition of the Budget as "The estimated annual expenditure and revenue of the governor general in Council... laid in the form of a statement before both Chambers of the Indian Legislature in each year."
instrument for scheduling and evaluating government activities.\textsuperscript{25} The expenditure is of two types first, direct charges on Consolidated Fund of India\textsuperscript{26} which includes salaries, allowances and pensions payable to Judges of the Supreme Court, High Courts and Federal Courts and second, other expenditure which cannot be incurred without the consent of the Parliament.\textsuperscript{27} The Consumer Disputes Redressal Agencies which are located in the Union Territories, the entire expenditure is met directly from the Consolidated Fund of India.\textsuperscript{28} Therefore, a single Demand covering all functions of the Administration is presented to the Parliament as part of Demands for Grants of the Ministry of Home Affairs.

**Budgetary Procedure**

The preparation of the Budget is an executive responsibility and is carried out under the leadership of the Ministry of Finance. The Executive knows better the need for finance and any variation in finance beyond executive requirement would hamper the proper utilization of this finance. The Consumer Disputes Redressal Agencies budget is passed as a part of the budget of the Union Government.

The Drawing and Disbursing Officers\textsuperscript{29} under the prescribed major and minor Heads of Accounts prepare the detailed estimates of expenditure separately for Plan and Non Plan expenditure. All the

\textsuperscript{25} Raimann Pattanayk (Ed). Financial Administration and Management. Encyclopaedia of Public Administration.

\textsuperscript{26} Article 113.

\textsuperscript{27} Article 114.

\textsuperscript{28} Gazette of India (Extraordinary) 1986 Part II, Section 2, p.54, Clause 9 of the Bill provides that the annual expenditure of the Centre on the National Commission will be about Rs 7.15 lakhs. The expenditure of the State Commission and District Forum for Union Territories will be about Rs 78 lakhs per annum. A recurring expenditure of Rs 85.15 lakhs per annum, therefore, is envisaged from the Consolidated Fund of India.

\textsuperscript{29} Will be herein refered as DDO.
estimates are consolidated under the Major Head-3456 consisting of Salary\textsuperscript{30} and other expenditure.\textsuperscript{31} The Private Secretary of the State Commission is the overall in-charge for the administration of finance on behalf of the Head of the Department (President of the State Commission). All the estimates of expenditure proposed by the estimating authorities is scrutinized by him and sent to the Finance Department, Chandigarh Administration.

The Revised Estimates of both Plan and Non-Plan expenditure of the State Commission and the District Forum are submitted to the Financial Advisor. At this stage alterations and modifications are made in context to economy and other considerations and the estimates are consolidated and are ready for approval of Secretary in the Ministry of Finance. The estimates as finally approved are forwarded to the Budget Division in the Department of Economic Affairs of the Ministry of Finance.

The Demand for Grant of the State Commission as a part of other grants of the Chandigarh Administration are presented to the Parliament by the Ministry of Finance along with the Financial Statement. The Finance Ministry after the Appropriation Bill passed by the Parliament, communicates to the Chandigarh Administration the grants sanctioned by the Parliament.

The Private Secretary of the Forum receives all the bills/vouchers. The Private Secretary checks up these bills/vouchers as to whether the bills have been prepared in accordance with sanction as was obtained and checks the total. After ascertaining all these, the file is sent to the DDO for signing pay orders. The President of the District Forum-II acts as a DDO on behalf of the State Commission and the District Forum. The Drawing and

\textsuperscript{30} Salary includes salary of the President and the members and the staff.

\textsuperscript{31} Expenditure includes stationary, library books, furniture, telephone bills, service stamps etc.
disbursing officer sends the file after signing to the Bill Clerk. It is the duty of the Bill Clerk to get the bill passed from the Treasury and the Cashier draws cash. The Cashier is deputed to collect the amount from the Treasury. The bill is signed by the DDO on receipt and signature of the Cashier is also attested by the DDO. The payments are thereafter made accordingly.

It has been observed that no expenditure statements are issued indicating the progress and balances to the administration. Meetings are not held on the completion of each quarter of financial year to discuss the progress made. It has also been observed that funds in bulk are drawn at the fag end of the year by the Forum in spite of the fact that there is clear cut instructions to draw the amounts duly phased in the each quarter of each financial year and these instructions must be adhered to.

Audit is undertaken for examining and verifying the accounts with a view to determine the correctness of the accounts and the transactions they embody. Its object is to discover any unauthorised, illegal and irregular expenditure or any financial practice that are unsound and whether the personnel have faithfully discharged their responsibility.

Audit is not to be viewed as ‘bloodhound’ or even a ‘watchdog’ but as a function which can help the enterprise to establish rapport with Parliament and protect the tinkering by the executive.\(^{32}\) It has been observed that there is a great need to appoint a Financial Advisor to look into the finance appropriated by the District Forum /State Commission.

It was also seen that the Central Government rules were not followed by the State Commission and the District Forum and no records or

annual statements were maintained. However, what was notable was the fact that the administration too was unmindful of the poor management by the Forum / Commission.

### TABLE 5.4

THE TOTAL AMOUNT OF EXPENDITURE RECEIVED AND INCURRED BY THE STATE COMMISSION AND DISTRICT FORUMS.

<table>
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<tr>
<th>Years</th>
<th>Amount Received in lakhs</th>
<th>Expenditure incurred in lakhs</th>
<th>Surplus/Deficit</th>
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<td><strong>-4.04</strong></td>
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(Source: Financial Statement of the State Commission and the District Forum)

The above Table shows that in the initial three years, though the total amount received was 17.42 and expenditure incurred was
17.59 which is almost equal yet the total amount of these years was less than the average receipt i.e. 20.75 and average expenditure i.e. 21.26 of eight years. Further, the year 1995-1996 showed a steep rise as the amount had doubled when compared to the year 1993-1994. During the year 1995-1996, the amount received was 16.57 lakh with a direct increase of 50 per cent in the expenditure respectively. However, the reason for a sudden increase in expenditure was due to the restructuring of infrastructure. Moreover, during the last three years the average of amount received and expenditure incurred had increased by 50 per cent when compared to the average of eight years. This reveals that with the increasing expenditure there has been a marked difference over the years in terms of its workload and performance.

With regard to the funds, it is observed that neither the State Commission nor the District Forum falls short of any kind of funds. The above table shows that it was only in the year 1992-1993 and 1995-1996 that supplementary grants were required and in the rest of the years, the Commission always had access to Surplus funds. This proves the smooth functioning of the State Commission and the District Forum.

One Time Financial Assistance Scheme

The Central Government had received requests from many State Governments for one time grant for strengthening of District Forums and State Commissions so that pending cases in these courts could be liquidated. The problem of pending cases was causing serious concern. It was, therefore, decided to approve one-time assistance to the State Government. It was assured that this assistance would be utilized strictly for the purpose of liquidation of pending cases in redressal agencies set up under the Consumer
Protection Act, 1986. One time assistance was being considered with the clear understanding that the present pendency reported had occurred due to extraordinary circumstances and State Governments would ensure that such pendency would not be permitted in future.

**Nodal Officer**

Under this scheme, Presidents of respective State Commissions were specifically designated to act as nodal officers who were responsible for regular monitoring of pending cases in the State Commissions and all District Forums. They were held responsible for ensuring that accountability was fixed at every level for ensuring 100 per cent disposal of cases within 90 days as laid down under the Consumer Protection Act, 1986.

**Formulation of proposal for one time assistance**

The assistance was limited to the infrastructure needs only and not to recurring expenses of any kind under any circumstances.

2. Items included in infrastructure were:

   a) Accommodation for the Consumer Forum building excluding residential accommodation of any type.

   b) Office equipment like Computers, Fax, Typewriter, Photostat-machine.

   b) Library books.

   c) Furniture like book racks, file racks, table, chair, computer tables, visitors chairs.
Items not covered under the scheme include: Air conditioners, cars and expenditure on salaries, TA and DA, foreign trips and any other kind of recurring expenditure.

3. The scheme served as an incentive for 100 per cent disposal of pending cases by first February.

4. The funds were released in four installments.

5. The funding was over and above the normal plan assistance.

6. Separate budget Heads Captioned “One time assistance for 100 per cent disposal of pending cases in District Forum” and “One time assistance for 100 per cent disposal of pending cases in State Commissions” were opened.

7. Allocation and expenditure for State Commission and District Forums were separate and not inter-changed under any circumstances.

8. No part of funds allocated were utilized for foreign trips, training etc.

Quantum of assistance/Terms of conditions

All the State Commissions and District Forums got Rs. 50 lakh each and Rs. 10 lakh each respectively. The assistance was disbursed in four installments from the year 95-97. The first installment of 25 per cent was released to all States/UTs in the financial year 1995-96. The second installment of another 25 per cent was released only after the first monitoring report was received from the States/UTs on December, 1995. The third installment of 25 per cent was released in October, 1996 and only
after the second monitoring report was received from the States/UTs by the stipulated date and the fourth and final installment of 25 per cent was released in March, 1997 after receiving 100 per cent disposal report from the States UTs. The assistance was meant for liquidating pending cases which meant pending cases plus fresh cases received from time to time. It was also ensured that the cases, which were merely adjourned or postponed or temporarily disposed of on technical grounds or any other grounds, were not considered as cases finally disposed of. Only the cases in which final judgement had been delivered and which would not come to the same forum again for redressal or reconsideration in any manner were qualified to be called disposal of cases. It was also clarified that State Commissions and District Forums should have received 500 cases since its inception to be eligible to receive second installment onwards. Moreover, it was also ensured that National Consumer Disputes Redressal Commission and the State Governments and UT Administration should insist on final disposal of at least ten cases in a day in each District Forum and each State Commission. Daily reports were to be maintained to achieve desired results. The cases of adjournment and dismissal due to technical reasons were not included in list of cases finally disposed of.

Monitoring

The scheme required a close monitoring on the part of the National Consumer Disputes Redressal Commission and all the State Governments/UTs. The President nominated an officer in the National Commission to monitor and coordinate the implementation of this scheme. All the State Commissions were sent monitoring reports and District forums under their administrative control to the President, National Commission.
Hence, this scheme provided the State Governments/UT Administration with an incentive to dispose of pending cases, besides building up requisite infrastructure. The State Commissions and District Forums were thus better equipped for speedy disposal of fresh cases. However, it was felt that the one time financial assistance provided to the State Governments to strengthen the infrastructure of the State Commissions and District Forums was not adequate and, therefore, the quantum of assistance needs to be raised. This view has also been supported by the Central Consumer Protection Council.\textsuperscript{33} It is suggested that under the provisions of the Consumer Protection Rules, it is the responsibility of the States/UT’s to set up and provide the necessary infra-structural support to the State Commission and District Forums to run effectively. Hence, the State Governments should make their own contribution to strengthen the infra-structural set up.

\textsuperscript{33} CCPC in its meeting held on 29th April, 1998 at New Delhi.
TABLE 5.5

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<th>State/UT</th>
<th>No. of DFs Grant was given</th>
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