

Pay scales, allowances & conditions of service of Members in Regulatory Bodies

Terms of Reference 8.1.1 The Sixth Central Pay Commission is the first Pay Commission with the mandate to make recommendations on the structure of emoluments in regulatory bodies. Although the original terms of reference of the Commission on regulatory bodies covered the examination of the principles that should govern the structure of pay, allowances and other benefits, whether in cash or in kind, granted to the officers and employees of Regulatory Bodies set up under Acts of Parliament, this was subsequently modified vide Resolution dated 7th December, 2006 to cover only the Members of the Regulatory Bodies (excluding the RBI) set up under Acts of Parliament. The Commission's recommendations are confined to the package of benefits of Members (which includes Chairpersons) only.

Methodology 8.1.2 The Commission called for the details of regulating bodies set up by various Ministries/Departments and the pay and allowances, etc. admissible to the Chairpersons and Members of these regulatory bodies. Memoranda were also requested to be submitted in response, information was received in respect of 36 regulatory bodies set up under Acts of Parliament. Memoranda were received from a few regulatory bodies and some made oral submissions before the Commission.

Information received 8.1.3 The information received has revealed that regulatory bodies have been set up by the Government for carrying out diverse functions ranging from development of areas, like Khadi, regulation of construction and operation of aquaculture farms, implementation of provisions of Acts, regulation of areas like education, health etc. to the regulation of the infrastructure and economic sectors. Bodies like the Telecom Regulatory Authority of India, IRDA, CERC etc. have been set up for regulating areas such as insurance, power, petroleum, telecommunication, etc. as part of the Government's efforts to restructure the administrative machinery consistent with economic reforms.

8.1.4 The existing structure of pay and allowances of Members of regulatory bodies is similar to that prevailing in the central Government. On pay and allowances, the guidelines provide that the Chairperson of a regulatory body would be eligible for grant of pay not exceeding Rs.26000 per month (fixed) (*equal to that of a Secretary*) and Members to a pay scale not exceeding Rs.22400-525-24500 (*equal to that of an Addl. Secretary*). In the case of retired Government employees, pay would be fixed in accordance with the prevalent orders i.e. minus pension. Guidelines for grant of allowances, transport facilities, etc. also have been laid down in these guidelines. In some regulatory bodies, only fee and allowances are paid. The list of regulatory bodies on which the Commission received information and functions performed by these bodies is indicated in Annex 8.1.1. From the Annex, it will be observed that these guidelines are not followed uniformly and many regulatory bodies have pay scales not consistent with the prescribed guidelines.

Demands made

8.1.5 In the main demands made in regard to regulatory bodies are summarized as under:-

- (i) Remuneration package of the Chairperson/Members needs to be delinked from those prevailing in Government. Appointment of Chairperson/Members is purely contractual and, therefore, calls for negotiated remuneration packages rather than fixed ones.
- (ii) The Commission could stipulate only a standard pay scale with compensation by way of Dearness Allowance on the pattern of the Government of India towards changes in the cost of living. The prescription of all other allowances could then be left to the Regulatory Authorities.
- (iii) The compensation package should be comparable with the area of responsibility and area of specialization. Since the pay package of the experts working in private sector is considerably higher than that available to the officials of the Government, the salary and allowances payable to the Chairperson and Member should be such that it can attract the best talent available in the sector.
- (iv) Pension should not be deducted from the pay of members who are retired Central Government

employees as a similar provision cannot be applied for members from the private sector.

- (v) Restrictions in regard to re-employment of Chairman and Members should be removed.
- (vi) Regulatory bodies should be granted full functional, financial and administrative autonomy and should have powers to determine the salaries of their employees.
- (vii) Rates of house rent allowance should be enhanced substantially and Members allowed to retain Government accommodation.
- (viii) The salary, perks and allowances of Chairpersons and members should not be less than those of employees in the body.

8.1.6 The two issues which confront the Commission while addressing the terms of reference related to regulatory bodies are :-

- (1) of an appropriate definition of regulatory bodies; and
- (2) of whether the same treatment was required for all regulatory bodies in the matter of pay and allowances.

The Commission finds that the term *regulatory body* has neither been defined in the terms of reference nor is a definition available in any of the extant instructions issued by the Government. In various texts, however, regulatory bodies have been defined as under:-

- (i) Bodies created to design requirements that are placed on the privatized industries to comply with controls on prices and standards of service;
- (ii) Professional or regulatory bodies set up to safeguard the public interest; to represent the interest of professional practitioners and to represent their own self-interest.
- (iii) Professional body, which is not a membership organization and whose primary activity is to protect

the public. Unlike professional bodies, these are established on the basis of legal mandate.

The Commission examined the context in which various regulatory bodies have been set up and the complexity of functions assigned to them under the respective Acts. A number of bodies have been set up to perform mainly the task of development and promotion of the sector without a clearly defined regulatory role. Also, a number of bodies exist for performing very specific functions, such as regulation of payments, recognition of qualifications, etc. As against this, there are certain regulatory bodies which have complex functions encompassing development, licensing, resource generation, apart from other regulatory functions. The question of treatment of various regulatory bodies was examined in the context of their role.

The Commission, therefore, after going through the textual definitions and the role assigned to various bodies, concludes that for the purpose of making its recommendations, there may be a need to classify regulatory bodies into two groups:-

- 1. The first group consisting of professional bodies like Medical Council of India, Veterinary Council etc. and developmental bodies like KVIC; and**
- 2. The second group consisting of sector regulators with an economic or financial role regulating both prices and standards of service.**

For the first group, the practice of linking salaries to those existing in the Government could continue. A case, however, exists for separate treatment of regulatory bodies falling in the second group. These bodies have generally been established in the wake of the New Economic policy, and have a mandate which has an impact on the over-all economic development in the country as well as the alignment of the Indian economy with the global economy. Regulatory bodies covered under this category include Insurance Regulatory Development Authority, Telecom Regulatory Authority of India, Central Electricity Regulatory Commission, Competition Commission of India and SEBI, which have a multi-dimensional role and clear regulatory functions including the authority to prescribe punitive measures in the form of fines, etc. In the Commission's opinion, for these bodies, a separate dispensation for selection and appointment of Members and in the compensation package is necessary for the reason that these regulatory bodies require incorporation of the best practices followed, both within and outside the Government. Members of these bodies should, therefore, be professionals or experts who not

only have comprehensive knowledge and understanding of the sector but also practical experience. During the course of oral submissions, it was brought out before the Commission that the application of the pay structure prevailing within the Government restricts the appointment of people from outside the Government with expertise in the field. As such, most of these appointments are presently held by retired Government employees, barring a few exceptions where posts are held by serving Government employees. There is, therefore, a need to ensure comparability with the package available outside the market to attract professionals from the private sector.

Recommendations 8.1.7 Keeping in view the approach outlined in the preceding paragraphs, the Commission makes the following recommendations on the pay and allowances of full-time Members of regulatory bodies set up under Acts of Parliament:-

- (a) Normal replacement pay bands and grade pay recommended elsewhere may be granted in general to the existing Members of regulatory bodies. Further, the rates of allowances which are presently admissible may be revised on par with those recommended for corresponding categories of Government employees. No other change is envisaged in the existing terms and conditions of employment.
- (b) However, in the case of full-time members appointed to TRAI, CERC, IRDA, SEBI, and the Competition Commission of India, in order to attract expertise available outside the Government, the following are recommended:-
 - (i) Recruitment of Members: - The present recruitment procedure should be modified and applications invited for appointment to the posts of Members through proper advertisements in newspapers, etc. so as to ensure fair and transparent selection. The selection should be done by a committee on the lines of Public Enterprises Selection Board, which should evaluate the professional competence of the applicants in detail. The Secretary of the concerned Ministry/Department should, however, not be part of the selection board as the Department is also a stakeholder.
 - (ii) Tenure - Members appointed should have a contractual tenure of 3 to 5 years as provided in the concerned Act.
 - (iii) Salary - The pay and allowances of Members of these regulatory bodies should be de-linked from

Government salaries and those appointed as Members through the revised process should be paid a consolidated salary of Rs.1,50,000 p.m., while the Chairperson may be paid Rs.2,00,000 p.m. in case a car and house are provided. In case no car and house is given, the Chairperson should be paid a consolidated salary of Rs.3,00,000 p.m. and Members Rs.2,50,000. The proposed salary is considered adequate for attracting experts in the field, who, in the Commission's view are not looking just at the monetary compensation, but also at the prestige involved in and the contribution which can be made by a regulator in the development of the sector and the economy as a whole. The rates of the consolidated salary may be taken up for revision periodically by the Government so as to neutralize the effect of inflation.

- (iv) TA/DA on tour - TA/DA may be regulated by the concerned authority themselves keeping in view all relevant considerations.
- (v) Medical facilities - The existing provisions in regard to medical facilities may be continued.
- (vi) Restriction on re-employment - On demitting office, a Member should not be permitted to seek re-employment in the same sector for a period of two years.
- (vii) Appointment of Government employees as Members - If a serving Government employee is appointed as Member, his link with Government will have to be severed i.e. he would be deemed to have retired, and he can be granted the same package provided he/she has been selected through the same process. Retired Government employees can also be given the same package, if selected through the same process. Government employees may be considered for grant of the higher package provided they have not worked in the concerned sector during the preceding two years. Any serving Chairman/Member desirous of being paid the higher package will have to resign from the post. In such cases, if the erstwhile Chairperson/Member is re-selected under the revised selection process, then he/she will be eligible for the higher package. The cooling off period of two years will, however, not apply in this case.