Regulatory Bodies Chapter 13

Terms of Reference

13.1 The Terms of Reference (ToRs) of this Commission require it to look into the emoluments structure, including pay, allowances and other facilities/benefits, in cash or kind, of the members of regulatory bodies (excluding the Reserve Bank of India) set up under Acts of Parliament.

Background

13.2 Terms and conditions of members of regulatory bodies were, for the first time, included in the ToRs of a Pay Commission when the VI CPC was set up. Prior to that, Chairpersons and Members of regulatory bodies were paid on par with the central structure of pay and allowances, including the facility of government housing. While the post of Chairman was in the pre-revised scale of pay of ₹26,000 per month, equivalent to a Secretary level officer, the post of Member was in the pre-revised scale of ₹22400-525-24500, equivalent to an Additional Secretary level officer. In the case of retired government officers appointed as Chairpersons or Members, pension was deducted from pay as in the case of re-employed pensioners.

Recommendations of the VI CPC

13.3 The VI CPC studied the salary structure of various regulatory bodies in detail. It examined the context in which various regulatory bodies had been set up. It also analysed the complexity of functions assigned to them under the respective Acts. After going through the textual definitions and the role assigned, the VI CPC classified the regulatory bodies into two groups:-

1. Professional bodies like Medical Council of India, etc. and development bodies like KVIC, and
2. Sector Regulators with an economic and financial role regulating both prices and standards of service.

In the case of the first group, the VI CPC recommended that the practice of linking salaries to those existing in the government could continue.

13.4 In the case of the second group, consisting of five regulatory bodies as specified by it, viz., Telecom Regulatory Authority of India (TRAI), Central Electricity Regulatory Commission (CERC), Insurance Regulatory Development Authority (IRDA), Securities and Exchange Board of India (SEBI) and Competition Commission of India (CCI), the VI CPC noted that these bodies have been established in the wake of economic liberalisation since 1991 and have a mandate which has an impact on the over-all economic development in the country as well as alignment of the Indian economy with the global economy. The VI CPC also stated that these bodies have a multi-dimensional role and clear regulatory functions including the authority to prescribe punitive measures in the form of fines, etc. Thus, the VI CPC recommended that the pay and allowances of members of these regulatory bodies should be de-linked from government salaries and recommended the system of consolidated pay package as under:

Post	Consolidated Pay Package	
	With Care and House	**Without Car and House**
Chairperson	₹2 lakh pm	₹3 lakh pm
Member	₹1.5 lakh pm	₹2.5 lakh pm

The VI CPC also recommended that the consolidated salary may be taken up for revision periodically by the government so as to neutralize the effect of inflation.

Decisions of Government on VI CPC Recommendations

13.5 The government accepted the recommendations of the VI CPC for the first group of regulators and extended normal replacement scales for Chairpersons and Members, respectively.

13.6 For the second group of regulators, comprising TRAI, CERC, IRDA, SEBI and CCI, the government decided to extend a consolidated pay package of ₹3.00 lakh pm (without house and car) and ₹2.5 lakh pm (without house and car) for Chairpersons and Members, respectively. It was also decided that the then existing incumbents of the posts of Chairpersons and Members in these regulatory bodies would be given an option to retain their existing pay and allowances together with house and car or to choose the higher pay package without house and car. In the case of appointment of retired government officers, no deduction of pension was to be effected because the structure of consolidated pay package in their case was de-linked from the government structure of pay and allowances.

Second Administrative Reforms Committee Recommendations

13.7 The Second Administrative Reforms Committee (2ARC) dealt with the regulatory bodies in India and observed that in post-economic liberalisation, a large number of independent regulatory bodies have been set up in India with the primary goal of providing a level playing field for private industry, fostering competition and above all, to protect the interest of consumers. The 2ARC also observed that there was an increasing perception that a number of regulators are being set up on ad hoc basis by different ministries. In view of this, the 2ARC highlighted the need for greater uniformity in the regulatory authorities in terms of appointment, tenure and removal of its members.

Decision of the Government on 2ARC Recommendations

13.8 The Commission notes that the recommendations of the 2ARC were deliberated upon over a series of meetings by the government. It was decided to consider a regulatory body as a *Statutory Commission or Board constituted in accordance with the applicable law for the purpose of regulating public utility industry, licensees or services that affect the consumers, directly or indirectly.*

13.9 The Commission notes that the government has added a few more regulatory bodies to the list of economic regulators already identified by the VI CPC. So far, nine regulatory bodies have been extended the benefit of consolidated package viz four more regulatory bodies - Pension Fund Regulatory and Development Authority (PFRDA); Petroleum and Natural Gas Regulatory Board (PNGRB); Warehousing Development and Regulatory Authority (WDRA); and Airports Economic Regulatory Authority of India (AERAI)–have been added to the list of five regulatory bodies identified earlier.

13.10 To neutralise the effect of inflation, the consolidated pay package for these regulatory bodies has been revised twice and at present, the consolidated pay is as under:

- Chairperson - ₹4.50 lakh pm (without house and car)
- Member - ₹3.75 lakh pm (without house and car)

Demands

13.11 The Commission wrote to the regulatory bodies, to elicit their views on the terms and conditions and emoluments structure of their Chairpersons/Members. The Commission also interacted with the regulators who are covered under the consolidated pay package. The Chairpersons/Members of these regulatory bodies presented a case for increase in the consolidated pay package. They also sought revision in perks, allowances and other entitlements. It has been argued that there is need to enhance the consolidated pay package to make it more attractive for private sector professionals. It has also been argued that under the consolidated package, effective salary becomes less since segregated item-wise constituents of the consolidated package–for example, pay, allowances for house, transport, etc.–are not spelt out facilitating tax exemption on admissible items. As a result, tax is levied on the entire amount. It has also been requested that there should be periodic revision in the consolidated pay package to offset the effect of price rise.

Analysis and Recommendations

13.12 The Commission has examined the demands in detail. The Commission notes that regulatory authorities the world over have diverse pattern of remuneration which vary according to the financial autonomy they enjoy. In some countries, funding is part of the line ministry’s budget, while in some other; regulators are funded from resources independent of the government’s budget. In many instance, regulators raise resources through fees which the regulators themselves determine, based on enabling legislation.

13.13 In India, a large number of regulators have been set up by the government over the last two decades. These regulators have been transferred certain functions which were earlier performed by the government. Creation of independent regulators has helped to promote transparency, a long-term perspective in decision making, improvement in service standards with benefits to consumers and fostering of competition through a level playing field between public and private sector.

13.14 As reflected earlier in this chapter, for salary structure, the VI CPC had classified regulatory bodies into two groups–one with government pay structure and other with a consolidated pay package. The rationale for the consolidated pay package was to ensure comparability with packages available in the market so as to attract professionals and experts from the private sector. However, it is observed that barring a few exceptions, most of regulators continue to be retired government employees. The Commission is of the view that professionals and experts from the private sector will not look just at the monetary compensation but also at the prestige involved and the contribution that can be made by a regulator for the development of the sector and the economy. In this backdrop, the Commission is of the view that there should be some relativity between the consolidated pay package vis-à-vis salary structures prevailing in the government.

13.15 Considering the above, the Commission makes the following recommendations:-

i. As regards the members of regulatory bodies covered under the consolidated pay package, it is observed that the salary in the government sector constitutes around 50 percent of the total package i.e., total cost to government. The Commission has recommended a pay of ₹2,25,000 per month for Secretary to the Government of India. **In view of this, the Commission recommends a consolidated pay package of ₹4,50,000 per month for Chairpersons of TRAI, CERC, IRDA, SEBI, CCI, PFRDA, PNGRB, WDRA and AERAI. For members of these regulatory bodies, the Commission, recommends a consolidated pay package of ₹4,00,000 per month. In case of retired government servants, their pension will not be deducted from their consolidated pay.**

ii. On the demand of the regulatory bodies for periodic revision of consolidated pay on the pattern of government servants, the Commission notes that the consolidated pay structure was delinked from the pay and allowances structure obtaining in Government of India. Pension drawn by re-employed government retirees is also not deducted from the consolidated pay. Thus, the Commission is of the view that the revision in the consolidated pay package cannot be linked to six monthly Dearness Allowance increase provided in the case of Central Government employees. **However, keeping in view the erosion of purchasing power through inflation, the Commission recommends that the consolidated pay package may be raised by 25 percent as and when Dearness Allowance goes up by 50 percent. All other benefits, including medical facilities, TA/DA on tour etc. may be provided by the regulatory bodies as per their rules and regulations.**

iii. **Normal replacement pay is recommended for existing Members of the remaining regulatory bodies set up under Acts of Parliament. 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.**