

**JOINT COMMITTEE ON OFFICES
OF
PROFIT**

SEVENTH REPORT

(SEVENTH LOK SABHA)



*Presented to Lok Sabha on 6 December, 1983
Laid in Rajya Sabha on 6 December, 1983*

**LOK SABHA SECRETARIAT
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LOK SABHA SECRETARIAT
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TO
THE SEVENTH REPORT OF THE JOINT COMMITTEE
ON OFFICES OF PROFIT (SEVENTH LOK SABHA)

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**JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTH LOK SABHA)**

COMPOSITION OF THE JOINT COMMITTEE

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

- *2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Krishna Chandra Halder
5. Shri Virdhi Chander Jain
6. Shri Jamilur Rahman
7. Shri Rasheed Masood
8. Shri S.A. Dorai Sebastian
9. Shri N.K. Shejwalkar
10. Shri Nandi Yellaiah

Rajya Sabha

11. Shri Syed Rahmat Ali
12. Shri Dinesh Goswami

*Elected by Lok Sabha on 21st July, 1982, vice Shri Jagan Nath Kaushal resigned from the Committee.

13. Shri Robin Kakati
14. Shri Lakhani Singh
- **15. Shri Ram Bhagat Paswan

SECRETARIAT

Shri H.G. Paranjpe—*Joint Secretary*

Shri S.D. Kaura—*Chief Legislative Committee Officer*

Shri S.S. Chawla—*Senior Legislative Committee Officer*

**Elected by Rajya Sabha on 11th August, 1982 vice Prof N.M. Kamble
ceased to be member of the Joint Committee on his retirement from that House.

REPORT OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this their Seventh Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 6 April, 30 and 31 May, 27 and 28 June and 28 November, 1983. Minutes of these sittings form part of the Report and are at Appendix.

1.3 The Committee considered the composition, character, functions, etc. of 26 Committees/Boards/Councils/Corporations, etc. constituted by the Central Government, State Governments and the Union Territory Administrations and the emoluments and allowances payable to their members.

1.4 The detailed information regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the concerned Ministries/Departments of the Central Government, State Governments and the Union Territory Administrations.

1.5 The Committee considered and adopted the Report on 28 November, 1983.

1.6 The observations/recommendations of the Committee in respect of the matters considered by them are given in the succeeding paragraphs.

II

COMMITTEES/BOARDS/COUNCILS/CORPORATIONS, ETC, CONSTITUTED BY THE CENTRAL AND STATE GOVERNMENTS AND THE UNION TERRITORY ADMINISTRATIONS

Screening Committee for the Panels for Sports Commentators—(Ministry of Information and Broadcasting)

2.1 The Committee note that the non-official members of the Screening Committee are entitled to consultancy fee of Rs. 75/- per day which is not covered by the 'compensatory allowance'. The functions of the Screening Committee for the Panels for Sports Commentators are also executive in nature. As such, the Committee feel that the non-official members of the Screening Committee *ought not to be exempt* from disqualification.

Advisory Committee on Sports Programmes—(Ministry of Information and Broadcasting)

2.2 The Committee note that the non-official members of the Advisory Committee on Sports Programmes residing outside Delhi are entitled to TA as admissible under the rules and a fee of Rs. 75/-per day which is not covered by the 'compensatory allowance'. Hence, the Committee feel that non-official members of the Advisory Committee on Sports Programmes *ought not to be exempt* from disqualification.

- (i) *Whether membership of the West Bengal Housing Board constitutes an Office of Profit—query from Shri Amal Datta, M.P.*
- (ii) *West Bengal Housing Board (West Bengal)*

2.3 Shri Amal Datta, Member of Parliament (Lok Sabha), in his letter dated 14 January, 1983 addressed to the Chairman, Joint Committee on Offices of Profit, has stated as follows :

“.....I was unable to accept the membership of West Bengal Housing Board in view of the present rules which entitle a member to Rs. 100/-for attending a meeting of the Board. I have told the Minister of Housing who is also the Chairman of the Housing Board, and appoints members of the Board to change the rules so that it does not constitute an office of profit. He has agreed to do so but controversy has arisen regarding what amendment to rules should be made.

My suggestion has been to amend the rules to the effect that a Member of the Parliament, if appointed a member of the Board, will get travelling, and daily allowance in the same scale as admissible to him while attending a meeting of Parliamentary/Consultative Committee.

Please confirm whether the above suggestion of mine is in order and also whether it is also the practice or convention to pay M.Ps. TA and DA in the same scale as paid by Parliament when they are appointed to other Boards/Committees of the Central/State Governments.”

As the particulars of the West Bengal Housing Board were not furnished by the Member, the Housing Department, Government of West Bengal, were requested to send the requisite particulars of the aforesaid Board. The particulars, received on 26 March, 1983 in that regard, have been scrutinised by the Committee. The Committee note that the members of the West Bengal Housing Board are entitled to an allowance of Rs. 100/- for every meeting of the Board and Rs. 50/- for any meeting of the Sub-Committee of the Board attended by them. Besides, they are also entitled to draw travelling allowance at the rate admissible to a Class I Officer drawing a salary of Rs. 2500/- per month and above. Thus, the allowances drawn by them are not covered by the ‘compensatory allowance’. Besides, the Board exercises executive and financial powers as the Board may, from time to time, incur expenditure and undertake works for the framing and execution of such housing schemes as it may consider necessary and such housing schemes may include housing schemes in relation to lands and buildings vested in or in the possession of the State Government.

The Committee feel that even if Members of Parliament on their appointment as members of the Housing Board, are paid TA/DA at the same rate as are payable to an M.P. under the Salary, Allowances and Pension of Members of the Parliament Act, 1954, it is not material as the

Joint Committee on Offices of Profit (Fifth Lok Sabha) had consistently recommended that in view of the executive and financial powers exercised by the Housing Boards, their membership (including chairmanship) ought not to be exempt from disqualification. In this connection, the Joint Committee on Offices of Profit (Fifth Lok Sabha), have made the following recommendations in respect of the Himachal Pradesh Housing Board:-

“The Committee note that the Chairman of the Himachal Pradesh Housing Board, if a non-official is entitled to a pay not exceeding Rs. 1800/- per mensem which does not come within the ambit of ‘compensatory allowance’. The other non-official members are entitled to TA/DA, which is less than the ‘compensatory allowance’. However, as the Board exercises executive and financial powers, the Committee feel that the membership of the Board (including chairmanship) ought not to be exempt from disqualification.”

4 [Seventeenth Report JCOP-(Fifth Lok Sabha) Para 28, p.7]

As the non-official members of the West Bengal Housing Board are entitled to draw allowances @ Rs. 100/- per meeting of the Board besides travelling allowance at the rate admissible to a Class I Government Officer drawing a salary above Rs. 2500/- per month, the Committee are of the opinion that the remuneration admissible to non-official members of the Board is not covered by the ‘compensatory allowance’. Besides, the Board also exercises executive and financial powers. Hence, the Committee recommend that the non-official members of the West Bengal Housing Board *ought not to be exempt* from disqualification.

Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen (Mizoram)

2.4 While considering the Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Joint Committee have noted that the non-official members of the said Committee are not paid any remuneration, and the functions of the Managing Committee are of executive and financial nature. The members of the Managing Committee are also in a position to wield influence and patronage. The Committee have, therefore, held over consideration of the matter and desired to study particulars of the similar bodies considered earlier by the Joint Committee on Offices of Profit (Fifth Lok Sabha).

While considering particulars of the Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Joint Committee have also perused the particulars and recommendations made earlier thereon, of the following bodies:-

- (i) Central Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen.
- (ii) Managing Committee for the Management of Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, Chandigarh.
- (iii) State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen of Union Territory of Pondicherry.
- (iv) Managing Committee for Administration of the Special Services Fund for reconstruction and rehabilitation of Ex-servicemen (Tripura).

The Committee note that in the case of Central Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Joint Committee (Fifth Lok Sabha), *vide* paragraph 22 of their Tenth Report, had recommended that membership thereof ought not to be exempt from disqualification in view of executive and financial powers exercised by the Committee despite the fact that remuneration admissible to members of that Committee was less than the 'compensatory allowance'. Subsequently, while examining the Managing Committees of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen of Chandigarh, Pondicherry and Tripura, the Joint Committee on Offices of Profit (Fifth Lok Sabha) *vide* paragraph 22 of their Eighteenth Report, had held that, as no remuneration was payable to the non-official member of the above bodies, they did not hold an office of profit. Even though the bodies were carrying executive and financial powers, the Committee, at that time, felt that the nature and extent of the influence was not such, as to call for their disqualification.

The joint Committee have considered the matter in depth and feel that in view of the stand taken by them persistently that whenever executive, financial or judicial powers are exercised by non-official members of any Committee/Board/Corporation, etc., they should not be exempt from disqualification even if they do not receive any pecuniary gain.

In the case of the Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Committee note that the said body exercises executive and financial powers and thereby the members thereof are in a position to wield influence and patronage. As such, the Committee are of the opinion that the non-official members of the Mizoram State Managing Committee *ought not to be exempt* from disqualification.

The Pondicherry Khadi & Village Industries Board (Pondicherry)

2.5 The Committee note that the non-official members of the Pondicherry Khadi & Village Industries Board are entitled to draw in respect of journey TA and other allowance at the highest rates admissible to the Government servants of the First Grade which is less than 'compensatory allowance'. However, the Board exercises executive and financial powers. As such, the Committee feel that the non-official members of the Board *ought not to be exempt* from disqualification.

While arriving at the above decision, the Committee have taken note of the fact that in the case of similar bodies set up by the States of Jammu and Kashmir, Rajasthan, Himachal Pradesh, Tamil Nadu and Uttar Pradesh, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had recommended that the membership including chairmanship ought not to be exempt from disqualification [Sixth Report (Fifth Lok Sabha), paragraph 13; Ninth Report (Fifth Lok Sabha), paragraph 14; Tenth Report (Fifth Lok Sabha), paragraph 26 and Thirteenth Report (Fifth Lok Sabha), paragraphs 27 and 28].

Board of Directors of the Pondicherry Industrial Promotion, Development and Investment Corporation Ltd. (Pondicherry)

2.6 The Committee note that the non-official Directors of the Board of Directors of the Pondicherry Industrial Promotion Development and Investment Corporation Limited are paid TA, hotel and other expenses incurred by them. Additional remunerations are also paid to them as determined by the Lieutenant Governor.

As the rates are not specified and in case the non-official Directors draw more than Rs. 75/—per day, the payment admissible to them will not be covered by the 'compensatory allowance', as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. As the Board of Directors exercise executive and financial powers and are in a position to

wield influence, the Committee recommend that the non-official Directors of the Board *ought not to be exempt* from disqualification even if the payment admissible to them is covered by the 'compensatory allowance'.

Board of Industries (Pondicherry)

2.7 The Committee note that the non-official members of the Board of Industries, Pondicherry, are entitled to TA and DA which are covered by the 'compensatory allowance'. But the Board exercises financial powers and is in a position to wield influence. As such, the Committee feel that the non-official members of the Board *ought not to be exempt* from disqualification.

While arriving at the above decision, the Committee also note that in the case of a similar body, *namely*, Board of Industries, Himachal Pradesh Joint Committee on Offices of Profit (Fifth Lok Sabha), have recommended as follows:—

“The Committee note that the non-official members of the Board of Industries are entitled to TA and DA [as Grade I Officers which is less than the 'compensatory allowance', as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee, however, note that an aid by the State Government for an amount, which exceeds Rs. 5,000/—, has to get the approval of the Board before it is sanctioned. The Board is thus in a position to wield influence. The Committee, therefore, recommend that the membership of the Board *ought not to be exempt* from disqualification. [Sixth Report (5LS), paragraph 7, p. 1]

State Council for Women's Education (Pondicherry)

2.8 The Committee note that no remuneration is payable to the non-official members of the State Council for Women's Education, Pondicherry. The functions of the Council are advisory in nature. Hence, the Committee recommend that the non-official members of the State Council for Women's Education *ought to be exempt* from disqualification.

State Advisory Board for fostering French Education, (Pondicherry)

2.9 The Committee note that no remuneration is payable to the non-official members of the Board. The functions of the Board are advisory in nature. The Committee, therefore, recommend that the non-official

members of the State Advisory Board for fostering French Education in Pondicherry *ought to be exempt* from disqualification.

*Working Committee of National Foundation for Teachers Welfare
(Pondicherry)*

2.10 The Committee note that no remuneration is paid to the non-official members of the Working Committee of National Foundation for Teachers Welfare. The Committee, however, exercises executive and financial powers and is in a position to wield influence and patronage. As such the Committee feel that the non-official members of the Working Committee of National Foundation for Teachers Welfare *ought not to be exempt* from disqualification.

*District Level Advisory Committee for District Industries Centre, Mahe
Region (Pondicherry)*

2.11 The Committee note that no remuneration is payable to the non-official members of the District level Advisory Committee for District Industries Centre, Mahe Region. The functions of the said District level Advisory Committee are also advisory in nature. As such, the Committee recommend that the non-official members of the District Level Advisory Committee for District Industries Centre, Mahe Region *ought to be exempt* from disqualification.

*District Level Advisory Committee for District Industries Centre, Yanam
Region (Pondicherry)*

2.12 The Committee note that no remuneration is payable to the non-official members of the District level Advisory Committee for District Industries Centre, Yanam Region. The functions of the said District level Advisory Committee are also advisory in nature. As such, the Committee recommend that the non-official members of the District level Advisory Committee for District Industries Centre, Yanam Region *ought to be exempt* from disqualification.

Committee for Rehabilitation of Sick Units (Pondicherry)

2.13 The Committee note that no remuneration is payable to the non-official members of the Committee for Rehabilitation of Sick Units. The functions of the said Committee are also advisory in nature. As such, the Committee feel that the non-official members of the Committee for Rehabilitation of Sick Units *ought to be exempt* from disqualification.

State Level Ancillary Guidance Committee for the development of ancillary industries in Pondicherry

2.14 The Committee note that no remuneration is payable to the non-official members of the State Level Ancillary Guidance Committee for the development of ancillary industries in Pondicherry. The functions of the said Committee are, however, executive and financial in nature. Hence, the Committee recommend that the non-official members of the State level Ancillary Guidance Committee *ought not to be exempt* from disqualification.

Joint Civilian Army Boards for Selection for Commission as part-time officers for N.C.C. in Educational Institutions (Pondicherry)

2.15 The Committee note that the non-official member of the Joint Civilian Army Boards for Selection for Commission as part time officers for N.C.C. in Educational Institutions is not entitled to any remuneration. The functions of the Boards namely to select N.C.C. part-time officers are executive in nature. The Boards are, thus, in a position to wield influence by way of patronage. As such, the Committee feel that the non-official members of the Joint Civilian Army Board for Selection for Commission as part-time in officers for N.C.C. in Educational Institutions *ought not to be exempt* from disqualification.

While arriving at the above decision, the Committee have also taken note of the fact that in the case of a similar body, *viz.*, Committee for Selection of N.C.C. Officer, Senior (Andamans), the Joint Committee on Offices on Profit (Fifth Lok Sabha) have recommended as follows :—

“The Committee note that no remuneration is payable to the non-official members of the above bodies, and as such, they do not hold an office of profit within the meaning of Article 102(1)(a) of the constitution. It is true that a majority of above bodies carried executive or financial powers and even where the bodies are advisory, their members are in a position to wield influence. But the question is whether the nature and extent of the influence that may be wielded by the members of these bodies is such as to call for their disqualification under Article 102(1) (a) of the Constitution. After giving a careful thought to the character, composition, etc. of each of the above bodies, the Committee have come to the conclusion that membership of none of the above bodies need be disqualified under Article 102(1) (a) of the Constitution.

[Eighteenth Report (JCOP—Fifth Lok Sabha), para 22, P. 8]

State Sangeetha Nataka Sangam (Pondicherry)

2.16 The Committee note that no remuneration is payable to the non-official members of the State Sangeetha Nataka Sangam. The functions of the Sangam are mainly advisory in nature. As such, the Committee feel that the non-official members of the Sangam *ought to be exempt* from disqualification.

Programme Advisory Committee (Pondicherry)

2.17 The Committee note that no remuneration is payable to the non-official members of the Programme Advisory Committee. The functions of the said Committee are also advisory in nature. Hence, the Committee feel that the non-official members of the Committee *ought to be exempt* from disqualification.

Advisory Committee for Promotion of Art and Culture, Union Territory of Pondicherry

2.18 The Committee note that no remuneration is payable to the non-official members of the Advisory Committee for Promotion of Art and Culture. The functions of the said Committee are also advisory in nature. As such, the Committee feel that non-official members of the Advisory Committee for Promotion of Art and Culture, Pondicherry *ought to be exempt* from disqualification.

State Organising Committee of Nehru Yuvak Kendra (Pondicherry)

2.19 The Committee note that they have earlier examined a similar body, namely, State Organising Committee on Nehru Yuvak Kendras (Tamil Nadu) and have recommended in paragraph 2.14 of their fifth Report (Seventh Lok Sabha) that non-official members of that body *ought to be exempt* from disqualification as they are paid TA/DA which is covered by the compensatory allowance and the functions of the Committee are also advisory.

Similarly, in the case of State Organising Committee on Nehru Yuvak Kendra (Pondicherry), no remuneration is payable to the non-official members of the Committee. The functions of the said Committee are also advisory in nature. As such, the Committee feel that the non-official members of the State Organising Committee of Nehru Yuvak Kendra, Pondicherry *ought to be exempt* from disqualification.

Arbitration Promotion Board at State Level, (Pondicherry)

2.20 The Committee note that no remuneration is payable to the non-official members of the Arbitration Promotion Board. The functions of the Board are also advisory in nature. As such, the Committee feel that the non-official members of the Arbitration Promotion Board at State Level, Pondicherry *ought to be exempt* from disqualification.

State Board of Adult Education (Pondicherry)

2.21 The Committee note that no remuneration is payable to the non-official members of the State Board of Adult Education. The functions of the said Board are also advisory in nature. As such, the Committee feel that the non-official members of the State Board of Adult Education, Pondicherry *ought to be exempt* from disqualification.

*Committee for the Welfare of Scheduled Castes and Social Welfare
(Pondicherry)*

2.22 The Committee note that the functions of the Committee for the Welfare of Scheduled Castes and Social Welfare are mainly advisory in nature, and the non-official members of the Committee are entitled to draw TA/DA as provided in Government Rules (rates not specified). As such, the Committee feel that the non-official members of the Welfare of Scheduled Castes and Social Welfare *ought to be exempt* from disqualification, so long as the payment of TA and DA does not exceed the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959.

*State Level Co-ordination Committee for District Industries Centre,
(Pondicherry)*

2.23 The Committee note that though the non-official members of the State Level Co-ordination Committee are not entitled to any remuneration yet the said Committee exercises executive powers like recruitment of personnel and selection of land for District Industries Centre. Thus, the said Committee is in a position to wield influence and patronage. As such, the Committee are of the view that the non-official members of the State Level Co-ordination Committee for District Industries Centre, Pondicherry *ought not to be exempt* from disqualification.

Review Committee to review the Progress of the Agricultural Refinance Development Corporation Scheme for Development Fisheries in Pondicherry and Karaikal regions (Pondicherry)

2.24 The Committee note that no remuneration is payable to the non-official members of the Review Committee to review the progress of the Agricultural Refinance Development Corporation Scheme for Development Fisheries in Pondicherry and Karaikal regions. The functions of the Committee are mainly advisory in nature. As such, the Committee feel that the non-official members of the Review Committee to review the progress of the Agricultural Refinance Development Corporation Scheme for Development Fisheries in Pondicherry and Karaikal regions (Pondicherry) *ought to be exempt* from disqualification.

Leprosy Advisory Committee (Pondicherry)

2.25 The Committee note that the non-official members of the Leprosy Advisory Committee, Pondicherry are entitled to draw TA/DA at the rates admissible to Grade I Officers which is covered by the 'compensatory allowance'. The functions of the said Committee are also purely advisory in nature. As such, the Committee feel that the non-official members of the Leprosy Advisory Committee, Pondicherry *ought to be exempt* from disqualification.

Committee for Selection of Best Hospital, Best Primary Health Centre and Best Dispensary (Pondicherry)

2.26 The Committee note that the non-official members of the Committee for Selection of Best Hospital, Best Primary Health Centre and Best Dispensary are entitled to draw TA/DA at the rates admissible to Grade I officers which is covered by the 'compensatory allowance'. The functions of the said Committee are also purely advisory in nature. Hence, the Committee are of the view that the non-official members of the Committee for Selection of Best Hospital, Best Primary Health Centre and Best Dispensary *ought to be exempt* from disqualification.

NEW DELHI;

November 28, 1983.

Agrahayana 7, 1905 (Saka)

GULSHER AHMED

Chairman

Joint Committee on

Offices of Profit

APPENDIX

(Vide para 1.2 of the Report)

**MINUTES OF THE JOINT COMMITTEE ON OFFICES OF PROFIT
(SEVENTH LOK SABHA)**

XXXIII

THIRTY-THIRD-SITTING

The Committee met on Wednesday, 6 April, 1983 from 15.00 to 16.45 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Virdhi Chander Jain
4. Shri S.A. Dorai Sebastian
5. Shri N.K. Shejwalkar

Rajya Sabha

6. Shri Syed Rahmat Ali
7. Shri Dinesh Goswami
8. Shri Lakhon Singh
9. Shri Ram Bhagat Paswan

SECRETARIAT

Shri S. D. Kaura— *Chief Legislative Committee Officer*

2. The Committee first took up for consideration Memorandum No. 123 regarding examination of Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen.

Examination of Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen.—(Memorandum No. 123)

3. At their sitting held on 16 September, 1982, while considering Memorandum No. 83 in respect of the Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Joint Committee had noted that the non-official members of the said Committee were not paid any remuneration and the functions of the Managing Committee were of executive and financial in nature. The members of the Managing Committee were, however, in a position to wield influence and patronage. The Committee held over consideration of Memorandum No. 83 and desired to study particulars of the similar bodies considered earlier by the Joint Committee on Offices of Profit (Fifth Lok Sabha).

4. The Committee accordingly perused the particulars and recommendations made thereon of the following bodies:-

- (i) Central Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen. (Memorandum No. 375)
- (ii) Managing Committee for the management of special Fund for Reconstruction and Rehabilitation of Ex-servicemen, Chandigarh. (Memorandum No. 192 and 1062)
- (iii) State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen of Union Territory of Pondicherry, (Memo. No. 1067)
- (iv) Managing Committee for Administration of the Special Services Fund for reconstruction and rehabilitation of Ex-servicemen (Tripura). (Memo. No. 1068)

5. The committee noted that in the case of the Central Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Joint Committee (Fifth Lok Sabha) *vide* paragraph 22 of their tenth Report recommended that membership thereof ought not to be exempt from disqualification in view of executive and financial powers exercised by the Committee despite the fact that remuneration admissible to members of that Committee was less than the 'compensatory allowance'.

Subsequently, while examining the Managing Committees of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen of Chandigarh, Pondicherry and Tripura, the joint Committee (Fifth Lok Sabha) *vide* paragraph 22 of their Eighteenth Report held that as no remuneration was payable to the non-official members of the above bodies, they did not hold an office of profit. Even though the bodies were carrying executive and financial powers, the Committee, at that time, felt that the nature and extent of the influence were not such as to call for their disqualification.

6. The Joint Committee (Seventh Lok Sabha), however, did not subscribe to the above view and felt that in view of the stand taken by them persistently that whenever executive, financial or judicial powers were exercised by non-official members of any Committee/Board/Corporation etc., they should not be exempt from disqualification even if they did not have any pecuniary gain.

7. In the case of the Mizoram State Managing Committee of the Special Fund for Reconstruction and Rehabilitation of Ex-servicemen, the Committee noted that the said body exercised executive and financial powers and thereby the members thereof were in a position to wield influence and patronage. As such, the Committee felt that the non-official members of the Mizoram State Managing Committee *ought not to be exempt* from disqualification.

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The Committee then adjourned.

*Omitted portions of the Minutes are not covered by this Report.

XXXIV

THIRTY-FOURTH SITTING

The Committee met on Monday, 30 May, 1983 from 15.00 to 15.45 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Harish Kumar Gangwar
3. Shri Krishna Chandra Halder
4. Shri Virdhi Chander Jain
5. Shri N.K. Shejwalkar
6. Shri Nandih Yellaiah

Rajya Sabha

7. Shri Syed Rahmat Ali
8. Shri Robin Kakati
9. Shri Lakhan Singh

SECRETARIAT

Shri T.E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 125 to 129, 131 to 134 and 139 relating to the following Committees/Boards/

Councils etc., constituted by State Government and Union Territory Administrations.

*The Pondicherry Khadi & Village Industries Board, Pondicherry
(Memorandum No. 125)*

3. The Committee noted that the non-official members of the Pondicherry Khadi & Village Industries Board were entitled to draw in respect of journey TA and other allowance at the highest rates admissible to the Government servants of the First Grade under the Government which was less than the 'compensatory allowance'. However, the Board exercised executive and financial powers. As such, the Committee felt that the non-official members of the Board *ought not to be exempt* from disqualification.

While arriving at the above decision, the Committee took note of the fact that in the case of similar bodies set up by the States of Jammu and Kashmir, Rajasthan, Himachal Pradesh, Tamil Nadu and Uttar Pradesh, the Joint Committee on Offices of Profit (Fifth Lok Sabha) had recommended that the membership including chairmanship ought not to be exempt from disqualification *vide* Sixth Report (Fifth Lok Sabha), paragraph 13 ; Ninth Report (Fifth Lok Sabha), paragraph 14, Tenth Report (Fifth Lok Sabha), paragraph 26 and Thirteenth Report (Fifth Lok Sabha), paragraphs 27 and 28, respectively.

Board of Directors of the Pondicherry Industrial Promotion, Development and Investment Corporation Ltd. Pondicherry (Memorandum No. 126)

4. The Committee noted that the non-official Directors of the Board of Directors of the Pondicherry Industrial Promotion, Development and Investment Corporation Limited were paid TA/hotel and other expenses incurred by them. Additional remunerations were also paid to them as determined by the Lieutenant Governor. As the rates were not specified, in case the non-official Directors drew more than Rs. 51/- per day, the payment admissible to them would be more than the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. As the Board of Directors exercised executive and financial powers and was in a position to wield influence, the Committee recommended that the non-official Directors of the Board *ought not to be exempt* from disqualification even if the payment admissible to them was less than the 'compensatory allowance'.

Board of Industries, Pondicherry—(Memorandum No. 127)

5. The Committee noted that the non-official members of the Board of Industries, Pondicherry were entitled to TA and DA which were less than the 'compensatory allowance'. But the Board exercised financial powers and was in a position to wield influence. As such, the Committee felt that the non-official members of the Board *ought not to be exempt* from disqualification.

In that connection, the Committee also noted that in the case of a similar body, *namely*, Board of Industries, Himachal Pradesh, the Joint Committee on Offices of Profit (Fifth Lok Sabha) recommended as follows:-

"The Committee note that the non-official members of the Board of Industries are entitled to TA and DA as Grade I Officers which is less than the 'compensatory allowance', as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act. 1959. The Committee, however, note that an aid by the State Government for an amount which exceeds Rs. 5,000/- has to get the approval of the Board before it is sanctioned. The Board is thus in a position to wield influence. The Committee, therefore, recommend that the membership of the Board ought not to be exempted from disqualification." [Sixth Report (5LS), paragraph 7, p.1]

State Council for Women's Education, Pondicherry—(Memorandum No. 128)

6. The Committee noted that no remuneration was payable to the non-official members of the State Council for Women's Education, Pondicherry. The functions of the Council were advisory in nature. Hence, the Committee recommended that the non-official members of the State Council for Women's Education *ought to be exempt* from disqualification.

State Advisory Board for fostering French Education, Pondicherry—(Memorandum No. 129)

7. The Committee noted that no remuneration was payable to the non-official members of the Board. The functions of the Board were advisory in nature. The Committee, therefore, recommended that the non-official members of the State Advisory Board for fostering French Education in Pondicherry *ought to be exempt* from disqualification.

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- (i) Whether membership of the West Bengal Housing Board constitutes an Office of Profit—query from Shri Amal Datta, M.P. (Memorandum No. 132)
- (ii) West Bengal Housing Board (West Bengal) (Memorandum No. 133)

9. Shri Amal Datta, Member of Parliament (Lok Sabha), in his letter dated 15 January, 1983 stated as follows:

“.....I was unable to accept the membership of West Bengal Housing Board in view of the present rules which entitle a member to Rs. 100/- for attending a meeting of the Board. I have told the Minister of Housing who is also the Chairman of the Housing Board, and appoints members of the Board to change the rules so that it does not constitute an office of profit. He has agreed to do so but controversy has arisen regarding what amendment to rules should be made.

My suggestion has been to amend the rules to the effect that a Member of the Parliament if appointed a member of the Board will get travelling and daily allowance in the same scale as admissible to him while attending a meeting of Parliamentary/Consultative Committee. Please confirm whether the above suggestion of mine is in order and also whether it is also the practice or convention to pay to M.Ps. TA and DA in the same scale as paid by Parliament when they are appointed to other Boards/Committees of the Central/State Governments.”

As the particulars of the West Bengal Housing Board were not furnished by the Member, the Housing Department, Government of West Bengal were requested to send the requisite particulars of the aforesaid Board. The particulars, received on 26 March, 1983 in that regard, had been scrutinised by the Committee. The Committee noted that the members of the West Bengal Housing Board were entitled to an allowance of Rs. 100/- for every meeting of the Board and Rs. 50/- for any meeting of the Sub-Committee of the Board attended by them. Besides, they were also entitled to travelling allowance at the rate draw travelling to a Class I Officer drawing a salary of Rs. 2500/- per month and above. Thus the allo-

Omitted portions of the minutes are not covered by this Report.

wances drawn by them were more than 'compensatory allowance'. Besides, the Board exercised executive and financial powers as the Board might from time to time, incur expenditure and undertake works for the framing and execution of such housing schemes as it might consider necessary and such housing schemes might include housing schemes in relation to lands and buildings vested in or in the possession of the State Government.

In that connection, the Committee felt that even if Members of Parliament on their appointment as members of the Housing Board, were paid TA/DA at the same rate as were payable to an M.P. under Salary Allowances and Pension of Members of Parliament Act, 1954, it was not material as the Joint Committee on Offices of Profit (Fifth Lok Sabha) had consistently recommended that in view of the executive and financial powers exercised by the Housing Boards, the memberships (including chairmanships) *ought not to be exempt* from disqualification. The attention of the Committee was drawn to the following recommendation made by the Joint Committee on Offices of Profit (Fifth Lok Sabha) in respect of the Himachal Pradesh Housing Board:—

“The Committee note that the Chairman of the Himachal Pradesh Housing Board, if a non-official, is entitled to a pay not exceeding Rs. 1800/—per mensem which does not come within the ambit of 'compensatory allowance'. The other non-official members are entitled to TA/DA, which is less than the 'compensatory allowance'. However, as the Board exercises executive and financial powers, the Committee feel that the membership of the Board (including chairmanship) *ought not to be exempt* from disqualification.”

[Seventeenth Report (JCOP—Fifth Lok Sabha) para 28, p. 7]

As the non-official members of the West Bengal Housing Board were entitled to draw allowances @ Rs. 100/—per meeting of the Board besides travelling allowance at the rate admissible to a Class I Government Officer drawing a salary above Rs. 2500/—per month, the Committee were of the opinion that the remuneration admissible to non-official members of the Board was more than the 'compensatory allowance'. Besides, the

Board also exercised executive and financial powers. Hence, the Committee recommended that the non-official members of the West Bengal Housing Board *ought not to be exempt* from disqualification.

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11. *The Committee then adjourned to meet again on Tuesday, 31 May, 1983.*

XXXV

SEVENTH LOK SABHA
THIRTY-FIFTH SITTING

The Committee met on Tuesday, 31 May, 1983 from 11.00 to 12.00 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Virdhi Chander Jain
4. Shri Rasheed Masood
5. Shri S.A. Dorai Sebastian
6. Shri N.K. Shejwalkar
7. Shri Nandi Yellaiah
8. Shri Jamilur Rahman

Rajya Sabha

9. Shri Syed Rahmat Ali
10. Shri Robin Kakati
11. Shri Lakhan Singh
12. Shri Ram Bhagat Paswan

SECRETARIAT

Shri T.E. Jagannathan—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 130,

135 to 138 and 140 relating to the following Committees/Board etc. constituted by the Union Territory Administration.

Working Committee of National Foundation for Teachers Welfare (Pondicherry)—(Memorandum No. 130)

3. The Committee noted that no remuneration was paid to the non-official members of the Working Committee of National Foundation for Teachers Welfare (Pondicherry). The Committee, however, exercised executive and financial powers and was in a position to wield influence and patronage. As such, the Committee felt that the non-official members of the Working Committee of National Foundation for Teachers Welfare ought not to be exempt from disqualification.

District level Advisory Committee for District Industries Centre, Mahe Region (Pondicherry)—(Memorandum No. 135.)

4. The Committee noted that no remuneration was payable to the non-official members of the Committee. The functions of the Committee were also advisory in nature. As such, the Committee recommended that the non-official members of the District level Advisory Committee for District Industries Centre, Mahe Region (Pondicherry) ought to be exempt from disqualification.

District level Advisory Committee for District Industries Centre, Yanam Region (Pondicherry)—(Memorandum No. 136)

5. The Committee noted that no remuneration was payable to the non-official members of the Committee. The functions of the Committee were also advisory in nature. Hence, the Committee recommended that the non-official members of the District level Advisory Committee for District Industries Centre, Yanam Region (Pondicherry) ought to be exempt from disqualification.

Committee for Rehabilitation of Sick Units (Pondicherry)—(Memorandum No. 137)

6. The Committee noted that no remuneration was payable to the non-official members of the Committee. The functions of the Committee were also advisory in nature. As such, the Committee felt that the non-official members of the Committee for Rehabilitation of Sick Units (Pondicherry) ought to be exempt from disqualification.

State Level Ancillary Guidance Committee for the development of ancillary industries in Pondicherry-(Memorandum No. 138)

7. The Committee noted that no remuneration was payable to the non-official members of the State Level Ancillary Guidance Committee for the development of ancillary industries in Pondicherry. The functions of the Committee were, however, executive and financial in nature. Hence, the Committee recommended that the non-official members of the Committee *ought not to be exempt* from disqualification.

Joint Civilian Army Boards for Selection for Commission as part-time officers for N.C.C. in Educational Institutions (Pondicherry)-(Memorandum No. 140)

8. The Committee noted that the non-official member of the Joint Civilian Army Boards for Selection for Commission as part time officers for N.C.C. in Educational Institutions (Pondicherry) was not entitled to any remuneration. The function of the Boards namely to select N.C.C. part-time officers was executive in nature. The Boards were, thus, in a position to wield influence by way of patronage. As such, the Committee felt that the non-official members of the Joint Civilian Army Boards for Selection for Commission as part-time officers for N.C.C. in Educational Institutions *ought not to be exempt* from disqualification.

While arriving at the above decision, the Committee noted the fact that in the case of a similar body, viz., Committee for Selection of N.C.C. Officer, Senior (Andamans), the Joint Committee on Offices of Profit (Fifth Lok Sabha) recommended as follows:—

“The Committee note that no remuneration is payable to the non-official members of the above bodies, and as such, they do not hold an office of profit within the meaning of Article 102 (1) (a) of the Constitution. It is true that a majority of above bodies carries executive of financial powers; and even where the bodies are Advisory, their members, are in a position to wield influence. But the question] is whether the nature and extent of the influence that may be wielded by the members of these bodies is such as to call for their disqualification under Article 102 (1) (a) of the Constitution. After giving a careful thought to the character, composition, etc. of each of the above bodies, the Committee have come to the conclusion

that membership of none of the above bodies need be disqualified under Article 102 (1) (a) of the Constitution.

[18R (JCOP-5LS), para 22, p.8]

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The Committee then adjourned.

XXXVI

THIRTY-SIXTH SITTING

The Committee met on Monday, 27 June, 1983 from 15.00 to 15.45 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Harish Kumar Gangwar
4. Shri Virdhi Chander Jain
5. Shri Jamilur Rahman
6. Shri S.A. Dorai Sebastian
7. Shri N.K. Shejwalkar

Rajya Sabha

8. Shri Syed Rahmat Ali
9. Shri Dinesh Goswami
10. Shri Robin Kakati
11. Shri Lakhan Singh

SECRETARIAT

Shri S.S. Chawla—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration 9 memoranda (Nos. 141 to 148 and 150) relating to the following Committees/Boards, etc. constituted by the Union Territory Administration of Pondicherry.

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State Sangeetha Nataka Sangam, Pondicherry—(Memorandum No. 142)

The Committee noted that no remuneration was payable to the non-official members of the State Sangeetha Nataka Sangam, Pondicherry. The functions of the Sangam were mainly advisory in nature. As such the Committee felt that the non-official members of the Sangam *ought to be exempt* from disqualification.

Programme Advisory Committee, Pondicherry—(Memorandum No. 143)

The Committee noted that no remuneration was payable to the non-official members of the Programme Advisory Committee, Pondicherry. The functions of the Committee were also advisory in nature. Hence, the Committee felt that the non-official members of the Committee *ought to be exempt* from disqualification.

Advisory Committee for Promotion of Art and Culture, Union Territory of Pondicherry—(Memorandum No. 144)

The Committee noted that no remuneration was payable to the non-official members of the Committee. The functions of the Committee were also advisory in nature. As such, the Committee felt that non-official members of the Advisory Committee for Promotion of Art and Culture, Pondicherry *ought to be exempt* from disqualification.

State Organising Committee of Nehru Yuvak Kendra Pondicherry—(Memorandum No. 145)

The Committee noted that the Joint Committee on Offices of Profit (Seventh Lok Sabha) had examined a similar body, viz., State Organising Committee on Nehru Yuvak Kendras (Tamil Nadu) and recommended that non-official member of that body *ought to be exempt* from disqualification *vide* their Fifth Report (Seventh Lok Sabha), paragraph 2.14, page 9.

In the case of State Organising Committee on Nehru Yuvak Kendra (Pondicherry), no remuneration was payable to the non-official members

of the Committee. The functions of the Committee were also advisory in nature. As such, the Committee felt that non-official members of the Nehru Yuvak Kendra, Pondicherry ought to be exempt from disqualification.

Arbitration Promotion Board at State Level, Pondicherry—(Memorandum No 146)

The Committee noted that no remuneration was payable to the non-official members of the Arbitration Promotion Board. The functions of the Board were also advisory in nature. As such, the Committee felt that the non-official members of the Arbitration Promotion Board at State Level, Pondicherry ought to be exempt from disqualification.

State Board of Adult Education, Pondicherry—(Memorandum No. 147)

The Committee noted that no remuneration was payable to the non-official members of the Board. The functions of the Board were also advisory in nature. As such, the non-official members of the State Board of Adult Education, Pondicherry ought to be exempt from disqualification.

Committee for the Welfare of Scheduled Castes and Social Welfare, Pondicherry—(Memorandum No. 148)

The Committee felt that though the functions of the Committee for the Welfare of Scheduled Castes and Social Welfare, Pondicherry were mainly advisory in nature but in view of the fact that the non-official members of the Committee were entitled to draw TA/DA as provided in Government Rules (rates not specified), the non-official members of the Committee for the Welfare of Scheduled Castes and Social Welfare ought to be exempt from disqualification, so long as the payment of TA/DA did not exceed the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959.

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The Committee then adjourned to meet again on Tuesday, 28 June, 1983 at 11.00 hours.

**Omitted portions of the minutes are not covered by this Report.

XXXVII

THIRTY-SEVENTH SITTING

The Committee met on Tuesday, 28 June, 1983 from 1100 to 1200 hours.

PRESENT

Shri Gulsher Ahmed—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Krishan Chandra Halder
4. Shri Virdhi Chander Jain
5. Shri Jamilur Rahman
6. Shri Rasheed Masood
7. Shri N.K. Shejwalkar

Rajya Sabha

8. Shri Dinesh Goswami
9. Shri Robin Kakati
10. Shri Lakhun Singh

SECRETARIAT

Shri S.S. Chawla—*Senior Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 149 and 151 to 155 relating to the following Committees, Boards, etc. constituted by the Central Government and Union Territory Administration.

State Level Co-ordination Committee for District Industries Centre (Pondicherry)—(Memorandum No. 149)

3. The Committee felt that though the non-official members of the Co-ordination Committee were not entitled to any remuneration yet the Committee exercised executive powers like recruitment of personnel and selection of land for District Industries Centre. Thus, the Committee was in a position to wield influence and patronage. As such, the non-official members of the State Level Co-ordination Committee for District Industries Centre, Pondicherry *ought not to be exempt* from disqualification.

Review Committee to review the progress of the Agricultural Refinance Development Corporation Scheme for Development Fisheries in Pondicherry and Karaikal regions (Pondicherry)—(Memorandum No. 151)

4. The Committee noted that no remuneration was payable to the non-official members of the Committee. The functions of the Committee were mainly advisory in nature. As such, the Joint Committee felt that the non-official members of the Review Committee to review the progress of the Agricultural Refinance Development Corporation Scheme for Development Fisheries in Pondicherry and Karaikal regions (Pondicherry) *ought to be exempt* from disqualification.

Screening Committee for the Panels for Sports Commentators (Ministry of Information and Broadcasting)—(Memorandum No. 152)

5. The Committee noted that the non-official members of the Screening Committee were entitled to consultancy fee of Rs. 75/- per day which was not covered by the 'compensatory allowance'. The functions of the Screening Committee for the Panels for Sports Commentators were executive in nature.

As such, the Committee felt that the non-official members of the Screening Committee *ought not to be exempt* from disqualification.

Advisory Committee on Sports Programmes (Ministry of Information and Broadcasting)—(Memorandum No. 153)

6. The Committee noted that the non-official members of the Advisory Committee on Sports Programmes residing outside Delhi were

entitled to TA as admissible under the rules and a fee of Rs. 75/- per day which was not covered by the 'compensatory allowance'. Hence, the Committee felt that non-official members of the Advisory Committee on Sports Programmes *ought not to be exempt* from disqualification.

Leprosy Advisory Committee, Pondicherry—(Memorandum No. 154)

7. The Committee noted that the non-official members of the Leprosy Advisory Committee, Pondicherry were entitled to draw TA/DA at the rates admissible to Grade I Officers which was less than the 'compensatory allowance'. The functions of the Committee were also purely advisory in nature. As such, the Committee felt that non-official members of the Leprosy Advisory Committee, Pondicherry *ought to be exempt* from disqualification.

Committee for Selection of Best Hospital, Best Primary Health Centre and Best Dispensary, Pondicherry—(Memorandum No. 155)

8. The Committee noted that the non-official members of the Committee under examination were entitled to draw TA/DA at the rates admissible to Grade I Officers which was less than the 'compensatory allowance'. The functions of the Committee were also purely advisory in nature. Hence, the non-official members of the Committee for Selection of Best Hospital, Best Primary Health Centre and Best Dispensary *ought to be exempt* from disqualification.

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The Committee then adjourned.

XLIV
FORTY-FOURTH SITTING

The Committee met on Monday, 28 November, 1983 from 150 to 1530 hours.

PRESENT

Shri Gulsher Ahmed—Chairman

MEMBERS

Lok Sabha

2. Shri Ajitsinh Dabhi
3. Shri Krishna Chandra Halder
4. Shri N.K. Shejwalkar
5. Shri Nandi Yellaiah

Rajya Sabha

6. Shri Syed Rahmat Ali
7. Shri Robin Kakati
8. Shri Lakhna Singh
9. Shri Ram Bhagat Paswan

SECRETARIAT

1. Shri H.G. Paranjpe—*Joint Secretary*
2. Shri S.S. Chawla—*Senior Legislative Committee Officer*

2. The Committee considered their draft Seventh Report and adopted it.

3. The Committee decided that the Seventh Report might be presented to Lok Sabha on 6 December, 1983 and a copy thereof laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in his absence, Shri Krishna Chandra Halder, M.P. to present the Report to Lok Sabha on their behalf.

The Committee authorised Shri Syed Rahmat Ali, M.P. and, in his absence, Shri Lakhan Singh, M.P. to lay the Report on the Table of Rajya Sabha.

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The Committee then adjourned.

*Omitted portions of the minutes are not covered by this Report.