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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment pronounced on: 17.04.2025

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W.P.(C) 5437/2024 & CM APPL.22454/2024ALL INDIA BAR ASSOCIATION OF NATIONAL
CONSUMER DISPUTES REDRESSAL COMMISSION.....PetitionerThrough: Mr. Abhijat, Sr. Adv. alongwith Mr.
Navneet Kumar, Mr. Sanjeev Kumar
Verma, Mr. P.K. Seth, Mr. Sagar
Saxena, Mr. Pratyush Sharma and Mr.
Avnish Kumar, Advocates.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Saarika Singh, SPC alongwith
Mr. Chetan Jadon and Ms. Shivangi
Rajawat, Advocates for R1 and R2.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****JUDGMENT**

1. The present petition seeks restoration of the summer and winter vacations in the calendar of the National Consumer Dispute Redressal Commission (hereinafter 'NCDRC'). It is also sought that the calendar of the NCDRC be drawn up at par with the calendar of other commissions, tribunals and courts.
2. The petitioner herein is a registered Bar Association of NCDRC which, *inter alia*, works for the collective welfare of its member Advocates practicing before the NCDRC.
3. NCDRC is a quasi-judicial body which was set up in the year 1988 under the Consumer Protection Act, 1986 for adjudication of consumer



complaints/disputes.

4. It is submitted by the petitioner, that like all quasi-judicial authorities, the NCDRC, ever since inception, has been observing summer vacations in the month of June and winter vacations in the last week of December. It is also submitted that this practice was followed till 2020 but discontinued from 2021 onwards, presumably on account of the Covid-19 Pandemic.

5. It is submitted that prior to 2021, the calendar of NCDRC was consistent with the calendar of various courts/tribunals; however, without any consultation with Bar Association, there has been a change as regards the drawing up of the calendar. It is averred that the aforesaid change is quite divergent *viz-a-viz*. calendars of authorities/tribunal like Central Administrative Tribunal (CAT), National Company Law Appellate Tribunal (NCLAT), National Green Tribunal (NGT), Armed Forces Tribunal (AFT), Appellate Tribunal for Electricity. These tribunals also function under the supervision/administration of ministries under the Union of India. It is further submitted that even the calendar of the Delhi State Consumer Dispute Redressal Commission (DSCDRC) which is under the administrative control of the NCDRC, has provision for vacations at par with the other tribunals, commissions and courts.

6. It is submitted that there is no justification for this divergence, and that the same severely jeopardized the well-being of the legal fraternity and adversely affects the administration of justice.

7. In the above circumstances, a written representation/communication dated 29.08.2023 was addressed by the President and General Secretary of petitioner Association to the President of the NCDRC, thereby requesting



for restoration of summer and winter vacation in terms of the past practices and to maintain parity with the calendars of other tribunals.

8. It is pointed out that the President, NCDRC vide letter dated 25.09.2023 requested the Secretary, Department of Consumer Affairs, Food and Public Distribution, Ministry of Food and Consumer Affairs, Government of India to consider the request of the petitioner. It is averred that despite the aforesaid communication, the respondent no.1 did not pay any heed to the concern/s raised by the petitioner and hence the petitioner was constrained to file the present petition. It is averred in the petition as under: -

“13. It is respectfully submitted that unlike the Government and Private Employees, the advocates do not enjoy casual and medical leaves. Therefore, the Summer and Winter Vacations are the only recourse for the advocates for all their personal and professional requirements. In addition to this, when a person takes time away from the stress of work and daily life, it can inter alia improve their physical and mental health, as well as their motivation and creativity, job performance, and even the perspective. A vacation can help feel rested, refreshed, resilient, and prepared to handle whatever comes on the return. It can also boost the ability to make positive changes in and around which often ripple out from the person and positively impact the workplace and people around them.

14. That it is a well-known fact that the advocates are compelled to work under very adverse circumstances throughout the year and the advocates also have right to life as guaranteed under the Article 21 of the Constitution of India which includes a dignified and healthy life. Advocates are not salaried person, they also work pro bono and keeps on fighting for the fundamental rights of the citizen at large. The Summer and Winter Vacation is the least which the State can provide for a decent professional and personal life of the advocates. Not providing the Vacations in NCDRC Calendar is practically taking away the Vacation provided under the Calendar of the other Tribunals and Commissions as the same set of advocates are practising in all these Tribunals/Commissions/Courts. The Respondent No. 1 is also constitutionally bound to respect the right to equality.”



9. The reply filed on behalf of the respondent no.1 to the present petition states as under:-

“3. Again in respect of the PRAYERS clause b) (as quoted in para 1 above), it is respectfully submitted that the Hon'ble court may kindly take a practical approach and may kindly consider the object of the Act, that is, to provide for 'protection of the interests of consumers' (Preamble of the Act) and to provide 'speedy and simple redressal to consumer disputes (Statement of Objects and Reasons).

It is humbly submitted that halting its proceedings for an extended period would be detrimental, as it would lead to a backlog of cases, hinder consumers' access to justice, and negatively impact all stakeholders. This includes not only consumers but also businesses involved in consumer disputes.

It is important to note that the Consumer Protection Act, 2019, mandates the timely resolution of consumer disputes. Any interruption in the proceedings of the Consumer Commissions would contravene this legal obligation and undermine the very purpose of the Act.

4. It is respectfully submitted that regarding the question of maintaining parity with the calendars of other adjudicating authorities and making comparisons, it may be emphasized that each tribunal or commission operates differently based on its own requirements. The decision of other bodies to continue vacations doesn't automatically justify the need for the National Commission to do the same. This mechanical application of the decision of other adjudicatory bodies to have vacations is to be avoided, as it fails to account for the unique circumstances and operational necessities of the National Commission.”

10. In the Counter-affidavit filed on behalf of the respondent no.2/Registrar, NCDRC, Delhi, it has been stated as under: -

“2. That the Representation moved by the petitioner was forwarded to the Ministry vide letter dated 25.09.2025 which is already available to the petitioners.

3. That the Authority to fix the workings days and office hours of the National Commission shall be the same as that of the Central Government under Rule 3 of the Consumer Protection (Consumer Disputes Redressal Commission) Rules 2020. Accordingly, the holidays



at the Commission are also governed by the calendar of the Central Government and, therefore, it is the Central Government that has the authority to deal with the subject matter.

4. That the Commission is not empowered to either declare holidays or vacations keeping in view the aforesaid provisions.”

REASONING AND FINDINGS

11. At the outset, it would be necessary to emphasize that under the Consumer Protection Act, 2019, NCDRC is a tribunal which is vested with judicial powers and functions for the purpose of adjudicating the disputes that fall within its purview.

12. The Supreme Court in **Ibrat Faizan vs Omaxe Buildhome Pvt. Ltd**, (2023) 11 SCC 594, placing reliance on the judgment in **Associated Cement Companies Ltd. vs P.N Sharma, AIR 1965 SC 1595** has held as under:

“18. Whether the National Commission can be said to be a “tribunal” for the purpose of exercise of powers under Article 227 of the Constitution by the High Court is concerned, has been considered by a Constitution Bench of this Court in Associated Cement Companies [Associated Cement Companies Ltd. v. P.N. Sharma, 1964 SCC OnLine SC 62: AIR 1965 SC 1595] , which is required to be referred to. In paras 44 and 45, it is observed and held as under: (SCC p. 1609)

“44. An authority other than a court may be vested by statute with judicial power in widely different circumstances, which it would be impossible and indeed inadvisable to attempt to define exhaustively. The proper thing is to examine each case as it arises, and to ascertain whether the powers vested in the authority can be truly described as judicial functions or judicial powers of the State. For the purpose of this case, it is sufficient to say that any outside authority empowered by the State to determine conclusively the rights of two or more contending parties with regard to any matter in controversy between them satisfies the test of an authority vested with the judicial powers of the State and may be regarded as a tribunal within the meaning of Article 136. Such a power of adjudication implies that the authority must act judicially and must determine the dispute by ascertainment of the relevant facts on the materials before it and by application of the relevant law to those



facts. This test of a tribunal is not meant to be exhaustive, and it may be that other bodies not satisfying this test are also tribunals. In order to be a tribunal, it is essential that the power of adjudication must be derived from a statute or a statutory rule. An authority or body deriving its power of adjudication from an agreement of the parties, such as a private arbitrator or a tribunal acting under Section 10-A of the Industrial Disputes Act, 1947, does not satisfy the test of a tribunal within Article 136. It matters little that such a body or authority is vested with the trappings of a court. The Arbitration Act, 1940 vests an arbitrator with some of the trappings of a court, so also the Industrial Disputes Act, 1947 vests an authority acting under Section 10-A of the Act with many of such trappings, and yet, such bodies and authorities are not tribunals.

45. The word “tribunal” finds place in Article 227 of the Constitution also, and I think that there also the word has the same meaning as in Article 136.”

Therefore, the National Commission can be said to be a “Tribunal” which is vested by statute with the powers to determine conclusively the rights of two or more contending parties with regard to any matter in controversy between them. Therefore, as observed hereinabove in the aforesaid decision, it satisfies the test of an authority vested with the judicial powers of the State and therefore may be regarded as a “Tribunal” within the meaning of Article 227 and/or 136 of the Constitution. Also, in a given case, this Court may not exercise its powers under Article 136 of the Constitution, in view of the remedy which may be available to the aggrieved party before the High Court concerned under Article 227 of the Constitution, as it is appropriate that aggrieved party approaches the High Court concerned by way of writ petition under Article 227 of the Constitution.”

13. Further, the High Court of Calcutta in ***M/s Kesoram Industries Limited vs Allahabad Bank***, 2017 SCC OnLine Cal 2177, observed that *State and National Consumer Forums have “trappings of the courts and are adjudicatory bodies, though not in strict sense, but are judiciary set up by the government to protect the consumer rights”*. Relevant portion of the said judgment reads as under:



“42. Reference is also made on behalf of the plaintiff in case of Mysore State Electricity Board v. Bangalore Woollen, Cotton and Silk Mills Limited reported in AIR 1963 SC 1128 wherein it has been held, “tribunals are those bodies of men who are appointed to decide controversies arising under certain special laws all tribunals are not courts though all courts are tribunal followed in (2012) 8 SCC 243 Bar Council of India v. Union of India”.

43. In case of Harinagar Sugar Mills Limited v. Shyam Sundar Jhunjhunwala reported in AIR 1961 SC 1669 it was held inter alia-Court means court of Civil judicature and tribunals which decide controversies arising under certain special laws.

44. In case of State of Gujarat v. Gujarat Revenue Tribunal Bar Association reported in (2012) 10 SCC 353 the Hon'ble Apex Court has held that all courts are tribunals but all tribunals are not courts.

45. In case of Charan Singh v. Healing Touch Hospital [(2000) 7 SCC 668] it was observed in paragraph 11 by the Hon'ble Apex Court thus—

“11. Consumer Protection Act is one of the benevolent pieces of legislation intended to protect a large body of consumers from exploitation. The Act provides for an alternative system of consumer justice by summary trial. The authorities under the Act quasi-judicial powers for redressal of consumer disputed and it is one of the postulates of such a body that it arrive at a conclusion on reason. The necessity to provide reasons, howsoever, brief in support of its conclusion by such a forum, is too obvious to be reiterated and needs no emphasising. Obligation to give reasons not only introduces clarity but it also excludes, or at any rate minimizes, the chances of arbitrariness and the higher forum can test the correctness of those reasons.”

46. Having respectfully gone through the cited decisions, in my opinion, the State/National Forums have trappings of Courts and are adjudicatory bodies, though not in strict sense Courts, which decide and settle the consumers disputes and matter connected therewith by adhering to the provisions of Civil Procedure Code and these consumer Courts are judiciary set up by the government to protect the consumer rights and would fall within the meaning of Section 3 of Indian Evidence Act.

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48. It is well settled that in order to decide whether a decision in an earlier litigation operates as res judicata, the Court must look at the



nature of the litigation, what were the issues raised therein and what was actually decided in it.

49. In the present case having gone through the pleading of the parties and the evidence-on-record and the judgments rendered by the said forums, in unequivocal term it is clear that the issues involved in this suit were substantially the issues before the State Consumer Disputes Redressal Commission which stood decided by the judgment dated 31.3.2008 which attained its finality with the merger of judgment and order of the National Consumer Dispute Redressal Commission.

50. In the context of the foregoing discussions, on critical examination of the judgments of the said forums and considering the nature of the litigation and the issues raised and decided therein being similar to the facts and circumstances of the instant case, the issues now cannot be reopened and re-agitated as in my opinion the suit is barred by the principle of res judicata within the meaning of Section 11 of Code of Civil Procedure.”

14. Moreover, by virtue of section 71 of the Consumer Protection Act, 2019 the powers of the consumer forums are akin to a ‘civil court’ and any order passed by a District/State/National Commission is enforceable in a manner as if it was a decree made by a court in a suit. The said provision reads as under:

“71. Enforcement of order of District Commission, State Commission and National Commission.- Every order made by a District Commission, State Commission or the National Commission, shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule of the Code of Civil Procedure, 1908 (5 of 1908) shall, as far as may be, applicable, subject to the modification that every reference therein to decree shall be construed as reference to the order made under this Act.”

15. In the aforesaid conspectus, it is evident that the NCDRC being an authority vested with wide “judicial powers”, cannot be treated as akin to a government department. Given the nature of judicial functions discharged by the NCDRC, it enjoys autonomy as an independent authority exercising



judicial functions.

16. The Supreme Court in ***Madras Bar Association of India vs Union of India and Anr***, (2014) 10 SCC 1, while adjudicating upon the validity of provisions under the National Tax Tribunal Act, 2005 observed that in the proceedings which are initiated before a tribunal, Central Government/Union of India is usually impleaded as a major stakeholder/party. Allowing such a contesting party/stakeholder before the tribunal to interfere in the decision of composition and constitution of bench/es would certainly impinge upon the independence and accountability of a tribunal. The relevant portion of the judgment reads as under:

“124. One needs to also examine sub-sections (2), (3), (4) and (5) of Section 5 of the NTT Act, with pointed reference to the role of the Central Government in determining the sitting of the Benches of NTT. The Central Government has been authorised to notify the area in relation to which each Bench would exercise jurisdiction to determine the constitution of the Benches, and finally to exercise the power of transfer of Members of one Bench to another Bench. One cannot lose sight of the fact that the Central Government will be a stakeholder in each and every appeal/case which would be filed before NTT. It cannot, therefore, be appropriate to allow the Central Government to play any role, with reference to the places where the Benches would be set up, the areas over which the Benches would exercise jurisdiction, the composition and the constitution of the Benches, as also, the transfer of the Members from one Bench to another. It would be inappropriate for the Central Government to have any administrative dealings with NTT or its Members. In the jurisdictional High Courts, such power is exercised exclusively by the Chief Justice in the best interest of the administration of justice. Allowing the Central Government to participate in the aforesaid administrative functioning of NTT, in our view, would impinge upon the independence and fairness of the Members of NTT. For the NTT Act to be valid, the Chairperson and Members of NTT should be possessed of the same independence and security as the Judges of the jurisdictional High Courts (which NTT is mandated to substitute). Vesting of the power of determining the jurisdiction, and the postings of different Members, with the Central Government, in our considered view, would undermine the independence and fairness of the Chairperson and



the Members of NTT, as they would always be worried to preserve their jurisdiction based on their preferences/inclinations in terms of work, and conveniences in terms of place of posting. An unsuitable/disadvantageous Chairperson or Member could be easily moved to an insignificant jurisdiction or to an inconvenient posting. This could be done to chastise him, to accept a position he would not voluntarily accede to. We are, therefore of the considered view, that Section 5 of the NTT Act is not sustainable in law as it does not ensure that the alternative adjudicatory authority is totally insulated from all forms of interference, pressure or influence from coordinate branches of Government. There is therefore no alternative but to hold that sub-sections (2), (3), (4) and (5) of Section 5 of the NTT Act are unconstitutional.

17. Thus, there can be no cavil that NCDRC enjoys autonomy which flows from the very nature of functions discharged by it. In the very nature of things, this autonomy must extend to all facets of the functioning of the NCDRC including for the purpose of determining its calendar.

18. Rule 3 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020¹ (hereinafter 'Rules, 2020') cannot be construed as conferring power of the Central Government to determine the judicial calendar of the NCDRC. While the working days and office hours for the purpose of administrative staff can be fixed in accordance with Rule 3 of the Rules 2020, the NCDRC would enjoy in autonomy, as far as, drawing up of its judicial calendar is concerned, which include determining the dates on which Benches will sit.

19. The position that the President NCDRC has autonomy in determining the dates on which the Benches of the NCDRC sit for the purpose of judicial work, is also evident from Rule 5 of the Rules 2020 which provides as under:-

¹ **3. Working days and office hours of National Commission.**—The working days and office hours of the National Commission shall be the same as that of the Central Government.



“5. Sitting of National Commission.—The President of the National Commission shall convene sittings of the National Commission as and when it may be necessary, and such sittings shall be notified by the National Commission.”

20. The suggestion in the counter-affidavit filed on behalf of the respondent no.1 that prescribing for vacations in June/December would be detrimental as it would lead “to backlog of cases, hinder consumers access to justice and negatively impact all the stakeholders”, is wholly unjustified.

21. The notion that courts/tribunals have excessive vacations is a common myth, based on a complete misconception as regards judicial functioning and workload. A Division Bench of this Court *vide* order dated 03.07.2013 in W.P.(C) 4138/2013² [upheld by the Supreme Court *vide* order dated 13.09.2013 in SLP(C) No(s). 27120/2013] has also taken note of the same. Also, contrary to some prevailing notions, even on working days, judicial work is not confined to presiding over court proceedings, and extends well

² It was observed therein as under:-

“... As regards curtailing the summer vacations of the High Court of Delhi is concerned, it is well known that the High Court has to maintain 210 court sitting days in a year and that is being religiously maintained. Moreover, the Court also functions on all Saturdays which are not otherwise declared as holidays.

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Apart from this, the suggestion of discontinuation of summer vacations is not practically feasible. The Judges as well as the lawyers of the Court are already over worked and they cannot be required to work anymore than what they are already doing. Perhaps, the petitioner does not know that even during the summer vacations, the High Court is not closed for those in need of urgent orders. The Vacation Benches of this Court work on Mondays, Wednesdays and Fridays during the summer vacations. Furthermore, the petitioner also does not seem to be aware of the fact that most Judges do not spend their entire vacations vacationing but spend a substantial part of the time either in their office at home or in the High Court writing judgments which have been reserved by them prior to vacations.

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The petitioner has also suggested that vacations may be taken on a rotation basis as is done in some police organisations and hospitals.

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Unfortunately, the petitioner does not realise that those organisations cannot be compared with the Court system. It is neither practically feasible nor it is advisable to have Benches sitting in rotation. If that were to be implemented, the position insofar as the litigants are concerned might become absolutely chaotic.”



beyond regular working hours.

22. Judicial notice can also be taken of the fact that the cases arising for consideration by the tribunals such as NCDRC often involve complex issues, requiring considerable time in analysis, research and incorporation of detailed legal reasoning in its judgments, for which there may not be sufficient time during regular Courts days. Moreover, it is a matter of common knowledge that judicial vacations provide a crucial window for technical up-gradation without disrupting the daily proceedings. This period is effectively used to implement improvement in infrastructure, digitalization and case management systems.

23. It is, therefore, complete erroneous to suggest that prescribing for vacations, including during June/December, would undermine the salutary object of speedy redressal of consumer disputes.

24. It is noticed that, after receipt of the representation sent by the President of petitioner/Bar Association, the President of NCDRC addressed a letter to the Secretary, Department of Consumer Affairs, in which it is stated as under:

“This is to request you to kindly consider the representation moved by All India Bar Association of National Consumer Disputes Redressal Commission through its President. Mr PK Seth and General Secretary Mr Maibam N. Singh, Advocates for restoring the practice of Summer and Winter vacations in the Commission that was existing prior to the Pandemic Vacations for lawyers and the other professionals of the judicial fraternity have been in vogue for long. As a matter of tradition, and also of rules vacations have been designed to suit the profession as a measure to distress and allow relaxation in the functioning of professionals of the Bar and Bench alike. The lawyers who generally practice at the National Commission are also practitioners at the Bar in the District Courts as well as the High Courts and the Supreme Court. The calendar of courts are obviously designed as per the rules of the court with provisions for Sumer and Winter vacations but in the case of



the National Commission, presently the vacations are governed in tune with the calendar of the Central Government offices. This has now reduced the number of days of vacations for the lawyers considerably. Vacations concern only the sittings and adjudicatory functions of the Commission and not the administrative working of the establishment.

The suggestion for the vacations is therefore not to affect administrative functions of the Commission and the request is only for a concession in the number of working days of the sittings of the Commission.

To justify their demands, the Association has also appended the calendar of other Tribunals and Commissions referred to in the second Paragraph of their Representation and copies thereof are also enclosed herewith for your kind perusal.

The National Green Tribunal for the year: 2023 in the month of June and December reflects vacations The State Consumer Disputes Redressal Commission, Delhi in its calendar of 2023 also indicates no sitting of the Commission in the month of June and partly in the month of December which reflects their vacations. The calendar of Central Administrative Tribunal for the year 2023 also reflects vacations in June and then few days in December. The National Company Law Appellate Tribunal for the year 2023 also demonstrates the same position. It is with this reflection in respect of other quasi-judicial bodies and Tribunals that the lawyers have made this demand.

I therefore request you to kindly consider the said proposal of the All India Bar Association of National Consumer Disputes Redressal Commission sympathetically and a decision be taken to be informed to the Members of the Bar for which I shall be grateful.

I have also requested the President and General Secretary to seek a formal appointment from you for apprising about their request."

25. It is unfortunate that the aforesaid communication of the President of the NCDRC has not been considered by the respondent no.1.

26. In the circumstances, the present petition is disposed of with a direction to the respondent no.1 to consider the aforesaid communication addressed by the President, NCDRC to respondent no.1/Secretary, Department of Consumer Affairs, Food and Public Distribution. Let the



calendar for the NCDRC be fixed in consultation with President, NCDRC and taking into account the views and interest of all the stakeholders, including the Bar Association. Further, it is clarified that the President, NCDRC shall have autonomy for the purpose of determining the judicial calendar of NCDRC /scheduling sittings of the Commission, as may be expedient. While doing so, it shall be open for the President, NCDRC to prescribe certain days in June/December, during which the Benches shall not be sitting/convening.

27. The present petition stands disposed of in the above terms. The pending application also stands disposed of.

SACHIN DATTA, J

APRIL 17, 2025/at/sl