

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL  
COMMISSION**

**Date of Institution: 20.10.2022**

**Date of Hearing: 06.11.2025**

**Date of Decision: 05.01.2026**

**FIRST APPEAL NO.-195/2022**

**IN THE MATTER OF**

**JAI PARKASH MALIK  
48 VILL. NASIRPUR  
NEW DELHI-110045**

...Appellant in person

**VERSUS**

**1. E.P.F.O  
WAZIRPUR BUILDING PLOT NO. 28,  
INDUSTRIAL AREA, NEW DELHI-110052.**

**2. E.S.I  
SECTOR-7, NEAR SAI BABA MANDIR,  
ROHINI, DELHI-110085.**

**(Through: Mr. Lalit Kumar, Branch Manager)**

...Respondent

**JAI PRAKASH MALIK VS E.S.I****CORAM:****HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)**

Present: Appellant in person.  
None for Respondent.

**PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT****JUDGMENT**

1. The facts of the case as per the District Commission record are as under :

*“The complainant has filed the present complaint against OPs alleging the deficiency in services. The brief facts of the case are as under:*

*The complainant is the employee of Baba Chaurangi Nath Pvt. Ltd., Peeragarhi, Delhi. He is working at the salary of Rs. 7410/- with the company and as such he was deprived of the EPF Scheme launched by the government. It is alleged by the complainant that in connivance with the OP his employee got succeeded in not paying in the EPF Scheme on behalf of his employee. He further states that he is entitled for the EPF Scheme issued by the Govt. of India, however due to the deficiency on the part of OP as well as in connivance of the official of the OP with his employer he was deprived of the same which amounts to unfair trade practice on the part of the OP, hence this complaint.*

*Complaint has been contested by OP-1. OP-1 filed its WS in which it is stated that the complainant was never-covered under the benefit of EPF Scheme 1952 and thus is an excluded employee as para 2(f)(11) of EPF Scheme 1952, hence the benefit of the same could not be extended to him.*

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*It is further stated that no case of unfair trade practice as alleged can be made out qua OP-1 and present complaint be dismissed with cost.*

*Complainant and OP-1 filed their evidence as well as written argument.”*

2. The District Commission after taking into consideration the material available on record, passed the order dated 27.09.2022 and held as under :

*“We have heard the argument advance at the bar and have perused the record.*

*Short question for adjudication in the present complaint is whether the complainant fall under the category of consumer, and whether the present dispute is a consumer dispute or not. In the first instance we may examine the term "consumer.*

*Section 2(1)(d) of the Act defines the term "Consumer" as under:*

*2 (1) (d) "Consumer" means any person who-*

*(1) Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of defaned payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale of for any commercial purpose; or*

*(i) [hires or avails of] any services for a consideration which has been paid or promised or partly paid any partly promised, or under any system of deferred payment and includes any beneficiary or such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid any partly promised, or under any system*

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*of deferred payment, when such services are availed of with the approval of the first mentioned person [but does not include a person who avails of such services for any commercial purpose];*

*Undisputedly, in the present complaint, the complainant was the employee of Baba Chaurangi Nath Pvt. Ltd., Peeragarhi, Delhi, this being a dispute between the employer and the employee, would not fall within the purview of service to attract beneficial provision incorporated under Consumer Protection Act.*

*The judicial precedence of the National Commission have cautioned us not to embark upon for adjudication in the matters which are not consumer disputes. (Reliance is placed upon the judgement of Hon'ble National Commission titled as Maharashtra State Electricity Board and Representatives Vs Madhukar Vithal Kale through Lrs and Ors, 1 (2010) CPJ 20(NC).*

*We accordingly hold that since the complainant does not cover under the definition of "consumer" under Section 2(1)(d) of consumer protection Act, the remedy does not lie before the consumer fora. The complainant if aggrieved with the action of OPs, can agitate the issue before the competent authority for redressal of his grievance.*

*In view of the above we find no merits in the present complaint, same is hereby dismissed with liberty to the complainant to approach the appropriate court as per law.*

*This final order be sent to server ([www.confonet.nic.ind](http://www.confonet.nic.ind)). A copy of this order each be sent to both parties free of cost by post as statutorily required. File be consigned to Record Room”*

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3. Aggrieved by the aforesaid decision of the district Commission, the Appellant has preferred the present appeal on the following grounds :

“ महाशय,

मैंने घनश्याम बंसल बाबा चौरागी नाथ प्रा० लि०, के० एन०जी, SS पावर कंट्रोल के पास कुल ग्यारह साल काम किया/पीरगढ़ी 87 में। जिसमे मेरा ESI 2006 से 2012 तक चलता रहा। मुझे काम पर से हटा दिया। जिस कारण मैं बेरोजगार हो गया।

1. ESI में प्रावधान है की जो तीन साल ESI चला चुका है वो राजीव गांधी श्रम योजना के तहत वर्तमान ग्रेड का अधिकतम बारह महिना का ले सकता है। हमने छ साल चला चुका हूँ।

2. जो पाँच साला चलाने पर 120/- साल में एक बार चुका देने पर पर मेडिकल सुविधा ले सकता है। जब छ साल चला चुका हूँ।

इसीलिए वर्तमान समय ग्रेड तकरीबन 18000/- स० है। उस हिसाब से आधा 9000/- होता है।

$9000 \times 12$  महिना = 1,08,000.00

शारीरिक एव मासिक ट्रांसमेंट = 15000.00

(2014-2022 तक आगे क्या होगा)

छोटा मोटा खर्च = 10,000.00

टोटल = 1,33,000.00

एक लाख तैतीस हजार दिलाया जाए।

अभी जो जजमेंट दिया गया है उसमे ESI का कोई जिक्र नहीं है।

अतः आपसे उम्मीद है की नई भारत की निर्माण में सहयोग करेंगे

विवाद होने की वजह:- मैंने बाब चौरागी नाथ पावर सि० प्रा० लि०, पीरगढ़ी मंगल बाजार रोड, निकट साईबाबा मंदिर, नई दिल्ली-110087 में ग्यारह साल काम किया।

1. किन्तु मेरा ESI No 2011840601 है जो 2006 से लागू है। मुझे 12.12.2012 को काम पर से हटा दिया गया छटनी के तहत। मैंने ही सारे कर्मचारी का ESI & EPF लागू करवाया।

2. छटनी के तहत बेरोजगारी भत्ता साल भर ग्रेड का आधीन 50% प्रतिमाहिना ESI (राजीव गांधी बेरोजगारी) जो तीन साल चला रखा हो उसे देने का प्रावधान है जबकि मैंने 2006 से 2012 तक यानि सात साल चला चुका हूँ।

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3. रजीवगंधी बेरोजगारी भत्ता पाने के लिए जाइंट डाइरेक्टर रोहिणी-85 उपरोक्त के पास हमने दिनांक 20.12.2012 को आवेदन दिया तो उपरोक्त जाइंट डाइरेक्टर ने लिखित नहीं दिया किन्तु मौखिक बताया की आपको नहीं दिया जा सकता क्योंकि आपकी कंपनी दिवालिया नहीं हुआ है। साल की 120/- एक सो बीस रुपया देने पर मेडिकल सुविधा मिलता है। किन्तु मुझे वो भी नहीं मिला।
4. तब मैंने अपर आयुक्त ESI राजरेन्द्र प्लेस, राजेंद्र भवन, नई दिल्ली-110008 को (24.12.2012) आवेदन दिया तो उन्होने कार्यवाही करके वो भी मेरे द्वारा आरटीआई-182 दिनांक 01.04.2013 को दबाव बनाया गया ।
5. जो 29.05.2013 को एक सर्क्युलर मुझे ID No 06 के तहत दिया गया। मुझे ESI मेडिकल सुविधा से भी वंचित रखा गया एवं बेरोजगारी भत्ता से भी। जिसमे स्पष्ट लिखा है मिल सकता है।
6. तब मैंने प्रधानमंत्री भारत सरकार को दिनांक 07.08.2014 को आवेदन दिया किन्तु कुछ नहीं हुआ
7. अब 26.11.2014 को ESI महा निदेशक पंचशील भवन, सीआईजी मार्ग, नई दिल्ली-110002 को आवेदन दिया, किन्तु यहाँ भी कुछ नहीं हुआ ।
8. अतः मैं जब सब जगह से निराशा हाथ लगी तब न्याय प्रणाली के तहत हुजूर आप से गुहार लगा रहा हूँ की 12.12.2012 को छटनी के तहत काम पर से हटाया गया उस वक्त मुझे 8814.00 रुपया मिलता था जिसका 50% यानि 4,407.00x12 महिना = जो 52,884.00 कुल रकम बावन हजार आठ सो चौरासी रुपया साथ शारीरिक एव मानसिक ट्रांसमेंट, एवं कंपन्शेसन सब मिलकर 75000/- पचहत्तर हजार रुपया दिलाया जाए. ”

4. A bare perusal of the aforesaid grounds of Appeal reflects that the contents of the entire appeal do not carve out any ground for challenging the order passed by the District Commission. It is pertinent to note here that the District Commission had dismissed the Complaint filed by the Appellant/Complainant citing reasons that the Appellant is not a consumer but an employee and as such the Consumer Commission is not empowered to adjudicate upon the said controversy. However, the Appellant instead of carving out any grounds for challenging the order dated 27.09.2022, has simply given a description/breakup of his pending salary and dues.
5. Therefore, in view of the aforesaid discussion, we do not find any merit in the present appeal and the same stands dismissed accordingly.
6. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgement.

7. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
8. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)  
PRESIDENT**

**(BIMLA KUMARI)  
MEMBER (FEMALE)**

**Pronounced On:  
05.01.2026**

***L.R.-G.P.K***