



Delhi High Court Orders on Service Charge

For Prelims: Federation of Hotel and Restaurant Association of India, Delhi High Court, [Central Consumer Protection Authority](#).

For Mains: Delhi High Court Orders on Service Charge, Issues with the Service Charge.

[Source: IE](#)

Why in News?

Recently, the **Delhi High Court** has issued an interim order directing members of the **Federation of Hotel and Restaurant Association of India (FHRAI)** to replace the term 'Service Charge' with 'staff contribution' while adding that the amount charged should not **exceed 10% of the total bill**.

What is the Case About?

▪ Background:

- The order was passed on pleas **filed by the National Restaurant Association of India (NRAI)** and the FHRAI, challenging the July, 2022, guidelines issued by the [Central Consumer Protection Authority \(CCPA\)](#).
- The **CCPA** guidelines stipulated that service charges should not be collected from consumers under any other name, and they should be **optional and voluntary**.
- Alternatively, they could request that the eatery remove the service charge from the bill.
 - A complaint against unfair trade practices could also be **lodged electronically with the Consumer Commission through the eDaakhil portal** for speedy redressal or otherwise.
- **The guidelines also prohibited** the addition of service charges to the bill automatically, without informing consumers.
- These guidelines were introduced in **response to consumer grievances**, as many restaurants and hotels were imposing service charges without clearly stating that payment was voluntary.
- The guidelines were issued by the **CCPA under Section 18(2)(1) of the Consumer Protection Act, 2019**.

Note: Under Section 18(2)(1) of the Act, CCPA has issued **guidelines to prevent unfair trade practices and protection of consumer** interest with regard to levy of service charge in hotels and restaurants

• Court's Initial Stay:

- In July 2022, the Delhi High Court had stayed the **CCPA guidelines, subject to the condition** that associations ensure the clear display of service charge on menus or elsewhere, along with informing customers of their obligation to pay it.

- This stay was initially extended.
- **Evolving Court Directions:**
 - In April, 2023, the court clarified that the interim order **should not mislead consumers**. The court also suggested exploring alternative terminology for "service charge" to prevent confusion.
 - The court ordered **petitioners to provide information** on what percentage of their members mandatorily imposed service charges and if there were objections to renaming it.
- **Court's Recent Decision:**
 - The FHRAI indicated its **willingness to rename "service charge"** to "staff contribution." However, the NRAI opposed this change, citing past decisions and the fact that a significant percentage of its members imposed service charges.
 - The court noted the lack of uniformity within the FHRAI's membership regarding the imposition of service charges.
 - Consequently, the court directed FHRAI members to adopt the term 'staff contribution' and cap it at 10% of the total bill amount.
- **Relationship with 2017 Guidelines:**
 - The 2022 service charge guidelines **were intended to complement**, not replace, the 2017 guidelines issued by the Central Government. These 2017 guidelines had prohibited the levy of service charges by hotels and restaurants without the express consent of customers, addressing concerns about unfair trade practices.
 - In conclusion, the **Delhi High Court's recent decision to rename 'service charge' to 'staff contribution' with a 10% cap** represents a significant development in the ongoing legal battle between industry associations and consumer protection authorities.
 - This case highlights the **importance of transparency and consumer choice** in restaurant billing practices, aligning with India's consumer protection regulations.

Note:

- The FHRAI, is the Apex Body of the four Regional Associations representing the Hospitality Industry.
- National Restaurant Association of India (NRAI) is the voice of the Indian Restaurant Industry. Founded in 1982, NRAI aspires **to promote and strengthen the Indian Food Service Sector**.

What is a Service Charge?

- **About:**
 - Service charge is a fee that is **sometimes added to a bill or invoice by businesses**, particularly in the hospitality industry such as restaurants, hotels, and banquet halls.
 - It is intended to cover the cost of the service provided by the staff, including waiters, servers, and other service personnel.
 - It also may be called a customer service fee or maintenance fee.
 - Restaurants and hotels generally levy a service charge of 10% on the food bill.
- **Issues:**
 - **Lack of Transparency:** One of the primary issues with service charges is the lack of transparency. Customers are **often not informed about the inclusion of service charges** until they receive the bill. This lack of upfront information can lead to confusion and dissatisfaction.
 - **Mandatory Nature:** In many cases, service charges are mandatory, meaning customers are required to pay them regardless of the quality of service they receive. This mandatory aspect can be **problematic, especially if the service falls short of expectations**.
 - **Quality of Service:** Since service charges are guaranteed additional income for staff, there may be **less incentive for service personnel to provide exceptional service**. This can lead to complacency and a decrease in the overall quality of service.
 - **Compulsion:** Customers may **feel compelled or pressured to pay the service charge**, even if they are dissatisfied with the service. This compulsion can result in customer discomfort and dissatisfaction.

What is CCPA?

- It was established under the [Consumer Protection Act \(CPA\) of 2019](#).
- It is empowered to **regulate abuses of consumer rights, unfair trade practices**, and false or misleading marketing that are detrimental to the public's interest.
- It has authority under **Section 18 of the CPA**, 2019 to safeguard, promote, and, most importantly, defend consumers' rights and prevent violations of their rights under the Act.
- Further, enhances consumer rights and makes sure that no person engages in unfair trade practices, it is also empowered to issue guidelines to enforce the rights of the consumers.

Legal Insight: [Staff Contribution and Not Service Charge](#)

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