

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Coram:

- 1. Dr. Pramod Deo, Chairperson**
- 2. Shri R Krishnamoorthy, Member**
- 3. Shri S.Jayaraman, Member**
- 4. Shri V.S.Verma, Member**

Petition No.22/2009

In the matter of

Reimbursement of additional expenditure towards deployment of Special Security Forces (CISF) at Salakati and Bongaigaon sub-stations for the year 2007-08 in Eastern Region.

And in the matter of

Power Grid Corporation of India Ltd., Gurgaon **Petitioner**

Vs

1. Bihar State Electricity Board, Patna
2. West Bengal State Electricity Board, Calcutta
3. Grid Corporation of Orissa Ltd., Bhubaneswar
4. Damodar Valley Corporation, Calcutta
5. Power Department, Govt. of Sikkim, Gangtok
6. Jharkhand State Electricity Board, Ranchi

Respondents

The following were present:

1. Shri U.K. Tyagi, PGCIL
2. Shri B.C.Pant, PGCIL
3. Shri M.M. Mondal, PGCIL
4. Shri R.B.Sharma, Advocate, BSEB

**ORDER
(DATE OF HEARING: 24.3.2009)**

The application has been made to seek reimbursement by the beneficiaries in Eastern Region of additional expenditure incurred towards deployment of special security forces at Bongaigaon and Salakati sub-stations for the year 2007-08.

2. The petitioner has based its claim on Regulations 12 and 13 of the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations,

2004 (the 2004 regulations) which empower the Commission to make appropriate provisions for removing difficulties and to relax the provisions thereof in appropriate cases.

3. The petitioner has submitted that its establishments in North-eastern region have been receiving threats from the militant outfits and there had been cases of kidnapping of employees and contractor's staff by the militants. It has been stated that CISF cover was provided at Salakati and Bongaigaon sub-stations considering view the disturbed conditions prevailing in the area, to accord proper security to its assets and personnel deployed at these sub-stations and to ensure uninterrupted power supply to the beneficiaries. The petitioner has listed several instances of kidnapping, attack and killing to highlight difficult security scenario prevalent in the North-eastern region. The petitioner has referred to the Commission's earlier orders whereby reimbursement of abnormal O&M expenses for the previous years was approved. The petitioner has submitted that there had not been any improvement in law and order situation and sub-stations were under constant threat of militancy during the period for which CISF was deployed. In order to counter the situation, the petitioner is stated to have continued deployment of the additional security forces. The petitioner has submitted corroborative evidence in the form of copies of the newspaper reports and correspondence with the security agencies to substantiate its claim of the prevailing law and order situation.

4. The petitioner's claim for reimbursement of special security expenses is supported by auditors' certificate dated 8.8.2008, which incorporates the details of expenditure incurred on making special security arrangement at Bongaingaon

and Salakati sub-stations, as appended herein below, verified from the books/records of the petitioner for the year 2007-08:

(Rs. in lakh)

S.No.		400 kV Bongaigaon sub-station	220 kV Salakati sub-station
1.	Salary	6543092	9752072
2.	Medical	134198	91856
3.	U/Ammunities, clothing etc	383513	531495
4.	Vehicle expenses	226855	300837
	Total	7287658	10676260

5. The petitioner has apportioned the salary component of the expenditure between Bongaigaon and Salakati sub-stations for the year 2007-08 on 50:50 basis, based on the Commission's order dated 10.12.2008 in Petition No. 83/2008. The petitioner has submitted the following details of expenses for claiming reimbursement of expenses:

(Rs. in lakh)

S. No.	Description	400 kV Bongaigaon sub-station	220 kV Salakati sub-station
1.	Salary	81.48	81.48
2.	Medical	1.34	0.92
3.	Vehicle expenses	2.27	3.01
4.	Other expenses	3.83	5.31
	Total	88.92	90.72

6. The petitioner has submitted that:

- (a) Security expenses for Bongaigaon sub-station associated with Bongaigaon-Malda transmission line (inter-regional asset between Eastern Region and North-eastern Region) under Kathalguri transmission system are to be shared by the constituents of Eastern Region and North-eastern Region on 50:50 basis, and the charges so calculated for Eastern Region are to be further shared by the

constituents of that Region in proportion to the transmission charges shared by them for Bongaigaon-Malda transmission line.

(b) Total security expenses of Rs. 90.72 lakh associated with Salakati sub-station forming part of Chukha transmission system are to be shared by the constituents of Eastern Region in proportion to the transmission charges shared by the beneficiaries of that Region.

7. Reply has been filed by the first respondent, Bihar State Electricity Board (BSEB).

8. The first respondent, BSEB without contesting the need for additional security deployment, in its reply has stated that the petitioner had deployed CISF at Bongaigaon and Salakati sub-stations during the earlier periods for safeguarding its installations from militant activities and since then the amount incurred on the deployment of security forces was being reimbursed year after year through the regulatory intervention even though there were no express provisions either in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2001 or in the 2004 regulations. BSEB has further submitted that Bongaigaon and Salakati sub-stations are located in the State of Assam falling in North-eastern Region. Therefore, it is argued that the beneficiaries of that region should bear the additional security expenses, particularly so when Bongaigaon sub-station is a part of inter-regional Kathalguri transmission system and Salakati sub-station though sanctioned as part of Chukha transmission system, is also used by the constituents of North-eastern Region. The first respondent has also taken preliminary objections on the maintainability of the application under Regulations 12 and 13 of the 2004

regulations, permissibility of reimbursement of additional security expenditure under the Electricity Act, 2003. In the reply, the first respondent has prayed for dismissal of the petition on the ground of being outside the ambit of the 2004 Regulations.

9. We heard Shri R.B.Sharma, Advocate for the first respondent. Shri Sharma stated that application had been filed under regulations 12 and 13 of 2004 regulations. Since no provisions for reimbursement of additional capital expenditure towards deployment of special security forces had been made under 2004 regulations, the petition was not maintainable.

10. In support of the issue of maintainability learned counsel argued the submissions are similar to those advanced in the case of reimbursement of additional expenditure towards deployment of Special Security Forces (CISF) in respect of these sub-stations for the year 2006-07. These submissions were examined in detail in paras 11 to 15 of the Commission's order dated 10.12.2008 in Petition No. 83/2008. We do not propose to re-examine the issue and accordingly we reiterate the reasons that weighed with the Commission for its conclusion that the matter was within its purview. For the reasons detailed in the above-noted order, we hold that the preliminary objection relating to maintainability of the application is not tenable and accordingly propose to consider the petitioner's claim on merits.

11. We also reject the submission of the respondent regarding the alleged impropriety of sharing of the charges by the beneficiaries in Eastern Region and

the argument made in support of passing on the charges to the beneficiaries for the reasons stated in paras 16 and 17 of the above order.

12. Now we consider the merits of the petitioner's claim. The Commission vide its order dated 25.9.2007 *ibid* held under:

“On consideration of the facts placed on record by the petitioner, the petitioner was required to make special arrangements to ensure safety and security of its personnel and property. The incidents narrated by the petitioner in support of its claim justify deployment of additional forces. The expenses were essential and unavoidable. In the absence of necessary security arrangements, any untoward incident could have resulted in disruption of power supply in the region, depriving the consumers, railways and other industry in region of electricity. The loss on account of such deprivation could prove disastrous. Therefore, we are satisfied that the respondents are the ultimate beneficiary of the special security arrangement made by the petition, and they should reimburse the expenditure incurred.”

13. The above observations apply to the case on hand on all the four. On consideration of the material on record, and taking judicial notice of the general law and order situation in the North-eastern Region, we are satisfied that the petitioner was required to make special arrangements to ensure safety and security of its personnel and property. The incidents cited by the petitioner in support of its claim justify deployment of additional forces. The expenses were not only essential and unavoidable but also were in the interest of the beneficiaries. In the absence of necessary security arrangements, any untoward incident could result in disruption of power supply in the region, depriving the consumers, railways and other industry in region, of electricity. The loss on account of such deprivation could be of unfathomable magnitude, and could far exceed the expenditure incurred on making special security arrangements. Thus, deployment of security forces, though meant to accord greater security to the petitioner's

assets and personnel deployed at the sub-stations, is to the ultimate advantage of the respondents since it facilitated uninterrupted power supply. Therefore, we are satisfied that the respondents, as the ultimate beneficiaries of the special security arrangement made by the petitioner, should reimburse the expenditure incurred. To sum up, the expenditure has been incurred by the petitioner on making special security arrangements at the sub-stations for the reasons beyond its control and in the overall interest of security of the transmission system in the region. The normative O &M expenses for Eastern Region do not include such abnormal expenses. Therefore, in our view the petitioner becomes entitled to reimbursement of these additional expenses incurred. We, in exercise of power under Regulations 13 of the 2004 regulations and in relaxation of the provisions thereof direct reimbursement of these additional expenses for the year 2007-08 as claimed by the petitioner from the respondents.

14. We thus conclude that the, the entire expenses of Rs. 90.72 lakh in respect of Salakati sub-station, which forms part of Chukha Transmission System of Eastern Region (Rs. 90.72 lakh) and 50% of the expenses in case of Bongaigaon sub-station an inter-regional asset (Rs.44.46 lakh) shall be shared by the beneficiaries of Eastern Region, as a part of the transmission charges for Eastern Region.

15. With this order, the present petition stands disposed of.

Sd/- **sd/-** **sd/-** **sd/-**
(V.S.VERMA) (S.JAYARAMAN) (R.KRISHNAMOORTHY) (DR.PRAMOD DEO)
MEMBER MEMBER MEMBER CHAIRPERSON
New Delhi dated the 31st March 2009