

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Date of hearing: 29.5.2018

Petition No. 31/MP/2018

Subject : Petition for increase in Operation and Maintenance Expenses on account of Wage revision and other pay hikes to Employees (Non-Executives & workmen) of NLCIL Power Stations w.e.f 1.1.2012 - recovery from the beneficiaries of NLCIL Power Stations for the year 2012-14.

Petitioner : NLC India Limited

Respondents : TANGEDCO & others

Petition No. 32/MP/2018

Subject : Petition for increase in Operation and Maintenance Expenses on account of Wage revision and other pay hikes to Employees (Non-Executives & workmen) of NLCIL Mines w.e.f. 1.1.2012 - recovery from the beneficiaries of NLCIL Power Stations for the year 2012-14.

Petitioner : NLC India Limited

Respondents : TANGEDCO & others

Coram : Shri P.K. Pujari, Chairperson
Shri A.K. Singhal, Member
Shri A.S. Bakshi, Member
Dr. M.K. Iyer, Member

Parties present : Shri M.G.Ramachandran, Advocate, NLC
Ms. Anushree Bardhan, Advocate, NLC
Shri S.Gnana Prabhakaran, NLC
Shri S. Vallinayagam, Advocate, TANGEDCO
Shri Jayaprakash R, TANGEDCO

Record of Proceedings

At the outset, learned counsel for the Petitioner submitted that these petitions have been filed for recovery of increase in O&M expenses considering the wage revision and other pay hikes to employees (Non- Executives & workmen) in respect of its generating stations and the mines for the period from 1.1.2012 to 31.3.2014. Learned counsel for the Petitioner further submitted as under:

(a) During the proceedings in the truing up petitions, the Petitioner had sought permission of the Commission for claiming the impact of wage revision for

non executives and workers w.e.f. 1.1.2012 at actuals as the same could not be quantified at the time of filing the truing up petitions. As per the Ministry of Coal (MoC) guidelines dated 11.6.2009 it was agreed that O&M expenses would be trued up at the beginning of the next tariff period.

(b) The Commission vide order dated 20.3.2017 in Petition No.149/MP/2015 has held that the wage revision for non-executives and labours was not quantified and therefore, in the absence of complete details with regard to impact of wage revision, the claim cannot be decided in the order and the Petitioner was granted liberty to approach the Commission.

(c) The salary/ wage revision of the Petitioner's employees was due from 1.1.2012 and were implemented as per the guidelines of Department of Public Enterprise and MoC. However, the wage revision order was issued on 3.11.2015 which has caused increase in the employee cost substantially.

2. In his rebuttal, learned counsel for TANGEDCO submitted that the petitions for claiming the impact of wage revision w.e.f. 2012 is not maintainable due to delay in filing the petitions as the Petitioner cannot claim the tariff of one period in another tariff period. Learned counsel for TANGEDCO further submitted as under:

(a) The Commission in the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2009 has considered an escalation factor of 5.75% per annum for O&M expenses. However, there is no provision in the MoC guidelines to include the wage revision expenditure in the O&M expenses. MoC while determining the O&M expenses norms for NLC mines for the period from 2009-14 has considered these factors and accordingly determined the escalation factor of 11.50% per annum which is already more than the O&M escalation of 5.75% as per Tariff Regulations.

(b) Since, the Petitioner has not filed the petition at the appropriate period, it has caused a huge financial burden to TANGEDCO. If the petition was filed during the year 2015-16, TANGEDCO would have made alternate arrangements for procurement of power from other sources having lesser variable cost.

(c) In order to get accommodated in the Merit Order Rankings, the Petitioner has followed the mechanism of charging the lesser energy charge rate for the period 2012-14 and to collect the difference in energy charge rate at a later period as arrears after filing the petitions whenever the Petitioner feels that it is necessary, thereby pushing out the other competitors from the electricity market.

(d) The Petitioner cannot proceed to collect tariff of one period in another tariff period. If the relevant tariff period was already over, the Petitioner cannot seek the tariff of that period subsequently. Learned counsel placed its reliance upon the Hon'ble Supreme Court judgement dated 3.3.2009 in UPPCL V. NTPC Ltd.

3. Learned counsel for the Petitioner requested the Commission to allow the carrying cost to the Petitioner. Learned counsel for TANGEDCO objected the same and submitted that the Petitioner should take up the issue of carrying cost separately.

4. After hearing the learned counsels for the Petitioner and TANGEDCO, the Commission directed the Petitioner to submit the following information, on an affidavit by 20.6.2018:

- (a) Year-wise detailed calculation (due and drawn) and plant-wise impact of employee cost for the power plants as given in Auditor's certificate showing that the incremental amount in O&M cost is over and above the normative numbers as indicated in the petition.
- (b) Basis of allocation of Common, Service, SOH and storage in the calculation.
- (c) Details of change in tariff due to change in O&M expenses.

5. The Petitioner was directed to submit the following information in Petition No. 31/MP/2018, on an affidavit by 20.6.2018:

- (a) Copy of the guidelines of Department of Public Enterprise and Ministry of Coal based on which the wage revision order dated 3.11.2015 has been passed by the HR department of NLC.
- (b) The Petitioner has claimed an amount of Rs 4.5 crore, Rs 21.14 crore, and Rs 23.33 crore for the years 2011-12, 2012-13, and 2013-14 respectively as wage revision impact due to revision of pay of unionized category of workmen/Non executives of NLC. In this regard, furnish station-wise data of the actual O&M expenditure vis-à-vis O&M expenditure allowed in tariff for the years 2011-12, 2012-13 and 2013-14.
- (c) Station-wise audited statement indicating wage before revision & wage after revision of the employees (Non-Executives & workmen) for the years 2011-12, 2012-13 and 2013-14.

6. The Petitioner was directed to submit the following information in Petition No. 32/MP/2018, on an affidavit by 20.6.2018:

- (a) Copy of the guidelines of Department of Public Enterprise and Ministry of Coal based on which the wage revision order dated 3.11.2015 has been passed by the HR department of NLC.
- (b) Mine-wise audited statement indicating wage before revision and wage after revision for the years 2011-12, 2012-13 and 2013-14.
- (c) Certification to that effect that the impact of wage revision has not been billed to the beneficiaries by increasing Lignite Transfer Price on month to month basis.
- (d) Certification to the effect that mined lignite from the mines for which wage revision impact is being claimed, is solely used for power generation from the stations under the purview of the Commission. In case, mined lignite is being used/sold elsewhere, petitioner shall clearly indicate as to how the wage revision

impact is being sought/ accounted for the quantum of lignite used for power generation.

7. The Commission directed that due date of filing the information should be strictly complied with failing which the order shall be passed on the basis of the documents available on record.
8. Subject to above, the Commission reserved the order in the petitions.

By order of the Commission

**Sd/-
(T. Rout)
Chief (Law)**