

**CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI**

**Petition No.221/MP/2019**

Subject : Petition under Section 94 of the Electricity Act, 2003 read with Regulations 79, 111 and 114 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulation 54 and 55 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recovery of impact of wage revision of its employees and deputed employees of Kendriya Vidyalaya (KV) and Central Industrial Security Force (CISF) in Dulhasti Power Station during the period 1.1.2016 to 31.3.2019

Petitioner : NHPC Limited

Respondents : Punjab State Power Corporation Limited & 11 Ors

**Petition No.235/MP/2019**

Subject : Petition under Section 94 of the Electricity Act, 2003 read with Regulations 79, 111 and 114 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulation 54 and 55 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recovery of impact of wage revision of its employees and deputed employees of Kendriya Vidyalaya (KV) / Dayanand Anglo Vedic (DAV) and Central Industrial Security Force (CISF) in Chamera-I Power Station during the period 1.1.2016 to 31.3.2019

Petitioner : NHPC Limited

Respondents : Punjab State Power Corporation Limited & 12 Ors

**Petition No.341/MP/2020**

Subject : Petition under Section 94 of the Electricity Act, 2003 read with Regulations 79 and 111 of Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and Regulations 54 and 55 of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 for recovery of impact of wage revision of its employees, Impact of GST, Minimum Wages and Security expenses of CISF in Koteshwar Hydro Electric Project during the period 1.1.2016 to 31.3.2019

Petitioner : THDC India Limited

Respondents : Punjab State Power Corporation Limited & 15 Ors.



Date of Hearing : **17.3.2021**

Coram : Shri I. S. Jha, Member  
Shri Arun Goyal, Member  
Shri Pravas Kumar Singh, Member  
Shri Prakash S. Mhaske, Member, (Ex-officio)

Parties Present : Shri Rajiv Shankar Dvivedi, Advocate, NHPC  
Shri M. G. Gokhale, NHPC  
Shri Piyush Kumar, NHPC  
Ms. Anushree Bardhan, Advocate, THDC  
Shri A.K. Porwal, THDC  
Shri Mukesh Kumar Verma, THDC  
Shri Ajay Vaish, THDC  
Shri Rakesh Singh, THDC  
Shri R.B.Sharma, Advocate, BRPL  
Ms. Megha Bajpeyi, BRPL  
Shri Vikram Singh, UPPCL  
Shri Brijesh Kumar Saxena, UPPCL  
Shri Ravindra Khare, MPPMCL

### **Record of Proceedings**

#### **Petition No.221/MP/2019 and Petition No.235/MP/2019**

These Petitions were called out for virtual hearing.

2. During the hearing, the learned counsel for the Petitioner, NHPC Limited submitted that the Petitioner, in compliance with the directions of the Commission vide ROP (Record of Proceedings) of hearing dated 17.10.2019, has furnished the additional information vide affidavit dated 14.11.2019 with copies to the Respondents. The learned counsel for the Petitioner further submitted that it has also filed its rejoinder to the replies filed by the Respondents and pleadings have been completed. Accordingly, the learned counsel submitted that the Commission may grant the reliefs as prayed for in these petitions.

3. The representative of the Respondent, UPPCL submitted that since the tariff is a complete package, the Commission may direct the Petitioner to claim the additional O&M expenses due to impact of wage revision of employees of the Petitioner, CISF staff and Kendriya Vidyalaya (KV)/ DAV employees, in the truing-up petition for the 2019-24 tariff period as the 2014-19 tariff period is over. He also submitted that the impact of wage revision cannot be passed on to the end consumers with retrospective effect. The representative of UPPCL accordingly prayed that the present petition is not maintainable.

4. The learned counsel for the Respondent, BRPL referred to the reply and mainly submitted as under:

(a) The Petitioner, under the garb of 'Power to relax' and 'Power to remove difficulties', cannot seek to override the provisions of the 2014 Tariff Regulations. The 'Power to remove difficulties' is a limited power and cannot be used to change the essential provisions of the Regulations (*judgment of*



*Hon'ble Supreme Court in the case of Madava Upendra Sinai v. Union of India & Ors [(1975) 3 SCC 765 was referred to).* There is no provision in the 2014 Tariff Regulations to grant additional O&M expenses to the Petitioner.

(b) Paragraph 30.21 of the Statement of Reasons (SOR) to the 2014 Tariff Regulations has also raised the issue of high man : MW ratio for all the generating stations of the Petitioner. The O&M expenses notified for hydro-generating stations in the 2014 Tariff Regulations, takes care of any increase in the employee cost also. Thus, if manpower rationalization has been done by the Petitioner, then, there would have been no requirement for claim towards employee cost.

(c) Paragraph 33.2 of the Statement of Reasons (SOR) to the 2014 Tariff Regulations specifies the conditions for considering the impact of wage revision. If the norms of O&M expenditure provided in the 2014 Tariff Regulations are inadequate to cover all justifiable O&M expenses for the particular year, including employee expenses, then the balance amount may only be considered for reimbursement. However, the data submitted by the Petitioner do not support the examination of all the conditions mentioned therein. The Petition is, therefore, premature for want of adequate information.

(d) As per Clause 3 of the Office Memorandum (OM) dated 3.8.2017 of the Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises, GOI (DPE), the revised pay scales are to be implemented subject to the condition that the additional impact in the year of implementing the revised pay package should not be more than 20% of the average Profit Before Tax (PBT) of the last three financial years preceding the year of implementation. The Petitioner has, however, not made any submission on the issue of 'affordability'.

(e) Clause 17 of the said OM of DPE dated 3.8.2017, provides that the expenditure on account of pay revision is to be entirely borne by the Central Public Sector Enterprises (CPSE) out of their earnings and no budgetary support will be provided by the Government. Hence, the beneficiaries/ consumers cannot be burdened with the impact of pay revision.

5. In response, the learned counsel for the Petitioner clarified as under:

(a) The Commission in its order dated 5.12.2012 in Petition No.5/MP/2012 (NHPC v WBSEDL & ors) had considered the question of reimbursement of pay revision of NHPC employees, CISF and KV staff for 1.1.2006 to 31.3.2009 and held that legitimate expenditure cannot be denied to the Petitioner on the ground that it will burden the end consumers. Hence, the relief sought in the present petition is maintainable.

(b) The Petitioner vide affidavit dated 26.7.2019 has furnished complete details including a comparative chart of the actual O&M expenses vs O&M expenses allowed in respect of the generating stations of the Petitioner for the period 2014-19. Clause 3 of the OM dated 3.8.2017 refers to the applicability of the impact of wage revision. If the impact of wage revision is required to be met from the profits of the Petitioner, it would result in under-recovery of cost of electricity.



6. The Commission directed the Petitioner to file the following additional information on or before 28.4.2021, with advance copy to the Respondents, who may file replies on or before 10.5.2021 and rejoinder, if any, may be filed by 17.5.2021:

- (a) The detailed break-up of the actual O&M expenses for the tariff period 2014-19 under various sub-heads (as per **Annexure- A**) after including the claimed wage revision impact for employees of the Petitioner and employees of KV/DAV/CISF. (To be provided in both MS Excel and PDF format).
- (b) The similar break up of actual O&M expenses including wage revision impact for Corporate Centre/other offices (as per **Annexure- B**) shall be provided for the tariff period 2014-19 along with the allocation of the total O&M expenses to various stations under construction, operational stations along with basis of allocating such expenditure. (To be provided in both MS Excel and PDF format).
- (c) Any other information deemed necessary by the Petitioner in justification of the claimed wage revision impact.

7. Subject to the above, order in these Petitions were reserved.

### **Petition No.341/MP/2020**

8. Due to paucity of time, the petition could not be taken for hearing. The Petition shall be listed for hearing in due course for which separate notice will be issued to the parties. The Petitioner is directed to submit the following information in addition to the information to be furnished as in paragraph 6 above:

- (i) Basis and rationale for claim on account of impact due to minimum wage revision;
- (ii) Basis and rationale for claim on account of Security expenses for CISF separately for 2014-19 tariff period, in place of impact of wage revision in respect of the CISF employees.

9. The Petitioner to file the above information on or before 28.4.2021, with advance copy to the Respondents, who may file replies on or before 10.5.2021. Rejoinder, if any, by 17.5.2021. Pleadings shall be completed by the parties within the due dates mentioned and no extension of time shall be granted.

10. Petition No.341/MP/2020 shall be listed in due course along with Petition Nos. 244/GT/2020 and 245/GT/2020, for which separate notice will be issued to the parties.

**By order of the Commission**

**Sd/  
(B.Sreekumar)  
Joint Chief (Law)**



Details of actual O&M expenses (Common for Hydro /Thermal Generating Station)						
Sl. No.	Items	2014-15	2015-16	2016-17	2017-18	2018-19
1	Consumption of stores & spares					
2	Repair & Maintenance					
3	Insurance					
4	Security					
5	Water Charges					
6	Administrative Expenses					
6.1	Rent					
6.2	Electricity charges					
6.3	Travelling & Conveyance					
6.4	Communication Expenses					
6.5	Advertising					
6.6	Foundation Laying & Inauguration					
6.7	Donation					
6.8	Entertainment					
6.9	Filing fee					
	<b>Subtotal (Administrative Expenses)</b>					
7.0	Employee Cost					
7.1.1	Salaries, Wages & Allowances					
7.1.2	Pension					
7.1.3	Gratuity					
7.1.4	Provident Fund					
7.1.5	Leave Encashment					
7.2	Staff welfare expenses					
7.2.1	-Medical expenses on superannuated employees					
7.2.2	-Medical expenses on regular employees & others					
7.2.3	-Uniform/Livries & safety equipment					
7.2.4	-Canteen expenses					
7.2.5	-Other staff welfare expenses					
	Subtotal (Staff welfare Expenses)					
7.3	Productivity linked Incentive					
7.4	Expenditure on VRS					
7.5	Ex-gratia					
7.6	Performance Related Pay (PRP)					
	Sub Total (Employee Cost)					
8	Loss of Store					
9	Provisions					
10	Prior Period Expenses					
11	Corporate Office expenses allocation					
12	Others					
12.1	Rates & Taxes					
12.2	Water cess					
12.3	Training & recruitment expenses					
12.4	Tender Expenses					
12.5	Guest house expenses					
12.6	Education expenses					
12.7	Community Development Expenses					
12.8	Ash utilisation expenses					
12.9	Books & Periodicals					
12.10	Professional Charges					
12.11	Legal expenses					
12.12	EDP Hire & other charges					
12.13	Printing & Stationery					
12.14	RLDC Fee & Charges					
12.15	Brokerage & Commission					
12.16	Bank charges					
12.17	Claims/advances written off					
12.18	Hiring of vehicle					
12.19	Payment to auditors					
12.20	Misc. Expenses					
	(Break-up Of Misc.)					



<b>Details of actual O&amp;M expenses (Common for Hydro /Thermal Generating Station)</b>						
<b>Sl. No.</b>	<b>Items</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>
12.20.1	-Horticulture					
12.20.2	-Transport- Vehicle Running exp.					
12.20.3	-Hire charges & Operating Exp - Construction Equipment					
12.20.4	-Tree Plantation exp.					
12.20.5	-R&D expenses					
12.20.6	Other Vehicles					
12.20.7	Consumptn-HSD/LDO-(Ind/Imp)-DG Set					
12.20.8	Exp/ Inc frm Inv Diff					
12.20.9	Loss on sale of Investments					
12.20.10	Operating exp of diesel generating sets					
12.20.11	Furnishing Expenses					
12.20.12	Subscription to Trade and Other Assocn.					
12.20.13	Hire Charges - Helicopter/Aircraft					
12.20.14	Visa & Entry Permit Charges - Overseas					
12.20.15	FX Monitoring Terminal Expenses					
12.20.16	Works/Conf.(Excl train R&D CENPEEP)Earlier Non FBT					
12.20.17	Workshop/Conf. Exp (train R&D CENPEEP) Earlier FBT					
12.20.18	Hire charges - Office equipment					
12.20.19	Payment for health club etc					
12.20.20	Gifts liable for Fringe Benefit Tax					
12.20.21	Festival expenses liable Earlier (FBT)					
12.20.22	Miscellaneous Expenses					
12.20.23	Rounding Off Difference					
12.20.24	Regional Power Committee Expenses					
12.20.25	Misc Exp. trf to CSR and IEDC					
12.20.26	Specify other sub head, if any.					
	<b>Sub Total (Others)</b>					
<b>13</b>	<b>(Total 1 to 12)</b>					
14	Revenue / Recoveries					
15	Net Expenses					
	<b>Total O&amp;M Cost</b>					



DETAILS OF CORPORATE CENTRE EXPENSES ALLOCATED TO VARIOUS OPERATING STATIONS						
		Amount in Rs. Lakhs				
	PARTICULARS/YEAR	2014-15	2015-16	2016-17	2017-18	2018-19
	Total Expenses of CC & RHQs-(A)					
	Transferred to Construction Projects -(B)					
	Transferred to any other business activity - (C)					
	Expenses related to stations under operation (D)=(A)-(B)-(C)					
	<b>Head Wise Details of D</b>					
1	<b>Employee Expenses</b>					
A	Salaries, Wages and Allowance					
B	Staff Welfare Expenses					
C	Productivity Linked Incentive					
D	Expenditure on VRS					
E	Ex-Gratia					
2	<b>Administrative Expenses</b>					
A	Repair and maintenance					
B	Training and Recruitment					
C	Communication					
D	Travelling and Conveyance					
E	Rent					
F	Others -Break Up as per details given below:					
f-1	Advertisement and publicity					
f-2	Books & Periodicals					
f-3	EDP Hire and other charges					
f-4	Education expenses					
f-5	Ent. and hospitality					
f-6	Fin Expenses-IndAS					
f-7	Guest house expenses					
f-8	Hiring of Vehicles					
f-9	Insurance					
f-10	Legal Expenses					
f-11	Miscellaneous Expenses					
f-12	Community develop. Exp.					
f-13	Others.					
f-14	Payment to auditors					
f-15	Power Charges					
f-16	Printing and Stationery					
f-17	Prof chg & cons fees					
f-18	R&D EXPS					
f-19	Rates and taxes					
f-20	Tender expenses					
f-21	Trpt Veh running Exp.					
f-22	Water charges					
f-23	Workshop & Conf. Exp.					
	<b>Sub Total (Administrative Expenses)</b>					
3	Security					
4	Donations					
5	Provisions					
6	Depreciation					
7	Prior period expenses					
8	Total Expenses from 1-7					
	Less Recoveries (if any)					
9	Expenses related to Operation - D					
	<b>ALLOCATION TO OPERATIONAL STATIONS</b>					
S.No	Name of The Unit/Station					
	<b>Operational Station (1)</b>					
	<b>Operational Station (2)</b>					

