

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 28/RP/2021
in
Petition No. 347/MP/2020

Coram:

Shri P.K. Pujari, Chairperson
Shri I.S. Jha, Member
Shri Pravas Kumar Singh, Member

Date of Order: 09 June, 2022

IN THE MATTER OF:

Review of Commission's order dated 23.10.2021 in Petition No.347/MP/2020 regarding recovery of impact of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF) in Tehri HPP (1000MW) during the period from 1.1.2016 to 31.3.2019.

AND

IN THE MATTER OF

THDC India Limited,
(A joint venture of Govt. of India & Govt. of U.P.)
Pragatipuram, Bypass Road,
Rishikesh-249 201, Uttarakhand

...Petitioner

Vs

1. Punjab State Power Corporation Limited,
The Mall, Patiala,
Punjab – 147001
2. Haryana Power Utilities, (DHBVNL & UHBVNL),
Shakti Bhawan, Sector-6,
Panchkula, Haryana – 134109
3. Uttar Pradesh Power Corporation Limited,
Shakti Bhawan, 14, Ashok Marg,
Lucknow, Uttar Pradesh – 226001
4. BSES Rajdhani Power Limited,
BSES Bhawan, Nehru Place,
Behind Nehru Place Bus Terminal,
New Delhi-110019
5. BSES Yamuna Power Limited,
3rd Floor, Shakti Kiran Building,
Karkardooma, Near Court,



New Delhi-110092

6. Tata Power Delhi Distribution Limited,
33 KV Grid Sub-Station Building, Hudson Lane, Kingsway Camp,
Delhi-110009

7. Engineering Department,
Chandigarh Administration,
1st Floor, U.T Secretariat, Sector 9-D,
Chandigarh-160009

8. Uttarakhand Power Corporation Limited,
Urja Bhawan, Kanwali Road,
Dehradun-248001 (Uttarakhand)

9. Himachal Pradesh State Electricity Board Limited,
Vidyut Bhawan,
Shimla – 171004

10. Jaipur Vidyut Vitran Nigam Limited,
Vidyut Bhawan, Janpath, Jyoti Nagar,
Jaipur – 302005, Rajasthan

11. Ajmer Vidyut Vitran Nigam Limited,
Old Power House, Hatthi Bhatta,
Jaipur road, Ajmer-305001 (Rajasthan)

12. Jodhpur Vidyut Vitran Nigam Limited,
New Power House, Industrial Area,
Jodhpur-342003, Rajasthan

13. Power Development Department,
Government of J&K, Civil Secretariat Building,
Jammu-180001 (J&K)

14. Madhya Pradesh Power Management Company Limited,
3rd Floor, Block No. 11, Shakti Bhawan, Rampur,
Jabalpur-482008, Madhya Pradesh

15. Rajasthan Urja Vikas Nigam Limited,
Vidyut Bhawan, Jiyoti Nagar,
Jaipur- 302005, Rajasthan

16. Jammu and Kashmir State Power Trading Company Limited,
PDD Complex, Bemina
Srinagar -190010 (J&K)

.....Respondents

Parties Present:

Ms. Anushree Bardhan, Advocate, THDCIL
Shri Rajesh Sharma, THDCIL
Shri Mukesh Kumar Verma, THDCIL
Shri Ajay Vaish, THDCIL
Shri Rakesh Singh, THDCIL
Shri Anindya Khare, MPPMCL
Shri R.B. Sharma, Advocate, BRPL



Shri Mohit K. Mudgul, Advocate, BRPL
Shri Sachin Dubey, Advocate, BRPL
Ms. Megha Bajpeyi, BRPL
Shri Brijesh Kumar Saxena, UPPCL

ORDER

The Review Petitioner, THDCIL has filed this review petition against the Commission's order dated 23.10.2021 in Petition No.347/MP/2020 (in short 'the impugned order') pertaining to the recovery of impact of wage revision of employees, impact of GST, Minimum Wages and Security expenses (CISF) in Tehri Hydropower Project (1000 MW) (hereinafter referred as 'the generating station') during the period from 1.1.2016 to 31.3.2019, in accordance with the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as 'the 2014 Tariff Regulations'). Aggrieved by the impugned order dated 23.10.2021, the Review Petitioner has filed this review petition on the ground that the Petitioner could not submit the relevant documents at the time when the order was reserved despite its due diligence for producing the same. It seeks indulgence of the Commission on the following issues of the impugned order:

- (i) Impact due to implementation of Pay Revision of CISF Personnel (Security Expenses); and*
- (ii) Impact on account of GST implementation;*

Hearing dated 24.2.2022

2. The Review Petition was heard on "admission" through video conferencing on 24.2.2022. The Commission, after hearing the learned counsel for the Review Petitioner, 'admitted' the Review Petition on the issue (i) in paragraph 1 above, namely, 'impact due to implementation of Pay Revision of CISF Personnel (Security Expenses)' by interim order dated 10.3.2022. However, the prayer of the Petitioner on the issue (ii) in the said paragraph, namely, the 'impact on account of GST implementation' was disposed of as not maintainable, by the same order, at the admission stage.



3. The Respondent UPPCL, Respondent MPPMCL and Respondent BRPL, have filed their replies vide affidavits dated 28.3.2022, 29.3.2022 and 21.4.2022 respectively. The Petitioner vide separate affidavits dated 5.4.2022 has filed its rejoinder to the replies of the Respondent UPPCL and Respondent MPPMCL respectively.

Hearing dated 26.4.2022

4. The matter was heard on 26.4.2022, through video conferencing. During the hearing, the learned counsel for the Review Petitioner made detailed oral submissions on non-submission of the relevant documents for the impact of CISF wage revision and its due diligence for obtaining the same.

5. The learned counsel of the Respondent MPPMCL submitted that its reply has been filed and same be taken into consideration. The learned counsel for the Respondent, UPPCL made oral submissions and submitted that there is no error apparent on the face of the record. The learned counsel for the Respondent, BSES Rajdhani Power Limited mainly submitted that as the additional information sought in the matter was filed by the Review Petitioner after orders were reserved by the Commission, the same may not be considered and review on this count may not be allowed. The Commission, after hearing the learned counsel for the parties, reserved its order in the Review Petition.

5. In the above background, we examine the submissions of the parties with regard to the issue of implementation of Pay Revision of CISF Personnel (Security Expenses), as stated in the subsequent paragraphs.

Impact due to implementation of Pay Revision of CISF Personnel (Security Expenses)

Submissions of the Review Petitioner, THDCIL

6. The Review Petitioner, has submitted the backdrop of its case in the following manner:

(a) The Review Petitioner had filed Petition No. 347/MP/2020 for recovery of



impact of wage revision of employees, Impact of GST, Minimum Wages and Security expenses (CISF) in respect of Tehri HPP (the generating station) during the period from 1.1.2016 to 31.3.2019. In the said petition, the Review Petitioner had submitted that the pay revision w.e.f. 1.1.2016 for CISF personnel and 1.1.2017 for THDCIL employees and implementation of GST w.e.f. 1.7.2017 due to change in law., were not taken into account while fixing the norms for the O&M expenses of the generating station.

(b) The Review Petitioner, in Petition No. 347/MP/2020, prayed before this Commission that it may exercise its powers to remove the difficulty arising out of non-consideration of the impact of wage revision, Security expenses, GST etc. in the O&M norms for the period 2014-19. The Review Petitioner had submitted the actual vis a vis the allowed O&M expenses for the tariff period 2014-19.

(c) This Commission vide ROP of the hearing dated 8.4.2021 directed the Review Petitioner to submit information. In compliance of the ROP, the Review Petitioner submitted the details under affidavit dated 24.5.2021. By way of Annexure IV to the affidavit dated 24.05.2021, the Review Petitioner placed on record the letter sent by the Office of the Dy. Commandant, CISF dated 19.10.2019 pertaining to the 'Pay Arrears data of CISF for the year 2015-16 & 2016-17' by way of which, the salary details for January 2016 to July 2016 was provided. The letter stated that Rs. 11307272/- is to be divided into 7 months from January 2016 to July 2016. At page 15 of the affidavit the revised payment made to CISF for the years 2015-16 to 2018-19 was provided. At Page 16 of the affidavit is a chart that gave the details for the revised payment for CISF salary vis a vis the old payment for CISF salary for the years 2015-16 to 2018-19 (as provided by Office of the Dy. Commandant, CISF).

(d) For the year 2016-17, the revised details are given till July 2016 only. There after i.e. from August 2016 to March 2019, the letter did not give the comparison between the revised and old payment figures. The given time, the Review Petitioner only had the above letter dated 19.10.2019 issued by the Office of the Dy. Commandant, CISF and therefore, the response to the ROP vide affidavit dated 24.05.2021 was premised on the same.

(e) Petition No. 347/MP/2020 was heard by this Commission on 29.6.2021 and order was reserved. On 2.9.2021, the Review Petitioner received a letter from CISF, wherein, the chart for 2016-17 to 2018-19 stating the month-wise difference amount between the revised and old payment figures including from August 2016 to March 2019.

(f) On 6.9.2021, the Review Petitioner prepared a common submission for the Petition No. 347/MP/2018 for Tehri HPP and Petition No.341/MP/2020 for Koteshwar HEP, placing on record the above revised computation provided by CISF. The Review Petitioner revised Annexure-III dealing with the impact of salary revision of CISF for the period from 1.1.2016 to 31.3.2019 submitted earlier vide



affidavit dated 24.5.2021. However, since the portal for submission was not open in Petition No. 347/MP/2020 and Petition No. 341/MP/2020 for Koteshwar HEP, the Review Petitioner submitted the revised Annexure-III, in Petition No. 245/GT/2020 pertaining to determination of tariff for Koteshwar HEP for the period 1.4.2014 to 31.3.2019 after truing up exercise.

(g) On 6.9.2021, the Review Petitioner requested to the Secretary of this Hon'ble Commission to consider the details submitted in Petition No.245/GT/2020 for (Petition No. 347/MP/2020), before finalization of order in Petition No. 347/MP/2020. On 23.10.2021, this Commission decided Petition No.347/MP/2020 regarding the claim of the Review Petitioner vis a vis the additional O&M expenses for the period 1.1.2016 to 31.3.2019.

(h) the comparison chart of the total O&M expenses allowed (i.e., normative O&M Expenses plus additional O&M expenses as per the order dated 23.10.2021) and the actual O&M expenses incurred, is as under:

(Rs. in lakh)

Year	Normative O&M Exp. Allowed by Hon'ble CERC (Para 2)	Additional O&M expenses allowed vide order dated 23.10.2021 (Para 38)	Actual O&M Expenses	Difference
	(a)	(b)	(c)	(d)=(a)+(b)-(c)
2014-15	21340.78	-	28041.10	(-) 6700.32
2015-16	22757.81	48.46	29285.48	(-) 6479.21
2016-17	24268.93	972.61	28906.61	(-) 3665.07
2017-18	25880.39	3856.61	32953.85	(-) 3216.85
2018-19	27598.84	4141.61	39514.31	(-) 7773.86
Total	121846.75	9019.29	158701.35	(-) 27835.31

(i) The Commission in the order dated 23.10.2021 has not taken into consideration the submission made by the Review Petitioner on 6.9.2021 with regard to the Security Expenses (CISF) and issued the order based on the earlier submitted details vide affidavit dated 24.5.2021. The upper limit of Rs. 242.29 lakh allowed by the Commission as against the actual amount of Rs 934.04 lakh claimed for impact of implementation of revised salary of CISF as submitted vide the affidavit dated 06.09.2021, will cause huge financial prejudice to the Review Petitioner. There is a shortfall of Rs. 691.75 lakh between the amount allowed by the Commission towards the Security Expenses and the actual Security Expenses incurred by the Review Petitioner during the period 2014-19.

(j) In view of the above, this Commission may allow the actual expenditure incurred by the Review Petitioner towards Security Expenses (CISF) as duly submitted to this Commission on 6.9.2021. The Review Petitioner was under bonafide belief that having submitted vide affidavit dated 6.09.2021, the details as provided by the CISF on 2.9.2021 the same would be considered by this Commission while dealing with the impact salary revision of CISF for the period from 1.1.2016 to 31.3.2019. Based on submission of the modified details as provided by CISF, vide affidavit dated 6.9.2021, and as duly requested to the



Secretary of this Commission vide a letter dated 6.09.2021, the Review Petitioner was under a bonafide impression that the submission dated 24.5.2021 will no longer be relevant for the purposes of computation of the impact of salary revision of CISF for the period from 1.1.2016 to 31.3.2019.

(k) In view of the above, this Hon'ble Commission may consider the actual impact on account of increase in Security Expenses (CISF) of Rs. 48.46 lakh, Rs. 288.46 lakh, Rs. 264.29 lakh and Rs. 332.83 lakh for the 2015-16, 2016-17, 2017-18 and 2018-19 respectively totally to Rs.934.04 lakh. The restriction of the impact to Rs. 242.29 lakh as against the actual amount of Rs 934.04 lakh, will lead to under recovery of the legitimate costs incurred by the Review Petitioner. The Review Petitioner prays that the Commission may be pleased to review the order dated 23.10.2021 and consider the claims submitted vide affidavit 6.09.2021, regarding the impact due to salary revision of Security Expenses (CISF) for the period 1.1.2016 to 31.3.2019. If the claim is not allowed, then the same would lead to under recovery of the legitimate expenditure incurred by the Review Petitioner, which would be contrary to Section 61(1)(d) of the Electricity Act, 2003.

Reply of the Respondent, UPPCL

7. The Respondent, UPPCL has submitted that it is an admitted and established fact that the Review Petitioner had submitted claim based on incomplete information provided by CISF in letter dated 19.10.2019 and no further information was obtained by the Review Petitioner until proceeding concluded on 29.6.2021 and order reserved. It has also submitted that after receiving actual data from CISF on 2.9.2021, the Review Petitioner did not submit its revised computation in Petition no. 347/MP/2020, but vide affidavit dated 6.9.2021 in Petition No 245/GT/2020 for consideration of the Commission in Petition no. 347/MP/2020. The Commission could not have considered the data in settling the claim of the Review Petitioner which was not on record of the Petition no. 347/MP/2020. The Respondent has further submitted that claim of the Review Petitioner has been allowed by the Commission, based on information provided by the Petitioner in affidavit dated 24.5.2021 and now, it is not open for the Review Petitioner to seek review of the impugned order dated 23.10.2021. It has added that the material, which was not part of the records in Petition No. 347/MP/2020, could not be considered by the Commission while passing the impugned order dated



23.10.2021, as such there is neither any mistake or error committed in passing order nor there exists 'any other sufficient reason' for review of the impugned order.

Reply of the Respondent, MPPMCL

8. The Respondent, MPPMCL has submitted that on verification of the record, it is found that the Review Petitioner submitted the letter dated 19.10.2019 and 2.9.2021 of the Dy. Commandant, CISF regarding increase in salary for period January, 2016 to August, 2016 and August, 2016 to March, 2019 respectively. The Respondent has stated that the revision in salary for the months of July, 2016 and August, 2016 in the aforesaid letters are not consonance and therefore, this Commission may take prudence check of the salary of CISF employees from January, 2016 to March, 2019. The Respondent has added that the Commission may compute additional O&M expenses, after considering any increase in Security expenses (if found in order after prudence check) as per the methodology adopted in the impugned order.

Reply of the Respondent, BRPL

9. The Respondent, BRPL has submitted that the Commission has allowed the additional O&M expenses for Rs. 9019.19 lakh, after due deliberations and examination of all issues. It has also stated that the Review Petitioner is merely re-arguing his case, which is not permissible in the Review Petition. The Respondent has submitted that there are definitive limits to the exercise of the power of review and the review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 of the CPC. It has added that a review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. (*judgement of Hon'ble Supreme Court in Parsion Devi and others Vs. Sumitra Devi and others (1997) 8 SCC 715 was referred to*).

Rejoinder of the Review Petitioner, THDC

10. The Petitioner, in its rejoinders dated 5.4.2022 has manly reiterated its



submissions made in the Petition.

Analysis and Decision

11. In accordance with Order 47 Rule 1 of the Civil Procedure Code of 1908 (CPC) read with Section 94 of the Electricity Act, 2003 any person feeling aggrieved by any order made by the Commission, may apply for review of the order under the following circumstances:

- (a) on discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was made, or
- (b) on account of a mistake or error apparent on the face of the record, or
- (c) for any other sufficient reasons.

12. The Review Petitioner has submitted that in the given facts and circumstances as stated above, even after best exercise of due diligence, the facts and figures regarding the said expenses could not be placed before the Commission at the time of passing the impugned order.

13. As regards impact due to implementation of pay revision of CISF Personnel (Security Expenses), the Commission, in the impugned order dated 23.10.2021 held as under:

“31. The Petitioner in the main petition had claimed the following impact in O&M expenses due to implementation of Pay Revision of CISF personnel:

<i>(Rs. in lakh)</i>					
<i>Description/ Financial Year</i>	<i>2015-16</i>	<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>Total</i>
<i>Security Expenses (CISF)</i>	<i>1527.47</i>	<i>1783.13</i>	<i>2073.46</i>	<i>2340.10</i>	<i>7724.16</i>

32. *Subsequently, the Petitioner vide affidavit dated 24.5.2021 has submitted as under:*

“Expenses for CISF salary from FY 2015-16 to FY 2018-19 is provided in actual along with arrear payment. Pay Commission of CISF was implemented from Jan-2016 and the same was regularized by CISF in the month of Aug 2016. Arrear for the period from Jan 2016 to July 2016 is enclosed herewith month wise and the impact of the same has been taken in F.Y. 2015-16 & 2016-17.”

33. *The Petitioner vide affidavit dated 24.5.2021 has submitted the following claim due to Pay Revision of CISF personnel:*



(Rs. in lakh)

Year	2018-19			2017-18		
	Pre-Revised	Post-Revised	Wage revision Impact	Pre-Revised	Post-Revised	Wage revision Impact
CISF	2340.10	2340.10	0.00	2073.46	2073.46	0.00
TOTAL	2340.10	2340.10	0.00	2073.46	2073.46	0.00

(Rs. in lakh)

Year	2016-17			2015-16		
	Pre-Revised	Post-Revised	Wage revision Impact	Pre-Revised	Post-Revised	Wage revision Impact
CISF	1718.52	1783.13	64.61	1479.01	1527.47	48.46
TOTAL	1718.52	1783.13	64.61	1479.01	1527.47	48.46

34. It is evident from above that the Petitioner has claimed impact of wage revision of CISF employees for 2015-16 and 2016-17. However, for the period 2017-18 and 2018-19, it is noted that pre-revised and post-revised pay is same and, therefore, there is apparently no impact of wage revision for these financial years. We also notice from the Petitioner's submission, vide affidavit dated 24.5.2021, that CISF headquarter has not given the impact of pay revision for the years 2017-18 and 2018-19. However, they have claimed the revised salary from the Petitioner.

35. It is pertinent to mention that while working out the O&M expenses for 2014-19 period, pay revision of CISF personnel (security expenses) was not considered by the Commission. Therefore, the same needs to be allowed. Also, as CISF headquarter has not given actual pay revision impact for 2017-18 and 2018-19 in respect of CISF personnel deployed at instant generating station, we are not able to work out the impact of pay revision in O&M expenses for 2017-19 period. Accordingly, we have considered the wage revision impact of CISF personnel for the year 2017-18 and 2018-19 limited to wage revision impact allowed in 2016-17 i.e. Rs.64.61 lakh.

36. Therefore, wage revision impact of CISF personnel for 2015-16 to 2018-19 is considered as follows:

(Rs. in lakh)

	2015-16	2016-17	2017-18	2018-19	Total
Claimed by the Petitioner(post revision pay)	1527.47	1783.13	2073.46	2340.10	7724.16
Impact due to wagerevision of CISF personnel allowed	48.46	64.61	64.61	64.61	242.29

37. The Petitioner may pursue with CISF headquarter to get the details of the actual pay revision impact. While claiming the impact of O&M expenses from beneficiaries if actual impact of pay revision towards CISF personnel is available that shall be claimed from beneficiaries' subject to upper limit of Rs 242.29 lakh as allowed by the Commission in paragraph 36 above.

38. In view of the above, the Petitioner's claim {refer paragraph 3(j)} due to pay revision of THDCIL employees, CISF personnel, implementation of GST and increase in Minimum Wages is revised as follows:

(Rs. in lakh)

Sl. No.	Description/ Financial Year	2015-16	2016-17	2017-18	2018-19	Total
1	Impact of Pay revision of Executives	0.00	352.00	1469.00	1579.00	3400.00
2	Impact of Pay revision of Supervisors	0.00	51.00	212.00	228.00	491.00
3	Impact of Pay revision of Workmen	0.00	505.00	2111.00	2270.00	4886.00
4	Impact due to Minimum Wages	0.00	0.00	0.00	0.00	0.00



5	Impact of GST	0.00	0.00	0.00	0.00	0.00
6	Security Expenses(CISF)	48.46	64.61	64.61	64.61	242.29
	Total	48.46	972.61	3856.61	4141.61	9019.29

39. Details of actual O&M expenses claimed by the Petitioner, normalized O&M expenses after excluding expenses as discussed at paragraph 22, normative O&M expenses allowed in Petition No 178/GT/2015 and under-recovery is as follows:

(Rs. in lakh)						
Sl. No		2015-16	2016-17	2017-18	2018-19	Total
1	Actual O&M expenditure for generating station (a)	29285.48	28906.61	32953.85	39514.31	130660.26
2	Actual O&M expenses (normalized) (b)	26361.13	25874.53	29922.45	33461.99	115620.10
3	Normative O&M allowed in 178/GT/2015 (c)	22757.81	24268.93	25880.39	27598.84	100505.97
4	Under-recovery (d)=(b)-(c)	3603.32	1605.60	4042.06	5863.15	15114.13
5	Revised wage revision impact as per table under paragraph 38	48.46	972.61	3856.61	4141.61	9019.29

40. It is observed that during the period 2015-16 to 2018-19, the normative O&M expenses is less than the actual O&M expenses (normalized) and the under-recovery is to the tune of Rs.15114.13 lakh. As such, in terms of methodology described at paragraph 22, the wage revision impact (excluding PRP/incentive) is of Rs. 9019.29 lakh (as calculated in table above) is allowable. Accordingly, we, in exercise of Power to relax under Regulation 54 of the 2014 Tariff Regulations hereby relax Regulation 29(1) of the 2014 Tariff Regulations and allow the reimbursement of Rs. 9019.29 lakh to the Petitioner, as additional O&M charges for the period 2015-16 to 2018-19.

41. The arrears payments on account of the above allowed wage revision impact is payable by the beneficiaries in twelve equal monthly instalments. Also, keeping in view the consumer interest, we, as a special case, direct that no interest shall be charged by the Petitioner on the arrear payments on account of the pay/ wage revision impact allowed in this order. This arrangement, in our view, will balance the interest of both, the Petitioner and the Respondents. Further, considering the fact that wage revision impact is being allowed under power to relax, these expenses shall not be made a part of the O&M expenses for Annual Fixed Charges (AFC) being determined under the 2014 Tariff Regulations. The same shall be considered in Petition No. 98/GT/2020.

14. Thus, the Commission in the impugned order dated 23.10.2021, had allowed the additional Security expenses of Rs.48.46 lakh for 2015-16 and Rs.64.61 lakh for 2016-17, 2017-18 and 2018-19, after considering the affidavit dated 24.5.2021 (Annexure-III) filed by the Review Petitioner, in terms of the directions of the Commission vide ROP dated 8.4.2021. The Review Petitioner has, however, submitted that after receipt of letter from CISF on 2.9.2021, it had revised Annexure-III, dealing with the impact of salary revision of CISF for the period from 1.1.2016 to 31.3.2019, vide affidavit dated



6.9.2021, and submitted the same in Petition No. 245/GT/2020 (due to portal being closed in Petition No.347/MP/2020) with letter dated 6.9.2021 to the Secretary of the Commission, to consider the same, before passing orders in the matter. According to the Review Petitioner, it was under a bonafide impression that the revised affidavit dated 6.9.2021, will be considered for computation of CISF security expenses. *Per contra*, the Respondents have mainly contended that as the revised information was filed by the Review Petitioner, after orders were reserved, in the petition on 29.6.2021, the same may not be considered. They have also submitted that since the Commission, after prudence check of the information furnished by the Review Petitioner vide affidavit dated 24.5.2021, had allowed the impact of the security expenses, the prayer for review of the impugned order may be rejected.

15. We have examined the matter. It is noticed from records that the Commission had reserved orders in Petition No.347/MP/2020 on 29.6.2021, and thereafter, disposed of the same vide impugned order dated 23.10.2021. Since the required information could not be placed before the Commission by the Petitioner, the Review Petitioner in the present Review Petition, till 29.06.21 when the order was reserved, the impugned order was passed by the Commission on basis of the materials available on the record.

16. We, from the submissions of the Review Petitioner, find that the Petitioner was diligently pursuing the matter with CISF and after receiving it on 2.09.2021 immediately tried to bring it on record on 5.09.21 through a letter to the Secretary of the Commission, though it was not a proper way of doing the same. The Review Petitioner instead of writing a letter addressed to the Secretary of the Commission could have mentioned the matter in the open court and requested the Commission to open the portal in the Petition No. 347/MP/2020 or could have filed an Interlocutory Application.



However, in spite of the this procedural lapse, we are of the considered view that the Review Petitioner comes within the ambit of for review as laid down under Rule 1, Order LVII of the Code as, even after the exercise of due diligence, the information could not be produced by the Review Petitioner at the time when the order was reserved. In this background, the submissions of the Review Petitioner for review of the impugned order dated 23.10.2021 is allowed. Accordingly, the revised affidavit dated 6.9.2021 (instead of affidavit dated 24.5.2021) and submissions filed by the Review Petitioner with regard to the actual impact of pay revision of CISF Personnel, is to be considered to work out the impact pay revision in O&M expenses for the period 2017-19, as stated in the subsequent paragraphs.

17. Based on the above, the following paragraphs of the order dated 23.10.2021 in Petition No.347/MP/ 2020 shall stand modified.

“Impact due to implementation of Pay Revision of CISF Personnel (Security Expenses):

(a) Paragraph 31: The Petitioner vide affidavit dated 6.9.2021 has submitted the following revised claim due to pay revision of CISF Personnel:

(Rs. in lakh)

Year	2018-19			2017-18		
	Particulars	Pre-Revised	Post Revised	Wage revision Impact	Pre Revised	Post Revised
CISF	2007.26	2340.10	332.83	1809.17	2073.46	264.29
TOTAL	2007.26	2340.10	332.83	1809.17	2073.46	264.29

(Rs. in lakh)

Year	2016-17			2015-16		
	Particulars	Pre-Revised	Post Revised	Wage revision Impact	Pre Revised	Post Revised
CISF	1587.23	1875.69	288.46	1479.01	1527.47	48.46
TOTAL	1587.23	1875.69	288.46	1479.01	1527.47	48.46

(b) Paragraph 36: It is noticed that the Petitioner vide its affidavit dated 5.4.2022, in its rejoinder to the reply of Respondent MPPMCL, has revised the claim for 2016-17



from Rs.288.46 lakh to Rs.175.38 lakh and the same has been considered in the calculations. Therefore, the revised wage revision impact of CISF personnel for the period 2015-16 to 2018-19 is considered as follows:

	<i>(Rs. in lakh)</i>				
	2015-16	2016-17	2017-18	2018-19	Total
Claimed by the Petitioner (post revision pay)	48.46	175.38	264.29	332.83	820.96
Impact due to wage revision of CISF personnel allowed	48.46	175.38	264.29	332.83	820.96

(c) Paragraph 38: In view of the above, the Petitioner's claim {refer paragraph 3(j)} due to pay revision of THDCIL employees, CISF personnel, implementation of GST and increase in Minimum Wages is revised as follows:

<i>(Rs. in lakh)</i>						
Sl. No.	Description/ Financial Year	2015-16	2016-17	2017-18	2018-19	Total
1	Impact of Pay revision of Executives	0.00	352.00	1469.00	1579.00	3400.00
2	Impact of Pay revision of Supervisors	0.00	51.00	212.00	228.00	491.00
3	Impact of Pay revision of Workmen	0.00	505.00	2111.00	2270.00	4886.00
4	Impact due to Minimum Wages	0.00	0.00	0.00	0.00	0.00
5	Impact of GST	0.00	0.00	0.00	0.00	0.00
6	Security Expenses (CISF)	48.46	175.38	264.29	332.83	820.96
	Total	48.46	1083.38	4056.29	4409.83	9597.96

(d) Paragraph 38: Details of actual O&M expenses claimed by the Petitioner, normalized O&M expenses after excluding expenses as discussed at paragraph 22, normative O&M expenses allowed in order dated 29.3.2017 in Petition No 178/GT/2015 and in order dated 2.5.2022 in Petition No. 98/GT/2020 (true up petition) and under-recovery is as follows:

<i>(Rs. in lakh)</i>						
Sl. No		2015-16	2016-17	2017-18	2018-19	Total
1	Actual O&M expenditure for generating station (a)	29285.48	28906.61	32953.85	39514.31	130660.26
2	Actual O&M expenses (normalized) (b)	26361.13	25874.53	29922.45	33461.99	115620.10
3	Normative O&M allowed in 178/GT/2015 (c)	22757.81	24268.93	25880.39	27598.84	100505.97



4	Under-recovery (d) = (b)-(c)	3603.32	1605.60	4042.06	5863.15	15114.13
5	Revised wage revision impact as per table under paragraph 38	48.46	1083.38	4056.29	4409.83	9597.96

(e) Paragraph 40: It is observed that during the period 2015-16 to 2018-19, the normative O&M expenses is less than the actual O&M expenses (normalized) and the under-recovery is to the tune of Rs.15114.13 lakh. As such, in terms of methodology described at paragraph 22, the wage revision impact (excluding PRP/incentive) is of Rs.9597.96 lakh (as calculated in table above) is allowable. Accordingly, we, in exercise of Power to relax under Regulation 54 of the 2014 Tariff Regulations, hereby relax Regulation 29(1) of the 2014 Tariff Regulations, and allow the reimbursement of Rs.9597.96 lakh to the Petitioner, as additional O&M charges for the period 2015-16 to 2018-19.

(f) Paragraph 41: The arrears payments on account of the above allowed wage revision impact is payable by the beneficiaries in twelve equal monthly installments. Also, keeping in view the consumer interest, we, in exercise of regulatory power as an exceptional case, hereby direct that no interest shall be charged by the Petitioner on the arrear payments on account of the pay/ wage revision impact allowed in this order. This arrangement, in our view, will balance the interest of both, the Petitioner and the Respondents. Further, considering the fact that wage revision impact is being allowed under power to relax, these expenses shall not be made a part of the O&M expenses, for annual fixed charges determined under the 2014 Tariff Regulations.

18. Review Petition No. 28/RP/2021 is disposed of in terms of the above.

Sd/-
(Pravas Kumar Singh)
Member

Sd/-
(I.S. Jha)
Member

Sd/-
(P.K. Pujari)
Chairperson