

DELHI ELECTRICITY REGULATORY COMMISSION

Viniyamak Bhawan, 'C' Block, Shivalik, Malviya Nagar, New Delhi – 110017

Petition No. 07/2007

In the matter of:

Application for increase in the number of units for concessional Tariff & for withdrawal of fixed charges for DVB pensioners under Section 132 of the Electricity Act, 2003.

AND

In the matter of:

D.V.B. Pensioners Association,
Through: Sh. Ajit Singh Chauhan,
General Secretary,
Rajghat Power House,
New Delhi – 110 002.

...Petitioner/Applicant

VERSUS

1. The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
I. P. Estate, New Delhi – 02.
2. Principal Secretary (Power),
Govt. of NCT of Delhi,
Delhi Secretariat,
I. P. Estate, New Delhi – 02.
3. North Delhi Power Ltd.,
Through its: **CEO**,
Sub-Station Building,
Hudson Lane, Kingsway Camp,
New Delhi – 110 009.
4. BSES Rajdhani Power Ltd.,
Through its: **CEO**,
BSES Bhawan, Nehru Place,
New Delhi – 110 019.
5. BSES Yamuna Power Ltd.,
Through its: **CEO**,
Shakti Kiran Bldg.,
Karkardooma,
Delhi – 110 092.

...Respondents

Coram:

Sh. Berjinder Singh, Chairman & Sh. K. Venugopal, Member

Appearance:

1. Sh. P. C. Jain, retd. A.P.O;
2. Sh. A. S. Chauhan, Vice President, DVB Pensioners Association;
3. Sh. S. K. Jain, Off. Secretary, DVB Pensioners Association;
4. Sh. Laxmi Narain Sharma, President, DVB Pensioners Association;
5. Sh. Anurag Bansal, Executive-Legal Affairs, NDPL;
6. Sh. Yogesh Anand, G. M. (L), DTL;
7. Sh. N. P. Singh, GM, IPGCL;
8. Sh. Ved Mitra, DGM (Comml.), DTL;
9. Sh. A. C. Agrawal, Manager (LB), DTL;
10. Sh. M. P. Aggarwal, GM (Comml.), DTL;
11. Sh. Prem Prakash, GM, DPCL;
12. Sh. R. K. Mehta, AM, BRPL;
13. Sh. Romesh Kumar, OSD (HR & Legal);
14. Sh. Udit, Addl. Manager-HR;
15. Sh. Amit Kapur, Advocate, NDPL;
16. Sh. Anupam Varma, Advocate, NDPL;
17. Sh. Mansoor Ali, Advocate.

ORDER

(Date of Hearing: 12.06.2007)

(Date of Order: 28.06.2007)

1. The Petition has been filed by D.V.B. Pensioners Association invoking provisions of Section 132 of the Electricity Act, 2003. The main prayer of the Applicant is that the Commission should, while considering the provisions of Tariff Schedule of the Tariff Order for the F. Y. 2002-03 and the provisions of Tripartite Agreement dated 28.10.2000 and 09.11.2000 read with Section 16 (c) of Delhi Electricity Reform Act, 2000 and the Transfer Scheme, allow an upward revision of the concessional units to the Applicant. It has been requested that the employees of erstwhile DVB including the pensioners, belonging to S1 category should be entitled to 100 units, S2 should be entitled to 200 units and S3 to 400 units of electricity per month at the concessional rate. The Applicants have also prayed for removal of fixed charges levied in the tariff for all categories of the employees of erstwhile DVB.
2. Sh. Laxmi Narayan Sharma, President, D.V.B. Pensioners Association, also raised the issue of non-implementation of the revised pension to various pensioners who have since retired from the service of DVB. It is stated that the Justice JD Jain Committee was constituted way back in 1994 for the purpose of considering the revision of the pay of employees of DVB and also for an upward revision of the pensionary benefits to the pensioners of DVB. It is further stated that despite various recommendations made by Justice JD Jain Committee and by other bodies constituted to consider the demands of the pensioners for an upward revision in the pensionary

benefits to the employees, nothing has been done so far. It is also stated that no Authority including the Govt. of NCT of Delhi, is ready to look into the legitimate grievances of the pensioners. It is, therefore, prayed that the Hon'ble Commission should intervene and pass an appropriate order directing the Distribution Companies and the Govt. of NCT of Delhi for revising the pensionary benefits of the pensioners and the widows of the DVB employees.

3. Sh. Amit Kapoor, appearing on behalf of the NDPL, while expressing his concern for the Applicants, has submitted that the Applicants have not approached the right Forum to address their grievance. Sh. Amit Kapoor, Advocate for NDPL, has further submitted that the present Petition which has been filed under Section 132 of the Electricity Act, 2003 is not maintainable and that the Commission is not vested with the jurisdiction to reopen the issues concerning the unbundling of DVB. It is also added by Sh. Kapoor that the prayer regarding the upward revision of the concessional units available to the pensioners and other DVB employees, has already been heard and disposed of by the Commission in Petition No. 65/2004 titled as Heera Lal & Ors. Vs. BSES Rajdhani Power Ltd., and as such, it would be inappropriate for the Applicants to re-agitate the same issue at this stage as the principle of *res judicata* is clearly applicable in this issue. The Applicants however, submit that the Commission is empowered to review its orders at any stage.
4. Sh. R. C. Mehta, appearing on behalf of BSES Rajdhani Power Ltd. and BSES Yamuna Power Ltd., has made a brief submission stating that the Commission vide its Order dated 18.04.2006 in the Petition of Heera Lal & Ors. (Petition No. 65/2004) have already declined to adjudicate upon the matter in view of availability of a self contained mechanism for Redressal of grievances, if any, provided under Clause 3(r) of the Tripartite Agreement.
5. The Govt. of NCT of Delhi have also given their written reply on the Petition. Reliance has been placed on the National Electricity Policy which provides that a minimum level of support may be required to make electricity affordable to the consumers of very poor category. The consumers below poverty line who consume below a specified level, say 30 units per month, may receive special support in terms of tariff which are cross subsidized. Tariffs for such designated group of consumers will be atleast 50% of the average (overall) cost of supply. This provision would

be further re-examined after 5 years. Quoting the above provision, the Govt. of NCT of Delhi is of the view that an upward revision in the number of units at concessional rate to DESU/DVB Pensioners would be against the National Policy.

6. It is also further stated by the Govt. of NCT of Delhi that the present application is not within the scope of Section 132 of the Electricity Act, 2003 as the Government has not sold or transferred any of its utilities to any such person who is not owned or controlled by the Government and further, the Petition does not involve payment of any type of dues, debt/liabilities to the pensioners of DESU/DVB.
7. The Applicants have submitted that they have been trying all possible and available methods of approaching the appropriate authorities to redress their grievance as far as it relates to an upward revision of their pension. It is submitted that the DVB Pensioners Association has demanded atleast an amount of Rs. 68 crore, payable to the Association for an upward revision in the pensionary benefits which became due since 1994.
8. The Commission is concerned about the plight of the DVB pensioners with respect to the revision of their pensionary benefits. However, the Commission, in the absence of its jurisdiction to adjudicate upon this issue, is not able to play any decisive role to resolve this problem. The Commission also feels that the pension is the right of the Applicants and any further delay in settlement of their claim would be detrimental to their interests most of whom are already in higher age group. It is also informed by the Applicants that a DVB Employees Trust Fund has been created under the Tripartite Agreement to look into the matters regarding the pension of the employees. It is however, not clear whether the said Trust has any authority to resolve the grievance of the Applicants or otherwise. While the Commission expresses its deep concern towards non-settlement of their pensionary claims, the Commission suggests to the Govt. of NCT of Delhi to consider their long standing problem sympathetically and settle the same on utmost priority.
9. As far as the other prayers regarding upward revision of the concessional units are concerned, the Commission has already decided the issue and declined to interfere in the matter vide its Order dated 18.04.2006 in Petition No. 65/2004. The Commission feels that this matter can be settled within the purview of the Tripartite Agreement where disputes/differences

have to be mutually negotiated between the concerned parties. Clause (r) of Section 3 of the Tripartite Agreement provides that in case there is any dispute between the parties then the matter may be referred to the Lt. Governor, Delhi who may resolve it as an arbitrator or may appoint a nominee on his behalf. The issue of Fixed Charges has also been dealt with by the Commission in its earlier order dated 18.04.2006.

10. In view of the above, the present Petition is not maintainable and, therefore, not admitted. However, the Applicants are at liberty to raise their grievances before the appropriate authority.
11. Ordered accordingly.

Sd/-
(K. Venugopal)
MEMBER

Sd/-
(Berjinder Singh)
CHAIRMAN