

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : In the matter of review of the MPERC (Terms and conditions for allowing pension and terminal benefits liabilities of personnel of the Board and Successor Entities) Regulations, 2012.

Petition No. 48/2012

ORDER

(Date of hearing 10th July, 2012)

(Date of order 12th July, 2012)

Madhya Pradesh Vidyut Mandal Abhiyanta Sangh, - Petitioner
Shade No. 13, Vidyut Nagar, PO Rampur,
Jabalpur – 482008 (MP).

V/s

M.P.Paschim Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 1
GPH Compound, Pologround,
Indore - 452003.

M.P.Madhya Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 2
Nishtha Parisar, Govindpura, Bhopal - 462023.

M.P.Poorv Kshetra Vidyut Vitaran Co. Ltd., - Respondent No. 3
Shakti Bhawan, Rampur, Jabalpur - 482008.

M.P. Power Transmission Co. Ltd., - Respondent No. 4
Block No. 2, Shakti Bhawan, Rampur,
Jabalpur - 482008.

M.P.Power Management Co. Ltd. - Respondent No. 5
Shakti Bhawan, Rampur, Jabalpur - 482008.

M.P.Power Generating Co. Ltd. - Respondent No. 6
Shakti Bhawan, Rampur, Jabalpur - 482008.

State Government, - Respondent No. 7
Through Energy Secretary,
Vallabh Bhawan, Mantralaya, Bhopal

Shri Pavan Kumar Jain, General Secretary appeared on behalf of the Petitioner.

2. The petitioner, Madhya Pradesh Vidyut Mandal Abhiyanta Sangh, Jabalpur has filed this petition seeking review of the MPERC (Terms and conditions for allowing pension

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3. The present petition has been filed under Section 61, 62, 86 and 181(2) (zp), Section 94 of the Electricity Act, 2003 read with Section 26, 55 of the Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000 and Regulation 6 of MPERC (Terms and conditions for allowing pension and terminal benefits liabilities of personnel of the Board and Successor Entities) Regulation 2012. Petitioner is seeking review of Clause 3 (5) and (6) of the MPERC (Terms and conditions for allowing pension and terminal benefits liabilities of personnel of the Board and Successor Entities) Regulation 2012.

4. The petitioner has submitted that the Commission has framed the MPERC (Terms and conditions for allowing pension and terminal benefits liabilities of personnel of the Board and Successor Entities) Regulation 2012 vide notification dated 20.04.2012. The provisions contained in Clause 3(5) and (6) of the aforesaid Regulations provides for restrictions and limitations to be imposed on funding of pension and other terminal benefits in view of the riders and conditions imposed in the said clauses. However, the Transfer Scheme, 2003 does not provide for any such restrictions rather it provides that the said contribution would be charged on the revenues of the transferee companies. The petitioner has submitted that the restrictions prescribed in clause 3(5) and (6) of Regulations, 2012 are also contrary to the provisions contained in Section 131 and 133 of the Electricity Act, 2003 which provides that the terms and conditions of services of the personnel of the Board upon transfer shall not in any way less favourable than those which would have been applicable to them, if there had been no such transfer. Further, the impugned Regulations do not provide for the time period within which the fund for pension and terminal benefits would be built up. The petitioner has submitted that the State Government vide notification dated 24.2.2012 has amended the Rules 7 of the Transfer Scheme Rules, 2003. The Clause (10A) of the amended Scheme provides that the subscription to the fund for payment of pension and other terminal benefits shall be a charge on the revenue of respective transferee companies. Further, the Petitioner has averred that the Commission has no jurisdiction to amend the Statutory Transfer Scheme, 2003 framed by State Government.

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5. The petitioner has made the following prayer :

- (i) For review/amendment of clause No. 3(5) and (6) of MPERC (Terms and conditions for allowing pension and terminal benefits liabilities of personnel of the Board and Successor Entities) Regulations, 2012 so as to bring it in consonance with the provisions of the Electricity Act, 2003, MP Vidyut Sudhar Adhiniyam, 2000 and the Statutory Transfer Scheme, 2003 framed by the State Government in exercise of their powers under the Electricity Act, 2003 and the Vidyut Sudhar Adhiniyam.
- (ii) Such other orders as the Commission deems fit and proper in the circumstances of the case.

6. The case was listed for motion hearing on 10.07.2012.

7. During the motion hearing, the petitioner reiterated the contents of the petition and submitted that there is an error apparent on the face of the record because the Regulations 3(5) and 3(6) are not in accordance with the provisions of Section 131 and 133 of the Electricity Act, 2003. He also submitted that Section 7(10) of the Transfer Scheme Rules notified by the Govt. of Madhya Pradesh provide a separate fund to be created for pension and regular subscription to be made in the fund and there is no restriction in the Transfer Scheme Rules whereas the provisions in Regulations 3(5) and 3(6) are restrictive in nature and therefore, contrary to the Transfer Scheme Rules. He further requested that the petition may be admitted.

8. On hearing the petitioner, the Commission has noted that the issues raised by the petitioner have already been considered while framing the Regulations. The Commission is also of the view that Regulations are issued exercising legislative functions of the Commission given to it under the Electricity Act, 2003. The Regulations have the force of subordinate legislation. Review of Regulations is not maintainable in terms of Section 94(1)(f) of the Electricity Act, 2003. Review of regulations, as sought by the petitioner, is not maintainable.

9. In view of the above, the review petition No. 48 of 2012 stands dismissed.

Ordered accordingly,

sd/-
(C.S.Sharma)
Member

sd/-
(Rakesh Sahni)
Chairman