

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION, BHOPAL

Sub : Funding of Pension and other Terminal Benefit Liabilities of the Pensioners/Employees working in the successor entities of the MP State Electricity Board.

Petition No. 03/2012

ORDER

(Date of hearing 13th February, 2012)

(Date of order 15th February, 2012)

M.P.Power Transmission Co. Ltd.,
Shakti Bhawan, Rampur, Jabalpur.

M.P.Poorv Kshetra Vidyut Vitaran Co. Ltd.,
Shakti Bhawan, Rampur, Jabalpur.

M.P.Madhya Kshetra Vidyut Vitaran Co. Ltd.,
Nishtha Parisar, Govindpura, Bhopal.

M.P.Pashchim Kshetra Vidyut Vitaran Co. Ltd.,
Pologround, Indore.

M.P.Power Generating Co. Ltd.,
Shakti Bhawan, Rampur, Jabalpur.

M.P.Power Trading Co. Ltd.,
Shakti Bhawan, Jabalpur.

- Petitioners

V/s

MPEB Pensioners Association,
Jabalpur

- Respondent

Shri M.G.Ramchandran, Advocate and Shri Naman Nagrath, Advocate appeared on behalf of Petitioners.

Shri V.K.Agrawal, President appeared on behalf of Respondent.

2. Petitioners have jointly filed the present petition in the matter of funding of pension and other terminal benefit liabilities of the pensioners/employees working in the successor entities of MPSEB.

3. The case was listed for motion hearing on 30.01.2012.

4. During the motion hearing on 30.01.2012, the representative of Petitioners

(Cont. to next page)

Sub : Funding of Pension and other Terminal Benefit Liabilities of the Pensioners/Employees working in the successor entities of the MP State Electricity Board.

submitted that pension and other terminal benefits liabilities were being paid regularly by the erstwhile MPSEB/MPEB prior to the enactment of the Electricity Act, 2003. Now because of the statutory requirement under the Electricity Act, 2003, Petitioners are required to approach the Commission for approval of funding of pension and other terminal benefits liabilities through tariff. He quoted the provisions of Section 133, 181 and 86 of the Electricity Act, 2003. He submitted that as per Section 133 of the Act, pension is a statutory right of all the employees and officers of the erstwhile MPSEB/MPEB and other successor entities. This section also empowered the State Government to frame scheme and accordingly, the State Government has already notified MP Electricity Reforms First Transfer Rules, 2003 on 13.06.2005 (as amended from time to time). The Rules always supplemented the Electricity Act, 2003. Further, as per the provisions of Rules 10 and 11, the priority of payment of terminal benefits to the pensioners shall be at par with the payment of salary and wages to the personnel of the respective transferees. Also, a separate fund is to be created by the transferees for payment of pension and other terminal benefits of the personnel who retire after the date of transfer through regular subscription of appropriate amount into the Terminal Benefit Trust being created by the State Government. The State Government has already created "MPSEB Transfer Benefits Trust". Moreover, the amount of pension and other terminal benefits payable each year as well as subscription to the fund shall be a charge on the revenues of the respective transferee till the requisite fund is built up with the Terminal Benefit Trust. Section 181 requires the Commission to frame Regulations consistent with the Electricity Act, 2003 and rules generally to carry out the provisions of the Act. Therefore, the Commission is bound to follow the Act and rules. There is no provision given in the Electricity Act, 2003 by which the Commission has powers to disagree with the Electricity Act, 2003 and the rules framed under the provisions of the Act.

5. During the hearing, the Commission enquired from the representative of

(Cont. to next page)

Sub : Funding of Pension and other Terminal Benefit Liabilities of the Pensioners/Employees working in the successor entities of the MP State Electricity Board.

Petitioners regarding the need of explanation given under Section 133 of the Electricity Act, 2003. The representative of Petitioners submitted that the purpose is not exclusion of retired employees/officers. The Commission further enquired as to who are the pensioners. The representative of Petitioners submitted that the pensioners are retired employees/officers of erstwhile MPSEB/MPEB on the date of transfer. The Commission further enquired that when the successor entities which are registered under the Companies Act, 1956 are required to report every year the assets and liabilities then why the liabilities related to pension are not reflected in the final opening balance sheet and balance sheets prepared thereafter. The representative of Petitioners submitted that the liabilities cannot be assessed without actuarial analysis and the actuarial analysis was completed and submitted to the Commission on 05.03.2010. The query of the Commission is relevant for assessment of appropriate fund to be transferred into the Terminal Benefit Trust. Since, the determination of tariff is with the Commission, the only source of revenue to be earned by the Companies is the tariff. The representatives of Petitioners also prayed that a separate Regulation may be notified by the Commission for payment of pension and other terminal benefits to all the pensioners so that permanent arrangement could be made.

6. On hearing Petitioners, the Commission admitted the petition and posted the matter to be heard on 13.02.2012 for argument on merits.

7. During the hearing on 13.02.2012, the representative of Petitioners reiterated the contents of the petition and prayed that the Commission notify a separate Regulation for payment of pension and other terminal benefits to all the existing pensioners and for personnel in service who will be retiring from service of the Board and the successor entities. Shri Ramchandran appearing on behalf of the Petitioners mentioned that matter regarding final transfer of employees to successor entities to complete the process of reforms and reorganization of MPSEB is pending before

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Sub : Funding of Pension and other Terminal Benefit Liabilities of the Pensioners/Employees working in the successor entities of the MP State Electricity Board.

the Hon'ble High Court of MP. He mentioned that one of the major impediments in concluding implementation of the transfer scheme is the proper arrangement for pension payment and related matters. He therefore petitioned that Commission may consider framing a separate Regulation in line with the provisions in the Transfer Scheme for pension payment and related matters.

8. During the hearing, the representative of Respondent also supported the contents of the petition and requested a Regulation containing arrangement for pension payment and related matters so that permanent arrangement for disbursement of pension could be made.

9. On hearing Petitioners and Respondent, the Commission decided to delink issue of pension payment and related matters from Tariff Regulations and to frame a separate Regulation for this purpose. Commission Secretary is directed to get an appropriate Regulation drafted.

10. With the above directions, the Petition No. 03 of 2012 stands disposed of.

Ordered accordingly,

sd/-
(C.S.Sharma)
Member

sd/-
(Rakesh Sahni)
Chairman