

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 1/2012
In
Petition No. 158/2011 (Suo-motu)

Coram

1. Dr. Pramod Deo, Chairperson
2. Shri S.Jayaraman, Member
3. Shri V.S.Verma, Member
4. Shri M.Deena Dayalan, Member

DATE OF HEARING: 9.2.2012

DATE OF ORDER: 14.8.2012

In the matter of

Review of the order dated 12.7.2011 in Petition No.158/2011 (suo-motu)-Default in payment of Unscheduled Interchanges (UI) charges for the energy drawn in excess of the drawn schedule by Department of Power, Government of Mizoram, Aizwal.

**And
In the matter of**

Shri Ven Hela Pachuau, Chief Secretary and Secretary, Power and Electricity Department, Government of Mizoram, Aizwal **Petitioner**

Following were present:

Shri Pragyan Sharma, Advocate for the petitioner
Shri Rupesh Gupta, Advocate for the petitioner

ORDER

The petitioner, Shri Ven Hela Pachuau, Chief Secretary and Secretary, Power and Electricity Department, Government of Mizoram has filed this

petition seeking review of the Commission's order dated 25.10.2011 in Petition No. 158/2011 (suo motu).

2. The Commission vide its order 27.9.2011 had directed Department of Power, Government of Mizoram and Secretary In-charge of the said Department to liquidate the outstanding UI dues of ₹ 2.64 crore including surcharge as on 29.9.2011. In the said order dated 27.9.2011, the Secretary, Department of Power, Govt. of Mizoram was directed to personally appear before the Commission on 18.10.2011 and explain the reason for non-compliance with the provisions of Central Electricity Regulatory Commission (Unscheduled Interchange charges and related matters) Regulations, 2009 as amended from time to time ('UI Regulations'). Since the Secretary, Department of Power did not appear on the stipulated date, we had issued the following directions in our dated 25.10.2011:

"5. The second respondent did not appear before the Commission on 18.10.2011 as directed nor he had filed any affidavit listing the reasons for his non-appearance. Therefore, a clear cut case of violation of Section 142 of the Act has been made out against the second respondent for non-compliance with the order of the Commission. Accordingly, we impose a penalty of ₹ one lakh on the second respondent which he will be personally liable to pay for non-compliance of the order of the Commission."

3. The petitioner has filed the review petition for review of the above direction of the Commission. The petitioner has submitted that he has an unblemished and meritorious official record and has held various responsible positions in the Government organizations with utmost respect, care,

responsibility, sincerity and precision. The petitioner has further submitted that he has been diligent and respectful to the orders issued by the Court and Tribunals and has always ensured effective compliance of the orders by issuing appropriate directions to the concerned officials and Department/Officers. The petitioner has further submitted that after receipt of the order of the Commission dated 25.10.2011, he called for a report from the concerned officers. As per the report, the order dated 27.9.2011 was received by the Secretariat office of the Secretary, Department of Power and Electricity on 11.10.2011. The petitioner, who holds the additional charge of Secretary, Department of Power, was on a training assignment at London from 9.10.2011 till 15.10.2011 and returned to Delhi on 16.10.2011 and proceeded to Aizwal on 17.10.2011 after attending an official meeting in Delhi. The petitioner has further submitted that he was not aware of the passing of the order dated 27.9.2011 by the Commission calling the Secretary, Deptt. of Power, Government of Mizoram to attend the hearing on 18.10.2011. It has been further submitted that had the applicant been so aware, he would have ensured that the said hearing was attended. Therefore, non-compliance of the order of the Commission is unintentional. The petitioner has submitted that the order imposing the penalty on the petitioner would cause severe harm to the career and future of the petitioner. Since the petitioner had no knowledge of the present proceedings before the Commission, the petitioner could not take steps for compliance of the order dated 27.9.2011.

4. The petitioner has undertaken that it will adopt/introduce a proper system henceforth so that the proceedings taken up and the orders passed by the Commission are sincerely and timely attended to and/or complied with by the office of the Engineer-in-Chief, Department of Power and Electricity, Government of Mizoram. The petitioner has requested for review of the order of the Commission imposing personal liability on him.

5. After hearing the learned counsel for the petitioner during the hearing on 9.2.2012, we had directed the petitioner to file a detailed affidavit indicating the action taken against the officials responsible for the lapses.

6. The petitioner vide its affidavit dated 20.3.2012 has submitted that the matter was investigated by Shri Sr. Jolly Newman, Joint Secretary, Power and Electricity Department. The Inquiry Officer in its report has identified three officials responsible for the lapses. Subsequently, the Resident Commissioner, Government of Mizoram in its affidavit dated 17.7.2012 has submitted that State Government of Mizoram has issued warning to the three officials, namely, Er. Liansangvunga, Under Secretary, Power and Electricity Department, Ms. Lalsangluri, LDC P/B of Dy Secretary, Health & Family Welfare Deptt. and Ms. Zobiakveli, Supdt., O/o CE, PWD (Road) for the lapses to place the order of

the Commission before the Chief Secretary. The copies of the warnings issued to said three officials have been placed on record.

7. We have considered the submission of the petitioner. From the sequence of events narrated by the petitioner, it emerges that the orders of the Commission were not brought to the notice of the petitioner by the concerned officials. The petitioner has taken steps to fix the responsibility on the concerned officials for the lapses and warnings have been issued to them. The petitioner has assured to put in place a proper system and mechanism to deal with the notices and orders of the Commission to ensure due and timely compliance. After considering the assurances and commitments of the petitioner, we discharge the petitioner from his personal liability to pay ` one lakh as penalty.

8. With the above, the review petition is disposed of.

Sd/-
(M.DEENA DAYALAN)
MEMBER

sd/-
(V.S.VERMA)
MEMBER

sd/-
(S.JAYARAMAN)
MEMBER

sd/-
(Dr. PRAMOD DEO)
CHAIRPERSON