

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

ORDER IN APPEAL NO. 282 OF 2015
ON THE FILE OF THE APPELLATE
TRIBUNAL FOR ELECTRICITY, NEW DELHI

Dated: 24th October, 2018

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of:

West Bengal State Electricity Distribution Company Limited,
Vidyut Bhavan, Block DJ, Section-II,
Salt Lake City,
Kolkata – 700 091. Appellant(s)

Versus

1. Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi-110001.

2. N.H.P.C. Limited,
N.H.P.C. Office Complex,
Sector-33, Faridabad-121003,
Haryana

..... Respondent(s)

Counsel for the Appellant(s) : Mr. Sanjay Sen, Sr. Adv.
Ms. Mazag Andrabi
Mr. Varun Kapur

Counsel for the Respondent(s) : Mr. Rajiv Shankar Dvivedi
Mr. S.K. Sarkar
Ms. Arti Dvivedi for R-2

The Appellant has sought the following reliefs in Appeal No. 282 of 2015:

- (a) Allow the present appeal and set aside the impugned order dated 18.09.2015 passed by the Hon'ble Commission in Petition No.05/RP/2015 to the extent the same has been challenged in terms of the facts and grounds indicated above.
- (b) Pass such further or further order(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

The Appellant has presented in this Appeal for consideration under the following Questions of Law:

- a) Whether the impugned order suffers from arbitrariness and non-application of mind with regards to allowance of O & M expenses till the cut-off date when no data on capital cost was available for the said period?
- b) Whether it was just and proper on the part of the Commission to allow revision in O&M expenses and interest on working capital on the basis of projections therein deviating from its due standard of relying on incurred expenses for computation of capital cost?
- c) Whether the Commission was right in ignoring the data on record vide DIA report and revise costs for heads like O&M and interest on working capital ignoring the interest of the common public of West Bengal?

ORDER

PER HON'BLE MR. JUSTICE N.K. PATIL, JUDICIAL MEMBER

1. We have heard learned senior counsel, Mr. Sanjay Sen, appearing for the Appellant and learned counsel, Mr. Rajiv Shankar Dvivedi, appearing for Respondent No.2.
2. Learned counsel appearing for Respondent No.2 has filed a communication dated 03.07.2018 and the same was taken on record.
3. Learned counsel appearing for Respondent No.2 submitted that in the light of the communication dated 03.07.2018, the instant appeal filed by the Appellant may be disposed of reserving liberty to the party to redress their grievance before the first Respondent.
4. Per contra, learned senior counsel, Mr. Sanjay Sen, appearing for the Appellant submitted that in the light of the submission made by Respondent No.2, the instant appeal may be disposed of reserving liberty to the Appellant to file necessary application for seeking relief before the first Respondent and also directing the first Respondent to dispose of the matter afresh in accordance with law after affording reasonable opportunity to the Appellant and the second Respondent,

without being influenced of the observations made in the impugned order dated 18.09.2015 passed in Petition No.05/RP/2015 .

5. All the contentions of both the parties may be left open.

6. Submissions made by the learned counsel appearing for the Appellant and learned counsel appearing for the second Respondent, as stated above, are placed on record.

7. In the light of the communication dated 03.07.2018 issued by Mr. T. Rout, Chief (Law), Central Electricity Regulatory Commission and also the submissions made by the learned counsel appearing for the Respondent No.2, as stated above, the instant appeal filed by the Appellant stands disposed of reserving liberty to the Appellant to file necessary application for seeking appropriate relief. In the event such application is filed for seeking relief, the first Respondent, CERC is directed to dispose of the same in accordance with law after affording reasonable opportunity to the Appellant and the Respondent No.2 without being influenced of the impugned order dated 18.09.2015 in Petition No.05/RP/2015 and shall be disposed of as expeditiously.

8. With these observations, the instant Appeal filed by the Appellant, being Appeal No. 282 of 2015, stands disposed of.

9. Party to bear the whole cost.

10. Order accordingly.

(S.D. Dubey)
Technical Member
Pr/pk

(Justice N.K. Patil)
Judicial Member