

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**I.A. Nos. 146, 147 & 148 of 2013 in
DFR No. 1851 of 2012**

Dated: 30th April , 2013

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member**

In the matter of:

1. Union of India,
South Central Railway,
Rep. by Dy. Chief Electrical Engineer,
South Central Railway,
IVth Floor, 'C' Block,
Rail Nilayam,
Secunderabad-500 071.
 2. Chief Electrical Engineer,
East Coast Railway,
B-2, Rail Vihar,
Chendrasekharapur,
Bhubaneswar
 3. Chief Electrical Engineer,
Southern Railway,
7th Floor, NGO Annex,
Park Town,
Chennai-600 003
-Appellants/Applicants

Vs.

1. Andhra Pradesh Electricity Regulatory Commission,
D. No. 1-4-660, 5th Floor,
Singareni Bhavan, Lakdi-Ka-Pool,
Red Hills, Hyderabad-500 004
2. Andhra Pradesh Central Power Distribution Co. Ltd.,
Rep. by Chairman-cum-Managing Director,
Corporate Office, Mint Compound,
Hyderabad-500 063

3. Andhra Pradesh Northern Power Distribution Co. Ltd.,
Rep. by Chairman-cum-Managing Director,
D. No. 1-1-503 & 504, Chaitanyapuri,
Opp. REC Petrol Bunk,
Hanamakonda-506 004
4. Andhra Pradesh Southern Power Distribution Co. Ltd.,
Rep. by Chairman-cum-Managing Director,
D. No. 19-13-65/A, Srinivasa Puram,
Tiruchanur Road,
Tirupathi-517 503.
5. Andhra Pradesh Eastern Power Distribution Co. Ltd.,
Rep. by Chairman-cum-Managing Director,
Near Gurudwara, P&T Colony,
Seethammadara,
Visakhapatnam-530 013 ... Respondents

Counsel for the Applicant(s) : Mr. Joydeep Mazumdar
Mr. Rohit Dutta,
Ms. Samina Sheikh

Counsel for the Respondent(s) : -

ORDER

Rakesh Nath, Technical Member

I.A. no. 147 of 2013 for waiver of court fee is allowed as the Applicant has filed the Appeal against a common tariff order dated 30.3.2013 of the State Commission.

2. I.A. nos. 148 and 146 of 2013 in DFR No. 1851 of 2012 have been filed for condonation of delay of 140 days in filing the Appeal and 179 days in re-filing the Appeal after curing the defects pointed out by the Registry.

3. In I.A. no. 148 of 2013 for condonation of delay in filing the Appeal, it has been stated that the impugned order was issued on 30.3.2012 but the copy of the order was received only on 20.05.2012. Initially the Applicant thought of filing a Review Petition before the State Commission but later on it was decided to file the Appeal. This caused a long delay of 140 days from the date of receipt of the order in filing the Appeal.

4. In the Application for condonation of delay in re-filing the Appeal, it has been stated that after filing the

Appeal on 8.10.2012 through its Deputy Chief Electrical Engineer, they were informed by the Registry by letter dated 22.10.2012 of certain defects in the Appeal Paper Book. The Applicant received the letter from the Registry on 11.12.2012. At the relevant point of time the Deputy Chief Electrical Engineer was on long leave and subsequently was transferred and new Deputy Chief Electrical Engineer took charge on 5.2.2013. Thereafter, he responded to the defects on 13.02.2013. However, the Appeal was re-filed without an application for condonation of delay which was subsequently filed on 26.04.2013. Accordingly, the Applicant has prayed for condonation of delay of 179 days in re-filing the Appeal.

5. We have heard the learned counsel for the Applicants/Appellants.

6. We find that the total delay in filing and re-filing the Appeal from the date of receipt of the order i.e. 20.5.2012 is about 218 days. We are not satisfied with the explanation offered by the Applicant for delay in filing as well as in re-filing the Appeal.

7. The reason given for delay in filing the Appeal is that they had initially thought of filing a Review Petition but later on decided to file the Appeal. This cannot be a valid reason. The reason for delay in re-filing the Appeal is that the Deputy Chief Electrical Engineer was on long leave and was subsequently transferred and the new Deputy Chief Electrical Engineer after taking charge filed the Appeal. This reason also cannot be considered to be a valid reason.

8. As such we are not satisfied with the reasons given for delay in filing and re-filing of the Appeal. Long delay in opting the remedy against the impugned order and long leave and transfer of one of the officers in the Railways set up cannot be construed to be “sufficient cause to condone the delay”.

9. We find that the Applicant has not been diligent through out in pursuing the remedy available to it. It is also noted that the Appeal has been filed against the Tariff Order of the State Commission for the FY 2012-13 and by the time the Applicants filed and re-filed the Appeal and filed the application for condonation of the delay in re-filing after an inordinate delay of about 218 days, the tariff year 2012-13 was already over.

10. In view of above, we dismiss IA nos. 146 & 148 of 2013. Consequently, the Appeal is also rejected.

11. Pronounced in the open court on this **30th day of April, 2013.**

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

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REPORTABLE/~~NON-REPORTABLE~~

vs