

Before the Appellate Tribunal for Electricity  
(Appellate Jurisdiction)

R.P No. 3 of 2009 & IA No. 89 of 2009

in

A. No. 209 of 2006

Dated: July 15, 2009

Present: Hon'ble Mrs. Justice Manju Goel, Judicial Member  
Hon'ble Mr. H.L. Bajaj, Technical Member

H.P. State Electricity Board

Review Petitioner(s)

Versus

H.P. Electricity Regulatory Commission & Ors.

-Respondent(s)

Counsel for the Review Petitioner(s) : Mr. M.G. Ramachnadran,  
Mr. Anand K. Ganesan and  
Ms Swapna Seshadri

Counsel for the Respondent(s) : Ms. Shikha Ohri for HPERC  
Dr. Vinod Kapor for Resp No. 2  
Dr. Kuldeep Kumar for Resp No. 2

**ORDER**

**I.A. No. 89 of 2009**

The delay in filing the review petition is condoned.

**Review Petition No. 3 of 2009**

In this review petition the appellant says that the Tribunal had made a mistake in noticing that the DA for all employees was frozen by the respondent at 24 %, although the employees had become entitled to DA at 29% and later at 35% in view of notifications of the Government in the FY 2006-07.

2. One of the issues handled in the impugned judgment was employees cost which the Commission had not fully allowed as pass through. Part of the employees cost was the Dearness Allowance admissible to the employees. We examined the impugned order of the Commission and found that the Commission had threatened to freeze the DA in future unless the efficiency of employees improved. The impugned order of the Commission did not mention the increase of DA to 24 % and subsequently to 35%. However, when the order was actually passed the DA stood at 24%. On the basis of this order the Commission while truing up allowed DA only at 24% which could be recovered by way of tariff. The appellant has therefore filed the present application seeking review/clarification.
  
3. We, in our judgment, have said that DA is generally linked to consumer price index and is given to neutralize the effect of rise in price level or inflation. So far as the threat to deny rise in DA in future unless efficiency was improved is concerned we said that any grievance to that observation would actually arise only if the Commission subsequently denied to raise the DA. In the truing up order, the Commission says that the Commission in its tariff order for FY 2006-07 had capped DA at 24% of the basic and held that any future increasing in DA would not be allowed till the Board improves its efficiency. It is clarified that Commission cannot take this view since this view was categorically rejected by us. In the impugned order Commission never said the DA was capped at 24 %. Nor did we in our impugned order deal with a cap of 24 %. We dealt with concept of

DA and said that the DA has to be given according to Government's notification.

4. In our opinion there is no error apparent in the judgment. The judgment has to be read in view of the facts mentioned in the judgment. The judgment cannot be read to mean we had approved a cap on DA at 24%.
5. With these observations, the review petition is disposed of.

**( H.L. Bajaj )**  
**Technical Member**

**( Justice Manju Goel )**  
**Judicial Member**