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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO 1367/95

M Jawaharlal and 199 others

.....Applicants

Vs

Secretary Min of Def and Others

...Respondents

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS

MAY IT PLEASE THE HON'BLE TRIBUNAL

1. Without prejudice to the parawise submissions of the respondents to the application and to one another the respondents submit that the applicants who are Defence Civilians residing in Govt accomodation in Cantonments/Military areas questioning the upward revision of rates of water and electricity. The rates of water and electricity being charged by the respondents from the applicants were fixed long back in the year 1987. The respondents have not revised the rates in the year 1994 i.e after a gap of almost 07 years. The applicants are resenting this upward revision alleging that the respondents are procuring water and electricity from the supplying agencies at a lower rate but charging higher rates from the applicants thereby making a profit/earning a revenue to the State. The respondents submit that they are procuring water and electricity from the state authorities and distributing them to the applicants. The rates being charged by the supplying agencies will undoubtedly have a bearing on the rates to be charged from the applicants. Over the years the supplying agencies have no alternative but to revise the rates upwards. The respondents have not committed any impropriety by increasing the rates. The respondents are competent ^{to} do so under the provisions of paras 704, 912, 913, 916 and appendix 'O' (as amended) of the MES Regulations.

2. With reference to para I to V the respondents have no comments.

P. GOPALAKRISHNAN

P. GOPALAKRISHNAN
Major
Adm Officer
For Chief Engineer

A. R. Chawla
(A. R. Chawla)

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Research and Dev

3. With reference to para VI (a) of the application, the respondent wish to submit that rates charged by State Electricity Boards/Local Supplying Agencies are on the sliding scale where consumers having low consumption are charged at a lower rate and bulk consumers are charged at higher/commercial rate. Since, the MES receives electricity and water in bulk, it is charged at commercial rates. Moreover, MES incurs expenditure on provision and recurring maintenance of the distribution network for water and electricity supply. Therefore by logical reasoning, the rates charged by the MES from paying consumers would not be same as those paid by the MES to the supplying agencies. Even then, the All India all inclusive cost per unit of electricity supplied by MES was 2.16 per unit for the year 1990-91. As such the rate of Rs 1.80 per unit fixed for MES Civilians is a subsidised rate. As regards the matter of Stay is concerned the respondents wish to state that in view of the interim injunction given by the Bombay high court/other CATs for not recovering arrears at revised rates of electricity and water retrospectively, the respondents have already issued instruction not to recover the arrears at revised rates of electricity and water through out the country pending the decision of the high court/CATs.

4. With reference to para VI (b) the respondents wish to state that in accordance with para 704,912,913,916 and Appendix 'O' (as amended) of MES Regulations, (extract of these paras are annexed as Ex R-1), the respondents are empowered to fix and review the All India Flat rates for water and electricity which may be charged from the consumers. The respondents procure water and electricity in bulk from State Authorities. They incur huge expenditure in receiving the bulk supply and supplying the same to the users through their own distribution network. As such, the distribution cost is added to the bulk rate and accordingly, the All India recovery rates are arrived at. The All India all inclusive cost per unit of electricity supplied by MES was Rs 2.16 per unit for the year 1990-91 whereas the All India Flat Rate charge fixed for the paying consumers are Rs 1.80 per unit of electricity which is less than per unit cost for procurement and distribution by the MES.

The revised All India Flat Rate for electricity has been arrived at by taking the average of the rates applicable to the slab ranging from 101 to 300 units of consumption as prevailing in the 4 Metropolitan cities namely Delhi, Bombay, Calcutta and Madras during 1993.

The rate for water supply has been worked out on the basis of annual return of water supply installations for the year 1991 received from the various Chief Engineers across the entire country. In view of the facts and circumstances mentioned above, the respondents have not violated Articles 14,16 or 21 of Constitution and claim of the applicants are denied.

P. Gopalakrishnan

P. GOPALAKRISHNAN
Major
Adm Officer
For Chief Engineer

A P Chawla

(A P Chawla)
Col
ACE
Chief Engineer R & D
Secunderabad

5. With reference to para VI (c) of OA, the respondents submit that in view of interim injunctions given by the Bombay High Court/other CATs for not recovering arrears at revised rates of electricity and water retrospectively, the respondents have already issued instructions not to recover the arrears at revised rates of electricity and water throughout the country pending the decision of the High Court/CATs. In addition it is submitted that the respondents have taken action to transfer all such OAs to CAT PB New Delhi and in some cases hearings have been stayed. In the circumstances, it is prayed that the present OA may be heard only after the final outcome of the transferred cases at CAT PB New Delhi.

6. With reference to para VII of OA the respondents state that relief sought by the applicants cannot be accepted due to the following reasons :-

(a) In view of the interim relief granted by High Court of Bombay in WP No 5396 of 1994 (Shri Madhavan Mukundan Pillai and others Vs Union of India), the respondents have directed their lower offices not to recover arrears at revised rates upto 01 Sep 94. The revised rate has thus been implemented from 01 Sep 94 onwards.

(b) The respondents emphatically state that the provision of water and electricity at subsidised rates to the employees is not a condition of their service and the employees have no rights whatsoever to demand water and electricity at subsidised rates.

(c) The respondents are within their rights to fix the recovery rates depending upon the cost incurred by them as empowered to decide the All India recovery rates and review them from time to time under the provision of para 704,912,913,916 and Appx 'O' (as amended) of MES Regulation (placed as annexure I)

Under the circumstances, the relief sought by the applicant is not maintainable.

7. The respondents crave leave of this Hon'ble Tribunal to add to amend and or alter this written statement if and when found necessary.

8. All statements, submissions and contention of the applicants in their application which are contrary to and or inconsistent with what is stated herein above are denied as if each such statement, submission and or contention is expressly set out herein and traversed.

Written statement drawn by

P. Gopalakrishnan

P. GOPALAKRISHNAN
Major
Adm Officer
For Chief Engineer

A P Chawla
(A P Chawla)
Colonel
Addl CE (Pers)
for Chief Engineer
Secunderabad-500 003

VERIFICATION

I Colonel AP Chawla, Addl Chief Engineer (Pers) working in the office of Chief Engineer R&D, Picket, SECUNDERABAD-500 003 hereby solemnly affirm and state that what is stated in paras I to V herein above is true to my knowledge and that I have not deliberately suppressed any material facts.

This verification is signed by me at secunderabad on this 23rd day of Sep 1996.


(A P Chawla)

Colonel
Addl Chief Engineer (pers)
for Chief Engineer
Secunderabad-500 003

In the C.A.T. Hyd

OANO: 1367/95

Reply statement filed
on behalf of the
Respondents

Replies (Latter copy)
Bhokar
11/1/95
(S. LAKSHMINARASEDY)



filed by

V. Bhimanna
Addl. C.G.S.C

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