

TAMIL NADU ELECTRICITY REGULATORY COMMISSION
(Constituted under section 82 (1) of the Electricity Act, 2003)
(Central Act 36 of 2003)

PRESENT:-

Thiru.K.Venugopal **Member**

and

Thiru.S.Nagalsamy **Member**

M.P. No.31 of 2012

Central Training College
CRPF, Thoppampatti
Coimbatore, TN – 17
Represented by its
Deputy Inspector General of Police

..... Petitioner
(Represented by Thiru Saravanan
Deputy Commandant, CTC,CRPF)

Vs

1. The Chairman and Managing Director
TANGEDCO Ltd.
No.144, Anna Salai
Chennai.
2. The CE, Commercial
No.144, Anna Salai
Chennai.
3. The Superintending Engineer
Coimbatore EDC

..... Respondents
(Thiru P.H.Vinod Pandian
Advocate for Respondents)

Dates of hearing : 18-10-2012, 28-11-2012 and 18-12-2012

Date of order : 30-01-2013

M.P.No.31 of 2012 came up before the Commission on 18-12-2012 for final hearing. The Commission upon perusing the above petition and connected records of the case and upon hearing both sides passes the following

ORDER

1. Prayer in M.P. No.31 of 2012:-

The prayer in M.P.No.31 of 2012 is to confirm the classification of the HT services for Central Training College, CRPF Coimbatore under HT II-A Tariff as in the case of CRPF camp, Avadi at par with Ministry of Defence establishment and to charge the Petitioner only under HT II A Tariff and set aside the impugned letter dated 26-04-2012 issued by the third Respondent namely, the Superintending Engineer, Coimbatore Electricity Distribution Circle.

2. Facts of the case:-

a. During the year 1969, the Petitioner namely, Central Reserve Police Force established a Central Training College at Avadi (CTC Chennai) which was shifted to the present location at Thopampatti, Coimbatore on 01-05-1997. The Central Training College (CTC) comprises of residential accommodation meant for the staff and their families. These families were being charged under HT II A Tariff from the date of establishment. The audit observation of short levy of demand has been levied from 04/2007 amounting to the tune of Rs.89,00,029/-.

b. The Superintending Engineer CEDC/North, Coimbatore has issued a Notice (Lr.No.SE/CEDC/N/HT/A.5/FAG/Audit/D234/2012 dated 26-04-2012) to this institution for short levy of demand and energy charges with effect from 04/2007 to 03/2012 to the tune of Rs.89,00,029/-

c. This issue was represented to Coimbatore Electricity Distribution Circle/TNERC through their representation in their letter No.B.V.3/2012-13 CTC

CBE(Bldg) dated 03-05-2012 and 05-05-2012 requesting to consider levying electricity charges tariff in HT II (A) Tariff instead of HT III Tariff with effect from 04/2007 as applicable to other CRPF and Defence establishments in Tamil Nadu. However, the Superintending Engineer CEDC/NORTH/CBE on behalf of TANGEDCO in letter No.SE/CEDC/N/HTA.5/FAG Audit/D dated 28-07-2012 has not considered the request and disposed the same. Hence this petition has been filed.

3. Contentions of the Petitioner as set out in the petition:-

a. In order No.T.01-12, dated 28-01-2004, the Commission has ordered that CRPF be considered at par with the Ministry of Defence Establishment and the tariff to CRPF Camp be fixed at HT II A Tariff considering role of the organization being prime armed force of Union of India and various facets of the institution.

b. All establishments of CRPF located at Tamil Nadu are governed by the Director General of Police, Central Reserve Police Force, Ministry of Home Affairs, Government of India. Hence the parameters applicable to Group Centre CRPF, Avadi holds good to this institution also as no commercial activity is done by CRPF in this campus and be considered at par with an educational institution as well as a Defence establishment.

4. Hearing held on 18-10-2012:-

In the hearing held on 18-10-2012, the Commission has observed as follows:-

“M.P.No.31 of 2012 and I.A.No.1 of 2012 in M.P.No.31 of 2012 were taken up for admission. Thiru Saravanan, Deputy Commandant, CTC, CRPF appeared for the Petitioner and presented the case. Respondent, TANGEDCO was also heard at

the admission stage. The Commission stays the operation of Superintending Engineer, Coimbatore letter dated 26-04-2012. The Respondent shall take a view in the matter within a month's time. Counter shall be filed in a month's time and the petition shall be taken up for disposal thereafter.

5. Contention of the Respondent as set out in the counter:-

a. The HT service connection No.258 was effected to the Petitioner on 16-06-1999 and the same was categorized under the HT Tariff category III.

b. Based on the approval of the Board in BP (FB) No.226 dated 27-11-1999, the HT Service Connection category was amended from HT Tariff III to HT Tariff IIA on 27-11-1999.

c. The Accountant General Audit has pointed out that the Petitioner's service connection was mis-classified under HT Tariff II A instead of classifying under HT Tariff III, after issue of tariff order by the Commission on 15-03-2003. It is further stated that, they had also remarked that on account of this mis-classification, the respondent incurred huge financial loss amounting to Rs.89 lakhs and the above loss was arrived at based on the assessment made by the audit branch for the last 2 years.

d. Based on the provisions of the Electricity Act, 2003 and powers vested with the Commission, the Commission issued the first tariff order on 15-03-2003. In the Tariff Order, the training center, CRPF were not classified under HT Tariff II A.

e. The order of the Commission in Order No.T.O.1-12 dated 28-01-2004 was applicable only to CRPF, Avadi. But in the case on hand, the Commission had not issued any directions for the respondent to extend Tariff II A to the similar CRPF centers in the State. It is further submitted that the subsequent orders of the Commission has also specifically permitted to extend Tariff II A to CRPF, Avadi only.

6. Contention in the rejoinder filed by the Petitioner:-

a. It is the responsibility of the third respondent who should have thoroughly examined the case and brought forward the required documents and the decision of the Board that had already classified the HT connection under HT II A Tariff and cleared the misconception of a clerical error and the subsequent undercharging. The audit was not aware of the initial classification done by the Board at the time of audit, hence this situation of representing the case before the Commission has arisen.

b. The Commission had issued the first Tariff Order on 15-03-2003, in which Central Training College was not classified under HT II A but it would be pertinent to mention that similar was the case of CRPF Camp Avadi which was also not classified at that point of time but was subsequently done by the Commission in 2004 whereas Central Training College was classified under HT II A by the Board way back in 1999 itself.

c. The Commission may be pleased to confirm the classification of the above HT services for Central Training College CRPF, Coimbatore under HT II A Tariff as upheld in the case of CRPF camp, Avadi and treated at par with Ministry of Defence

establishment and also the categorization order issued by the Board on 16-06-1999 in respect of Central Training College, CRPF.

7. Finding of the Commission:-

(a) M.P. No.31 of 2012 was filed by CRPF, Coimbatore during September 2012 for levying HT Tariff IIA in the case of HT SC No.1282, 1288, 1289 and 1293 in respect of their CRPF Central Training College, Coimbatore. From the above pleadings it is observed that the CRPF establishment located in Coimbatore is being charged under HT Tariff III whereas CRPF establishments located at Avadi is being charged under HT Tariff IIA. Per contra, the arguments of the Respondent is that CRPF establishments at Coimbatore do not figure under HT Tariff IIA and therefore by virtue of the definition under HT Tariff III which is applicable for all commercial establishments and other categories of consumers not covered under HT Tariff IA, IB, IIA, IIB and IV are covered under HT Tariff III and accordingly HT Tariff III is being charged to CRPF Central Training College, Coimbatore. The prayer of the Petitioner is to correct the wrong classification being done in this case.

(b) The counter of the respondent states that the Commission has not issued any direction for the respondent to extend HT Tariff IIA to the similar CRPF centres in the State. The respondent has also taken a plea that the subsequent order of the Commission has specifically permitted to extend HT Tariff IIA to CRPF, Avadi only. The Commission has perused the written pleadings as well as heard the parties during the hearing. During the hearing held on 18.12.2012, the respondent TANGEDCO did not have any serious objections for changing the classification of tariff from HT III to HT IIA which is now being charged by the petitioner.

(c) It is necessary to go into the details of Tariff Setting Process and the classification of consumers during the tariff setting. The Commission does not have the complete knowledge with regard to the type of consumers connected to the system of the licensee namely TANGEDCO. It is the TANGEDCO who knows all their consumers located all over the State. It is therefore necessary for them to include an exhaustive list of all the consumers located all over the State and to bring them under one category or another duly complying with the provisions of the Electricity Act, 2003 and with specific reference to sub-section (3) of section 62 of the Electricity Act, 2003 for the consideration of the Commission. While CRPF, Avadi is included under HT Tariff IIA at the time of filing this Petition, the list does not include the existence of CRPF establishments at Coimbatore. If the same was specifically brought out in the Tariff Schedule and if they were included in different tariff categories in the Petition itself, CRPF, Coimbatore, would have come at the time of hearing of the Tariff Petition itself instead of raising the issue now in this Petition. Since, no specific reference to CRPF, Coimbatore was made in the Tariff Petition it was not included in HT Tariff IIA and therefore by default it has been brought under HT Tariff III by TANGEDCO. If the nature of duties of CRPF, Avadi and CRPF, Coimbatore are identical then by virtue of section 62(3) the tariffs cannot be different for them.

(d) The Commission therefore orders that CRPF establishments at Coimbatore would be charged under HT Tariff IIA from the date of energizing their respective Service Connections, as is the practice with regard to CRPF, Avadi. The Interim Order issued by the Commission on 18.10.2012 is merged with this Order.

(e) The Commission would like to take this opportunity to direct TANGEDCO to properly cover all their consumer category under various categories of tariff so that the consumers could raise their views at the time of hearing of the Tariff Petition itself and such litigations can be avoided in future.

Ordered accordingly.

8. Appeal:-

An appeal against this order lies before the Appellate Tribunal for Electricity under section 111 of the Electricity Act 2003, within a period of 45 days from the date of receipt of the copy of this order by the aggrieved person.

(Sd.....)
(S.Nagalsamy)
Member

(Sd.....)
(K.Venugopal)
Member

/ True Copy /

Secretary
Tamil Nadu Electricity
Regulatory Commission