

COURT-II

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

**IA No. 480 of 2015 in Appeal No. 281 of 2015 & IA No.
460 of 2015 and IA Nos. 9,30,31,32 of 2016**

Dated: 15th January, 2016

**Present: Hon'ble Mr. Justice Surendra Kumar, Judicial Member
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

In the matter of :

**The Tata Power Delhi Distribution Ltd.Appellant(s)
Versus
Delhi Electricity Regulatory Commission &Ors.Respondent(s)**

Counsel for the Appellant (s) : Mr. Amit Kapur,
Mr. Anupam Verma,
Mr. Vishal Anand,
Mr. Rahul Kinra, Advs. &
Mr. Anurag Bansal (Rep) TPDDL

Counsel for the Respondent (s) : Mr. Nikhil Nayyar &
Mr. Dhanjay Baijal for R-1/DERC

Mr. S.K. Chaturvedi for R.2

Mr. H.S. Phoolka, Sr. Adv.
Mr. Sumeet Pushkarna
Mr. Siddhartha Nagpal
Ms. Shilpa Advs for R.3 along
with Mr. Surendra Babbar Secy.
for R-3

Mr. A.P.Jain in IA 30/16
Mr. Brijender Singh in IA 31/16

ORDER

A number of consumers are filing impleadment application in this appeal. Though most of them were not parties before the State Commission and most of those intervenors did not participate before the State Commission at the relevant time when comments and suggestions were invited and heard. All the interlocutory applications filed till today

and are likely to be filed in future shall be taken up subsequently at an appropriate stage.

(2) Since we, by our ad-interim order dated 08.12.2015, have stayed the operation of the impugned order dated 29.09.2015 till the next date of hearing of this appeal. Consequently, the pensioners who are not being paid pension since October, 2015 till today are suffering a lot of problems of livelihood etc. It has also been reported that other DISCOMs, namely, BSES Yamuna Power Ltd. and BSES Rajdhani Power Ltd. have regularly been paying their share of pension to the trust but the appellant Tata Power Delhi Distribution Ltd. has stopped paying pension fund from 01st October, 2015. We are careful of the situation or predicaments of pensioners who are required to be paid pension properly in the fixed time. Hence, we deem it proper to direct the appellant, TPDDL, to release some amount towards pension trust so as to enable the pensioners to get their pensionary benefits etc.. We have further been informed that the pensioners have not been paid pensionary benefits etc. since October, 2015 and they are being driven to a stage of starvation, including medical problems. Without making any calculation of the amount to be released as pensionary benefits, we, in the interest of justice, deem it proper to release Rs.30 Crores on humanitarian grounds and further considering the miserable predicament of the retired employees/pensioners, without prejudice to the rights and contentions of the parties to this appeal. Ad-interim order dated 08.12.2015 passed by us above, is modified to the extent indicated above and the remaining amount shall be covered by stay order dated 08.12.2015.

(3) We have also cursorily gone through the interim order dated 28.12.2015 passed by the State Commission (Delhi Electricity Regulatory Commission), in Petition No. 87 of 2015. We hereby direct that Rs.15 Crores be released within a week by the appellant from today and balance Rs.15 Crores shall be released before 31st January, 2016.

(4) We may mention here that one consumer namely Mr. Manish Kumar, has filed a Writ Petition, (Civil) No. 296 of 2016 before the

Hon'ble High Court of Delhi impleading the Government of Delhi, transmission/distribution licensees of Delhi and Delhi Electricity Regulatory Commission and with the Interlocutory Application seeking grant of stay of the collection of tariff to meet the requirement of payments of post notional benefits to more than 20,000 retired employees of erstwhile DVB from electricity charges of the consumer in the NCT of Delhi. We have been informed that Hon'ble High Court has fixed the matter for hearing on 10th February, 2016.

(5) The instant appeal has already been fixed for hearing on 09th February, 2016.

(6) We are not in a position to record individual grievances or remarks of the consumers who are free to go to High Court where a consumer has already approached. After all, this is an appeal in which all those parties who were before the State Commission, can be allowed to be heard and no third party can be allowed to be heard. The third parties seeking intervention either in the name of consumer or association, we are making this clear today that this Appellate Tribunal is not obliged to hear. We are making this clear today.

(7) The respondents who were directed in order dated 08.12.2015 to file counter affidavit etc. have not filed the same, are today again directed to file counter affidavit within two weeks from today and no more. *Dasti* service is permitted. Rejoinder, if any, be filed within a week thereafter, namely latest by 07th February, 2016.

The matter be put up for hearing on **09th February, 2016.**

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

sh/vg