

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY  
(Appellate Jurisdiction)

APPEAL NO. 212 OF 2020 &  
IA NO. 1683 OF 2022

AND

APPEAL NO. 335 OF 2022 &  
IA NO. 1580 OF 2020

Date : 17.10.2022

Present: Hon'ble Mr. Justice R.K. Gauba, Officiating Chairperson  
Hon'ble Mr. Sandesh Kumar Sharma, Technical Member

In the matter of:

1. BSES RAJDHANI POWER LTD.  
BSES Bhavan, Nehru Place,  
New Delhi – 110 019  
Through Authorised Signatory
2. BSES YAMUNA POWER LTD.  
Shakti Kiran Building,  
Karkardooma,  
Delhi – 110032  
Through Authorised Signatory ... Appellants

**VERSUS**

1. CENTRAL ELECTRICITY REGULATORY COMMISSION  
3<sup>rd</sup> & 4<sup>th</sup> Floor, Chanderlok Building,  
Janpath, New Delhi – 110001,  
Through Secretary
2. POWER GRID CORPORATION OF INDIA LIMITED  
SAUDAMINI, Plot No-2,  
Sector-29, Gurgaon – 122001 (Haryana)  
Through Chairman and Managing Director
3. RAJASTHAN RAJYA VIDYUT PRASARAN NIGAM LTD,  
Vidyut Bhawan, Vidyut Marg,  
Jaipur – 302005  
Through Managing Director
4. AJMER VIDYUT VITRAN NIGAM LTD.  
132 KV, GSS RVPNL Sub-station Building,  
Caligiri Road, Malviya Nagar,

- Jaipur – 302017  
Through Managing Director
5. JAIPUR VIDYUT VITRAN NIGAM LTD.  
132 KV, GSS RVPNL Sub-station Building,  
Caligiri Road, Malviya Nagar,  
Jaipur – 302017  
Through Managing Director
  6. JODHPUR VIDYUT VITRAN NIGAM LTD.  
132 KV, GSS RVPNL Sub-station Building,  
Caligiri Road, Malviya Nagar,  
Jaipur – 302017  
Through Managing Director
  7. HIMACHAL PRADESH STATE ELECTRICITY BOARD  
Vidyut Bhawan, Kumar House Complex Building-II,  
Shimla – 171004  
Through Managing Director
  8. PUNJAB STATE POWER CORPORATION LIMITED  
Thermal Shed Tia,  
Near 22 Phatak,  
Patiala – 147001  
Through Managing Director
  9. HARYANA POWER PURCHASE CENTRE  
Shakti Bhawan,  
Sector-6, Panchkula (Haryana) – 134109  
Through Managing Director
  10. POWER DEVELOPMENT DEPARTMENT,  
Government of Jammu and Kashmir  
Mini Secretariat, Jammu – 180001  
Through Managing Director
  11. UTTAR PRADESH POWER CORPORATION LTD.  
Shakti Bhawan,  
14, Ashok Marg,  
Lucknow – 226001  
Through Managing Director
  12. DELHI TRANSCO LTD.  
Shakti Sadan,  
Kotla Road,

New Delhi – 110001  
Through Managing Director

13. TATA POWER DELHI DISTRIBUTION LTD.,  
33 KV Sub-station,  
Building Hudson Lane,  
Kingsway Camp North Delhi – 110009  
Through Managing Director

14. CHANDIGARH ADMINISTRATION,  
Sector-9, Chandigarh  
Through Managing Director - 160009

15. UTTARAKHAND POWER CORPORATION LTD.  
Urja Bhawan, Kanwali Road,  
Dehradun – 248006

16. NORTH CENTRAL RAILWAY,  
Civil Line, Allahabad – 211001  
Through Managing Director

17. NEW DELHI MUNICIPAL COUNCIL  
Palika Kendra, Sansad Marg,  
New Delhi – 110 002  
Through Managing Director

... Respondents

Counsel for the Appellant(s) : Mr. Arijit Maitra

Counsel for the Respondent(s) : Mr. Anand K. Ganesan  
Ms. Swapna Seshadri for R-2

Ms. Swagata Bose for R-12

Mr. Pradeep Misra  
Mr. Manoj Kr. Sharma for R-11  
(In Appeal no. 335 of 2022)

## **J U D G E M E N T** (Oral)

PER HON'BLE MR. JUSTICE R.K. GAUBA, OFFICIATING CHAIRPERSON

1. The appellants are licensees engaged in the business of distribution of electricity in different parts of the Union Territory of Delhi. They have contractual arrangements, *inter alia*, with the second respondent viz. Power

Grid Corporation of India Limited (“PGCIL”) and third to seventeenth respondents (licensees or procurers of electricity) engaged in such business in different States, Union Territories or Departments in the country. On the petitions of PGCIL, the first respondent viz. Central Electricity Regulatory Commission (hereinafter referred to variously as, ‘CERC’ or ‘Central Commission’) had passed Tariff Orders dated 23.11.2005, 24.10.2006 and 20.10.2010 for tariff block of Financial Year (“FY”) 2001-04 (in Petition no. 57/2003), for tariff block of FY 2004-09 (in Petition no. 09/2006) and for tariff block of FY 2009-14 (in Petition no. 115/2010) respectively. Having entertained the petition (no. 288/TT/2019) of PGCIL (filed on 13.08.2019), for revision of tariff for tariff blocks of FYs 2001-04 and 2004-09 and consequential revision of tariff for tariff block for FY 2009-14, the Central Commission considered the preliminary objection of the appellants about the prayer made by PGCIL by such petition being belated and beyond power of review, the Central Commission having since become *functus officio*. By Order dated 06.11.2019, the Central Commission rejected the said objections. The first captioned appeal challenges the view taken by the Central Commission by the said order.

**2.** The first captioned appeal was filed on 07.02.2020 and while it was pending at the preliminary stages, the Central Commission considered the Petition (no. 288/TT/2019) of PGCIL on merits and passed the final order there upon on 31.07.2020, granting certain reliefs adverse to the interest of

the appellants, statedly with reference to the principles decided by this tribunal by judgments dated 22.01.2007 and 13.06.2007 in Appeal nos. 81 of 2005 and 139 of 2006 in proceedings taken out by another entity *viz. National Thermal Power Corporation* (“NTPC”) on subjects *inter alia*, of computation of interest on loan, consequences of re-financing of loan, depreciation as deemed repayment, admissibility of depreciation up to 90% of the value of assets, consideration of maintenance of spares for working capital, and depreciation of assets. The final Order dated 31.07.2020 has been challenged the second captioned Appeal no. 335 of 2022 by the appellants.

**3.** When the first captioned appeal came up for consideration before this tribunal on 13.11.2020, an objection was taken on behalf of PGCIL that the appeal against interlocutory Order dated 06.11.2019 is not maintainable since the final order on the main petition has been passed, the interim order having merged thereinto. The learned counsel for the appellant had resisted such opposition with the submission that the subsequent (final) order is consequential and, therefore, the appeal challenging rejection of the objections to the very maintainability of the petition of PGCIL continued to be maintainable. We had reserved our opinion on the said issue at that stage giving liberty to PGCIL to raise such objection in pleadings/reply.

**4.** A brief narration of the background history is necessary.

5. The tariff determination exercise which is subject matter of the present controversy is governed, *inter alia*, by the *Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2001* and *Central Electricity Regulatory Commission (Terms & Conditions of Tariff) Regulations, 2004* which were notified on 26.03.2001 and 28.03.2004 respectively (hereinafter referred to as, 'Tariff Regulations 2001' and 'Tariff Regulations 2004' respectively). The tariff orders for FY 2001-04 and FY 2004-09 were passed on petitions of PGCIL on 23.11.2005 and 24.10.2006 respectively. Concededly, the orders were not challenged in any *fora*.

6. NTPC, meanwhile, had been aggrieved with the methodology adopted by the Central Commission in its tariff orders for the periods of FY 2001-04 and 2004-09, also governed by Tariff Regulations 2001 and Tariff Regulations 2004, on such tariff parameters as included the above-mentioned aspects (depreciation, interest on loan, etc.). It had preferred appeals (nos. 81 of 2005 & batch and 130 of 2006 & batch) before this tribunal which were decided by judgments dated 22.01.2007 and 13.06.2007 respectively (hereinafter referred to as, 'the NTPC Judgments'). By the said decisions, the contentions of NTPC was partly allowed. It may be added that the Central Commission, and certain other beneficiaries, challenged the said decisions by Civil Appeal nos. 5843 of 2007 & batch before Hon'ble Supreme Court which were dismissed eventually by

judgment dated 10.04.2018, affirming the view taken by this tribunal in the NTPC judgments (dated 22.01.2007 and 13.06.2007).

7. Whilst the civil appeal was pending before Hon'ble Supreme Court, PGCIL approached the Central Commission on 28.09.2007 by filing Petition no. 121 of 2007 seeking the *benefit* of the NTPC judgments (dated 22.01.2007 and 13.06.2007) primarily on the contention that the tariff principles settled on the basis of interpretation of Tariff Regulations 2001 and Tariff Regulations 2004 would remain the same.

8. The aforementioned petition (no. 121 of 2007 along with an application for early hearing) came up before the Central Commission on 12.08.2008. The civil appeals, we may recall, were then pending before the Hon'ble Supreme Court. The Central Commission directed the petition to be adjourned *sine die* giving liberty for it to be revived after decision by Hon'ble Supreme Court.

9. After the civil appeals against the NTPC judgments (dated 22.01.2007 and 13.06.2007) had been dismissed by Hon'ble Supreme Court on 10.04.2018, the proceedings in Petition no. 121 of 2007, earlier adjourned *sine die* by Order dated 12.08.2008, were revived before the Central Commission. The petition was disposed of by the Central Commission by Order dated 18.01.2019 with a direction that PGCIL may submit its claim in light of the NTPC judgments (dated 22.01.2007 and 13.06.2007) of this tribunal along with true-up petitions for subsequent

period (FY 2014-19) in respect of the concerned transmission assets. The petition (no. 288/TT/2019) on which the impugned order was passed, rejecting the objection of maintainability, was thus preferred by PGCIL on 13.08.2019 seeking revision of tariff approved for FY 2001-04, 20014-09 and consequential revision of tariff for 2009-14 in terms of the NTPC judgments, also seeking truing-up for the period 2014-19, besides determination of tariff for FY 2019-24.

**10.** As mentioned earlier, the appellants herein took objection to the maintainability of the petition filed on 13.08.2019 on the ground that it was belated move for review which jurisdiction even otherwise could not be exercised, the Central Commission having become *functus officio*, the tariff order in question not having been challenged. The objections have been repelled by the impugned order dated 06.11.2019.

**11.** It is the submission of PGCIL that the Central Commission had not rejected its petition (no. 121 of 2007) for implementation of the NTPC judgments (dated 22.01.2007 and 13.06.2007) in its case. The said petition (no. 121 of 2007) instead was kept pending for over ten years and disposed of, post the decision by Hon'ble Supreme Court, giving liberty by Order dated 18.01.2019 for the contentions to be re-raised by fresh petition and, in this view, it cannot be said that the Central Commission had been rendered *functus officio*, the submission also being that the concept of *functus officio* has no relevance in the regulatory jurisprudence [*Govt. of*



*Uttar Pradesh v. Raja Mohammad Amir; AIR 1961 SC 787 and Odisha Power Generation Corporation Ltd. v. Odisha Electricity Regulatory Commission; (2017) SCC OnLine APTEL 4].* It is the argument of PGCIL that the impugned orders have been passed in exercise of regulatory power to determine tariff and not invoking the review jurisdiction, such revisit to tariff orders of public utilities being incomparable. Reliance is placed on ruling of the Hon'ble Supreme Court reported as *UP Power Corporation Limited v. NTPC and Ors. (2009) 6 SCC 235.*

**12.** It is the argument of PGCIL that the Electricity Act, 2003 is an exhaustive code and the rules contemplated in the Code of Civil Procedure 1908 (for short, "CPC") do not bind its process [*Gujarat Urja Vikas Nigam Limited v. Gujarat Electricity Regulatory Commission and ors. decided on 22.08.2014 in Appeal no. 279 of 2013*]. It is also argued that during the course of tariff determination process, if an occasion arises, it is always open to the Regulatory Commission to make an amendment or alteration to the tariff even on its own motion, it being permissible for tariff to be "*revised from time to time*" on account of subsequent developments including truing-up and implementation of court orders.

**13.** In the chronology of events mentioned in the narrative of background factual matrix, we ought not test the correctness of the impugned orders from the narrow lens of prescribed limitation for exercise of review jurisdiction only. The petitioner had filed the first petition (no. 121 of 2007),

founded on the NTPC judgments (dated 22.01.2007 and 13.06.2007) on 28.09.2007 seeking a revisit to the tariff orders that had been passed on 23.11.2005 and 24.10.2006. The said petition (no. 121 of 2007) remained pending with the Central Commission till 18.01.2019. The petition (no. 288/TT/2019) on which the impugned orders were eventually passed was submitted pursuant to the liberty given by the Central Commission vide its Order dated 18.01.2019. We cannot hold PGCIL accountable for the delay in consideration of its contentions by the Central Commission *after* 28.09.2007. But then, we must at the same time add, that the subsequent delay by itself also cannot justify or create a better right in the hand of PGCIL to seek such a revisit – whether revision or review of the tariff orders – as at hand.

**14.** The learned counsel for the appellants argued that it was incorrect and improper on the part of the Central Commission to adjourn the proceedings arising out of earlier petition (no. 121 of 2007) *sine die*. We are not inclined to view the matter from such angle as well, at this distance in time with reference to Order dated 12.08.2008, also for the reason the appellants did not challenge the said directives in any manner. In this view, we would treat the contentions raised by petition (no. 288/TT/2019) filed on 13.08.2019, pursuant to the liberty granted by the Central Commission by Order dated 18.01.2019 as one in continuation of the proceedings arising out of petition no. 121 of 2007 which had been submitted on 28.09.2007.

**15.** One moot question before us is as to whether the approach of the Central Commission by the impugned orders is in exercise of its regulatory power to *revise* the tariff or by way of a *review* of tariff orders that, by efflux of time, had become final and binding, there being no challenge mounted against such determination *vis-à-vis* tariff blocks of FY 2001-04 and FY 2004-09, as indeed FY 2009-14.

**16.** As mentioned earlier, reliance is placed by the PGICIL on ruling in the case of *U.P. Power Corporation Ltd.* (supra). The following part of the said decision was referred to during the course of arguments:

*“2. ... The question which arises for consideration herein is as to whether the amount required to be paid by the first respondent, National Thermal Power Corporation (for short “the Corporation”) towards revision of scales of pay of its employees in terms of the recommendations made by the High-Level Committee constituted under the chairmanship of Justice S. Mohan with retrospective effect from 1-1-1997 can be a subject-matter of revision in tariff for the tariff years 1997-1998, 1998-1999 and 1999-2000.*

...

*5. We are, in this batch of appeals, concerned with the power of the Central Commission to make tariff and to revise the same at the instance of a generating company. Before, however, adverting to the said questions, we may notice certain undisputed facts.*

...

*10. On or about 25-9-1999 the Government of India issued guidelines for revision of salary of the employees of the public sector undertakings with effect from 1-7-1997, wherefor, as noticed earlier, a High-Powered Committee headed by Justice Mohan was constituted. It is stated that the Corporation made provisions in its budget for the relevant years and paid arrears of revised salary with effect from 1-1-1997 to the executives in July 2000 and to the supervisors and workmen from April 2001 and March 2001 respectively.*

...

*21. Power and/or jurisdiction of the Central Commission to frame tariff and/or carry out revision thereof is not in dispute. It is in fact well settled that the*

Central Commission has the exclusive jurisdiction to frame not only tariff but also any amendment, alterations and additions in regard thereto.

...

24. Chapter VII of the 1999 Regulations deals with miscellaneous matters. The 1999 Regulations expressly confer a power of review on the Central Commission in terms of Regulation 103 thereof. For the aforementioned purpose, the Central Commission may not only exercise its jurisdiction suo motu but it may review a decision even if an application is filed within a period of sixty days of making of any decision, direction or order.

...

34. While exercising its power of review so far as alterations or amendment of a tariff is concerned, the Central Commission *stricto sensu* does not exercise a power akin to Section 114 of the Code of Civil Procedure or Order 47 Rule 1 thereof. Its jurisdiction, in that sense, as submitted by Mr Gupta, for the aforementioned purposes would not be barred in terms of Order 2 Rule 2 of the Code of Civil Procedure or the principles analogous thereto.

35. Revision of a tariff must be distinguished from review of a tariff order. Whereas Regulation 92 of the 1999 Regulations provides for revision of tariff, Regulations 110 to 117 also provide for extensive power to be exercised by the Central Commission in regard to the proceedings before it.

36. Having regard to the nature of jurisdiction of the Central Commission in a case of this nature, we are of the opinion that even principles of *res judicata* will have no application.

...

38. The Central Commission, as indicated hereinbefore, has a plenary power. Its inherent jurisdiction is saved. Having regard to the diverse nature of jurisdiction, it may for one purpose entertain an application so as to correct its own mistake but in relation to another function its jurisdiction may be limited. The provisions of the 1998 Act do not put any restriction on the Central Commission in the matter of exercise of such a jurisdiction. It is empowered to lay down its own procedure.

...

40. Regulations 92 and 94, in our opinion, do not restrict the power of the Central Commission to make additions or alterations in the tariff. Making of a tariff is a continuous process. It can be amended or altered by the Central Commission, if any occasion arises therefor. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.

...

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*tariff is a continuous process. It can be amended or altered by the Central Commission, if any occasion arises therefor. The said power can be exercised not only on an application filed by the generating companies but by the Commission also on its own motion.*

...

*46. The concept of regulatory jurisdiction provides for revisit of the tariff. It is now a well-settled principle of law that a subordinate legislation validly made becomes a part of the Act and should be read as such.*

..

*60. It is difficult to agree with the opinion of the Appellate Tribunal that increase in the salary with retrospective effect could have been a subject-matter for determination of tariff in another period. In a fact situation obtaining herein, we are of the opinion that the claim of the respondent Corporation was not justified as the Central Commission should not have been asked to revisit the tariff after five years and when everybody had arranged its affairs.*

...

*62. Framing of tariff is made in several stages. The generating companies get enough opportunity not only at the stage of making of tariff but may be at a later stage also to put forth its case including the amount it has to spend on operation and maintenance expenses as also escalation at the rate of 10% in each of the base year. It cannot, in our opinion, be permitted to reagitate the said question after passing of many stages.*

*[Emphasis supplied]*

**17.** It is the submission of the appellants that in case of *U.P. Power Corporation Ltd.* (supra), the issue concerned retrospective revision of pay of employees of NTPC and its effect on tariff already determined for the past periods. It is argued that the impugned order is not a matter of making a tariff order but reviewing it belatedly on the basis of interpretation given to the applicable regulations by this tribunal in the case of another entity.

**18.** There is no doubt that Regulatory Commission while discharging its functions, is not strictly bound by the provisions contained in the CPC. Nonetheless, by virtue of Section 94 of the Electricity Act, 2003, it is vested

with, for purposes of proceedings brought before it, “*the same powers as are vested in civil court*” under CPC, this being inclusive of “*reviewing its decision, directions and orders*”. In this view, it cannot be said that the provisions of CPC are wholly inapplicable. They do exist and remain valid, to provide guidance, for purposes of proceedings before the Regulatory Commission as well.

**19.** Order XLVII Rule 1 of CPC, on the subject of power of review, reads thus:

*“ORDER XLVII*

*REVIEW*

*1. Application for review of judgment.—(1) Any person considering himself aggrieved—*

*(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,*

*(b) by a decree or order from which no appeal is allowed, or*

*(c) by a decision on a reference from a Court of Small Causes,*

*and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.*

*(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applied for the review.*

*Explanation.—The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.”*

*[Emphasis supplied]*

**20.** The focus of the argument of the appellant is on the explanation appended to sub-rule (2) of Rule 1 of Order XLVII quoted as above.

**21.** It is pointed out, and rightly so, that tariff is determined by the Regulatory Commission in terms of the provision contained in Section 62 following the procedure envisaged in Section 64 of the Electricity Act, 2003. The learned counsel laid emphasis on sub-section (4) of Section 62 which read thus:

*“Section 62. (Determination of tariff): ---*

*...*

*(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.”*

*[Emphasis supplied]*

**22.** No doubt, tariff determination is a continuous process. At the same time, however, it has to be borne in mind that tariff is determined by formal orders for specified control periods, Financial Year wise. The tariff determination for a particular control period regulates the affairs of the parties and stakeholders involved for the period to which it is made applicable. A tariff determined on the basis of projections presented by petitions in the nature of *Average Revenue Requirement* (“ARR”) or *Annual Performance Review* (“APR”) is generally followed up by true-up orders based on audited accounts wherein suitable corrections are incorporated. It is with the objective of maintaining regulatory certainty that the law inhibits routine or frequent amendment to the tariff orders, one exception to

this general principle being the changes necessary under the terms of fuel surcharge formula [Section 62 (4)]. The law qualifies this inhibition by using this expression “ordinarily”. The amendments to tariff orders do become necessary in case errors are found in the tariff order upon appellate scrutiny or, as in the case of *UPPCL* (supra) some other factors supervene e.g. on account of additional expenditure burden (in that case due to wage revision).

**23.** The NTPC judgments (dated 22.01.2007 and 13.06.2007) of this tribunal were not in a *lis* wherein the appellants were involved. It was a matter essentially involving another entity (NTPC). The principles concerning interpretation of Tariff Regulations, 2001 and Tariff Regulations, 2004 were decided by this tribunal which statedly showed the views taken by the Central Commission in the original Tariff Orders dated 23.11.2005, 24.10.2006 and 20.10.2010 to be incorrect. There was no directive of this tribunal, or of any statutory authority, for such orders to be revisited pursuant to the interpretation given by this tribunal in the NTPC judgments. The respondent PGCIL took the matter to the Central Commission with a prayer for implementation of the NTPC judgments in its case. This, in effect, was a prayer seeking review and not revision of the tariff orders in the general sense of the term. Such prayer couched in the language of seeking *implementation* of the law settled by the NTPC judgments being essentially a prayer for review, was impermissible given the specific



inhibition there-against by the explanation appended to Rule (1) of Order 47 CPC. This is precisely the view taken by this tribunal in judgment reported as *Madhya Pradesh Power Trading Co. Ltd v Central Electricity Regulatory Commission* 2009 SCC OnLine APTEL 107 : (2009) APTEL 107 [see, para 11(v)].

**24.** We must, however, hasten to add that when we take the above view, we are not to be misunderstood as having ruled that the error committed by the Central Commission in the Orders dated 23.11.2005, 24.10.2006 and 20.10.2010 – assuming such orders were erroneous if seen in the light of the view taken in the NTPC judgments – cannot be corrected or must be allowed to “*be perpetuated*”, as was ruled against in *Madhya Pradesh Power Generation Co v Madhya Pradesh State Electricity Regulatory Commission (Appeal no. 24 of 2010)* 2011 ELR (APTEL) 830. The party facing the wrong end of the stick (due to erroneous approach) will have remedies in law which include an appeal or prayer for correction in truing-up or proper principle to be applied in subsequent tariff orders, but not a remedy in the nature of review in the face of express prohibition in Order 47 Rule (1) CPC, not the least at such distance in time after the elapse of control periods by which stage, borrowing the words from *UPPCL* (supra), “*when everybody had arranged its affairs*”.

**25.** For the foregoing reasons, we find that the objections taken by the appellants to the maintainability of the petition (no. 288/TT/2019), in the

case involving them, were wrongly rejected by the Central Commission by Order dated 06.11.2019. We hold to the contrary and, thus, set aside and vacate the said order. Resultantly, the subsequent proceedings in same matter taken out before the Central Commission are found to be impermissible rendering the final Order dated 31.07.2020 *non est*. The same is also consequently set aside.

**26.** The appeals are allowed in above terms. The pending applications are rendered infructuous and stand disposed of accordingly.

PRONOUNCED IN THE OPEN COURT ON THIS 17<sup>TH</sup> DAY OF OCTOBER, 2022.

(Sandesh Kumar Sharma)  
Technical Member

(Justice R.K. Gauba)  
Officiating Chairperson

vt