

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 7107-7114/2010

NTPC LIMITED

APPELLANT(S)

VERSUS

CENTRAL ELECTRICITY REGULATORY
COMMISSION AND ORS ETC. ETC.

RESPONDENT(S)

O R D E R

These appeals by National Thermal Power Corporation, hereinafter referred to as the Appellant under Section 125 of the Electricity Act, 2003 relate to determination of tariff for the period between 1997 to 2001.

The question of law raised in these appeals relate to the interpretation of Regulation 59 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999. The submission is that, the mandate of Regulation 59 has not been followed by Central Electricity Regulatory Commission (for short 'CERC') while determining the tariff for the years 1997-2001. It is further submitted that the Commission has, without giving them the copies, relied on what is referred to as the "staff report", under which payments made for two heads relating to additional capitalization as well as "renovation and modernization", were denied to the Appellant.

The Appellant filed a review petition against the above

referred determination of tariff by CERC. For effective opportunity, the CERC permitted the Appellant to have full inspection of all the documents relied upon by it and also heard the parties. After a detailed hearing, the review petitions were however dismissed. The Appellant filed appeals before the Appellate Tribunal for Electricity (APTEL). The APTEL, by its judgment dated 03.06.2010, dismissed the appeals by the order impugned herein.

The Tribunal has examined the case in detail, particularly in the context of examining whether any prejudice is caused to the Appellant due to non-compliance with Regulation 59. Having come to the conclusion that there is no prejudice caused to the Appellant as ample opportunity was given, the appeals were dismissed.

Mr. Sanjay Sen, learned counsel for the Appellant has raised the same plea relating to the interpretation of Regulation 59 and submitted that it is mandatory in nature.

In view of the fact that the matter relates to tariff determination for the years 1997-2001, we are not inclined to interfere with the judgment of the Tribunal. This is also for the reason that the decision of the Tribunal is based on its conclusion that no actual prejudice was caused to the Appellant. We will, however, leave the question of law relating to interpretation of Regulation 59 read with Regulations 82 and 89 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 open, to be determined in an appropriate case.

With these observations, the present appeals filed by the Appellant are dismissed.

There shall not be any order as to costs.

.....J.
(PAMIDIGHANTAM SRI NARASIMHA)

.....J.
(S.V.N. BHATTI)

NEW DELHI;
AUGUST 31, 2023.

ITEM NO.103

COURT NO.16

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 7107-7114/2010

NTPC LIMITED

Appellant(s)

VERSUS

CENTRAL ELECT. REGULATORY
COMMISSION AND ORS. ETC. ETC.

Respondent(s)

Date : 31-08-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. Sanjay Sen, Sr. Adv.
Ms. Sakie Jakharia, AOR
Ms. Chumei Mercy, Adv.

For Respondent(s) Mr. D.Kumanan, AOR
Mrs. Deepa S., Adv.
Ms. Akansha Mehta, Adv.
Mr. Sheikh F. Kalia, Adv.
Ms. Divya Singh, Adv.

Mr. S. Ravi Shankar, AOR
Mrs. Yamunah Nachiar, Adv.

Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.

Mr. Rajesh Srivastava, AOR
Mr. Gaurav Verma, Adv.
Mr. Neeraj Dutt Gaur, Adv.
Mr. Sanjay Singh, Adv.

Mr. Nishant Sharma, Adv.
Ms. Adviteeya, Adv.
Mr. Shailja Kulshreshta, Adv.
Mr. Suresh Ch. Tripathy, Adv.
Mr. Rakesh K. Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

1. The appeals are dismissed in terms of the signed order.
2. Pending applications, if any, stand disposed of.

(PRADEEP KUMAR)
SENIOR PERSONAL ASSISTANT

(ANJU KAPOOR)
COURT MASTER (NSH)

[Signed order is placed on the file]