

**Proceedings of the Sitting on 18-02-2010 of Hon'ble Vice Chairperson
Shri Maurice Kujur with the CMD, ONGC**

A list of the officers present in the sitting is at Annexure.

ISSUE

Consideration of representation from Sh.C.N.Patel, SE(M), ONGC, Mumbai for appeal against illegal and unconstitutional major penalty imposed by the ONGC under CDA Rules.

BACKGROUND

A representation dated 19.03.2009 was received in the Commission from Sh.C.N.Patel, SE(M), ONGC, Mumbai regarding appeal against illegal and unconstitutional major penalty imposed against him by the ONGC under CDA Rules.

Sh.Patel has raised following issues in his representation to the Commission:-

- i) The Disciplinary Authority had imposed major penalty at a time when CMD was holding temporary charge. As per the CCS (CCA) Rules, officers (in lower rank) performing current duties of a post (of higher rank) cannot exercise statutory powers associated with the regular incumbent of higher rank under the rules.
- ii) His appeal was examined and considered by the HRM Committee and decided by the Disciplinary Authority, which is not as per the CDA Rules. The Appellate Authority for the appeal in ONGC is the Board of Directors. The recommendations of the HRM Committee should have been put up to the Board for its consideration/decision.
- iii) The Order issued by the ONGC (DA) imposing major penalty on him is not a Speaking Order specifying the reasons for the imposed penalty. The Order doesn't address to his appeal also.

The Commission took up the matter with the CMD, ONGC vide letter dated 09.04.2009. ONGC submitted a para-wise reply to the representation of Sh. Patel vide their letter dated 12.06.2009. In their reply, ONGC explained that the charge of CMD was assigned to Sh. R.S.Sharma (who was a full time Director of the company) by the Competent Authority under the Govt. Further, the charge of post of the CMD included all powers attributable to the post of CMD. The Order relating to imposition of major penalty was issued after careful

consideration of the facts and circumstances of the case, findings of the Enquiry Report and also taking into consideration of the representation of Sh. C.N.Patel. The appeal of Sh. Patel was considered in 49th Committee of the Board on HRM and finally decided in 172nd meeting of the Board of Directors.

The reply of the ONGC dated 12.06.2009 was intimated to Sh. Patel vide this Commission letter dated 25.06.2009. Sh. Patel submitted a rejoinder dated 09.07.2009 and repeated his allegations against ONGC. ONGC also re-iterated their earlier position to the rejoinder.

In view of the above, Sh. Maurice Kujur, Hon'ble Vice Chairperson, National Commission for Scheduled Tribes decided to discuss this matter with CMD, ONGC on 18.02.2010 at 11:30 A.M. in the Commission.

DISCUSSION

The Commission requested Sh. Patel to present his grievance. Sh. Patel highlighted following points for redressal of his grievance:-

- i) The Disciplinary Authority had imposed major penalty at a time when CMD was holding temporary charge. As per the CCS (CCA) Rules, officers (in lower rank) performing current duties of a post (of higher rank) cannot exercise statutory powers associated with the regular incumbent of higher rank under the rules.
- ii) His appeal was examined and considered by the HRM Committee and decided by the Disciplinary Authority, which is not as per the CDA Rules. In ONGC, the Appellate Authority for the appeal is the Board of Directors. Therefore, the recommendations of the HRM committee should have been put up to the Board for its consideration/decision.
- iii) The Order issued by the ONGC (DA) imposing major penalty on him is not a Speaking Order specifying the reasons for the imposed penalty. The Order doesn't not address to his appeal also.

ONGC explained that even for temporary/interim arrangement, CMD is appointed by the Competent Authority in the Ministry, he is empowered to take all decisions including that of Disciplinary Authority.

ONGC further clarified that as per the CDA Rules appeal is examined by the HRM Committee of the Board of Directors and its recommendations are put up to the Board of Directors (Appellate Authority) for its consideration/decision. In the present case, there is a

shortcoming to the extent that the recommendations of the HRM Committee were not put up to the Board of Directors.

CMD ONGC assured that the recommendations of the HRM Committee in the present case may be put up to the Board of Directors for their consideration and decision, if the Commission recommends for that.

RECOMMENDATION

After detailed deliberations, the Commission recommended that:-

- i) The role of CMD, ONGC to act as a Disciplinary Authority while appointed as an interim arrangement may kindly be got clarified from the Competent Authority in the Ministry.
- ii) The recommendations of the HRM committee on the appeal of Sh. Patel may be put up to the Board of Directors (which is the Appellate Authority) for its consideration/decision.
- iii) A Speaking Order may be issued indicating the background and justification for imposing major penalty on Sh. C.N.Patel and not considering his appeal earlier.

The Commission desired that an Action Taken Report on the above recommendations should be submitted by the ONGC within a month.

ANNEXURE

The following were present in the sitting on 18.02.2010 :

NCST

1. Shri Maurice Kujur, Hon'ble Vice ChairpersonIn Chair
2. Shri Aditya Mishra, Joint Secretary
3. Shri Vinod Aggarwal, Director
4. Shri K. C. Behera, PS to VC

OIL & NATURAL GAS CORPORATION LIMITED

1. Shri R. S. Sharma, C&MD
2. Shri Sundar Lal, CGM/ER
3. Shri Naresh Chandra Verma, CM(HR)
4. Shri Rajesh Chandra Verma, CM(HR)
5. Shri A. P. Singh, CM(HR)
6. Shri A. K. Baxla, Manager(HR)

PETITIONER

1. Shri C. N. Patel, SE (M)