

1034-35

**JOINT ELECTRICITY REGULATORY COMMISSION FOR  
THE STATE OF GOA AND UNION TERRITORIES  
GURGAON**

**Quorum**  
**Shri S.K.Chaturvedi, Chairperson**  
**Petition No. 141/2014**  
**Date of Order 29.12.2014**

**In the matter of**

Petition for review of order dated 24.06.2014 passed by Joint Electricity Regulatory Commission for the State of Goa and Union Territories in petition no. 129/2014 for approval of detailed study on Manpower Requirement of Chandigarh Electricity Department conducted by M/s Deloitte Touche Tohmatsu India Pvt. Ltd.

**And in the matter of**

U.T. Powermen Union, Chandigarh .....Petitioner/Objector

**And**

Electricity Department – Chandigarh .....Respondent/Petitioner

**AND**

**Petition No. 147/2014**

**In the matter of**

Petition for review of order dated 24.06.2014 passed by Joint Electricity Regulatory Commission for the State of Goa and Union Territories in petition no. 129/2014 for approval of detailed study on Manpower Requirement of Chandigarh Electricity Department conducted by M/s Deloitte Touche Tohmatsu India Pvt. Ltd.

**And in the matter of**

Electricity Department – Chandigarh .....Petitioner

**And**

U.T. Powermen Union, Chandigarh ....Objector/Respondent

**Argued by for U.T. Powermen Union Chandigarh**

1. Shri Vijay Singh, Vice- President, UTPU.
2. Shri Gopal Datt Joshi, Gen. Secretary, UTPU.
3. Shri Sat Pal, Secretary, UTPU.
4. Shri Sunil Kumar, Prop Secretary, UTPU.

**Argued by for ED- Chandigarh**

1. Shri M.P. Singh, SE, ED- Chandigarh.
2. Shri Balwinder Singh, Circle Superintendent, ED- Chandigarh.
3. Shri Pawan Kumar Sharma, AEE, ED- Chandigarh.

**Order**

ED-Chandigarh-Petitioner in petition no. 147/2014 and respondent in petition no. 141/2014 herein after referred to as petitioner filed petition no. 129/2014 for approval of detailed study on Manpower Requirements of Chandigarh Electricity Department conducted by M/s Deloitte Touche Tohmatsu India Pvt. Ltd.

**Brief facts of petition no. 129/2014**

The brief facts of the petition no. 129/2014 as stated are that Electricity Department, Chandigarh-petitioner has been functioning as an integrated utility for performing distribution and transmission activities in the area of UT of Chandigarh.

The petitioner in compliance of directive no. 6.11 of tariff order for FY 2011-12, directive no. 11 of the tariff order for FY 2012-13 and directive no. 8 of tariff order for FY 2013-14 of ED- Chandigarh given by this Commission engaged M/s Deloitte to conduct a detailed manpower study of ED- Chandigarh. The detailed manpower study report of ED- Chandigarh is annexed with the petition.

**The manpower study conducted by M/s Deloitte included the following steps:**

- I. Current setup and manpower at ED- Chandigarh including Circle, Division and Sub- Division Offices.
- II. Existing techno-commercial challenges which includes reliability of power supply and AT&C losses.
- III. Study of the best practices followed by progressive utilities such as North Delhi Power Ltd. etc.
- IV. Revised organization setup for ED- Chandigarh in line with best practices.
- V. Revised manpower requirement for ED- Chandigarh in line with Punjab's urban norms for field manpower and best practices on outsourcing.

**The salient features of revised organization setup are as under:**

- I. Single point accountability for three verticals of Commercial, 11 kV & below Operations & Maintenance and 33 kV & above Operations & Maintenance.
- II. Strengthening of Finance & Accounts, IT and HR setup.
- III. Focus of commercial activities to be at Division level with sub-division level focusing only on 11 kV & below operations.
- IV. Outsourcing of field activities in line with the best practices followed in the sector.

**As per the revised setup, the manpower requirement for ED- Chandigarh in Phase-I in immediate terms will be as under:**

Manpower requirement for ED- Chandigarh	Sanctioned	As-is manpower at ED- Chandigarh	Total proposed Manpower	Proposed In- House manpower	Proposed Outsourcing manpower
Executive (AEE/AE & above)	30	22	59	59*	0
Non- Executive (JE & below)	1638	939	1335	950	385
<b>Total</b>	<b>1668</b>	<b>961</b>	<b>1394</b>	<b>1009</b>	<b>385</b>

\*The increase in executive manpower is on account of strengthening of finance & Accounts, IT and Commercial functions.

As and when the manpower in field offices (Below Junior Engineer level) retires, no fresh recruitment shall be made and the outsourcing manpower is to be utilized accordingly. Hence, the total manpower requirement for ED- Chandigarh as per Phase-II in future will be as follows:

Manpower requirement for ED- Chandigarh	Sanctioned	As-is manpower at ED- Chandigarh	Total proposed Manpower	Proposed In- House manpower	Proposed Outsourcing manpower
Executive (AEE/AE & above)	30	22	59	59	0
Non- Executive (JE & below)	1638	939	1335	736	599
<b>Total</b>	<b>1668</b>	<b>961</b>	<b>1394</b>	<b>795</b>	<b>599</b>

**The approved Employee cost for FY 2013-14 is INR 58.28 Crores.**

**The employee cost projected by petitioner as per revised manpower requirement is as under:**

- a. Employee cost on account of regular employees is INR 48+4 = Rs. 52 Crores.
- b. Cost on account of outsourcing manpower is INR 4.62 Crores.
- c. Total manpower cost is INR 56.62 Crores.

The petitioner prayed for approval of the detailed manpower requirement of the petitioner and acceptance of the petition.

➤ The objector/respondent- U.T. Powermen Union Chandigarh filed objection petition in the main petition stating that UT Powermen Union Chandigarh is a registered trade Union, founded in the year 1980 and Shri Gopal Datt Joshi is its duly elected General Secretary. The petitioner has filed the present petition on the basis of a study of a private company. The report is not based on ground reality and is based on presumption and guidelines given by some officers having vested interest. The objector on 05.09.2012 filed an appeal before this Commission in the matter of recruitment of staff in ED- Chandigarh. The appeal covered all areas of ED- Chandigarh with background and staffing norms laid down by the then PSEB, now PSPCL and report of Staff Inspection Unit submitted in the year 2001. The objector also raised the issue of shortage of staff and also submitted representation in public hearing held at Chandigarh on 21.03.2014 high-lighting ground realities.

Further the objector stated that manpower study is based on the pattern of countries having 100% electrification, advanced technology and SCADA as well as RAPDRP. Whereas ED- Chandigarh has not introduced RAPDRP and grant in aid given by the Govt. has been surrendered by ED- Chandigarh, the system is out-dated, substation and lines are old and damaged and SCADA system has not been introduced. Kundi connections are still there and no effort has been made to reduce T&D and other losses. There is shortage of staff, no effort has been taken to provide material, boom ladders, fault locator van and other modern instruments in the department. Hence, regular technical & clerical staff is urgently required. The appointment of C&D class employees on outsourced and contract basis is objectionable. The existing regular staff is reducing day by day by virtue of retirements & deaths and no recruitment process has been started to meet the increasing work load. It is on record that due to appointment of contract/ outsourcing employees the condition of the department has deteriorated from bad to worse as the outsourced employees are not loyal to the department and further they have no job security and leave the job whenever they are selected on regular basis in any other establishment.

The objector further averred that SIU in its report submitted in the year 2001 allowed 1780 posts in addition to 90 posts for the connections of Jhuggi dwellers. Now the colonies are being re-habilitated and about 8500 houses have been built up in Dhanas, residents of Jhuggies have shifted there and department has given connections to them but did not recruit staff. It is, therefore, requested that one subdivision for that particular colony be created and staff be recruited for the operation and maintenance of this particular colony. Therefore, due to shortage of staff the works are being done through petty contractors, outsourced agencies and even the small works are being done through supply & erection. The 200 kV sub-station has been given to PGC and crores of rupees have been paid to them which put the department in loss of crores of rupees. The objector is of the firm opinion that instead of giving crores of rupees to the contractors/ profiteers, it would be better if equal amount is spent for recruitment of staff. The department would be in profit and crores of rupees can be saved and uninterrupted power supply can be provided to the consumers.

The objector prayed that employees cost may be enhanced and ED- Chandigarh be advised that instead of spending heavy amount on the appointment of officers, atleast 400 posts of Junior Engineer, Lineman, Assistant Lineman, UDC, LDC and other staff on regular basis be filled so that public expectation as well as standards of performance may be implemented in its true spirit.

The Commission after hearing all concerned and stakeholders approved detailed study on Manpower Requirement of Chandigarh Electricity Department vide order dated 24.06.2014.

The U.T. Powermen Union Chandigarh- objector in petition no. 129/2014 petitioner in petition no. 141/2014 and respondent in petition no. 147/2014 herein after referred as respondent has filed review petition no. 141/2014 for review of the order dated 24.06.2014 passed by the Commission in petition no. 129/2014.

#### **Brief facts of petition no. 141/2014**

The brief facts of petition no. 141/2014 are that the Commission while disposing of the petition No. 129/2014 recommended certain number of posts of various categories. There are already 1780

sanctioned posts of various categories since 1987. Budgetary provision has also been made by the Govt. of India. The Engineering Department of U.T.- Chandigarh has allocated the same to other circles of the Engineering department. There is also no mention of the staffing norms of PSEB now PSPCL and manpower study already conducted and approved by Staff Inspection Unit constituted by Govt. of India in the year 2001, wherein 90 additional posts of various categories were sanctioned in addition to the existing sanctioned strength of 1780.

The case of the respondent further is that the Petitioner in Para-I of the original petition admitted that ED- Chandigarh has been functioning as an integrated utility for performing Distribution and Transmission licensee activities in the area of U.T. Chandigarh but in para-1 of the reply of the objection petition the Petitioner submitted that ED- Chandigarh has been allowed to function as an integrated distribution licensee for the licenced area of U.T. Chandigarh. Hence, the submissions of the original petition and reply of the objection petition are contrary. The manpower study conducted by M/s Deloitte is only for one segment of the ED- Chandigarh i.e. Distribution System, ignoring Transmission and Generation System, whereas a complete circle headed by Chief Engineer alongwith other officers and subordinate staff particularly SSE, JE (Sub-Station), SSA, Lineman, ALM, UDC and LDC etc. is required for ED- Chandigarh. ED- Chandigarh is handling affairs of EHV transmission lines upto 220 KV rated capacity from Nalagarh (HP), BBMB & Dhulkot, Haryana and Punjab State Electricity Board. ED- Chandigarh has further networking of large number of Grid Sub Stations of 220 KV / 66 KV capacities located at various places in the Territory of U.T.- Chandigarh. Therefore, if strength of staff is worked out on the quantum of work covered under EHV Transmission System in that situation one complete circle headed by separate Chief Engineer will be justified in addition to the study conducted by M/s Deloitte for smooth functioning of ED- Chandigarh. ED- Chandigarh is also heading towards Generation through renewable sources i.e. Solar System etc. for which exercise has already taken a kick start and more staff is required for examining and preparing proposals to strengthen the system. The Generation through Solar System is becoming more and more popular in the coming days. Therefore one more circle of Transmission & Generation, headed by separate Chief Engineer alongwith posts of subordinate staff is required for ED- Chandigarh.

The Commission, while disposing off the petition has erred by drastically decreasing the strength of staff at the entry level i.e. Assistant Lineman, Lineman & many more other categories and has preferred outsourcing these activities from the open market. Whereas, the services required towards maintenance of power system involves safety of self, safety of public and safety of costly equipments, which necessitates recruitment of trained staff at entry level i.e. ALM/LM/Foreman. Such staff is also not readily available in the market. The duties of the line staff viz a viz ALM & Lineman are of meticulous nature and are discharged by the expert staff already trained at the entry point ALM - LM - SSA - F/Man - J.E., (Span of 15 to 20 years). The respondent further submitted that these types of officials are not available in the market but have to be trained in the department being one of the most monopolized and having big infrastructure. Therefore, if the technical staff is engaged through outsourcing the same will not be qualitatively worth and safe for proper operation and safety of general public. There is always a tendency of the contractual staff to run away in the event of getting any opportunity outside the domain of department due to job insecurity in the hands of contractor and financial constraints. Therefore, the time and money spent by the department becomes worthless. The work of the department is of permanent nature and having an outsourced work force in the department is against the principle of natural justice and the Constitution.

The case of the respondent further is that the strength of staff worked out by M/s Deloitte seems hypothetical and does not include the suggestions made by the respondent. The study carried out by M/s



Deloitte could not incorporate and has not appreciated the benchmark / yardsticks adopted by the State Power Utilities of Haryana and Punjab to ascertain actual number of officials required in each category. The table below will show the strength of existing staff in the other union territories of Govt. of India against number of electric connections:-

States	Consumers	Employees	Consumers served by an Employee
Goa	6,00,000	5,497	109.15
Manipur	3,00,000	3,158	95.00
Mizoram	2,00,000	1,603	124.77
Pondicherry	3,00,000	1,837	163.31
Tripura	5,00,000	4,793	104.32
Chandigarh	1,99,840	1,092	183.00

The respondent further submitted that the order of the Commission is not based on true facts and has been passed without examining the matter in proper perspective and lacks material details, therefore, the same requires review and has prayed that the order dated 24.06.2014 may be reviewed in the light of the submissions made by the respondent.

The petitioner ED- Chandigarh filed reply to the review petition contesting the same with averments that Employee cost proposed in ARR of any financial year is based on existing manpower cost as well as proposed requirement of manpower cost for next financial year. The employee cost is never based on the sanctioned posts. The proposed manpower for ED- Chandigarh has been derived by M/s Deloitte on the basis of PSEB urban norms and best practices being followed by high performing utilities in India. The Ministry of Power, Govt. of India vide letter dated 06.10.2009 advised the petitioner to take up the matter with the Commission for filling of new posts in ED- Chandigarh.

The petitioner further submitted that there shall be separate licensee for transmission and for distribution of electricity under Section 14 of EA, 2003. ED- Chandigarh is presently handling only one 220/66 KV Substation, which is being managed through outsourcing by Power Grid. There is no other transmission network being handled by ED- Chandigarh necessitating a separate Transmission Licence and for further handling of 66/11 KV setup, a separate vertical headed by SE (Power System) has been created for the EHV setup. The EHV setup has also been strengthened in line with best practices followed by other high performing utilities of India. The report considers the existing EHV network of ED- Chandigarh the 17 Grid sub-station.

There is presently no plan for Power generation, therefore, manpower has not been provided. It is further pertinent to mention here that matter is already under consideration to handover the present 220 KV G/S/Stn to M/s Power Grid as ISTS point and M/s Power Grid has already given its consent for further consideration by Standing Committee on Power System Planning of Northern Region after approval of Chandigarh Administration.

This practice of outsourcing manpower also ensures a healthy mix of in-house expertise and youth and is based on the model currently in practice in other high performing utilities in India. The operational manpower derived for ED- Chandigarh is based on PSEB norms which have been applied on existing network/ physical assets of ED- Chandigarh.

The comparison with the north- eastern states is not valid due to high difference in terrain, consumer-wise and expectation level of consumers, and other UTs such as Goa may not be benchmarked as they are undergoing a similar transition and similar studies are being conducted there also. The petitioner has prayed for dismissal of the review petition of the respondent.

The respondent -U.T. Powermen Union filed rejoinder to the reply of the petitioner ED- Chandigarh which controverting the stand taken by the petitioner ED- Chandigarh and reiterated their stand taken in their petition.

**Brief facts of petition no. 147 of 2014**

The brief facts of the case of the Petitioner- ED- Chandigarh in petition no. 147/2014 are that the petitioner submitted a petition no. 129/2014 for approval of detailed manpower study on manpower requirement of ED- Chandigarh conducted by M/s Deloitte. The Commission vide order dated 24.06.2014 approved the following manpower:-

**As per the revised setup the manpower requirement for ED- Chandigarh as per Phase-I in immediate terms will be as under:**

Manpower requirement for ED- Chandigarh	Sanctioned	As-is manpower at ED-Chandigarh	Total proposed Manpower	Proposed In- House manpower	Proposed Outsourcing manpower
Executive (AEE/AE & above)	30	22	59	59	0
Non- Executive (JE & below)	1638	939	1335	950	385
Total	1668	961	1394	1009	385

**As and when the manpower in field offices (Below Junior Engineer level) retires, no fresh recruitment shall be made and the outsourcing manpower will be utilized accordingly. Hence, the total manpower requirement for ED- Chandigarh as per Phase-II In future will be as follows:**

Manpower requirement for ED- Chandigarh	Sanctioned	As-is manpower at ED- Chandigarh	Total proposed Manpower	Proposed In- House manpower	Proposed Outsourcing manpower
Executive (AEE/AE & above)	30	22	59	59	0
Non- Executive (JE & below)	1638	939	1335	736	599
Total	1668	961	1394	795	599

**The approved Employee cost for FY 2013-14 was INR 58.28 Crores. The employee cost projected by petitioner as per revised manpower requirement is as under:**

- Employee cost on account of regular employees is INR 48+4 = Rs. 52 Crores.
- Cost on account of outsourcing manpower is INR 4.62 Crores.
- Total manpower cost is INR 56.62 Crores.

The case of the petitioner is that the manpower requirement was projected for group A, B, and C with a view that Group D manpower will gradually reduce on account of retirements and no fresh recruitments shall be made in future. There are 96 Group D employees at ED- Chandigarh which are also required to be included in the approved manpower of Phase-I. The petitioner further submitted that the cost of these 96 Group D employees is already included in the submitted salary cost of Rs. 48 Crs. per annum. But inadvertently Group-D employees were not taken into account in the main petition no. 129/2014. Whereas in summary of manpower study at page No. 24 the 96 posts of Group-D were included. Furthermore posts of Upper Division Clerk/Lower Division Clerk/ Steno typist/ Cashier are clubbed as shown at Page-24 of overall summary of manpower study and as shown below:-

Sr. No	Designations	Sanctioned	Total Proposed Manpower	Proposed In House	Proposed Outsourced
1	Upper Division Clerk/Lower Division Clerks/Steno typists/ Cashier	242	194	97	97
2.	Consumer Clerk	10	0	0	0
3.	Store-keeper	0	1	1	0
4.	Total	252	195	98	97

The petitioner further submitted that Lower Division Clerk being the feeding cadre of Upper Division Clerk, the Regular sanctioned strength of Lower division Clerk should be more than the post of Upper Division Clerk like a pyramid. The number of Stenotypists has also been increased according to the functional requirement. Therefore, with the following amendments, the total number of posts will remain the same as already approved by the Commission vide order dated 24.06.14 and the number of posts in house and outsourced would only change. Therefore, following amendments may please be approved:-

Sr. No	Designations	Sanctioned	Total Proposed Manpower	Proposed in House	Proposed Outsourced
1	Lower Division Clerks/Typists/ Cashier/ Ledger Clerk/Asstt. Store Keeper/Consumer Clerk	171	134	67	67
2.	Upper Division Clerk/Store Keeper	74	49	49	-
3.	Steno-typist	7	12	6	6
4.	Total	252	195	122	73

**Proposed manpower including already working Group D manpower for approval:**

**Phase-I manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh*	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1317	991	326
Non-Executives – Group D	166	114	114	114	0
Total	1780	1039	1490	1164	326

\* Change in the total number of "as –is Group C non-executive (JE& below)", as 903 instead of 939 since 18 posts of existing outsourced drivers were inadvertently included as-in house manpower and 18 as-is-posts of Group D Trade mates were included in Group C manpower.

**Phase-II manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1323	756	567
Non-Executives – Group D	166	114	108	4	104
Total	1780	1039	1490	819	671

The petitioner prayed that 96 Group D employees be included in the Manpower approval, the number of in-house and outsourced posts of LDC under non- executives category (JE & below) should be like a pyramid, change in total number post of sanctioned post as 1780 from 1810 as 30 excess post of drivers are inadvertently included in sanctioned strength and post be approved as per Annexure – "A" of the petition.

The petition was received in the Commission on 22.10.2014 without fee. The petitioner was directed to pay the petition fee. The petitioner paid the fee and filed additional petition with additional averments

that as per Regulation 80 of JERC (Conduct of Business) Regulations, 2009, the Commission at any time for determining real question or issue can amend any defect or error in any proceedings on such terms as to cost or otherwise. The petition was admitted on 14.11.2014. The Commission sent hearing notice for 08.12.2014.

The case of the petitioner as per additional submissions further is that Group D posts of Trade Mate were considered as part of the manpower approved in the order issued on 24.06.2014. The total proposed manpower for Trade mate as per petition submitted approved 24.06.2014 was 12 out of which 8 were proposed outsourced and 4 were proposed to be in-house. As on date there are 18 trade mates in Group D category currently working at ED- Chandigarh. Hence, in line with phasing of manpower it is proposed that the existing 18 Group D trade mate employees to continue till retirement in Phase-I and the Phase-II (future) manpower to be as approved by the Commission defined below:-

i. Total Trade Mates	-	12
ii. In-house Trade Mates	-	4
iii. Outsourced Trade Mates	-	8

The respondent- U.T. Powermen Union filed reply to the review petition of ED- Chandigarh on the lines of their review petition and prayed for dismissal of the petition of ED- Chandigarh and review of the order dated 24.06.2014 as prayed by U.T. Powermen Union.

The Commission in order dated 28.10.2014 of the review petition no. 141/2014 observed that the petition no. 141/2014 and petition no. 147/2014 are for review of same order dated 24.06.2014 of the Commission passed in petition no. 129/2014. Therefore, both petitions are required to be heard together and disposed off by a common order, therefore, both the petition no. 141/2014 and petition no. 147/2014 are clubbed and disposed off by the common order.

The Commission held the hearing on 08.12.2014 at the Headquarters of the Commission. The Commission heard the representatives of the parties at length and has gone through the petitions and relevant provisions of the Civil Procedure Code, the Electricity Act (EA), 2003 and JERC Regulations carefully and thoroughly.

According to Section 94 of the EA, 2003 all proceedings before the Commission shall be deemed to be judicial proceedings and the Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for the purpose of any inquiry or proceedings under the EA.

The parties have filed both the petitions under Section 94 of the Electricity Act to review order dated 24.06.2014. Before proceeding further it is worth reproducing the provisions of Section 94 of the EA, 2003 which reads as under:-

**Section 94 of EA, 2003**

*"The Appropriate Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely: -*

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) discovery and production of any document or other material object producible as evidence;*
- (c) receiving evidence on affidavits;*
- (d) requisitioning of any public record;*
- (e) issuing commission for the examination of witnesses;*
- (f) reviewing its decisions, directions and orders;*
- (g) any other matter which may be prescribed.*



2) *The Appropriate Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Appropriate Commission, as that Commission may consider appropriate.*

(3) *The Appropriate Commission may authorise any person, as it deems fit, to represent the interest of the consumers in the proceedings before it".*

From bare reading of the Section 94 (f) of EA it is clear that this Commission has power to review its own orders or decisions as a Civil Court under the Civil Procedure Code.

The Civil Court while reviewing its order/ judgment has to follow the provisions of Order 47 Rule 1 of the CPC which is reproduced as under:-

**Order 47 Rule 1 of CPC**

*"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,*

*(d) And who from the discovery of new and important matter of evidence which, after 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 the 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"*

The same powers are vested in this Commission and same provisions of Order 47 Rule 1 of the CPC shall apply. From reading of provisions of Order 47 Rule 1 of the CPC it is clear that review is maintainable on following grounds only:-

*"(a) Discovery of a new and important matter of evidence which even after exercise of due diligence was not within the knowledge of the Petitioner;*

*(b) Discovery of new and important matter of evidence which even after exercise of due diligence could not be produced by the Petitioner during the original proceedings which culminated in the final order passed;*

*(c) Order made on account of some mistake or error apparent on the face of the record or any other sufficient reason".*

After hearing both the sides at length and perusal of records it is clear that U.T. Powermen Union-respondent has filed the review petition before the Commission to review the order dated 24.06.2014 passed by the Commission in petition no. 129/2014 on the grounds already raised in the objection petition filed in the main petition no. 129/2014. The Commission considered all these objections in the order dated 24.06.2014. The order dated 24.06.2014 is well reasoned, is a speaking order and is as per the EA, 2003 and JERC Regulations. The order dated 24.06.2014 is appealable. The review petition can be filed only on the ground of discovery of a new and important matter of evidence which even after exercise of due diligence was not within the knowledge of the Petitioner, discovery of a new and important matter of evidence which even after exercise of due diligence could not be produced by the Petitioner during the original proceedings which culminated in the final order passed and order made on account of some mistake or error apparent on the face of the record or any other sufficient reason.

In the light of the above pleadings of the respondent- U.T. Powermen Union, it has to be considered as to whether the grounds raised by the respondent in their Review Petition are sufficient to invite the restrictive jurisdiction of this Commission to review its order dated 24.06.2014.

Before considering the said issue, it would be appropriate to refer to judgment of Hon'ble APTEL dated 17.04.2013 passed in Review Petition No. 12/2012 in Appeal No. 17/2012 titled Ajmer Vidyut Vitran Nigam Limited Vs. Rajasthan State Electricity Regulatory Commission and another, wherein the Hon'ble APTEL after relying upon case law reported as (a) Meera Bhanja (Smt) Vs. Nirmala Kumari Choudhary (Smit) reported in (1995) 1 SC 170 : AIR 1995 SC 455; (b) M/s. Northern India Caterers (India) Ltd., Vs Lt. Governor of Delhi reported in (1980) 2 SCC 167; (c) Haridas Das Vs Usha Rani Banik (Smt) and Ors reported in (2006) 4 SCC 78; (d) Thungabhadra Industries Ltd., Vs Govt of A.P (1964) 5 SCR 174 : AIR 1964 SC 1372; (e) Ariban Tuleswar Sharma V Aribam Pishak Sharma (1979) 4 SCC 389 : AIR 1979 SC 1047; (f) Satyanarayan Laxminarayan Hegde Vs Mallikarjun Bhavanappa Tirmuale (1960) 1 SCR 890 : AIR 1960 SC 137; (g) Sajjan Singh Vs State of Rajasthan (1965) 1 SCR 933: AIR 1965 SC 845; (h) O.N Mohindroo Vs Distt Judge, Delhi (1971) 2 SCR 11 : 1971 3 SCC 5 (i) Sow Chandra Kante Vs Sheikh Habib (1975) 1 SCC 674: (1975) 3 SCR 933; (j) Parsion Devi Vs. Sumitri Devi (1997) 8 SCC 715; (k) S Bhagirathi Ammal Vs Palani Roman Catholic Miss 2008 SC 719; (l) State of West Bengal Vs. Kamal Sengupta (2008)8 SCC612, held that the power of review can be culled out as under:-

- (a) It is well settled that the Review Proceedings are not by way of an Appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1, CPC;
- (b) The Review jurisdiction cannot be exercised on the ground that the decision was erroneous on merits. That would be the province of the court of Appeal. A power of Review is not to be confused with Appellate power which may enable an Appellate Authority to correct all matter of errors committed by the subordinate court. This power has not been conferred in the review jurisdiction;
- (c) An error apparent on the face of record must be such an error which might strike one merely by looking at the record and would not require any long drawn process of reasoning on points where there may be two opinions;
- (d) An error which has to be established only by lengthy and complicated arguments during the long drawn process of reasoning cannot be said to be an error apparent on face of the record;
- (e) The party is not entitled to seek a Review of a judgment delivered by the Court merely for the purpose of rehearing a fresh decision of the case. The principle is that the judgment pronounced by the court is final. Departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.
- (f) If the view adopted by the Court in the original judgment is a possible view having regard to what the record states, it would be difficult to hold that there is an error apparent on the face of the record.
- (g) The parameters are prescribed in order 47 Rule 1 CPC. It permits the party to press for a re-hearing on account of some mistake or error apparent on the face of the record or for any other sufficient reason. The former part of the rule deals with a situation attributable to the applicant and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible;
- (h) There is a distinction between a mere erroneous decision and a decision which could be characterized by error apparent. The Review is by no means an Appeal in disguise whereby an erroneous decision is re-heard and corrected. Review lies only on a patent error.
- (i) Whatever the nature of the proceedings, it is beyond dispute that a Review proceeding cannot be equated with the original hearing of the case. The finality of the judgment delivered by the Court will not

be reconsidered except "where a glaring omission or patent mistake or grave error has crept in earlier by judicial fallibility;

(j) Where the order in question is appealable and the aggrieved party has adequate and efficacious remedy by recourse to Appeal the original court should exercise the power to review its order with the greatest circumspection; -

(k) An error contemplated under the Rule must be such which is apparent on the face of the record. It cannot be an error which has to be fished out and searched.

(l) Expression "any other sufficient reason" appearing in order 47 Rule 1 has to be interpreted in the light of the other specified grounds.

In the light of the above mandates laid down by the Hon'ble Supreme Court and APTEL the Commission is of the considered opinion that the respondent – U.T. Powermen Union has failed to make out a case of discovery of a new and important matter of evidence which even after exercise of due diligence was not within the knowledge of the respondent- U.T. Powermen Union, discovery of a new and important matter of evidence which even after exercise of due diligence could not be produced by the respondent- U.T. Powermen Union during the original proceedings which culminated in the final order passed and order made on account of some mistake or error apparent on the face of the record or any other sufficient reason.

The points/ objections raised by the respondent in the review petition had been already raised by the respondent in their objection petition filed in the main petition. The order under review being appealable does not fall within the preview of order 47 Rule 1 of the CPC on the grounds raised by the respondent U.T. Powermen Union.

The petitioner ED- Chandigarh has filed the present review petition under the provisions of Section 94 of the EA, 2003 and Regulation 80 of the JERC (Conduct of Business) Regulations, 2009. The provisions of Section 94 of the EA, 2003 have been reproduced in the earlier part of this order. According to Section 94 of the EA, 2003 all proceedings before the Commission shall be deemed to be judicial proceedings and the Commission shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for the purpose of any inquiry or proceedings under the EA, 2003.

The Civil Court under Section 151 of the CPC has inherent powers to make orders as may be necessary for the ends of justice or prevent abuse of the process of the Court. Before proceeding further it is worth reproducing the Provision of Section 151 of CPC, which reads as under:-

#### **Section 151 of CPC**

*"Saving of inherent powers of Court- Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court."*

The Civil Court under Section 152 of CPC has powers to correct any clerical or arithmetic mistakes in the judgment decrees or orders or errors arising there in from any accidental slip or omission either of its own motion or on application of any of the parties. It is also worth reproducing the Provision of Section 152 of CPC, which reads as under:-

#### **Section 152 of CPC**

*"Amendment of Judgments, decrees or orders- Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties."*

It is also worth reproducing Regulation 80 of JERC (Conduct of Business) Regulations, 2009. Which reads as under:-

**Power to amend any defect, error, etc. in proceedings/pleadings**

*"The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings."*

The powers vested in a Civil Court under Section 151 and 152 of CPC as per Section 94 of EA also vest in this Commission, therefore, this Commission has inherent powers to correct errors in the pleadings of the parties resulting into error in the order of the Commission.

The Commission observed that the case of the petitioner is that the manpower requirement was projected for group A, B, and C with a view that Group D manpower will gradually reduce on account of retirements and no fresh recruitments shall be made in future. There are 96 Group D employees at ED-Chandigarh which are also required to be included in the approved manpower of Phase-I. The cost of these 96 Group D employees is already included in the submitted salary cost of Rs. 48 Crs. per annum. But inadvertently Group-D employees were not taken into account in the main petition no. 129/2014, whereas in summary of manpower study at page No. 24 the 96 posts of Group-D were included. The posts of Upper Division Clerk/Lower Division Clerk/ Steno typist/ Cashier are clubbed as shown at Page-24 of overall summary of manpower study and as shown below:-

Sr. No	Designations	Sanctioned	Total Proposed Manpower	Proposed in House	Proposed Outsourced
1	Upper Division Clerk/Lower Division Clerks/Steno typists/ Cashier	242	194	97	97
2.	Consumer Clerk	10	0	0	0
3.	Store-keeper	0	1	1	0
4.	Total	252	195	98	97

Lower Division Clerk being the feeding cadre of Upper Division Clerk, the Regular sanctioned strength of Lower division Clerk should be more than the post of Upper Division Clerk like a pyramid. The number of Stenotypist has also been increased according to the functional requirement. Therefore, with the following amendments, the total number of posts will remain the same as already approved by the Commission vide order dated 24.06.14 and the number of posts in house and outsourced posts would only change, which is evident from the table below:-

Sr. No	Designations	Sanctioned	Total Proposed Manpower	Proposed in House	Proposed Outsourced
1	Lower Division Clerks/Typists/ Cashier/ Ledger Clerk/Asstt. Store Keeper/Consumer Clerk	171	134	67	67
2.	Upper Division Clerk/Store Keeper	74	49	49	-
3.	Steno-typist	7	12	6	6
4.	Total	252	195	122	73



**Proposed manpower including already working Group D manpower for approval:**

**Phase-I manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh*	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1317	991	326
Non-Executives – Group D	166	114	114	114	0
Total	1780	1039	1490	1164	326

\* Change in the total number of "as –is Group C non-executive (JE& below)" as 903 instead of 939 since 18 posts of existing outsourced drivers were inadvertently included as-in house manpower and 18 as-is-posts of Group D Trade mates were included in Group C manpower.

**Phase-II manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1323	756	567
Non-Executives – Group D	166	114	108	4	104
Total	1780	1039	1490	819	671

The case of the petitioner further is that 96 Group D employees be included in the Manpower approval, the number of in house and outsourced post of LDC under non- executives category (JE & below) should be like a pyramid, change in total number post of sanctioned post as 1780 from 1810 as 30 excess post of drivers were inadvertently included in sanctioned strength and post be approved as per Annexure – "A" of the petitioner.

The Commission further observed that the case of the petitioner as per additional submissions further is that Group D posts of Trade Mate were considered as part of the manpower approved in the order issued on 24.06.2014. The total proposed manpower for Trade mate as per petition submitted approved 24.06.2014 was 12 out of which 8 were proposed outsourced and 4 were proposed to be in-house. As on date there are 18 trade mates in Group D category currently working at ED- Chandigarh. Hence, in line with phasing of manpower it is proposed that the existing 18 Group D trade mate employees to continue till retirement in Phase-I and the Phase-II (future) manpower to be as approved by the Commission defined below:-

- i. Total Trade Mates - 12
- ii. In-house Trade Mates - 4
- iii. Outsourced Trade Mates - 8

From the pleadings of the petitioner ED- Chandigarh it is evident that the mistake and error in the order under review is apparent on the face of record and accrued due to the error in pleadings of the petitioner. The Commission under Section 94 of the EA has power of a Civil Court in the proceedings under the EA and also can review its own orders. The Commission can review its own order on three grounds detailed in the earlier part of this order and as held by the Hon'ble APTEL in Judgment dated 17.04.2013 passed in review petition no. 12/2012 relying upon numerous pronouncements of the Hon'ble Apex Court of the land. The Commission under Sections 151 and 152 of CPC as well as under Regulation

80 of JERC (Conduct of Business) Regulations, 2009 has also power to remove any defect or error in any proceedings before it and also can make necessary amendments for determining the real question or issue arising in the proceedings. Therefore, the review petition filed by the petitioner ED- Chandigarh succeeds.

In the light of above discussion and observations of the Commission the petition no. 141/2014 fails and is hereby dismissed. The petition no. 147/2014 succeeds and is hereby allowed.

The Commission further observes that the consumer profile is unique in Chandigarh as it is a capital city of two prominent states. The expectations and demands of the consumers have been increasing and are currently at par with most metros in India. The Commission also noted that there are many recurring supply related complaints in the area under the control of ED- Chandigarh. Lack of professional and technology oriented staff results in lack of preventive maintenance, lack of network health analysis studies etc. Professional orientation with technical excellence is the need of the hour in both technical and commercial activities of ED- Chandigarh. The existing out-dated and manual activities need to be replaced with modern and technology driven activities. The ultimate objective should be uninterrupted and quality power supply to the consumers.

The manpower recruitment report shall fulfill vacancies of the requisite number of officers and employees of ED- Chandigarh for smooth and proper functioning of the Department and regular supply of electricity to the consumers under their jurisdiction.

Resultantly the following manpower is approved for ED- Chandigarh:-

**Proposed manpower including already working Group D manpower for approval:**

**Phase-I manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1317	991	326
Non-Executives – Group D	166	114	114	114	0
Total	1780	1039	1490	1164	326

**Phase-II manpower:**

Manpower Requirement for ED- Chandigarh	Sanctioned	As-is Manpower at ED- Chandigarh	Total Proposed	Proposed In-house	Proposed Outsourced
Executives ( AEE/AE & above)	30	22	59	59	0
Non-Executives (JE & below)	1584	903	1323	756	567
Non-Executives – Group D	166	114	108	4	104
Total	1780	1039	1490	819	671

The existing 18 Group D trade mate employees shall continue till retirement in Phase-I. For Phase-II (future) the following is approved:

- |                             |   |    |
|-----------------------------|---|----|
| i. Total Trade Mates        | - | 12 |
| ii. In-house Trade Mates    | - | 4  |
| iii. Outsourced Trade Mates | - | 8  |

The Commission observes that Govt. of India is promoting Solar Power and for promotion of Solar Power is paying subsidy to the Solar Power Generators. The Govt. of India has also selected UT- Chandigarh as one of the Solar Power Cities. The Administration of UT- Chandigarh has also appointed

Chandigarh Renewable Energy Science & Technology Promotion Society (CREST) as Nodal Agency to install Solar Power Generation Projects on roof top for distribution of Solar Power to ED- Chandigarh. The generation through Solar System is becoming more and more popular in the coming days. ED- Chandigarh is also to start SCADA system. Therefore, to Implement the National Policy on Renewable Energy, to look after promotion and execution of energy conservation, renewable energy programs and for improving average cost of power purchase, one officer of the Rank of Chief Engineer is required for ED- Chandigarh. Hence, the Commission approves one post of Chief Engineer for the above purpose.

The Commission further observes that the petitioner is also to work more on safety of the existing and future employees by providing latest safety tools and requisite training.

The Commission further observes that the engineering staff and officers be trained in working on computers and latest equipments. A common pool of typists/ stenographers be maintained to attend to work in case of necessity.

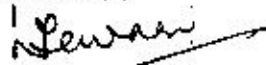
The drivers should be employed in proportion to the vehicles for productive use and improving standards of performance under the Electricity Act, 2003.

The Commission further observes that the posts should not be kept vacant for a long period. There should be a policy of succession planning. The Commission further directs the petitioner ED- Chandigarh to start process of recruitment for filling the existing vacancies at the earliest within a fixed time frame and send half yearly report on the vacancies to the Commission.

Dated 29.12.2014

Sd/-  
(S.K.Chaturvedi)  
Chairperson

Certified Copy



(Keerti Tewari)  
Secretary