

CHAPTER VIII: DEPARTMENT OF FERTILIZERS

National Fertilizers Limited

8.1.1 Irregular payment of Incentives

The Company paid incentives of Rs.4.11 crore to workmen in contravention to the Wage agreement with unions and Government of India directions.

As per the directions of Government of India (GOI) (January 1999), public enterprises were required to enter into a wage settlement with workers for a period of 10 years. Accordingly, National Fertilizers Limited (Company) entered into a 10 year wage agreement through Memorandum of Understanding (MOU) with the recognised Unions of workmen employees (Unions) of the Company in June 2000. The MOU was applicable up to 31 December 2006. In the MOU, the Unions opted for production linked performance incentive as against profit linked scheme. Accordingly, from 2000-01 onwards, the Company started paying performance incentive on the basis of production achieved.

However, the Unions started demanding the share of profit out of the arrears of subsidy received by the Company from the GOI pertaining to the periods prior to introduction of the production linked performance incentive scheme (June 2000). After negotiations, the Company made *ad hoc* payment of Rs.2.50 crore¹ as a goodwill gesture in 2005-06. Again, Unions demanded for payment of incentive on profitability instead of production achieved on the contention that there was a wide disparity between the incentives paid to workmen and executives. The Company again made an *ad hoc* payment of Rs.1.61 crore² as one time settlement in 2007-08.

Audit noticed (August 2008) that the total payment of Rs.4.11 crore made by the Company to its workmen during 2005-06 and 2007-08 was in addition to production linked incentives. This resulted in payment of incentive to Unionised staff on the basis of dual criteria i.e., production achieved as well as *ad hoc* payment. Therefore, these payments were in violation of GOI's directions as well as MOU, which was valid for 10 years.

The Management stated (September 2008 and May 2009) the following:

- To maintain sanctity of the MOU, changing the incentive scheme from production base to profit base was not agreed.

¹ Rs.7501 per employee

² Rs.5100 per employee

- As the Unions demanded for higher incentive on the basis of changed circumstances approval of the Board of Directors was obtained as was done in the instant case after negotiation with the Unions.

The Ministry stated (August 2009) the following:

- The workmen' Unions requested for payment of incentive on profit basis as there was huge disparity between the incentive given to executives and workmen and *ad hoc* payment of incentive was made in order to settle their grievances.
- The Company had saved Rs.15.76 crore by limiting the total incentives to executives to three *per cent* of Profit after tax (PAT) against five *per cent* permitted as per DPE guidelines and payment of Rs.4.11 crore as incentive to workmen was well within this saving.

The replies of the Management and Ministry are not convincing since:

- As per the MOU with workmen, the payment of incentive was to be linked only to the production achieved, but the actual payment was made in addition thereof.
- The DPE guidelines only set the maximum limit for payment of incentive and actual payment should be on the basis of the 'incentive scheme' approved by the Company. Hence the contention of the Management/Ministry regarding net saving to the Company even after payment to workmen does not hold good.

Thus, the Company not only violated the MOU, which was valid as per Government directions for 10 years but also succumbed to the demands of the Unions. This made the entire process of wage negotiations and MOU with the workmen meaningless, ultimately resulting in irregular payment of performance incentive to the tune of Rs.4.11 crore to workmen.

8.1.2 Irregular payment to employees

National Fertilizers Limited made irregular payment of *ex-gratia* amounting to Rs.2.03 crore to its employees in contravention of DPE guidelines.

The Department of Public Enterprises (DPE) issued instructions on 20 November 1997 to all public sector undertakings (PSUs), *inter alia*, directing that the employees of PSUs drawing wage/salary exceeding Rs.3,500 per *mensem* (increased to Rs.10,000 per *mensem* with effect from April 2006) would not be paid bonus, *ex-gratia*, honorarium, reward and special incentive etc., unless the amount was authorised under a duly approved incentive scheme.

The payment of *ex-gratia* by 21 PSUs to their ineligible employees was pointed out earlier in 10 Comptroller and Auditor General of India's Audit Reports (Commercial)* of earlier years from 1994 to 2004. However, no action was taken by these companies. The

* Reports of the Comptroller and Auditor General of India (Commercial) No. 3 of 1994, 1995, 1997 to 2004

matter was referred (February 2005) to DPE for seeking clarification as to whether such payment of *ex-gratia* was consistent with DPE's instructions. The DPE while clarifying (December 2005) that the payment of *ex-gratia* to the ineligible employees was not allowed as per its instructions of 20 November 1997 intimated that there was no provision for DPE/Administrative Ministry to approve the payment of *ex-gratia*/bonus to the ineligible employees in PSUs. DPE advised (December 2005) the Administrative Ministry to take suitable action to stop irregular payment. However, the PSUs continued to make payments of *ex-gratia*/cash award to their employees irregularly ignoring the instructions issued by DPE in November 1997 and December 2005. The Comptroller and Auditor General of India again highlighted the irregularity involving irregular payment of Rs.880.09 crore in the three Audit Reports¹ in respect of thirteen Companies². The matter was again taken up in October 2008 with the DPE and concerned Administrative Ministries. In response, DPE directed (December 2008) Administrative Ministries to take action to settle the audit para, however, no corrective action was taken by the Administrative Ministries to control the irregular payment except in case of Electronics Corporation of India Limited which stopped such payment and initiated action for recovery of irregular payments.

It was further observed (April 2009) in Audit that during 2006-07 to 2008-09 National Fertilizers Limited paid *ex-gratia* of Rs.2.03 crore³ as a goodwill gesture to its all employees, which was in violation of the DPE guidelines as the payment of *ex-gratia* was in addition to profit linked incentive paid to executives and production linked incentives paid to non-executives.

In response, the Management (June 2009) and the Ministry (August 2009) stated:-

- *Ex-gratia* payment in 2006-07 was announced by the Minister and all the payments were made with the approval of the Board of Directors and that DPE's guidelines of June 1999 permitted payment of perquisites and allowances up to 50 per cent of basic pay, however, it adopted a policy of making payment at the rates from 40 to 50 per cent of standard pay.
- The amount of *ex-gratia* paid to employees was considered against this margin available in the quantum of perquisites and allowances.

The reply is not justified as:-

- The payment of *ex-gratia* was in addition to the approved incentive scheme and any *ex-gratia* payment over and above approved incentive scheme was not permitted as per DPE guidelines.

¹ Report No. 13 of 2006, No 11 of 2007 and No 24 of 2009-10

² Indian Airlines Limited, Pawan Hans Helicopters Limited, NTPC Limited, Electronics Corporation of India Limited, Hindustan Petroleum Corporation Limited, Steel Authority of India Limited, Indian Airlines Limited, Garden Reach Shipbuilders and Engineers Limited, MECON Limited, Neelachal Ispat Nigam Limited, Andaman and Nicobar Islands Integrated Development Corporation Limited, National Buildings Constructions Corporation Limited, Engineers India Limited

³ At the rate of Rs.1000 per employee in 2006-07, Rs.2100 per employee in 2007-08 and Rs.1100 per employee in 2008-09

- The Management's contention that the payment was made out of margin available was not as per the DPE guidelines.
- The Management and Administrative Ministries are not authorised to override the DPE guidelines relating to payment of *ex-gratia*.

Thus, the payment of *ex-gratia* amounting to Rs.2.03 crore as goodwill gesture to employees, in addition of profit/production linked incentive scheme, was irregular as per the guidelines of DPE.