

CHAPTER – VI

Ministry of Environment and Forests

6.1 Repeated unauthorised creation and up-gradation of posts by Central Pollution Control Board

Central Pollution Control Board (CPCB), an autonomous institution under the Ministry of Environment and Forests (MoEF), created and upgraded posts in violation of orders of Ministry of Finance, did not comply with guidelines on ad-hoc appointments and incurred a recurring financial burden of more than ₹3.22 crore per annum on the exchequer. The repeated breach of delegation of powers by CPCB indicates the lack of control and monitoring by MoEF over the units under its administrative jurisdiction.

Rule 8 of 'The Water (Prevention and Control of Pollution) Rules', 1975 conferred the power upon Central Pollution Control Board (CPCB), an autonomous body under the Ministry of Environment and Forests (MoEF), to create posts, upto the maximum of the pay scale of ₹1600⁷⁰ (Third Pay Commission). Thereafter, Ministry of Finance (MoF) issued various instructions from time to time, regulating creation and up-gradation of Plan and Non-Plan posts in Ministries/Departments. Through its orders of March 1994, MoF withdrew the powers of creation of Plan posts from Ministries/Departments in the case of all Group 'B', 'C' and 'D' posts, including non-scientific posts.

Audit observed numerous violations by CPCB in the creation and up-gradation of posts and in cases relating to ad-hoc appointments and promotions, which are illustrated in the table below:

Table 10- Details of posts created and upgraded by CPCB

Sl. No.	Nature of violation	Period during which these posts were created	Number of posts	Annual financial implication
1.	Posts created without approval of MoF	(a) December 1994 to January 2009	62 posts (Group: A-2, B-40, C-10 and D-10)	₹146.66 lakh ⁷¹

⁷⁰ Falls under Pay Band 3 as per recommendations of the Sixth Pay Commission

⁷¹ Calculated on Basic Pay (minimum) as per Sixth Pay Commission plus 65 per cent Dearness Allowance

MoEF replied (February 2010) that exemption from the ban of Scientific posts in Scientific Departments was given by MoF in February 1988.

The reply is not acceptable as all these 62 posts were non-scientific and were in violation of orders issued by MoF in March 1994 which withdrew powers of creation of posts from Ministries/Departments in the case of all non-scientific posts.

	(b) September 1994 to June 2003	55 posts (Group: B-30 and C-25)	₹ 83.92 lakh ⁷²
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MoEF replied (February 2010) that (i) 28 posts in the non-scientific category which were created by the CPCB before September 2000 and (ii) 27 scientific posts were regularised by MoEF with the approval of the Secretary (Environment & Forests) in January 2008. MoEF further added that there was a view that CPCB was competent to create all these posts in exercise of the powers conferred upon it under Rule 8 of 'The Water (Prevention & Control of Pollution) Rules', 1975.

The reply is not acceptable as neither MoEF nor CPCB were empowered to create 28 non-scientific posts in view of the instructions issued by MoF in March 1994. Further, 27 posts regularised as scientific posts were not scientific in nature.

Sl. No.	Nature of Violation	Period during which these posts were created	Number of posts	Annual financial implication
2.	Temporary posts created but not abolished	March 1996	10 posts (Two Director level and eight Additional Director level)	₹91.36 lakh ⁷³

MoEF stated (December 2011) that these posts have been converted into permanent (Non-Plan) posts in terms of a regulation of 11 January 2010.

The reply of the Ministry is not pertinent to the case as the above-mentioned regulation deals with the method of re-framing terms and conditions for service of Group 'A' officers and does not deal with the issue of conversion of temporary posts to permanent posts.

⁷² As per information provided by CPCB

⁷³ Calculated on Basic Pay (minimum) as per Sixth Pay Commission plus 65 per cent Dearness Allowance

Sl. No.	Nature of violation	Period during which these posts were upgraded	Number of posts	Annual financial implication
3.	Irregular up-gradation of posts	July 1996 to December 2006 ⁷⁴	47 posts ⁷⁵	@

MoEF stated (February 2010) that there was a view that CPCB was competent to create/upgrade all these posts in exercise of the powers conferred upon it under Rule 8 of the 'Water (Prevention & Control of Pollution) Rules' 1975. Moreover, approval of MoEF had been accorded for conversion of 16 posts. MoEF further intimated (December 2011) that (i) up-gradation of 10 posts had been withdrawn, (ii) the proposal for up-gradation of two posts had been referred to MoEF, and (iii) for the remaining 19 posts though the up-gradation was done without prior approval of MoF, it was ensured that there were matching savings.

The reply of MoEF is not acceptable as up-gradation of a post in effect amounts to creation of a post and all creation of posts required approval of MoF as stipulated in its order issued in March 1994.

4.	Irregular continuance of ad-hoc appointments and promotions without approval of DoPT	March 1996 to January 2009	35 posts	Ω
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MoEF stated (December 2011) that at present only 20 employees were on ad-hoc basis. Further, since 2009, no ad-hoc appointment had been made and in future, no ad-hoc promotion would be made which was not in accordance with the guidelines/instructions of the Central Government.

The reply of MoEF was, however, silent about the regularisation of the unauthorised period of operation of these posts.

@ Annual financial implications could not be worked out in the absence of detailed information from CPCB

Ω Annual financial implication has not been worked out as the annual financial implication in ad-hoc posts/promotions is not recurring and is only up to the period indicated

⁷⁴ The period of up-gradation of 29 posts not available

⁷⁵ CPCB unauthorisedly continued to operate two posts of Accounts Officer in the upgraded scale of ₹10,000-15,200 even though MoEF had requested CPCB to fix responsibility for not following its advice since 1995. In December 2011, the CPCB replied that it had withdrawn the up-gradation of these two posts of Accounts Officer with effect from 1 October 2009, but the reply was silent about regularisation of these posts. MoEF also approved up-gradation of 16 posts in May 2008 without concurrence of MoF.

It is evident that CPCB, in the last 15 years, repeatedly violated instructions for creation/up-gradation of posts in various cadres. It created 127 posts and upgraded 47 posts without the approval of MoF. MoEF unauthorisedly approved up-gradation of 16 posts in May 2008 without the concurrence of MoF. CPCB also violated guidelines issued by the Department of Personnel And Training (DoPT) for ad-hoc appointments/promotions in 35 cases. The creation and up-gradation of posts resulted in extra burden on the exchequer to the extent of over ₹3.22 crore per annum.

In October 2008, the Ministry of Finance, while regularising 32 posts in CPCB on ex-post-facto basis, advised that the bye-laws of CPCB needed to be amended as they clearly ran contrary to instructions issued by MoF. Consequently MoEF by its order of 9 November 2011 took a decision to abrogate Rule 8 of The Water (Prevention and Control of Pollution) Rules, 1975.

The repeated breach of delegation of powers by CPCB indicates the lack of control and monitoring by MoEF over the units under its administrative jurisdiction.