

SEVENTH REPORT
COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

MINISTRY OF DEFENCE
MINISTRY OF COMMERCE AND INDUSTRY
(DEPARTMENT OF COMMERCE)

(Presented to Lok Sabha on 18.08.2010)



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COMPOSITION OF THE COMMITTEE ON PETITIONS

(2009-10)

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Rajendra Agrawal
3. Shri Khiladi Lal Bairwa
4. Shri E.T. Mohammed Basheer
5. Shri N.S.V. Chitthan
6. Shri Gurudas Dasgupta
7. Shri Dip Gogoi
8. Shri Devendra Nagpal
9. Shri Jagdambika Pal
10. Prof. Ramshankar
11. Shri Sarvey Sathyanarayana
12. Shri Rakesh Singh
13. Dr. Sanjay Singh
14. Shri Kabir Suman
15. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri Ashok Sarin — *Joint Secretary*
3. Shri V.R. Ramesh — *Joint Secretary*
4. Shri U.B.S. Negi — *Additional Director*
5. Smt. Jagriti Tewatia — *Under Secretary*
6. Shri Jyoti Prakash Krishna — *Executive Assistant*

SEVENTH REPORT OF THE COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Seventh Report of the Committee to the House on the following matters:

- (I) Representation signed by Smt. Shakuntala Devi requesting to consider her case under the category of 'war widow' and grant her all the applicable financial benefits.
- (II) Representation from Ms. Rita Kunur forwarded by Shri Gurudas Das Gupta, MP, Lok Sabha regarding non-implementation of the decision of Appointments Committee of Cabinet (ACC).

2. The Committee considered and adopted the draft Seventh Report at their sittings held on 18th May, 2010 and 1st July, 2010.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
1 July, 2010
10 Asadha, 1932 (Saka)

ANANT GANGARAM GEETE,
Chairman,
Committee on Petitions.

CHAPTER I

REPRESENTATION BY SMT. SHAKUNTALA DEVI REQUESTING TO CONSIDER HER CASE UNDER THE CATEGORY OF 'WAR WIDOW' AND GRANT HER ALL THE APPLICABLE FINANCIAL BENEFITS

Smt. Shakuntala Devi in her representation dated 29 September, 2008 submitted to the Committee on petitions that her husband Late N.K. Ashok Kumar (No. 2883997 K) of 7 RAJ.RIF. had died while on active duty, when militants of *Lashkar-e-Taiba* (LET) outfit sneaked into Red Fort on the night of 22-23 December 2000 and started indiscriminate firing. According to her, she had received a letter from 7 RAJ.RIF., Red Fort, New Delhi, dated 26 July, 2001 which was addressed to Rajya Sainik Board, Panchkula (Haryana) with copy to some other officials in which at para 2 it was mentioned that, "as per the findings of the internal court of Enquiry conducted following the incident the death of the deceased has been attributed to military service in peace". She added that due to this she had been deprived of the benefits of a 'War Widow' or "Shaheed Category".

She had also submitted that there had been no war after 1971 except the "Kargil Operation". But Armed Forces were being frequently and regularly used in the internal security related duties of the country. Encounters were taking place almost daily with the militants in the peace area either by Army or by the police forces. She also pointed out that all the deceased of the Parliament attack on 13 December, 2001 had been categorized "Shaheed" by the Government. Similarly, Insp. Mohan Chand Sharma of Spl. Cell, Delhi Police, who had died in an encounter with the Indian Mujahiddin (IM) terrorists at Batla House, Jamia Nagar, New Delhi on 19 September, 2008 has also been categorized as a "Shaheed" by the Government. The petitioner had indicated that neither her husband has been treated as a martyr/shaheed nor she is being considered a 'War Widow'.

Consequently, she had requested the Committee to look into the matter and issue necessary directions to the concerned authority to categorize her case as a 'War Widow' with all the financial benefits applicable to this category.

1.2 The Committee took up the matter with the Ministry of Defence, which has responded *vide* their O.M. dated 23rd April, 2009, intimating *inter-alia* that the matter has been examined in consultation with the Army Headquarters and that Smt. Shakuntala Devi, widow of Late N.K. Ashok Kumar (No. 2883997 K) has been conferred the status of War Widow on the declaration of Late soldier to "Battle Casualty". The consequential benefits as per the widow status have been paid to her as per details below:

- | | |
|---|----------------|
| (a) Credit Balance | Rs. 12,846/- |
| (b) Armed Forces Personnel Provident Fund | Rs. 1,99,247/- |

(c) Army Group Insurance Fund Death Benefits	Rs. 3,75,000/-
(d) AGIF Maturity	Rs. 36,218/-
(e) Army Central Welfare Fund (ACWF)	Rs. 30,000/-
(f) Death-cum-Retirement Gratuity	Rs. 66,828/-
(g) Ex-Gratia (Central Govt.)	Rs. 5,00,000/-
(h) Army Wives Welfare Association	Rs. 5,000/-
(i) Liberalised Family Pension @ Rs. 3950/- p.m. w.e.f. 23.12.2000	

1.3 In a subsequent O.M. dated 25 May, 2009 the Ministry of Defence further submitted that, following actions have also been taken by the 'Records the Raj.Rif.' for grant of all the consequential benefits applicable to war widow in addition to the benefits already paid to her:—

- “(i) Necessary forms have been forwarded to the widow for completion and return for issuing of Railway Concession Pass.
- (ii) Education Scholarship Entitlement Card has been issued to the widow.
- (iii) Secretary, Haryana Rajya Sainik Board, Panchkula and Zila Sainik Board Bhiwani (Haryana) has already been approached for making payment of all the death benefits to Smt. Shakuntala Devi, widow of the deceased as entitled to Battle Casualty cases and the widow has also been advised to liaise with the above authorities for getting benefits entitled from State Government.”

Observations/Recommendations

1.4 The Committee note from the submissions made by the petitioner that her husband (No. 2883997 K) Late N.K. Ashok Kumar of 7 Raj. Rif. had died while on active duty, when militants of *Lashkar-e-Taiba* (LeT) outfit sneaked into Red Fort on the night of 22-23 December, 2000 and started firing indiscriminately. But, according to the petitioner neither her husband was treated as a martyr/shaheed nor she was considered as a 'War Widow'. She had, therefore, requested to be considered as a 'War Widow' with all the financial benefits applicable to this category as was done in case of all the deceased of the attack on Parliament on 13 December, 2001 and also in the case of Inspector Mohan Chand Sharma of Spl. Cell, Delhi Police who had died in an encounter with the Indian Mujahiddin (IM) terrorists at Batla House, Jamia Nagar, New Delhi on 19.09.2008.

1.5 At the instance of the Committee the matter was examined by the Ministry of Defence which has intimated that the petitioner (Smt. Shakuntala Devi) has been conferred the status of 'War Widow' on the declaration of late soldier (Late N.K. Ashok Kumar) to 'Battle Casualty'. The consequential benefits as applicable to the war widow have since been paid to her. The Committee note with satisfaction that through their intervention, the petitioner has been provided with the desired relief.

1.6 The Committee would, however, like to point out that the petitioner has been given the much-needed relief, but she had to bear great hardship for more than eight years and it was possible only after the Committee had to intervene. The Ministry should formulate a procedure giving the defined criteria/parameters for categorizing a person as 'shaheed/martyr' or 'Battle Casualty' so that the consequential benefits are paid to the family of the deceased well in time.

1.7 The Committee would also like the Ministry to expedite completion of all the required formalities and paper work in coordination with the Secretary, Haryana Rajya Sainik Board, Panchkula and Zila Sainik Board Bhiwani (Haryana) so that the petitioner gets all the due benefits within a stipulated time frame.

CHAPTER II

REPRESENTATION OF MS. RITA KUNUR AND FORWARDED BY SHRI GURUDAS DAS GUPTA, MP, LOK SABHA REGARDING NON-IMPLEMENTATION OF THE DECISION OF APPOINTMENTS COMMITTEE OF CABINET IN HER CASE

Shri Gurudas Das Gupta, MP, Lok Sabha forwarded a representation signed by Ms. Rita Kunur, former Director, State Trading Corporation Limited regarding non-implementation of the decision of Appointments Committee of Cabinet (ACC) in her case.

2.2 In her representation, the petitioner stated that she started as a Management Trainee in 1972 and became Director (Marketing) in 1996. In 1997, she was empanelled by the Public Enterprises Selection Board (PESB) for the post of CMD, STC as No. 2 candidate. After completion of five years of service as Director (Marketing) in June 2001, she was not given extension by the ACC allegedly on wrong facts and advice tendered by the then concerned officials. She lost her regular job as Director (Marketing) in June, 2001 at the age of 52 years. She then represented to the Hon'ble Prime Minister as Chairman of ACC against termination of her service. Her case was reviewed by the ACC and decided on 17 March, 2005 to consider her for a suitable post under Government, in public sector enterprises or for appointments in Government Commissions and Government Committee. But the decision of the ACC was not implemented by the authorities concerned. According to the petitioner, she was called for interview by the PESB for the wrong post of Director (Personnel), MMTC and Director (Marketing), STC as she had worked for 29 years in Marketing and never worked in personnel and therefore, the petitioner contended that she could not be interviewed for the same post. She claimed that she should have been called for interview for the post of CMD, STC. In 2007, she applied against an advertisement for appointment as member of PESB which did not materialize. The petitioner has also stated that in June, 2008, the Department of Personnel and Training (DoP&T) addressed a letter to the Ministry of Commerce recommending her appointment as independent Director in public sector undertakings under their Ministry but so far nothing has been done by that Ministry. The petitioner also added that she has 60 years of age and non-implementation of ACC's decision has deprived her of 8 years of service and the benefit for holding a high position for no fault on her part, besides heavy loss of remuneration.

The petitioner, therefore, requested that the decision of the ACC may be implemented at the earliest.

2.3 The Committee took up the matter for examination in accordance with Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the aforesaid

representation was forwarded to Cabinet Secretariat, Ministry of Commerce and Industry and Ministry of Personnel, Public Grievances and Pensions on 5 February, 2010 for furnishing their comments on the issues/points raised therein. In response thereto, the Cabinet Secretariat, Ministry of Commerce and Industry and the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) *vide* their communication dated 09 February, 2010 submitted as follows:—

Cabinet Secretariat and the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training)

Ms. Rita Kunur, the then CGM, STC, was appointed as Director (Marketing) STC, for a period of five years, with effect from 3.11.1995, with the approval of ACC. The PESB was requested to furnish recommendation of joint appraisal for considering extension/non-extension of her tenure beyond 02.11.2000, her date of superannuation being 30.4.2009. Accordingly, the PESB in its meeting held on 08.11.2000 had recommended extension of her tenure beyond 02.11.2000 for a period of one year with the stipulation that her performance during the period will be closely monitored and the position jointly reviewed by Department of Commerce and the PESB after the expiry of one year of the extended tenure. She continued on the post of Director (Marketing), STC beyond 02.11.2000. However, in a subsequent communication dated 11.4.2001, the CVC had advised to initiate major penalty proceedings against Ms. Kunur and her vigilance clearance was also withheld. Consequently on a proposal received from Department of Commerce, the ACC had approved non-extension of her tenure and as a result she remained in position as Director (Marketing), STC upto 22.6.2001.

2. Subsequently, the CVC, which had initially advised initiation of major penalty proceedings, advised dropping of penalties and the CBI also concluded that no criminal case was made out against her. Department of Commerce, *vide* its order dated 5.3.2003, dropped the charges against Ms. Kunur. In the meantime Ms. Kunur represented that she may either be appointed in Government of India or in Public Sector. She also represented to then Cabinet Secretary *vide* her letter dated 21.6.2004. The Department of Public Enterprises and the PESB were requested *vide* DoPT's communication dated 19.8.2004 to offer their comments on the representations submitted by Ms. Kunur. Department of Public Enterprises *vide* its communication dated 9.9.2004 clarified that as she had a lien for the post of CGM, STC, she could have been appointed against that post of CGM, STC. The PESB in its communication 3.9.2004 informed that Ms. Kunur is not eligible for any board level post in any PSUs as she is not in the service. Department of Commerce *vide* their letter dated 06.10.2004 informed that as per DPE's instructions dated 13.01.1999, the Public Sector Enterprises should permit retention of lien for a period not exceeding 5 years to their employees holding post below board level when they are appointed to the posts at the board level within the same PSU or any other CPSU. Further, the lien would

be automatically terminated at the conclusion of 5 years period. The tenure of Ms. Rita Kunur expired on 02.11.2000 but she remained in service upto 22.6.2001 *i.e.* beyond 5 years. Therefore, she was not entitled for lien beyond 5 years.

3. After consideration of her representations, the ACC had directed the PESB to consider the candidature of Ms. Rita Kunur, formerly Director (Marketing), STC as an internal candidate for suitable vacancies, as well as by Government for appointment in Government Commissions/Committees. These directions of the ACC were conveyed to the PESB, DPE and Department of Commerce for compliance on 27.5.2005.
4. The PMO, at a later date had directed to submit a status report regarding the representation of Ms. Rita Kunur, former Director (Marketing), STC for the inordinate delay in implementation of the ACC's directions to the PESB for considering her candidature as an internal candidate for suitable vacancies for appointment in Government Commission/Committees. Accordingly, the PESB as well as the Department of Commerce were requested on 25.5.2006 to furnish a status report in the matter.
5. In reply to the above directions, it was informed in June 2006 that Ms. Kunur was called by the PESB for interview in Board level position *i.e.* Director (Marketing), STC and Director (Personnel), MMTC, Ms. Kunur did not appear for interview. She had also met the Cabinet Secretary personally and represented that having been a Board level functionary in the past she should have appropriately been called for interview for the post of CMD. The ACC, after consideration decided that the Department of Commerce may place Ms. Rita Kunur as a full time Member on one of the Committees set up by the Ministry, where her association could be considered useful, taking into account her experience and background.
6. The above directions of the ACC were conveyed to the Department of Commerce on 27.7.2006.
7. In response to the specific directions of the ACC at para 5 above, the Department had informed that there is no permanent Committee under their administrative control where she can be placed as a full-time member. As and when such a Committee is established, the Department shall consider, if it is possible to induct her as a full-time member, keeping in view her experience and the terms of reference of the Committee. However, at that juncture the Department was not in a position to accommodate Ms. Kunur.
8. The above position was placed before the Competent Authority for apprising the PMO with reference to its direction. After considering the matter, the Cabinet Secretariat *vide* its note-dated 19.9.2006 had proposed that when the proposals for new committees are considered by Cabinet Secretariat/PMO, her name may be considered too, and the same was accepted by the ACC.

9. However, she continued to send her representations for employment under Government of India or Public Sector Undertaking. A similar representation dated 27.4.2008 was placed before the Competent Authority. However, the Competent Authority had observed that Ms. Kunur was then 59 years of age and therefore, it was too late to consider her appointment to a Board level position in a PSU. Therefore, it was suggested that Ms. Rita Kunur be appointed as a part-time non-official Director on the Board of State Trading Corporation Limited, subject to the Department of Public Enterprises clearing her name for the purpose.
10. The above matter was also submitted to the Minister of Commerce & Industry for his consideration. However, he had desired that the matter may first be considered by the PESB.
11. Accordingly, a reference was made to the PESB on 8.7.2008. However, the PESB *vide* its letter dated 01.8.2008 had informed that as per the extant procedure, proposal for appointment of non-official Directors on the Board of CPSU is required to be sent to the DPE and thereafter forwarded to the PESB for its consideration. Accordingly, Department of Commerce was requested on 23.9.2008 to take action in the matter.
12. However, in reply to the matter regarding her appointment as non-official Director, the Department of Commerce in its letter dated 12.11.2008 had submitted an interim reply stating that they are considering fresh proposals of appointment of Independent Directors on the Board of STC. On a subsequent specific query dated 01.12.2008, from this Department regarding consideration of her candidature for appointment as NoD, the Department, in reply dated 26.12.2008, informed that the name of Ms. Kunur had not been considered for appointment as part time non-official Director on the Board of STC.

Ministry of Commerce and Industry

Ms. Rita Kunur, the then CGM was appointed as Director (Marketing) in the State Trading Corporation (STC), a Public Sector Undertaking (PSU) under the administrative control of the Department of Commerce for a period of 5 years *w.e.f.* 3.11.1995. Near the completion of her tenure, the Department asked STC and Vigilance Section to send her performance report and vigilance clearance respectively. The Public Enterprises Selection Board (PESB) also asked for her performance report for considering extension/non-extension of her tenure. The then CMD, STC did *not* rate her performance favourably. However, this Department decided to continue her appointment beyond 2.11.2000 (the day when her 5 year tenure expired) until further orders. The matter was also considered by the PESB which too recommended extension of her tenure by one year subject to the condition that her performance be closely watched during this period and the position be reviewed jointly by the Department and PESB after one year. However, CVC withheld vigilance clearance on the ground that, on the basis of an

investigation report sent by this Department, CVC had recommended to entrust the case to CBI and also advised the Department to initiate major penalty disciplinary proceedings against her. The matter was reported to Department of Personnel and Training (DoP&T).

2. The ACC through its letter dated 20.6.2001 directed the Department to relieve her from STC immediately. She was relieved on 22.6.2001 and her retirement dues were released. Subsequently on the advise of the CVC *vide* UO No. 000/CMC/046 dated 19.6.2002, this Department issued orders exonerating Ms. Rita Kunur of all the charges on 5.3.2003.
3. Thereafter, in October, 2004, the DoP&T sought a clarification whether Ms. Kunur was allowed lien on the post of CGM in STC on her appointment as Director (Marketing). DoP&T were informed that, under the Department of Public Enterprises guidelines, officers in PSUs can retain lien for a period *not* exceeding 5 years. Since her 5 year tenure expired on 2.11.2000 and she continued to hold the post up to 22.6.2001, she was not entitled to lien beyond 5 years. Thus, at the time she demitted office she did *not* have a lien on the post of CGM, STC. In October, 2004, Department of Public Enterprises, following directions of Cabinet Secretary, directed that her representation for appointment to an equivalent post either in the Government or in the Public Sector may be considered for placement under PSUs through the PESB route. Further, Department of Personnel & Training *vide* its communication of 27th May, 2005 conveyed that the Appointments Committee of Cabinet directed consideration by the PESB of the candidature of Ms. Rita Kunur as internal candidate for suitable vacancies, as well as by Government, for appointment in Government Commissions/Committees. PESB *vide* its communication dated 28th June, 2006, referring to the above decision of ACC indicated that Ms. Kunur was shortlisted for the post of Director (Pers.), MMTC and Director (Mktg.), STC and was asked to appear before the Board on 5.8.2005 and 6.3.2006 respectively. However, she did not attend the interviews on either occasion and consequently, could not be considered for selection. This position was conveyed to DoPT on 30th June, 2006, following which DoPT on 27th July, 2006 indicated that the ACC directed that Ms. Kunur be placed as full time Member on one of the committees being set up by the Ministry. On this direction, it was indicated *vide* Department of Commerce's communication dated 21st August, 2006 that there is no permanent committee under the administrative control of the Department of Commerce where she can be placed as a full time Member. As and when such a committee is established, the Department shall see if it is possible to induct her as a full time Member keeping in view her experience and the terms of reference of the Committee.
4. On 28th September, 2008, DoPT responded indicating that the matter was placed before the competent authority and it was suggested that she be appointed as a part time non-official Director on the Board of State Trading Corporation Ltd. subject to the Department of Public Enterprises clearing

* *

7. Regarding the point at Sl. No.1 that she was not given extension of tenure by the ACC on 20.12.2001 on the basis of wrong facts and advice tendered by the then concerned officials, it is stated that she was not given extension of tenure due to withholding of vigilance clearance by CVC on the basis of an investigation report sent by DOC. CVC also recommended to entrust the case to CBI and also advised this Department to initiate major penalty disciplinary proceedings against her. The matter was reported to the DoP&T which directed DOC to relieve her from STC immediately. Accordingly, she was relieved from STC on 22.6.2001. Subsequently on the advice of CVC *vide* U.O. No.000/CMC/046 dated 19.6.2002, this Department issued order exonerating Ms. Rita Kunur of all the charges on 5.5.2003.
8. As far as contention of Ms. Rita Kunur that in March, 2005, ACC had recommended that she be considered for appointment for a suitable post under Government, in Public Sector Enterprises, and appointments in Government Commissions and Government Committee, it is stated that PESB has informed that as per the directions of the ACC, Ms. Rita Kunur was shortlisted for the post of Director (Pers.), MMTC and Director (Mktg.), STC and was asked to appear before the Board on 5.8.2005 and 6.3.2006 respectively. PESB has also informed that she did not attend the interview on either occasions and consequently she could not be considered for selection. Ms. Rita Kunur is of the opinion that PESB had called her for wrong posts as she had previously been empanelled by the PESB for the post of CMD, STC at position No. 2. She has also mentioned that the call of the PESB for the post of Director (Personnel), MMTC was inappropriate as she had worked for 29 years in Marketing Division and never in a Personnel Division. According to her the call for the post of Director (Mktg.), STC was also inappropriate as she had already held the post of Director (Mktg.) for 5 1/2 years till her wrongful termination and that she cannot be interviewed for the same post.
9. With regard to ACC recommendations pertaining to her clearance for appointment on Government/Government Committee, a reply in the past has been sent to Establishment Officer, DoP&T on 21.8.2006 stating that there were no Commissions/Committees where she could be accommodated. It was also communicated to the DoP&T that as and when any Committee/Commission is established under this Department, it will be seen if it is

possible to induct her as a full time member keeping a view her experience and terms of reference of so created Committee/Commission.

10. The last point raised by Ms. Kunur relates to her allegation of inaction by Department of Commerce regarding the recommendation of DoP&T in June, 2008 to Commerce Ministry that she be appointed as Independent Director in PSUs under Commerce. The case was, accordingly, put up to the competent authority who indicated that the Department should look at fresh cases. This was communicated to the DoP&T accordingly.
11. From the above, it can be seen that:—
 - (i) Department of Commerce has scrupulously abided by instructions/orders issued to it from time to time in regard to Ms. Kunur. It allowed her to continue as Director (Marketing) beyond 2.11.2000 till 22.6.2001 until CVC withheld her vigilance clearance. Subsequently, on ACC's orders, the officer was relieved from her position in STC.
 - (ii) Thereafter, on the directions of ACC, PESB shortlisted her for the post Director (Pers.) in MMTC and Director (Mktg.) in STC. Ms. Kunur choose not to appear before the PESB, despite the directions of ACC, and was accordingly could not be considered.
 - (iii) Regarding her appointment in a Committee of Department of Commerce could not be considered as there was no existence of such a Committee.
 - (iv) As the appointment of non-official Director was the prerogative of the competent authority in the Department of Commerce, it was decided by the competent authority not to consider her for appointment as independent director rather to consider fresh proposals.

2.4 In response to a question, the Ministry of Personnel, Public Grievances and Pensions/DoP&T stated as under:—

"Ms. Rita Kunur was appointed as Director (Marketing) in STC for a period of five years with effect from 3.11.1995. It is a fact that her name was recommended as Sl. No. 2 candidate by PESB in the panel for appointment of CMD, STC in 1997. However, this has no bearing on non-extension of her tenure as Director (Marketing), STC."

2.5 On being enquired by the Committee about the circumstances and the basis on which extension was not granted to the petitioner by ACC, the DoP&T commented as under:—

"The proposal for extension of tenure beyond 2.11.2000 was not submitted by the Department of Commerce for consideration of the ACC, as per the laid down procedures. In fact, the PESB in its meeting held on 8.11.2000 *i.e.* after expiry of her tenure on 2.11.2000, had initially recommended her extension of tenure for one year with the stipulation that her performance during the period will be closely monitored and the position jointly reviewed by Department of

Commerce and the PESB after the expiry of one year of the extended tenure. She was allowed to continue in position by the Department of Commerce beyond 2.11.2000 as they were awaiting vigilance clearance from CVC before recommending extension of her tenure to the ACC.

In a communication dated 11.4.2001, the CVC advised to initiate major penalty proceedings against Ms. Kunur and her vigilance clearance was also withheld. Consequently on a proposal received from Department of Commerce, the ACC approved non-extension of her tenure; as a result she remained in position as Director (Marketing), STC upto 22.6.2001."

2.6 When the Committee pointed out that the petitioner was empanelled by PESB for the post of CMD, STC at No.2 candidate even then she was not given extension, the DoP&T stated as under:—

"She was recommended by PESB at Sl. No.2 candidate in the panel for the post of CMD, STC in the year 1997. However, her being in the panel for the post of CMD, STC has no bearing on her extension of tenure as Director (Marketing) in STC, which was considered in the year 2001. Her non-extension of tenure as Director (Marketing) in STC was approved by the ACC as her vigilance clearance was withheld by the CVC and it had also concurred with the Department of Commerce's recommendation for entrusting the matter to the CBI for investigation. Simultaneously, CVC had advised the Department of Commerce to initiate major penalty proceedings against Ms. Rita Kunur, Director (Marketing), STC.

Further, the Board level appointments are contractual in nature and are liable to be terminated or not extended on the basis of performance and vigilance profile."

2.7 When the Committee enquired as to whether the first empanelled candidate was appointed as CMD, STC, the DoP&T responded as under:—

"Yes, Shri S.M. Dewan, Sl. No. 1 candidate, was recommended by the PESB and Department of Commerce for his appointment as CMD, STC. Accordingly, the ACC had approved the proposal of the Department of Commerce."

2.8 On being asked about the action taken on the representation/letter dated 19.04.2006 of the petitioner to the Cabinet Secretary regarding calling her for interview by PESB for wrong posts of Director (Marketing) in STC and Director (Personnel) in MMTC, the DoP&T in their written reply stated as under:—

"In compliance of ACC's directions dated 27.5.2005, to consider the candidate of Ms. Rita Kunur, formerly Director (Marketing), STC as an internal candidate for suitable vacancies, as well as by Government for appointment in Government Commissions/Committees, Ms. Kunur was called by the PESB for interview in Board level position *i.e.* Director (Personnel), MMTC and Director (Marketing) STC, on 5.8.2005 and 6.3.2006, respectively. However, Ms. Kunur did not appear for interview. She met the Cabinet Secretary personally and represented that

having been a Board level functionary in the past she should have appropriately been called for interview for the post of CMD. The matter was placed before the ACC. The ACC, after consideration decided that the Department of Commerce may place Ms. Rita Kunur as a full time Member on one of the Committees set up by the Ministry, where her association could be considered useful, taking into account her experience and background. The above directions of the ACC were conveyed to the Department of Commerce on 27.7.2006. The ACC decisions are conveyed to the Administrative Ministries/ Departments concerned who then take action on the same, if required, in consultation with other agencies/departments."

2.9 When asked by the Committee about the reasons as to why the petitioner was called for interview for the post of Director (Personnel) in MMTC for which she did not have the requisite experience, the DoP&T in their written reply submitted as under:—

"Ms. Rita Kunur was called for interview for the post of Director (Personnel), MMTC as she fulfilled the eligibility criteria as per job description. The job description stipulates that the essential qualification of the applicant should be a Graduate. As per the job description the experience in the field of Personnel Management is desirable and not an essential qualification."

2.10 On being asked by the Committee as to why she was not called for interview for a senior position in STC instead of Director (Marketing) and Director (Personnel), the DoP&T in their written reply informed as under:—

"After receiving ACC's directions dated 27.5.2005 to treat Ms. Rita Kunur former Director (Marketing), STC as an internal candidate for suitable vacancies, the vacancy for the post of CMD, STC occurred on 1.6.2009. Ms. Rita Kunur's date of birth being 27.4.1949, she had attained the age of 60 years and hence would be ineligible for the post."

2.11 When the Committee desired to know that the circumstances and the reasons for removal of the petitioner from service, the DoP&T in their written reply stated as under:—

"In a communication dated 11.4.2001, the CVC advised to initiate major penalty proceedings against Ms. Kunur and her vigilance clearance was also withheld. It also concurred for entrusting of investigation to CBI parallelly. Consequently on a proposal received from Department of Commerce, the ACC approved non-extension of her tenure, by following the due procedure."

2.12 On being enquired about the decision of ACC in June 2001 the DoP&T in their written reply stated as under:—

"The ACC had approved non-extension of tenure of Ms. Rita Kunur as Director (Marketing), STC and directed to relieve her from STC immediately. The decision was taken on the basis of the proposal of the Department of Commerce for her non-extension of tenure as she was not accorded vigilance clearance by the CVC."

2.13 When asked by the Committee regarding the action taken on the representation of the petitioner to ACC against their decision in June 2001, the DoP&T in their written reply stated as under:—

"Yes, after consideration of her representations, the ACC had directed the PESB to consider the candidature of Ms. Rita Kunur, formerly Director (Marketing), STC as an internal candidate for suitable vacancies, as well as by Government for appointment in Government Commissions/Committees. These directions of the ACC were conveyed to the PESB, DPE and Department of Commerce for compliance on 27.5.2005."

2.14 When the Committee desired to know the facts on the basis of which the ACC reversed its earlier decision of June, 2001 the DoP&T replied as under:—

"The ACC never reversed its earlier decision of June, 2001 on non-extension of tenure of Ms. Rita Kunur as Director (Marketing), STC."

2.15 When the Committee desired to know as to whether the decision taken in ACC are being monitored by the Cabinet Secretariat, the DoP&T informed as under:—

"Action on the decisions of the ACC is to be taken by the concerned Ministries. If ACC fixes a time limit in particular, monitoring is done by the DoP&T/ Cabinet Secretariat."

2.16 On being enquired by the Committee about the action taken by the Cabinet Secretariat against the authorities who fail to implement their decision, the DoP&T in their written reply submitted as under:—

"In compliance of the ACC's direction dated 27.5.2005, the PESB had called her for interview in Board level position *i.e.* Director (Personnel), MMTC and Director (Marketing), STC, on 5.8.2005 and 6.3.2006, respectively, under the Administrative control of the Department of Commerce. However, Ms. Kunur did not appear for interview, hence her name could not be recommended for the post. Further, it appears that the Department of Public Enterprises (DPE) had also nominated her as Task Force Member MoU, Task Force Petroleum and Task Force Energy during the years from 2007 to 2009."

2.17 In reply to a question about the facts, based on which the petitioner's candidature was not considered for the post of a Member of PESB in 2007, the DoP&T in their written reply stated as under:—

"The candidature of Ms. Rita Kunur was placed before the Selection Committee constituted for selection to the post of Member (PESB). The Committee in its Meeting held on 31.12.2007 had recommended S/Shri V.S. Jain and Chewang Phonsong as Members (PESB) and ACC's approval in this regard was conveyed on 3.3. 2008."

2.18 On being asked by the Committee about the relief/compensation which can be given to the petitioner and whether there are any difficulties to implement the decision of ACC to appoint her on Government Commission/Committee even though she has now crossed the age of superannuation, the DOPT and Ministry of Commerce and Industry in their written reply stated as under:—

Department of Personnel and Training

“This is to be considered by the concerned Administrative Department *i.e.* Department of Commerce as she worked in a CPSU under that Department and has the domain experience relevant to that Department.”

Ministry of Commerce and Industry

"Department of Commerce has always implemented the decisions of ACC in respect of Ms. Rita Kunur. As regards appointing her on any of the Commissions/Committees, a reply was sent to the DoP&T on 21.08.2006 stating that there were no Commissions/Committees in the Department of Commerce where she could be accommodated. It was also communicated to DoP&T that as and when any Committee/Commission is established under this Department, it will be seen if it is possible to induct her as a full time member keeping in view her experience and terms of reference of so created Committee/Commission."

2.19 The response of the Ministry of Commerce and Industry with reference to questionnaire sent to them was more or less on the same lines as given by the DoP&T.

2.20 Thereafter, the Committee took oral evidence of the representatives of the Cabinet Secretariat, Ministry of Commerce and Industry and the Ministry of Personnel, Public Grievances and Pensions (DoPT) on 11 February 2010.

2.21 On being asked by the Committee about the ways and means to compensate the petitioner, the witness from the Cabinet Secretariat stated as under:—

"Sir, our objective is to take fair view of such cases. In this case there were directions from the ACC to consider her appointment to some suitable post. The directives were not to appoint her to a certain post. Ms. Rita Kunur was considered for two posts, however, she did not turn up for the interview. She had certain reservations, so she did not turn up for the interview. Your question was could not she be selected without the interview. I think my colleague from the Ministry of Commerce and PESB would be able to throw more light on it. She had a lien with the State Trading Corporation for five years that was over. So fresh appointment had to be made in her case. I will request my colleagues to throw some more light on it."

The witness from the Ministry of Commerce and Industry stated as under:—

"Sir, one of the instructions, which came from the Appointments Committee of the Cabinet was that the Ministry of Commerce should consider her for any suitable appointment on Committees or Commissions of the Department. We

examined the matter. As a full-time appointment, we found that we had no such Committees on which she could be appointed.

Later on, we got a fresh instruction from the Appointments Committee of the Cabinet that we consider her for part-time Member of one of the Boards. We have two such Corporations where her name was considered. But the competent authorities did not approve her name. That was where the thing rested.”

The witness further added as under:—

“Beyond that it was decided that she could not be accommodated as one of the non-official Board Members also. This was what the situation was in the Ministry of Commerce. But we did examine her case. Her case was considered keeping in view her long association with the Ministry. But it was not approved. That was the position.”

2.22 When the Committee asked about the reasons for disapproval of the petitioner's candidature for the position of part-time member of one of the Boards by the competent authority and as to why her lien was not extended considering her exemplary service as Director (Marketing) in STC, the witness from the Ministry of Commerce and Industry responded as under:—

"There are three issues, which have been raised. First is regarding lien. The lien, which was considered in her case was the post of Chief General Manager in the STC, a post, which she held substantially before she had become a Director. But by the time the whole thing had emerged, she had already completed five years lien period of CGM, which is applicable under the DPE guidelines. The DPE guidelines do not allow holding of a lien more than five years. So, by the time, this episode had taken place, she had left the post of CGM in the year 1995. So, by the year 2000, her lien was terminated. So, there is no question of having any lien on the post of CGM because the period was over.

Regarding her performance, the complete performance report was sent to the Ministry. One of the entries in the vigilance report was that there is an enquiry against her which was later on referred to the Central Vigilance Commission. That was the question mark in her ACR. Thirdly, for consideration."

2.23 Replying to a question of the Committee about the reasons as to why the petitioner was not considered by the competent authority post her exoneration by CVC, the witness stated as under:—

"Sir, the process of appointment of Director-Marketing was over in the year 2001. By the time she was cleared the post was not existent. The process was over already at that time. She was considered for some other post; she was even offered but she did not come for the interview. She was given, in fact, the post of Director-Marketing."

2.24 In response to a question of the Committee about the representations which the petitioner had given to the Cabinet Secretary stating that she was called for

interview for the post which was below the standard of the post she had occupied, the witness from the Ministry of Commerce and Industry stated as under:—

"She has been given the post of Director. She was offered to come for interview for the post of Director."

The witness further added that:—

"Sir, as an instruction of the Cabinet Secretariat only that she was called for the interview."

2.25 Whether Committee asked as to how the petitioner would be compensated as she had been out of job for 08 years and the allegations against her was proved false, the witness from the Cabinet Secretariat stated as under:—

"Sir, as far as the stand taken by the Cabinet Secretariat, Cabinet Secretary is concerned, I wish to submit that it had been written to the Ministry that she could be considered for being accommodated in some Committee since they had reported that she had not appeared for the interview and she was not considered for the post. Now, it is really for the competent authority in the Ministry to take a view in the matter and we would have no objection. But they would have to take a decision because this particular officer has a domain experience in a particular field and it is for the Ministry of Commerce to consider her case and we would go by whatever they decide."

2.26 When the Committee observed that it was a case of miscarriage of natural justice as the allegations on the basis of which the petitioner was removed was found malicious, the witness from the Cabinet Secretariat responded as under:—

"Sir, we all operate in a rule-bound system. Whatever might be the circumstances of the case, whatever help has to be rendered to a particular person, as in this case or any other case, naturally we would have to work within the discipline of the extant rules and regulations. It was, in fact, out of consideration of the full circumstances of her case and due consideration of the representation that she had made, that the communication had been sent that she should be considered in some permanent Committee. Earlier it had been sent that she should be considered as a non-official Director in the State Trading Corporation. But in both the instances, somehow the Ministry was not able to accommodate her, partly because as they said that there was no permanent Standing Committee even otherwise in the Corporation, as a non-official part-time Director; they did not take her in that position.

In the Cabinet Secretariat, this is normally the way it is put to the various Ministries that they should consider. Normally the Cabinet Secretariat, even the ACC for that matter, the ACC did not say that 'you appoint her'. They said that 'you can please consider'. Naturally the understanding is that they will go through their own processes and they will take a view.

I most respectfully submit that while in cases like this or other cases, when the circumstances warrant, yes, some consideration should be shown. This is the

way, in fact, the communications are sent and that is how they were duly sent. But it is now again for the Ministry of Commerce to take a view on this. Thank you".

The witness stated as under:—

"Sir, this issue was again presented before ACC by the Cabinet Secretariat. The ACC Secretary will tell you in this regard with your permission. He presented it again before ACC and it gave directions to review it. This action was taken in her favour but finally it could not be done."

The witness further stated as under:—

"I would like to make only one request in this regard thereafter with your permission I would request my colleague from the Ministry of Commerce to say few words on it. In general, I would say that our effort is to examine with sensitiveness be it in DoP&T or in establishment and in regard to the specific question asked to me by the Hon'ble Chairman that how she can be compensated I would State that it is not that justice or injustice has been done with her. All the facts are before us that CVC demanded an investigation against her, it is not that only one Ministry has taken a unilateral decision, this matter was sent to another body, they recommended it, some other agency investigated the case and the same agency concluded that the allegations could not be proved. As far as what decision in her favour should be taken is concerned, with your permission I will request my colleague from the Ministry of Commerce to say few words on it."

2.27 When the Committee observed that the entire case was reviewed by ACC and they arrived at a conclusion and gave a direction that the petitioner might be considered for any suitable post, then it was implied from the decision itself that injustice was done to her, the witness from the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) responded as under:—

"Sir, I would just like to clarify that we had put up the papers for decision of the ACC. The competent authority is the ACC, which consists of the Home Minister, the Prime Minister and the concerned Minister. We put all the facts before them, and they took a decision.

Now, coming to the facts in this case, in 2001 she was not given extension based on the fact that CVC had advised major penalty proceedings against her. Thereafter, when the case was dropped and on the fresh advice of the CVC, in 2003, she represented in 2004 to the Cabinet Secretary that she had been wrongly put out of her job. So, the matter was put to ACC, and ACC took the decision that she should be considered for employment in any Board-level vacancy through the normal procedure. The normal procedure is that selection is done by PESB. But the ACC, going out of its way, did give her two concessions.

First, she was not eligible because any person who is not in employment at a particular point of time cannot apply for any post. That was waived by ACC as a special case that even though she was not in employment, she could still

apply. Second, she was also deemed to be an internal candidate. Internal Candidate gets some preference. Subsequently, she was invited for two interviews of Board-level posts in MMTC and STC which are equivalent level to Director (Marketing) of STC. But she felt that she should only be called for the post of CMD of STC. Unfortunately, that post was not vacant at that point of time. There was a person already appointed on that post, and that person was continuing because these are contractual appointments for five years. One Mr. Dewan was already functioning as CMD of STC. Therefore, he could not be removed, and a post could not be created for her.

Then, when the matter was again put up to ACC, the ACC took a decision that she should be considered for being put on some Government Committee or Commission as a full-time Member. This decision was conveyed to the Ministry of Commerce. The Ministry of Commerce, with the approval of the Minister, were of the view that since they have no such full-time Committee or Commission, they could not accommodate her in that capacity. Finally, again, the matter was put up to the ACC. ACC then said "Can you consider her for some appointment as a part-time, non-official Director on the Board?" This was also conveyed to the Ministry of Commerce. The matter was again put up to the Minister. The Minister again felt that she should not be considered. So, the decision are taken by the Council of Ministers and the ACC. We only put the case before then ultimately, their decision is the final decision."

2.28 On being inquired by the Committee as to whether there is no scope as per law to compensate the loss the petitioner has suffered, the witness from the Cabinet Secretariat submitted as under:—

"Sir, most respectfully, as has been submitted before this Hon'ble Committee a short while ago, the decisions or the recommendation or directions in this regard emanated eventually from the ACC. The matter has been considered by the ACC. So, I am afraid it will not be possible for me to say at this stage that any compensation can be given or cannot be given to her at this stage. I can only respectfully submit that we have to operate within the bounds of whatever procedure or rules are available to us. Within these, if any action can be taken to appoint her or to help her, that would not be a favour as you rightly said, Sir, it would only be in pursuance of a communication which has emanated from the ACC after the matter was considered. So, I am not, in the least, suggesting that it is out of favour to her. But then it could only be done within the bounds of what is possible within the rules. At this stage, that is all I can say. I do not know if my colleagues would like to add something to it."

The witness from the Ministry of Personnel, Public Grievances and Pensions stated as under:—

"Sir, I would respectfully say that what the Committee feels about her wrongful dismissal was also recognized by ACC. That is why, these special dispensations were given. Unfortunately, it did not work out as was being hoped for."

The witness further added as under:—

"ACC has also recognized that and that is why they gave those special considerations. However, Sir, as Mr. Seth has put it, we put up the matter to ACC and the ACC is the competent authority to take any decision in this matter. If the views of the Committee are that this matter may be placed again before the ACC regarding the compensatory aspects, we would be happy to place it before the ACC for their decision."

The witness from Ministry of Commerce and Industry stated as under:—

"Sir, I have the general feeling of the Hon'ble Committee. I will duly convey them to the Ministry and we will see what consideration can be given in this case. That is what I have to say in the matter."

2.29 When the Committee observed that there was a dilatory move on the part of the Ministry of Commerce and Industry to get a proper place for the petitioner before her superannuation, the witness from the Ministry of Commerce and Industry responded as under:—

"I would not agree. Her tenure started in the year September, 1995. She was to superannuate in September 2000. But in April 2000, that is six months before we started the process for her extension. We had started the process six months before that. Later on it was seen that there are vigilance cases. The actual process we had started six months before her tenure was to be over. I would not say that there was any delay on the part of the Ministry."

2.30 On being inquired about the legal status of the petition after her contract as Director expired and a few years were left for the superannuation, the witness from the Ministry of Commerce and Industry stated as under:—

"There is one provision, that is the provision of lien, which the Hon'ble Member mentioned in the beginning. She had a lien, that is, a right on the post of Chief General Manager, which she held till 1995. She should have gone. But there is another guideline of the Government which says that you can retain the lien only for five years only. So, in the year 2000, her lien also expired. That means, by the time in the year 2001 she was relieved of the post, she was nowhere."

The witness from the Ministry of Personnel, Public Grievances and Pensions clarified as under:—

"Government servants when they go to any other organization, they go on deputation. All Board level appointments in the Public Sector Enterprises are contractual appointments. But when a person is appointed on the Board of a PSU, he maintains his lien in his old department or old corporation for five years. After that, because it is a contractual appointment, it comes to an end. Therefore, the person is out on the road. If the person wants to go back before five years, he can back to his old job by maintaining the lien. This is the difference between the public sector and the Government."

2.31 Responding to the observations of the Committee that identity of the person is withdrawn once the tenure of the Director in the Board of Directors ends, even if he has not superannuated, the witness from the Ministry of Personnel, Public Grievances & Pensions stated as under:—

"This issue was deliberated upon by the re-organisation of the PSUs which took place in the late 80s. At that time, as you know, before that the IAS officers and the offices of the Central Services used to go on deputation to PSUs. Then it was decided at the Government level that to maintain the professionalism at the Board of Directors level, these appointments should be made on contract rather than on deputation and that policy was evolved thereafter. Now if you want to revise this policy, the Government will have to think."

2.32 During the course of oral evidence, the Committee directed all the three witnesses from the Cabinet Secretariat, M/o Personnel, Public Grievances and Pensions and the M/o Commerce & Industry to give in writing as to what can be done to ensure justice to the petitioner and also to elaborate as to whether there was any delay, deliberate or otherwise, in providing her a berth after clearance by CVC.

2.33 In pursuance of the directions of the Committee, all the three witnesses submitted their notes on the points raised by the Committee as under:—

Cabinet Secretariat

- “(a) The Appointments Committee of the Cabinet, considering the fact that Ms. Rita Kunur's tenure was not extended, directed PESB to consider her as an internal candidate for suitable vacancies. Accordingly, PESB invited her for interview for the posts of Director (Marketing), STC and Director (Personnel), MMTC. These posts were equivalent to the post in which she had last served. However, Ms. Kunur did not appear for the two interviews.
- (b) Subsequently, the ACC approved that she may be considered as full time Member on a Committee/Commission. However, the Department of Commerce informed that there was no permanent Committee under their administrative control where she could be placed as a full time Member.
- (c) Thereafter, it was also suggested to the Ministry of Commerce and Industry that Ms. Kunur be appointed as part time non-official Director on the Board of State Trading Corporation subject to Department of Public Enterprises clearing her name for the purpose. However the Competent Authority in the Department of Commerce did not consider the name of Ms. Kunur for such appointment. Subsequently this fact was brought to the notice of the ACC.
- (d) In view of above, it may be seen that several efforts have been made to rehabilitate her, under the extant Rules & Regulations. Meanwhile, as she has already attained the age of superannuation, she cannot, now, be appointed in the Government or a PSU.”

Ministry of Personnel, Public Grievances and Pensions

- “(a) Department of Personnel and Training (DoP&T) is not the concerned Department as the service matters of Public Sector Undertaking employees are dealt with by the Department of Public Enterprises and the concerned Ministry, DoP&T only deals with service matters of Central Government Employees and officers belonging to All India Services.
- (b) Considering the fact that Ms. Kunur's tenure was not extended, though she was not at fault, the ACC made special concessions, as a exception. It directed PESB to consider her, as an internal candidate, for suitable vacancies. She was otherwise not eligible to be considered for Board level position in PSUs, as she was not in service.
- (c) Subsequently, the ACC also approved that she may be considered for a full time Member on a Committee/Commission. However, the Department of Commerce informed that there was no permanent Committee under their administrative control where she could be placed as a full time member.
- (d) Several efforts have been made to rehabilitate her, under the extant Rules and Regulations. She has already attained the age of superannuation so, she cannot be appointed in the Government or a PSU.”

Ministry of Commerce and Industry

“Ms. Kunur's extension beyond the first term of Director was considered by PESB in its meeting held on 25.09.2000 and the Board, after taking into account the totality of circumstances including her performance as reflected in the documents forwarded by the Administrative Ministry like database performance report, the special performance report, the available CR dossiers and other inputs, recommended the extension of tenure beyond 2.11.2000 for a period of one year only. The Board also recommended that the performance of Ms. Kunur during this period should be closely watched by the Ministry of Commerce and the position jointly reviewed by the Ministry of Commerce and PESB after the expiry of one year. Hence, instead of giving a full five year tenure or till the age of superannuation, Ms. Kunur was given only a year's extension based on her performance that too with a condition that her performance will be reviewed at the end of one year period.

Even this one year extension was subject to the vigilance clearance. In her case, CVC with held the vigilance clearance and also advised the Ministry of Commerce to initiate major penalty proceedings against her. Based on the CVC's advice, Department of Commerce sought and obtained the approval of ACC for non-extension of her tenure as Director (Mktg.) in STC. Sub-sequently, in March 2003, all charges were dropped essentially based on the CBI investigation which did not reveal anything to prove her criminal involvement.

In view of the above position, it can be seen that in her case, the laid down norms for dealing with officers charged with vigilance cases were adopted and she was exonerated only after following the due procedure.

After her exoneration, Department of Commerce was guided by the directions of ACC. In her case, she was given ample opportunities when she was treated as an internal candidate and was shortlisted for the post of Director (Personnel) in MMTC and Director (Mktg) in STC. It is on her own volition that she chose not to attend the interviews on either of the occasions and could not be considered for being shortlisted. As regards ACC's directions on her being appointed on a Committee under this Department, it was indicated to DoP&T that as and when such a Committee is established in the Department, she could be considered, in the meanwhile, if DoP&T considers necessary it could nominate her as a full time Member in any Government Commission/Committees under the aegis of other Ministries/Department. In so far as her being considered for appointment as non-official Director, the competent authority decided not to consider her.

From the above, it can be seen that in her case, efforts were indeed made, after exoneration of vigilance charges, to provide her an opportunity to obtain employment once again. She was given two opportunities to appear before the PESB as an internal candidate for the post of Director in MMTC as also STC. Both these posts were equivalent in rank to the post of Director which she was occupying (and would have continued occupying) but for the vigilance matter. Later on, after these opportunities lapsed, she could not be accommodated in a Committee in the Department of Commerce as there was no such Committee for which she could be considered. Considering her or otherwise for a post of independent Director in one of the PSUs under the Department of Commerce was the prerogative of the competent authority in the Department of Commerce and the competent authority did not approve her consideration. Accordingly, this Department is of the view that we have made honest efforts to assuage her grievance. However, this Department, as in the past, will continue to be guided by the directions of ACC, if any, in her case."

Regarding the delay in providing her a berth after clearance by CVC, the Ministry in their written reply stated as under:—

"Ms. Kunur ceased to be an employee of STC when ACC did not approve her extension as Director in STC. Unlike an ordinary employee, Directors are on contract and once terminated, there is no recourse to reinstatement. The vigilance inquiries take their own course independent of the employee status whether terminated, in service or superannuated. The outcome of the inquiries can lead to punishment or exoneration, this again irrespective of the employee status. In either of the two situations, there is no recourse to *suo motu* review and restoration of the original employee status in case of contract employees and superannuated employees. Hence, in Ms. Kunur's case, there was no provision to restore her original appointment. Accordingly, when she was

exonerated on 5 March, 2003, there was no requirement of any action on the part of the Department of Commerce. Therefore, Ms. Kunur's contention that the Ministry of Commerce was ordinarily required to give back the job of Director (Mktg.) is not correct. However, on her various representations, the competent authority had been giving direction which include considering her for the posts of Director (Personnel) in MMTC and Director (Mktg.) in STC. Department of Commerce has been acting on instructions/orders issued to it by the competent authority."

2.34 In response to the question as to whether the Cabinet Secretariat/Ministries concerned have reconsidered the case of the petitioner, the Cabinet Secretariat/Department of Personnel & Training/Ministry of Commerce and Industry *vide* their respective communications dated 21/22 June, 2010 submitted as under:—

Cabinet Secretariat

"The case of Ms. Rita Kunur has been examined from time to time. After her exoneration by the CVC, Ms. Kunur was given ample opportunities and was short-listed for the post of Director (Pers.) in MMTC and Director (Marketing) in STC. She was asked to appear before the Board on 05.08.05 and 06.03.06 respectively. However, she chose not to attend the interviews on either occasion and consequently could not be considered for selection."

Department of Personnel and Training

"The Department of Personnel & Training is not the concerned Department as the service matters of Public Sector Undertakings Employees are dealt with by the Department of Public Enterprises and the concerned Ministry. DoPT only deals with service matters of Central Government Employees and officers belonging to All India Services."

Ministry of Commerce and Industry

"The case of Ms. Rita Kunur has been examined from time to time and the position regarding her rehabilitation is as explained below:—

After her exoneration by the CVC, Ms. Kunur was given ample opportunities and was short-listed for the post of Director (Pers.) in MMTC and Director (Marketing) in STC. She was asked to appear before the Board on 05.08.05 and 06.03.06 respectively. However, she chose not to attend the interviews on either occasion and consequently could not be considered for selection.

With regard to ACC recommendation pertaining to her clearance for appointment on a Govt. commission/committee, reply had been sent to Establishment Officer (DoPT) by the Department of Commerce, stating that there were no permanent committees under Department of Commerce where she could be accommodated as a full-time member. It was further communicated to DoPT that as and when any committee or commission is established under the Department, it will be seen if it is possible to induct her as a full time member keeping in view her experience and terms of reference of such created committee or commission. In

the meanwhile, however, DoPT could nominate her as a member in any Government commission/committee under the aegis of other Ministries/ Departments. It was further communicated that the Department of Commerce had no objection if Ms. Kunur applied for any post in response to advertisement issued by this Department (or any organization under its administrative control) where her candidature could be considered on merit.

The proposal for considering her appointment as independent Director in a PSU under the Department of Commerce was not accepted by the competent authority. This was communicated to DoPT with regard to DoPT's recommendation. This position was conveyed by the competent authority to the Hon'ble MP, Shri Gurudas Das Gupta *vide* communication dated 31 May, 2010.

As regards providing the petitioner with adequate compensation, it may be seen from the above that this is a case of self-inflicted loss as on both occasions she chose to ignore the opportunities made available to her for rehabilitation pursuant to exoneration."

2.35 About the charges levelled against the petitioner and the basis therefore, the Ministry of Commerce and Industry in their written reply submitted as under:—

"An Investigation Report was received by the Department of Commerce from STC on losses arising in exports of poor quality coffee to customers in America and Europe which was forwarded to the CVC. The name of Ms. Rita Kunur figured in this report. As per the investigation report forwarded by the STC. Ms. Rita Kunur had failed to ensure compliance of laid down norms in selection of business associates, which resulted in huge financial losses to STC, in the matter of exports of coffee.

Secondly, huge quantities were contracted without proper authority, quality control and monitoring. Further, negotiations for settlement of claims with foreign buyers were ineptly handled resulting in further financial loss.

The report was forwarded by the Department of Commerce to CVC. CVC recommended that the case be entrusted to CBI and advised Department of Commerce for major penalty proceedings against her. CVC withheld vigilance clearance."

2.36 On being enquired as to why the petitioner was not reinstated as Director (Marketing) from the date of her removal from service after being exonerated by CVC, the Ministry of Commerce and Industry in their written reply stated as under:—

"Ms. Kunur ceased to be an employee of STC when ACC did not approve her extension as Director in STC. Unlike an ordinary employee, Directors are on contract and once terminated, there is no recourse to reinstatement. The vigilance enquiries take their own course independent of the employee status whether terminated in service or superannuated. The outcome of the inquiries can lead to punishment or exoneration of the employee status. In either of the

two situations, there is no recourse to *suo-moto* review and restoration of the original employee status in case of contract employees and superannuated employees. Hence, in Ms. Kunur's case, there were no provisions to restore her original appointment....."

2.37 The Committee took further oral evidence of the representatives of the Cabinet Secretariat, Ministry of Commerce and Industry and the Ministry of Personnel, Public Grievances and Pensions (DoPT) on 22 June, 2010.

2.38 When the Committee asked as to how to compensate the loss the petitioner has suffered after the charges against her were proved to be false, the witness, Secretary (Coordination), Cabinet Secretariat responded as under:—

"Sir, some very important issues have been raised by the Hon'ble Member. I would just like to make one clarificatory remark that I have not said that Ms. Kunur suffered a self-inflicted injury. What we have said to the best of my collection is that she did not appear for the interview. But I understand what the Hon. Member was saying. There are two points involved in this issue—one is the case of Ms. Kunur and one is the wider issue of what would happen in cases where people are being investigated against and eventually it is found that the charges are not proved for whatever reason and what is to be done in such cases. I will come to the general point first. Now in the general case, I think there would be other cases also where people are investigated and investigation of CBI and CVC is going on and it could well happen that they are not considered during the period of that investigation for some assignment or may be some elevation of promotion and there can also be cases where people might retire in the intervening period.

As far as the charges eventually getting proved or not proved is concerned, it is difficult for anyone to predict in advance what the outcome of such inquiry or investigation is going to be. Now at the end of the enquiry, it could well happen and it does happen that all the charges are not proved and the question that has been put is what compensation or what remedial measure can be given in such a case. This is a fundamental issue on which it is difficult to say because at the moment I am not aware of any provision of compensation in such cases. There is no provision and I do not easily see also a provision for such cases because one has to draw a distinction between any investigation being done in an invidious manner. If something is being done out of vendatta, that is not the case."

2.39 When the Committee sought the comments of the Ministry of Commerce and Industry about the language or the words used by them *i.e.* self-inflicted loss, in their written reply, the witness, Secretary from the Ministry of Commerce and Industry responded as under:—

"Thank you for the opportunity to respond. Let me say that perhaps the choice of words is not the best and we should have used a better phrase than self-inflicted but it is on record and therefore, I will not disown that it is not

part of the record. All the same time, I do think that we should have chosen a better word. I think the reason those words were used were contextual. They were referring to only one issue which was that when an opportunity was given and she did not avail the benefit, therefore it was referred as self-inflicted, nevertheless I agree that it is not the right choice of words. We could have used a better language and I apologize for that use of language."

2.40 On being asked about the response of the Cabinet Secretariat on the issue, the Secretary (Coordination) responded as under:—

"After what Commerce Secretary has stated, I do not need to say anything. I agree with what he has stated that if they had used another formulation in their reply then that would have been better. I do not want to add anything. I agree whatever they are saying."

2.41 Responding to a question as to what relief can be given to the person who has been a victim of false allegations, the witness, Secretary from the Ministry of Commerce and Industry responded as under:—

"Mr. Seth has given some comments earlier. I would like to give some supplementary remarks. Firstly, I think it is correct that if indeed an investigation into the conduct of any official is maliciously motivated, with malice as forethought, then the subsequent vindication of that individual leaves the lingering grouse that it was never fair to begin with. If one knows that the inquiry has been initiated with bad intention, then after one year or 10 years, whenever you are exonerated of the charges, then at that time there will be a better taste in the mouth because you know that it was a motivated inquiry. In cases of vigilance matters, no one goes on bold allegations and whenever a request or a complaint is received, then after primary investigation, *prima facie* cases are framed. Secondly, the Government has made separate institutions so that the same is not left upon you and we become blind and commit mistakes. Therefore, there is separate CVC which see what we do instead we take our own decision. We do it after taking their opinion. It means that I consult somebody who is widely perceived to be impartial and then we are bound by that there are two levels of screening. If somebody makes complaint, the same is investigated. You still establish that yes, *prima facie* they look something wrong. Then you order an inquiry. Then you go to the CVC and the CVC tells you something. When you go at that level and CVC give its opinion that you can not do like this, then the Government is bound to some extent. All these institutions have been made so that you get protection at all stages."

2.42 When the Committee asked whether it was a failure of that institution in the case of the petitioner, the witness submitted as under:—

".....I think that these institutions are in place and, by and large, we protect people from motivated charges. I think there can always be a case where things fail. It can be systemic failure or it can be a different sort of failure. Let me give you an example. There are no dearth of instances where we go with

the disciplinary case where the vigilance matter is clearly indicated. Then, you actually conduct the inquiry. We are not able to fully establish it. It does not mean that the person is completely innocent. There are many such instances."

2.43 When the Committee observed that the reverse is also not true, the witness replied as under:—

"That was not my intention. What I was trying to say was that if there is a malevolent established, then I think uniformly everybody here would agree, without a doubt with the Committee, that there should be some form of compensation paid out because there was malaise of forethought. But if indeed we are able to place before you that as reasonable man, acting under reasonable circumstances with institutions protecting individuals, then you think if I have committed any irregularity, I have taken independent opinion of CVC and then we have proceeded.

Secondly, I do want to respond to the question which the Hon. Member of Parliamentary raised was Ms. Kunur and what happened in her particular case and the fact that was she paid her dues or was she not paid her dues. I think that is a legitimate question and we should answer that before we come back to the question of whether and how to compensate. On that, Sir with your permission, I would like the CMD to briefly explain what was the case and what had happened and in Ms. Kunur's case what payments were made to her."

The witness, CMD, STC explained as under:—

"The case referred to is about the export of coffee to America and in that case, some sub-quality material had gone to America, to the buyer and they had lodged a complaint on STC and there was a loss in that transaction. Now, this particular case was deliberated in the Board meeting held on 4 October, 2000. In the Board meeting it was decided after deliberations that this case needs to be investigated by the CVO, STC. So CVO, STC was also given a time up to 10 October, 2000 to submit its report which he did. After taking the comments of Ms. Kunur on the investigation of CVO, the entire thing was referred to the Ministry of Commerce, who in turn after examining, referred the matter to CVC and the development took place. So, there was no single individual as it appears from the records who had levelled any charges. It was emerged from the discussions in the Board on a case which was handled by her. So, it is the Board who took a view on this and asked for investigation. That is how it has started.

Now, apart from Ms. Kunur there were six more officials who were charged on this. Disciplinary proceedings had taken place on all the six people. Two were exonerated, but four were given penalties and they have been charged for that. That is the position.

As far as payment is concerned, I think she has got all the retirement benefits after she was exonerated. That is the position as of now."

2.44 When the Committee observed that the justice should be given to the petitioner as she was innocent and all the benefits should be extended to her as if she was on duty, the witness from the Cabinet Secretariat reacted as under:—

"Mr. Chairman, Sir, regarding the issue that has been raised by you and by the Hon. Member, I would say that this will have to be seen in the context of what were the terms and conditions of her contract in the STC and whether the rules of STC allow for such an arrangement to be made after this. I think, the Chairman, STC would be able to answer this more authoritatively but she did not have a lien in the post of General Manager once she became Director in the Corporation. I do not know whether it was on a contract basis or what. If it is a contractual arrangement, once that five-year contractual arrangement is over or it is extended by one year, the person on contract, is in a way in limbo because she cannot claim the benefit of permanent lien which she would have enjoyed had she reverted to the post of General Manager after her five year term was over. Suppose she was not allowed to continue in the post of Director. She could have gone back to the post of CGM. Being in that contractual arrangement and then this happened, I have grave doubts whether the rules would allow the sort of suggestion that has been given just now.

The other thing that is relevant is the circumstances in which the investigation was ordered. The Chairman, STC has just mentioned that when the investigation ran its course, at the end of it, there were two or three officials who were penalized; some degree of penalty was imposed on them. It was not as if it was something plucked out of the air; it was absolutely baseless arising out of vendetta against one particular person. It was also not as if the investigation was launched at the behest of one single complainant or complaint. It was the decision of the Board who, in their wisdom, felt that they should take some action in the interest of improving the functioning of the Corporation. So, it is difficult to impute any motive, any vendetta in this particular case. Has that been the case, it would have been a different story.

As regards the question that if an investigation is launched and at the end of the investigation, the charges are not proved, I would say that there are two implications. Here, pardon me, Sir, that I am not referring to Ms. Kunur's case. I am making a general case. If charges are not proved, there could be two possibilities. One, the person is actually guilty to some degree. We will not say to what degree he is guilty. The charges could not be proved because of not having enough evidence. The other thing is that the person is not guilty at all. But, either way, the end result is the same that the charges are not proved. If the investigating agency or the person ordering the investigation can not be blamed for having done something out of malice, it is very difficult to suggest that compensation should be given. I say this from my experience; from what I have seen in Government. You feel bad about it. It happens in other cases. It does happen when people are coming on promotion, appointments and in so many other cases also. You find some vigilance and

closed cover cases. There are issues which are being debated by the Committee. They are important issues. They have legal ramifications. There are enough judgements. In a way, the courts also do not say that we should give compensation. If we start giving compensation, then, of course, other problems will arise. For instance, five people were accused; three were exonerated and one was not exonerated. He will then challenge. He will say: "They were equally to blame; for whatever reason, evidence was not against them. They are getting it. I am not getting it." So, we might seemingly solve one genuine problem but in the process we will give rise to other problems. So, basically it is not amenable to an easy answer. I think, this sort of a practice that has been going on is not necessarily the best. I do not immediately see a way out of that."

The witness further clarified as under:—

"With due respect, I would like to recall with in the course of my statement, I mentioned that this is not with refrence to Ms. Kunur's case. I said that as a general observation. What I said was not in the context of Ms. Kunur. My last observation were general observations.

I said that there are two aspects. One is general one and the other about this particular case. I said that I would talk about the general case first. I was and still I am referring to the general problem that was referred to. I just thought it fit to share some information. I was talking about the issues that can arise out of a general problem. I wish to make it clear that I am not making any comment on Ms. Kunur's case that she was rightly or wrongly implicated. We have the record with us and it says that she has been exonerated and we accept that record. As I mentioned earlier and I repeat again that certainly as individuals we have sympathy for cases like this."

The witness further added as under:—

"I am just saying that so far I know rules of administration, there is no such provision under which any opinion can be given in such cases."

2.45 On being enquired as to whether STC could take any action to formulate laws or by-laws in order to given financial benefits in such cases, the witness from STC replies as under:—

"STC do not formulate any rules-regulations for appointment as Boards' Director and Chairman. These rules-regulations are formulated by the Government which are common for all Corporations. These rules do not come within the purview of STC and such appointment is on contract term for five years. If there is any need for extension then the same is done with the approval of the Government. Salary and perks, all things falls with in the purview of the Government. We do not formulate the rules, all this come with in the purview of the Government."

Observations/Recommendations

2.46 In her representation, the petitioner namely Ms. Rita Kunur has stated that she started her career as a Management Trainee in 1972 and became Director (Marketing) in the State Trading Corporation (STC) in 1995. In 1997, she was empanelled by the Public Enterprises Selection Board (PESB) for the post of CMD, State Trading Corporation (STC) Limited as No. 2 candidate. After completion of five years of service as Director (Marketing), she was not granted extension of her tenure beyond June 2001 by the Appointments Committee of Cabinet (ACC) on the basis of wrong facts and advice tendered by the officials concerned as alleged by her. She lost her regular job in June, 2001 at the age of 52 years. Thereafter, she represented to the Hon'ble Prime Minister as Chairman of ACC in the matter and after review of her case, ACC decided on 17 March, 2005, as understood by her, that she may be considered for a suitable post under Government of India or in Public Sector Enterprises or in Government Commissions/Committees. But the aforesaid decision of the ACC has not been implemented. As a result thereof, she has been deprived of job for eight years and the opportunity for a bright service prospects in addition to heavy loss of remuneration over the years for no fault on her part. The petitioner has, therefore, requested the Committee to look into the matter.

2.47 The Committee were informed that the petitioner, the then CGM, STC was appointed as Director (Marketing) in a Public Sector Undertaking (PSU) under the administrative control of the Department of Commerce, for a period of five years, with effect from 3 November, 1995, with the approval of ACC. Her appointment as Director (Marketing) was extended beyond 2 November, 2000, the date on which her five-year tenure expired, until further orders. The matter was also considered by the PESB which too recommended extension of her tenure by one year subject to the condition that her performance during the period will be closely monitored and the position be reviewed jointly by the Department of Commerce and the PESB after the expiry of one year of the extended tenure. However, in a subsequent communication dated 11 April, 2001, CVC withheld her vigilance clearance on the basis of investigation report forwarded by STC involving the petitioner for the losses caused due to export of poor quality of coffee to customers in America and Europe. CVC recommended that the case be entrusted to CBI and advised the Department to initiate major penalty proceedings against her. Consequently, on a proposal received from the Department of Commerce, the ACC did not approve extension of her tenure. As a result she was relieved on 22 June, 2001 and her retirement dues were released. Subsequently, the CVC, which had initially advised initiation of major penalty proceedings, advised dropping of penalties *vide* communication dated 19 June, 2002 and the CBI investigation also did not reveal anything to prove her criminal involvement. The Department of Commerce *vide* its order dated 5 March, 2003 exonerated the petitioner from all the charges against her.

2.48 In the meantime, the petitioner represented that she may either be appointed in Government of India or in Public Sector. She also represented to the then Cabinet Secretary *vide* her letter dated 21 June, 2004. The Department of Public Enterprises (DPE) and the PESB were requested *vide* DoPT's communication dated 19 August, 2004 to offer their comments on the representations submitted by the petitioner. The DPE *vide* its communication dated 9 September, 2004 clarified that as she had a lien for the post of CGM, STC, she could have been appointed against that post of CGM, STC. The PESB in its communication dated 3 September, 2004 informed that the petitioner was not eligible for any board level post in any PSUs as she was not in the service. The Department of Commerce *vide* their letter dated 6 October, 2004 informed that as per DPE's instructions dated 13 January 1999, officers in PSUs can retain lien for a period not exceeding 5 years. Since the petitioner's five-year tenure expired on 2 November, 2000 and she continued to hold the post up to 2 June, 2001, she was not entitled to hold lien beyond five years. Therefore, at the time of demitting office, she did not have a lien on the post of CGM, STC. In October, 2004 the DPE, following direction of the Cabinet Secretary, directed that her representation for appointment to an equivalent post either in the Government or in the Public Sector may be considered through PESB. After consideration of her representations, the ACC also directed the PESB to consider the candidature of the petitioner as an internal candidate for suitable vacancies, as well as by the Government for appointment in Government Commissions/committees. These directions of the ACC were conveyed to the PESB, DPE and Department of Commerce for compliance by DoPT on 27 May, 2005. Since there was inordinate delay in implementation of the aforesaid directions of ACC, the PESB as well as the Department of Commerce were requested on 25 May, 2006 to furnish a status report in the matter. In reply to the above directions, it was informed in June, 2006 that the petitioner was called by the PESB for interview for Board level position, i.e. Director (Marketing), STC and Director (Personnel), MMTC and she was asked to appear before the Board on 05 August 2005 and 6 March, 2006 respectively. But she did not appear for interviews on either occasion. She also met the Cabinet Secretary personally and represented that having been a Board level functionary in the past she should have appropriately been called for interview for the post of CMD. The ACC, after consideration, decided that the Department of Commerce may place the petitioner as a full time Member on one of the Committees set up by the Ministry, where her association could be considered useful, taking into account her experience and background. These directions of the ACC were conveyed to the Department of Commerce on 27 July, 2006.

2.49 In response to the aforesaid directions of the ACC, the Department of Commerce informed that there were no permanent committees under their administrative control where she could be accommodated as a full-time member. As and when such a committee is established, the Department shall consider, if it is possible to induct her as a full-time member, keeping in view her experience and the terms of reference of such committee. The above position was placed before the

Competent Authority for apprising the PMO with reference to its direction. After considering the matter, the Cabinet Secretariat *vide* its note dated 19 September, 2006 proposed that when the proposals for new committees are considered by the Cabinet Secretariat/PMO, her name may be considered too and the same was accepted by the ACC.

2.50 Subsequently, it was suggested that the petitioner, being 59 years of age and too late for Board level position, be appointed as a part-time non-official Director on the Board of STC subject to the DPE clearing her name for the purpose. However, her name was not considered for appointment as part time non-official Director on the Board of STC.

2.51 From the sequence of events as stipulated in the preceding paragraphs, the Committee are deeply distressed to note that the services of the petitioner were terminated at the age of 52 years on the basis of baseless and malicious charges which were ultimately proved false by CBI in its investigation. The authorities concerned did not even wait for the outcome of CBI investigation before she was removed from service. Even the ACC have recognized the wrongful termination of the petitioner from service as otherwise they would not have directed the authorities concerned to consider her for a suitable post/placement in the Government Commission/committees or PSUs. The Committee are highly anguished to note that even after her exoneration from all the false charges, the petitioner is still waiting for the relief/compensation for grave injustice meted out to her almost 9 years ago. The very fact that she had to approach the Committee for redressal of her greivances on the issue amply proves the manner in which her case is being handled by the authorities concerned. Their response in the matter reflects their gross apathy and reluctance to give her any concession and compensation for the losses she has suffered over the years for no fault on her part. The way different Ministries/Departments of the Government of India have behaved and dealt with her case clearly speaks of their indifferent and insensitive approach towards her genuine grievance. The Committee, therefore, deprecate and deplore the insensitive and inhuman approach of all the concerned Government Departments on the issue and expect that such cases of injustice should always be dealt with all compassion and human approach.

2.52 The Committee are anguished to note that in spite of repeated recommendations/suggestions of the ACC, the authorities concerned could not find a suitable post either in the Government or in any Public Sector Undertaking for her placement befitting her status/position which she had enjoyed before her retirement as claimed by her and the matter was allowed to linger on till she crossed the age of superannuation in April, 2009. This is clear from the fact that after her exoneration by CVC from all the malicious charges in March, 2003, she was called for interviews for the position of Director (Personnel), MMTC and Director (Marketing) after more than two years in August, 2005 and March, 2006 respectively and that too after repeated representations by her. During the course of evidence, it also came to the notice of the Committee that there were two Corporations where her name was considered for the position of a part-time Member

of one of the Boards, but authorities concerned did not approve her name for the same. Again, she was also not accommodated as one of the non-official Board Members of STC in spite of her long association with the Ministry. It is evident from the actions of the authorities concerned that they were determined to ensure that she is not rehabilitated on the position and status which she had been holding before her pre-mature termination of her services and that she does not get any justice what so ever for the losses she suffered. They continue to harp only on one point that she chose to ignore the opportunities which were made available to her for rehabilitation pursuant to exoneration. There was no guarantee that she would have been selected even if she had appeared for interviews for the positions offered to her. She might have been rejected for those positions in the interview for one reason or the other, which is supported by the subsequent events wherein she was not considered or found suitable for the job of part time Member or non-official Board Member. Therefore, the comments of the Ministry of Commerce & Industry that it was a case of 'self-inflicted loss' as she chose to ignore the opportunities made available to her for rehabilitation pursuant to exoneration, is grossly inappropriate and the Committee have taken serious objection to this.

2.53 The Committee note from the submission of the Ministry of Commerce and Industry that before her appointment as Director (Marketing), the petitioner was holding lien on the substantive post of CGM in STC. Her lien stood terminated after she completed five years of service as Director (Marketing) as per the guidelines of the DPE which do not allow holding of lien for more than five years. This is the position which seems contrary to the submission of the Cabinet Secretariat and the Ministry of Personnel, PG & Pensions in which they have stated that as per the clarification of DPE *vide* communication dated 9 September, 2004, the petitioner had lien for the post of CGM, STC and she could have been appointed against that post. Notwithstanding the contrary stand/views of the two Ministries/Departments of the Government of India on the issue, the Committee are of the opinion that lien of any employee on the old post should not be terminated automatically without the consent of the individual. In any case, the individual should have the option to go back to the old post before the expiry of the period of lien. In the instant case, there is nothing on record to show that the petitioner was given any option to go back to her old post of CGM, STC before the expiry of her lien after completion of five years. The Committee, therefore, desire that the Government should review the existing guidelines which regulate the lien of any employee in the event of his/her appointment outside the cadre on contractual/deputation basis.

2.54 The Committee have reasons to believe that the malicious charges were framed against the petitioner deliberately with ulterior motives and vested interest to cause harassment and to adversely affect her career progression. The petitioner continues to suffer mental agony besides a huge loss of remuneration which she would have otherwise earned but for her premature termination from service. The Committee, therefore, recommend that the entire matter may be investigated by an independent agency with a view to find out as to whether there was any deliberate

attempt and mala-fide intentions to cause distress and harassment to the petitioner and to mar her career progression.

2.55 It is abundantly clear from the examination of facts placed before the Committee that the petitioner was implicated falsely and removed from service for no fault on her part. The Committee are, therefore, of the considered opinion that she should be given immediate justice and compensation for the loss she has suffered mentally and socially over the years. Since she has already crossed age of superannuation, it would be quite difficult to take her back on the Government job, therefore one of the suggestions is to compensate the loss by treating her as if she was on duty on the date of her removal and by granting her all the benefits which would have been due to her in the normal course. The Committee, therefore, recommend that the petitioner may be treated as on duty on the date of her removal from service and be granted all the benefits which would have otherwise accrued to her in the normal course but for her removal from service. The Committee also recommend that this policy should be followed in all such cases where the person is exonerated from all the charges leveled against him/her. If felt necessary, rules/guidelines should appropriately be formulated to regulate such cases. The matter may also be placed before the ACC for consideration and grant of special dispensation and compensation to the petitioner without further delay.

The Committee would like to be apprised of the action taken by the authorities concerned in this regard within three months from the date of presentation of this report.

NEW DELHI;
1 July, 2010

10 Asadha, 1932 (Saka)

ANANT GANGARAM GEETE,
Chairman,
Committee on Petitions.

MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON PETITIONS
(FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Thursday, 11th February, 2010 from 1500 hrs. to 1630 hrs. in Committee Room No. 139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Khiladi Lal Bairwa
3. Shri E.T. Mohammed Basheer
4. Shri N.S.V. Chitthan
5. Shri Gurudas Das Gupta
6. Shri Jagdambika Pal
7. Prof. Ram Shankar
8. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Director*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*

WITNESSES

Cabinet Secretariat

1. Shri Ajit Seth — *Secretary (C&PG)*
2. Smt. Nivedita Shukla Verma — *Director*

*Ministry of Commerce and Industry
(Department of Commerce)*

1. Shri A.K. Mangotra — *Addl. Secretary*
2. Shri T. Srinidhi — *Director*
3. Shri N.K. Mathur — *CMD, STC*
4. Shri R.K. Chaturvedi — *CVO, STC*
5. Shri A.K. Lahiri — *Deputy Secretary*

*Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel Training)*

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|----------------------------|---|------------------|
| 1. Shri P.K. Misra | — | EO & SS |
| 2. Dr. (Mrs.) P.S. Behuria | — | Secretary (PESB) |
| 3. Shri Prabhat | — | Director |
| 4. Shri Vedantam Giri | — | Deputy Secretary |
| 5. Shri Rahul Kashyap | — | Under Secretary |

2. At the outset, the Chairman welcomed the representatives of the Cabinet Secretariat, Ministries *viz.* Commerce and Industry (Department of Commerce) and Personnel, Public Grievances and Pensions (Department of Personnel Training) and drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings.

3. Thereafter, the Chairman referred the representation received from Smt. Rita Kunur through Shri Gurudas Das Gupta, MP, Lok Sabha regarding non-implementation of the decision of the Appointments Committee of Cabinet (ACC). Then, the officers from the Ministry of Commerce & Industry and Cabinet Secretariat explained the reasons as to why the petitioner could not be accommodated in STC as non-official part-time Director or as a member of any permanent standing committee. The committee sought classification on certain issues/points from the officers of the respective Ministries/Departments and then directed them to give a note on two points — first, what justice could be done to the petitioner as she had already superannuated from service and secondly, whether there was any deliberate attempt or otherwise in providing her any post/berth after she was cleared by the CVC of the allegations against her, which ultimately proved wrong.

The witnesses then withdrew.

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5. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The Committee then adjourned.

ANNEXURE-II

MINUTES OF THE FOURTEENTH SITTING OF THE COMMITTEE ON
PETITIONS (FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday, the 18th May, 2010 from 1400 hrs. to 1520 hrs. in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Gurudas Das Gupta — *In the Chair*

MEMBERS

2. Shri Rajendra Agarwal
3. Shri Khiladi Lal Bairwa
4. Shri E.T. Mohammed Basheer
5. Shri N.S.V. Chitthan
6. Shri Jagdambika Pal
7. Prof. Ram Shankar
8. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Director*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*
5. Smt. Jagriti Tewatia — *Under Secretary*

2. In the absence of the Chairman, the Committee chose, Shri Gurudas Das Gupta to act as Chairman for the sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. At the outset, the Chairman welcomed the Members of the Committee and then the Committee took up the following draft Reports for consideration and adoption:—

(i) Seventh Report

Chapter-I : Representation signed by Smt. Shakauntala Devi requesting to consider her case under the category of 'War Widow' and grant her all the applicable financial benefits.

Chapter-II : Representation from Ms. Rita Kunur forwarded by Shri Gurudas Das Gupta, M.P., Lok Sabha regarding non-implementation of the decision of Appointment Committee of Cabinet (ACC).

(ii) Eighth Report

Chapter-I : Representation from Shri D.K. Khanvilkar, Ex- M.L.A., Alibag and Adv. V.K. Naik, regarding introduction of passenger service on Konkan Railway, Pen-thal Track of RCF in district Raigad, Maharashtra.

Chapter-II : Representation from Shri H. Mahadevan, Deputy General Secretary, All India Union Congress and forwarded by Shri Gurudas Das Gupta, M.P., Lok Sabha regarding default in contribution to the Provident Fund by the Employees.

4. After due deliberations by the Committee, Chapter I of Seventh and Eighth Reports were adopted without any modifications. As regards Chapter II of Seventh and Eighth Reports, the Committee suggested to incorporate therein certain changes/modifications. However before their finalization and adoption, the Committee decided that the Cabinet Secretary might be called to hear his views with reference to the representation from Ms. Rita Kunur. The Committee also decided that officials of the Ministry of Labour and Employment might again be called for further discussion before Chapter-II of eighth report is finalized.

5. The Committee thereafter decided to undertake an on-the-spot study visit to Mumbai, Hyderabad and Meerut from 7th to 10th June, 2010 to hold informal discussion with officials of Central/State Government in connection with some of the representations undertaken by the Committee for examinations.

The Committee then adjourned.

ANNEXURE-III

MINUTES OF THE SIXTEENTH SITTING OF THE COMMITTEE ON
PETITIONS (FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Tuesday 22nd June, 2010 from 1400 hrs. to 1530 hrs. in Committee Room 'B' Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Khiladi Lal Bairwa
3. Shri E.T. Mohammed Basheer
4. Shri N.S.V. Chitthan
5. Shri Gurudas Das Gupta
6. Shri Devendra Nagpal
7. Shri Jagdambika Pal
8. Shri Sarvey Sathyanarayana
9. Shri Joseph Toppo

SECRETARIAT

1. Shri N.K. Sapra — *Additional Secretary*
2. Shri V.R. Ramesh — *Joint Secretary*
3. Shri U.B.S. Negi — *Additional Director*
4. Shri Hulasi Ram — *Deputy Secretary*
5. Smt. Jagriti Tewatia — *Under Secretary*

WITNESSES

Cabinet Secretariat

1. Shri Ajit Seth — *Secretary (Coordination)*
2. Shri Mrutunjay Sarangi — *Additional Secretary*

Ministry of Commerce & Industry
(Department of Commerce)

1. Dr. Rahul Khullar — *Secretary*
2. Shri P.K. Chaudhery — *Additional Secretary*
3. Shri P.K. Dash — *Joint Secretary*
4. Shri N.K. Mathur — *CMD, STC*
5. Dr. D.S. Gangwar — *CVO, STC*

*Ministry of Personnel, Public Grievances and
Pensions (Department of Personnel and Training)*

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|----|-------------------------|---|------------------|
| 1. | Shri P.K. Misra | — | EO & SS |
| 2. | Dr. (Mrs.) P.S. Behuria | — | Secretary (PESB) |
| 3. | Shri Prabhat | — | Director |
| 4. | Shri Vedantam Giri | — | Deputy Secretary |
| 5. | Shri Deepak Israni | — | Under Secretary |
| 6. | Shri Rahul Kashyap | — | Under Secretary |

*Cabinet Secretariat, Ministry of Commerce and Industry (Department of
Commerce) and Ministry of Personnel, Public Grievances and Pensions
(Department of Personnel and Training)*

2. At the outset, the Chairman welcomed the representatives of Cabinet Secretariat, Ministry of Commerce and Industry (Department of Commerce) and Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) and drew their attention towards Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings. While referring to the discussion held by the Committee in their sitting held on 11 February, 2010 on the issues/points raised by the petitioner namely Ms. Rita Kunur in her representation regarding non-implementation of decision of Appointments Committee of Cabinet (ACC), the Committee wanted to know as what relief/compensation could be given to the petitioner who had lost her job on false allegations. Responding to the point raised by the Committee, it was informed that no such provision exist in the rules which allow benefits to the penalized persons who was subsequently found innocent but had retired from service. According to them, if such provisions are made, the same might invite difficulties and therefore, need to be considered with all its ramifications. The Committee of the considered opinion that the justice should be meted out to the petitioner and should be extended all the benefits as if she was on duty till her retirement in the normal course. If felt necessary, rules and regulations should be formulated for the purpose accordingly, which should be applicable in all such cases.

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5. A copy of the verbatim proceedings of the sitting of the Committee has been kept on record.

The witnesses then withdrew.

The Committee then adjourned.

ANNEXURE-IV

MINUTES OF THE SEVENTEENTH SITTING OF THE COMMITTEE ON
PETITIONS (FIFTEENTH LOK SABHA)

The Committee on Petitions sat on Thursday, 1st July, 2010 from 1430 hrs. to 1530 hrs. in Committee Room 'D' Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*

MEMBERS

2. Shri Gurudas Das Gupta
3. Shri Jagdambika Pal
4. Prof. Ram Shankar
5. Dr. Sanjay Sinh

SECRETARIAT

1. Shri Ashok Sarin — *Joint Secretary*
2. Shri U.B.S. Negi — *Additional Director*
3. Shri Hulasi Ram — *Deputy Secretary*
4. Smt. Jagriti Tewatia — *Under Secretary*

2. At the outset, the Chairman welcomed the Members of the Committee and then the Committee considered and adopted the Seventh Report (2nd Chapter) and Ninth Report with minor corrections.

3. The Committee also authorized the Chairman to finalize and present the Reports to the House.

The Committee then adjourned.

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