

FIFTY-SEVENTH REPORT
COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES
(DEPARTMENT OF HEAVY INDUSTRY)

(Presented to Lok Sabha on _____)



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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2018-2019)**

Shri Bhagat Singh Koshyari -Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri C.P. Joshi
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Shri Arjun Charan Sethi
11. Shri Kodikunnil Suresh
12. Shri Dinesh Trivedi
13. Shri Rajan Vichare
14. Shri Dharmendra Yadav
15. Vacant

SECRETARIAT

1. Shri Shiv Kumar	-	Joint Secretary
2. Shri Raju Srivastava	-	Director
3. Shri G.C. Dobhal	-	Deputy Secretary
4. Shri Anand Kumar Hansda	-	Executive Assistant

FIFTY-SEVENTH REPORT OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present on their behalf, this Fifty-Seventh Report (Sixteenth Lok Sabha) of the Committee to the House on the Representation received from Shri Madhuban Yadav and others and forwarded by Shri Ram Tahal Choudhary, M.P., Lok Sabha regarding non-payment of arrears to the retired employees of Heavy Engineering Corporation Limited (HECL), Ranchi.

2. The Committee considered and adopted the draft Fifty-Seventh Report at their sitting held on 12 December, 2018.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI,
Chairperson,
Committee on Petitions.

12 December, 2018

21 Agra-hayana, 1940 (Saka)

REPORT

REPRESENTATION RECEIVED FROM SHRI MADUBAN YADAV AND OTHERS AND FORWARDED BY SHRI RAM TAHAL CHOUDHARY, M.P. LOK SABHA REGARDING NON-PAYMENT OF ARREARS TO THE RETIRED EMPLOYEES OF HEAVY ENGINEERING CORPORATION LIMITED (HEC), RANCHI.

Shri Madhuban Yadav and others submitted a Representation forwarded by Shri Ram Tahal Choudhary, M.P., Lok Sabha regarding non-payment of arrears to the retired employees of Heavy Engineering Corporation Limited (HECL), Ranchi.

2. Shri Madhuban Yadav and others, in their Representation, raised the matter of delay in pay revision of the employees of HECL, Ranchi for a period of nine years and *inter-alia* stated that an agreement was reached among the Labour Commissioner, State Government of Jharkhand, recognised Union of the HECL employees and the Management of the HECL. Accordingly, the Management of HECL had approved the pay revision and had agreed on disbursement of arrears. However, the arrear arising out of this agreement and approved by the Management of the HECL had not been paid, so far. The representationists, in their Representation, further stated that the former CMD of the Company had sent a proposal to the Ministry of Heavy Industries & Public Enterprises for grant of Rs.164 crore for payment of arrears to the employees/retired employees of the HECL. However, the same was not sanctioned.

3. The Representationists had, therefore, sought the intervention of the Committee to look into the matter and do the needful as the poor employees/ retired employees of the Company have been struggling for the last 18 years.

4. The Committee on Petitions took up the Representation for examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the Representation received from Shri Madhuban Yadav and others was forwarded to the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) for furnishing their comments on the issues raised therein.

5. Clarifying on the issues raised in the Representation, the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) *vide* their Office Memorandum No.5-1/2016-PE.V dated 27 October, 2016, furnished the following comments:-

"The 1997 Wage Revision of all categories of employees of Heavy Engineering Corporation Limited (HEC) viz., workers, non-unionised Supervisors & Executives, took place in 2008 owing to financial difficulties and the Order dated 6 July, 2004 of the Board for Industrial and Financial Reconstruction (BIFR) for winding up of the Company.

The discussion on the Wage Revision with the trade unions could be started only after improvement in performance of HEC. The Tripartite Memorandum of Settlement was signed on 27 November, 2006 with Hatia Project Worker's Union (R) in the presence of the Labour Commissioner-cum-Conciliation Officer, Government of Jharkhand and the Bipartite Memorandum of Agreement was also signed on 27 November, 2006 between HEC and five registered Trade Unions.

The 1997 Wage Revision to the employees of the Corporation was approved by the Government of India in the year 2008 and the approval was conveyed vide letter No. 5-12/2008-PE.V dated 18 September, 2008. The point No. (xi) of the said letter containing the approval read as follows:-

'Implementation of 1997 Wage Revision to the employees of the Company: Revised salary shall be payable with prospective effect and interim relief as well as productivity linked reward shall be merged with the new scale'.

The 1997 Wage Revision was implemented vide Circular No. 01 & 02 dated 14 October, 2008 and the revised pay was paid to all categories of employees w.e.f. 18 September, 2008 in terms of the approval of the Government of India referred above.

On the persistent requests of the representatives of the retired employees and the trade union of the Company for payment of the 1997 Wage Revision arrears involving approximately 160 crores and approximately 7356 persons, the case was taken up with the Department of Heavy Industry (DHI) for special grant of Rs. 160 crores for payment of the arrears for the period 1 January, 1997 till 17 September, 2008, but the same was not approved by the Department.

A proposal was put up to the Board of Directors of HEC in its meeting held on 25 June, 2013 to send a request to DHI for placing the matter before Cabinet Committee on Economic Affairs (CCEA) for consideration. However, the proposal was not approved by the Board since a demand like this, if agreed to, would have a spiral effect on a large number of PSUs.

A Writ Petition(S) no. 710 of 2012 was filed by Shri Lalji Prasad Sinha & Others in Hon'ble High Court of Jharkhand at Ranchi praying for the payment of arrears for the Wage Revision of 1997. This Writ Petition was disposed off by the Hon'ble High Court of Jharkhand on 21 February, 2012 treating the said Writ Petition as Representation and directed the HEC management to decide the claims made by the Petitioners in accordance with the laws, rules, regulations, policies and Government enforceable orders within a period of six weeks from the date of the receipt of the copy of the said order of the Hon'ble High Court. Accordingly, the Petitioners were heard by the then Director (Personnel) in person on 3 April, 2012 and the Order disposing of the case was issued on 6 April, 2012 in which it was mentioned that since the 1997 Wage Revision was approved prospectively by the Government w.e.f. 18th September, 2008, no arrears had accrued to any employee, whether those who had separated from the employment of the Company prior to 18 September, 2008 or to those who were in service of the Company on 18 September, 2008. Hence, no employee whether separated or serving is entitled to any arrears since arrears had not accrued out of the implementation of the 1997 pay scales. A copy of this Order was sent to all Petitioners by Speed Post on 7 April, 2012.

The Representation of Shri Madhuban Yadav through Shri Ram Tahal Choudhary, M.P., Lok Sabha has also been raised before at the level of the Department, during Zero Hour of Lok Sabha Budget Session 2016 dated 13 April, 2016 and under Rule 377 in Lok Sabha on 11 August, 2016. The issues raised have been examined on all three occasions and suitably replied to on 12 April, 2016, 5 May, 2016 and 13 October, 2016 respectively by the Hon'ble Minister of Heavy Industries & Public Enterprises."

6. The Committee desired to know the details regarding product range of Heavy Engineering Corporation Limited (HEC), Ranchi and its capacity to withstand the current competitive environment vis-a-vis other manufactures/suppliers including the Multi-National Companies. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"HEC is engaged in manufacturing and supply of Iron, Steel, Non-ferrous castings, Steel Plant equipment, Mining equipment and structural like Coke Oven, Rolling Mills, Sintering Plant, Blast Furnace, Converter, Electric Over Head (EOT) Cranes, Excavators, Draglines, OB Drills and Crushers, Conventional and CNC Machine Tools, Medium/Heavy Castings/Forgings, Railway Crankshafts from its three operating units all located at Ranchi, Jharkhand. The Company also undertakes consultancy and turnkey projects in areas of Low Temperature Carbonization Plants, Coal Handling Plants, Coal Washeries, etc.

Most of the facilities installed in 60's have lost their accuracy and dependability and needs upgradation. However, with these facilities it has developed and manufactured special steel for Defence and Naval/Nuclear Sector.

Technological and Business collaboration efforts of HEC: Company has made various technical tie-ups and joint working with German and European companies to expand its product portfolio and diversifying its business activities in the field of Naval/Shipping, Defence, Railways, etc.:-

- (i) M/s. CNIITMASH, Russia- Technology transfer to manufacture components for nuclear and thermal power plant, ship shaft, hollow ingot, ESR etc. (especially for Kundankulam Nuclear Plant).
- (ii) M/s. Cascade Technologies, Russia- Technology sharing for manufacturing of various railway track maintenance equipment.
- (iii) M/s. Paul Wurth, Luxemburg- For manufacturing of Coke Oven Machines.
- (iv) M/s. JSC Rosatom Overseas, Russia- Transfer of technology as well as participation under the localization plan for nuclear power plants.
- (v) M/s. Krylov State Research Center, Russia- For assistance in designing of ship propulsion system for Indian naval ships.
- (vi) M/s NPO CKTI, Russia- For providing technology for Pressurized Heavy Water Reactor (PHWR) for nuclear power plants.
- (vii) Company has identified M/s. Sky Wind Gmbh as technology partner for carrying out development and trading of Wind Farms, production of Wind Turbines of capacity greater than 3 MW etc.

Apart from above, tie-ups have been made with various domestic Institutes/Companies for technical assistance, joint business partnership, etc.

The Company has also submitted its revival cum modernization plan to Department of Heavy Industry for consideration. The proposed modernization of the Company would make it competitive with National and Multi-National Companies."

7. The Committee, thereafter, desired to know the details regarding the current financial status of HEC Limited along with profit and loss of the Company during each of the last ten years. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"The Company's Net worth as on 31.3.2017 stands negative by Rs.336.38 crore with equity of Rs.606.08 crore and Accumulated loss of Rs.1043. 65 crore. Information for the period from 2006-07 to 2016-17 (till 31.3.2017) is detailed below :-

	Financial Status (Rs. in Cr.)			Financial Performance (Rs. in Cr.)		
	Equity	Accumulated Loss	Net Worth	Net Turnover	Production	Net Profit
2006-07	453.24	1089.99	-516.97	266.82	280.81	2.86
2007-08	453.24	1082.98	-515.69	368.84	382.86	4.17
2008-09	606.08	1064.61	-251.99	417.39	419.47	18.37
2009-10	606.08	941.34	-211.72	496.56	537.72	44.27
2010-11	606.08	903.2	-177.22	640.90	700.55	38.14
2011-12	606.08	894.61	-171.77	681.61	687.74	8.58
2012-13	606.08	874.23	-155.54	682.83	676.77	20.38
2013-14	606.08	574.92	140.12	384.02	447.71	299.31
2014-15	606.08	816.61	-105.90	361.58	319.58	-241.69
2015-16	606.08	961.38	-255.26	374.48	340.68	-144.77
2016-17	606.08	1043.65	-336.68	390.11	364.84	-82.27

** It includes extraordinary income of Rs. 550 crore from transfer of land. There was an operating loss of Rs. 151.74 crore in 2013-14.*

Government of India on 31.3.2017 approved generation of Rs.742.98 crore through land monetization for liquidation of old liabilities of employees, Vendors, Bank and Gol."

8. On being enquired by the Committee about the Rules, Regulations, Policies, Orders etc., on the basis of which the 1997 Wage Revision of all categories of employees of HEC Limited took place in the year 2008, i.e., after a lapse of around 11 years, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Pay revision in the Central Public Sector Enterprises (CPSE) is governed by the Guidelines issued by the Department of Public Enterprises (DPE) from time to time.

It lay down the terms and conditions for implementation of revised pay scales. DPE guidelines on Wage Revision issued vide O.M. No. 2(49)/98-(WC) dated 25.06.99 provides as under:-

- (i) *In respect of sick enterprises referred to the BIFR, revision of pay scales would be strictly in accordance with rehabilitation packages approved or to be approved by the BIFR and after providing for the additional expenditure on account of pay revision in these packages.*
- (ii) *Presidential directives would be issued by all the administrative Ministries/ Department indicating these scales as a ceiling, as the actual payments would depend on the capacity to pay of the enterprises. The resources for meeting the increased obligation for salaries and wages must be internally generated and must come from improved performance in terms of productivity and profitability and not from Government subvention. The Presidential directives would also cover guidelines relating to dearness allowance and ceilings on perquisites.*

HEC Limited being a CPSE is governed by the DPE guidelines. The employees of HEC Limited were not eligible for pay revision of 1997 from 01.01.1997 as per the DPE guidelines. However, with a view to boost the morale of employees and revive the Company's performance the Government approved pay revision as recommended by the Board for Reconstruction of Public Sector Enterprises (BRPSE). The wage/pay revision of 1997 was implemented with prospective effect from 18.09.2008 as per the approval of Cabinet, with one time relaxation of DPE guidelines, as per the recommendation of BRPSE.

Consequent upon winding order issued by Board for Industrial and Financial Reconstruction (BIFR) on 06.07.2004 and forwarding it to Jharkhand High Court for needful action, HECL and Department of Heavy Industry (DHI) appealed to Appellate Authority for Industrial and Financial Reconstruction (AAIFR). There was no bench in AAIFR and therefore HECL also filed Writ Petition in Hon'ble Jharkhand High Court. As per the directives of Hon'ble Court, revival of HECL was considered by DHI and proposal was sent to BRPSE.

BRPSE in its meeting held on 07.10.2005 recommended revival of HEC. It recommended financial as well as organizational restructuring. BRPSE also considered the Wage Revision to 1997 scales with the following observations:-

"The Board noted that the employees of HEC are getting only 1992 pay scale. The Board observed that in order to increase the morale of the employees of HEC, it is essential to give them 1997 pay scale. The Board therefore recommended that the employees of HEC might be provided with 1997 pay with effect from 01.01.2007 provided HEC achieves the financial projections for the first year of revival as per the projections of revival plan of Company for the period 01.01.2006 to 31.03.2010. The employees may also be paid arrears of wages from generation of their internal resources subject to HEC achieving the projections envisaged in revival plan"

Accordingly, Cabinet approved the revival plan of HEC on 15.12.2005.

There had been marked improvement in performance of the Company after implementation of revival package 2005 and other effort like introduction of productivity linked reward. However, profitability was marginal and financial condition was not strong enough to bear any major burden. For further improvement in performance of Company. CCEA approved the revival package 2008 on 04.09.2008. In the said Cabinet meeting, decision for the implementation of 1997 pay scale was taken and it was decided that revised salary shall be payable with prospective effect and interim relief as well as productivity linked reward shall be merged with the new scale. Accordingly, 1997 Wage Revision for employees of Company with prospective effect (i.e. from 18.09.2008) was implemented."

9. On being specifically enquired by the Committee as to whether any suitable corrective action had been taken by the Government for revival of HEC Limited, after the issue of Orders dated 6 July, 2004 by the Board of Industrial and Financial Reconstruction (BIFR) for winding up of the Company, especially, keeping in view the 'Make in India' initiative by the Government, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Revival package was approved by the Cabinet Committee on Economic Affairs (CCEA) in its meetings dated 15.12.2005, providing relief mainly in the form of adjustment/waiver of loan, transfer of land to Government of Jharkhand (GoJ)/Central Industrial Security Force (CISF) to settle liabilities.

Subsequently, for further improvement in performance of the Company, another relief package was approved by CCEA on 04.09.2008, inter alia, including permission for alienation of 2342 acres of land to GoJ in lieu of consideration in cash.

The above package included an amount of Rs. 82.48 crore out of total fund mobilization of Rs. 403.41 crore as expenditure of capital nature.

HEC was also provided a one-time grant of Rs. 182.43 crore to meet Capital Gains Tax liability against transfer of land to Government of Jharkhand as per CCEA decision dated 20.09.2013.

Further, due to financial crisis faced by the Company, as it was unable to pay statutory retirement benefits/gratuity to its employees from 31.03.2011 onwards, HEC was sanctioned a loan of Rs. 47.89 crore for payment of the employee related statutory dues from 01.04.2011 to 31.03.2014 with the approval of CCEA on 15.09.2014.

In view of the liquidity crunch, a Government guarantee for Rs. 253.00 crore was also granted in favour of HEC for their working capital requirements, which was extended from time to time with the approval of CCEA. This was last extended up to 31.03.2017 as per CCEA decision dated 30.07.2014.

HEC had prepared a Modernization cum revival plan with the help of MECON. Accordingly, a multi member Committee of Experts headed by Dr. V.K. Saraswat, Member, NITI Aayog was set up on 26.7.2016 for appraisal of the Modernization Plan of HEC and viability of its business plan. Dr. Saraswat Committee has submitted its Report and has strongly recommended for the revival of the Company.

As a part of the first phase of the implementation of recommendations of Dr. Saraswat Committee, Cabinet in its meeting dated 31.03.2017, permitted HEC for return of 675.43 acres of land to the State Government of Jharkhand (GoJ) for raising Rs.742.98 crore to liquidate the employees related statutory dues and other liabilities on the Company to help the Company in its efforts of revival. The Company has so far received more than Rs. 400 crore from Government of Jharkhand and the money is being used for the above purposes.

Based on the recommendations of the Dr. Saraswat Committee, the Company has submitted its Revival-cum-Modernization Plan which is under active consideration of the Government. A draft proposal has been prepared and circulated for inter-ministerial consultation."

10. In this regard, the Committee further desired to know about the yardsticks considered by the BIFR for recommending winding up of the HEC Limited in 2004. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted :-

"The net worth of HEC was eroded completely in the year 1992. Consequently, it was referred to the BIFR. The BIFR declared the Company sick in October, 1992 and IDBI was appointed as Operating Agency (OA). BIFR sanctioned the revival package of the Company in 1995 which was approved by the Cabinet in 1996.

Subsequently, efforts were made for the revival of Company but nothing cogent came out.

Consequently BIFR finally ordered on 06.07.2004 that "after due consideration of the facts and circumstances of the case, the Bench confirms its prima-facie opinion formed on 17.7.2002 that the sick industrial Company, M/s. Heavy Engineering Corporation (HEC) was not likely to make its net worth, exceed its accumulated losses within a reasonable time while meeting all its due financial obligations and that the Company as a result thereof, was not likely to become viable in future and hence it would be just, equitable and in public interest that it be wound up u/s 20(1) of the Act. This opinion may be forwarded to the concerned High Court along with the copies of all earlier order of proceedings, for necessary action according to law".

11. The Committee, thereafter, desired to know about the current status of the Public Sector Undertakings (PSUs) for which orders for winding up of the Company were issued by the BIFR during each of the last ten years. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Most of the chronically sick CPSEs in Department of Heavy Industry were referred to BIFR and these CPSEs were recommended by BIFR either for winding up or revival. Efforts were made to revive the companies which had some potential left. However, the companies which were entirely dependent on budgetary support even for payment of salary and other statutory dues to their employees have since been approved for closure with attractive VRS/VSS to their employees and the same are under process of implementation. The CPSEs under closure are as under:-

- i. Hindustan Cables Limited;
- ii. Tungbhadra Steel Products Limited;
- iii. HMT Watches Limited;

- iv. *HMT Chinar Watches Limited;*
- v. *HMT Bearings Limited;*
- vi. *Triveni Structural Limited; and*
- vii. *Hindustan Photo Films Limited.*

In addition, Instrumentation Limited (Kota Unit) and HMT Limited (Tractor Division), Pinjore, have also been approved for closure."

12. Since 'Financial Reconstruction' is also one of the mandates of the BIFR, the Committee specifically desired to know about the reasons for not adopting this mode and rather opting for winding up of the PSUs, including the HEC Limited. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Board of Reconstruction of Public Sector Enterprises (BRPSE) was established in December, 2004 as an advisory body to advise the Government on the strategies, measures and schemes related to strengthening, modernizing, reviving and restructuring of Public Sector Enterprises.

The functions of BRPSE were as under:-

- (i) *To advise the Government on ways and means for strengthening public sector enterprises in general and making them more autonomous and professional;*
- (ii) *To consider restructuring– financial, organizational and business (including diversification, joint ventures, seeking strategic partners, merger and acquisition)– of CPSEs and suggest ways and means for funding such schemes;*
- (iii) *To examine the proposals of the administrative Ministries for revival/restructuring of sick/loss making CPSEs for their turn around;*
- (iv) *To advise the Government on disinvestments/closure/sale in full or part, in respect of chronically sick/loss making companies which cannot be revived. In respect of such unviable companies the Board would also advise the Government about sources of fund including sale of surplus assets of the enterprise for the payment of all legitimate dues and compensation to workers and other costs of closure;*
- (v) *To monitor incipient sickness in CPSEs; and*

(vi) *To advise the Government on such other matters as may be assigned to it by the Government from time to time.*

Accordingly, BRPSE reviewed the performance of most of the CPSEs under DHI and recommended their revival which included financial restructuring of the companies with cash and non-cash support including waiver etc. BRPSE considered the case of HEC Limited in 2005 and recommended financial restructuring for its revival which was accepted by the Government."

13. The Committee, thereafter, enquired about the details of the Rules, Regulations, Policies, Orders, etc., of the Government on the basis of which it was decided *vide* letter no. 5-12/2008-PE-V dated 18.9.2008 to pay the revised salary to the employees of the HEC Limited with prospective effect in place of retrospective effect *i.e.*, with effect from 01.01.1997. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"As per the directions of Hon'ble High Court Jharkhand, BRPSC in its meeting dated 07.10.2005 recommended revival of HEC. Accordingly, Government provided revival packages in 2005 and 2008. In the revival package 2008, CCEA in its meeting dated 04.09.2008 inter alia had approved the implementation of 1997 Wage Revision to the employees of the Company in the background that due to continued losses in the past, the 1997 Wage Revision could not be implemented in HEC and employees were still getting 1992 wages. Accordingly, it was decided by the CCEA to implement 1997 pay revision to induct new talents and retaining inducted personnel, required for marked change in work culture which was essential to achieve targets in future.

*In view of the Department of Public Enterprises (DPE) O.M No. 2(49)/98-DPE (WC) dated 25 June, 1999, PSEs which did not make profit during the last 3 years can also be allowed to adopt the revision of scales with the approval of the Government *i.e.* administrative Ministry in consultation with DPE, provided they have resources to meet the additional expenditure.*

In view of the said guidelines of DPE, it was decided by the CCEA to have the 1997 Wage Revision with prospective effect because Company did not have sufficient internal resources to meet the additional expenditure to pay arrears in case of implementation of 1997 pay Wage Revision with retrospective effect."

14. The Committee, further desired to know about the category-wise details of tentative financial implications if the payment of revised salary to the employees of the HEC Limited is made with effect from 01.01.1997. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Category-wise arrears was calculated in June 2009. As such, Category-wise arrears are based on the Category in June 2009, which is as under:-

	Pay Arrears (Rs. in crore)	CPF Arrears (Rs. in crore)	Total Arrears (Rs. in crore)
Executive	115.41	11.43	126.85
Supervisor	16.78	1.67	18.45
Workmen	25.74	2.55	28.29
Total	157.94	15.65	173.59

15. The Committee, thereafter, categorically enquired about the category-wise number of employees of the HEC Limited who were retired on attaining the age of superannuation or otherwise separated from the Company during 1997-2008. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"During the period from January, 1997 to September, 2008, 4572 employees separated from HEC as detailed below:-

Category	No. of Employees
Executive	2267
Supervisor	551
Workmen	1754

16. When asked about the reasons for not approving the proposal of the HEC Limited for releasing a Special Grant of Rs. 160 crore for payment of arrears to their employees for the period 01.01.1997 till 17.09.2008, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Company vide its communication dated 31.03.2011 had approached this Department for considering sanction of the special grant amounting to Rs. 160 crore (excluding CPF) being the amount of arrears for payment to retired as well as

serving employees towards 1997 pay revision for the period 01.01.1997 to 17.09.2008. The said communication from the Company was duly considered by the Department in the background of CCEA decision dated 10.09.2008. In the said Cabinet decision, the approval was given for the revision of wages only with the prospective effect. In light of this, the request of the Company was not agreed to.

As already stated as per DPE O.M. dated 25 June, 1999, the benefit of pay revision was also allowed in respect of CPSEs which did not make profit during the last three years provided they have resources to meet additional expenditure. The Company although made moderate profit from the years 2006-07 to 2012-13 yet, it did not have sufficient resources to meet the financial burden for payment of arrears on account of 1997 Wage Revision.

The case of HEC should not be seen in isolation. There are a large number of sick/loss making CPSEs where pay revision have been granted by the Government in relaxation of DPE guidelines to mitigate their hardship and motivate their employees to perform better and revive the companies. However, the revisions have been granted with prospective effect only. There are a large number of court cases pending in various High Courts across the country demanding similar reliefs. Considering the case of HEC Limited in isolation for implementation will have wide ranging financial implications and wide ramifications across the country. It will go against the stand of the Government in all such court cases pending in various Courts."

17. In this regard, the Committee, enquired as to whether the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry) would appreciate that rejection of the proposal for placing the matter for release of Special Grant for payment of arrears to the employees of HEC Limited before the CCEA by the Board of Directors of the HEC had resulted in a 'spiral effect' on the employees/retired employees of the Company. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"A proposal was put up to the Board of Directors of HEC in its meeting dated 25.06.2013 to send a request to DHI for placing the matter before CCEA for consideration. However, the proposal was not approved by the Board since a demand like this, it agreed to, would have a spiral effect on a large number of PSUs.

Under the Company Act, 1956, HEC is a registered Company and has a separate and distinct legal identity. Company is also an independent financial entity as per the Company Act and it has to manage its own affairs including payment of arrears etc.

All the affairs of the Company are managed as per the decisions made by the Board of Directors (BoD) from time to time and BoD takes all the decisions inter alia involving financial implications keeping in mind the affordability and capacity of the CPSE to pay.

Government of India being major share holder of the Company functions only as a promoter and does not interfere in its day to day affairs of running or in the decisions of BoD of the Company.

As per the Government policy, the resources for meeting the increased obligations for salaries and wages must be internally generated and must come from improved performance in terms of productivity and profitability and not from Government subvention."

18. The Committee, thereafter, desired to know as to whether the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry) now intends to place the matter for release of Special Grant for payment of arrears to the employees of HEC Limited before the CCEA for its expeditious resolution. The Committee also desired to know as to whether the Ministry has contemplated any proposal for implementing the Wage Revision of all categories of employees of the HECL with effect from 01.01.1997 considering the fact that implementing the Wage Revision from prospective effect is *prima facie* against the 'Law of Natural Justice' as well as Guidelines issued by the Department of Personnel & Training in respect of employees of Ministries/Departments of Government of India. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"As already stated, as per Government policy, the Company has to manage its financial obligations, especially for salary/wages etc, from its own resources and should not be dependent on Government.

DPE issues general guidelines from time to time covering various aspects/affairs of CPSEs. DPE vide its O.M No. 2(74)/08-DPE(WC)GL-XI/2010 dated 16 June, 2016, while considering the recommendations of 2nd Pay Revision Committee (PRC) in respect to sick CPSEs has stated that the concerned administrative Ministry/Department may take suitable action on case by case basis based on BIFR/BRPSE recommendations and Government decision thereon as per existing guidelines.

Further, DPE vide its O.M. No. W-02/0058/2016-DPE (WC)-GL-XV/17 dated 17 August, 2017 has clearly issued guidelines for administrative Ministries/Department

and stated that the benefit of pay revision may be allowed only to employees of those CPSEs that are not loss making and are in a position to absorb the additional expenditure on account of pay revision from their own resources without any budgetary support from the Government. DPE has further stated that Board of Directors of Company would consider the proposal of pay revision of all employees in CPSEs, keeping in mind the affordability and capacity of the CPSE to pay.

In view of the above instructions of DPE, administrative Ministries/Department have to consider the proposal of CPSEs for pay revision/arrears etc., only in case, they are in a position to afford the financial obligations arising consequent on the pay revision.

As far as HEC is concerned, it is stated that it is a sick Company and has been incurring continuous losses since 2013-14. It is not in a financial position to absorb the financial burden of paying arrear arising out of the implementation of 1997 wages revision from retrospective date. The Company is facing difficulties in payment of regular salary and terminal benefits to its employees due to its precarious financial position.

The guidelines issued by the Department of Personnel and Training are applicable to the Central Government employees and the issues of CPSEs are dealt by the guidelines issued by DPE from time to time.

In view of above, at present no proposal is under consideration of the Department for implementation of 1997 wages revision from retrospective date in respect of ex-existing employees of HEC."

19. When asked about the details of other PSUs where the Wage Revision has been implemented by the Government from prospective effect during the last ten years, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Under Department of Heavy Industry, CPSEs have been paid wages revision from the retrospective date in the last ten years except REIL, BHEL."

20. In the matter, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, further submitted:-

"The demand raised in the Representation by the Petitioners for allowing 1997 pay revision from 01.01.1997 itself is not admissible. The Company was not eligible for

pay revision as per the DPE guidelines. They were chronically sick to the extent that BIFR recommended its winding up. They were financially not sound enough to bear the burden of enhanced pay to their employees. Any further financial burden might have done an irreparable loss to the health and even the existence of the Company. However, the Government decided to revive the Company and extended financial and other help to it to revive itself. It also approved Wage Revision of the employees with prospective effect from 18.09.2008 to boost the morale of the employees. The Company had shown some improvements initially but has since slipped into losses again. Another effort for revival is being made by the Company.

The demand of the petitioners for implementation of Wage Revision in HEC, with retrospective effect from 01.01.1997, if accepted, will have wide ranging ramifications all over the country, especially in loss making CPSEs. There are a large number of court cases/Writ Petitions filed in various Courts. It may affect the stand taken by the Department in such cases.

It would, therefore not be possible to accede to the demand of the petitioners for implementations of 1997 Wage Revision with retrospective effect from 01.01.1997 and payment of arrears, accordingly."

21. The Committee, thereafter, took oral evidence of representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on 16 April, 2018. During the evidence, the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) deposed before the Committee as under:-

- (i) *The revised pay as per the 1997 Wage Revision of the employees of HEC was paid to all categories of employees, w.e.f., 18.9.2008 in terms of the approval of the Government of India. The HEC is bound to follow the decision of the Government of India.*
- (ii) *The Government of India had released Revival Package to the HEC in the years 2005 and 2008. In the year 2013-14, the HEC had incurred losses but it was shown as 'Notional Profit' in the Books.*
- (iii) *The issue of payment of arrears to the employees of the HEC is not only related to the HEC only but it may also have implications in other Public Sector Undertakings. If the arrears will be paid to the employees of HEC, it is not only a matter of Rs. 160 crore, but the same would entail a larger financial impact on the exchequer and wide ramifications across the Country. It will go against the stand of the Government in all such Court cases pending in various Courts.*

(iv) As per the DPE Guidelines, it is clearly mentioned that the matter of payment of arrears to their employees can be done at the level of the Company when the said Company is capable to do so and also to generate its own resources.

22. On being asked by the Committee to furnish the reasons for pendency of arrears and statutory dues of the employees of HEC Limited who retired between January, 1997 to September, 2008, in spite of the receipt of funds to the tune of Rs. 400 crore from the Government of Jharkhand for the purpose, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"Cabinet in its meeting dated 31.03.2017, permitted HEC for return of 675.43 acres of land to the State Government of Jharkhand (GoJ) for raising Rs.742.98 crore to liquidate the employees related statutory dues and other liabilities on the Company to help the Company in its efforts of revival. The Company has so far received Rs. 400 crore (approx) from Government of Jharkhand.

The details of estimated liabilities as on 31.3.2017 and the use of Rs.400 crore received from GoJ is placed below

Liabilities	As on 31.03.2017 (Rs.in crore)	Discharged (Rs. in crore)
Sundry Creditors	134.89	114.58
Employee's Liability	121.71	120.37
Arrear 2007	24.70	0
Electricity Dues	25.18	24.95
CISF Dues	35.93	35.93
Water Dues	29.76	0
Security and other deposits	32.06	13.74
Miscellaneous	58.57	48.61
GoI Loan for payment of Retiral Dues	66.51	0
Bank Loan	231.57	42.22
Total	760.88	400.4

As may be seen from above, Rs. 400 crore received out of Rs. 743 crore has been utilized for the specific purpose in consonance with the said Cabinet decision. Committee would note that employees admitted liabilities have been given due importance in the scheme of disbursements. The funds cannot be disbursed for the purpose other than specified in the Cabinet decision dated 31.03.2017."

23. The Committee, thereafter, specifically enquired as to why the profit of HEC Limited for the year 2013-14 as shown in the books was only a 'Notional Profit' despite the fact that the Company suffered losses during the said period. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"The net worth of HEC was eroded completely in the year 1992. Consequently, it was referred to the BIFR and the Company was declared sick in October, 1992. Subsequently efforts were made for the revival of Company but nothing cogent came out. Consequently BIFR finally ordered on 6.7.2004 for the winding up of HEC. The said BIFR order was quashed by the High Court of Jharkhand at Ranchi and as per its directives, Government of India considered the revival of Company.

Subsequently, CCEA in its decisions dated 15.12.2005 and 04.09.2008 approved the revival packages, mainly having non-cash assistance in forms of waiver of loan & interest, conversion of loan into equity, mitigation of liabilities against land transfer to Government of Jharkhand (GoJ) and non-plan bridge loan of Rs.102 Cr. HEC was also provided a onetime grant of Rs 182.43 crore (CCEA approval dated on 20.9.2013) to meet the Capital Gains Tax liability, arisen on account of transfer of land to GoJ.

Company made moderate operating profits during the period 2006-07 to 2012-13, subsequent to implementation of the revival packages of 2005 and 2008. However, it started incurring losses again from 2013-14.

The Company's Net worth as on 31.3.2017 stands negative by Rs.336.38 crore with equity of Rs.606.08 crore and Accumulated loss of Rs.1043. 65 crore.

The operating losses incurred by the Company form the year 2013-14 to 2017-18 are as follows: -

	(Rs. in crore)				
	2013-14	2014-15	2015-16	2016-17	2017-18
<i>Operating Loss</i>	<i>-151.74</i>	<i>-241.69</i>	<i>-180.77</i>	<i>-82.27</i>	<i>-111.94</i>

As indicated above, the Company had incurred an operating loss of Rs (-) 151.74 crore. However, in the audited account of 2013-14, a Profit After Tax (PAT) of Rs. 299.31 crore has been reflected after taking into account (i) the relief in the form of waiver of liabilities and financial assistance received from Government of Jharkhand (GoJ) in view of transfer of land to GoJ as a part of revival package of 2005/ 2008 and (ii) grant of Rs. 182.43 crore received from Government of India (GoI) for payment of Capital Gains Tax.

As indicted above, the PAT of Rs. 299.31 crore, as reflected in the annual account of 2013-14 is a notional profit, appearing on account of financial assistance and relief received from GoJ and GoI i.e. this is not the operational profit of the Company. The brief of PAT reflected in the annual account of 2013-14 is as follows:-

(Rs. in crore)	
Profit/Loss before extraordinary & Exceptional Items	(-)151.74
Extraordinary Items (Grant from GOI/GoJ and other relief in view of transfer of land to GoJ)	550.07
Profit after extra-ordinary items	398.33 (B-A)
Capital Gains Tax Paid	99.02
PAT	299.31 (C-D)

In view of above, it may seen that no incorrect or contradictory information has been placed before the Committee."

The decision arrived at by the Authorities concerned to pay the employees of the HEC, prospectively, i.e. from 18.9.2008 as per the 1997 Wage Revision and the employees of the HEC who retired from the service between the years 1997 to 2008 will not be paid any arrears whatsoever appears to be lopsided in spite of the fact that it was earlier assured by the then Higher Authorities of the HEC that the Wage Revision will be implemented from the year 1997 and accordingly paid."

24. On being categorically asked about the reasons for not paying any arrears to the employees of the HEC Limited who retired from the service between the years 1997 to 2008, despite the assurance given by the then Higher Authorities in this regard, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"As regards the issue of assurance of higher authorities of HEC for providing 1997 Wage Revision arrear, it is intimated that a Tripartite Memorandum of settlement was signed by HEC on 27 November, 2006 with Hatia Project Worker's Union (R) in the presence of the Labour Commissioner-cum-Conciliation Officer, Government of Jharkhand and the bipartite Memorandum of Agreement was also signed on 27 November, 2006 between HEC and five registered Trade Unions. The agreement on the issue states as follows:-

'The issue of payment of arrear from 01.01.1997....will be discussed separately depending upon the future performance of the Company....this Memorandum of Settlement is subject to approval of competent authority (GoI)'

As per DPE guidelines 25.06.1999, resources for meeting the increased obligation for salaries and wages must be internally generated and must come from improved performance of CPSEs in terms of productivity and profitability and not from Government subvention. Being governed by DPE guidelines, HEC was not in a position to implement the 1997 pay revision w.e.f. 01.01.1997. However, with a view to boost the morale of employees and revive the Company's performance, Government/CCEA vide its decision dated 04.09.2008 approved 1997 pay revision with prospective effect i.e. from 18.09.2008, as one time relaxation of DPE guidelines. HEC implemented 2007 wages revision in July, 2011.

As already indicated, the financial implication of wages revision was to be borne by the Company itself and not from Government subvention but the Company was not financially sound enough to pay the 1997 wages arrear.

From the above factual position it may be seen that in the Tripartite/Bipartite agreement the issue of payment of arrear was dependent on the future performance of the Company which was again subject to the approval of the Government of India."

25. The Committee, thereafter, desired to know about the steps taken to pay the Wage Revision Arrears to the employees of HEC Limited with effect from 01.01.1997. The Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

In March, 2011, Company had approached this Department for considering sanction of the special grant of Rs. 160 crore (excluding CPF) as arrears towards 1997 pay revision for the period 01.01.1997 to 17.09.2008. DHI considered the said request, but in the background of CCEA decision dated 10.9.2008, it was not considered possible to agree to the proposal.

A proposal was also put up to the Board of Directors of HEC in its meeting dated 25.06.2013 to send a request to DHI for placing the matter before CCEA for consideration. However, the proposal was not approved by the Board since a demand like this, if agreed to, would have a spiral effect on a large number of PSUs.

26. On being categorically asked about the reasons for incurring continuous losses by the HEC Limited, which was a profit making Company and also not determining the losses till date, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"The net worth of HEC was eroded completely in the year 1992. Consequently, it was referred to the BIFR and it declared the Company sick in October, 1992.

The Company became sick due to variety of reasons namely, old and out-dated plant and machinery, excess manpower, under utilization of capacity, working capital constraints etc.

Subsequently, considering the importance of HEC to the Capital Goods Sector, the Government has supported HEC to stand on its own as revived Company. The financial interventions of the Government of India inter-alia in the form of revival packages 2005 and 2008 may be seen in this context. Though the Company made moderate operating profits during the period 2006-07 to 2012-13, the cash flow could not keep pace with requirements of working capital. Due to lack of adequate financial resources, facility up-gradation could not be taken up to improve the deteriorating manufacturing facilities.

Again in order to revitalize the Company, HEC had prepared a Modernization cum revival plan with the help of MECON. Accordingly, a multi member Committee of Experts headed by Dr. V.K. Saraswat, Member, NITI Aayog was set up on 26.7.2016 for appraisal of the Modernization Plan of HEC and viability of its business plan. Dr. Saraswat Committee has submitted its report and has strongly recommended for the revival of the Company.

As a part of the first phase of the implementation of recommendations of Dr. Saraswat Committee, Cabinet in its meeting dated 31.03.2017, permitted HEC for return of 675.43 acres of land to the State Government of Jharkhand (GoJ) for raising Rs.742.98 crore to liquidate the employees related statutory dues and other liabilities on the Company to help the Company in its efforts of revival.

Further, recommendations of Dr. Saraswat Committee are still under consideration of the Government and no finality has been achieved as yet.

27. On the issue of pay revision in the Central Public Sector Enterprises vis-a-vis HEC Limited, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, submitted:-

"DPE guidelines dated 25.06.1999 (relevant for implementation of 1997 wages revision) inter-alia states that the resources for meeting the increased obligation for salaries and wages must be internally generated and must come from improved performance of CPSEs in terms of productivity and profitability and not from Government subvention. Pay revision for sick CPSEs, referred to BIFR would be according to the rehabilitation package approved by BIFR.

In respect to sick CPSEs, DPE guidelines dated 16 June, 2016 state that the concerned administrative Ministry/Department may take suitable action on case by case basis based on BIFR/BRPSE recommendations and Government decision thereon as per existing guidelines.

Further, DPE guidelines dated 17.08.2017, clearly states that the benefit of pay revision may be allowed only to employees of those CPSEs that are not loss making and are in a position to absorb the additional expenditure on account of pay revision from their own resources without any budgetary support from the Government. BoD of Company would consider the proposal of pay revision of all employees in CPSEs, keeping in mind the affordability and capacity of the CPSE to pay.

Pay revision in the Central Public Sector Enterprises (CPSEs) is governed by the Guidelines issued by the Department of Public Enterprises (DPE) from time to time. HEC is also bound to follow the said guidelines of DPE on the issue of pay revision / arrear.

The case of HEC should not be seen in isolation. Government has not granted pay revision with retrospective effect in case of sick/ loss making CPSEs in DHI. There are a large number of court cases pending in various High courts across the country demanding similar reliefs. Considering the case of HEC Ltd. in isolation for implementation of pay revision with retrospective effect will have wide ranging financial implications and wide ramifications across the country. It will go against the stand of the Government in all such court cases pending in various courts."

28. On this issue, the Ministry of Heavy Industry & Public Enterprises (Department of Heavy Industry), in a written reply, further submitted:-

"CCEA vide its decision dated 04.09.2008 has approved the 1997 Wage Revision with prospective effect i.e. 18.09.2008 because Company did not have sufficient internal resources to meet the additional expenditure to pay arrears in case of implementation of 1997 Wage Revision with retrospective effect.

Company in March, 2011 had approached the Department for considering sanction of the special grant amounting to Rs. 160 crore as arrears for 1997 pay revision, but Department did not agree the same as CCEA in its decision 04.09.2008 has given approval for revision of wages only with prospective effect.

HEC is currently on 2007 scale. The circular pertaining to revision of scales of pay for Workmen/Employees pertaining to 2007 Wage Revision was issued by Company on 09 July, 2011 and for Executives & Non-unionized Supervisors, the same was issued on 5 December, 2011. The Company made moderate/nominal operating

profit for the years 2006-07 to 2010-11. Therefore, Board of Directors (BoD) HEC in its meeting dated 24.11.2011 had approved the implementation of 2007 pay scales and arrears with effect from 01.01.2009 depending upon the financial position of the Company. Accordingly, Department of Heavy Industry vide its letter dated 01.12.2011 had communicated to the Company to implement the decision dated 24.11.2011 of the BoD for the implementation of pay scale 2007, with arrears w.e.f 01.01.2009. It was made clear to the Company by the Department that Company had to bear the additional financial implications on account of pay revision from their own resources and no budgetary support would be provided. Company has made part payment of the arrears of 2007 pay revision and the remaining shall be paid from the proceeds to be received Government of Jharkhand on account of monetization of land, as per Cabinet decision 31.03.2017."

29. In the matter, the Committee again took oral evidence of representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on 20 August, 2018. During the evidence, the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) deposed before the Committee as under:-

- (i) *In the Audited Account for the year 2013-14, a Profit after Tax, Rs.299.31 crore was reflected as a Notional Profit which was not an Operational Profit of the HECL. Actually, it was appearing on account of financial assistance and relief received from the Government of Jharkhand and the Government of India and other relief in view of transfer of land to the Government of Jharkhand.*
- (ii) *The Government of India/Cabinet Committee on Economic Affairs vide its decision dated 4.9.2008 approved 1997 pay revision with prospective effect, i.e., from 18.9.2008, as one time relaxation of DPE Guidelines dated 25.6.1999.*
- (iii) *No senior officers of HECL was paid arrears in respect of 1997 Wage Revision before 18.9.2008, i.e., the date of its implementation.*
- (iv) *The Cabinet approval was to clear the liability of Rs.760 crore in respect of sundry debts, employee liabilities, arrears for 2007 Pay Revision, CISF dues, Water and Security dues, etc.*
- (v) *The payment of dues was in accordance with the Cabinet approval.*

OBSERVATIONS/RECOMMENDATIONS

Prospective implementation of 1997 Wage Revision in the HEC Limited

30. The Committee note from the submissions made by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that the 1997 Wage Revision for the employees of the HEC Limited was approved by the Government of India in the year 2008; which was communicated to the Company *vide* letter dated 18 September, 2008. Consequently, the same was implemented *vide* Company's Circular No. 01 & 02 dated 14 October, 2008 and the revised pay was paid to all categories of employees of HEC Limited, viz., Workers, Non-Unionised Supervisors and Executives w.e.f., 18 September, 2008. But, as per the submissions made by the Ministry, the implementation of 1997 Wage Revision could not be effected from 1 January, 1997 owing to financial difficulties being faced by the Company and the Order dated 6 July, 2004 of the Board for Industrial and Financial Reconstruction (BIFR) for winding up of the Company.

31. The Committee further note that the discussion on the aspect of Wage Revision with the Trade Unions could be started only after improvement in performance of HEC Limited. In this regard, a Tripartite Memorandum of Settlement was signed on 27 November, 2006 with Hatia Project Workers' Union in the presence of the Labour Commissioner-cum-Conciliation Officer, Government of Jharkhand and simultaneously, a Bipartite Memorandum of Agreement was also signed on 27 November, 2006 between the Management of HEC Limited and five registered Trade Unions.

32. The Committee also take note of the fact that a Writ Petition No.710 of 2012 was filed by Shri Lalji Prasad Sinha & Others in the High Court of Jharkhand at Ranchi praying for the payment of arrears for the Wage Revision of 1997. The Writ Petition was, however, disposed off by the Hon'ble High Court of Jharkhand on 21

February, 2012 treating the same as a Representation and also directing the Management of HEC Limited to decide the claims made by the Petitioners in accordance with the Law, Rules, Regulations, Policies and Government enforceable Orders within a period of six weeks from the date of the receipt of the copy of the said Order of the Hon'ble High Court. Accordingly, the Petitioners were heard by the then Director (Personnel), in person, on 3 April, 2012 and the order disposing of the case was issued on 6 April, 2012, wherein, it was mentioned that since 1997 Wage Revision was approved prospectively by the Government w.e.f., 18 September, 2008, no arrears had accrued to any employee, whether those who had separated from the employment of the Company prior to 18 September, 2008 or to those who were in service of the Company on 18 September, 2008.

33. The Committee are not satisfied with the reasons given by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) for prospective implementation of 1997 Wage Revision which have been ascribed to financial difficulties being faced by the HEC Limited and the Order dated 6 July, 2004 of the Board for Industrial and Financial Reconstruction (BIFR) for winding up of the Company in view of the fact that the Company incessantly earned 'Net Profit' of Rs. 2.86 crore in the year 2006-07 which further rose to Rs. 299.31 crore in the year 2013-14. As regards BIFR's order of winding up of the Company which was issued on 6 July, 2004 and forwarding the same to the High Court of Jharkhand, HEC Limited and the Department of Heavy Industry (DHI) had appealed to the Appellate Authority for Industrial and Financial Reconstruction (AAIFR). However since there was no Bench in AAIFR, HEC Limited had also filed a Writ Petition in the High Court of Jharkhand. Subsequently, as per the directive of Hon'ble High Court, revival of HEC Limited was considered by the DHI and a proposal was sent to the Board for Reconstruction of Public Sector Enterprises (BRPSE); which also recommended revival of HEC Limited, in terms of financial as well as organizational restructuring, in its meeting held on 7

October, 2005, which was eventually assented to by the Cabinet Committee on Economic Affairs (CCEA) on 15 December, 2005. On subsequent occasions as well, CCEA had approved revival/relief packages for the Company on 4 September, 2008 and on 20 September, 2013, besides extending the Government's guarantee for Rs. 253 crore till 31 March, 2017 and also sanctioning of loan of Rs. 47.89 crore on 15 September 2014 for meeting the expenditure on account of payment of employee-related Statutory dues, etc.

34. The Committee could very well gauge that the morale of the employees of the HEC would have been at its lowest ebb not only due to prospective implementation of 1997 Wage Revision, i.e., with effect from 18 September, 2008, but also owing to uncertain future of the Company coupled with the perilous aspect of subsistence without regular monetary receivables. As per the submissions made by the the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry), as many as 4572 employees consisting of Executives, Supervisors and Workmen got separated from HEC Limited from the period between January, 1997 and September, 2008 on account of attaining the age of superannuation or otherwise. It is also an irrefutable fact that lower wages, primarily, due to inordinate delay in implementation of Wage Revision, at times, could vitiate the harmonious Industrial Relations and also affect the overall productivity of the Organisation. The Committee, therefore, strongly recommend to the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that an urgent, effective and time bound Action Plan be drawn up for implementation of 1997 Wage Revision with retrospective effect since 1 January, 1997 in respect of all categories of serving employees of HEC Limited and for payment of arrears accrued thereon, so that not only the morale of the employees of HEC is restored but also the functional and financial viability of Company is guaranteed. The Committee would like to be apprised of the action taken in this regard, within three months of presentation of this Report to the House.

35. The Committee are also of the considered opinion that the harmonious and congenial relationship between the Management and Workers is the touchstone for purposeful working and peaceful existence of any Industrial Unit. Undoubtedly, a strained relationship between the Management and Workers is bound to impair the efficiency and smooth functioning of any Organization, especially, the one which is not financially viable and struggling for its survival. Obviously, the responsibility for creating a cordial atmosphere with a high 'Happiness Index' amongst employees in any Industrial Unit lies more on the Management than on the Workers. In spite of demarcated and distinct responsibilities assigned to Management and Workers, it is incumbent upon both the sides, with a far greater responsibility on the Management, to preserve and promote harmonious Industrial Relations in the larger interest of the Workers, Management, Company and the country as a whole. In this sequel, the Committee, further recommend the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) to ensure that the Tripartite Memorandum of Settlement and the Bipartite Memorandum of Agreement which were signed by the Management of HEC Limited and the Registered Workers'/Trade Union(s) on 27 November, 2006 be followed in letter and spirit so that the workers/employees of the HEC Limited remain faithful and loyal to the Company by putting in their all-out efforts in the direction of self-sustenance of the Company and ultimately channelising their efforts towards a successful turnaround in its fortunes.

Payment of 1997 Wage Revision arrears to the retired employees of HEC Limited

36. The Committee note from the submissions made by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that the 2007 Wage Revision to the employees of the HEC Limited had been implemented w.e.f., 9 July, 2011 and that of Arrears w.e.f., 1 January, 2009. However, the Committee are constrained to note that due to implementation of 1997 Wage Revision with effect from 18 September, 2008, the worst sufferers happened to be the employees who

retired on attaining the age of superannuation between the period from 1 January, 1997 and 17 September, 2008 and thereafter as they have been devoid of their arrears accrued in respect of their pension which is their legitimate right. The Committee, therefore, strongly recommend the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) to take necessary steps in respect of making payment of arrears following the 1997 Wage Revision to all categories of retired employees of HEC Limited, as they have no other source of income. The Committee would like to be apprised of the action taken in this regard within three months of presentation of this Report to the House.

Special grant for payment of the 1997 Wage Revision arrears to the retired employees of HEC Limited

37. The Committee note from the submissions made by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that on the persistent requests of the representatives of the retired employees and the Trade Union(s) of the Company for payment of the 1997 Wage Revision arrears from the period 1 January, 1997 till 17 September, 2008, thereby, involving Rs. 160 crore and around 7356 persons, the case was taken up with the Department of Heavy Industry by the management of HEC Limited. However, the proposal was not approved by the Department.

38. Subsequently, a proposal was put up to the Board of Directors of HEC Limited in its meeting held on 25 June, 2013 for sending a request to Department of Heavy Industry for placing the matter before Cabinet Committee on Economic Affairs (CCEA) for consideration. However, the proposal was not approved by the Board seemingly on the grounds that a demand like this, if agreed to, would have a spiral effect on a large number of Public Sector Undertakings.

39. The Committee do not agree with the averments made by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) that the proposal for Special Grant of Rs. 160 crore for payment of arrears for the period from 1 January, 1997 to 17 September, 2008 was not placed before the CCEA by the Board of Directors of HEC Limited, despite the fact that earlier on three occasions, i.e., 24 November, 2011, 31 March, 2011 and 30 July, 2012, the then Chairman-cum-Managing Director (CMD) of the HEC Limited had requested to the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) for Special Grant of Rs. 160 crore. The Committee are astonished to observe that the decision for not placing the matter before the CCEA on the grounds that it would have a spiral effect on large number of PSUs, is taken at the Board level meeting of a lone Company and, therefore, could not be regarded as a policy decision. The Committee, therefore, strongly urge upon the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) to consider the earlier requests made by the former CMDs and take immediate steps to get the same approved by the Board of Directors, HEC Limited and, thereafter, be placed before the CCEA for release of special grant of Rs. 160 crore to the HEC Limited so that Stautory Dues/Arrears for the period 1 January, 1997 till 17 September, 2008 may be paid to the retired employees of the Company. The Committee would like to be apprised of the action taken in this regard, within three months of presentation of this Report to the House.

Modernization-cum-Revival Plan for HEC Limited

40. From the submissions made by the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry), the Committee note that, over the years, the performance of the HEC Limited has declined and ultimately the Company was declared as a 'Sick Unit' due to various reasons, viz., old and out-dated Plant and Machinery, excess Manpower, under-utilization of Capacity, Working Capital constraints, etc. Consequently, in order to revitalize the Company, HEC Limited had

prepared a Modernization-cum-Revival plan with the help of MECON Limited [*formerly known as Metallurgical & Engineering Consultants (India) Limited*] and accordingly, a multi Member 'Committee of Experts' headed by Dr. V.K. Saraswat, Member, NITI Aayog was set up on 26 July, 2016 for appraisal of the Modernization Plan of HEC and viability of its Business Plan. Dr. Saraswat Committee has submitted its Report and has strongly recommended for the revival of the Company. In this regard, the Committee further note that based on the recommendations of the Dr. Saraswat Committee, the Company has submitted its Modernization-cum-Revival Plan which is under active consideration of the Government. A draft Proposal has been prepared and circulated for Inter-Ministerial Consultation.

41. In this regard, the Committee are of the considered opinion that merely formulating Modernization-cum-Revival Plan and a piecemeal approach by the Government in regard to the findings and implementation of recommendations of Dr. Saraswat Committee would not serve the intended purpose. The Committee are pained to note that after obtaining Technical Appraisal from Dr. Saraswat Committee in respect of the Revival Plan, which had also strongly recommended for the revival of the Company, no concrete action has, so far, been taken by the Government, except for preparation and circulation of the draft Proposal in this regard for Inter-Ministerial Consultation. As the Revival Plan is not time bound in nature and its implementation without a time-bound programme would make the entire exercise redundant, the Committee recommend the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) to take this Modernization-cum-Revival Plan in right perspective and to make all necessary efforts to co-ordinate with all the concerned Ministries/Departments/Agencies so that it could be approved by the Government and implemented in right earnest and result-oriented manner. The Committee would like to be apprised of the concrete action taken in this regard, within three months of presentation of this Report to the House.

Raising money from State Government through land monetisation

42. The Committee take note of the fact that as a part of the First Phase of the implementation of recommendations of Dr. Saraswat Committee, Cabinet in its meeting dated 31 March, 2017, permitted HEC Limited for return of 675.43 acres of land to the State Government of Jharkhand for raising Rs. 742.98 crore to liquidate the employees-related Statutory Dues and other liabilities on the Company to help the Company in its efforts of revival. In this regard, the Committee further note that the Company has, so far, received more than Rs. 400 crore from the State Government of Jharkhand. On this count, the Committee are of the considered view that the process of monetization of land not currently in use by the HEC Limited through transfer of land to the State Government of Jharkhand, which would have raised Rs. 742.98 crore, should have been taken up expeditiously and the money could have been utilised for liquidation of employee related Statutory Dues, viz., Gratuity, PF, Leave encashment and other retirement benefits to the superannuated employees. Though, Rs. 400 crore received by the Government of Jharkhand, so far, has been utilised by the HEC Limited to liquidate other liabilities, the Committee strongly recommend the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) to take immediate necessary measures to impress upon the State Government of Jharkhand for payment of remaining amount and also to ensure that it must be utilised for payment of arrears on account of 1997 Wage Revision, w.e.f., 1 January, 1997 for the superannuated employees of Company. The Committee would like to be apprised of the action taken in this regard, within three months of presentation of this Report to the House.

New Delhi ;
12 December, 2018
21 Agrahayana, 1940 (Saka)

Bhagat Singh Koshyari,
Chairperson,
Committee on Petitions.

CONFIDENTIAL

**MINUTES OF THE FORTY-SEVENTH SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Monday, 16 April, 2018 from 1130 hrs. to 1230 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Dr. K. Gopal
7. Shri Chhedi Paswan
8. Shri Kodikunnil Suresh
9. Shri Dinesh Trivedi

WITNESSES

**MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES
(DEPARTMENT OF HEAVY INDUSTRY)**

1. Dr. A. R. Sihag - Secretary
2. Shri Vishvajit Sahay - Joint Secretary
3. Shri Abijit Ghosh - CMD (HEC)
4. Mohd. Zakir Hussain - Director (HI)
5. Shri Mradul Kumar Saxena - Director, Personnel (HEC)

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Additional Director
3. Shri G. C. Dobhal - Deputy Secretary

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.

[The representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) were ushered in]

3. After welcoming the witnesses, the Chairperson drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha regarding the confidentiality of the proceedings of the Committee. Thereafter, the Committee heard the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on the Representation of Shri Madhuban Yadav and others, forwarded by Shri Ram Tahal Choudhary, M.P., Lok Sabha regarding non-payment of Wage Revision Arrears to the Retired Employees of Heavy Engineering Corporation Limited (HECL), Ranchi and other related issues. The main points that were put forth by the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) in relation to the matter under examination before the Committee, in detail, were as follows:-

- (i) *The revised pay as per the 1997 Wage Revision of the employees of HEC was paid to all categories of employees, w.e.f., 18.9.2008 in terms of the approval of the Government of India. The HEC is bound to follow the decision of the Government of India.*
- (ii) *The Government of India had released Revival Package to the HEC in the years 2005 and 2008. In the year 2013-14, the HEC had incurred losses but it was shown as 'Notional Profit' in the Books.*
- (iii) *The issue of payment of arrears to the employees of the HEC is not only related to the HEC only but it may also have implications in other Public Sector Undertakings. If the arrears will be paid to the employees of HEC, it is not only a matter of Rs.160 crore, but the same would entail a larger financial impact on the exchequer.*
- (iv) *As per the DPE Guidelines, it is clearly mentioned that the matter of payment of arrears to their employees can be done at the level of the Company when the said company is capable to do so and also to generate its own resources.*

4. The Committee, thereon, opined on the following points:-

(i) In response to the List of Points, the Ministry vide their communication dated 22.11.2017 had inter alia submitted that as a part of the first phase of the implementation of recommendations of Dr. Saraswat Committee, Cabinet in its meeting dated 31.3.2017, permitted HEC for return of 675.43 acres of land to the State Government of Jharkhand for raising Rs.742.98 crore to liquidate the employees related statutory dues and other liabilities on the Company to help the company in its efforts of revival. The Company has, so far, received more than Rs.400 crore from the Government of Jharkhand and the money is being used for the above purposes. However, the payment of arrears and statutory liabilities of the employees of HEC who retired between January, 1997 to September, 2008 are still pending which is a grave injustice to the retired employees of the HEC.

(ii) The Ministry, in their written reply, submitted that during the year 2013-14, the HEC had earned profit. However, during the oral evidence, the CMD, HEC informed that the profit for the year 2013-14 as shown in the Books was only a 'Notional Profit' and in fact, the Company suffered losses. The Committee showed their displeasure on this contradiction.

(iii) The decision arrived at by the Authorities concerned to pay to the employees, prospectively, i.e., from 18.9.2008 as per the 1997 Wage Revision and the employees of the HEC who retired from the service between the years 1997 to 2008 will not be paid any arrears whatsoever appears to be lopsided inspite of the fact that it was earlier assured by the then Higher Authorities of the HEC that the Wage Revision will be implemented from the year 1997 and accordingly paid.

(iv) The HEC which was a profit making Company has been incurring losses due to the wrong decision taken by its Higher Authorities. Also, the reasons for incurring continuous losses by the HEC have not been determined, till date.

(v) The deprivation of poor people of their legitimate rights/dues is not only against the principle of natural justice but also put their subsistence in peril. Therefore, modalities should be worked out to ensure that the affected employees of HEC be paid Wage Revision Arrears with effect from 1.1.1997.

5. The Committee, thereafter, urged the representatives of the Ministry to furnish written replies to the queries which could not be orally responded to during the evidence.

(The witnesses, then, withdrew)

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7.	XXX	XXX	XXX
8.	XXX	XXX	XXX

9. A copy of the verbatim proceedings of the sitting has been kept separately.

The Committee, then, adjourned.

CONFIDENTIAL

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

The Committee met on Monday, 20 August, 2018 from 1100 hrs. to 1230 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson

MEMBERS

2. Shri Om Birla
3. Shri Jitendra Chaudhury
4. Shri Ram Tahal Choudhary
5. Shri C. P. Joshi
6. Shri Chhedi Paswan
7. Shri Dinesh Trivedi
8. Shri Rajan Vichare

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Additional Director
3. Shri G. C. Dobhal - Deputy Secretary

WITNESSES

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MINISTRY OF HEAVY INDUSTRIES & PUBLIC ENTERPRISES
(DEPARTMENT OF HEAVY INDUSTRY)

1. Dr. A. R. Sihag - Secretary
2. Shri Vishwajeet Sahay - Joint Secretary
3. Shri Avijit Ghosh - CMD, HECL

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4.	XXX	XXX	XXX
5.	XXX	XXX	XXX
6.	XXX	XXX	XX X

[The representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) and Heavy Engineering Corporation Limited (HECL) were ushered in]

7. After welcoming the witnesses, the Chairperson drew their attention to Direction 55(1) of the Directions by Speaker, Lok Sabha regarding confidentiality of the proceedings of the Committee. Thereafter, the Committee heard the representatives of the Ministry of Heavy Industries & Public Enterprises (Department of Heavy Industry) on the Representation of Shri Madhuban Yadav and others forwarded by Shri Ram Tahal Choudhary, M.P., Lok Sabha regarding non-payment of Wage Revision Arrears to the retired employees of Heavy Engineering Corporation Limited (HECL), Ranchi and other related issues. The main points that were put forth by the representatives of the Ministry and HECL in relation to the matter under examination before the Committee, were as follows:-

- (i) In the Audited Account for the year 2013-14, a Profit after Tax, Rs.299.31 crore was reflected as a Notional Profit which was not an Operational Profit of the HECL. Actually, it was appearing on account of financial assistance and relief received from the Government of Jharkhand and the Government of India and other relief in view of transfer of land to the Government of Jharkhand.
- (ii) The Government of India/Cabinet Committee on Economic Affairs vide its decision dated 4.9.2008 approved 1997 pay revision with prospective effect, i.e., from 18.9.2008, as one time relaxation of DPE Guidelines dated 25.6.1999.

- (iii) No senior officers of HECL was paid arrears in respect of 1997 Wage Revision before 18.9.2008, i.e., the date of its implementation.
- (iv) The Cabinet approval was to clear the liability of Rs.760 crore in respect of sundry debts, employee liabilities, arrears for 2007 Pay Revision, CISF dues, Water and Security dues, etc. It was inclusive of 1997 Pay Revision Arrears.
- (v) The payment of dues was in accordance with the Cabinet approval.

8. The Committee, thereon, opined on the following points:-

- (i) Due to non-payment of arrears in respect of 1997 Wage Revision by HECL, a number of retired employees were deprived of getting medical treatment due to lack of money and some of them have even passed away.
- (ii) The demand of arrears by the retired employees of HECL is legitimate and further as they belong to the weaker sections of the society and some of them have also given their land for the establishment of HECL, their demand should be considered sympathetically and expeditiously.
- (iii) The Government of India have decided not to close down the HECL and subsequently as per the Dr. Saraswat Committee meeting held on 21.3.2017, it was decided that the HECL would return the land to the Government of Jharkhand which would fetch Rs.750 crore to clear the dues of arrears of officials, staff and workers of HECL.
- (iv) HECL had not obeyed the decision of the Cabinet, wherein, it was approved for monetization of unused land by the HECL, Ranchi, through transfer of 675.43 acres of land to the Jharkhand Government which would help in raising Rs.742.98 crore to HECL and the money would be utilised for liquidation of employees related statutory dues, viz., Gratuity, PF, Leave Encashment and other retirement benefits to the superannuated employees.
- (iv) HECL have not spent the money as per the priority mentioned in the Cabinet Note. The money should have been utilized for payment of statutory dues to the retired employees first and thereafter liquidating various other liabilities.

(The witnesses, then, withdrew)

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10. A copy of the verbatim proceedings of the sitting has been kept separately.

The Committee, then, adjourned.

**MINUTES OF THE FIFTY-THIRD SITTING OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

The Committee met on Wednesday, 12 December, 2018 from 1530 hrs. to 1630 hrs. in Committee Room No.139, First Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Bhagat Singh Koshyari - Chairperson
MEMBERS

2. Shri Suresh C. Angadi
3. Shri Jitendra Chaudhury
4. Shri Ram Tahal Choudhary
5. Shri C. P. Joshi
6. Shri Chhedi Paswan
7. Shri Rajan Vichare

SECRETARIAT

1. Shri Shiv Kumar - Joint Secretary
2. Shri Raju Srivastava - Director
3. Shri G. C. Dobhal - Deputy Secretary

2. At the outset, the Hon'ble Chairperson welcomed the Members to the sitting of the Committee.
3. The Committee, thereafter, took up for consideration the following Draft Reports :-
 - (i) Report on the Representation received from Shri Madhuban Yadav and others forwarded by Shri Ram Tahal Choudhary, M.P., Lok Sabha regarding non-payment of arrears to the retired employees of Heavy Engineering Corporation Limited (HECL), Ranchi;
 - (ii) XXX XXX XXX
 - (iii) XXX XXX XXX.
4. After discussing the above mentioned Draft Reports in detail, the Committee adopted all the three Reports without any modification(s). The Committee also authorised the Chairperson to finalize the Draft Reports and present the same to the House in the current Winter Session.
5. XXX XXX XXX;

The Committee, then, adjourned.
