

COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

TWENTY FIRST REPORT

**MINISTRY OF CHEMICAL & FERTILIZERS
(Presented to Lok Sabha on 28.08.2012)**

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CONTENTS

	Pages
Composition of the Committee on Petitions:	(iii)
1. INTRODUCTION.....	(v)
2. REPORT	

Action taken by the Government on the recommendations made by the Committee on Petitions in their Twelfth Report (15th lok sabha) on the representation from Shri T. Chakraborty, Ex SO (USSD) and others and forwarded by Shri Basudeb Acharia, MP, Lok Sabha, regarding non- payment of dues to the VSS employees of HFCL, Haldia.

ANNEXURE

Minutes of the Forty Seventh sitting of the Committee on Petitions held on 03 August, 2012.

COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Anant Gangaram Geete - Chairman

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1. **Shri Khiladi Lal Bairwa**
2. **Shri Mukeshkumar Bheravdanji Gadhvi**
3. **Shri Syed Shahnawaz Hussain**
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3. **Shri Md. Aftab Alam - Deputy Secretary**
4. **Smt. Jagriti Tewatia - Under Secretary**

**TWENTY FIRST 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 Twenty First Report of the Committee to the House on the Action taken by the Government on the recommendations made by the Committee on Petitions in their Twelfth Report (15th lok sabha) on the representation from Shri T. Chakraborty, Ex SO (USSD) and others and forwarded by Shri Basudeb Acharia, MP, Lok Sabha, regarding non- payment of dues to the VSS employees of HFCL, Haldia.

2. The Committee considered and adopted the draft Twenty First Report at their sittings held on 3 August, 2012.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

03 August, 2012
12 Shravana, 1934 (Saka)

Anant Gangaram Geete,

**Chairman,
Committee on Petitions.**

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS IN THEIR TWELFTH REPORT (15TH LOK SABHA) ON THE REPRESENTATION FROM SHRI T. CHAKRABORTY, EX SO (USSD) AND OTHERS AND FORWARDED BY SHRI BASUDEB ACHARIA, MP, LOK SABHA, REGARDING NON-PAYMENT OF DUES TO THE EMPLOYEES OF HFCL, HALDIA UNDER VSS.

The Committee on Petitions (15th Lok Sabha) in their Twelfth Report presented to Lok Sabha on 31.08.2010 had examined the representation from Shri T. Chakraborty, Ex SO (USSD) and others and forwarded by Shri Basudeb Acharia, MP, Lok Sabha regarding : Non-payment of dues to the VSS employees of HFCL, Haldia.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Chemicals & Fertilizers were requested to furnish their Action Taken Replies thereto for consideration of the Committee.

3. The Action Taken Replies have since been received from the Ministry of Chemicals & Fertilizers in respect of all the observations/ recommendations contained in the aforesaid Report, which have been detailed in the succeeding paragraphs.

4. In para 1.29 of the Report, the Committee had observed:-

"The Committee note from the submission of the petitioners that following the decision of the Union Government to close the Hindustan Fertilizer Corporation Ltd. (HFCL), a Public Sector Undertaking under the Ministry of Chemicals & Fertilizers, a circular dated 19.09.2012 was issued by HFCL offering the employees either to accept the benefit of Voluntary Separation Scheme (VSS) by 20 December 2002 or retrenchment compensation under the Industrial Disputes Act, 1947. The petitioners along with the other employees of M/s HFCL, Haldia Division, having no other alternative, had to exercise their option for VSS. According to the petitioners, though, most of the employees were released during January 2003 itself with payment of their dues, they were not released by the Company and instead they were intimated *vide* memo dated 07 May 2003 that their VSS application have been accepted but the date of their release from the Company would be intimated separately. In this context, the petitioners had submitted that Shri Joy Sengupta, Assistant Plant Manager

(APM) whose VSS application was also not accepted, subsequently tendered his resignation on 14 June 2003 and he was released by giving him all VSS benefits with effect from 28 July 2003. In an another identical case, Shri K.L. Pradhan, Assistant Engineer (AE) was also released on 22 December 2003 along with the benefits of VSS. Whereas, Shri A.K. Sahu, Assistant Plant Manager (APM) and one of the petitioners was deprived of VSS benefits and was released on 17 December 2003 after he tendered his resignation. The petitioners had alleged that it was a case of deprivation and discriminatory treatment which was meted out to them for no fault on their part, as a result of which they have to face innumerable and irreparable losses. They have, therefore, requested that due VSS compensations are paid to them by the HFCL authorities and Department of Fertilizers."

5. In reply to the aforesaid observation of the Committee, the Ministry of Chemicals & Fertilizers have stated:-

"The observation of the Hon'ble Committee are matters of record. Under the Voluntary Separation Scheme of the GOI all the employees (4881) of HFCL opted for VSS. Out of which most of them were released during January, 2003 and remaining were retained for subsequent release due to exigencies of work. The employees, who were not released, were to be released by HFCL as and when their services will be spared. However, in connection with release of Shri Joy Sengupta, Ex-Asst. Plant Manager under VSS, it is submitted that acceptance of his VSS was based on merit and not due to submission of resignation. It is a matter of coincidence that Shri Joy Sengupta has put in his resignation Shri L. Pradhan, Ex-Asst. Engineer. Therefore, the contention of the petitioners that they have been discriminated against Shri Joy Sengupta, is not correct."

6. In paras 1.30 to 1.32 of the Report, the Committee had noted:-

"The Ministry of Chemical & Fertilizers (Department of Fertilizers) informed the Committee that due to the terminal sickness, HFCL was referred to BIFR on 20 April 1992 and declared sick. Subsequently, as the units of the Corporation were found to be unviable, Government of India took a decision to close down the Corporation in the month of September 2002 by offering VSS to its workforce numbering 4,881. Accordingly, a VSS circular was issued on 19 September 2002 enabling the employees to avail the same. The petitioners had also opted for VSS which were accepted but they could not be released under the scheme in the interest of the Corporation as they were engaged in handling/loading and unloading of liquid Ammonia operation at Haldia Division and the Corporation was under obligation to handle Ammonia as per the contract with M/s Hindustan Lever & Chemicals Ltd. (HLCL) which was valid till 31 December 2003."

(Para 1.30)

"According to the Ministry/HFCL, Shri Joy Sengupta, APM who had earlier opted for VSS and accepted by the Management, could not be released under the scheme as he was engaged in handling/loading and unloading of liquid Ammonia. Subsequently, he tendered his resignation on 14 June 2003 with the request to release him with effect from 30 June 2003. He was to superannuate on 31 October 2003. His letter was placed before the Competent Authority i.e. the then Chairman & Managing Director, HFCL for acceptance on 08 July 2003 after following proper procedure. The Competent Authority approved his release under VSS on getting a substitute in his place and also on the ground that he was having only three months left over service at that time. Shri Joy Sengupta was released with effect from 31 July 2003 under VSS. Subsequently, the petitioners also submitted their resignations and even though no substitute was available in their cases, their resignations were accepted by the Management and they were released from the services of the Corporation as per the rules of the Corporation. Since they were released on acceptance of their resignation letters and not under VSS, no benefits under VSS were given to them at the time of their release as per rules of the Corporation as no substitute was available in their cases. With regard to Shri K.L. Pradhan, Assistant Engineer, it was informed that he did not submit any resignation letter, asking for immediate release. Since the Agreement with M/s HFCL for handling /unloading of Ammonia was expiring by 31 December 2003, it was decided by the Management to release 65 employees, out of 85 employees who were deployed for this operation, under VSS on or before 31 December 2003. Further, out of 65 employees, Haldia Division were also directed to release 25 employees by 22 December 2003 and the rest 40 by 30 December 2003. In the list of 25 employees sent by Haldia Division, the name of Shri K.L. Pradhan also figured and these employees were released on 22 December 2003."

(Para 1.31)

"The Committee are surprised to note that while one of the employees of the Corporation, namely Shri Joy Sengupta was released under VSS on 31 July 2003 after he tendered his resignation on 14 June 2003 and all the benefits under VSS were allowed to him, the same were denied to the petitioners as the resignations tendered by them were not accepted under VSS. The Management released these petitioners from the service of the Corporation after their resignations were accepted on completion of notice period as per the rules of the Corporation. The Committee are not convinced with the explanation given by the Ministry/HFCL that Shri Sengupta was released under VSS as a substitute was available for him and also because he had three months left for his superannuation on 31 October 2003 but in the context of the petitioners, the Corporation was bound to accept their resignations even though no substitute was available for them and released them on completion of their notice period as per rule. In another instance, Shri K.L. Pradhan, Assistant Engineer who was also kept on roll for exigency services of Ammonia Handling Plant like the

petitioners, was released on 22 December 2003 along with other employees with all the benefits under VSS, whereas one of the petitioners namely Shri A.K. Sahu, APM was released just six days before on 16 December 2003 on the basis of resignation tendered by him on 17 September 2003 and thus, depriving him of all the benefits under VSS. The Committee fail to understand as to why the Management did not wait for six more days so that Shri Sahu could also have become entitled for the benefits under VSS. It is inexplicable that while resignation of an employee can be accepted by the Corporation without a substitute, he/she cannot be released under VSS if no substitute is available to replace him/her. If that was so, then Management should have acted judiciously and in a rational manner. The Management should have used their discretion and rejected the resignations tendered by the petitioners for want of suitable substitute. Alternatively, the petitioners may have been allowed to retire under VSS with a rider that the benefits accrued to them under VSS would be given to them later on after the contract with HLCL is over on 31 December 2003. The Committee are of the considered view that the action taken by the Management was an act of high handedness and clearly a case of discrimination towards the petitioners which deprived them of the benefits under VSS. The Committee, therefore, deplore the manner in which the resignations tendered by the petitioners were dealt with callously by the authorities concerned and recommend that their cases may be reviewed and the benefits under VSS may be allowed to them."

(Para 1.32)

7. The Ministry of Chemicals & Fertilizers, in reply to the aforesaid observations/recommendations of the Committee have submitted as follows:-

"The cases of the petitioners were reviewed by HFCL and the Department of Fertilizers. In continuation to reply to para 1.29 above, it is submitted that the resignation of the petitioners were accepted as per their Services Conditions and Terms of Appointment in HFCL.

The terms "Resignation" and "Voluntary Retirement" have entirely different definitions and effect as per the service rules of the organization. In case the benefits under VSS are allowed to the petitioners, it would be in contravention of the extant rules of the Organization. It may also open a Pandora's Box not only in HFCL but also in similar organization like FCIL, where similar VS Scheme was implemented."

8. In para 1.33 of the Report, the Committee had observed:-

"The Committee are distressed to note that the Corporation asked their employees to opt for VSS or else face retrenchment. These orders clearly suggest that the offer of VSS was not voluntary but was in fact camouflaged retrenchment of the employees if they did not opt for VSS. Under such

conditions, the employees did not have any option but to accept voluntary retirement. Instead of releasing them under VSS, the Management gave their own reasons to retain them which ultimately compelled the petitioners to tender their resignations for which the petitioners may have their own compulsions/ reasons or obligations to find an alternate job. The Committee regret to note that while accepting their resignations, the Management completely ignored the genuine interest of the petitioners and their obligation to look out for alternate employment after their release from the Company and instead subjected them under great mental agony and financial hardships which percolates to the entire families of the petitioners."

9. In their reply, the Ministry of Chemicals & Fertilizers have stated:-

"The VS Scheme formulated by the Ministry of Heavy Industries & Public Enterprises, Department of Public Enterprises was implemented for all chronically sick and unviable PSUs. Majority of the employees of the organization have accepted the scheme. But the petitioners were well aware that contract with M/s. HLCL for handling of Ammonia was going to be over very shortly, but still they had submitted their resignation letter with the request to release them immediately, which it appears, might have been done by them on getting some attractive assignment elsewhere. This has been duly explained by Secretary, DoF & CMD of HFCL to the Hon'ble Committee in detail. Hence, it would not be appropriate to say that the Management completely ignored the genuine interest of the petitioners and their obligation to look out for alternate employment after their release from the company and instead subjected them under great mental agony and financial hardships which percolates to the entire families of the petitioners. The benefits under VSS & also the details of the agreement were well known to them. They were intelligent enough to see the benefits, which they might have received on an alternate job, which they had in their hand."

OBSERVATIONS/RECOMMENDATIONS

10. According to a representation submitted to the Committee, after the Union Government decided to close the Hindustan Fertilizer Corporation Ltd. (HFCL), a Public Sector Undertaking under the Ministry of Chemicals & Fertilizers, a Circular dated 19.09.2012 was issued by the HFCL offering the employees either to accept the benefit of Voluntary Separation Scheme (VSS) by 20 December 2002 or receive Retrenchment Compensation under the Industrial Disputes Act, 1947. The petitioners alongwith the other employees of M/s HFCL, Haldia Division, exercised their option for VSS. According to the petitioners, most of the employees were released during January 2003 itself with payment of their dues under VSS. However, they were not released by the Company and instead they were intimated vide Memo dated 07 May 2003 that their VSS applications have been accepted but the date of their release from the Company would be intimated separately. In this context, the petitioners had cited the case of one Shri Joy Sengupta, Assistant Plant Manager (APM) whose VSS application was also accepted but was not released by the Company. Subsequently, he tendered his resignation on 14 June 2003 and he was released by giving him all VSS benefits with effect from 28 July 2003. In an another identical case, Shri K.L. Pradhan, Assistant Engineer (AE) was also released on 22 December 2003 along with the benefits of VSS. On the contrary, Shri A.K. Sahu , Assistant Plant Manager (APM), one of the petitioners was deprived of VSS benefits and was released on 17 December 2003 after he tendered his resignation. The petitioners had alleged that it was a clear cut case of discriminatory treatment which was meted out to them for no fault of theirs; as a result of which they had to face avoidable agony and huge losses.

11. In this connection, the Committee were given to understand by the Ministry of Chemicals and Fertilizers that due to terminal sickness, HFCL was

declared sick and referred to BIFR on 20 April 1992. Subsequently, as the units of the Corporation were found to be unviable, Government of India took a decision to close down the Corporation in the month of September 2002 by offering VSS to its workforce numbering 4,881. Accordingly, a VSS circular was issued on 19 September 2002 enabling the employees to avail the same. The petitioners had also opted for VSS which was accepted but they could not be released under the Scheme in the interest of the Corporation as they were engaged in handling/loading and unloading of liquid Ammonia operations at the Haldia Division and the Corporation was under the obligation to handle Ammonia as per the contract with M/s Hindustan Lever & Chemicals Ltd. (HLCL), which was valid till 31 December 2003.

12. The Committee had, therefore, noted with concern that the reason attributed by the Ministry for non-release of the petitioners under VSS, was also applicable in case of Shri Joy Sengupta, APM, who was also engaged in handling/loading and unloading of liquid Ammonia and who had also given his resignation when he was not released under VSS. However, the then Chairman & MD, HFCL while considering his resignation letter had approved his release under VSS on getting a substitute in his place. Similarly, in case of Shri K.L. Pradhan, Asstt. Engineer, he was also released on 22 December, 2003 alongwith other employees with all the benefits under VSS. The Committee, therefore, concluded that by applying different yardsticks in respect of similarly placed employees, the Management of HFCL extended the benefits under VSS in the company selectively in an unjust and partial manner.

13. The Committee find from the Action Taken Replies now furnished by the Ministry that the cases of the petitioners were reviewed by HFCL and the Department of Fertilizers. The Ministry have submitted that the resignations of the petitioners were accepted as per their Service Conditions and Terms

of Appointment in HFCL. The terms "Resignation" and "Voluntary Retirement" have entirely different definitions and effect as per the service rules of the organization. In case the benefits under VSS were allowed to the petitioners, it would have been in contravention of the extant rules of the Organization. It might also open a Pandora's Box not only in HFCL but also in the similar Organizations like FCIL, where similar VS Scheme was implemented.

14. The Committee are of the firm view that the plea now taken by the Ministry that giving benefits to the petitioners under VSS would open a Pandora's Box not only in HFCL but also in other Organizations, does not hold any merit in this case because the Management of HFCL had already released such benefits under VSS to Shri Sengupta, APM despite the fact that he had tendered his resignation. The plea that the acceptance of Shri Sengupta's VSS was based 'on merit' and not due to submission of resignation is also not acceptable to the Committee. On the contrary, the Committee firmly believe that release of Shri Sengupta by the Management of HFCL must have rather, encouraged the petitioners also to resign so that they would also be relieved early under VSS, as was done by HFCL in case of Shri Sengupta, APM. However, contrary to the case of Shri Sengupta and the reasons best known to the management of HFCL, the resignations of the representationists were accepted and they were deprived of all VSS benefits. The Committee fail to understand why the HFCL did not consider the case of petitioners at par with S/Shri Joy Sengupta and K.L. Pradhan for their early release on priority basis and grant of benefit under VSS. The Committee are of the strong opinion that by doing so, the Company would not only have meted justice to all but helped to rehabilitate its employees who had rendered many years of valuable service to the Company.

15. The Committee further take serious note of the following submission made by the Ministry in their Action Taken Replies:-

".....The petitioners were well aware that 'contract with M/s HLCL for handling of Ammonia was going to be over very shortly, but still they had submitted their resignation letter with the request to release them immediately, which appears, might have been done by them on getting

some attractive assignment elsewhere. Hence, it would not be appropriate to say that the Management completely ignored the genuine interest of the petitioner and their obligation to look out for alternate employment after their release from the Company and instead subjected them under great mental agony and financial hardships which percolates to the entire families of the petitioners. The benefits under VSS & also the details of the agreement were well known to them. They were intelligent enough to see the benefits, which they might have received on an alternate job, which they had in their hand."

The Committee are of the opinion that even if it is presumed that the petitioners might have received some attractive assignment but that did not debar the petitioners from getting VSS benefits. The Committee are, therefore, inclined to conclude that by negating Committee's Observation on the basis of mere presumption that the petitioners might have resigned on getting some attractive assignment further proves the indifferent approach and attitude of the Ministry towards the whole issue. The Committee would therefore, like to reiterate their earlier recommendation that while accepting the resignations of the petitioners, the Management of HFCL completely ignored the genuine interests of the petitioners and their right to look out for alternate employment after their release from the Company and instead subjected them to undergo great mental agony and avoidable financial hardships which percolated to the entire families of the petitioners as well. The Committee, therefore, deplore the manner in which the resignations tendered by the petitioners were dealt with casually by the Authorities concerned and recommend that their cases may be reviewed afresh and the benefits under VSS be allowed to them. The Committee would like to be apprised of the action taken by the Authorities concerned in this regard- within three months of the presentation of this Report.

NEW DELHI;

03 August, 2012

12 Shravana, 1934 (Saka)

**Anant Gangaram Geete,
Chairman,
Committee on Petitions.**