

**THIRTY - EIGHTH REPORT
COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

MINISTRY OF PETROLEUM & NATURAL GAS

(Presented to Lok Sabha on 26.7.2017)



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**COMPOSITION OF THE COMMITTEE ON PETITIONS
(2016-2017)**

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. Shri Chandra Prakash Joshi
7. Dr. K. Gopal
8. Shri Kodikunnil Suresh
9. Shri Chhedi Paswan
10. Shri Kamlesh Paswan
11. Shri Arjun Charan Sethi
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 | - | Additional Director |
| 3. Shri Anand Kumar Hansda | - | Executive Assistant |

(iii)

**THIRTY - EIGHTH REPORT OF THE COMMITTEE ON PETITIONS
(SIXTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Thirty Eighth Action Taken Report (16th Lok Sabha) of the Committee to the House on the Action Taken by the Government on the recommendations of the Committee on Petitions made in their Seventeenth Report (16th Lok Sabha) on the representation of Shri P. N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association regarding violation of Department of Public Enterprises Guidelines by the Bharat Petroleum Corporation Limited.

2. The Committee considered and adopted the draft Thirty Eighth Action Taken Report at their sitting held on 30 June, 2017.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

30 June, 2017

9 Ashadha, 1939 (Saka)

**BHAGAT SINGH KOSHYARI
Chairperson,
Committee on Petitions**

REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (SIXTEENTH LOK SABHA) IN THEIR SEVENTEENTH REPORT ON THE REPRESENTATION OF SHRI P. N. SURENDRAN NAIR, GENERAL SECRETARY, COCHIN REFINERIES EMPLOYEES' ASSOCIATION REGARDING VIOLATION OF DEPARTMENT OF PUBLIC ENTERPRISES GUIDELINES BY THE BHARAT PETROLEUM CORPORATION LIMITED.

The Committee on Petitions (Sixteenth Lok Sabha) presented their Seventeenth Report to Lok Sabha on 10 August 2016 on the Representation received from Shri P. N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association regarding violation of Department of Public Enterprises Guidelines by the Bharat Petroleum Corporation Limited.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Petroleum & Natural Gas were asked to implement the recommendations and furnish their action taken notes thereon for consideration of the Committee.

3. Action Taken Notes have been received from the Ministry of Petroleum & Natural Gas in respect of all the recommendations contained in the Report. The recommendations made by the Committee and the replies furnished thereto by the Ministry of Petroleum & Natural Gas are detailed in the succeeding paragraphs.

4. In paras 17, 18, 19 and 20 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that Kochi Refineries Ltd., which was an independent Company, became a subsidiary of the Bharat Petroleum Corporation Ltd., (BPCL) on 26.3.2001 and is now known as BPCL-Kochi Refinery. There are three downstream oil Companies of the BPCL, viz., Kochi Refinery, Marketing and Mumbai Refinery."

"On the contention of Shri P.N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association that there has been violation of the guidelines of the Department of Public Enterprises (DPE) in signing of the wage settlement in the BPCL, the Ministry of Petroleum & Natural Gas has informed that the wage settlements are in absolute adherence to the principles enunciated by the DPE on wage negotiation and uphold the 'Right to Collective Bargaining' of the Workmen. The Ministry has also informed that the BPCL, being a Public Sector Undertaking under the Government of India, the compensation structure applicable to the Management and the Workmen cadres are covered under different norms as specified by the DPE. The pay and allowances of Management cadre are governed by the DPE guidelines, while, in the case of Workmen, the DPE had left it open to each of the Public Sector Undertakings to arrive at the pay scales based on their paying capacity. Thus, for the Workmen cadre, wages and other matters are determined by way of the Collective Bargaining process culminating into a Long Term Settlement (LTS), which is valid for a period as agreed upon by the Management and the Unions representing the Workmen."

"The Ministry has further informed that the wage negotiations for Workmen in Kochi Refinery, Marketing and Mumbai Refinery in the BPCL are three independent processes and are thus separately held with the Unions. The latest Memorandum of Settlement (MoS) on wages and other matters for the unionized category of employees in the Marketing domain of the BPCL was signed before the Chief Labour Commissioner (Central) at Mumbai on 9.1.2014 and for the Refineries, before their respective Regional Labour Commissioners (Central) at Mumbai and Kochi in May, 2013 under Section 12(3) read with Section 18(3) of the Industrial Disputes Act, 1947. Shri P.N. Surendran Nair was a signatory of the LTS in Kochi Refinery and is also a beneficiary of the wage revision."

"The Committee take note of the adherence of various norms contained in the DPE guidelines in regard to the LTS on wage revision for the Workmen of Kochi Refinery by the BPCL. The Committee also note that Shri P.N. Surendran Nair was a signatory of the LTS in respect of the unionized category of employees of Kochi Refinery. The Committee would like to point out that though retracting from the already implemented Memorandum of Settlement (MoS) on wages and other matters by the office bearer of the Cochin Refineries Employees' Association is neither desirable nor legally tenable, the Management of Kochi Refinery should make efforts to scrupulously follow the tenets of 'Collective Bargaining' with the workmen for maintaining healthy industrial relations on various matters where the Workmen, sometimes, feel aggrieved. The Committee, therefore, urge the Ministry of Petroleum & Natural Gas to advise the BPCL Management to once again invite the office

bearers of the Cochin Refineries Employees' Association for having an unambiguous understanding of all the finer aspects of the LTS/ MoS on wage revision of Kochi Refinery. The Committee would like to be apprised of the action taken by the Ministry in this regard."

5. In their action taken reply, the Ministry of Petroleum & Natural Gas have stated as follows:-

"BPCL has submitted that Union meetings are conducted by management with recognized trade unions of Kochi Refinery on a monthly basis and various aspects of LTS have been discussed several times between Management and Unions. As advised by the Committee, a special meeting for the office bearers of CREA, was held on 31st August, 2016 wherein we once again explained the salient aspects of the LTS of Kochi Refinery, and clarified their doubts."

6. In para 21 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that Shri P. N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association, has requested that the PRMB Scheme, which was introduced in the year 2015, be extended to Kochi Refinery. In this context, the Ministry of Petroleum & Natural Gas has stated that as far as non-implementation of PRMB Scheme is concerned, the same could not be implemented in Kochi Refinery due to the adamant stand taken by the employees' representatives in the Cochin Refineries' Employees Superannuation Benefit Fund Trust. Notwithstanding this, in Kochi Refinery, the retired employees are covered by the existing PRMB Scheme. The Committee do not accept the contention of the Ministry in view of the fact that the responsibility of implementing the PRMB Scheme lies with the BPCL Management themselves, irrespective of the fact that there might be some differences of opinion on some aspects with the employees' representatives in the Cochin Refineries' Employees Superannuation Benefit Fund Trust. The Committee are of the firm view that had the BPCL Management resorted to structured deliberations with the employees' representatives, the divergent views between the Management and the Workmen on the aspect of implementation of the PRMB Scheme in Kochi Refinery could have been amicably sorted out. The Committee, therefore, impress upon the Ministry to work out modalities, in consultation with the employees' representatives, for early implementation of PRMB Scheme in Kochi Refinery so that the retiring employees may also reap the benefits of the new

Scheme. The Committee would like to be apprised of the action taken by the Ministry in this regard".

7. In their action taken reply, the Ministry of Ministry of Petroleum & Natural Gas have stated as follows:-

"BPCL has informed that the recommendation of the Committee with regard to implementation of PRMB Scheme in Kochi Refinery has since been implemented with effect from 1.4.2016. This benefit today accrues not only to the post-merger retired employees of Kochi Refinery but also to the pre-merger retired employees including the erstwhile Philips Petroleum employees, both management as well as non-management."

8. In paras 22, 23 and 24 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that Shri P. N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association has contended that BPCL is operating two Contributory Pension Schemes for their employees. One Scheme offers 55% pension, whereas the other Scheme, funded by the Cochin Refinery Employees Superannuation Benefit Fund (CRESBF) Trust, offers only 40% pension. Consequent upon the Central Government's directives to all the CPSEs to freeze the old Contributory Pension Scheme and to start a new Pension Scheme, there was a sudden shortfall in the pension fund and, therefore, the Management invested a sum of Rs. 323 crore into the pension fund which offers 55% pension. However, the Management had failed to put the proportionate amount in the CRESBF."

"The Ministry of Petroleum & Natural Gas has stated that as per Clause 22 of the LTS of Kochi Refinery, it was agreed that, in accordance with the Government guidelines, the 'New Pension Scheme' is to be introduced for the benefit of all employees with effect from 1.1.2007. The Ministry has further stated that despite having agreed to the aforesaid Clause, Shri Nair had challenged the implementation of the Scheme. However, after overcoming the challenges thrown up by way of litigations, disputes, etc., the revision of the Trust Deed was carried out by the BPCL and the NPS implementation was facilitated by the Management. Thus, the NPS has been implemented in respect of 8 beneficiaries of Kochi Refinery. Later on, Shri Nair

again challenged the implementation of the NPS in the High Court of Kerala and the matter is presently sub-judice."

"The Committee take note of the initiatives taken by the Ministry of Petroleum & Natural Gas to implement the New Pension Scheme in Kochi Refinery as well as investing a sum of Rs. 323 crore into the pension fund. Nevertheless, the Committee find the grievance of the Petitioner for not investing a proportionate amount in the CRESBF as genuine. The Committee would like to point out that any Scheme formulated by the Government for the PSUs should invariably be an improvement over the existing Scheme and not to the disadvantage of the employees. That being so, the Committee feel that the objective of implementing the New Pension Scheme would not yield the desired results until and unless the grievances of the employees are adequately addressed. The Committee, therefore, recommend to the Ministry of Petroleum & Natural Gas to re-visit the New Pension Scheme by juxtaposing the same with the Cochin Refinery Employees Superannuation Benefit Fund (CRESBF) Trust and also to ensure that the quantum of pension receivable to the retiring employees under the old Pension Scheme should not be less in the New Pension Scheme. The Committee would like to be apprised of the measures taken by the Ministry in this regard."

9. In their action taken reply, the Ministry of Petroleum & Natural Gas have stated as follows:-

"With respect to the recommendation, BPCL has submitted that the Hon'ble Committee has arrived at its recommendations based on the oral evidence of Shri Surendran Nair who has not submitted the complete facts with regard to the background of the issue. Therefore, in this matter following facts have been submitted by BPCL:-

- (a) DPE guidelines dated 26.11.2008 and 02.04.2009 has specific provisions which clearly state that CPSEs should have superannuation schemes under "Defined Contribution Scheme" and those CPSEs which do not have superannuation scheme may develop such scheme and obtain approval from the ministry.*
- (b) Prior to the DPE guidelines, 'Defined Benefit Schemes' referred as Superannuation Schemes existed in BPCL. The Contributory Superannuation Schemes have been closed after the DPE guidelines directing that any*

superannuation benefits shall be under 'Defined Contribution Scheme' and not under 'Defined Benefit Scheme'.

- (c) *There existed two superannuation schemes – Bharat Petroleum Employees Contributory Superannuation Scheme and Cochin Refineries Employees Superannuation Benefit Fund (CRESBF) started by erstwhile Kochi Refineries Ltd. prior to its merger with the Corporation. Both schemes were different and were operated through different trusts and separate set of trustees.*

	BPCL Superannuation Scheme	KR Superannuation Scheme
<i>Introduction of Scheme</i>	<i>Scheme was introduced w.e.f. 01.11.1987.</i>	<i>Scheme was introduced w.e.f 01.01.1988 for Officers and 01.11.1991 for Workmen.</i>
<i>Consideration for past service</i>	<i>Past service was considered on discounted basis only from 24.01.1976.</i>	<i>Past service was considered on discounted basis for the date of joining erstwhile KRL. Thus benefit was extended for entire service.</i>
<i>Contributions</i>	<ul style="list-style-type: none"> <i>i) Rate on contributions ranged from 1.5% to 5% of salary.</i> <i>ii) Effective, 01.04.2006, the contributions were doubled to 3% to 10%.</i> <i>iii) Additional contributions were on account of monetized value of Protective Clothing & fixed amount based on the cadre of the employee.</i> 	<ul style="list-style-type: none"> <i>i) Rate of contributions were from 2% to 5% of Salary.</i> <i>ii) Additional contribution of fixed amount was made by members based on the cadre of the employee.</i> <i>iii) Effective 2003, cash equivalent of surrender value of the uniform/ protective clothing was also contributed to CRESBF.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> <i>i) Max. monthly benefit was 55% of salary for a service of 33 years.</i> <i>ii) Effective 01.04.2006, the max. Monthly benefit was reduced to 40% of salary for</i> 	<ul style="list-style-type: none"> <i>Prior to merger with BPCL -</i> <i>i) Max. Monthly benefit was 40% of salary for 32 years of service.</i> <i>ii) Effective 01.11.1995, the</i>

	33 years of service.	<p>monthly benefit was enhanced to 50% of salary.</p> <p>iii) Effective 01.04.2002, the benefit was reduced to 40% of revised salary for 34 years of service for Management Staff and 50% of pre-revised salary for 32 years of service for Non Management staff.</p> <p>iv) Effective October 2003, the benefit was reduced to 30% of revised salary for Management Staff for 34 yrs. of service and 50% of pre-revised salary for Non-Management staff for 32 yrs. of service.</p> <p>v) The monthly benefit was then reduced to 25% of revised salary from 01.04.2004 for both Management & Non-Management staff for 34 yrs. of service as decided by the Managing Director on the direction of the High Court of Kerala.</p> <p>After merger with BPCL -</p> <p>for employees retiring on or after 01.01.2007, the monthly benefit was increased to 40% of salary for 34 years of service.</p>
Ceiling on Salary for Pension Benefit	Effective 01.04.2004, the scheme was reviewed and monthly benefit was restricted to 'Notional Salary'. Notional	There was no ceiling on salary and the benefits continued on actual salary.

	Salary was the frozen salary on 31.03.2004. The notional salary was increased by 8% every year.	
<i>The effective date, contributions, reckonable service, reckonable salary, monthly benefits were different under both the Schemes.</i>		

- (d) *It can be noticed from the above that the two schemes operated differently and therefore when erstwhile Kochi Refineries Ltd. (KRL) was merged with BPCL on 21.08.2006, it was decided to operate both the schemes independently.*
- (e) *After merger of KRL with BPCL, considering that no new members will be enrolled under the CRESBF Trust, actuarial valuation of the CRESBF Trust was done and an amount of Rs. 22.35 crore was infused by BPCL Management in the year 2007 to make the Fund viable.*
- (f) *Consequent upon the issue of DPE guidelines dated 26.11.2008 and 02.04.2009, the existing schemes had to be converted from Defined Benefit Schemes (DBS) to Defined Contribution Schemes (DCS). Since the schemes were managed by different trusts, separate changes in the Trust deeds and rules were required. Action was initiated in 2011 for restructuring the Superannuation Schemes and implementation of a 'Defined Contribution' scheme w.e.f 01.01.2007 (referred as New Pension Scheme (NPS)). Whilst the DPE guidelines were applicable only for Executives, it was decided to extend the 'defined benefit' scheme to all employees.*
- (g) *At this stage, fresh actuarial valuation of both BPCL Superannuation Fund and Cochin Refineries Employees Superannuation Benefit Fund was done to ascertain the financial condition of these funds. Accordingly, fresh infusion of funds was made to BPCL SB Fund Trust for bridging the gap between the funds available and actuarial valuation. Similarly, in respect of CRESBF Trust, an amount of Rs.7.07 crore was also infused. This was in addition to the funding of Rs.22.35 crore made to CRESBF in 2007. Thus, based on actuarial valuation sufficient funds were infused by the Corporation to support enhanced 40% of salary (for 34 years of service)*
- (h) *In this respect it is clarified that the grievance of the Petitioner that proportionate amount was not invested in the CRESBF is not correct. When*

the Superannuation Schemes were closed on 31.12.2006, actuarial valuations were done for the viability of both the Funds and additional funds were contributed based on the requirements. The total number of employees who were covered by BPCL Superannuation Trust was 89% and only 11% were covered by CRESBF. Here, it may also be observed that the benefits for members of CRESBF were enhanced from 25% to 40% of last drawn salary and total amount contributed by the Company to make the CRESBF viable was Rs. 29.42 crore (Rs.22.35 crore plus Rs.7.07 crore).

- (i) As regards the implementation of New Pension Scheme, the same was implemented for members of BPCL Superannuation Trust vide Circular dated 03.05.2011. In July 2011, Company informed CRESBF trust about BPCL Board's decision to start a contribution defined New Pension Scheme (NPS) w.e.f 01.01.2007 and to close the existing benefit defined superannuation scheme effective 31.12.2006 for the members of CRESBF Trust.*
- (j) However the trustees of Kochi fund could not converge on a consensus in implementation of the NPS due to the adamant attitude of the employee representatives in the Trust. Since consensus could not be arrived at, the resolution for implementation of NPS were put to vote and it ended in a tie as the employee representatives in the Trust voted against the resolutions. As the resolution required for changes in the Trust Deed, the matter was referred to C&MD for final decision as per the Trust Rules.*
- (k) On 08.07.2015, C&MD directed the Trustees of CRESBF to make suitable variations in the Trust Deed and get the approval from the Income Tax authorities and implement the NPS w.e.f 01.01.2007. Accordingly CRESBF Trust approached the Income Tax authorities seeking approval to amend the trust deed to introduce NPS with effect from 01.01.2007. Implementation of the New Pension Scheme for members of Kochi Refinery was delayed due to the litigant approach adopted by Shri Surendran Nair's union, as borne out by the following events.*
- (l) While the said application was pending, CREA Union, represented by Shri P.N. Surendran Nair, filed WP(C). No. 23182/2015 before the Hon'ble High Court of Kerala and Hon'ble High Court vide judgement dated 31.07.2015 disposed this writ petition with a direction to the Income Tax Commissioner to afford an opportunity to the petitioners for being heard and then pass the orders within a period of two months. The Income Tax Commissioner, after*

due consideration of all aspects touching upon the matter, accorded sanction to introduce NPS effective 01.01.2007 for the members of the CRESBF trust through an appropriate deed of variation in the Trust Deed and extend benefits of NPS for all members superannuating on or after 01.01.2007 from the CRESBF trust. Accordingly the Deed of Variation incorporating administration of NPS was carried out by the Managing Trustee on 20th October, 2015.

- (m) After carrying out the amendment to the Trust Deed, it was decided to extend the benefit of NPS to the beneficiaries, initially to those who retired in September and October 2015 and thereafter to others in a phased manner. Accordingly funds were released by the Company for purchase of annuity from LIC for 8 employees for payment of their pension under NPS.*
- (n) At this stage, CREA Union, represented by Shri. P.N. Surendran Nair, again filed W.P. (C). No.33472 of 2015 before the Hon'ble High Court of Kerala to quash the Orders of C&MD dated 08.07.2015 and Proceedings of Income Tax Commissioner dated 09.10.2015, based on which NPS was implemented in Kochi Refinery w.e.f. 01.01.2007. The matter came for hearing before Hon'ble High Court of Kerala and the Court ordered to maintain status quo for a period of one month vide order dated 03.11.2015. However, based on the prayer of the management, Hon'ble High Court of Kerala vide its order dated 06.11.2015, made it clear that the interim order dated 03.11.2015 doesn't disable management to disburse the amounts without diverting the funds of CRESBF Trust as on 31.12.2006 to the NPS.*
- (o) Meanwhile, Association of Retired Officers of Cochin Refineries Limited and Association of Retired Employees of BPCL- Kochi Refinery filed Writ Petitions before the Hon'ble High Court of Kerala praying for immediate implementation of NPS. Hon'ble High Court of Kerala, jointly heard all the 4 petitions together on 12.01.2016, modified its earlier orders stating that the decision taken by the C&MD is in accordance with the Trust indenture. Accordingly NPS benefits have been extended to 363 retired employees as on date and NPS has been implemented for the existing employees as well.*

It may be noticed that only after immense efforts NPS benefits could be extended to retired employees of Kochi Refinery in the face of opposition and obstacles put by the petitioner.

Based on the above facts, position is summarized as under:

- (i) As per actuarial calculation a total amount of Rs.29.42 crores was infused into CRESBF to make it viable and sustainable. Comparison with BPCL's Superannuation Fund is not at all justified having regard to the fact that its membership is much higher than the CRESBF and its sustainability required infusion of funds of a higher order.*
- (ii) While doing so, the benefits of the members of the CRESBF were enhanced from 25% to 40% of last drawn salary.*
- (iii) Several legal hurdles were posed by Shri Surendran Nair's Union against the implementation of the New Pension Scheme in Kochi Refinery. However, overcoming all these legal hurdles, the New Pension Scheme has now been implemented in Toto for all eligible CRESBF members.*

Therefore, currently, on retirement, members of CRESBF are entitled for monthly benefits as per the Superannuation Scheme for the period of service up to 31.12.2006 and for the period after 1.1.2007, they are granted monthly benefits as per the contribution under the NPS."

10. In paras 25, 26 and 27 of the Report, the Committee had observed/recommended as follows:-

"The Committee note that Shri P.N. Surendran Nair, General Secretary, Cochin Refineries Employees' Association, has also raised the matter of non-implementation of various benefits to the employees of Kochi Refinery, viz., Cafeteria Scheme, rounding off Rs. 10 during the wage fixation and Child Care & Maternity Leave to female employees. The Ministry of Petroleum & Natural Gas has stated that in the case of workmen, Cafeteria Principles were extended to them in all the three domains, viz., Kochi Refinery, Marketing and Mumbai Refinery through the LTS signed with their respective Unions. BPCL extended the cafeteria benefits to their workmen vide Settlements in 2013 and 2014. The quantum of deductions towards running the infrastructure facilities is 1.5% of basic pay and the value is charged after accounting the same on pool basis in line with decision of the Industry and is uniformly applied in all the three domains, across all the cadres."

"The Ministry has also stated that the principle of rounding off of basic pay to the next Rs. 10/- was extended to the Management cadre of CPSEs by the DPE. As far as the workmen are concerned, there is no DPE or any other guideline governing this issue. In the last LTS of workmen in Kochi Refinery, the rounding off was to the nearest rupee. On the aspect of Child Care as well as Maternity Leave to the female employees, the Ministry has further stated that the Rules framed under the DoPT Guidelines for Central Government employees do not ipso facto apply to the CPSEs employees. However, the Maternity Leave and Child Care Leave for female employees have been revised to 180 days with effect from 6.7.2015."

"The Committee observe that the Cafeteria Scheme for the workmen has already been implemented in all the three downstream Companies of the BPCL and the quantum of deduction is uniformly applied in all the three domains, across all the cadres. The Committee also find that the Ministry of Petroleum & Natural Gas has revised the Maternity Leave as well as Child Care Leave for female employees of all the three downstream Companies of BPCL to 180 days. The Committee appreciate the initiatives taken by the Ministry for providing these benefits not only to the employees of Kochi Refinery but also to the other subsidiaries of BPCL, viz., Marketing and Mumbai Refinery. On the aspect of rounding off Rs. 10 during wage fixation of the workmen of Kochi Refinery, the Committee is of the opinion that if this benefit could be extended to the Management cadre, then, on the grounds of equity and fair play, this could equally be applied to the Workmen cadre also. The Committee, therefore, urge the Ministry to advise BPCL to extend the benefit of rounding off Rs. 10 during wage fixation to the Workmen cadre at the earliest. The Committee would like to be apprised of the outcome in this regard."

11. In their action taken reply, the Ministry of Petroleum & Natural Gas have stated as follows:-

"BPCL has informed that to extend rounding up of basic pay to the next Rs 10/- during wage fixation of workmen in Kochi Refinery, it is submitted that the principle of rounding up of basic pay to next Rs 10/- was extended to Management Staff of CPSEs by DPE through OM No. 2(70)/08-DPE(WC)-GL-XVI/08 dated 26.11.2008. As far as workmen are concerned, it is a negotiable item in the collective bargaining process. In the last Long Term Settlement of Workmen in Kochi Refinery, the rounding off was to the nearest rupee (Clause 12 of LTS dated 28.08.2002). This time also by virtue of Clause 46 of the prevailing Kochi Refinery LTS read with

clause 5 of the said LTS, as any terms not altered or superseded or varied by this Settlement shall not be affected in any manner by this Settlement, the same was continued. Hence, since the norm mentioned in the earlier Settlement has not been varied or modified by this Settlement, the same still holds good and it is also similarly applicable to the other LTS domains of BPCL viz. Mumbai Refinery and Marketing. It is also pertinent to note that CREA has not raised this demand in their charter of demands for LTS, submitted to the Management. The unions have also agreed in the LTS not to raise or pursue during the period of operation of this LTS, any demands related thereto, and thereby involving directly or indirectly any additional financial commitment on the part of the Corporation, including in respect of items covered under the LTS, or otherwise. The above Settlement has been signed under Section 12(3) of the ID Act, 1947 read with Section 18(3) of the said Act.

Under the above circumstances, it is submitted that since BPCL is bound by the Settlement, it is not possible to consider the request of the Union during the pendency of the current settlement, particularly when a considerable period of the Settlement is already over. However, in deference to the recommendations of the Petitions Committee, BPCL have informed that they would consider it in the next Settlement."

Observations/Recommendations

Special Meeting with the office bearers of the Cochin Refineries Employees' Association (CREA)

12. The Committee appreciate that on their recommendation regarding advising the Bharat Petroleum Corporation Limited Management to once again invite the office bearers of the Cochin Refineries Employees' Association for having an ambiguous understanding of all the finer aspects of the Long Term Settlement/ Memorandum of Settlement (LTS/MoS) on wage revision of Kochi Refinery, a special meeting was held on 31 August, 2016, wherein, the salient aspects of the LTS of Kochi Refinery were not only explained but also the doubts of office bearers were clarified. However, the Committee feel that till the time the tenets of 'Collective Bargaining' with the workmen on various matters are not scrupulously followed in a cordial manner, the objective of maintaining healthy industrial relations - correlated with the commercial growth and profit generation of the Corporation - would remain a distant dream. The Committee, therefore, reiterate that the Ministry of Petroleum & Natural Gas should take all necessary steps in future also to maintain an viable business environment not only in the Bharat Petroleum Corporation Limited but also all other Oil Companies to withstand the growing competition in the oil sector.

Implementation of the Post-retirement Medical Benefit Scheme (PRMBS)

13. The Committee had recommended that since the responsibility of implementing the PRMB Scheme lies with the BPCL Management themselves, irrespective of the fact that there might be some differences of opinion on some aspects with the employees' representatives in the Cochin Refineries' Employees

Superannuation Benefit Fund Trust, the Ministry of Petroleum & Natural Gas should work out modalities for early implementation of PRMB Scheme in Kochi Refinery. The Committee are happy to note that the Ministry of Petroleum & Natural Gas have taken up the issue of implementation of PRMB Scheme with the Management of BPCL and the said Scheme has since been implemented in Kochi Refinery. The Ministry of Petroleum & Natural Gas have also submitted that the benefit under the PRMB Scheme accrues not only to the post-merger retired employees of Kochi Refinery but also to the pre-merger retired employees including the erstwhile Philips Petroleum employees - both Management as well as Non-Management. The Committee, therefore, expect that the Ministry of Petroleum & Natural Gas would further impress upon the Management of BPCL to implement all such Schemes which would give some financial benefits and social security to the workmen of Kochi Refinery, without compromising on the industrial discipline and work ethics of the Corporation.

Implementation of New Pension Scheme

14. The Committee's main aspect in their recommendation was to re-visit the new Pension Scheme by the Management of BPCL by juxtaposing the same with the Cochin Refinery Employees Superannuation Benefit Fund (CRESBF) so that the new Scheme be an improvement over the existing Scheme and not to the disadvantage of the employees. The Ministry of Petroleum & Natural Gas, in their action taken reply, have *inter alia* spelled out the entire trajectory of deliberations held with various stakeholders, on this aspect, as follows:-

- (i) *There existed two superannuation schemes - Bharat Petroleum Employees Contributory Superannuation Scheme and Cochin Refineries Employees Superannuation Benefit Fund (CRESBF) started by erstwhile Kochi Refineries Ltd., prior to its merger with the Corporation. Both*

Schemes were different and were operated through different Trusts and separate set of Trustees.

- (ii) The two Schemes were operated differently and, therefore, when the erstwhile Kochi Refineries Ltd., was merged with BPCL on 21 August, 2016, it was decided to operate both the Schemes independently.***
- (iii) After merger of KRL with BPCL, considering that no new members will be enrolled under the CRESBF Trust, actuarial valuation of the CRESBF Trust was done and an amount of Rs. 22.35 crore was infused by BPCL Management in the year 2007 to make the Fund viable.***
- (iv) Consequent upon the issue of DPE Guidelines dated 26 November, 2008 and 2 April, 2009, the existing Schemes had to be converted from Defined Benefit Schemes (DBS) to Defined Contribution Scheme (DCS). Since the Schemes were managed by different Trusts, separate changes in the Trust Deeds and Rules were required. Action was initiated in 2011 for restructuring the Superannuation Schemes and implementation of the 'Defined Contribution' Scheme with effect from 1 January, 2007 [referred to as New Pension Scheme (NPS)]. Whilst the DPE Guidelines were applicable only for Executives, it was decided to extend the 'Defined Benefit' Scheme to all the employees.***
- (v) At this stage, fresh actuarial valuation of both BPCL Superannuation Fund and Cochin Refineries Superannuation Benefit Fund was done to ascertain the financial condition of these Funds. Accordingly, fresh infusion of Funds was made to BPCL SB Fund Trust for bridging the gap between the Funds available and actuarial valuation. Similarly, in respect of CRESBF Trust, an amount of Rs. 7.07 crore was also infused. This was in addition to the funding of Rs. 22.35 crore made to CRESBF in 2007. Thus, based on actuarial valuation, sufficient Funds were infused by the Corporation to support enhanced 40% of salary (for 34 years of service).***
- (vi) The total number of employees who were covered by BPCL Superannuation Trust was 89% and only 11% were covered by CRESBF. The benefits for members of CRESBF were enhanced from 25% to 40% of last drawn salary and total amount contributed by the Company to make the CRESBF viable was Rs. 29.42 crore (Rs. 22.35 crore plus Rs. 7.07 crore).***

- (vii) As regards the implementation of New Pension Scheme, the same was implemented for members of BPCL Superannuation Trust vide Circular dated 3 May, 2011. In July, 2011, the Company informed CRESBF Trust about BPCL's Board's decision to start a contribution defined New Pension Scheme with effect from 1 January, 2007 and to close the existing Defined Benefit Superannuation Scheme effective 31 December, 2006 for the members of CRESBF Trust.**
- (viii) On 8 July, 2015, C&MD directed the Trustees of CRESBF to make suitable variations in the Trust Deed and get the approval from the Income Tax Authorities and implement the NPS with effect from 1 January, 2007. Accordingly, CRESBF Trust approached the Income Tax Authorities seeking approval to amend the Trust Deed to introduce NPS with effect from 1 January, 2007. Implementation of the New Pension Scheme for members of Kochi Refinery was delayed due to the litigant approach adopted by Shri Surendran Nair's Union.**
- (ix) Meanwhile, Association of Retired Officers of Cochin Refineries Limited and Association of Retired Employees of BPCL - Kochi Refinery filed Writ Petitions before the High Court of Kerala praying for immediate implementation of NPS. The High Court of Kerala, jointly heard all the four Petitions together on 12 January, 2016, modified its earlier orders stating that the decision taken by the C&MD is in accordance with the Trust indenture. Accordingly, NPS benefits have been extended to 363 retired employees as on date and NPS has been implemented for the existing employees as well.**
- (x) Therefore, currently, on retirement, members of CRESBF are entitled for monthly benefits as per the Superannuation Scheme for the period of service upto 31 December, 2006 and for the period after 1 January, 2007, they are granted monthly benefits as per the contribution under the NPS.**

15. While it is incumbent upon the Ministry of Petroleum & Natural Gas to pursue the Management of the Oil Company to devise an effective apparatus to overcome the grievances of the Workmen's Union, the overall success of any new Scheme would always be in limbo for the want of acceptability by the retired and retiring

employees. Notwithstanding this, the Committee are satisfied with the detailed clarification given by the Ministry of Petroleum & Natural Gas regarding non-comparison of CRESBF with BPCL's Superannuation Fund, enhancing the benefits of the members of the CRESBF from 25% to 40% of last drawn salary, etc. Nevertheless, the Committee are still not in receipt of a clear opinion from the Ministry of Petroleum & Natural Gas as to whether the quantum of pension receivable to the retiring employees under the new Pension Scheme is equal to or better than the old Pension Scheme. The Committee await an explicit response in this regard.

Rounding up of basic pay to the next Rs. 10 to the Workmen Cadre

16. While noticing that if the benefit of rounding up of basic pay to the next Rs. 10 during wage fixation has only been extended to the Management Cadre, the Committee had desired the Ministry of Petroleum & Natural Gas to apply the same principle to the Workmen Cadre on the grounds of equity and fair play. The Ministry of Petroleum & Natural Gas in their action taken reply have submitted that the principle of rounding up of basic pay to next Rs. 10 was extended to Management Staff of CPSEs by DPE through Office Memorandum dated 26 November, 2008. As far as Workmen Cadre is concerned, it is a negotiable item in the Collective Bargaining process. In the last Long Term Settlement (LTS) of Workmen in Kochi Refinery, the rounding off was to the nearest rupee. This time also, by virtue of Clause 46 of the prevailing Kochi Refinery LTS *read with* Clause 5 of the LTS *ibid*, as any terms not altered or superseded or varied by this Settlement shall not be affected in any manner by this Settlement, the same was continued. The Ministry of Petroleum & Natural Gas has also stated that BPCL have informed that they would consider extending the benefit of rounding up of basic pay to the next Rs. 10 to the Workmen Cadre in the next Long Term Settlement. The Committee find that the clarification

given by the Ministry on this aspect has been based on technicalities of relevant Clauses of the LTS. In this connection, the Committee are of considered view that no agreements or settlements could stand in the way of law of natural justice as well as the principle of equity and fair play. The Committee are dismayed to note that the Management Cadre have been reaping the relevant benefit from the year 2008 and no sincere efforts have been made by the Management to extend this to the Workmen Cadre. The Committee, therefore, once again reiterate their earlier recommendation and urge the Ministry of Petroleum & Natural Gas to advise the Management of BPCL to extend this benefit not only to the Workmen Cadre of Kochi Refinery but also to other subsidiaries of BPCL, viz., Marketing and Mumbai Refinery, even without waiting for the next Long Term Settlement. The Committee would like to be apprised of the action taken by the Ministry in this regard.

NEW DELHI;
30 June, 2017
9 Ashadha, 1939 (Saka)

BHAGAT SINGH KOSHYARI
Chairperson,
Committee on Petitions