



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-2408-2018(O&M)
Date of decision: 18.09.2024

Charanjit Kaur and others

...Petitioners

VERSUS

State of Punjab and others

...Respondents

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CWP-27056-2017 (O&M)
Date of decision: 18.09.2024

Ravinder Singh and others

...Petitioners

VERSUS

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. J.S. Thind, Advocate and
Mr. Balsher Singh, Advocate for the petitioners.

Ms. Niharika Sharma, AAG Punjab.

Mr. Saksham Dudeja, Advocate for respondents No.2 to 5
in CWP-2408-2018.

VINOD S. BHARDWAJ, J. (Oral)

1. Raising common questions, both these petitions are being decided by a common order. For facility of reference Facts are however being extracted from **CWP-2408-2018** titled as '**Charanjit Kaur and others** Vs. **State of Punjab and others**'.

FACTS:

2. The petitioners in the above petition challenge the order dated 03.10.2017 (Annexure P-7) passed by the respondent-Distribution Licensee whereby the representation filed by the petitioners against shifting of their



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existing Tubewell connection supply from the Urban Feeders to AP Rural Feeder was dismissed. The representation of the petitioners was dismissed vide aforesaid order No.218 by observing as under:

“The tubewell connections to these petitioners are running on 11KV Raja Sansi Category-1 feeder, on which 15 category 3 No., MS 6 No., SP 34 Nos., AP 107 No., CS 132 No. DS 280 No. and GT18 No. (MD 120 Amp) connections are running on this feeders, It is worth mentioning that the tubewell connections running on 24 Hrs. urban feeders are getting undue benefit of 24 hrs. supply, whereas other AP tubewell connections are running on AP rural feeders, which are getting supply in different schedules i.e. 8 Hrs, or so. It is also submitted that there is no pick and choose formula being adopted by PSPCL for AP connections and supply of all the tubewell connections running on urban feeders is to be shifted on AP rural feeders as per policy of PSPCL.

In view of above and to comply with the instructions as stipulated in CC No. 69/86 that all electric connections are processed for release from the nearest feeder of PSEB available in area. In this regard, it is clarified that for release of tubewell connections the nearest feeder shall mean the nearest rural feeder or its sub main only. Therefore, in future no tubewell connection should be released from any industrial/Urban feeder And as per DO No. 1186 dated



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25.4.2004 of PSPCL. Memo No. 804/808 dated 22.7.2010 of Chief Engineer (Tech.) Director (D), Patiala Fax No. 433/37 dated 19.12.2012 of Dy. Chief Engineer, Patiala, supply of tubewell connections of these petitioners running on 24 Hrs. Urban feeders has to be shifted to AP rural feeders as per rule and regulations of PSPCL so that supply to tubewell connections may be given as per policies of PSPCL.”

3. Learned counsel for the petitioners contends that the petitioner are farmers and irrigating their fields through power connections provided to them by the erstwhile Punjab State Electricity Board (now Punjab State Power Corporation Ltd.). The petitioners have been using the said connection for nearly four decades, for agricultural purposes, and paying the bills regularly based on the energy consumption charges demanded by the respondent-Distribution Licensee. He contends that as per the manual of instructions, the department of electricity is required to supply 24 hours supply in Urban Feeder for the villages as well. About 140 electric connections have been running upon this Urban Feeder Raja Sansi and about more than 200 consumers have been using the electricity connection from the said Feeder. In the month of January-2013, when the petitioners approached the electricity department to deposit their bills, employees of the respondent-Distribution Licensee informed that their electricity supply feeder namely Urban Feeder of Harshe China would be changed in near future and attached to the Rural Feeder and that the petitioners can avail only 08 hours of electricity supply thereafter instead of 24 hours, as is being



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supplied to the consumers of Urban Feeder.

4. A representation was accordingly submitted by some of the consumers which was received in the office of Executive Engineer vide Diary No.35 dated 06.02.2013 and a copy of the same was delivered to the Superintending Engineer. However, without taking any decision on the said representation, the employees of respondent-Distribution Licensee came to the area of the petitioners on 01.03.2013 and informed them that they are going to shift their power connections from Urban Feeder, Raja Sansi to Rural Feeder. He contends that the aforesaid decision to shift the existing electricity supply to the Rural Feeder was not supported by any decision of the competent authority and is rather an arbitrary act undertaken by the respondent-Distribution Licensee. The petitioners had to thus approach this Court by filing CWP-5392-2013 which was disposed of with a directions to the respondents to take a decision. In compliance thereto, the respondents have passed the impugned order dated 03.10.2017 which is now a subject matter of challenge herein.

REPLY:

5. A reply on behalf of the respondents have been filed wherein the respondents have averred that in compliance of the Policy of the Board, Deputy Chief Engineer, Border Zone, Amritsar vide his letter dated 06.10.2010 directed compliance with the Policy of the Board and shifting of the Tubewell Connections. Accordingly, the Executive Engineers were directed to carry out the proper implementation of the said Policy. The shifting of the electricity supply to the agricultural electricity connection



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from Urban Feeders to Rural Feeders is thus pursuant to a decision taken by the Whole time Director of the Board vide memo No.6330/34 dated 14.09.2016 (Annexure R-2). He thus made a reference to the following averments of the written statement:

***“4. That it is respectfully submitted that the Government of India vide its letter dated 11.12.2012 had laid down the policy regarding the segregation of agricultural load requirement and rural domestic consumers requirements. Vide said letter, the Central Authority has sought reports regarding the implementation of 24/7 power supply to rural domestic consumers and also meeting the agricultural load requirements at national level by way of feeder segregation scheme or other alternatives. The Central Authority also asked the State Electricity Authority to submit details of feeder segregation scheme being implemented in the State and views on the scheme. The Chief Engineer Administration at the Head office of the PSPCL further wrote a letter to the Chief Engineers of the zones vide letter dated 19.12.2012 and directed that in case any tubewell connections were still running on urban Industrial and 24 hours supply feeders, the work of shifting of those tubewells should be undertaken and intimation be given to their office. It was also further directed that it may also be verified whether there was any agricultural land where the tubewells are being fed from 24 hours supply.*”**



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A copy of the Government of India, Central Electricity Authority, Distribution, Planning and Development Division, New Delhi dated 11.12.2012, is annexed as Annexure R-1.

5. That the Commercial Circular No.69/86 from the Chief Engineer/Commercial to all S.E.s, XENs, SDOs, JEs pertaining to the clarification in respect of releasing of tubewell connection from nearest feeder, wherein it was clarified that for release of Tubewell connection, the nearest feeder shall be the nearest rural feeder or its sub main only.

6. That Whole Time Directors (WTD) of PSPCL in its 184th meeting which was held on 16.8.2016 considered the subject of AP tubewell connections being fed from urban supply feeder as their Office Agenda No.58 and passed the resolution resolving to comply the orders of Hon'ble National Green Tribunal and to save the over exploitation of ground water, field Officer shall ensure to provide fixed hours supply as per notification dated 11.3.2010 issued by State Government as amended from time to time. The copy of memo no.6330/34 dated 14.9.2016 issued from the office of Chief Engineer to all EIC/SE/OP Operational Zones is annexed as Annexure R-2.

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3. That the content of this para are wrong and denied. It is submitted that in Electricity Supply Instruction Manual



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(ESIM), Instruction 38 which postulates release of connection from 24 Hrs Urban pattern Supply Feeder for Villages. The perusal of the same makes it abundantly clear that all categories of consumers falling within or beyond of phirni of village except AP Tubewell are entitled for supply from Urban Pattern Supply Feeder. Copy of instructions is annexed as Annexure R-3.”

6. A rejoinder to the said written statement was filed by the petitioners.

ARGUMENTS BY PETITIONERS:

7. Learned counsel appearing on behalf of the petitioners has argued that the action of the respondents is not based upon any decision taken by the competent authority and the reliance on the memo dated 08.03.1997 is misplaced. He contends that the said memo relates to supply of electricity to the agricultural Tubewell connections and that there is no mandate of shifting of the connections. The same is only a mandate with respect to carrying out the appropriate entries and the manner in which the free electricity supply to the famers is to be measured. A reference is also made to the impugned order wherein the reason for declining the prayer of the petitioners is stated that the connections of the petitioners are being shifted from Urban Feeder to the Rural Feeder because other persons to whom Tubewell connections have been released from the AP Feeder, cater supply in different schedules for 08 hours whereas the petitioners are being given supply on the Urban Feeder for 24 hours. Hence, the petitioners



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herein draw an advantage as compared to the other persons to whom supply is being made on AP Feeders. He contends that the order rejecting the representation does not make any reference to any Policy decision taken by the respondents and is infact a self-styled measure adopted by the respondents to get away with the alleged discrimination. He contends that the connections of the petitioners are more than 40 years old and that on account of any subsequent developments and the Policies framed by the respondents it cannot be claimed that the act of releasing of connection to the petitioners is in any manner arbitrary or discriminatory toward the persons to whom the electricity connections had been released subsequently/later in point of time. He further contends that in the concluding para, the respondents have placed reliance to the Commercial Circular No. 69 of 1986 which is to the effect that the electricity connections are to be processed for release from the nearest feeder of PSEB available in area and that a self-styled clarification that for release of Tubewell connection to the nearest feeder, it has to be interpreted as the nearest Rural Feeder or its sub main only is arbitrary and is at best prospective. It is submitted that the aforesaid clarification cannot be issued by any authority lower than the authority that had issued the Commercial Circular and that further, in the parting lines of the aforesaid order, the said decision is to be implemented prospectively in relation to the future Tubewell connections to be released. The same does not apply to the electricity connections that already stand released much prior to the said order.



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8. Learned counsel for the respondents however places reliance on Annexure R-1, which is a communication from the Central Electricity Authority pertaining to Feeder Segregation bearing No.2012/3473-3516 dated 11.12.2012 on the subject pertaining to ensuring 24 x 7 power supply to rural domestic consumers and also meeting the agricultural load requirements at National level by way of Feeder Segregation Scheme or other alternatives. He contends that the segregation of the transmission lines are based upon the aforesaid memo issued by the Central Electricity Authority. However, a perusal of Annexure R-1 shows that it nowhere mandates or directs a Distribution Licensee to shift the existing Feeder to any other segregated Feeder. Rather, the Central Electricity Authority had asked for the information about the Feeder segregation scheme, being implemented in the State or the views of the State on the respective scheme or any other scheme that is being planned to be implemented or the measures proposed by the State for ensuring 24 x 7 power supply even to rural domestic consumers and at the same time meeting the requirement of agricultural load as per their need. The same was thus not a direction by the Central Electricity Authority for meter segregation and was only that the primary data was being collected by the Central Electricity Authority for its further Policy formulation. Reliance was also placed on Annexure R-3, an extract from the Electricity Supply Instructions Manual. Clause 38.5 thereof is extracted as under:-



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“38.5 No new AP tube well connection shall be allowed from urban pattern supply feeders or rural feeders within the phirni of the villages. Shifting of existing tube well connections shall not be allowed on the Urban Pattern supply feeders. However, where technically it is not feasible to give AP tubewell connection from Rural feeder, the feasibility of giving connection from urban feeder shall be considered, but in such cases, the case study shall invariably be carried out by the field officers indicating the length of the line and cost involved in releasing the connection from urban feeder viz-a-viz Rural Feeder.

CE/Commercial shall be competent authority for such cases and detailed case shall be sent by the concerned CE/DS to CE/Commercial alongwith case study report and his clear recommendations.

However, under no circumstances, new AP tubewell connection shall be released from Industrial/ Urban Pattern Supply feeders”

9. No further argument has been raised.

CONSIDERATION:

10. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

11. The sole grievance espoused by the learned counsel for the petitioners is about the shifting of their existing electricity connections (which are functional for the last more than 3-4 decades) from the Urban Feeder to Rural AP Feeder. The said aspect not being in dispute, reliance has been placed by the respondents on the letter issued by the Central



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Electricity Authority, however, a perusal of the said letter shows that the same is not in the nature of a direction/order passed by the Central Electricity Authority requiring shifting of the existing electricity supply from existing Feeder to any other Feeder.

12. Further, in so far as reliance on Annexure R-3/Instruction 38.5 of the Electricity Supply Instructions Manual is concerned, the same is in relation to not allowing any new AP Tubewell connections from Urban Pattern Supply Feeders for villages. Shifting of the existing Tubewell connections was not to be allowed on the Urban Pattern Supply Feeders except when it is technically not feasible to the AP Tubewell connection to be given supply from the Rural Feeder. In such a circumstance, the feasibility of giving AP connection from Urban Feeder was to be considered. The said instructions is not applicable to the facts of the present case. The aforesaid instructions prohibit release of new electricity connection from the Urban Feeder for the AP Tubewell connection and restrict shifting of AP supply from a Rural Feeder to Urban Pattern Supply was prohibited unless there are certain exigent circumstances. There is no such request for shifting connection to Urban Feeder that has been made in the present case since the petitioners are already on an Urban Feeder. Hence, the clause is being read conversely by the respondents whereby their unilateral decision is being portrayed as if the shifting is being done in compliance to a prohibition imposed in shifting of the AP electricity supply from Rural to Urban Feeder, on the request of a consumer. The interpretation is clearly based upon misreading of the instructions.



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13. A reference had been made to the Commercial Circular 69 of 1986 issued by the erstwhile Chief Engineer of the Punjab State Electricity Board. The said instruction was only in relation to the releasing of the electricity connection from the nearest feeder available in the area. The electricity connection having been released to the petitioner at the relevant point in time from the nearest Feeder, which was the Urban Feeder available in the area, the subsequent explanation given that the nearest feeder for release of Tubewell connection would be the nearest Rural Feeder is again an explanation which is incorporated only by virtue of order dated 03.10.2017 and has to apply for release of a new electricity connection. The same being prospective and confined to an act of releasing new agricultural connection would not apply to the connections already released.

14. I find that the reasons given by the respondents in their reply do not actually advance the defence taken by them and do not support their act of shifting of the existing electricity connections from Urban Supply to Rural Supply.

15. Both the present writ petitions are accordingly allowed. The order(s) dated 03.10.2017 passed by the respondent-Distribution Licensee are set aside.

(VINOD S. BHARDWAJ)
JUDGE

18.09.2024

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No