

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17975 of 2000

Date of decision: 20.01.2015

M/s Suraj Udyog

... Petitioner

versus

Punjab State Electricity Board and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sunil Chadha, Senior Advocate, with
Mr. Kirpal Singh, Advocate, for the petitioner.

None for the respondents.

K.Kannan, J.

The petitioner is aggrieved against the successive orders passed by the Circle Level Disputes Settlement Committee and Zonal Level Dispute Settlement Committee on two claims made by the petitioner, that the notices of penalty issued against the petitioner was unjustified. The notices had been on the basis that the petitioner had enjoyed Industrial Large Supply (LS) Connection with the sanctioned load of 282.403 KW and had drawn more than the permissible load that he could have consumed during Peak Load Restrictions Hours. The peak load restriction was that consumer would not avail more than the 5% of the sanctioned load during specified periods. On two dates of inspection, namely, 11.03.1997 and 15.05.1997, the petitioner was found drawing more than the restricted supply that he could have enjoyed, namely, on 11.03.1997 it was 24KW and on 15.05.1997 it was 23.52 KW. The notices of penalty imposed were brought under challenge in the civil suit and it was disposed of with direction to approach the Dispute Settlement Committee. The Committee had passed the order, impugned with the writ petition, holding that the

charges levied were as per the prevalent instructions and as charges were justified and recoverable. The counsel points out that there is no reasoning at all and it cannot be supported.

It is not as if the petitioner does not understand why the penalty was imposed. The petitioner's own narration in the writ petition shows that penalty was being imposed for drawing more power than what was permissible during Peak Load Restriction Hours. The only dispute could have been the amount as actually assessed. The Regulations brought through LD circular is reproduced in the writ petition itself which shows that for the first default the consumer would be required to pay ₹ 100/- per KW of his sanctioned connected load and for the second default it was ₹ 200/- per KW of his sanctioned load. This would mean that the penalty will not be merely on the excess over the restricted load that he could have consumed, but the penalty was on the entire sanctioned load at a particular rate depending on whether it was first, second or subsequent defaults.

It would seem, therefore, that for the first default brought on 11.03.1997, the penalty could have been ₹ 28,240/- and for the subsequent default it could have been ₹ 56,480/-. On the whole the total amount payable would be ₹ 84,720/-. But, it would seem that the petitioner had deposited ₹ 71,656/-, against the notices Annexures P2 and P5.

Learned senior counsel appearing for the petitioner stated that even apart from the penalty at the rates specified in the circular, they have charged interest @ 12.24%. I cannot see any basis for charging of interest or how the amounts have been arrived at. If the amount paid by the petitioner is even less than the aggregate which we have referred to, nothing further remains for the petitioner to challenge. If any amount in excess of what is seen is possible under the circulars and if there is also no basis for collection of interest, since the amounts have been paid as demanded through notices, the amount paid in excess over the demanded shall be refunded to the petitioner, within four

weeks, from the date of demand through notice which the petitioner is at liberty to issue and secure.

Writ petition is disposed of with above observation.

20.01.2015
Kumud

(K.KANNAN)
JUDGE