

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.11415 of 2012
Date of Decision.14.01.2015

State Bank of Patiala

.....Petitioner

Versus

Punjab State Power Corporation Ltd. and others

.....Respondents

Present: Mr. Tajinder K. Joshi, Advocate
for the petitioner.

Mr. B.S. Mittal, Advocate
for respondent Nos.1 and 2.

None for respondent No.3.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J.

1. The petitioner is a consumer of electricity in whose premises at the head office building at Patiala, the sanctioned load was 17775.470 KW. The supply was being made through a 11 KV line. At a check by the XEN Enforcement-I, PSEB for accuracy of current and voltage contribution of the CT/PT, it was found on line 1(L-1) 0.013A and on line 3(L-3) it was shown 13.612A current. There was no contribution through one phase of the meter and the CT/PT had been sealed and packed in the presence of the consumer and brought to the M.E. Lab for internal/outer accuracy check. A memo had been issued on 24.02.2010 by the Assistant Executive Engineer referring to the fact that the CT of one phase was not working and that on the data being downloaded on 27.01.2010, it revealed that CT of red phase was not

working since 6.8.2008. The account was, therefore, required to be overhauled and demand of Rs.49,44,498/- had been made which was revised to Rs.46,37,327/-. This was by application of LDHF formula from August, 2008 to February, 2010. This demand had been contested in two successive quasi-judicial tiers, viz., before the Consumer Grievances Redressal Forum and still later at the Ombudsman. The point that had been raised was in terms of the Regulation 21.4(g) the account could be overhauled only for a period of six months and the calculation could not be made for all the period from August, 2008 when one phase was not working.

2. The petitioner also referred to Section 26(6) of the Electricity Act in terms of which the inspector shall estimate the amount of the energy supplied to the consumer during such time not exceeding six months if in the opinion of such inspector the meter had not been correct. The contention, therefore, was that the overhauling of the account could not have been made for more than six months. On the other hand, the contention by the Electricity Corporation was that the meter and CT/PT unit was not one unit. Every meter has current coil and potential coil in it irrespective of the fact that whether additional CT/PT unit had been installed or not. When the connection at the petitioner's premises was checked, it was found that the current and voltage were not contributed in one phase. It was found that red phase CT was not working since 06.08.2008 to the date of the replacement of the meter and the meter equipment. Regulation 21.4 of the Supply Code relating to limitation of overhauling of account for a period of six months could not be applied since it was not a case of defective meter.

Indeed, in the inspection note it was specifically observed that the accuracy of the meter was not checked. It was only the current and the voltage contribution of the CT/PT that were checked. It was a case of recording of less consumption actually consumed by the petitioner and it could only be taken as a mistake in genuine calculation. The appropriate provision was, therefore, to only apply condition No.23 of the Condition of Supply. The Ombudsman who considered the rival contentions made specific reference to ESR 73.8 which reads as follows:-

“The cases involving incorrect connection, defective CTs/PTs genuine calculation mistake etc. are not governed under the above mentioned instructions but under the provision of Condition No.23 of the 'Condition of Supply' which read as under:-

Where the accuracy of meter is not involved and it is a case of incorrect connection or defective CTs and petitioners, genuine calculations mistakes etc., charges will be adjusted in favour of board/consumer, as the case may be, for the period the mistake/defect continued.”

3. Even the Electricity Supply Instructions Manual which deals with testing of meters of HT/EHT consumers by Enforcement/MMTS makes a clear distinction between accuracy of meter and CT connection.

Regulation 59.4 reads as follows:-

“.....Before testing the meters, CTs connections wherever applicable shall be thoroughly checked. If CTs connections are found wrong or CTs are found out of circuit and thus not contributing, the recorded consumption shall be enhanced proportionately, keeping in view non-contribution of CTs as applicable. This consumption shall be further subject to revision as per test result of the meter.”

4. It is, therefore, clear that before testing the accuracy of the meter, it is incumbent upon checking the connections of CT wherever applicable and if CT connection is found wrong or CTs are found out of circuit and thus not contributing, the recorded consumption shall be

enhanced proportionately, keeping in view non-contribution of CTs as applicable. The Ombudsman observed that Regulation 21.4 of the Supply Code was applicable only for revision on account of inaccuracy of meter. The proportionate enhancement of the consumption on account of non-contribution of CTs or wrong connections etc. is not limited only by Regulation 21.4(g). ESIM actually replaced by ESR after coming into force of the Supply Code and ESIM also maintains the distinction between the inaccurate meter and defect in connection of CT/PT. The Ombudsman, therefore, rejected the contention that the account could not be overhauled beyond a period of six months. I find nothing erroneous about such decision of the Ombudsman and the entire controversy by the petitioner has been brought about on a wrong assumption that there has been a defect in the meter and Regulation 21.4(g) is applicable. The reasoning of the Ombudsman accords with the relevant Regulations and I find no error for an interference in the writ petition.

5. The writ petition is dismissed.

(K. KANNAN)
JUDGE

January 14, 2015
Pankaj*