

CWP No.16518 of 2013

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.16518 of 2013
Date of decision:24.02.2016**

Gurudwara Sri Darbar Sahib

...Petitioner

Versus

Punjab State Power Corporation Limited and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Pradeep Rajput, Advocate,
for the petitioner.

Ms. Meenu Bansal, Advocate,
for the respondents.

Rakesh Kumar Jain, J.

The petitioner is having electricity connection bearing account No.G.C. 22/10 with the sanctioned load of 47.83 KW and has been regularly paying the bill for consumption of electricity and nothing has been outstanding against it till it received the impugned bill/letter bearing memo No.366 dated 16.05.2012 of an amount of ₹26,63,660/- for the period 06/2006 to 02/2012. It was alleged by the respondents that during audit, it was found that Multiplier Factor 1 (MF-1) has been applied instead of Multiplier Factor 2 (MF-2) as per the Current Transfers (CTs) and the meter load capacity. On inquiry made by the petitioner, it was revealed that the CTs of 100/5 Amp capacity were replaced with the CTs of 200/5 Amp capacity. The petitioner asked the respondent-department why the CTs

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were replaced with 200/5 Amp capacity, whereas not only the load was within the sanctioned limit but also the CTs were also not defective nor any application was made by it either to replace the CTs or enhance the load limit. The respondent-department failed to give any answer and impressed upon the petitioner to pay the amount raised in the impugned bill/letter. The petitioner challenged the demand raised by the respondents before the Disputes Settlement Committee (DSC) after depositing ₹5,32,732/- i.e. 20% of the disputed amount. The DSC, in its meeting dated 19.08.2012, though observed that due to mistake of the Sub Divisional staff, the wrong MF-1 was applied and even directed the Deputy Chief Engineer/DS Circle, Tarn Taran to investigate the matter and fix the responsibility of the concerned delinquent staff but at the same time ordered for recovery of the aforesaid amount by applying MF-2.

Aggrieved against the order dated 19.08.2012, the petitioner preferred an appeal before the Consumers Grievances Redressal Forum, PSPCL, Patiala, which was dismissed on 27.12.2012. Thereafter, the petitioner preferred further appeal before the Ombudsman, Electricity Punjab who, vide its order dated 11.04.2013, partly allowed the appeal, upholding the demand of the respondents, by applying required MF-2, but restricted it to a period of five years and a direction was issued to the respondents to recalculate the demand by applying the requisite MF-2 for the preceding period of five years from the date of inspection on 07.03.2012.

The petitioner, while assailing the validity of the impugned

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order(s), has submitted that the impugned bill is in violation of Section 56(2) of the Electricity Act, 2003 (for short “the Act”) as no sum due from any consumer is recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied. It is also submitted that the case of the respondents is that the CTs were replaced in June, 2006 but no intimation was given to the petitioner nor it was changed in their presence, therefore, the very existence of the change of CTs is disputed because the petitioner did not come to know that it is being charged due to change of CTs. It is further submitted that on the one hand, the Ombudsman has observed that there is a deficiency in service on the part of the respondent-Department as the meter was not checked for six years, whereas there are specific instructions to check the meters periodically and on the other hand, it has illegally upheld the bill for the purpose of recovery of the amount of five years. It is also submitted that it cannot be believed that the meter was not checked from 06/2006 till 12.06.2012 or any report was not made about new capacity of the CTs, whereas as per Clause 112.2.1 of the Sales Regulations, all electricity connections are required to be checked by the respondents periodically.

At the time of notice of motion, it was argued by learned counsel for the petitioner that the petitioner had never applied for enhancement of the sanctioned load nor the respondents issued any notice to the petitioner before changing the meter box and CTs.

On 01.10.2015, the Court had directed the respondents to file a

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specific affidavit of a senior officer to the effect that when the CT was changed, whether any notice was given to the petitioner or CT was changed in the presence of representative of the petitioner and why CT was changed once electricity connection was already running properly.

In compliance of that order, an affidavit of Maninderjit Singh, Addl. Superintending Engineer, City Division, PSPCL, Tarn Taran dated 25.01.2016 has been filed, in which it is averred that *“.....as per the job order dt. 12.06.2006 (Annexure R-1) CT was defective and it was replaced with the new LTCT of capacity 200/5 on 13.06.2006. It is further submitted that neither any notice was given to the petitioner nor it was changed in the presence of the petitioner. 3. That it is further submitted that during that period a special drive was conducted by the respondents to strengthen the electricity supply system for providing the uninterrupted power supply at Tarn Taran due to celebratio of 400th foundation day of Gurdwara Sri Darbar Sahib, Tarn Taran. The old meter was installed in the wooden box, which was old and broken. Therefore, the meter was changed with iron box after getting it issued from the store. The new iron box was fitted with CT of 200/5 Amp capacity and same meter was fixed therein”*.

On the other hand, case of the respondents is that thought the petitioner is having domestic connection bearing account No.G.C. 22/10 with the sanctioned load of 47.80 KW and it had the CT of 100/5 Amp, on the basis of which MF-1 was applied and since the meter was installed in the wooden box which was broken, therefore, the meter was changed with the iron box which was fitted with the CT of 200/5 Amp capacity and when

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it was detected during the audit conducted on 08.05.2012 that the billing has been done by applying MF-1 with the CT of 200/5 Amp capacity, the bill was revised/raised by applying MF-2.

I have heard learned counsel for the parties and perused the available record.

On the basis of the aforesaid facts emerging from the records, the issue which is required to be decided is as to whether the respondents have been justified in issuing the impugned bill, demanding a sum of ₹26,63,660/- for the period from 06/2006 to 02/2012, on the ground that MF-2 should have been applied instead of MF-1 as per the CT capacity and meter load, especially when the already installed CT of 100/5 Amp capacity at the premises of the petitioner was replaced with the CT of 200/5 Amp capacity without application, knowledge and presence of the petitioner?

The respondents are asking for the aforesaid amount from the petitioner on the ground that during audit, it has been found that the new LTCT of 200/5 Amp capacity was installed on 13.06.2006 in the premises of the petitioner though the bill was continuously being raised by wrongly applying MF-1, which should have been revised/raised by applying MF-2 as per the CT capacity and the meter load.

The case of the petitioner is that it had never asked for the change of the meter capacity, which has now been admitted by the respondents in the affidavit dated 25.01.2016 filed by Maninderjit Singh, Addl. Superintendent Engineer, City Division, PSPCL, Tarn Taran, in which he has fairly admitted that there was no application by the petitioner

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for replacement of the CTs of 200/5 Amp capacity from 100/5 Amp. and no notice was given to the petitioner nor it was changed in the presence of the petitioner, rather it is alleged that the respondents had found that the old meter was installed in the wooden box which was broken, therefore, it was thought of to change it with the iron box after getting it issued from the store and the new CTs with the capacity of 200/5 Amp. were fitted.

If the fault is on the part of the respondents, then why should the petitioner suffer is the argument raised by the petitioner besides relying upon Section 56(2) of the Act.

Thus, in view of the admitted fact(s) on the part of the respondents that the petitioner never applied for replacement of the CTs/meter capacity, no notice was given to the petitioner by the respondents for change of the CTs and even that the CTs/meter capacity was changed in the absence of the petitioner, the respondents are not entitled to revise/raise the impugned bill in the absence of a contract between the parties of replacement of CTs/meter capacity.

Consequently, the present writ petition is hereby allowed and the impugned order much-less the bill is quashed.

February 24, 2016
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(Rakesh Kumar Jain)
Judge