IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.1248 of 2016
Date of Decision: 21.01.2016

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Punjab State Power Corporation Limited, Patiala

. . . .Petitioner

Versus

Ombudsman Electricity Punjab and another

. . . . Respondents

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CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

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Present: Mr.Ashok Kumar Jindal, Advocate, for
Mr.Mukul Aggarwal, Advocate,
for the petitioner.

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RAKESH KUMAR JAIN, J.

This petition is filed to challenge the order dated 23.11.2012 passed by respondent No.1, partly allowing the petition filed by respondent No.2, setting aside order dated 4.4.2012 passed by the Grievances Redressal Forum (Forum) and order dated 26.7.2012 of the Zonal Dispute Settlement Committee (ZDSC) confirming demand of ₹5,45,660/- in the electricity bill of respondent No.2 pertaining to October 2010, after adjustment of electricity bills issued in the months of August 2010 and September 2010.

In brief, respondent No.2 has been provided electricity connection by the petitioner bearing account No.MS-37/614 under HS category, having sanctioned load of 97.85 KW under AEE/Commercial Sub Division, Unit No.1, Ludhiana, for the purpose of running his factory for which the electricity bills are issued on monthly basis. The dispute in this case pertains to the electricity bills of the year 2010 particularly for the months of August, September and October 2010 because in the bill for the month of August 2010, old KWH & KVAH readings were 847973 and 930894, respectively whereas new KWH & KVAH readings were 939659 and 1026236, respectively. Meaning thereby, the actual consumption of electricity was shown to be 91686 units for the month of August 2010. Since, there was abnormal variation in the units shown to have been consumed in August 2010 than the previous month of July 2010, the billing for the month of August 2010 was done on average basis by computer itself for 12389 units by applying 'I' code i.e. inconsistent reading, against actual consumption of 91686 units. Similarly, during September 2010, bill was prepared on average basis for 11590 units due to 'I' code, whereas, the recorded reading during September was KWH 957941 and the resultant consumption recorded was 18282 units. However during October 2010, the recorded reading was New KWH 976813 and accordingly the bill was generated on actual total consumption of 128840 units for ₹5,45,660/-, after adjusting previous 'I' code bills issued on average consumption basis for the month of August & September 2010. The said bills were challenged by respondent No.2 before the concerned officer by depositing ₹1200/- on 29.10.2010. According to the petitioner, the meter was jointly checked by the then AEE/Tech. Unit –II and the then Additional S.E. CMC (Spl.) Divn., Ludhiana on 1.11.2010 vide LCR No.33/273 and the meter was found working properly as per the dial test and the meter reading was recorded by report dated 2.11.2010.

Respondent No.2 challenged the meter and the petitioner issued an MCO i.e. Meter Change Order vide MCO No.E12/M/10/57798 dated 18.11.2010 and the meter was thus replaced on 6.1.2011 and the replaced meter was sent to ME lab vide store challan No.110113/16909 dated 22.2.2011 again for re-testing.

According to the petitioner, the ME lab report showed the test result of the meter within the permissible limits. Besides, the test of the meter by ME lab DDL i.e. Daily Data Log of the meter was also done, DDL is helpful in determining whether there was any jumping in the reading of meter or not. It is also mentioned in the petition that the memory capacity of the meter to retain the data is of 70 days only and since the meter was replaced on 6.1.2011, therefore, the DDL of the meter could be taken uptill the date of 6.1.2011 from 25.10.2010, from which no abnormality of jumping of meter was recorded in DDL print out. It is further averred in the petition that the connected load of the consumer was also checked afresh on 1.3.2012 from AEE/Tech. Unit-I vide LCR No.7/4566 and the connected load of respondent No.2 was worked out to 95.680 KW and it was observed that respondent No.2 was running his factory on 24 hours basis i.e. 3 shifts. Thus, computing by LDH formula, the consumption of respondent No.2 was worked out to 28704 units per month. The high consumption pattern was in keeping with the consumption worked out by LDH formula basis and was also corroborated by high MDI reading of 122.95 KVA. It is further averred in the petition that had there been any jumping of the meter, it would have reflected in either KWH or KVAH but there is no probability of jumping of both KWH & KVAH simultaneously and respondent No.2 filed a petition before the Zonal Level Dispute

Settlement Committee at CE/OP (Central), PSPCL, Ludhiana vide case No.393/2012 on 19.3.2012 challenging the amount of ₹5,45,660/- charged in bill of October, 2010 for 128840 units. The committee decided that it was not a case of meter jumping but the case of accumulation of reading and the amount charged from respondent No.2 is recoverable with interest and surcharge. The order dated 4.4.2012 passed by the Committee was challenged by respondent No.2 before the Redressal of Grievances of Consumers at Patiala by filing case No.CG-54 of 2012 but vide order dated 26.7.2012, the order of the Committee was upheld. At last, the petitioner filed the appeal before the Ombudsman, Electricity Punjab at Mohali, in which respondent No.1, while partly allowing the appeal of respondent No.2 has directed that the account of respondent No.2 be overhauled taking consumption of August 2010 of 21804 units, of September 2010 and October 2010 on actual basis and the amount excess/short, if any, be refunded from/to respondent No.2 with interest in terms of the provisions of SR-147. Against this order, the present petition has been filed.

I have heard learned counsel or the petitioner, who has basically argued that the amount charged from respondent No.2 is due to accumulation and not because of jumping of meter, which has accrued due to the connivance of the petitioner with the meter reader of the department but has fairly submitted that there is no evidence in this regard. In the absence of any evidence in this regard, no fault can be found in the order of the Ombudsman, who has passed a well reasoned order and the findings recorded by him are noticed as under: -

"From the above, it is noticed that there is increase in consumption during the year 2008 when compared with 2007. There is no substantial difference in the consumption during 2009 and 2010 excluding disputed reading of 80000 units as compared to 2008. Thus, there is no major difference in the consumption pattern of 2010 as compared with the earlier years even after excluding the disputed consumption. In fact in case disputed consumption is taken into account, the consumption for the year 2010 appears to be abnormally high as compared with the previous three years and also on the higher side when compared with the consumption of 2011. The Addl. SE had justified the higher consumption during 2010 contending that the factory was running in three shifts. The petitioner denied this and submitted that factory started working three shifts from 8/2011 and it is apparent from the consumption recorded from the year 2011. I find some merit in this submission of the petitioner. The consumption data for 2011 reproduced above do indicate increase in consumption from 8/2011 onwards. In case, this period is excluded for comparison purpose, the consumption compares well with the consumption recorded in 2011 upto month of July 2011. Thus, accumulation of consumption is not established from the consumption pattern of the petitioner for

> *the period 2007 to 2011. However, the fact remains that consumption for 08/2010 is not verifiable. In my view, it will be fair and reasonable if consumption for 08/2010 is taken 21804 units based on consumption of 08/2011 and consumption for 09/2010 and 10/2010 is taken as actually recorded. Accordingly, it is directed that account of the petitioner be overhauled taking consumption of 08/2010 of 21804 units of 09/2010 and 10/2010 on actual basis and the amount excess/short, if any, may be recovered/refunded from/to the petitioner with interest under the provisions of ESR-147."*

In view of the aforesaid, I do not find any merit in the present petition and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

21.01.2016
Vivek