

CWP- 6101-2016

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

**CWP- 6101-2016
Date of Decision: 28.04.2016**

U.H.B.V.N.

... Petitioner(s)

Versus

The Permanent Lok Adalat and another

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the 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 ?

Present: Mr. K.S.Malik, Advocate,
for the petitioner.

Paramjeet Singh Dhaliwal, J.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the impugned Award/order dated 10.07.2015 (Annexure P-3) passed by respondent No.1-Permanent Lok Adalat for Public Utility Services, Panipat Camp at Sonapat.

Brief facts of the present case are to the effect that respondent No.2 moved application under Section 22 of the Legal Services Authority Act, 1987, for settlement of the dispute of alleged illegal sundry charges, as imposed for the first time in the bill issued on

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12.11.14 with the averments that respondent No.2 is a consumer with a three phase electric connection No.MS03-1001-A. In the bill dated 12.11.2014, an additional amount of ₹2,10,355/- has been demanded from respondent No.2 as sundry charges along with actual consumption charges of Rs.1,26,307/-. On enquiry from the office of the petitioner, it was told that the amount of ₹1,18,725/- vide item No.9 for the month of August, 2012, ₹4,050/- and ₹87,580/- vide item Nos.10 and 11, both for the month of July, 2012 are outstanding against the petitioner. Vide impugned order dated 10.07.2015 (Annexure P-3), respondent No.1 after hearing the parties partly allowed the application and directed the petitioner-U.H.B.V.N.L not to recover the amount of ₹2,06,905/- out of sundry charges of Rs.2,10,355/- from respondent No.2 and further held that the petitioner herein is entitled to recover only ₹3450/- out of sundry charges on the basis that the demand of aforesaid amount could not be raised keeping in view Section 56 of the Electricity Act, 2003 (for brevity, 'the Act'). Even as per clause (vii) of Circular NoU03/2004 dated 08.01.2014 issued by the petitioner, any amount of arrears in respect of any consumer, cannot be recovered if assessed after two years of its becoming due. For any such lapse, the officer(s) responsible would be liable. Therefore, the demand of ₹2,10,355/- is wrong after the expiry of two years of its becoming due. Hence, this writ petition.

I have heard learned counsel for the petitioner and perused the record.

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Learned counsel for the petitioner relied upon the decision rendered by the Hon'ble Jharkhand High Court in ***M/s. Tata Steel Ltd. vs. Jharkhand State Electricity Board and others*** 2008(1) JCR 580 to contend that the recovery of bills cannot be said to be hit by the provisions of Section 56 (2) of the Act and the amount of impugned bill cannot be said to be unrecoverable and barred under Section 56 (2) of the Act.

I have considered the contentions of learned counsel for the petitioner.

The reliance by learned counsel for the petitioner upon ***M/s. Tata Steel Ltd.'s case (supra)***, is misplaced as Section 56(2) of the Act expressly provides for no recovery of sum due beyond two years from the date from which such sum becomes due.

Section 56 of the Act (ibid) reads as under:

“56. Disconnection of supply in default of payment:

(1) xxxx

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be 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 arrear of charges for electricity supplied and the licensee shall not cut off

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the supply of the electricity.”

Perusal of the aforesaid provision clearly shows that no amount due from any consumer towards any charge for electricity or any sum other than a charge of electricity due from a consumer under this section, shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously recoverable as arrear of charges for electricity supplied and also that the licensee shall not cut off the supply of the electricity. Respondent No.1 has rightly come to the conclusion that the petitioner could not show this amount in bills issued since July, 2012 and the amount of ₹2,10,355/- was shown to be recoverable as sundry charges for the first time in the disputed bill dated 12.11.2014. It has been rightly held that the petitioner can recover the amount of ₹3,450/- besides the current charges of ₹1,26,307/- as the said amount has been demanded within two years of becoming due and respondent No.1 cannot recover the remaining amount as the same is in contravention of Section 56 of the Act.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed in limine.

Costs made easy.

28.04.2016

parveen kumar

(Paramjeet Singh Dhaliwal)
Judge