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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20636 of 2017
Date of decision:12.09.2017

Punjab State Power Corporation Limited ...Petitioner

Versus

M/s Mohan Lal Garg Company and another ...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Iqbal Singh Saggu, Advocate,
for the petitioner.

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Rakesh Kumar Jain, J.

This petition is filed by the Punjab State Power Corporation Limited (hereinafter referred to as the "Corporation") to challenge the order of the Ombudsman dated 02.12.2016.

In brief, respondent no.1 was having a large supply category connection bearing A/c No.LS-24 with sanctioned load of 272.566 KW under Operation Division of Mansa for Oil and Vegetable Ghee Mill. The data of the meter installed in the premises of respondent no.1 was downloaded by the Senior Executive engineer/MMTS, Bathinda on 06.08.2015 for the period 30.05.2015 to 05.08.2015. After scrutiny of details, it was pointed out that respondent no.1 has violated the peak load hours restrictions and was liable to pay the penalty of ₹97,135/- and accordingly, notice dated 09.10.2015 was issued to it for depositing the penalty.

The case of the petitioner is that the Corporation had issued PR Circular No.1/2015 dated 31.03.2015 regarding timing of evening peak load

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hours restrictions by changing the earlier timings. The said peak load restrictions hours were applicable to the large supply consumer only. The said circular was made effective from 01.04.2015 and was uploaded on the website of the Corporation but due to non-publicity of the same, some of the consumers were not be able to observe the changes in the peak load restriction hours, therefore, a new PR Circular No.25/2015 dated 16.06.2015 was issued to the effect that the consumer, who kept on observing previous peak load hours restriction timings, shall not be penalized till the issuance of first bill of large supply consumer.

It is submitted that the Divisional Dispute Settlement Committee decided the matter against respondent no.1 and its order was upheld by the Forum for Redressal of Grievances of Consumers. However, the Forum issued directions to recover the penalty of ₹77,708/- from respondent no.1 vide its order dated 25.07.2016, which was challenged by respondent no.1 before the Ombudsman, Electricity, Punjab, who has allowed the appeal vide its order dated 02.12.2016 on the ground that PR Circular No.01/2015 contains a specific provision that the changes in peak load restriction hours are to be got noted from all the concerned consumers well in time but the same has not been done by the Corporation.

Counsel for the petitioner has submitted that the finding recorded by the Ombudsman are erroneous because the matter was brought to the notice of the consumers by uploading the same on the website.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that there is no error in the order of the Ombudsman because it is specifically mentioned in the PR

Circular No.01/2015 that the changes in the peak load restriction hours/timings are to be got noted from all the concerned consumers well in time. The relevant findings of the Ombudsman in this regard are as under:-

> "I have gone through the written submissions made in the petition, written reply of the respondents and oral arguments of the petitioner and the representative of PSPCL as well as other materials brought on record. I find merits in the arguments of the Respondents that the petitioner was required to visit the website of PSPCL daily to check and update himself regarding instructions of Peak Load Hours/Weekly Off days as per instructions notified vide PR circular no: 36/2013 dated 04.10.2013 but this merit is negated as the PR Circular No. 01/2015 contains the specific provision that these changes in Peak Load Timings are to be got noted from all the concerned consumers well in time. Furthermore, the Respondents vide its CC no: 25/2015 has directed not to charge PLVs as per new schedule till the date of issue of first bill after 01.04.2015, which shows that the PLVs, if any, are to be intimated in the first bill itself. In the present case, evidently, the date of issue of first bill is 09.04.2015 but no PLV charges have been levied in this Bill from where the Petitioner may have noticed the changed schedule. Even the PLV charges have not been levied in the subsequent bill issued in 05/2015. The intimation regarding levy of charges has been conveyed for the first time vide notice dated 09.10.2015.
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> I have also scrutinized the Load Survey Data placed on record, which showed that all the violations pointed out/charged are at the starting time (19.00 hrs) as per new schedule but I could not find any violative load run by the Petitioner at end time (22.00 hrs). The printouts also showed complete observance of restrictions as per old schedule. The petitioner came to know the new schedule only on 09.10.2015 when the notice was issued by the Respondents asking him to deposit Rs. 97,135/- as penalty for PLVs during the period from 30.05.2015 to 05.08.2015 on the basis of DDL report dated 06.08.2015.
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> As a sequel of above discussions, it is concluded that the

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petitioner has observed Peak Load Hour Restrictions for complete three hours during the disputed period, as per old schedule applicable vide PR no: 09/2003 and the change in restriction timings as per PR no: 01/2015 was not intimated or got noted from the petitioner immediately after issuance of PR circular inspite of clear directions to get these instructions noted from all the concerned. Further, it is an admitted fact that the petitioner came to know about the new timings only on 09.10.2015, when he was asked to deposit the PLV charges for the first time and thereafter no violation has been noticed as per the changed schedule. Thus, in my view, the levy of PLV charges, as per changed schedule before 09.10.2015, is not justified and it is held that no penalties as per new changed timing vide PR no:01/2015 should be charged upto 08.10.2015. The respondents are further directed to get the DDL printout rechecked from MMTS for working out violations, as per old schedule upto 08.10.2015 and charge the penalty, if any.

Accordingly, the respondents are directed that amount of penalty be re-computed as per above directions, and the amount excess/short, if any, may be recovered/refunded from/to the petitioner with interest under the relevant provisions of ESIM-114.

7. The petition is allowed."

In view of the aforesaid findings recorded by the Ombudsman, I do not find any merit in the present petition and hence, the same is hereby dismissed being denuded of any merit.

September 12, 2017 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned: Yes/No
Whether Reportable: Yes/No