

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.4943 of 2015 (O&M)
Date of decision: July 18, 2017

Punjab State Power Corporation Limited ...Petitioner

Versus

The Collector/Appellate Authority & another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Rujhan Dhawan, Advocate for
Mr. Sapan Dhir, Advocate for the petitioner(s) in
CWP Nos.4943, 4980,4981, 4997, 4999, 5016 & 5064 of 2015.

Mr. Surinder Pal, Advocate and
Ms. Promila Nain, Adv. for petitioner in CWP-19409-2014.

Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

Mr. Mr. Karan Nehra, Advocate for respondent No.2 in
CWP No.5016 of 2015.

Mr. J.S. Jaidha, Advocate for respondent No.2 in CWP-19409.

Mr. V. Ram Swaroop, Advocate for respondent No.2 in CWP
Nos.4943, 4980, 4997 & 4999 of 2015.

Rajan Gupta, J.(oral)

This order shall dispose of eight writ petitions i.e. CWP
Nos.4943, 4980,4981, 4997, 4999, 5016, 5064 of 2015 and 19409 of 2014,
as common questions of law arise in all these cases.

Reply on behalf of respondent No.2 has been filed in court in
CWP No.5016 of 2015. Same is taken on record.

Petitioner has posed a challenge to the order dated 11.12.2013
(Annexure P-2), passed by the appellate authority constituted under the

2003 Act, whereby it has remitted the case to the competent authority for decision afresh. The order reads as under:-

“This appeal has been filed by Deepak Dhanda son of late Sh. K.K. Dhanda, resident of Plot No.836, Industrial Area-A, Ludhiana, permanent resident of 654/1, Pakhowal Road, Gurdev Nagar, Ludhiana against final notice memo No.370 dated 29.01.2013 which is issued by Assistant Executive Engineer, CMC Division Operation (Spl.) PSPCL, Near Cheema Chowk, Industrial Area, Ludhiana. During the proceedings of case, the electricity department has produced a notification issued vide letter No.37/2013, memo No.504/13/DD/SR-463, dated 26.07.2013 issued under section 127 of the Electricity Act, 2003, a perusal of which, it is found that an amendment has been made in the assessment of unauthorized use of electricity. So, taking into consideration the new guideline amended to Annexure-8 Assessment of electricity charges in case of unauthorized use/theft case is being remanded and it is ordered that according to new letter the appellant be given a chance of hearing after considering the case again and decision be made again.”

It has been urged before the court that Appellate Authority could have decided the issue itself. There was no necessity of remanding the case to the same authority for decision afresh. The notification dated 26.07.2013 would not have retrospective effect.

Counsel appearing for contesting respondent, however, refutes this plea. According to him, the Assessing Authority did not take into consideration notification dated 26.7.2013, issued under section 127 of the Act. The appellate court, thus, rightly remanded the case to the Assessing Authority to consider the same in light of said amendment.

On due consideration of the matter, I find that the Assessing

Authority, to which the case has been remanded by the Appellate Authority, can consider all the pleas and take a decision afresh. Needless to observe that the parties shall be at liberty to refer to Section 127 of the Act and notification issued thereunder. This court does not find any ground to interfere in writ jurisdiction of this court. The petition is hereby dismissed.

(RAJAN GUPTA)
JUDGE

July 18, 2017
'Rajpal'

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