

CWP-552-2017 (O&M)

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

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**CWP-552-2017 (O&M).
Decided on: February 6, 2017.**

Punjab State Power Corporation Limited

.. Petitioner(s)

VERSUS

Mangat Ram Batra and another

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Ms.Tuneet Walia, Advocate,
for the petitioners.**

M.M.S. BEDI, J. (ORAL)

Notice dated 3.3.2016 issued by the petitioner raising a demand of Rs.34,948/- was challenged by respondent no.1 by approaching the Permanent Lok Adalat (Public Utility Services), Sri Muktsar Sahib. Vide impugned order dated 19.7.2016, the said notice has been quashed. Besides this, respondent no.1 has also been held entitled to a sum of Rs.5,000/- as compensation and Rs.5000/- as litigation charges which shall be payable by the guilty officials of petitioner-Corporation.

Counsel for the petitioners submits that in the present case the meter had been removed in presence of the consumer and on checking the same was found tampered with as both the ME seals were found not intact, no notice was required. Counsel for the petitioner further

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submits that it was a case of theft and no notice was required to be given to the consumer.

I have heard the learned counsel for the petitioners and carefully gone through the order passed by the Permanent Lok Adalat (Public Utility Services), Sri Muktsar Sahib, which has set aside the order challenging assessment as per letter dated 3.3.2016. The notice dated 3.3.2016 was challenged on the ground that regulation 55 of the Electricity Supply Instructions Manual which is applicable to the present case has not been followed. Regulation 55 of the Electricity Supply Instructions Manual reads as follows:-

“55. REPLACEMENT OF METERS / METERING EQUIPMENT:

55.1 Single Phase Electromechanical Meters: E / M meters removed from the consumer premises on replacement with the electronic meters shall be returned to ME labs without any other formality and ME labs will not carry out any checking / testing of these meters except in case of disputed meters. In case of disputed meters removed under code –G,M & R (glass broken, meter burnt & ME seals broken) and in cases where there is sufficient evidence of theft / tampering etc. at the time of removal, the JE concerned shall record his observations on the MCO itself and such meters shall be packed and sealed in the presence of consumers for further checking in ME labs in his presence.

55.2 Three phase E / M meters: While replacing three phase E / M meters with electronic meters if there is evidence of tampering / theft etc. JE shall record his

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observations on the MCO itself. Such meters shall be packed and sealed in the presence of consumer and his signatures obtained on the packing and such meters shall be tested jointly in the ME lab along with enforcement officers in the presence of consumer. Note: In case the consumer does not turn up for joint checking such meters shall be checked after serving third and final notice.

55.3 While replacing CT / PT units with dry type pilfer proof 11 kV CT / PT units the CT / PT units shall be checked by MMTS / Enforcement before replacement at the consumer premises in as found condition. Only those CT / PT units shall be checked in ME Labs in the presence of consumer where the CT / PT units was declared as doubtful by the checking agency in the checking report itself or where there is apprehension of theft. All the oil filled type 11 kV CT / PT units not declared as doubtful at the time of replacement shall not be checked in ME Labs for further disposal.”

Admittedly, in the present case, the checking agency has not reported that it was a case of suspected theft. In view of said circumstance, neither any notice has been given to the private respondent nor it was checked in any lab in the presence of the consumer as per the requirements of instructions 55.3 of the Electricity Supply Instructions manual. The Permanent Lok Adalat (Public Utility Services), Sri Muktsar Sahib, has observed as follows: -

“It is admitted fact that regulation 55 of Supply Code of respondent is applicable. It is also effect that MCO

number 83662 dated 27.11.2015 has been issued which on perusal shows that this order has been issued for replacement of mechanical meter of applicant by installing electrical meter. In the light of these circumstances regulation 55 of Supply Code is a deciding factor. According to this regulation the removed mechanical meter was not to be checked in ME Lab unless certain conditions are fulfilled. It is not the case of respondent that under this regulation 55 those conditions existed which allowed the officials of the respondents to check the removed meter in ME Lab. Due to this the whole exercise of checking removed mechanical meter in ME Lab is violative of prescribed procedure of respondent because of this illegal procedure the demand raised by respondent on the basis of checking done in ME Lab is illegal.”

I do not find any infirmity in the said observation and as such, there is no ground to interfere in the exercise of writ jurisdiction.

I have also considered the contention of the learned counsel for the petitioner that the amount of compensation and litigation charges are not payable as there has not been any illegality on the part of officials of the Corporation and I am of the opinion that the order of the Permanent Lok Adalat (Public Utility Services), Sri Muktsar Sahib, granting Rs.5,000/- as compensation and Rs.5,000/- as litigation expenses to be paid by the alleged guilty officials is not sustainable as no opportunity has been given to any guilty official before imposing liability on them.

The petition is dismissed. However, it is ordered that

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respondent no.1 will not be entitled to the compensation or the litigation expenses to be paid by the guilty officials as the officials of the petitioner-Corporation had performed duty during the course of their employment. So far as the order of the Permanent Lok Adalat (Public Utility Services), Sri Muktsar Sahib, setting aside the notice dated 3.3.2016, is concerned, the same is upheld.

(M.M.S. BEDI)
JUDGE

February 6, 2017.

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Whether speaking / reasoned

Yes / No

Whether reportable:

Yes / No