

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

CWP No.1543 of 2013

Date of Decision: 30.07.2018

Jaswinder Pal

.....Petitioner

Vs.

Panjab State Power Corporation Ltd. And ors.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.K.K.Goel, Advocate, for the petitioner.

Mr.Y.P.Khullar, Advocate for respondents No.1 to 4.

RITU BAHRI, J. (ORAL)

Petitioner is seeking quashing the order dated 03.08.2012 passed by Additional Deputy Commissioner (Appellate Authority) Bathinda rejecting the appeal preferred by the petitioner (Annexure P-1) and final assessment order No.221 dated 07.03.2011 passed by Executive Engineer Bathinda (Annexure P-2).

Petitioner is a consumer having connection of small power with the sanction load of 19.990 KW. The connection was in the name of Jaswinder Pal son of Jaswant Rai. A checking was done by the enforcement wing Bathinda Punjab State Power Corporation Limited, Bathinda on 01.04.2010 and petitioner was served with provisional order of assessment for unauthorized use of electricity in exercise of powers under Section 126 of the Electricity Act, 2003. Petitioner has filed

objection (Annexure P-3A) but final assessment order dated 07.03.2011

has been passed after reducing the amount from Rs.1,98,670/- to Rs.1,80,582/-. Aggrieved against the same, petitioner filed an appeal before Additional Deputy Commissioner, Bathinda on 14.03.2011 but the same was dismissed vide order 03.08.2012 (Annexure P-1). Hence, the writ petition.

Learned counsel for the petitioner has referred to the letter dated 09.09.2010 and contends that after filing the objections (Annexure P-3A), a clarification was sought by the Senior Executive Engineer from Assistant Executive Engineer vide order dated 09.09.2010 (Annexure P-4) and before getting the clarification, the impugned order of assessment (Annexure P-2) has been passed.

On notice, reply has been filed by the respondents No.1 to 4 in which they have denied the letter (Annexure P-4). It is stated that the Senior Executive Engineer Distribution Bathinda would not seek any clarification from Assistant Engineer Distribution Sub Division, Civil Lines, Bathinda and as such, the letter (Annexure P-4) is factious and fabricated document. However, the orders Annexure P-1 and P-2 have been rightly based on keeping in view the tariff clause section 111.7 of General Conditions of Tariff and Schedule of Tariff effective from April 1, 2006 which provides that if the connect load of a consumer exceeds the permissible limits over and over the sanctioned load, the excess load shall be unauthorized load. Such, excess load shall be charged surcharge at an additional rate of Rs.750/- per KW for each default.

In the present case, written statement was filed on 28.11.2016 and the petitioner has not filed any replication to rebut the stand taken by the respondent that the letter (Annexure P-4) was factious and fabricated documents. Hence, this letter (Annexure P-4) is not liable to be considered for assessment in the appellate order.

A perusal of appellate order (Annexure P1) shows that Flying Squad conducted the checking and after making inquiry report handed over the consumer i.e. tariff clause 111.7 as reflected in the written statement.

In the facts of the present case, on 01.04.2010, checking was conducted by enforcement wing Bathinda Punjab State Power Corporation against the sanctioned load of 19.990 KW. The interim bill calculated which was more than the double and this backdrop a demand of unauthorized electricity was sought. The calculation has been rightly made as per tariff clause given 111.7. Since the unauthorized load was more than double, the case of the petitioner falls under under Section 145 of the Electricity Act, 2006. The impugned orders have been passed under Section 145 of the Electricity Act.

Keeping in view that the only ground to interfere in the impugned order with respect to letter (Annexure P-4) for clarification. The letter (Annexure P-4) has been found as factious and fabricated as per reply filed by the respondents and after the proceedings carried out by the respondents-Nigam on 01.04.2010, it was found that there was unauthorized use of electricity which are more than double from the

sanction load. As such, impugned order i.e. final assessment order dated 07.03.2011(Annexure P-2) has been issued against the petitioner.

So in view of the above, the order of the appellate Court dated 03.08.2012 (Annexure P-1) and Final Assessment Order dated 07.03.2011 (Annexure P-2) do not reflect any material irregularity or perversity which warranting interference. Hence the present writ petition stands dismissed.

(RITU BAHRI)
JUDGE

30.07.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No