203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2539-2017 (O&M)
Date of Decision: 20.09.2018.

Surinder Kaur

... Petitioner

Versus

The Ombudsman, Electricity, Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Manu K. Bhandari, Advocate,
for the petitioner.

Mr. Arihant Goyal, Advocate,
for respondent No.1.

Mr. M.C. Berri, Advocate, for respondent Nos. 3 & 4.

JITENDRA CHAUHAN.J.(ORAL)

Through the instant civil writ petition, the petitioner seeks setting aside of order dated 08.12.2016 (Annexure P-9) passed by respondent No.1 vide which appeal filed by the petitioner was dismissed; and order dated 23.06.2016 (Annexure P-4) passed by respondent No. 2 vide which a demand of Rs.15,32,107/- raised from the petitioner was upheld. The petitioner also seeks setting aside of order dated 04.03.2016 (Annexure P-1) vide which demand of Rs.15,32,107/- has been raised.

It has been contended by the learned counsel for the petitioner that the petitioner is a user of medium industrial supply connection bearing No. 3000159632 with sanctioned load of 97.750 KW against which the petitioner has been paying electricity bills regularly. A checking was conducted on the premises of the petitioner and during checking, it transpired that a wrong multiplying factor of "1" was being applied instead of multiplying factor of "2". Thereafter, demand notice, Annexure P-1 was issued to the petitioner directing him to deposit an amount of Rs.15,32,107/- on account of application of wrong multiplying factor from 02.04.2012 to 15.02.2016. The petitioner deposited an amount of Rs.3,06,500/- and filed a petition challenging the demand notice. The petition was dismissed and the appeal filed thereagainst was also dismissed.

It has been contended that as per regulation 112.2.2 of Electricity Sales Regulation, the respondent department is duty bound to check the meter once in every year. Further, as per regulation 21.4(g)(i) of the Electricity Supply Code 2007, a meter cannot be overhauled except for the last six months, therefore, the demand cannot be raised for more than six months.

On the other hand, it is contended that after coming into force of Electricity Act, 2003 and regulations made thereunder in Electricity Supply Code and Related Matter Regulations, 2007 (applicable from 01.01.2008) and amended Supply Code, 2014 (applicable from 01.01.2015), a demand due to wrong billing can be raised.

Heard.

The petitioner is user of 'MS' category connection with sanctioned load of 97.75 KW. On 10.02.2016 a checking was conducted in the premises of the petitioner and it was found that a wrong multiplying factor of "1" was being applied for making the bill whereas, multiplying factor of 2 ought to have been applied, therefore, the account of the petitioner was overhauled and a demand of Rs.15,32,107/- for the period from 02.04.2012 to 15.02.2016 was raised against the petitioner vide Annexure P-1. As against the contention of the petitioner that demand cannot be raised for more than six months, learned counsel for the respondents relies upon Electricity Act, 2003 and Regulations made thereunder in Electricity Supply Code and Related Matter Regulations 2007 and amended Supply Code, 2014 (applicable from 01.01.2015) which entitles the respondents to raise demand for any period. However, it is to be noticed that the Supply Code, 2014 came to be amended with effect from 01.01.2015, therefore, the respondents can take the advantage of Supply Code, 2014 only with effect from 01.01.2015. Therefore, it is ordered that the respondents can recover the amount from the petitioner only from 01.01.2015 and not prior thereto.

Consequently, the civil writ petition is disposed of accordingly. Let fresh bill be generated within two weeks. The electricity connection be restored to the petitioner within a week after half of the fresh bill is made and with undertaking that he will pay the remaining amount in a specified amount. It is further ordered that in case an application is made by the petitioner to pay the arrears in instalments that should also be considered sympathetically.

At this stage, learned counsel for the petitioner, on instructions, submits that the petitioner is ready and willing to pay the entire amount as per the fresh bill within two weeks of the issuance of the bill however, he states that the petitioner has already paid Rs.6,06,000/- approximately against the bill under challenge. The Corporation is directed to adjust the amount tendered by the petitioner and will not charge interest during the period the matter remained pending consideration before this Court.

Disposed of accordingly.

20.09.2018. **(JITENDRA CHAUHAN)**
SN **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No