

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-15536-2019 (O&M)
Date of Decision: 20.08.2019

Punjab State Power Corporation Limited

--Petitioner

Versus

Ashish Kumar & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Vinod S. Bhardwaj, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

The Punjab State Power Corporation Limited has filed the instant writ petition assailing the order dated 20.7.2018 (Annexure P-9) passed by the Lok Pal (Ombudsman) Electricity, Punjab.

A brief factual matrix would be necessary.

Respondent no.1 herein was having a domestic supply (DS) category connection with a sanctioned load of 35.660 KW. The metering was done by providing a Static LT CT Energy Meter. Respondent submitted an application for shifting of the Energy Meter Equipment outside the premises. Pursuant thereto the connection was checked by the Additional S.E./Enforcement-3, Ludhiana on 1.6.2017. At the time of checking the Energy Meter was found to be running slow by 68.14%. The Energy Meter was replaced on 2.6.2017 and the same was checked in the M.E Lab. on 22.6.2017 and the accuracy was found within limits and the DDL was taken. The petitioner-Corporation overhauled the account of respondent no.1 from the date of installment of the disputed Energy Meter i.e. from 12.9.2014 to May, 2017 i.e. for a period of 33 months and accordingly a notice dated 2.6.2017 was issued calling upon him to deposit a sum of Rs.18,91,583/-.

Respondent no.1 contested the notice and approached the Forum for

Redressal of Grievances of Consumers under the petitioner-Corporation. The Forum vide order dated 20.11.2017 granted partial relief to respondent no.1 and directed as under:-

“Account of the petitioner be overhauled for a period of six months preceding the date of checking i.e. 01.06.2017 taking into consideration slowness factor as 68.14%.

The notice for unauthorized use of electricity under Section 126 also need to be served for using the electricity for construction purposes.”

As per directions issued by the Forum, the amount in question was reduced to Rs.4,03,161/- and a fresh notice dated 26.12.2017 was served upon respondent no.1. Still not satisfied, respondent no.1 preferred an appeal against the decision of the Forum by filing Appeal No.07/2018 before the Electricity Ombudsman, Punjab.

Vide order dated 20.7.2018 passed by the Electricity Ombudsman, the appeal preferred by respondent no.1 has been allowed and a view has been taken that the account of the consumer cannot be overhauled with slowness factor of 68.14% but the same should be done on the basis of average consumption of the corresponding period of the previous year. Furthermore, it has been decided on the basis of the connected load+temporary load on the date of checking i.e. 6.11.2017 against the sanctioned load, the consumer could use the supply temporarily for construction purpose and as such, is liable to be charged load surcharge only.

It is towards impugning the order dated 20.7.2018 passed by the Lok Pal (Ombudsman) Electricity Punjab (Annexure P-9) that the instant writ petition has been filed.

Learned counsel representing the petitioner-Corporation has vehemently contended that adequate and sufficient relief had already been granted to respondent no.1 by the Consumer Grievance Redressal Forum by holding that the overhauling of the account has to be restricted to a period of six months preceding the date of checking and as such, there was no justification for the Electricity Ombudsman to have interfered further in the matter and thereby granting undue benefit to the consumer. It has been argued that the entire case of the Corporation was based upon the fact that the Energy Meter in question had been found slow by 68.14% and as such, the overhauling of the account had to be done on such basis alone. Yet another submission raised is that the Electricity Ombudsman has overlooked the aspect that the domestic connection was being used for purposes of undertaking construction activity and which would amount to unauthorized use of electricity for which proceedings under Section 126 of the Electricity Act, 2003 were required to be undertaken.

Having heard counsel for the petitioner Corporation at length and having perused the pleadings on record, this Court is of the considered view that there is no merit in the instant writ petition and the same deserves to be dismissed.

Regulation 21.5.1 of the Supply Code, 2014 reads as follows:-

“Regulation 21.5.1 of the Supply Code 2014 states as under:

“If a consumer meter on testing is found to be beyond limits of accuracy as prescribed hereinunder, the account of the consumer shall be overhauled and the electricity charges for all the categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:

- a) date of test in case the energy meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter, whichever is later; or*
- b) date the defective meter is removed for testing in the Lab of the distribution licensee”*

Counsel for the Corporation does not dispute the factual premise that testing of the Energy Meter was done on 22.6.2017 in the ME Lab and which reported that the accuracy of the Energy Meter was within limits. As such, by virtue of operation of the afore-reproduced regulation the account of the consumer could not have been overhauled on the basis of the alleged slowness factor of 68.14%. No exception, as such, can be taken to the view taken by the Ombudsman Electricity that overhauling of the account of the consumer was required to be done on the basis of average consumption as recorded after replacement of the Energy Meter.

With regard to issuance of notice for Unauthorized Use of Electricity (UUE) under Section 126 of the Electricity Act, 2003 is concerned and the levy of UUE charges, Regulation 8.3.5 of the Supply Code, 2013 would be relevant and is extracted below:-

“Existing consumers temporarily using supply for construction purposes or for construction after demolishing existing structure shall be allowed to use load from the existing connection provided the total sanctioned load/demand is not exceeded.”

The Electricity Ombudsman in the impugned order has observed that the Connected Load of the consumer was 39.599 KW+Temporary Load of 4.498 KW on the date of checking i.e. 6.11.2017 as opposed to the sanctioned load of 35.660 KW. Even such figures are not disputed by counsel for the Corporation. By virtue of Regulation 8.3.5 the

consumer can temporarily use supply for construction purposes and as such,

was liable to be charged load surcharge only. Even such view is in conformity with the Regulation 8.3.5 of the Supply Code, 2014.

The impugned order dated 20.7.2018 passed by the Lok Pal (Ombudsman) Electricity, Punjab (Annexure P-9) is based on valid and cogent reasoning and upon due appreciation of the relevant provisions contained in the Supply Code, 2014.

No merit, petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

20.08.2019

lucky

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