

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

CWP No. 2710 of 2020

Date of Decision: February 03, 2020

Punjab State Power Corporation Ltd.

.... Petitioner(s)

Versus

Nahar Industries Enterprises Ltd. and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Parminder Singh-I, Advocate
for the petitioner.

LISA GILL, J.(oral)

Prayer in this writ petition is for quashing order dated 14.11.2019 (Annexure P-11), passed by Lokpal (Ombudsman), Electricity, Punjab-respondent no.2.

Admitted facts are that a dispute regarding the Advance Consumption Deposit (in short ACD)/Security Deposit arose between the petitioner and respondent no.1. The matter is admittedly pending before the Hon'ble Supreme Court of India in Civil Appeal No.3530-31 of 2009, wherein respondent no.1 was directed to deposit the ACD. Civil appeal No.3530-31 of 2009 filed by respondent no.1 stands admitted before the Hon'ble Supreme Court vide order dated 31.08.2009. An application seeking interim relief filed by respondent no.1, was disposed of on 14.05.2009, by the Hon'ble Supreme Court with the following observations:-

“In the meantime, petitioner is directed to pay “Advance Consumption Deposit” within a period of two weeks under protest and without prejudice to their rights and contentions. If the amount is deposited, respondent will not take any coercive steps. If the amount is not deposited within two weeks, respondent is free to recover the disputed amount in accordance with law.”

The amount due towards the ACD is admittedly deposited by respondent no.1 in compliance with order dated 14.05.2009. In the meantime, respondent no.1 moved an application in July 2018, claiming interest on the Advance Consumption Deposit, in terms of Section 47(4) of the Electricity Act, 2003. The Consumer Grievance Redressal Forum vide order dated 18.07.2018 rejected the petitioner's application on the ground that the same was pre-mature, in-as-much as the matter was still pending before the Hon'ble Supreme Court.

The controversy was taken before the Lok Pal (Ombudsman), Electricity, Punjab, who after considering the matter in great detail, set aside order dated 18.07.2018 and directed that “respondent no.1 would allow interest on the amount of ACD deposited for the load connected on Captive Power Plant (CPP) supply by it (which does not synchronize with the distribution licensee system) as per Regulation 17.1 of the Supply Code-2007 amended vide Supply Code-2014”. The present petitioner was directed to calculate the interest payable on the interest deposited by respondent no.1 as per the instructions of PSERC/distribution licensee and adjust the same in future energy bills. Aggrieved therefrom, this petition has been filed.

Learned counsel for the petitioner submits that the ACD has been deposited for the period prior to the coming into force of the Electricity Act, 2003. At that time there were two circulars (Annexure P-3 and Annexure P-4) which were in currency. As per the said circulars, no interest is required to be paid to the consumer on the ACD. It is, thus, prayed that this writ petition be allowed and the impugned order dated 14.11.2019, passed by the Lok Pal (Ombudsman), Electricity, Punjab-respondent no.2, be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

Section 47(4) of the Electricity Act, 2003 is reproduced as under:-

“The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section(1) and refund such security on the request of the person who gave such security.”

Learned counsel for the petitioner is unable to deny on a pointed query, that the petitioner-PSPCL is in fact giving to other consumers, the benefit of interest on ACD deposited by them prior to the coming into force of the Electricity Act, 2003. It is further not in dispute that the question regarding interest to be paid on the ACD, is not the subject matter of the dispute before the Hon'ble Supreme Court. Learned Lok Pal (Ombudsman), Electricity has delved into the controversy in great detail.

The necessary information regarding the deposit of ACD and the interest thereon was duly called for by the learned Lok Pal before passing the impugned order dated 14.11.2019

Keeping in view the facts and circumstances, I do not find any illegality or infirmity in the impugned order dated 14.11.2019, passed by the Lok Pal (Ombudsman), Electricity, Punjab-respondent no.2.

No other argument has been raised.

Keeping in view the facts and circumstances of the case as above, this writ petition is dismissed being devoid of any merit without any order as to costs.

February 03, 2020

Sunil

**(Lisa Gill)
Judge**

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