

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

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CR-403-2021 (O&M)

Date of decision : 25.02.2021

Punjab State Transmission Corporation Limited

.....Petitioner

Vs.

Government of India and Others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

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

ALKA SARIN, J.

Heard through video conferencing.

The present revision is directed against the impugned order dated 18.11.2020 passed by the Civil Judge, Junior Division, Patiala whereby the application filed by the defendant-respondent for rejection of the plaint for want of court fees has partly been allowed and the plaintiff-petitioner has been directed to deposit the Court fees.

Mr. Vinod S. Bhardwaj, learned counsel appearing for the petitioner has contended that the suit filed by it is not for recovery but for declaration and for mandatory injunction, which reads as under:-

“ *Suit for declaration to the effect that the actions and orders of the defendants of charging the amount of Rs.6,25,57,341/- in excess than the liability of the plaintiff-petitioner during the period w.e.f. 16.04.2010 to 06.07.2015 and further actions and orders of the defendants vide which it was informed by the office of Senior Divisional Electrical Engineering/G, Northern Railways, Ambala Cantt., to the plaintiff-petitioner vide his letter endorsement No.1056,*

dated 16.03.2016 that the Engineering Department of the defendants have decided that the license fee for Electrical Crossing by State Electricity Boards restricted into State owned companies under Electricity Act, 2003 as well as central agencies will be treated after the issue of Railway Board letter dated 30.07.2014 and further decision that the clarificatory instructions issued by the department vide Letter Memo No.2013/LML-1/24/41 dated 30.07.2014 are prospective and will be treated after the issue of Railway Board letter dated 30.07.2014 is illegal, null and void, ultravires, unconstitutional, without jurisdiction, in violation of this principles of natural justice and against the mandatory of provisions Rules and settled provisions of law.

And

For Mandatory injunction directing the defendant to refund the amount of Rs.6,25,57,341/- as has been charged by the Railway Department in excess from plaintiff for the period w.e.f. 16.04.2010 to 06.07.2015 as have been fully described in Annexure-A along with interest @ 18% per annum from the date on which the same were deposited by the plaintiff with the defendants till the realization of the amount of the same from the defendants.”

Learned counsel for the petitioner would contend that the presentsuit is not a suit for recovery but is a simplicitor suit for declaration and mandatory injunction with consequential relief.

I have heard learned counsel for the petitioner and perused the documents appended with the petition.

The plaintiff-petitioner in the present case has filed a suit for declaration to the effect that the actions and orders of the defendant-respondents of charging the amount of Rs.6,25,57,341/- in excess than the liability of plaintiff-petitioner during the period from 16.04.2010 to 06.07.2015 and further that clarification issued by the department vide letter No.2013/LML-1/24/41 dated 30.07.2014 are prospective and will be treated after the issue of Railway Board letter dated 30.07.2014, is illegal, null and void and against the mandatory provisions of Rules and settled provisions of law. Further, a mandatory injunction has been sought directing the defendant-respondents to refund the amount of Rs.6,25,57,341/- as charged by the Railway Department in excess from the plaintiff-petitioner.

A perusal of the plaint clearly reveals that though the plaint has been termed as being one for declaration and mandatory injunction, however, in effect what is sought is recovery of the excess amount alleged to have been paid by the plaintiff-petitioner. A perusal of the plaint further reveals that the substantial relief claimed in the present suit is for recovery of an amount of Rs.6,25,57,341/- charged in excess. By merely suitably wording the plaint and making prayers for declaration and mandatory injunction with consequential relief would not change the nature of the substantial relief which has been sought in the case.

The plaintiff-petitioner in the garb of seeking a declaration and mandatory injunction is seeking a substantial relief of recovery and simply by playing around the words it cannot avoid payment of Court fees.

In view of the above, I do not find any illegality or infirmity in the order passed by the Court below.

The present petition is, hence, dismissed.

February 25, 2021

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**(ALKA SARIN)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
 Whether reportable: Yes/No