IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

205

CWP-11013-2015
Date of decision: 17.08.2022

PUNJAB STATE POWER CORPORATION LIMITED AND ANOTHER

.........Petitioners

VERSUS

PERMANENT LOK ADALAT AND ANOTHER

.......Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present:- Mr. Parveen Chander Goyal, Advocate
for the petitioners.

Mr. Kumar Vishav Aggarwal, Advocate
for respondent No.2

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VINOD S. BHARDWAJ, J. (Oral)

The instant writ petition raises a challenge to the order dated 04.04.2015 passed by the Permanent Lok Adalat only to the extent that the Permanent Lok Adalat has awarded compensation to the tune of Rs. 1 lakh towards loss of business and Rs. 50,000/- as compensation towards harassment and mental torture to the respondent No.2-applicant. A further cost of Rs. 50,000/- has also been imposed upon the petitioner for disobeying the order dated 01.10.2014 and for issuing an order of disconnection for non-payment of the amount despite stay order having been passed by the Court against recovery of the said amount.

2. Learned counsel appearing on behalf of the petitioner submits that even though the entire order had been originally a subject matter of challenge, however, at the stage of issuance of notice of motion, the contention of the petitioner was restricted only to the extent of quantified loss and compensation. He contends that no objective material was available with the Permanent Lok Adalat for assessing the loss and directing payment of compensation. He contends that in the absence of any tangible objective material, the compensation could not have been quantified and that the order passed by the Permanent Lok Adalat suffers from arbitrariness.

3. Per contra, learned counsel appearing on behalf of the respondent contends that the applicant-respondent had been running an Industrial Unit, Phase IX, Industrial Focal Point, Mohali under the name and style of 'Samar Automative Products. He had a sanctioned load of 38.96 KW and had submitted a request on 04.11.2011 for enhancement of load to 97.88 KW. Along with the aforesaid application, all the necessary statutory charges and dues were duly deposited. However, despite a number of reminders sent to the respondent-authorities to expedite sanction and release of the enhanced load, needful was not done in violation of the provisions of Electricity, Act 2003 as well as the Supply Code, 2014 which mandate a period of 30 days for release of load on pre-conditions being satisfied by an applicant.

4. He further contends that a bill to the tune of Rs. 3,51,440/- was received by the petitioner on 24.09.2014 towards sundry charges. A memo was also issued on 12.08.2014 showing the sanctioned load of

97.88 KW and thereafter in the bill dated 24.09.2014, the sanctioned load was reflected as 38.96 KW. He contends that due to non-release of the enhanced load, the respondent-applicant sustained an annual loss of income to the tune of Rs. 5 lacs and accordingly prayed for a compensation to the tune of Rs. 16.50 lacs against the inexplicable delay attributed to the petitioner-Punjab State Power Corporation Limited for statutory violation of the mandatory provisions of the Electricity Act and Electricity Supply Code.

5. He further contends that no dispute qua the quantification of the loss was raised by the petitioner. He further contends that the proceedings are to be carried out in a summary manner before the Permanent Lok Adalat and that the stringent provisions of the Civil Procedure Code, Evidence Act and proof are not applicable. The damage awarded is even otherwise on the lower side & cannot be termed as excessive or harsh.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record of the present case.

7. Before proceeding further into the matter, it is essential to refer to the finding recorded by the Permanent Lok Adalat (Public Utility Service). The relevant extract of the said order reads as under:

> *"The contention of the Ld. Counsel for the respondents that the load was sanctioned on 15.03.2012 in the presence of the applicant and he very well knew about it and therefore his contention that he could not utilize the increased load or suffered any loss is totally wrong. In support of his contention the Ld. Counsel referred to the letters Ex.A4 to Ex. A9 in which the applicant admitted*

that transformer and meter had been changed and requested for change of cable from transformer to the meter which also was changed on 07.12.2013. It is argued that these facts clearly show that the load had already been extended. This contention is vehemently opposed by the applicant. According to the Ld. Counsel, the sanctioned load in the bills still mentioned was 38.96 KW and the one sided assertion of the applicant had no value unless the load sanctioning letter was issued by the respondents which in the present case had not been issued till the applicant filed the present application. The conduct of the respondents in this respect is not only suspicious but uncalled for. The applicant sent a letter Ex. A4 on 17.09.2012; and its reminders Ex. A5 on 29.07.2013; Ex A6 on 23 November 2013, Ex A7 on 26 December 2013, Ex A8 on 16.05.2014 and Ex A9 01.07.2014 but the respondents did not reply to any of these letter to tell him if the load had already been sanctioned as alleged on 15.03.2012. When the load was sanctioned it was necessary for the respondents to inform the applicant that his load has been extended and therefore he should make use of the extended load but it was not done for the reasons best known to the respondents. The Ld. Counsel for the applicant argued that it was done under their policy of hide and seek so that if the applicant uses the said extended load in the absence of the an order to that effect he could be caught for committing the theft of electricity and penalized heavily. It is argued that in that situation, the self serving version of the applicant that the load had been extended could not have been accepted as correct by any authority and not even by the respondents.

15 There is no denying the fact that all the official decisions are to be in writing and that all the communication between the parties should also be in writing. In the case of the respondents whether a person *applies for a new connection or for change of connection or for extension of load or for disconnection and whether the respondents are to recover the bill amount, penalty or other charges everything has to be conveyed in writing. It therefore cannot be said that the present one is a case of exceptional nature in which the load was verbally extended and the respondents were not obliged to inform the applicant in writing about the extension of load. In fact the written communication alone could be a valid ground for the applicant to use the extended load and otherwise also a written communication alone could save the applicant from any penalty or other consequences for using the extended load. We are therefore of the opinion that if the load was extended on 15.03.2012 it was necessary for the respondents to inform the applicant in writing.*

16 The conduct of the respondents in not informing the applicant about the sanctioning of load leads us only to the conclusion that the contention of the respondent that load was extended on 15.03.2012 is totally wrong Had it been so they would have informed the applicant about their decision. Thereafter when the applicant was repeatedly sending letters to the respondents they would have replied to him at least once before filing of the present application that his load had already been extended on that date. The respondents were issuing him the bills towards the consumption of electricity and in all these bills sanctioned load was mentioned to be 38.96 KW and not 97.88 KW as is now alleged by the applicant. They have not been able to explain as to why the extended load was not mentioned by them in the bills and how the applicant would have been able to defend himself in view of the over whelming evidence contrary to his request for extention of load. We are therefore of the opinion that the contention of the respondents that the load had been *extended on 15.03.2012 is totally false it has been falsely taken up now for the first time in their reply to the present application. Their stand in this respect is belied by the bills repeatedly being issued to the applicant showing the sanctioned load of 38.96 KW.*

17. Moreover in the letters referred to by the respondents the applicant never admitted if the load had been sanctioned or he was competent to make use of the extended load. All that he said was that the transformer and meter have been changed or the cable has been changed. These were required to be changed before the load was extended and this change could not be a sine-qua-non of the extension of load. Even if these articles were changed, thereafter a formal order from the respondents was necessary to inform the applicant that his load has been extended.

18. Not only that the bills depicted load of 38.96 KW, even the multiplier and line CTI were being applied relating to 38.96 KW and not regarding 97.88 KW and sundry charges bill Rs.3,51,440/- is totally wrong and baseless.

19. The Ld. Counsel for the respondents has placed on file their office record ExR3 to show that the load was sanctioned on 15.03 2012. When we go through the said record it becomes clear that no such load was sanctioned nor was it up dated in the official records of the respondents and therefore the applicant could not make use of the same. The office record Ex. R3 rather shows the utter negligence and carelessness on the part of the respondents in dealing with the case of load extension which was kept pending for about three years and it was ultimately sanctioned when the applicant filed the present application. Earlier also once the load was extended in the year 2008 from 11.960 KW to 38.96 KW regarding which an order dated 07.04.2008 was issued. Even that extension

> *had not been incorporated by the respondents in their record and as per the office notings it was done on 22.11.2011. This fact further shows that an order was required to be issued like the one dated 07.04.2008 regarding the extension of load which in the present case had not been issued on 15.03.2012. Subsequently in October, 2014 it was tried to be issued in the back date, but the respondents could not succeed in doing so and therefore the same was issued in November, 2014.*
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> *20. The issuance of the bill for sundry charges to recover Rs. 3,51,440 from the applicant suffered from various defects. As per order dated 01.10.2014 the recovery of the aforesaid amount was stayed by this Adalat. However, even inspite of that the respondents had been showing the said amount in the bills and directing the applicant to pay the aforesaid amount under the threat of disconnection. Fed up with the threats the applicant filed contempt petition before this Adalat regarding which also a notice was issued to the respondents. The bill EX AW3 and AW6 were issued by the respondents, contrary to our order dated 01.10.2014 directing the applicant to pay the aforesaid amount. The respondents even issued disconnection order Ex AW4 for non payment of the said amount which clearly shows that the respondents are guilty of disobeying the order issued by this Adalat"*

8. It has been specifically noticed in the order dated 27.05.2015 that the petitioner PSPCL could not establish that the enhanced load in favour of the applicant-respondent was sanctioned on 15.03.2012 or that the memo/show cause notice had been properly issued. As a matter of fact, the Permanent Lok Adalat has noticed that there was delay of nearly 04 years in release of the sanctioned load.

9. It is undisputed that Section 43 of the Electricity Act, 2003 mandates supply of Electricity to the premises within a period of 30

days after receipt of application & subject to the conditions stipulated therein upon payment of the statutory charges prescribed in the Act and regulations framed therein. It is not the case of the petitioner PSPCL that the respondent did not fulfill the requisite conditions or had not deposited the requisite statutory charges. There is no defect or deficiency pointed out in the application of the respondent or that the requisite statutory charges have not been deposited. Rather the case set up by the PSPCL is that the connection had actually been released.

10. It would be incomprehensible to suggest that the awarded damage of Rs. 1 lakh for a delay of 04 years in release of Electricity Connection would be harsh or excessive. The said compensation is apparently reasonable. Nothing has been brought on record by the PSPCL to demonstrate as to how such award would be unjust or unreasonable.

11. It is also noticed that the release of load was sought to the extent of double the existing load, the compensation so awarded by the Permanent Lok Adalat cannot be said to be excessively harsh or onerous.

12. The question which next arises is as to the interference in the quantified damages awarded by the Lok Adalat. Under ordinary circumstances, in case the compensation awarded is not excessively harsh or onerous, the writ Court would not substitute/supplement for the opinion arrived at by the Permanent Lok Adalat. No cogent, convincing or reliable evidence has been adduced to impugn the decision. All aspects have been noticed by the Permanent Lok Adalat. No illegality, perversity or impropriety or abuse of authority is pleaded,

alleged or proved. The present Writ Petition is accordingly dismissed & Order of Permanent Lok Adalat is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 17, 2022
Vishal sharma

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