

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CWP-14417-2022 (O&M)
Date of decision: 11.08.2023

GANPATI MEDICAL TECHNICAL EDUCATION TRUSTPetitioner

VERSUS

THE PERMANENT LOK ADALAT AND OTHERSRespondents

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

Present: - Mr. Balkar Singh, Advocate
for the petitioner.

Mr. Arvind Seth, Advocate
for respondents No.2 to 4.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petition is to the order dated 12.10.2020 (Annexure P-1) passed by the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar.

2. Briefly summarized the facts of the present case are that the petitioner which is an educational trust situated in Yamuna Nagar, Haryana is having an electricity Connection Account No. BSBL0007B with a load of 440 kw. It moved an application for seeking reduction of the electrical load from 440 kw to 100 kw per month on 05.05.2017 as the demand of electricity was reduced in the institute because of closure of many departments and slump in the business of the institute. The petitioner

deposited the required statutory charge vide receipt No.019962 for seeking reduction of the load and the same was forwarded to respondent No.3. It was however rejected whereupon the petitioner moved an application under Section 22 (C) of the Legal Services Authorities Act, 1987 for settlement of the dispute.

3. The above said dispute was partly decided in favour of the petitioner vide order dated 12.10.2020 and it was directed to pay 35% of the latest outstanding amount of the bill within a period of 01 month and the remaining outstanding amount was to be paid by the petitioner within 01 year in equated monthly installments.

4. Aggrieved thereof, the present writ petition has been filed on the ground that even though the petitioner had submitted the application for seeking reduction of the load on 05.05.2017 but the respondents have raised the demand by calculating the load at 440 kw instead of 100 kw for the period from 05.05.2017 till reconciliation of the accounts between the parties. The interest has also been changed from 2017 till October 2020. He submits that the demand raised on the basis of the load which was not being consumed by the petitioner is arbitrary and is unsustainable. More so when the regulations do not prescribe that the outstanding amount is required to be cleared before the sanctioned load is reduced and that the respondents unnecessarily delayed the reduction of the load thereby fastening more liability on the petitioner.

5. Written statement has been filed by the respondents wherein they acknowledged that the application for reduction of sanction load had been submitted on 05.05.2017 and while processing the said application, it was noticed that there were outstanding dues against the petitioner due to

which the sanction for reduction of load could not be granted in view of the applicable regulations. An application was thereafter preferred by the petitioner before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar and the award was passed, after reconciliation of the accounts between the parties, and the petitioner never disputed the same. The petitioner even deposited 35% of the outstanding amount and thereafter applied for reduction of load on 12.11.2020 vide application No. Y-35-1120-50 which reflects acceptance of the award. The load was thereafter reduced from 440 kw to 100 kw by the respondent-distribution licensee. It is contended that the petitioner has thereafter defaulted in making the payments of monthly installment in terms of the award and that the institution of the present petition is only a means to avoid discharge of the liability already fastened against the petitioner.

6. Counsel for the petitioner has argued that as the petitioner is not disputing the fact that the initial application for seeking reduction of load was initially submitted on 05.05.2017, hence, there was no justification for calculating the demand by deeming the load at 440 kw after the said date. Moreover, the respondents have not been able to refer to any regulation under which the outstanding/arrears had to be cleared before any request for reduction of load could be accepted. In the absence of the regulatory framework, there was no justification for withholding the reduction of load despite receipt of the application on 05.05.2017. The demand thus suffers from patent illegality.

7. Responding to the said argument, counsel for the respondent has submitted that the above said grievance was never espoused by the petitioner before the Permanent Lok Adalat (Public Utility Services),

Yamuna Nagar. The petitioner had only requested that the sanction load be reduced to 100 kw and the account be reconciled. The prayer which is now being made is that the reconciliation ought to have been done by deeming the load as reduced from 440 kw to 100 kw w.e.f. 05.05.2017. Since the present petition emanates from an award passed by the Permanent Lok Adalat (Public Utility Services), as such, the prayer made by the petitioner before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar is crucial. Having not raised such a plea before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar, the petitioner cannot be permitted to set up a fresh case before this Court. The reconciliation of the accounts was duly done as prayed for and the petitioner, having agreed to such reconciliation and also deposited 35% of the amount as a token of acceptance thereof, cannot be permitted at this stage to contend to the contrary.

8. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record appended alongwith the present petition.

9. The application submitted by the petitioner before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar as Annexure P-2 has been perused. It is evident from a perusal of the same that the petitioner has nowhere prayed that the reduction of load should be effected from 05.05.2017 at the time when the application was submitted. As a matter of fact, the entire application is silent on the said aspect. The prayer made before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar is extracted as under:-

“i- Reduce the electricity load of the applicant from 440 KW to 100 KW and to overhaul the account of (Sic)

the applicant on the basis of reduced load of 100 KW so that the applicant could make the payment of the due amount to the Nigam.

ii- Pay Rs.2,00,000/- as compensation on account of mental agony, physical sufferance and financial loss suffered by the applicant due to act and conduct of the respondents.

iii-To pay Rs.15000/- as litigation expenses, may kindly be passed keeping in view the above narrated facts, in the interest of justice.”

10. Upon consideration of the respective submissions and during the conciliation proceedings, the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar recorded the following.

“Sh. S.S. Nehra advocate of UHBVNL has placed reliance on the instructions/sale-circular No.15/2014 which enshrines the procedure for modification/change of load of electricity in existing electricity connection which says that the application for modification/change of load shall be maintainable, In case there is undertaking by applicant that outstanding dues shall be paid by the applicant within time bound frame.

The outstanding bill of Rs.7,01,292/- was outstanding against the consumer. In Written statement filed by the respondents amount of Rs. 7,01,292 was outstanding against the applicant on 2017 and by latest, bigger amount shall be outstanding against the consumer by now.

Reconciliation has been done between the parties vide which the applicant consumer shall pay 35% of latest outstanding amount of bill by one month i.e. by 12 November 2020. Remaining outstanding amount shall be paid by the applicant/consumer within one year in equal

Installments. In default of payment of outstanding dues, the electricity connection of consumer/applicant shall be disconnected. Now in the eventually, if 35% of the outstanding amount is paid by the applicant/consumer by 12 November 2020, the prayer/request of the consumer for reduction of electricity load shall be allowed and request for reduction of load from 440kw/ per month shall be allowed to be reduced to 100 kw/per month in the favour of applicant/consumer.”

11. It is further also evident that the petitioner acted in furtherance to the above said order and deposited 35% of the amount whereafter the respondent-Distribution licensee has reduced the load in terms of the application submitted by the petitioner. Further, the reconciliation of the demand was also done between the parties prior to the order, as is undisputedly recorded in the above said award. The partial compliance of the aforesaid order by the petitioner reflects that the reconciliation was acceptable to the petitioner at the relevant point of time. Even though the said award was passed in the year 2020, the petition challenging the same was filed in the year 2022. Had there been any grievance or non-acceptance, the petitioner would have approached the court at the earliest. A challenge to an award after the same has been accepted by the parties and have been acted upon, would be untenable.

12. Moreover, nothing has been brought on record on the basis whereof it can be held that the petitioner prayed for and/or raised an argument before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar for redrawing the arrears by assessing the load at 100 kw w.e.f. 05.05.2017 i.e the date when the application was submitted. Further, there is force in the contention of the counsel for the respondent that the

application under Section 22 (C) was filed by the petitioner before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar in the year 2020 and that the account statement furnished was on the basis of the sanctioned load from 2017-2020 as 440 kw. Having chosen never to dispute the assessment or demand determined w.e.f. 05.05.2017, despite being aware, it would amount to a travel beyond the pleadings raised and the prayer made by the petitioner before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar. Being a Court of Judicial review, the pleadings instituted before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar lay the contours of the relief that can be awarded to the petitioner. Having chosen to restrict his prayer before the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar, it would not be appropriate at this stage to expand the same and to reopen the entire dispute notwithstanding that the petitioner reconciled to the statement of account and agreed to re-payment in a particular mode i.e. 35% within a period of 01 month and the balance amount within one year in equated monthly installments. The award was passed on the basis of the claim filed before it. Legality or validity of such award has to be determined on the strength of the pleadings.

13. In the absence of any illegality, impropriety, perversity or misappreciation of the evidence, I fail to find any fault in the award passed by the Permanent Lok Adalat (Public Utility Services), Yamuna Nagar which was rather accepted by the parties.

14. The present writ petition is accordingly dismissed.

15. Dismissal of the present writ petition would, however, not operate as a bar against the petitioner to seek his remedies in accordance with law for redressal of his subsisting grievance.

16. All the pending miscellaneous application(s), if any, are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 11, 2023
Vishal Sharma

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