IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH.

241

CWP-4197-2022 (O&M).
Date of Decision: 24.01.2024.

MEENA KUMARI

... Petitioner(s)

Versus

THE PUNJAB STATE POWER CORPORATION LIMITED AND OTHERS

... Respondent(s)

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

Present: Mr. Abhishek Khullar, Advocate, for
Mr. J.S. Jaidka, Advocate, the petitioner.

Mr. Shiv Kumar Sharma, Advocate,
for the respondents/PSPCL.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the award dated 10.01.2022 passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana¸ whereby it has directed overhauling of the electricity account of the petitioner for the period April 2018 to August 2018, notwithstanding that the electricity supply to the premises of the petitioner had been disconnected by the respondents/PSPCL Authorities during the said period.

Learned counsel for the petitioner by referring to the award passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana contends that the petitioner-applicant Meena Kumari was a consumer of respondent distribution licensee vide electricity connection bearing No.MS03/1133A. The said connection was duly installed at the premises when the purchase thereof was made by the petitioner-applicant on 01.07.2009 from its earlier owner Subhash Chander. Inflated electricity bills were being sent to the petitioner-applicant by the respondent distribution licensee which were disputed by her. However, without settling the objections, the electricity connection of the petitioner was disconnected on 28.01.2018 on account of non-payment of the bills and a demand of Rs.85,000/- was raised as arrears. Thereafter, the respondents sent a bill to the tune of Rs.32,000/- for the months of February and March 2018 for consumption of electricity despite having knowledge that the electricity supply to the premises had already been disconnected. The petitioner-applicant approached the respondents to allow her to deposit the arrears of inflated bills on 23.08.2018. The said application was accepted and the petitioner-applicant was permitted to deposit a sum of Rs.1,34,764/- in 05 equal installments. She started making payments whereupon her connection was restored on 29.08.2018.

In the month of August 2018, petitioner-applicant received a new bill for an amount of Rs.17,552/- on an average basis and thereafter in September 2018 for a sum of Rs.39,000/- on an average basis. On 29.08.2018, the officials of the respondents had disclosed that the meter was not displaying any consumption and that the same was required to be changed. Thereafter, on obtaining a meter change order, the same was changed on 13.10.2018. After testing of the said meter in the ME Lab, a notice No.71 dated 18.04.2019 was received by the petitioner-applicant for an amount of Rs.91,960/-, on the basis of an audit note vide half margin 44 dated 16.04.2019. It was averred that the above said demand had been raised by the respondents, by way of overhauling of the account of the petitioner-applicant for the period from April 2018 to September 2018 on the basis of consumption of previous year for the same period, notwithstanding that the electricity supply to the premises of the petitioner-applicant has been disconnected during the period from January 2018 to August 2018. Hence, the electricity charges for the said period could not have been raised during the overhaul on an average basis merely on the strength of consumption recorded for the said duration in the preceding year. As the request of the petitioner-applicant was not being acceded to, an application was preferred under Section 22-C of the Legal Services Authorities Act, 1987, before the Permanent Lok Adalat (Public Utility Services), Ludhiana.

The respondent-distribution licensee entered appearance and raised various objections including an objection in relation to the status of the petitioner-applicant. On merits, the factual aspects noticed above pertaining to disconnection and restoration of the electricity supply had not been denied. The disconnection of the electricity supply on 28.01.2018 and the reconnection, on receipt of arrears in August 2018, is thus established. It is submitted that the arrears had been demanded from the petitioner-applicant on the basis of report dated 14.11.2018 submitted by the ME Lab which noticed that the meter was defective. The account was hence rightly overhauled and an additional demand notice for Rs.91,960/- was served upon the petitioner-applicant.

Learned counsel for the respondent-distribution licensee further placed reliance on the provisions of Regulation 21.5.2 of Electricity Supply Code, 2014 to justify the said demand.

Efforts for an amicable resolution of the dispute were undertaken by the Permanent Lok Adalat (Public Utility Services), Ludhiana, however, the same failed to fructify in settlement. Adjudication under Section 22 C (8) of the Legal Services Authorities Act, 1987 was hence initiated by the Permanent Lok Adalat (Public Utility Services), Ludhiana.

Upon consideration of the rival submissions advanced and evidence brought on record by the learned counsel for the parties, the Permanent Lok Adalat (Public Utility Services), Ludhiana, dismissed the application preferred by the petitioner herein.

Aggrieved thereof, the present writ petition has been filed.

Learned counsel for the parties have reiterated their arguments noticed above.

Learned counsel for the petitioner further submits that the reliance on Regulation 21.5.2 of Electricity Supply Code, 2014 is misplaced since the said provision stipulates overhauling of an account where the meter has remained defective/dead stock and there is a direct supply to the premises in question. In the absence of any electricity supply to the premises of the petitioner, the above said clause could not come have into operation and hence, the demand for the said period was misconceived. The award of the Permanent Lok Adalat (Public Utility Services), Ludhiana is thus based on erroneous interpretation and application of the clause, rendering it liable to be set aside.

Learned counsel for the respondent-distribution licensee is not in a position to controvert that the Rule refers to defective/dead stock meter and pre-empts continuation of supply.

Before proceeding further in the matter and considering that reliance is placed by respondents on Regulation 21.5.2 of the Electricity Supply Code of 2014, it is necessary to extract the same as under:-

> *"The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*
>
> *a) On the basis of energy consumption of corresponding period of previous year.*
>
> *b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
>
> *c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

d) Where the consumer for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.

e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts."

It is evident that the above said clause pre-supposes continued electricity supply and deals with defective metering/recording of consumption and allows the licensee to assess the consumption on the strength of pattern of consumption. The said Regulation does not deal with disconnection of supply and determination of assessment.

Having heard the learned counsel for the parties and going through the award passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana, as also the Regulation 21.5.2 of Electricity Supply Code, 2014 extracted in the award passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana, it is evident that the account of a consumer is to be overhauled for the period for which the meter has remained defective/dead stock or in the case of a burnt/stolen meter and during the period of direct supply subject to a maximum period of 06 months as per the procedure prescribed therein. It is not in dispute that the electricity meter was found defective as per the report submitted by the ME Lab on 14.11.2018, however, the pre-requisite of overhauling the account mandates that there should have been a continuous supply of electricity to the premises. Once the supply itself had remained undisputedly disconnected, there can be no presumption of consumption of electricity during the said period.

I am of the view that the award passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana, suffers from mis-appreciation and mis-interpretation of the aforesaid statutory mandate. The levy of charges for the period during which the supply had been disconnected by the respondent-distribution licensee are not sustainable on a plain reading of Regulation 21.5.2 of the Electricity Supply Code, 2014, that has been relied upon by the respondent-distribution licensee. The demand for the period during which the electricity supply to the premises of the petitioner remained disconnected, is set aside. If the amount has, however, been deposited by the petitioner, during pendency of the proceedings, the same shall be refunded/adjusted as per law along with interest as determined by the appropriate Commission.

The present writ petition is allowed accordingly. The award dated 10.01.2022 passed by the Permanent Lok Adalat (Public Utility Services), Ludhiana, is set aside.

January 24, 2024 **(VINOD S. BHARDWAJ**
raj arora **JUDGE**

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