



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

CWP-15043-1999 (O&M)

Date of decision: 22.07.2024

Market Committee, Tarn Taran and another

...Petitioners

VERSUS

Punjab State Electricity Board, Patiala and others

...Respondents

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

Present :- Mr. Parambir Singh, Advocate for the petitioners.

Mr. P.S. Thiara, Advocate and

Mr. APS Virk, Advocate for respondents No.1 and 2.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present writ petition is to the Bill dated 07.11.1995; order dated 21.10.1998 passed by respondent No.4-Dispute Settlement Authority, Punjab State Electricity Board, Patiala and order dated 06.08.1999 passed by the Board Level Reviewing Committee, Punjab.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner(s) was a consumer against electric connection bearing account No.GP43/667 installed in the Grain Market, Tarn Taran. The said electric connection was used for the facility of the farmers and to provide power cleaners that were used by the Commission Agents for cleaning of food-grains. The said connection was checked by Senior Executive Engineer on 27.10.1994 and the meter was found dead stop on all the three phases. Accordingly, the report was prepared by the Executive Engineer and



201

CWP-15043-1999 (O&M)

submitted to the authorities. On the basis of the said report, the accounts were over-hauled and a bill amounting to Rs.2,37,870/- was issued to the petitioner(s). A suit for permanent injunction restraining the respondents from disconnecting the electric supply and challenging the Bill dated 07.11.1995 (Annexure P-2) was instituted but the same was transferred to the Dispute Settlement Authority, Punjab State Electricity Board, Patiala. The main objection of the petitioner(s) was that the electricity was being used for the power cleaners that were being used by the Commission Agents for cleaning the food-grains. It was also submitted that if the meter was dead stop and seals were missing, it was the duty of the Sub-Divisional Officer concerned to check and keep the meter in order and that a report had to be sought for from the Electrical Inspector. It is also contended that the requisite procedure was not followed. The Dispute Settlement Authority, however, decided the dispute against the petitioner on the ground that the account had already been overhauled and no further adjustment was required to be made and that the determination was correct. Aggrieved thereof, an appeal was preferred by the petitioner before the State Level Reviewing Committee but the said appeal was also dismissed vide a non-speaking and cryptic order.

3. It is vehemently contended by the learned counsel for the petitioner that as per the provisions of Section 26 (6) of the Electricity Act, 1910 which was in force at the time of checking, when any difference or dispute arises as to whether any meter referred to in sub-section (1) is correct or not, the matter shall be decided by an Electrical Inspector; and where in



201

CWP-15043-1999 (O&M)

his opinion the meter ceases to be correct, he shall estimate the amount of the energy supplied to the consumer but the demand cannot be raised for a period beyond six months, in the absence of any fault. He contends that the above said procedure was never carried out and that in any case, the respondents cannot charge any amount, on account of overhauling of the account, for a period beyond six months. It is contended that the authorities did not take into consideration any of the statutory provisions and have passed the order mechanically.

4. Learned counsel for respondents No.1 and 2 on the other hand submits that the electricity connection was checked on 27.10.1994 by a team of Flying Squad headed by a Senior Executive Engineer and a report was submitted by it that the meter was not working on Yellow Phase and that further a load of 158 HP was being used against the sanctioned load of 100 HP i.e. 74.6 KW. After going through the consumption data, the account was overhauled for the period from October, 1992 to June, 1995 by taking consumption @ 21,485 units bi-monthly, on the basis of load and demand factor. It is submitted that the consumption of previous years has been taken into consideration while assessing the amount and overhauling the account and that the same cannot be said to be unreasonable or excessive. He has however failed to respond to the statutory provision. He is also not in a position to rebut the applicability of provisions of Section 26(6) of the Electricity Act, 1910.

5. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the



201

CWP-15043-1999 (O&M)

petition.

6. For the facility and reference Section 26 (6) of the Indian Electricity Act, 1910 is extracted hereunder:

“(6) [Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.]”.

7. The Dispute Settlement Committee has passed the order by recording as under:-

“The dispute case of consumer Market Committee, T.Taran bearing A/c No. GP-43/667 was heard by the DSA on 4.9.98, 18.9.98, 7.10.98 & 21.10.98. Thereafter the case



was decided on merits made available to the DSA.

The petitioner Sh. A.S. Randhawa, Adv. Appeared on behalf of the petitioner firm pleaded that the average consumption charged of 21485 units is on higher side and consumption recorded by the correct meter before and after the checking on 27.10.94 should be charged for the period under dispute. Er. K.S. Bhatia on behalf of PSEB stated that this case is of meter dead stop from the date of connection i.e. 30.9.92 and average consumption on the basis of sanctioned load and demand factor has been charged upto the date of checking. Thereafter he got recorded the statement of Er. R.K. Seth, Sr. Xen/Enf., Tarn Taran. Sr. Xen/Suburban T. Taran who confirmed that the meter in question found dead stop virtually since the date of its installation from 10/92.

Er. K.S. Bhatia appearing on behalf of respondent Board stated that in this case, the meter did not record the consumption from 10/92 till the date of checking done in 10/94 and the A/cs were overhauled from 10/92 to 5/95 on the basis of consumption worked out from load and demand factor for seasonal months i.e. May, June, Sept. to Nov. for the period under overhauling. He further stated that this connection was permanently disconnected on the request of the petitioner vide PDCO No.9 dated 2.5.97 effected on 19.6.97 and no actual consumption could be recorded



thereafter. In view of this, the accounts already overhsuled are in order and no further adjustments are required.

DECISION

The authority held that the amount already charged is correct and recoverable. Further, due adjustment for the bills already paid and the amount recovered towards the disputed amount of Rs.2,39,144/- should also be made before raising additional demand on the consumer.

xxxx.”

8. It is evident from a perusal of the above that the Dispute Settlement Committee has not referred to any statutory provision and the procedure required to be followed. It is also not the case that the meter was got checked from the M&P Lab. or that any report from any Electrical Inspector was obtained as per the procedure mandated under Section 26 (6) of the Indian Electricity Act, 1910. Further, the above said order does not satisfy requirement of a speaking order. The Revisional Authority i.e. the State Level Reviewing Committee passed the following order on 06.08.1999:-

“XXXX

“The Committee considered the points/arguments put-forth by Mr. Randhawa and came to the conclusion that there was no doubt that the Meter in this case was dead-stop from the date of installation and was not recording the actual consumption. The PSEB has charged a very nominal



consumption in this case i.e. only for 5 hours per day and that too only for the seasonal period i.e. for the month of May, June, Sept., Oct., & Nov. of the yrs. for which the Meter remained dead-stop as per instructions in case of dead-stop meters & applicable in this case in the absence of actual consumption data. The Committee further held the view that charging this consumer only for five hours daily during the seasonal period, was much on the lower side as compared to the actual running of the Cleaners by the Commission Agents during the seasonal period. It therefore, decided to up-held the decision of the DSA in this case and the amount already debited is recoverable from the Market Committee..

xxxx”

9. It is evident that none of the authorities chose to examine the statutory provision or the compliance to the statutory procedure before raising the demand. A non-speaking and cryptic order was passed which does not satisfy the test of a reasoned and speaking order. It is, however, not disputed by the learned counsel for the petitioner that the electric meter was definitely burnt and that the matter was not adjudicated by the Electrical Inspector. He also does not dispute that Section 26(6) of the Electricity Act, 1910 would be applicable to the case.

10. Considering that the matter relates to the year 1999 and has been pending for nearly 25 years before this Court and that placing reliance



201

CWP-15043-1999 (O&M)

on the judgment passed by the Hon’ble Supreme Court in the matter of **‘M.P.E.B. and others Vs. Smt. Basantibai’** reported as **1988 AIR (Supreme Court) 71**, the demand raised by the respondents is modified. The respondents are directed to re-assess the energy consumption Bill dated 07.11.1995 in terms of Section 26(6) of the Indian Electricity Act, 1910 and to determine the same for a period of 06 months prior to the date of detection of the fault in the meter.

11. It is informed at this stage by the learned counsel for the petitioner(s) that 70% of the demanded amount has already been deposited by the petitioner with the respondent-Electricity Board. It is thus also ordered that in the event of re-assessment of the amount for a period of 06 months, the excess amount, if any, deposited by the petitioner shall be adjusted against the future consumption. The requisite exercise shall be undertaken by the respondents within period of 03 months of the receipt of a certified copy of this order.

12. **The present writ petition is accordingly disposed of.**

13. All other civil misc. applications, if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

22.07.2024

Mangal Singh

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