

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

(417)

**2024:PHHC: 061675
CWP-18832-2003
Date of Decision: 03.05.2024**

Shamim Ansari

--Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. & another

--Respondents

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

Present:- Mr. Ishnoor Singh, Advocate for petitioner.

Mr. Piyush Bansal, Advocate for respondent no.2.

VINOD S. BHARDWAJ.J (Oral)

Prayer in the present petition is for setting aside the Memo No.2644 dated 6.10.2003 (Annexure P-5) of respondent no.2 vide which the respondents have allegedly again raised the demand of an amount the claim whereof had already been settled by the petitioner.

2. Learned counsel for the petitioner has vehemently argued that the petitioner M/s Orient Carpets, G.T. Road, Panipat was a consumer of electricity connection no. TC 21-404. Supply to its premises was disconnected due to non-payment of a penalty amount of Rs.42,735/-. Aggrieved of the said action of the respondents, petitioner filed a suit and the same was decreed in favour of the petitioner vide order dated 8.12.1997. Aggrieved of the same, respondents preferred an appeal, which was allowed by the Additional District Judge, Panipat vide order dated 30.05.2001. A Regular Second Appeal was thereafter filed by the petitioner on 13.11.2002. It is submitted that in the meanwhile the respondents issued a Sales Circular No.47/2002 for an “out of court settlement of various categories of disputes” as per which a consumer could pay a reduced amount of 50% of the assessed amount along with concessional surcharge @ 12% per

annum on the basis of the unpaid balance amount of the reduced amount. It is submitted that on the directions of respondent no.2, the petitioner deposited the payable amount as per the Sales Circular on 15.11.2002 and withdrew the Regular Second Appeal, since the same became infructuous, on 08.07.2003. However, the petitioner was served with impugned Memo No.2644 dated 6.10.2003, whereby the petitioner was directed to deposit a sum of Rs.5,08,554/- against account no. TC 21-404 and that in case the same is not deposited within 15 days, the said amount was to be debited in another account no. TC3-734. Aggrieved thereof, the petitioner served a legal notice and has approached this Court.

3. Learned counsel for the respondent, on the other hand, has argued that the petitioner is wrongly seeking settlement of his claim in terms of Sales Circular No.47/2002 which was notified on 16.10.2002 against Memo No.865 dated 23.10.2002. He submits that the matter pertains to an “out of court settlement of court cases” and in the present case, the Civil Appeal filed by the respondent had already been allowed and the judgement and decree dated 8.12.1997 passed by the Civil Judge, Panipat had been set aside by the Additional District Judge, Panipat vide judgement dated 30.05.2001. The petitioner preferred a Regular Second Appeal No.4365-2002 before the High Court on 13.11.2002 i.e. much after the issuance of the Policy and along with an application for seeking condonation of delay of nearly 1 ½ years. It is submitted that the Policy was introduced for an “out of court settlement” in respect of cases that were pending. Since the case of the petitioner was not pending in the court as on the date when the policy was notified, the petitioner is not entitled to get any benefit thereunder, merely because he later filed an appeal.

4. Having heard learned counsel for the parties and taking into consideration the facts noticed above, it is evident that the Sale Circular No.47/2002 was applicable in respect of the pending cases and the appeal of the petitioner was not pending. The petitioner filed appeal after 1 ½ years for seeking concession under the Scheme. It is apparently an attempt on the part of the petitioner to bring his case within the ambit of the scheme and as an afterthought so as to wriggle out of its financial liability. I find that the claim of the petitioner and his conduct lacks merit and is not bonafide. A pending case necessarily implies a case which was in the process of adjudication before a court of law. A matter which has already been finally decided cannot be deemed to be pending because the litigant seeks to institute a time barred appeal only to claim a benefit. There is also nothing on record whether the Scheme was a one time scheme or an ongoing scheme or the period of eligibility prescribed therein. The petitioner has chosen not to append the scheme document and its conditions. There can thus be no presumption of any fact or eligibility. The present writ petition is, accordingly, dismissed.

(VINOD S. BHARDWAJ)
JUDGE

03.05.2024

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