IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

223 **CWP-14071-2020**
Date of decision: September 03, 2024

JAGBIR SINGH

....Petitioner

Versus

PUNJAB STATE POWER CORPORATION LTD.

.....Respondents

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

Present:- Mr. Govind Goel, Advocate with
Mr. Rahul Rana, Advocate for the petitioner.

Mr. Parminder Singh, Advocate for the respondent.

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VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the order dated 22/4/2019 passed by the Ombudsman Electricity Punjab in Appeal No. 5 of 2019 (Annexure P-1) whereby, the Ombudsman set aside the award passed in favour of the petitioner-Consumer by the Consumer Grievances Redressal Forum despite there being no challenge to the extent of relief already granted to the petitioner-consumer. Hence the relief already granted by the Consumer Grievances Redressal Forum in favour of the petitioner was also altered to his prejudice.

Learned counsel appearing for the petitioner contends that the mandate of Section 42 (5) of Electricity Act, 2003 provides for a statutory remedy before the Consumer Grievances Redressal Forum for examining the issues pertaining to the aspects relating to the release of excess billing etc. The petitioner, aggrieved of the demand being raised by the respondent-PSPCL, had preferred a petition under Section 42(5) of the Electricity Act, 2003 before the Consumer Grievances Redressal Forum. The said petition bearing no. CG-407-2018 was decided on 21.12.2018, wherein the claim of the petitioner was partly allowed. The operative part of the order passed by the Consumer Grievances Redressal Forum reads as under:

> "…..Decision:
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> Keeping in view the petition, reply, oral discussions, and after hearing both the parties, perusal of the record produced by them & observations of Forum, Forum decides that:-
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> (a) The amount charged by the Audit Party vide HM No. 2412 dated 20.11.2017 is unjustified and is not recoverable.
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> (b) In addition to above, the amount of Rs.37533/- pertaining to the interest on the defaulting amount for the period of 8 months from 24.8.2017 to 03/2018 is also unjustified and is not recoverable.
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> (c) The account of the Petitioner bearing Ist Account No. ZT-3810 be overhauled from the date of connection ie. 18.01.2017 to the date of replacement of meter i.e. 13.06.2017 (vide MCO No. 012/2416 dated 01.06.2017 effected on 13.06.2017) for 146 days on the basis of average consumption for the period the meter worked correctly *(i.e. 06.10.2017 to 29.01.2018 for 115 days worked out as Reading 34609 kWh on 29.01.2018 minus Initial reading 1 on 06.10.2017=34608 units)* as per Regulation 21.5.2(d) of Supply Code 2014. As such, 1st Account No. ZT-3810 of the Petitioner be overhauled from 18.01.2017 to 13.06.2017 on the basis of average consumption worked out as 43937 units (i.e. 34608 x 146/115 = 43937 units).

(d) The account of the Petitioner bearing 1st Account No. ZT-3810 be overhauled for the period 13.06.2017 to the date of permanent disconnection i.e. 24.08.2017 on the basis of actual consumption recorded 27918 units *(i.e. Final reading 27830 as on 24.08.2017 minus Initial reading 12 as on 13.06.2017).*

(e) The account of the Petitioner bearing Account No. ZT-4270 the meter of which had gone defective on 29.1.2018 be overhauled from 29.01.2018 to the date of permanent disconnection i.e. 20.03.2018 (vide PDCO No. 112/13451 dated 03.10.2017 effected on 20.03.2018) for 50 days on the basis of average consumption for the period the meter worked correctly *(i.e. 06.10.2017 to 29.01.2018 for 115 days worked out as Reading 34609 kWh on 29.01.2018 minus Initial reading 1 on. 06.10.2017 34608 units)* as per Regulation 21.5.2(c) of Supply Code 2014. As such, 2nd account no. ZT-4270 of the Petitioner be overhauled from 29.01.2018 to 20.03.2018 on the basis of average consumption worked out as 15047 units (i.e. 34608 x 50/115 = 15047 units).

*As required under Regulation 2.41 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016 the compliance of this decision shall be made within 21 days from the date of receipt of this order.

*If the petitioner is not satisfied with the decision of CGRF, he is at liberty to file a representation before the Ombudsman appointed / designated by the Punjab State Electricity Regulatory Commission within 30 days from the date of receipt of the order of the Forum, as required under Regulation 2.49 read with Regulation 2.45 and 2.48 of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2016…."

Since the petitioner was not satisfied with the above said order and felt that the entire relief ought to have been granted to him, he preferred an appeal before the Ombudsman Electricity, Punjab under Section 42 (7) of the Electricity Act, 2003 with a prayer to correctly assess the demand keeping in view the load of the petitioner and other factors mentioned in the approved statutory regulations. During the course of hearing of the said Appeal No.5 of 2019 decided on 22.04.2019, the Ombudsman Electricity set aside the decision passed by the Consumer Grievances Redressal Forum. The operative part of the order is as under:

> "…….5. Conclusion
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> From the above analysis, the legitimacy of overhauling the Account No. T-3810 and also of T-4270 of the Petitioner, as per following details, proves beyond doubt:
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> (i) The account of the Petitioner bearing 1st Account No. T-3810 is required to be overhauled from the date of release of connection i.e. 18.01.2017 to the date of replacement of the Energy Meter i.e. 13.06.2017 (vide MCO No. 012/2416 dated 01.06.2017 effected on 13.06.2017) for 146 days on the basis of average consumption for the period, the Energy Meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days) worked out at Reading 34,609 kWh on 29.01.2018 minus Initial reading 1 kWh on 06.10.2017=34,608 kWh as per Regulation 21.5.2(d) of Supply Code 2014. As such, this Account of the Petitioner be overhauled from 18.01.2017 to 13.06.2017 on the basis of average consumption worked out as 43,937 kWh units (i.e. 34,608 x 146/ 115=43,937 kWh units).

(ii) The account of the Petitioner bearing 1st Account No.T-3810 is also required to be overhauled for the period 13.06.2017 to the date of permanent disconnection i.e. 24.08.2017 on the basis of actual consumption recorded 27,918 kWh units (i.e. Final reading 27,930 kWh as on 24.08.2017 minus Initial reading 12 kWh as on 13.06.2017).

(iii) The account of the Petitioner, bearing Account No. T 4270, (due to the Energy Meter getting defective on 29.01.2018) is required to be overhauled from 29.01.2018 to the date of permanent disconnection i.e. 20.03.2018 (vide PDCO No.112/13451 dated 03.10.2017 effected on 20.03.2018) for 50 days on the basis of average consumption for the period, the Energy Meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days worked out at Reading. 34,609 kWh on 29.01.2018 minus Initial reading 1 kWh on 06.10.2017=34,608 kWh) as per Regulation 21.5.2(c) of Supply Code 2014. As such, 2nd Account No. T-4270 of the Petitioner is required to be overhauled from 29.01.2018 to 20.03.2018 on the basis of average consumption worked out as 15,047 kWh units (i.e. 34,608 x 50/115=15,047 kWh units).

6. Decision: As a sequel of above discussions, the order dated 31.12.2018 of the Forum in Case No. CG-407 of 2018 is upheld.

7. The Appeal is disposed of accordingly.

8. In case, the Petitioner or the Respondent (Distribution Licensee) is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with the Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016......"

It is contended that the relief originally granted by the Consumer Grievance Redressal Forum has in fact not been affirmed by the Electricity Ombudsman in its order dated 22.4.2019, even though in para no.6 of the said Award, the decision of the Forum in case no CG No.407-2018 has been upheld.

Learned counsel appearing on behalf of the respondent-PSPCL does not dispute that in the absence of any challenge to the award passed by the distribution licensee before a competent Court, the Electricity Ombudsman could not have taken away the benefits that had already been extended in favour of the consumer by the Consumer Grievances Redressal Forum. He thus fairly submits that to such extent the writ may be allowed.

In view of the aforesaid contentions and fair stand adopted by the counsel for the respondents, the present writ petition is allowed and the order dated 22.4.2019 passed by the Electricity Ombudsman is set aside and the order passed by the Consumer Grievances Redressal Forum is affirmed in favour of the petitioner-Consumer.

(VINOD S. BHARDWAJ)
JUDGE

September 03, 2024
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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No