



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CWP-14614-2017 (O&M)

Date of decision: 20.09.2024

Punjab State Power Corporation Ltd.

...Petitioner

VERSUS

Amarjit Singh

...Respondents

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

Present :- Mr. Alok Mittal, Advocate for the petitioner.

Mr. Ramneek Vasudeva, Advocate for the respondent.

VINOD S. BHARDWAJ, J. (Oral)

CM-10450-CWP-2017

Application is allowed as prayed for subject to all just exceptions. Annexures P-3 to P-6 are taken on record.

Registry is directed to tag the same at an appropriate place with its paging.

Main case:

1. Challenge in the present petition is to the award dated 08.05.2017 passed in Case No.90 of 26.02.2016 passed by the Permanent Lok Adalat (Public Utility Services) Rupnagar, whereby the application filed by the respondent-applicant under Section 22-C of the Legal Services Authorities Act, 1987 for releasing the electric connection to his atta chakki was allowed and the petitioner-Distribution Licensee was directed to pay a



compensation to the respondent-applicant not only towards the loss occasioned to him but also on account of cost of litigation.

2. Briefly summarized the facts of the present case are that the respondent-applicant was running an atta chakki and had been released a three phase electricity connection No.R42MS420032M. He claimed that he was regularly paying the electricity bill but the transformer from which supply was released got burnt in the month of April-2015. An intimation in this regard was sent by the respondent-applicant to the petitioner-Distribution Licensee but no action was taken on the same. After much follow-up with no action by the Distribution Licensee, a notice dated 05.02.2016 was also served by the respondent-applicant, through his counsel, upon petitioner-Distribution Licensee whereupon the transformer was replaced on 10.02.2016. During the intervening period, there was no electricity supply to the atta chakki but the petitioner-Distribution Licensee continued to raise the electricity bills to the respondent-applicant and started alleging that he was in arrears of payment. It was submitted by the respondent-applicant in his application before the Permanent Lok Adalat (Public Utility Services) that he was earning Rs.25,000/- per month from the atta chakki and he has suffered a business loss on account of the negligence of petitioner-Distribution Licensee in not replacing the burnt transformer and restoring the supply. He thus prayed for compensation for the loss caused as a result of inaction of the petitioner-Distribution Licensee in ensuring restoration of the electricity supply to the premises as well as his atta chakki.

3. The petitioner-Distribution Licensee entered appearance before



the Permanent Lok Adalat (Public Utility Services) and filed its response raising various objections including that petitioner-Distribution Licensee was entitled to claim minimum monthly charges and that because of non-payment of the same, the electricity supply to the atta chakki of the respondent-applicant was disconnected. It was denied that the transformer was burnt in the month of April-2015 and that it got burnt only on 09.02.2016 and new transformer was installed on 10.02.2016 itself. The receipt of the legal notice was, however, admitted by the petitioner-Distribution Licensee.

4. On failure of conciliation proceedings to fructify any meaningful settlement, adjudication under Section 22C(8) of the Legal Services Authorities Act, 1987 was undertaken by the Permanent Lok Adalat (Public Utility Services). The parties led their respective evidence and on consideration of the same, the Permanent Lok Adalat (Public Utility Services) allowed the said application by recording as under:-

“12. A perusal of the record shows that the respondents are telling a lie and concealing the true facts. It was mentioned by the applicant in para no.5 of the application that the transformer was burnt in April, 2015 which fact was denied by the respondents. Again the applicant mentioned in para no.8 of his application that the new transformer was installed by the respondents on 10.02.2016 which fact also was denied by the respondents. The applicant had also issued a notice Ex.A2 dated 05.02.2016 in which also these facts were



mentioned in para no.5 that the transformer was burnt in April 2015. The respondents gave the reply Ex.A3/Ex.R2 without specifying the date or the month in which the transformer was burnt but mentioning in para no.6 that the transformer was replaced immediately. Even the date of the replacement of the transformer was not mentioned in this para though it was exclusively in their knowledge and the information with respect to it was withheld. The respondent in their written reply filed before this Adalat denied if the transformer was burnt or if it was ever replaced on 10.02.2016. The respondent however in its evidence, produced Ex.R4, showing that the transformer was replaced on 10.02.2016 which shows that the contention of the applicant is correct. It was done certainly after receipt of the notice Ex.A2 from the applicant as was mentioned in para no.8 of the application but even then the respondents in their reply have not admitted this fact. It shows that no reliance can be placed on the averments made by the respondents and we should accept the version of the applicant that the transformer was burnt in April 2015.

13. There is another circumstance to prove this fact. Ex.A5 to Ex.A12 (and Ex.R8 to R26) are the bills issued by the respondents showing that the old reading of the meter in all these bills for the period from 03.06.2015 to 02.02.2016 was



4168 and the new reading was 6568. It shows there was no electricity supply to the meter, that is why the meter did not give any consumption of electricity during the said period. The case of the respondents is that during this period minimum monthly charges were being demanded from the applicant. It is not their case if the meter of the applicant was defective, because had it been so then in view of Rule 21.4.1 of the Electricity Supply Code and Related Matters Regulations 2007 (hereinafter referred to as the Supply Code) the meter was required to be changed by the respondents. However neither the report was made by the Meter Reader that the meter was defective nor any action in accordance with Rule 21.4.1 was taken by the respondents, nor the meter was removed during the said period to replace the defective meter with a new meter. This evidence also proves that the monthly bills Ex.A5 to Ex.A12 were issued even though there was no electricity supply to the atta chakki of the applicant.

14. The next question is that if there was no electricity supply to the atta chakki due to the burning of the transformer, can the respondents raise the bills and demand the amount from the applicant. Our answer to this question would be in the negative. It was not only deficiency in service but high handedness on the part of the respondents to demand minimum monthly charges from the applicant instead of



replacing the transformer and restoring the electricity supply to the atta chakki of the applicant. The contention of the respondents that he was in arrears, therefore, loses its weight.

15. When we go through the evidence produced by the respondents with respect to the bills issued to the applicant and the payments made by him, we find that there was some neglect on the part of the applicant in paying the bills in full. However the mere fact that there were some delayed payments did not persuade the respondents to disconnect his electric supply prior to the period when the transformer was burnt. The delay in payment of any such amount prior to April 2015 would not therefore authorize the respondents to disconnect the electric supply a year later in February 2016. It may be mentioned that the respondents in para no. 10 of Ex.A3, which is a reply to the notice dated 05.02.2016 sent by the applicant mentioned on 02.03.2016 that the electric supply to this Atta Chakki has been disconnected but they did not mention the date on which the disconnection took place. Similarly in their written reply to this application also no date of disconnection was mentioned. No signatures of applicant were obtained on the disconnection order. It was kept a close secret so that later on they may mention any date suitable to them.

16. The question as to since when the applicant was in



arrears of payment is not certain even to the respondents themselves. When the applicant issued a notice Ex.A2 to persuade the respondents to replace the burnt transformer the respondents gave reply Ex.A3 and Ex.A11 in para no.3 of which it was mentioned that the applicant was defaulter and had not paid the electricity bills since August 2015. However when they issued him a notice Ex.A4 dated 01.03.2016 they mentioned that the amount was due for the period from September 2015 to February 2016. Later on a totally different stand was taken when the respondents filed the reply before this Adalat in preliminary objection no.2 and para no.3 & 9, on merits it was mentioned that he was in arrears since June 2014. It shows that the respondents are not themselves certain as to sine when the payments were not being regularly made by the applicant and they had been changing their stand to suit their convenience. In any case, as mentioned above, the disconnection of electricity supply was not made by the respondents prior to April 2015 for any such non payment of arrears.

17. The learned counsel for the respondents has argued that in fact the transformer was burnt on 09.02.2016 and it was replaced without any delay on 10.02.2016 as is mentioned in Ex.R4 vide which the transformer was replaced. We have no doubt to conclude that this stand of the respondents also is



false to their knowledge. If the transformer was burnt on 09.02.2016 how could the applicant four days earlier on 05.02.2016 know in advance that the transformer would be burnt on that date. In fact the applicant sent the notice Ex.A2 to the respondent on 05.02.2016 in which he mentioned that the transformer was burnt in April, 2015 which fact appears to be correct. The learned counsel for the respondents has tried to explain that the date 5 in the notice Ex.A5 has been over written and therefore it cannot be said if this notice was issued on that date. It is true that the date is over written but according to the learned counsel for the applicant this notice had been prepared before that date and the date 5 was mentioned because the notice was sent to the respondent on that date. Otherwise also the date of the notice being 05.02.2016 was never challenged by the respondent, even in their reply Ex.A3 they accepted this date and sent this reply without challenging the date of the notice. In the written reply filed by the respondents before this Adalat also the date of the notice was not challenged. It is not their case if this notice was issued to them after 09.02.2016. The dispute is further clinched by Ex.A13 to A15 which are the postal receipts issued on 05.02.2016 showing that the notice was sent to the respondents by registered post on that date. It shows that the transformer was already burnt since April 2015 and the



contention of the respondents that it was burnt on 09.02.2016 is totally false. If the transformer was burnt on 09.02.2016, the applicant would not have been able to mention burning of the transformer in his notice dated 05.02.2016 because he could not anticipate that the transformer would be burnt and the electricity supply to his shop which was not coming since April, 2015 would be stopped. This fact further shows that the officials of the respondents can stoop so low as to mention false facts in their reply and evidence to defeat the genuine claim of their own consumer.

18. The contention of the applicant is that since there was no electric supply to his atta chakki even inspite of his repeated requests, he suffered losses in his business. Otherwise he was earning about Rs.25,000/- per month and due to non supply, he could not run the atta chakki and earn a single rupee. It is not understood nor the respondent has explained as to why the transformer was not immediately replaced when it was burnt in April 2015. Why the respondents took 10 months to replace it and that too only after the oral requests fell on the deaf ears and a written notice was issued to them on 5th February 2016 that thereafter the transformer was replaced on 10.02.2016. It may be mentioned once again for the sake of repetition that in their reply filed before this Adalat the respondents did not



admit but denied if the transformer was burnt or if it was replaced on 10.02.2016. The respondents, therefore, did not come to this Adalat with clean hands and had been concealing the material facts.

19. In view of the above discussion, we are of the opinion that the present application must succeed. The same is, therefore, allowed. The respondents are directed to immediately restore the electric supply to the atta chakki of the applicant and for their deficiency in service in not replacing the transformer promptly and for issuance of minimum monthly charges bills when there was no electric supply to his atta chakki, they are liable to pay him a sum of Rs.50,000/- as compensation. The applicant would also be entitled to Rs.10,000/- as cost of litigation.

20. The entire amount shall be paid by the respondents within 30 days from the receipt of the copy of the order failing which they would be liable to pay the amount of Rs.60,000/- with interest as damages @9% p.a. w.e.f. filing of the present application i.e. 26.02.2016 till the payment is made.

21. The applicant would however be liable to pay the respondents, the arrears due from him prior to April 2015.

22. The respondents would be free to recover the amount of compensation, interest and litigation cost from their employees who committed deficiency as mentioned above,



however after giving them an opportunity of being heard.”

5. Aggrieved thereof, the present writ petition has been filed.
6. Learned counsel for the petitioner-Distribution Licensee has raised the following arguments:

- (i) That the averments of the respondent-applicant/consumer, as made in his application, are to the effect that the domestic connections to the nearby houses have also been released from the said transformer and that there is no complaint by any other resident/consumer about the electricity not being supplied to them, hence, the stand of the respondent-applicant is false; and
- (ii) That the respondent-applicant has concealed the fact that he was in default in payment of the electricity bills, as a result whereof an order of temporary disconnection of the electricity supply was passed firstly on 14.10.2015 and thereafter on 10.11.2015.

7. It was submitted that a complaint was first received only on 09.02.2016 and that the electricity transformer was changed immediately thereafter on 10.02.2016.

8. Learned counsel for the respondent-applicant on the other hand submits that the petitioner-Distribution Licensee has not approached this Court with clean hands. They have not disputed the specific pleading raised by the respondent-applicant before the Permanent Lok Adalat (Public Utility Services) about the electricity transformer having been burnt. He submits



that it was on account of the inaction on the part of the petitioner-Distribution Licensee that a legal notice dated 05.02.2016 was sent by the respondent-applicant and even in the said legal notice, it was specifically stated that the transformer had been burnt since April-2015. The change of the transformer was only after the receipt of the said legal notice on 10.02.2016. He submits that the contemporaneous evidence, the receipt whereof is not disputed, clearly establishes that the petitioner-Distribution Licensee committed a default in ensuring the change of the transformer and to ensure continued supply of electricity to the respondent-applicant. He contends that notwithstanding that electricity was not being supplied by the petitioner-Distribution Licensee, they continued to raise minimum monthly charges for no reason and justification and despite the respondent-applicant not being at any fault. He further submits that the petitioner had also examined another witness to substantiate the factum of the transformer having been burnt and that it is not a case that no evidence was led, infact the evidence from was led in the form of evidence from other consumers from the same transformer.

9. No other argument has been raised.

10. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

11. A perusal of the award passed by the Permanent Lok Adalat (Public Utility Services) shows that all the contentions raised by the petitioner-Distribution Licensee have already been considered and the petitioner-Distribution Licensee failed to specifically deny the factual



assertions made by the respondent-applicant about the electricity transformer having been burnt in April-2015. The petitioner-Distribution Licensee could have very well rebutted the contention of the respondent-applicant by leading evidence to show that there was an actual consumption of electricity being recorded against the other consumers from the said transformer, however, it chose not to lead any such evidence establishing consumption of electricity by other consumers. Still further, the other consumers of the petitioner-Distribution Licensee also stepped into the witness box and corroborated the claim made by the respondent-applicant in his application. Consequently, it is not a case of no evidence and rather it is a case where the petitioner-Distribution Licensee withheld the best evidence from the Court when it could have established that the plea taken by the respondent-applicant in the application submitted before the Permanent Lok Adalat (Public Utility Services) was false, had there been a wrong plea raised. Further, the sequence of events pertaining to change of the electricity transformer shows that after sending of legal notice dated 05.02.2016 by the respondent-applicant, the transformer was changed on 10.02.2016. Further there is also nothing on record to show that burning of the transformer was reported by the any of the employees of the petitioner-Distribution Licensee either on 09.02.2016 or on any date prior thereto. Rather, the admitted case is that the change of the transformer was after the receipt of legal notice. Once the petitioner-Distribution Licensee acknowledge that the above said transformer was changed pursuant to a legal notice having been received by them, the contents of the legal notice cannot ipso facto be disbelieved.



12. The Permanent Lok Adalat (Public Utility Services) specifically noticed that there was no specific denial of the pleadings by the petitioner and that its stand was unworthy of acceptance. Nothing cogent or convincing has been referred to even now as may suggest that the finding is incorrect or is unsustainable in law. Despite it being the authority in possession of primary evidence which could have demolished the case of respondent-claimant, if it was false, the petitioner-Distribution Licensee never led any evidence. The only conclusion that can thus flow is that the version of respondent-applicant is truthful.

13. This Court, while sitting in a judicial review of the order passed by the Permanent Lok Adalat (Public Utility Services) does not substitute its opinion for the probabilities and remote inferences suggested by the petitioner.

14. Assessment of an order and the reasoning adopted thereunder has to be seen on the strength of the evidence adduced by the parties before the authority. The petitioner having opted not to lead evidence, that could have clearly clinched and established its case as pleaded before this Court, cannot claim that the inference should still and nonetheless be drawn in its favour. As per Section 22-D of the Legal Services Authorities Act, 1987, the Permanent Lok Adalat (Public Utility Services) is to be guided by the principles of natural justice, objectivity, fairness, equity and other principles of justice. There is nothing to suggest or establish that the said principles have not been adhered to in the present case.

15. Thus, I am of the view that the award passed by the Permanent



Lok Adalat (Public Utility Services), Rupnagar does not suffer from any infirmity, illegality, impropriety or failure to appreciate the evidence adduced before it.

16. The present petition is accordingly dismissed. The award dated 08.05.2017 passed in Case No.90 of 26.02.2016 passed by the Permanent Lok Adalat (Public Utility Services) Rupnagar, is upheld.

(VINOD S. BHARDWAJ)
JUDGE

20.09.2024
Mangal Singh

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