



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

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CWP-23418-2017 (O&M)

Date of decision: 05.09.2024

Sri Guru Teg Bahadur Public School, Khankot, Amritsar ...Petitioner

VERSUS

Ombudsman, Electricity Punjab and others ...Respondents

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

Present :- Mr. Abhishek Singh, Advocate for the petitioner.

Mr. H.S. Jugait, Advocate and
Mr. Harmanpreet Singh, Advocate for respondent No.1.

Mr. Sehajbir Singh, Advocate (through V.C.);
Mr. Harsh Thakur, Advocate;
Ms. Krishma Sharma, Advocate for respondents No.2 and 3.

VINOD S. BHARDWAJ, J. (Oral)

1. Impugning the memo No.75 dated 15.02.2016 and memo No.124 dated 17.02.2016 whereby the demand of Rs.8,24,000/- was raised from the petitioner, the instant writ petition has been filed. A further challenge has been made to the order dated 17.04.2017 passed by the Consumer Grievances Redressal Forum as well as the subsequent order dated 31.08.2017 passed by respondent No.1- Ombudsman, Electricity Punjab.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner-School was established in the year 1976 for the cause of spreading quality education especially in the rural areas. An electricity connection bearing account No.GC380010W was installed in its premises



with a sanctioned load of 86.60 KW. The petitioner had been paying all the bills regularly. In the month of October-2011, the meter became defective. Intimation in this regard was sent to the Corporation and the bills were duly paid by the petitioner on an average basis from 12.11.2011 to 12.07.2013. He contends that the defective meter was not changed within the prescribed statutory period and was finally changed in the month of February, 2013 and even thereafter, the respondent-Corporation continued to send bills on an average monthly consumption basis instead of recording the actual meter readings. He submits notwithstanding that there was no lapse or error on the part of the petitioner-Institution, the respondent-Corporation issued a memo No.75 dated 15.02.2016 and memo No.124 dated 17.02.2016, both of which were received on 24.02.2016, thereby claiming an amount of Rs.8,24,000/- from the petitioner on account of the alleged difference of meter reading recorded at Pg. No.7 CT ratio 200/5 and meter ratio 100/5 and further the account of the petitioner was overhauled with effect from March-2013 to December-2013. A representation was submitted by the petitioner to the Chief Engineer, Punjab State Power Corporation Ltd., Border Zone, Amritsar seeking permission to deposit part of the disputed amount of Rs.8,24,893/- and to refer the matter to the Zonal Dispute Settlement Committee. The electricity supply to the school was restored on such deposit but no reference was made to the Zonal Dispute Settlement Committee. Instead, vide letter dated 19.10.2016, the petitioner was directed to file an appropriate petition before the Consumer Grievances Redressal



Forum-Punjab State Power Corporation Ltd. Accordingly, the petition bearing No.CG-160 of 2016 was filed by the petitioner before the Consumer Grievances Redressal Forum pertaining to overhauling of the account. Vide order dated 17.04.2017, the said petition was dismissed and the respondent-Distribution Licensee was held entitled to recovery of the balance amount from the petitioner along with the interest/surcharge.

3. Aggrieved of the same, the petitioner filed a statutory appeal before the Electricity Ombudsman under Section 42 (7) of the Electricity Act, 2003 read with Regulation 18(3) of the Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations, 2005. Eventually, the said appeal was also dismissed compelling the petitioner to approach this Court through the instant writ petition.

4. Learned counsel for the petitioner has vehemently argued that the authorities have wrongly overhauled the account for the entire duration notwithstanding the mandate of Regulation 21.5.1 of the Punjab State Electricity Regulatory Commission (Electricity Supply Code and Related Matters), 2014. It is contended that in an event of an inaccurate meter, computation has to be done in accordance with the test result for a period not exceeding 06 months, either immediately preceding from the date of testing or from the date of removal of the defective meter, whichever is later. He submits that the note appended to aforesaid Regulation 21.5.1 only provides for cases where there is a wrong multiplication factor, and overhauling of the account of the petitioner for the period the mistake continued and does not



directs or empower the Corporation to raise the demand for the entire period. The respondent-Corporation is not competent to charge for the same especially when the fault is solely of the Corporation and not of the consumer. It is also argued that the petitioner was not granted any opportunity of hearing before the demand was raised and that the said act is not in conformity with the judgment of Hon'ble Supreme Court in the matter of **Municipal Committee, Hoshiarpur Vs. Punjab State Electricity Board and others** passed in Civil Appeal No.9651 of 2003 decided on 19.10.2010, reported as **2010 (4) RCR (Civil) 859**.

5. Responding to the above, learned counsel for the respondent-Distribution Licensee refers to the statutory provisions and also the orders impugned in the petition. It is contended that the petitioner was granted NRS category connection with a sanctioned load as claimed and contends that even though the intimation with respect to the burnt meter was received by the respondents, however, new meter could not be installed due to heavy workload. The meter thus remained defective from September-2011 to 30.01.2013. The said meter was finally changed on 31.01.2013 and new meter No.PBB-19378 with a capacity of 3x100/5 Amp. 'Secure Make' was installed and L.T. C.T.'s of ratio 200/5 Amp. was already installed there. Hence, the reading was to be multiplied by Two for calculating the charges for consumption. In this regard, advice No.79 dated 31.01.2013 was sent to the Computer Cell on 31.01.2013 itself. The status of the meter however continued to show "C" Code and the multiplying factor was wrongly applied



as 'one' by the billing branch instead of actual value as 'two'. Accordingly, from the month of 02/2013 to 05/2013, the bill of 'F' Code were issued to the petitioner on the average basis with recording the reading after multiplying factor 'one' instead of multiplying factor of 'two'. The account was overhauled as per the observations of the Audit Party with the respondent-Distribution Licensee vide Half Margin No.75 dated 15.02.2016 and the consumption from 02/2013 to 12/2015 was calculated on the actual basis as per the Rules and Regulations of the Punjab State Power Corporation Ltd. It was also informed that the premises of the petitioner were also checked on 11.02.2016 vide ECR No.31/2218 and during the process of checking, the Enforcement Officer of the Punjab State Power Corporation Ltd. verified that the bills of the petitioner were issued with a wrong multiplying factor 'one'. After overhauling, the notice for depositing the amount of Rs.8,24,893/- was issued as per the note appended to Regulation 21.5.1 of the Electricity Supply Code-2014.

6. He contends that the Consumer Grievances Redressal Forum as well as the Electricity Ombudsman have duly considered all the aspects and the submissions advanced by the petitioner have not found ground. It is also argued that in so far as the judgment of the Municipal Committee (Supra) relied upon by the petitioner is concerned, the same would not be applicable to the facts of the instant case. In the said case, the demand had been raised after carrying out the testing of the meter and on noticing that the CT had been reversed and there was only one CT which was recording the energy



actually consumed. Hence, there was a defect in the meter and inaccurate consumption was being recorded. The said circumstances do not exist in the present case, since it was not a case of an inaccurate metering or defect in the metering equipment and rather it is only a case of overhauling of the electricity account due to error in billing.

7. Adverting to the second argument advance by the learned counsel for the petitioner that the note to Regulation 21.5.1 only empowers overhauling of the account and would not authorize the respondent-Distribution Licensee to raise a demand with respect to the differential amount, learned counsel contends that the same is based on gross misreading of statutory scheme. He contends that the scheme of the Electricity Act and the PSERC Regulations deal with overhauling of the account of the consumer only assessing the amount which the respondent-Distribution Licensee is entitled to claim and the procedure required for assessing such an amount as well as the period for which such an amount can be charged. The exercise of overhauling is not just a simplicitor logistic exercise for an academic record. Limitation for recovery are separately provided under the scheme. If the statutory intent was not to empower the respondent-Distribution Licensee to collect the charges, there was no occasion for the legislature to prescribe any limitation for period of computation for which such a lapse commenced.

8. He further makes a reference to Regulation 21.6 of the Electricity Supply Code to contend that Regulation 21.5 has to be read in



continuity with Regulation 21.6 which empowers the respondent-Distribution Licensee to claim recovery/refund of the charges.

9. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition with their able assistance.

10. For the facility of reference and before proceedings further into the matter, it would be appropriate to refer to Regulations 21.5 and 21.6 of the Electricity Supply Code, 2014. The same are extracted under:-

“21.5 Overhauling of Consumer Accounts

21.5.1 Inaccurate Meters: If a consumer meter on testing is found to be beyond the limits of accuracy as prescribed hereunder, the account of the consumer shall be overhauled and the electricity charges for all categories of consumers shall be computed in accordance with the said test results for a period not exceeding six months immediately preceding the:

- a) date of test in case the meter has been tested at site to the satisfaction of the consumer or replacement of inaccurate meter whichever is later; or*
- b) date the inaccurate meter is removed for testing in the laboratory of the distribution licensee.*

<i>Sr. No.</i>	<i>Consumer Meter</i>	<i>Accuracy class as per CEA Metering Regulations*</i>	<i>In-Service maximum permissible error as per IS Code **</i>
<i>1</i>	<i>Upto 650 volts</i>	<i>1.0 or better</i>	<i>±2.5%</i>



2	Above 650 volts & upto 33 kV	0.5S or better	$\pm 1.0\%$
3	Above 33 kV	0.2S or better	± 0.5

* Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.

** IS 15707: 2006 & IS 14697:1999

Note: Where accuracy of meter is not involved and it is a case of application of wrong multiplication factor, the accounts shall be overhauled for the period this mistake continued.

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21.6 Recovery/Refund of Charges

If a consumer is liable to pay an additional amount or entitled to refund in consequence of an overhaul of his account in accordance with Regulations 21.5 above, the distribution licensee shall effect recovery or adjust the excess amount in the electricity bills of the immediately succeeding months.

Provided that in case the refundable amount is more than average bill of the consumer for more than 3 billing cycles, the amount in excess of average bill for 3 billing cycles shall be refunded through cheque within 30 days failing which interest at SBI base rate plus 2% shall be payable by distribution



licensee to the consumer for the period of delay.

(emphasis supplied)”

11. It is evident from a perusal of the above that the ‘note’ to Regulation 21.5 of the Electricity Supply Code, while dealing with overhauling of the consumer’s account, takes into consideration the circumstances where an inaccurate meter is detected on testing. The note deals exclusively with a situation where accuracy of meter is not disputed. The said note is an independent category, in relation to overhauling of the consumer’s account, and technically the procedure prescribed under Regulation 21.5.2 would not be applicable with respect to overhauling of the account, where accuracy of meter is not involved and the case confines to the application of a wrong multiplication factor. The respondent-Distribution Licensee is entitled to overhaul the account for the entire period during which the mistake continued undetected. Further, the right of recovery is specifically recognized under the Regulation 21.6 of the Electricity Supply Code, 2014 and also under the statutory scheme. Hence the argument of the learned counsel for the petitioner that only an overhaul can be done and no recovery can be effected is already catered to and addressed in Regulation 21.6 of the Electricity Supply Code, 2014. The said argument is thus based upon a piecemeal reading of the statutory scheme and cannot be accepted. The same is accordingly rejected.

12. So far as the argument with respect to the non-adherence to



principles of natural justice is concerned, it is fairly conceded by the counsel for the petitioner that under the statutory scheme, there is no provision for grant of an opportunity of hearing before overhauling of an account on the basis of application of a wrong multiplication factor. He is also not in a situation to controvert that the judgment of the Hon'ble Supreme Court in the matter of **Municipal Committee (Supra)** is not applicable *prima facie* to the facts of the present case as it is not a case of the meter being tested for accuracy in a lab or a case where an anomaly is detected. Since there is no dispute with respect to the accuracy of the meter and it was only a wrong billing based on account of a wrong multiplication factor, hence, there is no mandate for providing an opportunity of hearing, before a revision is undertaken. No material has been placed by the petitioner, before any of the Grievance Redressal Agency or the Appellate Court or even before this Court to establish that multiplication factor now claimed was incorrect and has been wrongly applied and thus would vitiate the demand.

13. It is further evident that the demand in question has been raised only for the period after the installation of new electricity meter and does not relate to any period prior thereto. It cannot thus be held that the orders passed by the Consumer Grievances Redressal Forum as well as the Electricity Ombudsman suffer from any illegality, perversity or misappreciation of the evidence on record. The said orders are accordingly affirmed and the writ petition deserves dismissal to the above said aspect.

14. At this juncture, a request was made by the learned counsel for



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the petitioner for being granted time for depositing the amount which is overdue. The said prayer is not seriously opposed by the learned counsel appearing on behalf of the respondent-Distribution Licensee. Accordingly, while dismissing the writ petition so far as legality of the impugned orders is concerned, the petitioner is granted 08 weeks-time to deposit the arrears with the respondent. 50% of such arrears shall be deposited within a period of 04 weeks and the balance 50% shall be deposited within a period of 04 weeks thereafter, on receipt of a certified copy of this order.

15. The writ petition is accordingly **dismissed**.

(VINOD S. BHARDWAJ)
JUDGE

05.09.2024

Mangal Singh

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