

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

211

**CWP-28144-2017
Date of decision: 23.01.2024**

UTTAR HARYANA BIJLI VITRAN NIGAM LTD. AND OTHERS

.....Petitioner

VERSUS

ARUN GOEL AND ANOTHER

.....Respondents

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

Present: - Mr.Nitin Kaushal, Advocate
for the petitioner.

Mr. R.K. Chaudhary, Advocate
for respondent No.1.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the present writ petition is for seeking setting aside of the order dated 08.02.2017 (Annexure P-5) passed by the Permanent Lok Adalat (Public Utility Services), Panipat.

2. Counsel for the petitioner contends that the respondent No.1 is the user of electricity through meter account No. 2646840000 installed at 380, Model Town, Panipat, District Panipat. The above said connection is having a sanctioned load of 18 KW. The said meter stood in the name of Sumer Chand Goel, father of respondent No.1. The above said meter was changed on 03.05.2016 and the meter reading as on 03.05.2016 was recorded at 34316. It is further pointed out that the reading of the aforesaid meter as on 30.03.2016 was 31345 and in May,

2016 it was showing as 34316 and thus reflecting a consumption of 2971 units during the said period. The New meter having been installed on 03.05.2016 showed a reading of 1 on 03.05.2016 and 16807 on 03.10.2016. Hence, the units consumed at as per the new meter w.e.f. 03.05.2016 to 03.10.2016 was 16806 units. In the month of October, 2016, the Electricity Bill for the said period was raised making a demand of Rs.1,43,766/- as per the consumption recorded in the meter. However, the said demand was challenged by respondent No.1 by moving an application before the Permanent Lok Adalat (Public Utility Services), Panipat. The amount in question was deposited by the respondent No.1 by way of RTGS on 19.10.2016. The excess average charged by the Nigam was refunded. However, due to negligence of the official, the amount in question was refunded twice. An entry was made in the Sundry Register at Serial No. 420 being MT22/1288 to the following effect:-

“Sh. Suman Chand.

The bill amt, for the M/O 10/2016 was deposited through RTGS hence same was not posted. So same is hereby credited.

<i>RTGS Amt.</i>	<i>RTGS Dt.</i>	<i>S/C</i>
<i>10/16</i>		
<i>143766</i>	<i>19.10.2016</i>	<i>4238”</i>

A Thereafter, the second entry was made at sr. no. 16/6200 MT22/1288 stating that, "M/s. Sumer Chand Goel DS SL 18 KW

The consumer had deposited an amount of Rs. 148004 by RTGS in payment of the bill for 10/2016 and had submitted the receipt of RTGS

*in the office, which was adjusted in the bill by entry no. S**A No. 420/189/180. However, the said amount has been posted twice resulting in a bill of (-) 138978 for the month of 01/2017 and after checking the record the same posted amount is charged only once (+) 148004.”*

3. Counsel contends that on account of mistake/inadvertent negligence on the part of the official, a statement was made before the Permanent Lok Adalat (Public Utility Services), Panipat that the Nigam had adjusted the amount due vide bill dated 06.02.2017 notwithstanding that a double credit of the said amount had been given to the respondent No.1 to which he was not entitled. The Permanent Lok Adalat (Public Utility Services), Panipat however disposed of the application filed by the respondent No.1. vide impugned order dated 08.02.2017 on the wrong statement made by the representative of the petitioner under mistake.

4. The above said error/mistake was immediately pointed out to the Permanent Lok Adalat (Public Utility Services), Panipat and an application was moved on 08.02.2017 pointing out the said error. However, the said application was dismissed on the ground that as the order had been passed by the Permanent Lok Adalat (Public Utility Services), Panipat, hence, the authorities become *functus officio*. Hence, the present writ petition has been filed.

5. Counsel for respondent No.1 made a specific statement on 11.02.2020 that there was no necessity of filing any separate reply and chose not to controvert the factual pleading of the petitioner. Hence, the

matter has been heard without any formal reply being filed by the respondent No.1.

6. The contention of the petitioner that the amount of Rs.1,43,766/- has been credited twice in favour of the respondent-applicant has thus remained uncontroverted. An attempt is made by the counsel for respondent No.1 to dispute the above said claim, however, the oral argument cannot override the specific stand taken by the petitioner-Insurance Company on an affidavit and further, there is no denial of the statement or evidence on the basis whereof the above said averment of the petitioner can be held to be bad or unsustainable or not derived from the record available with the respondent-authorities.

7. In any case, the prayer made by the counsel for the petitioner is that the impugned order may be set aside and the parties may be relegated to the Permanent Lok Adalat (Public Utility Services), Panipat for decision of the claim on merit. The parties would thus be granted appropriate opportunity to prove their respective case and to establish their respective claim. It is further stated that the respondent would not suffer any prejudice on account thereof.

8. A person cannot be left remediless merely because a statement has inadvertently got recorded. Law does not intend to punish for bona fide mistake. Once the specific plea of erroneous admission resulting in double refund is not controverted, there is no reason why petitioner be not given an opportunity to defend himself appropriately.

9. Under the given circumstances, the instant writ petition is allowed. The order dated 08.02.2017 passed by the Permanent Lok Adalat (Public Utility Services), Panipat is set aside. The matter is

remanded to the Permanent Lok Adalat (Public Utility Services), Panipat. The parties shall appear before the Permanent Lok Adalat (Public Utility Services), Panipat on 19.02.2024 whereupon the Permanent Lok Adalat (Public Utility Services), Panipat shall proceed in accordance with law and decide the case on the basis of substantive evidence of the parties.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 23, 2024
Vishal Sharma

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