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

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CWP-47-2017 (O&M)
Date of decision: 22.02.2024

Punjab State Power Corporation Ltd. ...Petitioner

VERSUS

M/s S.S. Steel Industry, Sirhind, District Fatehgarh Sahib and anr.

...Respondents

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

Present :- Ms. Meena Bansal, Advocate for the petitioner.

Mr. Govind Goel, Advocate and
Mr. Rahul Rana, Advocate for respondent No.1.

Mr. H.S. Jugait, Advocate for respondent No.2.

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VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 08.09.2016 passed by respondent No.2-Ombudsman, Electricity Punjab, whereby the appeal preferred by respondent No.1 has been allowed.

2. Learned counsel for respondent No.1 has drawn the attention of this Court to the order dated 10.01.2017 passed by this Court at the time when the notice was issued. The same is extracted as under:-

> " ***Petitioner-Corporation has challenged the order dated 8.9.2016, passed by the Ombudsman, Electricity Department, directing petitioner-Corporation to pay interest on the amount of Rs.34,85,795/- deposited by respondent no.1 for new industrial connection on the basis of feasibility clearance and***

test report etc. Respondent No.2, while allowing the said application has observed as follows: -

> ***"While going through the contents of the present issue, I have observed that the petitioner has complied with the Demand Notice on 25.09.2012. The connection was required to be released within a period of 60 days i.e. by 24.11.2012 as per Regulation 6.3 (b) of Supply Code – 2007; but the connection was released by the Licensee on 22.11.2014 i.e. after a delay of around two years meaning thereby neither the connection has been released as per schedule nor the approval of the Commission for extension of time for release of connection was obtained as under rules. I could not find the arguments of the respondents as convincing that there is no delay in release of connection which was released immediately after obtaining the revised feasibility clearance and the condition (b) of feasibility clearance dated 14.11.2011 could not be complied with due to technical problems, even till today. I do agree that above referred condition (b) was not complied with due to genuine technical problems but in such cases suitable provisions in the Regulations are made to cover such delays where the reasons for delay are natural or beyond the control of the Licensee. The Licensee was at liberty to seek necessary approval from the Commission***

(PSERC) for extension in time period for release of connection and had miserably failed to refer the case even within a long period of two years for which I have no reason to blame the petitioner and ask him to bear the interest loss. Thus, in my view, the respondents are responsible for delay and as well as for not obtaining the approval of the Commission for extension in time limit and as such, they are liable to pay the interest on Security (Works) for the delay beyond the specified period as provided in Regulation 19.3 (b) of Supply Code – 2007.

As a sequel of above discussions, it is held that the petitioner is entitled for interest on security (works) in accordance with Regulation 19.3 (b) of Supply Code – 2007, amended from time to time, for the delayed period for the release of connection as specified in Regulation 6.3 (b) of Supply Code – 2007. Accordingly, the respondents are directed to pay interest at applicable rates from time to time on Rs.34,85,795/- (the amount of security (works) for the period from 25.11.2012 (two months after compliance of DN) to 21.11.2014 (day preceding to the date of release of connection).”

Counsel for the petitioner-Corporation has vehemently contended that respondent no.2 has not taken into consideration the undertaking given on behalf of

representative of respondent no.1 in the shape of affidavit Annexure P2 that the petitioner-Corporation will not be responsible for any financial or other loss/damages if the load/CD has to be restricted by the Corporation on account of grid system constraints. In view of the status of the petitioner and respondent no.1, such an undertaking appears, on the face of it, an unconscionable undertaking which appears to be falling within the ambit of judgment in Central Inland Water Transport Corporation Ltd. and another Vs. Brojo Nath Ganguly and another, 1986 (3) SCC 156.

I do not find any ground to interfere in the order passed by respondent no.2 but taking into consideration the peculiar facts and circumstances of the case, there appears to be scope of amicable settlement between the petitioner-Corporation and respondent no.1 as there would be a long standing relationship of provider and consumer between them for times to come.

Notice to respondent no.1 for amicable settlement for 22.3.2017, for decreasing the amount of interest/compensation as awarded by respondent no.2 vide order dated 8.9.2016.

Recovery of amount beyond 50 per cent will remain stayed provided 50 per cent amount is deposited within a period of 15 days.".

3. He further contends that insofar as the challenge to the impugned order on merits is concerned, this Court while issuing notice of motion had specifically ruled against the petitioner and had affirmed the said order. Notice was issued only for a limited purpose of exploring the possibility of an amicable settlement and for decreasing the amount of interest/compensation as awarded by respondent No.2 vide order dated 08.09.2016. Once the process for amicable resolution has failed, the merit in the case cannot be re-agitated or examined as the merit had already been considered and the writ petition was found unworthy of any merit.

4. Counsel for the petitioner is not in a position to controvert that the said order specifically recorded that there is no ground to interfere in the order passed by the Electricity Ombudsman and that the notice was issued only for the limited purpose of exploring the possibility of an amicable settlement in view of the long standing relationship of provider and consumer between the parties.

5. Undisputedly the conciliation proceedings have failed to fructify in any meaningful settlement.

6. The present petition is accordingly **dismissed** in view of the order dated 10.01.2017 and the consequent failure of conciliation. The order dated 08.09.2016 passed by respondent No.2-Ombudsman, Electricity Punjab is hence affirmed.

7. All other civil misc. applications, if any, stands disposed of.

(VINOD S. BHARDWAJ)
JUDGE

22.02.2024
Mangal Singh

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