

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-37084-2019
Date of Decision: 14.02.2024

PUNJAB STATE POWER CORPORATION LIMITED

... Petitioner

VERSUS

VIVEK KUMAR AND ANOTHER

... Respondents

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

Present: Mr. Sehajbir Singh, Advocate
for the petitioner.

Mr. Ashwani Bhardwaj, Advocate
for respondent No.1.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present petition is to the Award dated 09.05.2019 (Annexure P-15) passed by the Permanent Lok Adalat (Public Utility Services), Faridkot vide which an application under Section 22-C of the Legal Services Authorities Act, 1987 filed by the respondent No.1-Applicant has been allowed and order dated 05.07.2012 (Annexure P-3) imposing penalty of Rs.87,565/- on account of Unauthorized Use of Energy has been set aside.

Bereft of the facts that arise for adjudication in the present petition, the argument which has been advanced and has remained uncontroverted is that an order of provisional assessment was passed by the petitioner-Distribution Licensee on 21.06.2012 (Annexure P-2). A final order of assessment was thereafter passed on 05.07.2012 under Section 126 of The Electricity Act, 2003. Feeling aggrieved of the said order of final assessment for Unauthorized Use of Energy, a statutory appeal under Section 127 of The Electricity Act, 2003 was preferred by respondent No.1-Applicant on 01.01.2013 before the Appellate

Authority vis the Sub Divisional Magistrate, Faridkot. Vide order dated 17.07.2014, the appeal preferred by respondent No.1-Applicant was dismissed by the Appellate Authority.

After the dismissal of the said appeal, respondent No.1-Applicant preferred an application before the Permanent Lok Adalat (Public Utility Services), Faridkot on 22.08.2014. The said application has now been allowed by the Permanent Lok Adalat (Public Utility Services), Faridkot vide its order dated 09.05.2019 (Annexure P-15).

Counsel for the petitioner-Distribution Licensee contends that the Permanent Lok Adalat (Public Utility Services), Faridkot had no jurisdiction to entertain the said application and to pass any Award in view of the prohibition contained in the Legal Services Authorities Act, 1987. His contention is two-fold- firstly it was not a dispute pertaining to supply of electricity and in fact was a dispute under Section 126 of The Electricity Act, 2003 in relation to the Unauthorized Use of Energy. The same was thus not a 'Public Utility Service' amenable to the jurisdiction of the Permanent Lok Adalat (Public Utility Services); and secondly, the respondent No.1-Applicant having already taken recourse to the statutory remedy of appeal under the Legal Services Authorities Act, 1987, the jurisdiction of the Permanent Lok Adalat (Public Utility Services) is prohibited in view of Section 22-C(1) of the Legal Services Authorities Act, 1987, which mandates that a person can approach the Permanent Lok Adalat (Public Utility Services) only before approaching any other Court as defined in Section 2(AAA) of the Legal Services Authorities Act, 1987.

The said factual aspect is fairly not disputed by the counsel for respondent No.1-Applicant.

Resultantly, the present writ petition is allowed for the reasons that the proceedings before the Permanent Lok Adalat (Public Utility Services), Faridkot were not maintainable on account of the respondent No.1-Applicant having already taken recourse to raising a challenge to the order of assessment before a Court as defined under Section 2(AAA) of the Legal Services Authorities Act, 1987.

Since this petition is being allowed on the ground of non-maintainability of the proceedings before the Permanent Lok Adalat (Public Utility Services), Faridkot, hence, this Court refrains from commenting on the merits of the respective claims of the parties.

Needless to mention that for the aforesaid reasons, the respondent No.1-Applicant would nonetheless be at liberty to pursue his appropriate remedies as per law and if so advised.

Needless to further mention that the period during which the proceedings remained pending before this Court as well as before the Permanent Lok Adalat shall be taken into consideration in the event the respondent No.1-Applicant chooses to avail his other remedy(ies), if any.

Petition stands allowed accordingly.

FEBRUARY 14, 2024
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No