IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

212 **CWP-19965-2017 (O&M)**
Reserved on: 15.01.2025
Pronounced on: 28.02.2025

PUNJAB STATE POWER CORPORATION LIMITED

-PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. G.S. Sethi, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, A.A.G., Punjab.

Mr. Divyadeep Walia, Advocate
for the respondent No.5.

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KULDEEP TIWARI, J. (ORAL)

1. The prayer clothed in the instant writ petition appertains to setting aside the order dated 06.01.2017 (Annexure P-5), wherethrough, the appeal preferred by the respondent No.5 against the order dated 09.09.2016 of the Forum for Redressal of Grievances of Consumers (hereinafter referred to as the ‘Forum’) has been allowed by the respondent No.2-Ombudsman. Moreover, the impugned order also carries directions for the petitioner to recalculate the demand, as per the hereinafter reproduced directions embodied in the concluding paragraph thereof, and, to recover/refund from/to the respondent No.5 the amount excess/short, after adjustment, if any, with interest under the provisions of

ESIM-114.

> *"As a sequel of above discussions, now, it is an established fact that during checking of the meter by Enforcement, the Auto Display of the meter was defective and M/s L&T Ltd. on the basis of DDL declared the RTC of the meter as defective, meaning thereby that the meter was defective and I do not find any weightage in the view point of the Forum that reading was accumulated and no investigation report or justification of higher consumption was found on record except accumulation of reading. Thus, I have no hesitation to set aside the decision dated 09.09.2016 of CGRF in Case no: CG-63 of 2016. Though, the billing from the month of 07 / 2015 upto 09.12.2015 (the replacement of the defective meter) is required to be done as per provisions contained in Regulation 21.5.2 (a) of Supply Code - 2014 i.e on the basis of energy consumption of corresponding period of previous year but due to non-availability of the consumption for the months of 07 & 08 / 2014, being the connection released on 23.08.2014, the account of the Petitioner for the disputed period should be overhauled as per provisions contained in Reg. 21.5.2 (b) of Supply Code - 2014 on the basis of average consumption of previous six months prior to occurrence of default (average of consumption recorded from Jan. 2015 to dare, 2015, which comes to be 6281 units / month being default occurrence month July 2015)."*

2. Before embarking upon the process of evaluating the validity of the impugned order (Annexure P-5) and penning down any opinion upon the instant writ petition, it is deemed apt to initially capture a concise and compendious backdrop of the case at hand.

FACTUAL MATRIX

3. The respondent No.5 is running an industrial unit for manufacturing of fasteners and machine components. For running its

manufacturing business, the respondent No.5 obtained electricity connection bearing Account No.MS-33/0254, with sanctioned load of 90.500 KW, under Commercial Sub Division Rajpura.

4. The energy meter of the respondent No.5 was checked by the Additional Superintending Engineer, Enforcement-I, PSPCL, Patiala, vide ECR No. 36/280 dated 08.12.2015. The checking officer reported that "C-open" was appearing on the display of the meter, hence he issued directions to replace the meter immediately and to bring the same to M.E. Lab for further checking and for taking DDL. Resultantly, the meter of the respondent No.5 was replaced on 09.12.2015. On 09.12.2015 itself, the meter was checked in the M.E. Lab in the presence of representative of the respondent No.5, however, since the DDL of the meter could not be extracted, therefore, the meter was again seal packed. Thereafter, the meter was again checked on 21.12.2015 vide Challan No.35, in the presence of representative of the respondent No.5 and Engineer of the manufacturer, i.e. M/s L&T Limited, and, DDL was successfully extracted. On the basis of the reading mentioned in the DDL, which indicated the actual energy consumption, a notice bearing No.294 dated 29.01.2016 was issued to the respondent No.5 for depositing ₹7,87,077/-.

5. The respondent No.5 made request for referring the dispute to the Zonal Dispute Settlement Committee (hereinafter referred to as the 'Committee') as per Regulation No.25.2 of the Supply Code 2014 and it was accordingly referred to the latter. The Committee upheld the demand raised by the petitioner vide order dated 11.04.2016. Fetching grievance

from this order dated 11.04.2016, the respondent No.5 filed a petition before the Forum, whereon became rendered the dismissal order dated 09.09.2016. This dismissal order was successfully assailed by the respondent No.5 through filing an appeal before the respondent No.2-Ombudsman. The respondent No.2, through drawing the impugned order dated 06.01.2017 (Annexure P-5), allowed the appeal and set aside the order dated 09.09.2016.

6. The impugned order caused pain to the petitioner and propelled it to institute thereagainst the instant writ petition.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

7. The principal argument constructed by the learned counsel for the petitioner is that, Regulation 21.5.2 of the Supply Code - 2014 is not applicable in the present case inasmuch as the meter was not overall defective, rather the defect, if any, was only in the Auto Display (Display-1) of the meter, whereas, DDL of the meter reflected the correct energy consumption of the respondent No.5. Moreover, despite granting due opportunity, no objection was ever raised by the respondent No.5 against the report of the M.E. Lab or DDL. Hence, the demand raised by the petitioner, on the basis of actual consumption reflected in the DDL, was absolutely correct and the said demand was rightly upheld by the Committee and by the Forum.

8. The learned counsel for the petitioner further submits that, the meter was checked in the M.E. Lab in the presence of the respective

representatives of the respondent No.5 and the manufacturer- M/s L&T Limited and only thereafter, based on the figures of the DDL, which indicated the actual consumption of 215536.30 KVAh, the demand notice (supra) was issued to the respondent No.5 for depositing ₹7,87,077/-, inasmuch as, out of the actual consumption, the respondent No.5 had deposited bill for consumption of only 103522 units and bill for the balance 112014 units was outstanding.

9. Concluding his arguments, the learned counsel for the petitioner submits that, the DDL nowhere showed jumping in the reading and the M.E. Lab, vide its letter dated 08.04.2016, clearly mentioned that only Real Time Clock (RTC) of the meter was defective but the reading was O.K. and this fact was also confirmed by M/s L&T Limited, vide its letter dated 19.08.2016. Moreover, the consumption of the respondent No.5, after replacement of the meter, i.e. from January 2016 onwards, increased manifold and this clearly establishes that the meter reading was accumulated in the previous months.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENT NO.5

10. The arguments advanced by the learned counsel for the petitioner are vociferously opposed by the learned counsel for the respondent No.5. He draws attention of this Court towards the preceding consumption of the meter to submit that, it is a clear cut case of meter jumping inasmuch as in the month of November 2015, consumption of 103522 units was recorded, but then, in less than a month only, a huge

and unbelievable consumption of 112014 units was recorded. Instead of charging the respondent No.5 on average basis, the petitioner straightaway issued the impugned demand notice.

11. The learned counsel for the respondent No.5 further submits that, it was the duty of the petitioner to replace the defective meter within seven working days, however, it had not been done in the present case. Therefore, now the petitioners can charge the consumption charges only on the basis of average of previous six months.

REASONS FOR ALLOWING THE INSTANT WRIT PETITION

12. The mandate, which acquires dire significance in the present case, is wrapped in Regulation 21.5.2 of the Supply Code – 2014 and the same is extracted hereunder:-

> *"**21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters-** The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*
>
> *a) On the basis of energy consumption of corresponding period of previous year.*
>
> *b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
>
> *c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling*

the account of the consumer.

d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para-4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.

e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts."

13. Perusal of the hereinabove extracted Regulation makes it abundantly clear that, if meter is defective (other than inaccurate)/Dead Stop, the account of the consumer shall be overhauled/billed for the period meter remained defective/dead stop.

14. In the case at hand, not the entire meter was defective, rather the defect, as is evident from the record, was embedded merely in the Real Time Clock (RTC)/Auto Display (Display-1) thereof. The DDL, as extracted upon examination of the meter, is not at all affected by the defect (supra). This inference draws succor from the letter/report dated 19.08.2016 of M/s L&T Limited (manufacturer of the meter), wherein, it has been reported that, failure of the RTC cannot affect the DDL.

15. The term 'meter' has been defined under the Regulation 2(w) of the Electricity Supply Code – 2007, definition whereof is reproduced hereunder:-

"'Meter' means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipments such as Current

Transformer, Potential Transformer, Voltage Transformer or Capacitor Voltage Transformer with necessary wiring and accessories for such purpose."

16. Chapter - II of the Electricity Supply Code - 2007 deals with the supply, installation, testing and replacement of meters- overhauling of Accounts, and, the requirement of meters has been described therein.

> *"21.1 Requirement of Meters.*
>
> *The distribution licensee shall not supply electricity to any person, except through installation of a correct meter in accordance with the CEA (Installation and Operation of Meters) Regulations, 2006, as amended from time to time.*
>
> *The term meter shall also include, wherever applicable, other metering equipment such as current transformer, voltage transformer with wiring & accessories etc. essentially required for measuring recording consumption of electricity and shall hereinafter called 'Meter'."*

17. The hereinabove extracted definition and regulation makes vivid display that, "meter" is a device suitable for measuring, indicating and recording consumption of electricity and it also includes other equipments such as current transformer, voltage transformer with wiring and accessories etc. essentially required for measuring consumption of electricity. Hence, in case of any defect in one of the components of the meters, the whole meter cannot be construed to be defective.

18. In the case at hand, although the Real Time Clock (RTC)/Auto Display (Display-1) was found defective, however, the DDL of the meter remained intact and accurate. The DDL/actual energy consumption was retrieved by the M.E. Lab while checking the meter in the presence of the engineer of the manufacturer firm M/s L&T Limited.

The DDL depicted exact energy consumption of 215536.30 KVAh and based on this figure, the demand was rightly raised by the petitioner.

19. The present dispute, as claimed by the learned counsel for the respondent No.5, does not pertain only to last one month before raising of the demand, rather it pertains to the period July 2015 to 09.12.2015. Moreover, taking into account the fact, as emerges from the record, that the energy consumption of the respondent No.5 during the period January 2016 to May 2016 is almost double its consumption during the period January 2015 to May 2015, this Court can safely conclude that it is not a case of meter jumping.

FINAL ORDER

20. In summa, the present writ petition is **allowed** and the order dated 06.01.2017 is set aside.

21. Pending application(s) stand disposed of accordingly.

(KULDEEP TIWARI)
JUDGE

February 28, 2025
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No