

(2008) 07 P&H CK 0057

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Punjab State
Electricity Board and
Another

APPELLANT

Vs

Commissioner
Appeals, Patiala
Division Patiala and
Others

RESPONDENT

Date of Decision: July 30, 2008

Citation: (2009) 1 CivCC 340 : (2009) 153 PLR 4 : (2009) 2 RCR(Criminal) 640

Hon'ble Judges: Satish Kumar Mittal, J; Augustine George Masih, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Augustine George Masih, J.

Briefly stated, the facts of this case are that an old mechanical meter installed in the factory premises of respondent No. 3, namely, Vijay Kumar, was ordered to be replaced with new electronic meter as a routine matter on 8.2.2001 vide M.C.O. No. 6/054114 issued on 8.1.2001. The old mechanical meter was got checked and as per the report of the M.E. Laboratory the meter was found running slow by 16.82 per cent. A demand of Rs. 2,23,550/- was raised against respondent No. 3 by the petitioner-Punjab State Electricity Board (hereinafter referred to as the petitioner-Board) vide memo No. 1 161 dated 27.2.2001 on account of the loss caused to the petitioner-Board due to slow running of the meter.

2. Respondent No. 3-Vijay Kumar challenged the said demand notice by way of an appeal before the Commissioner (Appeals), Patiala Division, Patiala, contending therein that the illegal demand of Rs. 2,23,550/- has been raised against him without disclosing the reason of any theft or any rule under which penalty had been imposed. He further contended that there was no fault on his part. The old meter

was replaced by the petitioner-Board from the premises as a routine matter and no theft/pilferage was detected till the replacement of the new meter as is evident from the report of M.C.O. dated 8.1.2001. Possibility with regard to the old meter being slow with the passage of time due to wear and tear in the meter would not amount to any theft. The meter was provided by the Punjab State Electricity Board and, therefore, for its slow running, respondent No. 3 cannot be held liable.

3. The Commissioner (Appeals) vide his order dated 4.10.2007 (Annexure P-7) while agreeing with the contention raised by the consumer observes that it is the duty of the petitioner-Board to check the serviceability of the meter and not of the consumer. For any such defect in the meter, which cannot be attributed to any act or omission on the part of the consumer the consumer cannot be penalized.

4. The petitioner-Board has approached this Court for issuance of a writ in the nature of Certiorari for quashing the impugned order dated 4.10.2007 passed by the Commissioner (Appeals), Patiala Division, Patiala (Annexure P-7) whereby the award given by Chief Electrical Inspector, Punjab, has been set aside. We have heard counsel for the petitioner at length and perused the impugned order dated 4.10.2007 (Annexure P-7). The learned Counsel has not been able to point out any illegality in the impugned order which would require our interference. Rather we find ourselves in full agreement with the reasoning given by the Commissioner (Appeals). The responsibility of the petitioner-Board is to check and maintain the serviceability of the meter installed by it in the premises of a consumer. For the lapse(s) on the part of the petitioner-Board, the consumer cannot be held liable and thus, cannot be penalized. In the present case, the slow running of the meter cannot be attributed to any act or omission of the consumer i.e. respondent No. 3 and therefore, he cannot be held liable for that. The order passed by the Commissioner (Appeals), Patiala, is in accordance with equity, justice and fair play and thus, calls for no interference by this Court.

5. Finding no merit in this writ petition, we dismiss the same.

Sd/- Satish Kumar Mittal, J.