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(2011) 07 P&H CK 0190

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 17171 of 2000 (O and M)

Jaimal Singh	APPELLANT
Vs	
Punjab State Electricity Board, Patiala and others	RESPONDENT

Date of Decision: July 6, 2011

Acts Referred:

- Electricity Act, 1910 - Section 26, 26(6)

Citation: (2011) 164 PLR 219

Hon'ble Judges: K. Kannan, J

Bench: Single Bench

Final Decision: Allowed

Judgement

K. Kannan, J.

The petitioner challenges the assessment made by the Electricity Board on the ground that the meter installed in the petitioner''s premises did not allegedly register the correct quantum of supply and consequently made an additional demand of Rs. 48,450/- along with the bill dated 25.01.1996. The petitioner filed a suit immediately and in terms of the directions issued by the Court for a reference to the Dispute Settlement Committee, the matter was referred to the said Committee for fresh appraisal. The suit was withdrawn when the Settlement Committee held on 11.03.2000 that the meter had been defective and, therefore, the consumption was required to be increased by 100% from the date of installation of the meter namely from October, 1987 upto the date of change of the meter that was made on December, 1995. The assessment made at Rs. 48,450/- was confirmed.

2. Learned counsel appearing for the petitioner points out to Section 26 of the Electricity Act, 1910 as amended by Act 32 of 1959 which was applicable at that time. Clause 6 is relevant for our purpose and it is reproduced here as under:

Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector, and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector have been correct; but save as aforesaid the register of the meter shall, in the absence of fraud, be conclusive proof of such amount of quantity;

Provided that before either a licenses or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days'' notice of his intention so to do."

3. As per this provision, if the meter ceased to be correct and there arose a dispute, then the decision would be taken by the Electrical Inspector who shall estimate the amount of the energy supplied to the consumer for a period not exceeding six months. According to him, when the petitioner disputed the same, the Electrical Inspector was bound to issue a seven days'' notice of his intention to have an adjudication with reference to the proper functioning of the meter and a unilateral assessment made at Rs. 48,450/- and including the same in the bill was in contravention of the said provision. The Settlement Committee has assessed the duty as recoverable, from the year 1987 when the electric meter was installed. I hold that the procedure adopted by the respondent and the manner of disposal by the Settlement Committee was in contravention of the provisions and Section 26(6) of, the Act and the assessment made was consequently untenable.

4. Learned counsel states that the petitioner has paid the entire amount and even more than amount what was required to be paid. The recovery made on the basis of the levy is quashed and it is liable to be adjusted against the future consumption of electricity. The recovery would commence only after the amount covered under the impugned order is fully utilized by consumption of power by the petitioner. The petitioner at his option to be exercised by notice within 2 weeks, continue to pay the bills without receiving deduction and demand the recovery of the amount already paid by giving appropriate details of the actual payment of the amount under the impugned order and if such a demand is made, the amount shall be refunded by the respondents within 2 weeks there from. For any default, the amount will attract 6% interest from today.

5. The writ petition is allowed on the above terms.