

(2010) 12 NCDRC CK 0012

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Rohit Gambhir

APPELLANT

Vs

PUNJAB STATE ELECTRICITY
BOARD

RESPONDENT

Date of Decision: Dec. 13, 2010

Citation: 2011 1 CPJ 58

Hon'ble Judges: Ashok Bhan , Vineeta Rai J.

Advocate: Sanjay Bhatt , Satinder S.Gulati , Amit Wadhare

Judgement

1. MR. Justice Ashok Bhan, President-Complainant-Petitioner has filed the present Revision Petition against the final Order dated 5.4.2006 passed by the State Consumer Disputes Redressal Commission, Punjab in Appeal No. 190/2002. By the impugned Order the State Commission has allowed the appeal and set aside the order dated 10.1.2002 passed by the District Consumer Disputes Redressal Forum (for short, District Forum) in Complaint No. 290/2001.

2. PETITIONER is a consumer of Respondent-Electricity Board bearing Account No. M.S. 48/0532. The said connection was released to the Petitioner on 30th October, 1999 for 20 KV (small supply) and a mechanical meter was installed at his factory premises bearing Plot No. 21, Phase IV, Bhagwan Mahavir Industrial Complex, Focal Point, Ludhiana (Punjab). Petitioner, thereafter, applied for extension of load from 20 KV (small scale) to 69.30 (medium scale) on 28th January, 2000. Respondent-Board in furtherance to the request made by the Petitioner, after carrying out necessary inspection and tests released the extended load of 69.30 KW in the month of September 2000.

3. ON 10.11.2000 Senior Executive Engineer, Enforcement-3 of the Respondent-Board visited the premises of the Petitioner to check the meter and found the same to be running slow by 3.73%. Meter was changed on the same day. Old meter was sent to M.E. Laboratory for testing. On receipt of the report dated 5.2.2001 from M.E. Lab to the effect that seals had been tampered with and that the Petitioner was stealing electricity, Respondent-Board imposed a penalty of Rs. 1,77,212. Alleging that the demand to be illegal, Petitioner filed a complaint before the District Forum seeking appropriate relief.

4. ON being served Respondent-Board filed its reply and pleaded that the meter of the Complainant was checked on 10.11.2000 and it was reported that the meter was running slow by 3.73%. As such, the meter was removed, packed and sealed and sent to the M.E. Lab. On 30.11.2000, the meter was checked in the M.E. Lab in the presence of Ram Charan, representative of the consumer and it was reported that the M.E. seals were tampered. It was found that there were scratches on 100 and 1000 digits of the meter. Since it was a case of theft of energy, the complainant was asked to pay Rs. 1,77,212 vide notice dated 5.2.2001. The Complainant deposited the amount on 9.2.2001 after admitting the demand as correct.

5. THE District Forum observed in its order that though in the M.E. Lab report it was mentioned that two seals were tampered with but the same did not find mention in the spot checking report that the said seals had been tampered with and allowed the complaint in the following terms:

"Therefore, the disputed demand is quashed and the amount deposited against the disputed demand is ordered to be refunded with interest @ 12% per annum from the date of deposit till the refund. Compliance of the order be done within two months of the receipt of this order. Copy of this order be sent to the parties."

6. RESPONDENT-Board being aggrieved filed the appeal before the State Commission which was allowed on 16.12.2005. Thereafter, Petitioner moved an application for rehearing before the State Commission, which has been dismissed by the impugned Order dated 5.4.2006. While allowing the appeal on 16.12.2005 the State Commission had observed:

"Learned Counsel for the appellant argued that the District Forum wrongly observed that the report of the M.E. Lab cannot be relied because there is no mention about the tampering of seals in the spot inspection report. We are of the view that when the meter was checked in the M.E. Lab in the presence of the representative of the consumer, the seals were found tampered with and the scratches with the 100 and 1000 digits were found, the report of the M.E. Lab cannot be discarded merely on the basis of assumptions that theft was not committed because the factum of broken seals was not mentioned in the spot inspection report. Both the inspections have been made in the presence of the consumer and the M.E. Lab report has to be accepted in the absence of the contrary evidence."

7. LEARNED Counsel for the Petitioner contends that the report submitted by M.E. Laboratory cannot be relied upon as there is no mention about the tampering of seals in the spot inspection report. We do not find any substance in this submission. Meter was checked in the presence of the representative of the Complainant. It was found that the seals were tampered with and there were scratches on the 100 and 1000 digits. The report of the ME Lab cannot be discarded merely on the basis of assumption that theft was not committed because the factum of broken seals was not mentioned in the spot inspection report. Observations noted in the spot inspection report were *prima facie* subject to test in the laboratory. M.E. Lab report is more authentic than the visual inspection by an officer. Counsel for the Petitioner raised another contention that no notice had been issued to the Petitioner before carrying out the test in the laboratory. We do not find any substance in this submission as well. We have perused the original report in which it is mentioned that the meter was checked in the presence of Ram Charan, representative of the Complainant. Counsel for the Petitioner then contends that Ram Charan was not the representative of the Petitioner. There is no substance in this submission also. The persons who prepared the report did not have any animosity with the Petitioner. We do not accept the contention that the name of Ram Charan as the representative of

the Petitioner-had been wrongly mentioned in the report. There is no basis for such an assumption.

8. FOR the reasons stated above, we do not find any merit in this Revision Petition and dismiss the same with no order as to costs.