

**PUNJAB STATE POWER CORPORATION LTD
CONSUMERS GRIEVANCES REDRESSAL FORUM
P-1, WHITE HOUSE, RAJPURA COLONY ROAD, PATIALA
PHONE: 0175-2214909 ; FAX : 0175-2215908**

Appeal No: CG-77 of 2013

Instituted On: 14.06.2013

Closed On: 20.08.2013

**Director, Rice Research (PAU),
Regional Station, Kapurthala.**

.....Appellant

Name of Op/Division: Suburban Kapurthala

A/c No.: AB-43/0053

Through

Sh. T.M. Sayal, PC & Sh. Narinder Singh,PC

V/s

PUNJAB STATE POWER CORPORATION LTDRespondent

Through

Er. G.S. Sandhu, ASE/OP Suburban Divn. Kapurthala.

BRIEF HISTORY

Petition No. 77 of 2013 was filed against the decision dated 01.04.2013 of CDSC Kapurthala, deciding that the late payment surcharge charged to the consumer is correct and recoverable.

The appellant consumer is having NRS category connection bearing Account No. AB-43/0053, with sanctioned load of 98.800 KW ,operating under Operation City S/D No.2, Kapurthala.

The connection to the consumer was released for 98.800 KW on 01.04.1976. But while sending the data to the computer cell for computerization of billing in 01/1980, the information of load was sent as 4 KW instead of 98.800 KW and billing got started accordingly. The connection of the consumer was checked on 25.07.2000 and the load of the consumer was detected as 98.240 KW. It was then verified from the office record that sanctioned load of the consumer is 98.800 KW. The account of the consumer was overhauled with actual sanctioned load, for the period 11/89 to 11/2000 and amount of Rs.9,62,936/- was charged in the energy bill for the month of 08/2001. Instead of depositing this bill, the consumer filed an appeal before Hon'ble State Disputes Redressal Commission, Punjab (Chandigarh). The consumer prayed before the Commission for depositing the amount of Rs.9,62,936/- in four-monthly, 6 equal installments. The consumer deposited the amount of Rs, 9,62,936/- in 4 installments. The first installment was deposited by the consumer on 09.05.2003 and last installment on 16.02.2005.

However, the amount of late payment surcharge on the energy bill (including arrears of Rs.9,62,936/-) issued in 08/2001 was neither deposited by the consumer nor it was adjusted in accounts by PSPCL, as such it was shown as outstanding in the ledger. Further, the late payment surcharge also got levied on current energy bills issued for the period 08/2001 onwards and amount of surcharge got accumulated to Rs.1,28,859/-. The consumer requested SE/Op. Kapurthala for review of his case relating to late payment surcharge, in CDSC.

CDSC Kapurthala heard the case on 01.04.2013 and decided that late payment surcharge on the energy bill issued in 08/2001, 04/2003, 10/2003 and 10/2004 is correct and recoverable from the consumer.

Being not satisfied with the decision of CDSC, the consumer made an appeal before the Forum. Forum heard the case on 02.07.2013, 23.07.2013, 30.07.2013, 02.08.2013, 13.08.2013 and finally on 20.08.2013. Then the case was closed for passing speaking orders.

Proceedings:-

PR submitted that the order dated 27-03-2003 is final and was binding upon both the parties & the same was complied with. Even the entire installments as ordered by the State Commission were accepted by the opposite party. The surcharge i.e. Rs. 1, 27,744/- over and above the amount of Rs. 9, 61,245/- was never claimed in the State Commission and as such the said recovery of Rs. 1,27, 744/- or the amount of Rs. 98,647/- as reduced by the DSC is illegal and is liable to be set aside.

PSPCL contended that, from the argument of the Petitioner it is made clear that the arrear amount of Rs.9,62,936/- was debited in the petitioner's bill of 08/2001 along with the current energy bill. The due date of the said bill was 21.08.2001, but the petitioner neither deposited current bill nor arrear bill on due date. After the due date as per instructions of the PSEB now PSPCL the amount of the surcharge was carried forwarded in the next bill. The same was carried forwarded in the Petitioner's next bill and the same was added regularly in each bill of the Petitioner before, during and after the case in the State Commission Chandigarh and it was the in the full knowledge of the Petitioner. So it is clear that Petitioner has accepted the amount of the surcharge Rs. 98647/- that is why he has not challenged the amount of surcharge along with arrear amount of Rs. 962936/- in the said Hon'ble Court So the amount of Surcharge i.e. Rs. 98647/- is recoverable from the Petitioner as per decision of Circle Level dispute Committee, with interest (as per

instructions of PSPCL). It is also mentioned that no relief was given by Hon'ble Court to the petitioner for the arrear amount. The amount was allowed to be paid only in installments, on the request of the petitioner. The detail of recoverable amount of surcharge is as under please.

S. No	Month	Description	SOP	ED	Total	Due date	Paid	Payment made	Surcharge
1	08/2001 (A)	Current bill of the month of 08/01	25007	117	25124	21.08.01	05.09.01	25124 (without surcharge)	2500
	(B)	Arrear Amount debited in the bill of 08/01	961465	1471	962936	21.08.01	05.09.01	NIL	96147
2	(C)	Surcharge on the following bill which were actually paid late is also recoverable							
	4/2003		12989	641	13630	17.04.03	09.05.03	13648	1299
	10/2003		7840	157	7997	17.10.03	20.10.03	8000	784
	10/2004		7840	157	7997	14.10.04	05.11.04	7997	784
	12/2005		7722	161	7883	16.12.05	12.01.06	7883	772
		Total Bill	36391	1116	37507			37510	3639
3	(D)	Amt. of Surcharge which was carried forwarded by the Computer due to part payment for the period 05.10.2001 to 05.2007 and now the relief has been granted by the Circle level Dispute Settlement Committee on 01.04.13							25517
		Total Amount of Surcharge due up to 05/2007							127803
	(E)	Balance amount of Surcharge recoverable from the petitioner from the above i.e. A+B+C							102286

PR further contended that copy of the calculation received today. As per the said calculation, the amount of Rs.9,62,936/- was payable up to 21-08-2001 & the appellant approach the state

commission on 20-08-2001 and as such the amount of Rs.96,147 i.e. surcharge on the amount of Rs.9,62,936/- is not payable. Moreover the Hon'ble State Commission had directed the appellant to pay the only amount of Rs.9,62,936/- in equal six installments.

PSPCL further contended that as already stated above, no relief was given by Hon'ble Court to the petitioner for the arrear amount. The amount was allowed to be paid only in installments, on the request of the petitioner. So the surcharge amount is recoverable

Observations of the Forum:-

After the perusal of petition, reply, written arguments, proceedings, oral discussions and record made available to the Forum, Forum observed as under:-

The account of the consumer was overhauled for the period 11/89 to 11/2000 on the basis of actual sanctioned load of 98.240 KW against 4 KW inadvertently sent to computer Centre for billing purposes. The amount of Rs.9,62,936/- was charged in the energy bill issued in 08/2001. The total amount of the energy bill including arrears, was Rs.9,91,501/- and due date of payment was 21.08.2001. The amount of late payment surcharge on the total bill amount was Rs. 98,647/-. The consumer filed an appeal in the State Consumer Disputes Redressal Commission Punjab on 20.08.2001, against the amount charged for Rs.9,62,936/-. The payment against current energy bill for Rs.25,124/- was made on 05.09.2001.

The State Commission considered the case of Rs.9,62,936/- only and decided on 27.03.2003 that demanded amount be paid within 2 years in four- monthly 6 equal installments. The counsel of respondent (PSEB) accepted the decision and no objection regarding payment of late surcharge or interest for delayed

payment was raised by the respondent, before the state Commission.

PR contended that order dated 27.03.2003 is final and binding upon both the parties. The surcharge of Rs.1,27,744/- over and above the amount of Rs.9,62,936/- was never claimed in the State Commission by the respondent. PR further contended that the amount of the bill including arrears of Rs.9,62,936/- was payable upto 21.08.2001 and appellant approach the State commission on 20.08.2001. The Hon'ble State Commission had directed the appellant for payment of only Rs.9,62,936/- in six equal installments.

PSPCL contended that the arrears amount of Rs.9,62,936/- was debited in the current energy bill of 08/2001. The amount of surcharge was carried forward in the subsequent energy bills during the pendency of case in the State Forum and also after the decision. The petitioner had not challenged the amount of surcharge along with arrears of Rs. 9,62,936/-.

Forum observed that due to omission by PSEB (now PSPCL) incorrect load of 4 KW instead of sanctioned load of 98.800 was intimated to the Computer Centre for billing. The consumer was asked to deposit difference in billing for the period 11/1989 to 11/2000 (11 years), amounting to Rs. 9,62,936/-. The consumer filed an appeal in State Forum before due date of payment of bill issued in 08/2001. The order of the State Commission for payment of Rs.9,62,936/- in installments is very clear. The counsel of PSPCL did not object to the order of the State Commission, which was for the payment of arrears amount of Rs. 9,62,936/-(without surcharge).

Thus PSPCL cannot claim late payment surcharge from the consumer at later stage. Thus levy of surcharge for Rs. 96,147/- on

the arrear amount of Rs. 9,62,936/- is not justified. However PSPCL can recover the balance amount of surcharge of Rs.6139/- (Rs.102286 - Rs.96147) which is due to late payment of various current energy bills.

Decision:-

Keeping in view the petition, reply, written arguments, oral discussions, and after hearing both the parties, verifying the record produced by them and observations of Forum, Forum decides:

- That the amount of surcharge of Rs. 96,147/- on the arrear amount of Rs. 9,62,936/- is not recoverable .
- That surcharge amounting to Rs. 6,139/- levied for delayed payment of current energy bills for 08/2001, 04/2003, 10/2003, 10/2004 & 12/2005 is correct & recoverable.
- That the balance amount recoverable/refundable, if any, be recovered/refunded from/to the consumer along-with interest/surcharge as per instructions of PSPCL.
- As required under Section 19(1) & 19(1A) of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulation-2005, the implementation of this decision may be intimated to this office within 30 days from the date of receipt of this letter.

(Rajinder Singh)
CAO/Member

(K.S. Grewal)
Member/Independent

(Er. Ashok Goyal)
EIC/Chairman