IN THE COURT OF THE LOKPAL (OMBUDSMAN),

 ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 44 / 2017 Date of Order : 14.11.2017

Account No. 3003346249

Punjab State Transmission Corporation Limited

*Through:*

Er. M.K. Singal,

Additional Superintending Engineer,

Protection & Maintenance Division,

Jamsher, District Jalandhar.

 ….Petitioner

Versus

Punjab State Power Corporation Limited

 ....Respondent

*Through*

Er. Harjinder Singh Bansal

Additional Superintending Engineer,

DS East Division,

PSPCL, Jalandhar.

Petition No. 44 / 2017 dated 09.08.2017 was filed against order dated 19.07.2017 in case no. CG-105 of 2017 of the Consumer Grievances Redressel Forum (Forum) which decided that:

* *The Petitioner be charged for the period from 01.07.2012 to 16.08.2016 with monthly average of 3450 units based on the average monthly consumption recorded after the installation of Energy Meter i.e. from 16.08.2016 to 14.06.2017.*
* *The amount of Rs. 2,99,619/- is not chargeable to the Petitioner.*
* *The Respondent is directed to charge Rs. 2,99,619/- from AEE / Civil Works Sub Division No.1, ,PSTCL, Jalandhar.”*
1. Arguments, discussions & evidence on record were held on 14.11.2017.
2. Er. M. K. Singal, Addl. Superintending Engineer, P&M Division, PSTCL, Jamsher, District Jalandhar (PR) attended the Court proceedings on behalf of the Petitioner. Er. Harjinder Singh Bansal, Addl. Superintending Engineer, DS East Division , PSPCL, Jalandhar, appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Punjab State Transmission Corporation Limited, Er. M.K. Singal, A.S.E., P&M Division, PSTCL, Jalandhar (PR) stated that the Petitioner was having NRS category connection bearing Account No. 3003346249 with sanctioned load of 14.925kW operating under DS East Division, PSPCL, Jalandhar. The said connection was released by PSPCL on 16.08.2016 on the request made by the Petitioner’s office vide memo. no. 75 dated 02.08.2016 and Application & Agreement (A&A) No. 100002342576 dated 02.08.2016. PR stated that prior to release of the said connection on 16.08.2016, the electricity was consumed by the Petitioner without Energy Meter as it was combined entity of erstwhile PSEB which was bifurcated into two Corporations viz, PSPCL and PSTCL with effect from 16.04.2010.

 PR next stated that Internal Audit Party of Respondent (PSPCL) raised an objection vide Half Margin memo. no. 250 dated 26.10.2016 that PSPCL and PSTCL were different entities, so, PSTCL was liable to pay for the electricity dues, as per rules of the PSPCL. Accordingly, the Respondent, vide memo. no. 544 dated 02.11.2016, issued a Demand Notice and charged the Petitioner an amount of Rs. 9,79,388/- which included;

1. *Rs. 6,79,769/- for the period from 01.07.2012 to 16.08.2016 on the basis of LDHF factor considering the load as on 16.08.2016 when the connection was released on the request of the Petitioner.*
2. *Rs. 2,99,619/- on account of temporary connection issued for construction of Petitioner’s office viz., of SSE 132KV Sub-Station, Focal Point, Jalandhar.*

Aggrieved, the Petitioner approached the CGRF which decided that the Petitioner be charged for the period from 01.07.2012 to 16.08.2016 with monthly average of 3450 units based on average monthly consumption recorded after installation of Energy Meter i.e. from 23.08.2016 to 14.06.2017. However, the Forum directed the Respondent to charge the demand raised for Rs. 2,99,619/- (on account of temporary connection issued for construction of Petitioner’s office) from AEE, Civil Works Sub Division No.1, PSTCL, Jalandhar, which had actually taken the temporary connection.

 PR stated that in view of the said decision of the Forum, the charged amount of Rs. 6,79,769/- was revised to Rs. 13,22,177/- vide memo. no. 1085 dated 28.07.2017 and issued notice by the AE, Commercial Sub-Division under East Division, PSPCL, Jalandhar.

Not satisfied with the decision of the Forum, the Petitioner has filed an Appeal in this Court pleading that the Audit Party & Forum calculated this amount charged on the basis of imaginary figures which did not have any ground. The Petitioner has also questioned as to how the Audit Party and Forum judged that this much load may be running at site while sitting in office when no authority of PSPCL came at the Sub-station and detected any load running at site.

The Petitioner has also placed reliance on the decision of this Court in exactly similar case relating to 132kV Sub-Station, Children Park, Jalandhar in Appeal Case no. 20/2017 decided on 11.07.2017 deciding that PSPCL could not recover charges before the installation of the Energy Meter. PR further stated that the Forum completely ignored the said judgement and charged *“the amount from 1.7.2012 to 16.8.2016 with monthly average @ 3450 Units based on the average monthly consumption recorded after the installation of meter from 23.8.2016 to 14.6.2017”*. PR stated that this monthly average charged was almost double the average units of 1791 units per month charged by the Audit Party. PR also desired to know the instructions under which the amount ibid had been charged and also prayed to set-aside the demand thus raised.

5. Defending the case on behalf of the Respondent, Er. Harjinder Singh Bansal, Additional Superintending Engineer, DS East Division, PSPCL, Jalandhar stated that, the present connection was released to the Petitioner on 16.08.2016 and before that no connection was in existence but the direct electricity was used by the Petitioner’s office viz, office of the SSE, 132KV Focal Point Sub-Station, PSTCL, Jalandhar without installing any Energy Meter which was an offence as no request / application was given by the Petitioner from 07 / 2012 to 08 / 2016 for which the account of the consumer was overhauled and a sum of Rs. 6,79,769/- was charged and the same was revised to Rs. 13,22,177/- as per decision of the Forum in the Petition filed by the Petitioner against the demand raised by the Respondent. The Respondent added that the amount charged was calculated as per the rules / instructions of the PSPCL according to Petitioner’s sanctioned load of 14.925kW by applying LDHF formula specified in the ESIM. Moreover, the amount charged as Rs. 6,79,769/- had been revised to Rs. 13,22,177/- by the Forum as the actual recorded consumption was very much high than the consumption with LDHF formula.

 The Respondent contested the Petitioner’s plea that the amount could not be charged as there was no Energy Meter installed during 07 / 2012 to 08 / 2016 and stated that the Petitioner should explain as to how it used the electricity without Energy Meter during 07 / 2012 to 08 / 2016 before applying for installation of a new connection which was also an offence on its part. The Forum rightly decided the case according to the recorded actual consumption from 23.08.2016 to 14.06.2017. The Respondent reiterated that the amount charged to the Petitioner was correct and according to the instructions of the PSPCL and prayed to dismiss the Appeal.

**Decision:**

6. The relevant facts of the case are that the erstwhile PSEB was bifurcated into two Corporations viz, PSPCL (Respondent in this case) and PSTCL (Petitioner in this case) with effect from 16.04.2010. Prior to bifurcation, adjustment of electricity bills within different offices of the esrtwhile PSEB was done through Inter Unit Transfer (IUT) bills and after bifurcation, the paper transactions were closed and replaced with payments by cheque / demand draft. The construction of Petitioner’s office i.e. of SSE, 132KV Focal Point Sub-Station, PSTCL, Jalandhar was started in the year 2011 for which purpose, a Temporary Connection bearing A/c No. Ty11/2070 was issued by the Respondent. The said Temporary Connection was disconnected in 12/2012 after completion of construction work in 07 / 2012. Though, the Petitioner’s office became operational in 07/2012, no permanent electricity connection was got released in 07 / 2012 and the direct supply was used by the Petitioner for office purposes during the period from 07 / 2012 to 15.08.2016. The Petitioner, vide memo. No. 75 dated 02.08.2016, alongwith Application and Agreement (A&A) No. 100002342576 dated 02.08.2016, requested the Respondent for release of electricity connection which was given vide SCO dated 16.08.2016 as NRS category connection bearing Account no. 3003346249 with sanctioned load of 14.925kW was installed on 16.08.2016.

 Subsequently, Internal Audit Party of Respondent (PSPCL) raised an objection vide Half Margin memo. no. 250 dated 26.10.2016 that PSPCL and PSTCL were different entities, so, PSTCL was liable to pay for the electricity dues, as per rules of the PSPCL. Accordingly, the Respondent, vide memo. No.544 dated 02.11.2016, issued a Demand Notice and charged the Petitioner an amount of Rs. 9,79,388/- which included:

1. *Rs. 6,79,769/- for the period from 01.07.2012 to 16.08.2016 on the basis of LDHF factor considering the load as on 16.08.2016 when the connection was released on the request of the Petitioner.*
2. *Rs. 2,99,619/- on account of temporary connection issued for construction of Petitioner’s office viz., of SSE, 132KV Sub-Station, Focal Point, PSTCL, Jalandhar.*

Aggrieved by the said demand, the Petitioner approached the CGRF which decided that the Petitioner be charged for the period from 01.07.2012 to 16.08.2016 with monthly average of 3450 units based on average monthly consumption recorded after installation of Energy Meter i.e. from 16.08.2016 to 14.06.2017. However, the Forum directed the Respondent to charge the demand raised for Rs. 2,99,619/- (on account of temporary connection issued for construction of Petitioner’s office) from AEE, Civil Works Sub Division No.1, PSTCL, Jalandhar which had actually taken the temporary connection. In view of the said decision of the Forum, the charged amount of Rs. 6,79,769/- was revised to Rs. 13,22,177/- vide memo. no. 1085 dated 28.07.2017 issued by the AE, Commercial Sub Division under East Division, PSPCL, Jalandhar.

 I have gone through the written submissions made in the Petition and reply of the Respondent as well as oral arguments of the Representatives of the Petitioner and Respondent alongwith material brought on record by both the sides. The issue requiring adjudication in the present case is the legitimacy of the amount charged (to an entity by another entity of erstwhile PSEB after its bifurcation) based on the energy consumption recorded for the period when direct supply was taken in the absence of existence of any Electricity Connection / Energy Meter.

 My findings on the issues emerged and deliberated are as under:-

1. *I noted that 132KV Focal Point Sub-Station, PSTCL, became operational in July, 2012. The erstwhile Punjab State Electricity Board was bifurcated on 16.04.2010 when the two Corporations viz., Punjab State Power Corporation Limited and Punjab State Transmission Corporation Limited came into existence. After bifurcation, construction of 132KV Grid Sub-Station, Focal Point, Jalandhar was started in 2011 and completed in July, 2012 and it became operational immediately thereafter. I observed that the operation and maintenance of the said 132KV Grid Sub-Station was with PSTCL which used the power directly for auxiliary supply but without installation of Energy Meter during 07 / 2012 to 08 /2016.*

I also noted the contention of PR that since the connection was released on 16.08.2016 on the request dated 02.08.2016 of the Petitioner, and no connection was in existence prior to 16.08.2016, the Respondent could not charge Rs. 6,79,769/- ( an average of 1791 units per month based on LDHF formula) subsequently revised to Rs. 13,22,177/- ( based on actual energy recorded after installation of Energy Meter as decided by the Forum) for the period from 01.07.2012 to 16.08.2016. PR argued that Internal Audit Party and the Forum calculated the amount charged on the basis of imaginary figures which did not have any ground and also that they could not judge that this much load was running in the office premises while sitting at office when no authority of Respondent (PSPCL) came at 132KV Grid Sub-Station and detected any load running at site. PR also referred to the decision of this Court in the case of exactly similar nature in Appeal no. 20 / 2017 decided on 11.07.2017 wherein it was held that PSPCL could not recover the charges before installation of Energy Meter.

I find that the Respondent, in its defence, argued that prior to bifurcation of erstwhile PSEB, the adjustments of electricity bills of its office was done through Inter Unit Transfer (IUT) bills and after bifurcation, paper transaction was discontinued, as such, the amount was rightly charged to the Petitioner. During the course of oral arguments, the Respondent was directed to intimate after consulting its records whether any IUT bill was raised or U-cheque was received on account of payment of electricity bills from 07 / 2012 to 08 / 2016. In response, the Respondent replied vide e-mail dated 14.11.2017 that no IUT bill was raised and no U-cheque was received on account of payment of bills for the said period. The Respondent also contended that the charged amount was worked out initially taking into account the sanctioned load of 14.925kW by applying LDHF formula as specified in ESIM and subsequently revised to Rs. 13,22,177/- in view of the Forum’s decision considering that actual recorded consumption was very much high against the consumption as per LDHF formula. The Respondent further desired the Petitioner to explain as to how it used electricity without Energy Meter from 07/2012 to 08/2016 which was an offence on the part of the Petitioner (PSTCL).

I observe that in the present dispute, both the Petitioner and the Respondent defaulted in discharge of their respective obligations. The Petitioner’s action in making use of Power Supply directly and without applying for and getting the electricity connection installed during the period of 07/2012 to 08/2016 was illegal and violative of rules / instructions on the subject. On the other hand, the Respondent was responsible not only for failure to supply electricity to Petitioner’s premises after operationalisation of 132KV Grid Sub-Station within specified period as per provisions contained in Section 43 of Electricity Act-2003 but also failed to check the use of direct supply by the Petitioner for the Sub-Station without installation of Energy Meter from 07/2012 to 08/016. Had the Respondent exercised necessary vigilance, the dispute would not have arisen. I also noted that no proper accounting was done and energy audit was conducted by the Licensee as required in Sub Section (2) of Section 55 of Electricity Act-2003. This also leads to the conclusion that the Distribution Loss Statement, prepared and submitted to the concerned department, was based on imaginary figures.

1. *I observe that the Petitioner has, in the present Petition,*

*desired the Respondent to specify applicable rules / regulations as per which the amount has been charged for the period prior to installation of Energy Meter on 16.08.2016 after the Petitioner submitted the Application & Agreement for the purpose on 02.08.2016. The Petitioner has also contested the validity of the action of the Respondent in making calculations on the basis of imaginary figure without judging that a particular load may be running at site which was never visited by any authority of the Respondent to check the load actually running at site. There is, thus, merit in the contention of the Petitioner that no Energy meter was installed for measuring consumption of electricity consumed directly.*

In view of the above, I agree with the Petitioner that action and contention of the Respondent to charge the Petitioner for the energy consumed prior to installation of Energy Meter on 16.08.2016 does not have legal validity.

1. *I also noted that the amount raised against the Petitioner by the Respondent had already been recovered in the respective financial years from all categories of consumers through Annual Tariff Orders issued by the PSERC on the basis of ARR (Aggregate Revenue Requirement) / Tariff Petition filed by the Respondent. Hence, in my view, it will not be appropriate to recover the same amount twice on account of unmetered supply taken directly by the Sub-station.*

As a sequel of above discussions, it is held that the Petitioner should not be charged for the period from 01.07.2012 (date from which direct supply was taken) to 16.08.2016 (date of installation of Energy Meter). It is further held that the amount of Rs. 2,99,619/- be recovered from the office of AEE, Civil Works Sub Division No. 1, PSTCL, Jalandhar, for consumption during the period, the temporary connection remained installed.

7. The Appeal is disposed off accordingly.

8. If the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum & Ombudsman) Regulations-2016.

 (VIRINDER SINGH)

LokPal (Ombudsman)

 Place: S.A.S Nagar (Mohali) Electricity, Punjab.