

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**IA No.51 of 2012 in
DFR No.104 of 2012**

Dated: 22nd February, 2012

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. Rakesh Nath, Technical Member**

In the matter of

**Shri Gurnek Singh Brar Applicant/Appellant
1, Ranjit Bagh
Opp: Modi Mandir, Passey Road
Patiala 147 001, Punjab**

Versus

- 1. Punjab State Power ...Respondents
Corporation Ltd
The Mall, Patiala – 147 001
(through its Chairman)**
- 2. Punjab State Electricity
Regulatory Commission
SCO No.220-221, Sector 34-A
Chandigarh, Punjab**

**3. Government of Punjab
Through its Secretary, Power,
Punjab Mini Secretariat,
Sector-9,
Chandigarh – 160 009**

Counsel for the Applicant : Mr. Pradeep Misra

ORDER

MR. RAKESH NATH, TECHNICAL MEMBER

The present application has been filed by Shri Gurnek Singh Brar against the order dated 15.11.2011 passed by the Punjab State Electricity Regulatory Commission in petition No.48 of 2011 raising certain issues relating to the subsidy paid by the Government of Punjab to the Punjab State Power Corporation Ltd, the successor of the Punjab State Electricity Board, under section 65 of the Electricity Act.

2. The Applicant is a retired Superintendent Engineer of the erstwhile Punjab State Electricity Board. The Applicant had filed a petition being no.48 of 2011 in public interest before the State Commission, placing certain issues regarding non-payment of subsidy by the State Government to the Punjab State Power Corporation Ltd. under section 65 of the Electricity Act, 2003 as per the order of the State Commission and requesting the State Commission to take action against the Secretary (Power), Government of Punjab under section 142 of the Electricity Act. The State Commission by its order dated 15.11.2011 dismissed the petition as devoid of merits.
3. As against the said order, he has presented the Appeal. Along with Appeal the applicant has filed

IA No.51 of 2012 requesting for waiver of court fee under rule 55(3) of Appellate Tribunal Rules, 2007 on the ground of inability to pay.

4. The IA came up for hearing before us on 16.02.2012. Shri Pradeep Misra, Ld. Counsel appeared on behalf of the Applicant. When asked to explain how the Applicant was aggrieved by the impugned order he stated that the applicant was one of the consumers. He stated that the applicant was mainly aggrieved about the book adjustment of Rs.981.93 crores made by the State Government on account of one time settlement of securitization of CPSUs dues of the erstwhile Punjab State Electricity Board against the amount of subsidy to be paid by the State Government under section 65 of the Act to Punjab State Power

Corporation Ltd. as per the orders of the State Commission for the FY 2011-12.

5. Although the Applicant has not given details about his total annual income, we are inclined to consider waiver, in respect of the portion of the court fee, in view of his old age, and he being a retired employee, provided there is prima facie merit for admission of the Appeal. Therefore, before considering part waiver of the court fee, we deem it appropriate to examine whether there is prima facie merit for admission of the Appeal.

6. We notice that the grievance of the applicant is that the Government of Punjab has passed an administrative order for book adjustment of Rs.981.93 crores to be adjusted against the

subsidy amount required to be paid by the State Government to the distribution licensee in the FY 2011-12 and that there has been persistent default in payment of subsidy, to be paid in advance under section 65 of the Electricity Act. The State Commission after hearing PSPCL and after considering the reply filed by the State Government, came to the conclusion that the subsidy has been released regularly though with a delay of a few days after it became due. The Commission has observed that the delay is not abnormal.

7. As regards the issue of adjustment of Rs.981.93 crores on account of RBI bonds, the matter has already been taken up by PSPCL with Government of Punjab and is under consideration of the State

Government. In the meantime PSPCL is retaining the amount of electricity duty for remittance to the State Government pending settlement of the issue of adjustment of the said amount of Rs.981.93. Resultantly, PSPCL is actually not in receipt of lesser amount from the State Government than the subsidy due to it.

8. The Commission has also found that the track record of the Government of Punjab in payment of subsidy has been satisfactory over the years.
9. Hence, we do not find, prima facie, any reason to admit the Appeal so as to interfere with the order of the State Commission. The Applicant has also not indicated how he has been aggrieved or affected by the impugned order. As we do not find,

prima facie, point for admission of the Appeal, we are not inclined to consider even part waiver of the court fee as we do not want the Applicant to incur an unnecessary expenditure.

10. In view of above, we do not allow any waiver of the court fee. Accordingly, IA No.51 of 2012 is dismissed.

11. Announced in open court on 22nd day of February, 2012.

**(Rakesh Nath)
Technical Member**

**(Justice M. Karpaga Vinayagam)
Chairperson**

REPORTABLE/NON-REPORTABLE

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