

**(1999) 09 P&H CK 0044**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 3396 of 1999**

Punjab State Electricity Board

APPELLANT

Vs

Malwa Cotton Spinning Mills Limited

RESPONDENT

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**Date of Decision :** 08-09-1999

**Acts Referred:**

Arbitration Act, 1940 — Section 30  
Electricity Act, 1910 — Section 26(6)

**Citation :** (2000) 125 PLR 367 : (1999) 4 RCR(Civil) 476

**Hon'ble Judges :** R.L. Anand, J

**Bench :** Single Bench

**Advocate :** Deepak Sibal, for the Appellant; Vinay Mittal and Arvind Bansal, for the Respondent

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## Judgement

R.L. Anand, J.—Reply to the application u/s 5 of the Limitation Act has not been filed. It is stated at the bar by the learned counsel for the respondent that the revision of the petitioners is barred by limitation and that there is no sufficient cause for condonation of delay of six days in filing this revision petition. I do not subscribe to the arguments raised by the learned counsel for the respondent. I have gone through the averments made in the application which is supported by an affidavit. In my opinion, sufficient cause had been made for the condonation of delay in filing the revision. The application for condonation of delay is thus allowed and the delay in filing the revision is hereby condoned.

2. On merits, Mr. Deepak Sibal, learned counsel for the petitioner, has vehemently argued that the, Arbitrator while giving the award, had exceeded his jurisdiction. He has relied upon Section 26(6) of the Electricity Act. The scope of legal clause was not to cover those matters which have been decided by the Arbitrator and in this manner the Arbitrator had passed the award beyond jurisdiction.

3. Some facts can be notice while dealing with the submission raised by the counsel for the petitioners. M/s Malva Cotton Spinning Mills Ltd., filed a suit and

challenged the demand notice issued by the Board. During the pendency of the proceedings the matter was referred to Chief Electrical Inspector who gave the award on 15.10.1990 and the operative part of the award can be mentioned in the following terms:-

"The error in the KWH meter at an average loading of 63% is -1% which is well within the limits of correctness i.e. +3%. Thus I am of the opinion that the meter was correct on 25.3.1988 and afterward. Therefore, the demand raised by the respondent/Board is not chargeable if so charged may be refunded."

The award of the Arbitrator further shows that during the pendency of the proceedings the parties to the arbitration proceedings agreed that the meter in dispute may be checked on 30.6.1990 and both the parties were directed to make themselves present for testing and the meter was checked in the presence of both the parties.

4. Now, it is to be seen whether the Arbitrator had exceeded jurisdiction or not Section 26(6) lays down as under :-

"Where any difference or dispute arises as to whether any meter referred 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 or quantity".

The reading of the above provision would show that the correctness of the meter was within the competency of the Arbitrator. Throughout, the defence of the Board was that the demand notice had been issued on the basis of a checking and the further basis made out by the Board was that the meter of the consumer was moving slow. The slow moving of the meter will definitely entail the point whether the working of the meter was correct, or not. Thus, it can be safely concluded that the point referred to the Arbitrator was within his competency and within the meaning of Section 26(6) of the Electricity Act. The Arbitrator has given the award which was within his jurisdiction. It is a settled principle of law that arbitration is a matter of facts as well as the law and objection u/s 30 of the Arbitration Act can only succeed if the Arbitrator had acted without jurisdiction or exceeded jurisdiction or he had mis-conducted himself or with the proceedings. The objections of the Board were rightly dismissed by the trial Court and so by the first appellate Court.

5. I have not been able to find any illegality in the impugned orders. No merit.