(2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CMs-3071-74-LPA-2025 in
RA-LP-19-2025
IN LPA-509-2015

M/S MALWA COTTON SPINNING MILLS LTD.

….Appellant

V/S

PUNJAB STATE POWER CORP. LTD. AND ANOTHER

……Respondents

CMs-3077-80-LPA-2025
RA-LP-20-2025
IN LPA-510-2015

M/S MALWA COTTON SPINNING MILLS LTD.

….Appellant

V/S

PUNJAB STATE POWER CORP. LTD. AND OTHERS

……Respondents

1.	**Date when Order was reserved**	**12.12.2025**
2.	**Date of Pronouncement of Order**	**27.02.2026**
3.	**Date of uploading order**	**27.02.2026**
4.	**Whether operative part or full order is pronounced**	**FULL**
5.	**Delay, if any, in pronouncing of full order, and reasons thereof**	**Not Applicable**

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sapan Dhir, Advocate, for applicant-respondent-PSPCL.

Mr. Puneet Jindal, Senior Advocate with
Mr. Arshnoor Singh Chugh, Advocate, for non-applicant/appellant.

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DEEPAK MANCHANDA, J.

CM-3072-LPA-2025 in RA-LP-19-2025 and
CM-3078-LPA-2025 RA-LP-20-2025

These are applications for condonation of delay of 107 days in filing

the review application(s).

For the reasons mentioned in the applications, the same are allowed. Delay of 107 days in filing the review application(s) is condoned.

RA-LP-19-2025 and RA-LP-20-2025

Both the review applications are being disposed of by this common order, as they arise out of the same judgment dated 09.12.2024 passed by this Court. For the purpose of adjudication, the facts of RA-LP-19-2025 in LPA No. 509 of 2015 are being taken into consideration.

2. The applicant/respondent No.1-PSPCL has filed the review application under Order 47 Rule 1 and 2 read with Section 151 CPC for reviewing/recalling judgment dated 09.12.2024 passed by this Court in LPA-509-2015 arising out of CWP-27236-2013.

3. The non-applicant/appellant filed the Letters Patent Appeal challenging the judgment dated 24.02.2015 passed by the learned Single Judge. The dispute arises out of CWP No.27236 of 2013 filed by applicant/respondent No.1, i.e., Punjab State Power Corporation Ltd. (PSPCL), assailing the order dated 20.08.2013 passed by respondent No.2, i.e., Ombudsman, Electricity, Punjab. Vide the said order, the Ombudsman held that the demand raised upon the non-applicant/appellants for payment of Monthly Minimum Charges (MMC) in respect of 11 KVA electricity supply was not legally sustainable. However, the learned Single Judge while deciding the writ petition modified the order of the Ombudsman dated 20.08.2013 and upheld the claim of applicant/respondent No.1-PSPCL, holding that it is entitled to levy Monthly Minimum Charges (MMC) from each industrial consumer, who were constituent members of the cluster formed by the non-applicant/appellants. Aggrieved by the modification

of the Ombudsman's order and the recognition of PSPCL's entitlement to levy MMC on individual cluster members, the non-applicant/appellants preferred the LPAs, which were allowed by this Court vide judgement dated 09.12.2024 and judgment passed by the learned Single Judge was set aside.

4. Heard.

5. Learned counsel for the applicant/respondent No.1 has placed reliance on the order dated 21.03.2025 passed in SLP (C) Nos.5367–5368 of 2025, whereby the Hon'ble Supreme Court granted liberty to the applicant to raise all permissible contentions by way of a review application, if so advised.

6. This Court, upon a specific query, called upon learned counsel for the applicant/respondent No. 1 to demonstrate any error apparent on the face of the record. However, no such error could be pointed out. A perusal of the impugned judgment further reveals that all the grounds now sought to be raised in the present review application had already been duly considered and adjudicated upon in the judgment dated 09.12.2024. Consequently, no patent error is discernible in the said judgment, and no ground for interference in review jurisdiction is made out. The relevant paragraphs of the judgment passed by this Court in LPA-509-2015 are reproduced hereinbelow:

> *"11. Learned counsel for respondent No.1 has emphasized that other charges appearing in ESR 5.7.1 includes MMC, therefore, apportionment is to be done in proportion to the reading of metres installed at 11 KV feeder for each consumer. For adjudication, we have also gone through the Electricity Supply Regulations (ESR), and found that respondent No.2 while passing the order dated 20/08/2013 thoroughly discussed the regulations and only concluded that the expression 'other charges'*

appearing in ESR 5.7.1 is about electricity duty, octroi and fuel surcharges mentioned in the 1st part of ESR 5.7.1 and not as being interpreted by learned counsel for the respondent no.1. Even during proceedings before respondent No.2, the Chief Engineer Commercial a representative for respondent no.1 also conceded that MMC is not mentioned in ESR 5.7.1 and there is no direction in the ESR to charge MMC based on readings recorded at 11 KV supply. Respondent No.2, after specifically endorsing the same view, mentioned in it's order dated 20.08.2013 that demand surcharge and power factor surcharge would be charged based on the readings recorded at 11 KV metres, and there is no such mention of MMC. We have also gone through the clauses of the agreement which are mainly based on ESR 5.7.1 provisions and agree with the observations made by respondent No.2 that no provision provides for a levy of MMC based on 11 KV readings. Further, there was no mention of MMC in any of the provisions relating to cluster substation. Even the reading of ESR 5.7.1 does lead to an inference that MMC has been considered in the energy charges, which are to be billed according to 66 KV meter readings. As observed by respondent no.2, MMC was leviable concerning combined CD mentioned on the bills issued to the appellants and respondent No.1 never rebutted the said fact by issuing any subsequent or separate bill charging MMC based on 11 KV readings of individual members when the same were available with them till the issue of supplementary bill dated 14.12.2009. The material on record also transpires that only combined bills were issued to the appellants and no bill for energy charges or MMC was ever issued to the individual member based on readings of 11 KV meters. Also, there is nothing on record to show that any such

condition of charging MMC to individual members based on 11 KV reading stands incorporated in the cluster agreement executed on 16.11.2000. Admittedly, no such notice was ever issued, nor was it brought to the notice of the appellants that the MMC requirement is to be fulfilled by each cluster member individually and is to be levied based on 11 KV meter readings for any period before 14.12.2009. No specific provision for such levy has been brought on record, and the respondents were issuing only single bill mentioning combined CD and MMC where no notice, specific or implied, was given to the appellants. Going through the entire pleadings, it can be safely drawn that after the cluster's formation, MMC was first time charged in 2009, which is not justifiable. A perusal of the impugned judgement dated 24/02/2015 would show that learned Single Judge passed the impugned judgement relying upon the agreement and the Electricity Supply Regulations (ESR), which became the sole basis for the adjudication of the controversy involved in the present intra-court appeals. Similarly respondent No.2, i.e. the ombudsman while passing the order dated 20/08/2013, impugned in the writ petition, elaborately discussed both, the agreement as well as ESR to reach at conclusion but with different views. Learned Single Judge vide impugned judgement without appreciating the findings given by respondent No.2 adjudicated the issue of MMC by saying that MMC is provided under the Regulations and the agreement provided for installation of metre for each substation and MMC will be collected from each industrial consumer if their consumption exceeds the minimum. In the same way, they would also become liable for the surcharge if their consumption was above CD. Since, we have already gone through the contents of agreement as

well as the Regulations, we do not find any such word 'MMC' in both the documents which became the baseline for adjudication by the learned Single Judge and moreover, learned Single Judge has not given any finding qua clauses (a) to (g) of the agreement entered into between the appellant and the respondent No. 1, the same are mentioned below:-

> *"METERING*
>
> *a) We agree to pay all consumption based charges on the basis of meter reading taken by PSEB installed at our premises at the 66 KV supply points in the Cluster Sub Station.*
>
> *b) The metering at 66 KV shall be done by providing electronic meters of approved make in a separate metering room freely accessible to PSEB. 11 KV meters/ metering equipment and CTS/ PTs shall be installed in 11 KV vacuum circuit breakers for each individual consumer of the cluster in the main 66 KV substation control room. All out going 11 KV cables for feeding individual loads shall pass through these vacuum circuit breakers, 11 KV meters/ metering equipment shall be approved by PSEB all the time to approval of total layout of the 66 KV substation prior to construction of sub-station and erection of equipment.*
>
> *c) Reading of 66 KV and 11 KV meters installed on individual feeders will be taken by P.S.E.B. along with representatives of cluster of consumer/ CDC. Energy charges worked out on the basis of meter installed on 66 KV supply point will be apportioned in the ratio of consumption recorded on individual 11 KV*

supply points. Maximum demand surcharge and power factor surcharge if any shall be levied to Individual consumers on the basis of readings recorded on 11 KV feeders.

d) All the 11 KV feeders to individual constituent consumers shall be erected by individual consumer with 11 KV vacuum circuit breakers and XLPE 11 KV cable for each unit from cluster substation. Operation and maintenance of these feeders shall be done by consumer.

e) In case of my default on the part of any of the constituent consumers, which warrants disconnection, shall be carried out of the defaulting consumer by opening the outgoing cable from his feeder from Cluster Sub Station.

f) In case of slowness and fastness the consumption on all KWH meters shall be worked out as per standing instructions. In case of dead stop and burnt 11 KV meter the consumption shall be worked out on the basis of average consumption of proceeding months or the month of previous year etc. as per the standing instructions, in case such consumption is not available the same shall be worked out with the approved load factor/ demand factor or (on the basis of working hour if they can be property ascertained) in all such eventualities, the constituent consumer shall be responsible to pay the electricity bill for the consumption recorded at 33/66/192/200 KV meter.

g) Above procedure of billing may be reviewed by SE/ operation if the same is found to be unworkable. In such a situation single bill be

raised on the cluster on the basis of 66 KV meter sharing amount cluster partners to be decided amongst themselves. The payment shall be made by leader M/s Malwa Cotton Spinning Mills Ltd. (Worsted Division) as per the provision contained in Clause (III) ibid. We hereby undertake to indemnity the Board against any effect of various disputes regarding supply of electricity and charges relating thereto amongst the constituent consumers."

12. Further, the learned Single Judge ignored the aspect that no bill was ever raised on any of the 11 KV installed against individual constituent industrial members before 2009, which had been rightly observed by respondent No.2 in its order dated 20/08/2013 and this Court is also in agreement with the arguments raised by the learned senior counsel for the appellants that there is nothing on record to show the monthly bill supplied to the appellants categorically contains declaration with regard to MMC on the bills itself and the said MMC was being mentioned only on the basis of 66 KV substation total sanctioned load/contract demand. In such circumstances, there could have been no interpretation that individual constituent members are liable to or could be held liable for MMC in respect of their individual connected load as has been now interpreted by the learned Single Judge. After analyzing the record as well as pleadings, we are of the view that learned Single Judge failed to read and interpret the relevant Regulation, i.e. Regulation 5.7 of Electricity Supply Regulation (2005) and has misconstrued the same, thus neither under the agreement nor under the Electricity Supply Regulation (2005) (para-

5.7 and para-5.7.1) anything is suggesting for levying of MMC on individual constituent members. Learned counsel for respondent No. 1 has misread and misinterpreted the expression 'other charges' given in regulation 5.7.1 to include minimum monthly charges (MMC), although even as per the Regulation, expression 'other charges' means electricity duty, octroi and fuel surcharge and same cannot be equated with the MMC. We cannot lose sight of the fact that the learned Single Judge ignored the relevant material on record to the effect that though the cluster substation has been in operation since the year 2001, and it is only after a gap of 9 years for the first time on 14/12/2009, respondent No. 1 raised separate demand for MMC qua individual constituent member of the cluster substation for a period from 09/2009 to 11/2009 and the supplementary bill was raised in respect of appellants especially even as per agreement there was no stipulation of levy of MMC payable qua the individual connected load. Therefore, in such circumstances the action of levying individual MMC is unsustainable. The learned Single Judge brushed aside the detailed findings given by respondent No.2, i.e., the ombudsman, where neither in the original agreement (Annexure P-2) nor in Regulation 5.7 ESR (2005)/9.3 E SIM (2011) there is any mention of MMC to be charged on 11 KV metres installed at individual constituent industrial consumers. Learned counsel for the appellants, to support his contentions, has relied upon the judgements mentioned in preceding paras, which are much more convincing than the law cited by the learned counsel for respondent No. 1 in their favour. Secondly, the appellants, through CWP No. 2925 of 2014 have challenged the order dated 20/08/2013 passed by respondent No.2 only to the extent that the MMC charged after 14/12/2009 is held to be recoverable and

have prayed for refund of the MMC charge/got recovered from the appellants during the pendency of period from 11/2009 to May/2013 amounting to ₹58,90,379/- and ₹5,82,400/- for the month of August 2013 alongwith interest @ 18% and also to refund the amount of ₹ 13,19,479/- deposited by the appellants for adjudication of the dispute before Committees along with interest @ 18% with the further prayer for not imposing MMC upon any of the constituent units of the 66 KV cluster keeping in view the mutual agreement read with ESR 5.7.1 apart from provisions contained in ESR 82.7.8. The learned Single Judge, while dealing with the pleadings of both the matters raised through the writ petitions, which were ultimately decided by a common impugned judgement dated 24/02/2015 where the order dated 20/03/2013 passed by the respondent No.2 was modified and upheld the contentions of respondent No.1/Electricity Board regarding its entitlement to levy MMC for each of the Individual Industrial Consumers.

13. Given the above discussion, we do not find any justification by the learned Single Judge for modifying the order dated 20/08/2013 passed by respondent No.2-ombudsman by upholding the entitlement of respondent no.1 to levy MMC for each of the Individual Industrial consumers. Consequently, both the Intra-Court appeals are allowed. The impugned judgement dated 24.2.2015, passed by the learned Single Judge is set aside. Further, findings recorded by respondent No.2 vide its order dated 20/8/2013 qua recovery are restored. Furthermore, liberty is granted to the appellants to avail of appropriate remedy before Zonal Dispute Settlement Committee being the competent authority qua the amount charged/deposited as raised by them through CWP No. 2925 of 2014, which has

not been adjudicated till today."

7. Apart from the above, the jurisdiction in review is limited. It has been consistently held by this Court in several judicial pronouncements that the Court's jurisdiction of review is not the same as that of an appeal. A judgment can be reviewed only if there is a mistake or an error apparent on the face of the record but an error that has to be detected by a process of reasoning cannot be described as an error apparent on the face of the record.

8. Keeping in view the fact that learned counsel for applicant-respondent No.1 has failed to point out in the instant case if there is any error apparent on the face of the record, no ground is made out to review the judgment in question and both the review applications are accordingly dismissed.

9. All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

27.02.2026
sandeep

Whether speaking/reasoned : Yes No
Whether Reportable : Yes No