



TAMIL NADU ELECTRICITY OMBUDSMAN

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BEFORE THE TAMIL NADU ELECTRICITY OMBUDSMAN, CHENNAI

Present : Thiru. A. Dharmaraj, Electricity Ombudsman

Appeal Petition No. 6 of 2013

Thiru. R. Ravi,
R/18, A.M. Garden,
Mandaveli,
Chennai – 600 028.

. . . . Appellant
(Rep by party in person)

Vs

The Superintending Engineer,
Chennai Electricity Distribution Circle /South,
TANGEDCO,
K.K. Nagar,
Chennai – 78,

. Respondent
(Rep by Er. Gnanasambandam,
EE/O&M/I.T. Corridor)

Date of hearing : 12.4.2013

Date of Order : 19.4.2013

The appeal petition No. AP 6 of 2013 came up for final hearing before the Electricity Ombudsman on 12.4.2013. Upon perusing the above appeal petition, the Counter Affidavit and after hearing both sides, the following order is passed by the Electricity Ombudsman.

ORDER

1. Prayer of the Appellant:-

The appellant prayed for the following :

(a) Refund of the excess amount of more than Rs.9000/- collected during October 2012.

(b) Payment of suitable compensation towards interest for the borrowed money. Physical strain and mental agony.

2. Brief history of the case :

The appellant is having a flat at Semmenchery allotted by Slum Clearance Board. The service connection number of the flat is 295-008-414. During October 2012, he has paid a sum of Rs.10,456/- towards CC charges for the period from 2/2011 to 10/2012. He informed that the amount paid is based on incorrect billing and hence requested for refund of the excess amount paid. He also informed that no action has been taken on the petition dt.10.12.2010 filed to CGRF of Chennai EDC/South. As there was no reply for the petition filed before the CGRF, he filed a petition dt. 6.3.2013 before the Electricity Ombudsman and the same was taken as an appeal petition by the Electricity Ombudsman.

3. Contentions of the Appellant:

The appellant has contended the following in his appeal petition dt.6.3.2013, letters dt. 3.12.2012 & dt.20.3.2013.

(i) After demolishing the house at Raja Gramani Thottam , Mandaveli a flat has been allotted to him at Semmenchery by the Slum Clearance Board.

(ii) During October 2012, it was indicated in the meter card that a sum of Rs.9200/- has to be paid towards CC charges otherwise, the service will be disconnected. Hence, by pledging jewels, about a sum of Rs.10,000/- was paid and got proper receipt for the payment made.

(iii) Rs.10,000/- is a too big amount for a person like him who is depending on the daily wages, with out proper education.

(iv) As per the consumer card, the service has to be disconnected within 20 days . The reasons for not disconnecting the service for the past two years for non payment of CC charges is not known. This has to be examined.

(v) A petition dt.10.12.2012 in the prescribed format was submitted to CGRF of Chennai EDC/South. But there is no reply from the CGRF even after a lapse of 2 ½ months.

(vi) As per the regulation 17(4) of the Regulations for CGRF, the Electricity Ombudsman can entertain a petition if no reply is received from the CGRF for more than 2 months from the date of filing the petition before CGRF by a petitioner.

(vii) In letter dt.15.3.2013, the SE/CEDC/South has informed that a sum of Rs.5292/- is credited into his account and will be adjusted in future CC charges. The above is not acceptable to him for the following reasons.

(a) On a review of the meter card, it is noted that an approximate consumption of 100 units per bimonthly has been considered for levying the charges without actually noting down the meter reading. But, suddently 1780 units has been shown as consumption for October 2012. In February 2013, no

consumption has been recorded but charges have been levied as Rs.657/-. It is presumed that the SE/CEDC/South has arrived the refund as Rs.5292/- by adopting 50% of the billed amount.

(b) When the meter reading was noted by him, the reading as on date is 360. Assuming at an approximate rate of Rs.2 per unit, the total CC charges for 22 months would be around Rs.720/- whereas the amount paid is Rs.11,113/- (Rs.1058+9398+657) Hence,, the Board has to refund about Rs.10,393/- to him

(c) The adjustment of the excess charges paid in the future bills is not feasible. The excess amount was paid by him, whereas the electricity bill for the future periods will have to be paid by his tenant. Further, the adjustment may take number of years at the present rate of consumption.

(d) The board cannot enjoy the amount paid based on its incorrect billing when the interest for the loan is being paid by a poor person like him.

(e) As per regulation 14(1) (a) of the Supply Code, the service shall be disconnected for non payment of the electricity bill within 20 days from the date of assessment. When the service was not disconnected, the penalty and interest are not applicable.

(f) Due to the mistake of the licensee, the poor persons like him are facing mental agony, loss of interest, physical strain etc., Hence, a compensation of Rs.5000/- has to be paid to him.

(g) The compensation amount of Rs.5000/- and the excess amount of Rs.10,300/- to be refunded may credited into his wife's S.B. A/c No.603,742,9069 in Indian Bank.

4. Contentions of the Respondent:

The Respondent has contended the following in his counter affidavit.

i) The petition stated to have been addressed by the petitioner to the CGRF/South has not been received in this office.

ii) Based on the appeal petition dated 6.3.2013 filed by the petitioner before the Hon'ble Ombudsman, the above matter was looked into and the following action was taken.

(iii) The consumer has requested in his letter dt.6.3.2013 for the refund of excess amount paid towards electricity consumption charges for electricity connection 295-008-414, owned by the petitioner. Based on the consumer representation the above incorrect billing was corrected and a cheque for a sum of Rs.10,098/- was drawn in favour of account holder of the above service connection (petitioner) and the petitioner was addressed by AE/O&M/Chemmanchery to collect the cheque.

(iv) Details of proportionate billing for 360 units based on the check reading taken on 2.4.2013 (ie 362.8) for 12 billing months are as follows :

Billing month	actual to be billed		Already billed		Balance amount to be refunded (Rs.)
	Units	Amount (Rs.)	Units (Rs.)	Amount	
02/2011	30	40	100	120	80
04/2011	30	40	100	70	30
06/2011	30	40	100	70	30
08/2011	30	40	100	70	30
10/2011	30	40	100	70	30
12/2011	30	40	100	70	30
02/2012	30	40	100	70	30
04/2012	30	50	100	88	38
06/2012	30	50	100	120	70
08/2012	30	50	80	100	50

10/2012	30	50	1780	9200	9150
12/2012	30	50	250	580	530
Total		530/-		10628/-	10098/-

(v) Hence, it is obvious from the above that necessary action has already been taken for refund of the excess amount paid by the petitioner and hence the grievance of the petitioner has been attended.

(vi) It is prayed before Hon'ble Ombudsman that the claim of compensation by the petitioner has no legs to stand and liable to dismissed.

(vii) Therefore prayed that this Hon'ble court may be pleased to pass an order to dismiss the above appeal petition No. 6 of 2013.

5. Hearing held by the Electricity Ombudsman:

In order to enable the Appellant and the Respondent to putforth their arguments in person a hearing was held before the Electricity Ombudsman on 12.4.2013.

6. Issues for consideration :

On a careful examination of the rival submissions I find the following are issues to be decided (1) Refund of the excess CC charges collected and (2) Payment of compensation for mental agony physical strain and loss of interest.

7. Findings on the first issue :

7.1 The appellant Thiru. Ravi himself presented the case. He reiterated the contents of the appeal petition and in the subsequent letter.

7.2 The appellant argued that had the licensee taken the meter reading properly, the problem of payment of excess amount would not have arisen at all. Further, if disconnection was also done as per regulation, the situation of paying the CC charges for 11 assessment periods in one lump sum would not have also arisen.

7.3 The appellant argued that, the licensee shall pay compensation for his mental agony and also has to compensate the interest that he has paid for the jewels pledged.

7.4 Thiru. Gnanasambandam, Executive Engineer/O&M/ITC has attended the hearing on behalf of the respondent. He also reiterated the contents of the counter.

7.5 He informed that a check reading was taken on 2.4.2013 and found that the meter reading is 362.8 units. Hence, the consumption of 360 units has been proportionately billed for 12 assessment period and arrived the CC charges for the above service. He further informed that based on the above calculation a sum of Rs.10,098/- is arrived as excess amount to be refunded and the cheque for that amount is available with him and he is ready to hand over the cheque to the appellant.

7.6 The Executive Engineer also informed that the error in billing is due to recording of the decimal portion of the meter reading also as a whole number. He has recorded his regret for the mistake crept in and assured that such type of error in billing will not be repeated again.

7.7 The Executive Engineer also informed that it is a mistake on the part of the licensee in not disconnecting the service immediately when there was non payment. However, he informed that the consumer has to pay the minimum charges for the service during the disconnection period also. In the present case, as the consumption is less the consumer is paying minimum charges only upto 2/2012 assessment period. Hence, the consumer may not be benefited by way of lesser CC charges due to disconnection. However, he assured to avoid such occurrences in future.

7.8 On an examination of the petition, it is noted that the appellant has paid a sum of Rs.11,113/- (Rs.1058+9398+657), which includes reconnection charges and BPSC also besides the current consumption charges. However, as per the counter, the amount paid by the consumer is shown as Rs.10,628/- only. But, the reconnection charges and BPSC has not been indicated in the counter and only CC charges have been shown. Anyhow there is a discrepancy in the amount shown as paid by the appellant. Further, the check reading is taken on 2.4.2013, which includes 2/2013 assessment period consumption and consumption upto 2.4.2013 also. On a analysis of account summery, it is seen that upto December 2012, the consumption may be 301 units only, though it is recorded as 3010.(The last digit may be decimal as informed by the respondent during the hearing. Hence, the actual reading could be 301 only). Hence, the licensee has to rework the consumption charges upto 12/2012 considering the meter reading as 301.

7.9 The EE/O&M/ITC who represented the respondent informed that he will check the calculation and the office records and agreed to arrange to refund the excess amount if any available with the board by a separate cheque.

7.10 Regarding the refund of excess amount collected, I would like to refer regulation 12 of Supply Code , error in billing. The said regulation is reproduced below :

“12. Errors in billing

(1) In the event of any clerical errors or mistakes in the amount levied, demanded or charged by the Licensee, the Licensee will have the right to demand an additional amount in case of undercharging and the consumer will have the right to get refund of the excess amount in the case of overcharging.

(2) Where it is found that the consumer has been over-charged, the excess amount paid by such consumer shall be refunded along with interest at the rate applicable for security deposit. The interest shall be computed from the date on which the excess amount was paid. Such excess amount with interest may be paid by cheque in the month subsequent to the detection of excess recovery or may be adjusted in the future current consumption bills upto two assessments at the option of the consumer. The sum which remains to be recovered after two assessments may be paid by cheque. Interest shall be upto the date of last payment.

(3) Wherever the Licensees receive complaints from consumers that there is error in billing, etc. the Licensee shall resolve such disputes regarding quantum of commercial transaction involved within the due date for payment, provided the complaint is lodged three days prior to the due date for payment. Such of those complaints received during the last three days period shall be resolved before the next billing along with refunds / adjustments if any. However, the consumer shall not, on the plea of incorrectness of the charges, withhold any portion of the charges”.

7.11 On a careful reading of the said regulation 12(2) of the Supply Code, it is noted that when it is found that the consumer has been overcharged, the excess amount paid by such consumer shall be refunded along with the interest at the rate applicable for security deposit. The interest shall be computed from the date on which the excess amount was paid. Such excess amount with interest may be paid by cheque in the month subsequent to the detection of excess recovery or may be adjusted in future current consumption bills upto two assessments at the option of the consumer. The sums which remains to be recovered after two

assessments may be paid by cheque. Interest shall be paid up to the date of last payment.

7.12 It is also noted that the interest rate on the security deposit is 9% for the year 2012-13 as per Hon'ble Commission order No.T.O.1-5, dt. 5 -2-2013.

7.13 In view of the above, I am of the view that the licensee has to pay interest also on the excess amount to be refunded at the rate of 9% as applicable for security deposit.

7.14 When the above provision was pointed out by the Electricity Ombudsman, EE/O&M/ITC has readily agreed to pay the interest for the excess amount.

7.15 Therefore, the licensee is directed to pay interest at the rate as applicable to security deposit for the excess amount available with the licensee . The interest shall be computed from the date on which the excess amount was paid to the date of refund of the excess amount .

7.16 The licensee is also directed to verify the records about the payment made by the appellant and recheck the refund calculation. Considering meter reading as 301 for 12/2012 assessment period. If the excess amount to be refunded is found to be more than Rs.10,098/- the same has also to be refunded along with interest.

7.17 As the EE/O&M/ITC has agreed to pay the interest and recheck the calculation, the appellant has agreed to receive the cheque and the cheque for Rs.10,098/- has been handed over to the appellant by the respondent on the hearing date with proper acknowledgment.

8. Findings on the second issue :

8.1 The next prayer of the appellant is to pay a compensation of Rs.5000/- towards has mental agony, physical strain and loss of interest.

8.2 Regarding payment of compensation , the relevant regulation 7(11) of the regulations for CGRF & Electricity Ombudsman is reproduced below : ;

“7(11) In respect of grievances on non implementation of standards of performance of licensee on consumer service specified by the Commission under section 57(1) of the Electricity Act 2003, if the forum finds that there was default of the licensee, it shall only hold that the consumer is entitled to the compensation and shall state that, the consumer if agreed, can accept the compensation prescribed by the Commission in the relevant Regulations.”

8.3 On a plain reading of the said regulation 7(11) of regulations for CGRF & Electricity Ombudsman, it is noted that in respect of Grievances on non implementation of standards of performance of licensee on consumer services specified by the Commission under section 57(1) of the Electricity Act, 2003, alone, the CGRF & Electricity Ombudsman can hold that the consumer is entitled for compensation.

8.4 As there is no provision for ordering compensation for mental agony and physical strain in the above regulation, I am not issuing any order on the above prayer.

8.5 However, regarding the loss of interest, I am to inform that the appellant is eligible for payment of interest at the rate as applicable to security deposit and the above benefit has already been decided in his favour as per para 7.15.

9. Conclusion :

9.1 In view of the findings in para 7 above, it is held that the licensee has to refund the excess amount of current consumption charges paid along with interest at the rate of 9 % as applicable to security deposit .

9.2 Further, the calculation done for arriving the refund may be checked once again considering the amount paid by the consumer as Rs.11,113/- and meter reading as on 12/2012 as 301 and the amount if any to be refunded may also be refunded along with interest.

9.3 As the licensee has already paid Rs.10,098/- towards excess amount , the licensee is directed to pay the balance amount if any available as excess and the interest portion within 15 days from the date of receipt of the order and send a compliance report within 30 days.

9.4 With the above findings, the Appeal Petition No. 6 of 2013 is finally disposed of by the Electricity Ombudsman. No Costs.

(A. Dharmaraj)
Electricity Ombudsman

To

- 1) Thiru. R. Ravi,
R/18, A.M. Garden,
Mandaveli,
Chennai – 600 028.

- 2) The Superintending Engineer,
Chennai Electricity Distribution Circle /South,
TANGEDCO,
110 KV SS Complex,
K.K. Nagar, Chennai – 78.

- 3) The Chairman (Superintending Engineer),
Consumer Grievance Redressal Forum,
Chennai Electricity Distribution Circle,/South,
TANGEDCO,
110 KV SS Complex,
K.K. Nagar, Chennai – 78.

- 4) The Chairman & Managing Director,
TANGEDCO,
NPKR Malaigai,
144, Anna Salai,
Chennai – 600 002.

- 5) The Secretary
Tamil Nadu Electricity Regulatory Commission
No.19A, Rukmini Lakshmi pathy Salai
Egmore,
Chennai – 600 008.

- 6) The Assistant Director (Computer) - **FOR HOSTING IN THE WEBSITE**
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