

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 19 -04-2010

Appeal 40 of 2009

Between

M/s. Sri Laxmi Ganesh Ice Makers
Ungutur, Ungutur Mandal,
W.G.Dist. (A.P)

... Appellant

And

The Asst. Divisional Engineer / Opt./ Rural / APEPDCL / Tadepalligudem
The Asst. Accounts Officer / ERO / APEPDCL / Tadepalligudem
The. Divisional Engineer / Opt / APEPDCL / Tadepalligudem

....Respondents

The appeal / representation dt.11.12.2009 received on 17.12.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 07.04.2010 at Kakinada, in the presence of Sri A.Ganesh, authorized representative of Smt.K.Nagavani, appellant and Smt.V.Nagamani, JAO/ERO/T.P.Gudem present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint before the Forum addressed to the Divisional Engineer/Op/Tadepalligudem wherein she has intended that earlier representation dated 18.05.2009 has not yet been disposed of by the Divisional Engineer which was registered as CG No. 81/09.

2. The respondent No.1 filed his counter to the effect that the service connection was released on 30.06.2006 with a contracted load of 59 kVA. It was inspected on 18.04.2009 and observed that the load was exceeding. Hence, as per GTCS notice for additional load was issued to the appellant. She has submitted a representation that due to power cuts, the demand was exceeded and requested for some more time to reduce the maximum demand otherwise they will regularize the additional load to SC No. 2249. After expiry of the notice issued, the respondent No.1 inspected and found abnormal MDs are recorded as follows:

May'09	74.2 kVA	July'09	76.5 kVA
June'09	76.3 kVA	August '09	76.1 kVA

A notice was issued to regularize the additional connected load duly paying the required service line charges, development charges and security deposit, etc.

3. The respondent No. 2 has filed his counter and stated that the SC No.2249 , cat-IIIA of Unguturu was released in favour of the appellant with a contacted /connected load 74.5 HP on 30.06.2006. The ADE issued a notice to the appellant for regularization of the additional load.

4. After hearing both sides and after considering material placed before the Forum, the Forum held that the notice issued by the designated officer asking her to pay estimated charges for regularization of additional load in exceeding contracted load and her security deposit, otherwise her service is liable for disconnection. The respondents shall take further action to realise the amounts or act as per GTCS.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the orders of the Forum is unjust, not maintainable within the meaning of facts and one sided. As a protest, she filed an application on 18.05.2009 to the respondent No.3 by marking a copy to the Chairperson,

CGRF and the Chairperson, CGRF replied that it is not possible to examine her case as no documentary evidences is enclosed .

6. When another notice was issued by ADE on 27.08.2009, she sent a representation on 15.09.2009 to the respondent No.3 informing the similar objection before the DE/O/Tadepalligudem. The DE has not passed any speaking orders. The ADE who sent a copy of the letter addressed to the Chairperson, CGRF sent to the appellant with an endorsement and with a request to furnish rejoinder within 7 days from the date of receipt of this letter. She filed a rejoinder on 24.11.2009 informing the orders passed in WP No. 22228/09 she filed a writ petition copy directing the respondents authorities to consider the representation with objections dated 18.05.2009 and 15.09.2009 and pass appropriate orders thereon as expeditiously as possible preferably within a period of two weeks and till such time, the respondents should not insist upon any payment or take any coercive steps and the Forum without considering her objections and representations passed order dated 13.11.2009 which are unjust and against to the principles of natural justice and one sided. The appellate authority may be pleased to consider the orders of the Hon'ble High Court and prayed to consider the order dt.13.11.2009 by the Forum as not maintainable and to set aside the same.

7. Sri A.Ganesh, authorized representative of Smt.K.Nagavani, the appellant herein present and Smt. V.Nagamani, JAO present and represented the case on behalf of the AAO and represented that they have exceeded the LF and the records are created and harassing the appellant and the very record placed before this authority is sufficient to hold that the impugned order is against to the principles of natural justice and law. On the same lines, the appellant has filed a written statement.

8. The representative of the respondents submitted that there is an excess load and a notice is issued and the appeal filed by the appellant is liable to be dismissed.

9. It is clear that the appellant has submitted representations on 18.05.2009 and 15.09.2009 and also filed a WP No. 22228/09 and Hon'ble High Court passed an order on 19.10.2009 with a direction to the respondents to consider the representations with objections dt.18.05.2009 and 15.09.2009 submitted by the appellant and pass appropriate orders thereon as expeditiously as possible, preferably within 2 weeks from the date of receipt of the order.

10. Before the disposal of the WP No. 12.10.2009 the appellant filed a complaint before the Forum questioning the acts of the respondents she has submitted the order of the Hon'ble High Court along with a rejoinder by which time the Forum passed its order and ceased off the matter.

11. In para 4 of the written contentions, the appellant has mentioned that the Hon'ble High Court directed the respondents to issue speaking orders on the representations dt.18.05.2009 and 15.09.2009 with objections. The said contention is not correct as it does not contain that the authorities have to pass speaking orders. She has also reiterated the same ground in para 8 of the said contention.

12. It is apparent that the copy of the writ petition and the order, though passed prior to the orders of the Forum are not filed before the Forum prior to the disposal of the said petition. The impugned order does not speak that the said representations dt.18.05.2009 and 15.09.2009 to consider and disposed by the DE/O/Tadepalligudem as directed by the Hon'ble High Court. Pending of the petition before the Forum is not a ground for the DE/O/Tadepalligudem in withholding the enquiry on the said petitions though ordered by the Hon'ble High Court. So the very order of the Hon'ble High Court is not complied by the

respondents since no data is placed before the Forum either by the respondents or by the appellant about the enquiry on the said petitions.

13. In the light of the above said circumstances, there is no other option for this authority except to remit back the matter to the Forum by setting aside the same with a direction to the respondent No.3 to comply the direction given by the Hon'ble High Court. Basing on the said report, the Forum is at liberty to dispose of the said complaint afresh.

14. In the result, the appeal is allowed by setting aside the impugned order of the Forum and the matter is remitted back to the Forum with a direction to the respondent No.3 to comply the orders of the Hon'ble High Court within 2 weeks from the date of receipt of this order if the petitions dated 18.05.2009 and 15.09.2009 are not disposed. Basing on the result, the Forum is at liberty to dispose of the said complaint afresh. No order as to costs.

This order is corrected and signed on this day of 19th April 2010

VIDYUT OMBUDSMAN