

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 29-03-2010

Appeal No. 11 of 2009

Between

Sri. N.Sreenivasa Reddy
Jagannadh Complex
Behind Hari Hara Mahal
Koritipadu, Guntur – 522 002.

... Appellant

And

The Asst. Accounts Officer/ ERO /Town/Guntur
The Asst. Engineer /D8/ Operation / Guntur
The Divisional Electrical Engineer / Operation / Guntur
The Asst.Divisional Engineer/Operation/Town-2/Guntur

....Respondents

The appeal / representation dated 14.02.2009 received on 18.02.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 26.03.2010 in the presence of Sri D.V.Lakshmi Narayana, authorised representative for the appellant and Sri P.Rami Reddy, AAO/ERO/Town-2/Guntur present for respondents and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following:

AWARD

Aggrieved by the order passed by the Forum in C.G.No.40/2008-09 of Guntur Circle dated 27.01.2008, the appellant preferred this appeal dated 14.02.2009 received on 18.02.2009.

2. The complainant Sri N.Sreenivasa Reddy filed a complaint before the Consumer Forum alleging that he was having non-domestic service bearing No.150130 and the said portion was let out to some workshop. In the month of March 2004, a bill was served for a sum of Rs.6734/- by that time the tenants vacated the premises. The said service was under disconnection on the very next month onwards and the department officials did not follow the provisions of the case of AUDC services and were issuing bills up to August 2008 and it is a deficiency of service, on that he preferred a complaint demanding compensation of Rs.10000/-.

3. During the inspection by the DPE on 27.10.2007, they found that the supply was extended to the disconnected service as if he was indulging theft of energy and levied penalty of Rs.40610.25. Though it was not actually extended to the disconnected service and the water motor which was nearer to the disconnected premises was connected to the house connection only. So, the notice issued for theft of energy is not correct and the same is to be withdrawn. Apart from the above said service another two services with SC No. 150131 and 150132 are occupied by Zim and ERO office respectively. In the 3rd floor of the building, the complainant is residing in the premises. When he applied for new service connection, the respondents refused to release, unless he clears the arrears against the disconnection service and penalty imposed for theft of energy. The DPE also found that the domestic service was given from the ERO and levied penalty of Rs.62000/- and the same was not correct. No incriminating points were noted at the time of inspection and the appeals preferred by him to the DE/Assessments and SE/Assessments were rejected confirming the penalty amount imposed. Hence, the penalties levied are liable to be withdrawn and he is entitled for compensation for the deficiency of service.

4. The account copy of the above 3 service from the date of supply was filed and the Forum reviewed the same and observed the following findings.

I. In respect of SC No. 150130, the CC bills were issued with irregular readings upto 12/03 and in the month of 1/04, the CC bills was issued with progressive readings.

b. The CC bills were being issued continuously even during the disconnection period and is against to the clause 5.9.4.3 of TCs approved by the APERC.

Accordingly Forum advised the respondent (i.e) Assistant Accounts Officer / ERO/Town-2/Guntur to follow the above terms and conditions.

II. As far as the extension of supply to the disconnection service and commercial service 150131 unauthorisedly, the consumption pattern of the services 150132 and 150131 before inspection and after inspection and the following are the consumption pattern.

Before 27-10-2007			After 27-10-2007		
Month	150132	150131	Month	150132	150131
10/07	4093	263	12/07	2925	676
9/07	1490	208	1/07	274	565
8/07	2579	610	2/07	473	511
7/07	1471	531	3/07	677	578
6/07	1814	250	4/07	702	638
5/07	1083	234	5/07	758	747
4/07	1017	293	6/07	858	769
3/07	1962	268	7/07	1028	645

As seen from the above, there was an increasing trend in consumption in reference of SC No. 150131 after inspection.

Ultimately, the Forum ordered that there was no extension of electricity to the disconnection service and shall be classified under "Theft of electricity" under section 135 of Electricity Act, 2003 and theft of energy and Malpractice do not come under the purview of the Forum and partly allowed the appeal and disposed of the same when the respondents issued revised CC bills on the advise of the Forum and rejected the claim for compensation.

5. Aggrieved by the order of the Forum, the appellant preferred this appeal that service was given in the month of August 2002, the service reading was not made regularly upto March 2004 and bills were not issued properly and for about 18 months it was not disconnected and demanding payment of arrears after a long lapse of time that too service connection utilized by the tenants is against the principles of natural justice. They would have adjusted ACD collected from him. So far as UDC service is concerned the condition of the service of 18 months is definitely a deficiency of service. It should be collected from the officials who are responsible for the same. The theft case is only imaginary case and the Forum has failed to appreciate the said aspect and simply accepted the readings submitted by the respondents and appeal preferred by him is to allowed by setting aside the impugned order.

6. Now, the point for consideration is, “whether the impugned order, dated 27.01.2008, is liable to be set aside? If so, on what grounds?”

7. Sri D.V.Lakshmi Narayana appeared on behalf of the appellant along with a letter of authorization and he argued that the respondents did not disconnect the service for a period of 18 months and unnecessarily included 1818 units in the bill and that there was a failure to pay CC bill in the next month, they would disconnect immediately the service connection but left the same for 18 months and made illegal demand and would definitely come within the ambit of deficiency of service. The alleged malpractice or theft of energy are all imaginary grounds and they cannot be accepted and the appeal preferred by him is to be allowed by setting aside the impugned order.

8. The respondent is represented by Sri P.Rami Reddy, AAO and filed the copies of the readings of theft of energy and the readings of the SC No. 150130 which shows from April 2003 and the arrears are being shown right from January 2004. They have been making demand including arrears continuously and he never bothered to pay the same and accumulation were made and he paid

Rs.6759/- on 04.02.2010 long after the disposal of the case by the Forum. It is also contended by him that he was having three service connections 150130, 150131 and 150132 for all the three floors. One floor is given to ERO and from that office he has taken service to his premises under his occupation and the same was observed by DPE and that he has also connected service connection to the premises which was disconnected for non-payment of arrears i.e 150130. The same was also observed and the calculations have been made according to the guidelines that too in the presence of the parties and there are no grounds to interfere with the said findings.

9. The main contention of the appellant is that the SC 150130 was not disconnected for a long time even if the amount is not paid. It cannot be treated as deficiency of service if disconnection is made illegally, then only it will come within the definition of deficiency of service. The bills are made regularly from time to time and when the accumulation have been made, they have disconnected the same and at best it can be taken as a failure of duty but cannot be treated as deficiency of service as the complainant has not sustained loss.

10. The Forum has rightly observed the same and there are no grounds to interfere with the said observation.

11. The appellant representative said that he has got sufficient documents to sustain his contention about the bogus inspection, etc and also about the deficiency of service, but no document is filed by him either at the time of hearing or subsequent to the hearing of the matter. This shows that there are no documents in support of his contention. The documents filed by the respondent clearly revealed about the inspection made by the DPE with regard to unauthorized service connection to both the premises. So for, booking of theft case and also case of malpractice they do not come under the purview of the Forum and no doubt that the Forum has rightly rejected these two grounds. The above said two grounds come within the purview of section 126 of the Electricity

Act, 2003 and an appeal is provided under Section 127 of the EA 2003. So, the Forum has rightly rejected on the ground of want of jurisdiction. Furthermore, the above said table shows that the increase of readings due to the wrong connection given by him to the respective premises and the same is sufficient hold that it is a substantial piece of evidence. On this also there are no grounds to interfere with the said points. It is also clear from clause 5.9.4.3 of GTCS the CC bills should be sent to him even after disconnection of service no. 150130, hence there is no question of deficiency of service on this ground. There were readings up to 12/03 so the demands were made with progressive readings. From any corner, there is no deficiency of service either by the respondents or its officials.

12. The Forum also advised to revise the CC bill and the respondents replied that the bills were revised.

13. In the light of the above said discussions, I do not find any merits in the appeal and the appeal preferred by the appellant is liable to be dismissed.

14. In the result, the appeal is dismissed, no order as to costs.

This order is corrected and signed on this day of 29th March 2010

VIDYUT OMBUDSMAN