

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 31-03-2010

Appeal No. 35 of 2009

Between

Sri Ch.Siva Prasad,
S/o.Ch.Venkateswarlu (late)
D.No.5-89-11, Lakshmipuram 3rd Line,
Guntur.

... Appellant

And

The Asst. Accounts Officer / ERO / Town-2 / Guntur

....Respondent

The appeal / representation received on 14.07.2009 of the appellant has come up for final hearing before the Vidyut Ombudsman on 26.03.2010 in the presence of Sri Ch.Siva Prasad, appellant present and no representation on behalf of 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.16/2009-10 of Guntur Circle dated 22.06.2009, the appellant preferred this appeal on 14.07.2009.

2. The appellant herein filed a complaint before the Consumer Forum alleging that the respondents issued a notice for payment of ACD amount of

Rs.4770/- and the said amount was included in the regular CC bill and the domestic consumers have fallen under Category-I need not pay ACD but contrary to that the respondent issued notice for ACD which is against to the provisions and that the respondent never issued any notice for the earlier period and requested to direct the respondents to collect the CC bill without ACD.

3. Whereas the respondents claimed that when average consumption is more than 500 units even for domestic consumers, they are liable to ACD and the petitioners who crossed 500 units is liable to pay ACD.

4. After hearing both sides, the Forum has advised the complainant to pay the ACD amount advised by the respondents.

5. Aggrieved by the said order, the appellant filed this appeal questioning the same that he is only the person scrutinized by the respondents as they have not issued any notice nor informed the same to him, but simply included the same in the CC bill and it is contrary to law and weight of evidence and discriminatory and the appeal is to be allowed by setting aside the impugned order.

6. Now the point for consideration is, "whether the impugned order dt22.06.2009, is liable to be set aside? If so, on what grounds.?"

7. The petitioner who appeared before this authority simply represented what he has mentioned in the grounds of appeal and ultimately requested for the indulgence of this authority for the high handed action of the respondents. No representation is made for the respondents at the time of hearing of the appeal.

8. However, it is the duty of this authority to dispose of the matter on merits. As per Regulation No. 6 of 2004, the consumer is not exempted from payment of ACD. As per the said Regulation, it is clearly mentioned in clause 6 (3)(a)(b) as hereunder:

“(3) Surcharge for belated payment of additional security deposit

- (a) The consumers shall pay the additional security deposit within thirty days from the date of service of the demand notice issued by the licensee.*
- (b) If there is any delay in payment, the consumer shall pay surcharge thereon at 18% per annum or at such rates as may be fixed by the Commission from time to time, without prejudice to the Licensee’s right to disconnect supply of electricity, as per this Regulation.”*

9. The above said rule position clearly shows that the review can be made if there is any short fall. In the said process the ACD is demanded. However without issuing any notice, simply included the same in the CC bill. No doubt the important right to represent his case is lost since notice of demand is not made separately. At any rate, this authority is not in a position to waive the ACD charges incorporated in the regulation itself. Furthermore, the documents filed by the appellant with regard to other consumers is concerned, they have also disclosed about demand of the ACD charges. So they may not give any aid to support his case.

10. The authority is not precluded from looking into the equities before passing the order. In the light of the above said discussion I am of the opinion that the respondent may not collect interest or surcharge on the said amount. Apart from this they are also directed not to insist the payment at once and the petitioner is permitted to pay the same in four monthly equal installments of the original amount of Rs.4770/- commencing from the month of April 2010.

11. In the result, the appeal is disposed with a direction not to collect interest or surcharge on the amount and also with a further direction to pay the amount of Rs.4770/- in four installments commencing from April 2010 by the petitioner/appellant. No order as to costs.

12. In the result, the appeal is partly allowed, but no order as to costs.

This order is corrected and signed on this day of 31st March 2010.

VIDYUT OMBUDSMAN