

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated 21 – 12 - 2011

Appeal No. 38 of 2011

Between
Sri Mazher Alikhan
3-5-780/28, King Kothi, Hyderabad - 29

... Appellant

And

1. Assistant Engineer / operation / Langar House/CPDCL/Hyderabad
2. Assistant Divisional Engineer / operation / Rethi bowli/CPDCL/Hyderabad
3. Asst. Accounts Officer / ERO/Rethi bowli/ CPDCL/Hyd.
4. Divisional Engineer/operation/Asif nagar /CPDCL/Hyderabad
5. Divisional Engineer/Assessments/Himayat nagar /CPDCL/Hyderabad

....Respondents

The appeal / representation dt.08.09.2011 against the CGRF order of APCPDCL (Greater Hyderabad Area) (in CG No.150 (08)/2011-12 Central Circle dt.27.07.2011). The same has come up for final hearing before the Vidyut Ombudsman on 19.12.2011. Sri Mazher Ali Khan, appellant present Smt. M.K.Siva Parvathi, DE/O/Assessments, Md.Farahath Ali, ADE/O/Golkonda, Sri M.A.Kaleem, AAO/ERO/Rethibowli and Sri D.Ashok Kumar, AAE/O/Langar House on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The petitioner filed a complaint against the Respondents for Redressal of his Grievances and stated as hereunder:

“ The petitioner is a Consumer under the domestic category bearing meter No: D 9005918 in the premises 13-06-823/B, Mehdi Colony, Langer House, Hyderabad Since 2008. He has been wrong billed under category-II for the months of February and March erroneously. The bill amount for the month of June 2011

shows an amount of Rs.1267/-as arrears. surprised with the bill, he approached the their office as well as AC Guard Office. Despite the fact that he has been billed illegally for month, they have charged him Rs.1267/- as penalty.

He is constrained to approach the Hon'ble Forum for redressal of his grievance and further he prayed that an interim order be granted for payment of only the actual amount (without arrears)

He prayed further that the extra amount was billed for the 2 months is arbitrary and illegal and the same shall be re-calculated and refunded."

2. The 3rd Respondent has filed his written submission as hereunder:

"The Consumer has committed un-authorized use of Electricity and case was booked wide Final Assessment order No: DE(Assessment)/1/Hyd/DAT.92352, March, 2011 and Final Assessment of Rs.1267/-which was included in the month of June, 2011 monthly CC bill and the service category has been changed from category II to I is made in the month of June, 2011."

3. The Forum recorded the statement of the complainant and the statement of Sri D.Ashok Kumar, AAE on behalf of the respondents.

4. After hearing both sides and after considering the material placed before the Forum, the Forum passed the impugned order as here under:

"After hearing from both sides and records available, it is ordered that the complainant has to pay charges of Rs.1267/- under Category- II

The complaint is disposed off accordingly."

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the Forum has erred in coming to the conclusion that the appellant has to pay the penalty of Rs.1267/- towards change in category. The Forum has lost sight of the fact that the Respondent 1 & 2 have admitted procedural lapses on their part and failed to produce any material to substantiate their claim. The bill category was changed from Cat- I to II in the month of February and the same was reflected for 2 months i.e, in the month of March and April and he submitted a representation for change of category and when the tenant approached, they mentioned that the category has been changed from II to I. The conduct of the officials in changing the category is arbitrary , illegal and against to the principles of natural justice. Hence this authority may be pleased to refund the excess amount paid for two months due to illegal billing by unlawful change of category after due calculation as per the

category and refund of the penalty amount of Rs.1267/- paid along with the bill and reprimand the personnel responsible for the deliberate act or in the alternative allow them to be cross-examined to elicit the truth.

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

7. The appellant attended before this authority and submitted his written representation narrating the same facts mentioned in the grounds of appeal and also projected that the Forum grossly erred in understanding the matter and only went by the assertions of the respondent No.1 though the issue in question is different from the order passed and it is a clear case of non-application of mind to the facts of the case and the appeal preferred by the appellant is to be allowed by setting aside the impugned order.

8. Whereas, the respondents are represented by Smt. M.K.Siva Parvathi, DE/O/Assessments, Md.Farahath Ali, ADE/O/Golkonda, Sri M.A.Kaleem, AAO/ERO/Rethibowli and Sri D.Ashok Kumar, AAE/O/Langar House appeared before this authority and stated that the case was booked u/s 126 of EA 2003 and he has to proceed in accordance with the procedure contemplated therein, but not by approaching the Forum and the Forum has rightly appreciated the said aspect and rejected the claim made by the appellant and on the request of the appellant, the category is also changed from Category II to I when the tenant has vacated the premises.

9. It is clear from the facts that the SC No.D9-5918 was under domestic category. The consumer has utilised the power unauthorisedly for cooler service shop under the shutter in the months of March and April 2011. Thereupon, a case was booked u/s 126 of EA 2003. The final assessment was made by DE/Assessments and the same was raised in the regular bills. When the same is under usage of tenant the same was re-categorised from domestic to Cat-II. On the representation made by the appellant, the category was changed from Cat-II to I. On the observation made by the inspecting officer in his inspecting notes on 10.03.2011, the category might have been changed, since there is no date with regard to the

change of category I to II. The report of the inspecting officer is also filed before this authority. Therefore, it has to be affirmed that the tenant has used the premises by running a cooler service shop and the power is used unauthorisedly. The change of category cannot be entertained from domestic to commercial, without any application either from the consumer or from the owner. If any amount is claimed for such change is unwarranted and if any amount is collected for such change shall be refunded. The commercial category is converted to domestic on the representation made by the appellant.

10. The inspecting officer inspected the premises and booked a case u/s 126 of EA 2003. A separate procedure is contemplated as to how the estimate has to be made and also about the objections to be filed by the consumer at the time of provisional assessment and also at the time of final assessment, etc., The consumer is entitled to file his objections for such estimation. After passing the final assessment order also, he has got right to prefer an appeal u/s 127 of EA 2003. He has approached the Forum without exhausting the remedies available under the Act. If it is a case of unauthorised use of electricity by the consumer, a separate procedure is contemplated to approach the authorities and appellate authority. The Forum or this authority has no power to entertain the application as deficiency of service would not come into picture in the case of unauthorised use or theft of electricity, etc.

11. In the light of the above said discussion, there is no other option for this authority except to reject the request made by the appellant.

12. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 22nd December 2011

VIDYUT OMBUDSMAN