

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 19 -04-2011

Appeal No. 6 of 2011

Between

Sri Chandrasekhara Swamy Modern Rice Mill.
Prop. G.Sugunamma,
W/o.A.Arun Kumar,
Naguru village, Garugubilli (M), Vizianagaram Dist.

... Appellant

And

1. Asst Engineer/Operation/ Garugubilli
2. Asst Divisional Engineer/Operation/ Parvathipuram
3. Asst. Accounts Officer/ERO/ Parvathipuram
4. Divisional Engineer/Operation/ Bobbili

....Respondents

The appeal / representation filed on 01.03.2011 of the appellant has come up for hearing before the Vidyut Ombudsman on 06.04.2011 and 08.04.2011 at Visakhapatnam, appellant being absent. Sri M.Umamaheshwara Rao, AAO/ERO/Parvatipuram for respondents present 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 stating that the short fall amount of Rs.86445/- levied by the AG Audit team during 2002 against SC No.146, Naguru village is not justified and prayed for redressal of his grievance.

2. The respondent No.3 filed his written submissions as hereunder:

"The AG Audit Para V of 1999-2002 against Sc.No.146, Cat-III, Load-73 HP of A. Arun Kumari in Naguru, Garugubilli/ Section in Parvathipuram Sub-Division, revised shortfall amount of Rs.81444/- and it was included in the CC bill of 12/2005. The "D" List issued for the month for the above service every month but the consumer has not come forward to pay the AG Audit Shortfall amount. The status of service is under live. Subsequently the AG Audit authorities required a copy of MRB for the period 01/1999 to 12/2003 and production detailing the consumer from sales tax authority. But the Assistant Divisional Engineer/Operation/ Sub-Division/Parvathipuram has stated that the MRB pertain to the above period is not available in his office vide Lr.No.ADE/O/PVP/D.No.829/09, Dt.25-08-2009. A Xerox copy of letter is herewith enclosed for ready reference. The AG Audit desired the basis in which the demand was withdrawn and the particulars of withdrawal are enclosed.

In the mean time fire accident occurred in Electricity Revenue Office/Bobbili in the year 2005, due to that the MRBs are also not available in Electricity Revenue Office/Bobbili. Recently the demand notice served to the respective service towards payment of AG Audit shortfall amount of Rs.81444/- to the above said service vide Lr.No.AAO/ERO/PVP/JAO/BS/D.No.706/10, Dt.19.08.10. Accordingly the consumer bearing Sc.No.146 of Naguru has given a letter on Dt.22.11.10 that he has applied the sales tax authority and then sales tax production particulars are not in a position to submit the sales tax records. A Xerox copy of the particulars of representation is herewith enclosed."

3. The respondent No.4 filed his written submissions as hereunder:

"Smt A. Aruna Kumari, SC.No.146 of Naguru Village in Garugubilli Mandal and section an amount of Rs. 81445/- was raised by the AG audit due to no-adoption of average in respect of the stuck up and defective meter. To drop the AG audit para, the AG audit has insisting the proof from the commercial department regarding the production particulars and meter reading particulars.

The fire accident in 2004 took place and the meter reading particulars were burnt in ERO BBL. The meter reading registers are totally damaged at section office due to ageing and not available at section office. The consumer has also unable to produce the production particulars from commercial department.

Meanwhile, during court conducted in 12/2010 by CGRF, it is requested to the consumer to pay 50% of principal amount and again it is to be appeal to A.G. Audit to drop the para. At that time, the consumer has agreed to pay 50% of the principal amount, but so far the consumer is not paid the amount.

Further it is to submit that several times they appealed to AG Audit to drop the para since the related documents are not available due to ageing

and all the information belongs to 10 years back. Recently also appealed to AG Audit to drop the para vide Lr.No:AAO/ERO/BBL/ F/Dock/D.No.2147/10, dt.06.01.2011.”

4. After hearing both sides and after considering the material placed before the Forum, the Forum ordered as hereunder:

- *“The Respondents are directed that the latest position against SC.No.146, Sri Chandrasekhara Swamy Modern Rice Mill, Naguru Village, Garugubilli Mandal, should be submitted along with historical events occurred as mentioned in written submission though a detailed final reply to get the permission from higher authorities as the AG Audit para against this service was dropped on the responsibility of management vide AG’s letter No.2010-11/216, Dt.26/07/10.*
- *The GM/Internal Audit of Corporate Office, APEPDCL is herewith advised to get the final reply against the said issue belongs to 10 years back and suitably recommend to the management to get the approvals and communicate to respondents for finalization of the issue.*
- *With above direction CG.No.181/10-11 is dismissed.”*

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same that without redressing the application submitted in the Vidyut Adalat and without resolving the dispute the respondents are issuing demand notices to a tune of Rs.3,00,000/- including surcharge etc. It is very difficult for her to pay the same. It is also mentioned that very recently a demand notice was issued to pay an amount of Rs.81,445/-as shortfall pointed out by the Audit department. The Forum without receiving the information from ERO / Bobbili dismissed the petition without looking into the record and correspondence made by the respondents and the appeal preferred by her is to be allowed by setting aside the impugned order.

6. The appellant has failed to attend before this authority on 06.04.2011 as well as 08.04.2011 when the matter was adjourned from 06.04.2011 to 08.04.2011. Sri M.Umamaheswara Rao, AAO/ERO/Parvathipuram present and stated that the order of the Forum is in accordance with the procedure and the appeal preferred by the appellant is liable to be dismissed.

7. Now, the point for consideration is, “whether the order of the Forum dt.25.01.2011 is liable to be set aside? If so, on what grounds?”

8. It is clear from the representation made by the respondent No.4 that during the fire accident in 2004 the meter reading particulars were burnt in ERO/Bobbili. The meter reading registers were also totally damaged in section office due to ageing and not available in the section office. It is also mentioned in the very representation that they have appealed to the AG audit to drop the para since the related documents were not available due to ageing as it related to the matter 10 years back. In the letter addressed by the AG to the CMD/APEPDCL, it is clearly mentioned that *in respect of remaining paras listed in the Annexure-2 it has been decided that they are to be pursued by the internal audit department of APEPDCL. These paras are dropped on the responsibility of management. Necessary remedial action may be taken in respect of the inspection reports / paras listed in annexure – 2.*

9. On 24.04.2006, the ADE/O/Parvathipuram addressed a letter to the AAO/ERO/Bobbili to withdraw the audit short fall to the units raised and the amount of Rs.81,445/- may be withdrawn and issue the revised CC bill as the consumer is ready to pay the monthly CC charges. Contrary to this a letter was addressed by AAO/ERO/Parvathipuram on 19.08.2010 to pay the amount of Rs.81,445/- for the years 1999-2000, 2000-01 and 2001-02.

10. Thus, it is clear that the amount is raised based on audit report. It is also clear from the record that the milling of paddy / rice mill is seasonal. It is only 3 months consumption which is largely different from the other months. The service was bill stopped in the month of June 2009 as per the records and no more in existence of the rice mill due to evacuation for the project of Totapalli Barrage. The respondent No.4 has stated that the fire accident was occurred in 2004 and MRBs were burnt in ERO, Bobbili. The Forum has discussed at length about clause 22.3.3, 22.3.3.4 and 22.4 of GTCS dt.30.01.1999. Clause 22.3.3.1 is the relevant

provision taking average 3 months period during the preceding 3 months basing on the season / unseason. Since the rice mill of the appellant is seasonal in nature. The reading is taken only in unseason. The preceding months has to be taken when there are no similar to the month in which the bill was stopped ie, June 2009. Even for this there is no material / data before this authority. It is apparent that the average is not taken by applying the above said principle. Even after, there is no possibility for looking into the material and also about the condition of the meter, etc, as they were not in existence. There is no data as the entire record is burnt in the ERO, in the absence of the material it is not possible for this authority to order payment of the said amount as it is absolute duty of the department to prove latches on the part of the appellant. In the absence of the material issuing the shortfall amount is against to law since the burden cast upon the respondents is not discharged.

11. Though the Forum has considered the AG report but finally dismissed the petition instead of ordering the petition as “disposed accordingly”. The AAO has issued an order demanding amount even during pendency of CG No.181/2010-11 before the CGRF, APEPDCL. This order was issued without looking into letter addressed by the AG to the CMD/APEPDCL. Even on the merits also the respondents have failed to establish that the appellant is liable to pay the short fall amount as they failed to discharge the burden cast upon them.

12. In the light of the above said discussion, the impugned order dt.25.01.2011 is liable to be set aside. The order of short fall amount of Rs.81445/- to be paid by the appellant is also set aside. No order as to costs.

This order is corrected and signed on this day of 19th April 2011

VIDYUT OMBUDSMAN