

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 18 -01-2011

Appeal No. 53 of 2010

Between

Sri M.Ravi Shankar
Flat No.301, 3rd Floor,
Mitta Chambers,
5-4-8, Abids, Hyderabad.

... Appellant

And

1. Assistant Engineer / Operation / Abids /Hyderabad
2. Asst.Divisional Engineer / Operation / Abids/Hyderabad
3. Asst.Accounts Officer/ERO/Mintcompound/Hyderabad
4. Divisional Engineer/Operation/Saifabad/Hyderabad
5. Superintending Engineer/Operation/Hyderabad(Central) Circle/Hyd.

....Respondents

The appeal / representation filed on 26.11.2010 of the appellant has come up for final hearing before the Vidyut Ombudsman on 03.11.2010 at Hyderabad in the presence of M.Ravi Shankar ,appellant present and Sri L.Nehru Naik, ADE, Sri M.Ramesh Babu, AAO, Sri A.Venkat Rao, AE/Op/Abids and Sri R.Fakhera, Line inspector 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 to the effect that the builder has applied for electricity connection under 3 phase domestic category to his Flat No.301 in the premises of 5-4-8 J.N.Road, but the respondents were charging under commercial category II since February 2006; and that he was unaware of the category and paying bills regularly. Later he came to know that

his service was billed under Cat-II instead of domestic category –I on 26.07.2010; and that he filed the complaint that the excess amount paid by him from February 2006 till change of category is liable to be refunded to him.

2. The respondent No.1 submitted a letter in reply to the averments made in the complaint to the effect that the complainant service no. E2-3822 was released in December 2005 in category-II as applied / requested by the consumer and on the request of the consumer in the month of July 2010 he inspected the premises and changed to category -I from Cat –II.

3. The complainant was examined before the Forum and he stated the same facts narrated in the petition itself. Whereas the respondents examined Sri L.Nehru Naik on behalf of the respondents and he reiterated the averments mentioned in the letter dated 18.09.2010 submitted before the Forum.

4. After hearing both sides and after considering material available on record, the Forum arrived at a conclusion that the complainant's main contention that he applied for domestic purpose was held to be untenable and ultimately rejected the complaint filed by the appellant on the ground that there were no valid grounds or merits in the plea raised by the appellant.

5. Aggrieved by the said order, the appellant preferred this appeal questioning the same, that he has been using the electricity service connection for domestic purpose; and that he has applied for cat-I but by mistake the department issued electricity connection under Cat-II; and that he has incurred heavy financial loss by paying electricity bills in the higher commercial category – II instead of domestic category –I; and that he is entitled for refund of the amount from the date of giving service connection from February 2006 till July 2010 and the Forum has failed to appreciate this aspect and this authority may be pleased to direct the respondents to refund the differential amount or adjust the same in the future bills.

6. Now, the point for consideration is, “whether the impugned order dt.19.10.2010 is liable to be set aside? If so, on what grounds?”

7. The appellant present before this authority and reiterated the same facts narrated by him in the appeal grounds submitted on 26.11.2010. Whereas the respondents are represented by Sri L.Nehru Naik, ADE, Sri M.Ramesh Babu, AAO, Sri A.Venkat Rao, AE/Op/Abids categorically stated that there was no fault on the part of the department in giving connection, but admitted that the appellant is using service connection only for domestic purpose and not for commercial purpose.

8. It is clear from the record that the service connection was applied in the year 2005 after reconstruction of the building. The said premise is used for domestic purpose, right from the date of reconstruction. No doubt it is a service connection attached to the building to the Flat No. 301 under commercial Cat-II but not in domestic Cat-I. The realization made by the appellant is only in the year 2010 and he has approached the authority for refund of the excess amount paid by him. He says that he has no knowledge about the same and he has been paying the electricity bills regularly. It is only due to lack of knowledge he has been paying. It is apparent from the principles of law that ignorance of law is not an excuse. It is for him to check up the bills regularly received by him by comparing with others, even if he has not applied under Cat-II. Though he has stated that he has applied for Cat-I but the same is negated by the department by showing the relevant documents by the respondents.

9. In the light of the above said circumstances, the appellant is not entitled for refund of the amount as claimed by him. However, if there is any excess usage and if there is any unauthorised usage of electricity, the department has been collecting the amounts for a period of six months prior to the date of inspection under the method of back billing. By applying the same analogy, I am

of the opinion that the appellant is entitled for refund of the excess amount (i.e differential amount) for a period of six months back from the date of change of category.

10. In the result, the appeal is allowed in part granting differential amount of six months back from the date of change of category. The respondents are directed to calculate the amount and pay the differential amount. Instead of refund the differential amount the same may be adjusted in the future bills.

11. The compliance of the order may be reported to this authority within 30 days from the date of receipt of the order.

This order is corrected and signed on this day of 18th January 2011

VIDYUT OMBUDSMAN