

BEFORE THE VIDYUT OMBUDSMAN

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated: 08 -12-2011

Appeal No. 46 of 2011

Between

Sri T.Surender Reddy
M/s. Parthasarathy Mechanical Works
Kodad Road, Huzurnagar
Nalgonda - 508 204.

... Appellant

And

1. Assistant Engineer / operation / Huzurnagar/CPDCL/ Nalgonda Dist
2. Assistant Divisional Engineer / operation / Huzurnagar/CPDCL/ Nalgonda Dist
3. Asst.Accounts Officer / ERO/ Huzurnagar/CPDCL/ Nalgonda Dist
4. Divisional Engineer /Operation / Huzurnagar/CPDCL/ Nalgonda Dist
5. Superintending Engineer / Operation Circle / Nalgonda Dt.

....Respondents

The appeal / representation filed by the appellant dt. 05.08.2011 has come up for final hearing before the Vidyut Ombudsman on 16.11.2011 at Hyderabad. Sri. T.Surender Reddy, appellant present and Sri G.Ram Mohan Reddy ADE/O/Huzurnagar for the respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint alleging that the appellant established a lorry body building works and auto servicing centre under SSI unit by name M/s. Parthasarathy Mechanical works at Huzurnagar. The electricity department has released the supply under Cat-III(A) with SC No.2901411295 and the first bill was issued on 08.11.2010 for Rs.2,01,698 and the same was paid on 22.11.2010.

The second and subsequent bills were issued under cat-II and the change of category has been effected without notice. He approached the local authorities several times including and also through a letter dt.21.12.2010 to restore the category III A. As the problems are not attended to by the concerned local officials, he has approached the Forum for justice and to arrange to issue necessary instructions to the local authorities to solve the problem.

2. The respondent No.2 submitted his written submissions as hereunder:

"The S.C.No.2901411295 was released in the name of M/s.Parthasarathy Mechanical works on 20.4.2010. The consumer applied for release of supply under Category.IIIA (20 HP Load) for purpose of Lorry Building Works and Auto Servicing. After issue of the first bill, he personally inspected the premises and found that there is no Body Building activity and only Auto Service unit is working. Hence, he recommended the AAO/ERO/Huzurnagar to bill the service under Category II.

A notice of hearing was issued by the Forum requesting the Complainant and the Respondents to appear before the Forum on 29-03-2011 at 10.30 A.M. at CGRF/Hyderabad to make submissions either in person or through representative, if they so desired, along with additional information to be filed if any."

3. The Forum examined the respondent Nos. 1 to 3 and recorded their statements. After hearing both sides, the Forum passed the following order:

"The service was originally released under Category – III without verifying the nature of activity at the premises of the consumer.

The Respondents were clearly at fault in delaying the issue of the first bill six months after release of the service. The Test Report and the new Service Release Return were sent to the ERO after six months.

The Respondents without giving a proper notice or information to the consumer have effected a change in the category while issuing the regular bill and including the short fall amount in it.

For the reasons stated above, the Respondents have clearly been negligent. Therefore, the demand for the back billing amount raised should be withdrawn.

However, the Respondents are at liberty to bill the service at the applicable Tariff as per the Tariff order and General Terms and Conditions of supply for the future period, but strictly by service of proper prior notice for change of category."

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the Forum has issued an order on 30.03.2011 withdrawing back billing amount and bill the service at the applicable tariff as per the Tariff order and GTCS for the future period but strictly by service of proper prior notice for change of category. Later, a letter was received from ADE/O/HZNR vide letter dt.05.05.2011 stating withdrawing of back billing amount of Rs.1,03,347/- and the service will be billed under Cat-II from the date of inspection. On 27.06.2011, the Forum gave an order directing the respondents to give proper prior notice to that effect, before resorting for change of the category. Till today, they have neither billed under Cat-III(A) nor issued any notice and therefore the appeal preferred by the appellant is to be allowed by setting aside the impugned order.

5. Now, the point for consideration is, “whether the impugned order is liable to be modified? If so, on what grounds”?

6. Sri T.Surendar Reddy, appellant submitted that the respondents have changed the category inspite of the direction given by the Forum that too without giving any notice; and that itself is a violation of the direction given by the Forum and the very imposition of CC charges under Cat-II is against to the principles of natural justice and that too not in accordance with the impugned order passed by the Forum and the appeal preferred by the appellant is to be allowed.

7. Whereas, the respondents are represented by Sri G.Ram Mohan Reddy, ADE/O/Huzurnagar present before this authority and submitted that they have issued a notice on 05.05.2011 withdrawing back billing and a notice under billing Cat-II and the appeal is liable to be dismissed.

8. As per Tariff order LT Cat-III(A)- Industrial- (Normal) tariff is applicable to workshops. The contention of the appellant is that it is a workshop but the same is unilaterally changed by the respondents that it is availing power supply for water service only and not for auto body building and it cannot be treated as workshop.

Whether it is water service centre or whether it is an auto body building activity that has been entertained is to be decided by making a personal inspection, that too after giving a notice. The intention of the Forum is spelt out by giving a direction to the respondents to change the category by giving a notice to the appellant. No such notice is given but a notice pretending to be issued without making any inspection and without mentioning any date of inspection shows the very intention of the respondents to change the category. The alleged notice is a letter addressed withdrawing the back billing amount and in which it is mentioned that the billing is made under Cat-II at the time of inspection. It is only an information but not a notice as directed. No date is mentioned about the date of inspection etc., so it cannot be treated that the said letter is a notice issued to change the category. This itself is a violation of the orders of the Forum and the orders of the Forum need not be disturbed and the same has to be affirmed by giving a suitable direction to the respondents to adhere to the directions given by the Forum without any deviation or failure.

9. The respondents are hereby directed to give a fresh notice about their intention to change the category of the appellant from Cat-III(A) to Cat-II by assigning the reasons for such change of category and calling for his explanation and after hearing the appellant the respondents are at liberty to pass appropriate orders. Till such time, they are directed to bill the same under Cat-III(A) and they are also directed not to disconnect the service connection hastily without complying the above said order.

10. In the light of the above said discussion, the appeal is disposed of with the above said direction. The compliance of the order is to be reported to this authority within 15 days. No order as to costs.

This order is corrected and signed on this day of 8th December 2011

VIDYUT OMBUDSMAN