

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 15 – 12 - 2011

Appeal No. 62 of 2011

Between
O/o. Sr.Divisional Electrical Engineer
East Coast Railway, Khurda Road
PO: Jatni, Dist: Khurda
ODISHA – 752050.

... Appellant

And

1. Divisional Engineer / operation / EPDCL / Srikakulam Dist.
2. Senior Accounts Officer / operation circle / EPDCL/ Srikakulam Dist.
3. Superintending Engineer / operation / EPDCL / Srikakulam

....Respondents

The appeal / representation dt.09.09.2011 against the CGRF order of APEPDCL (in CG No.44/2011-12 dt.24.08.2011). The same has come up for hearing before the Vidyut Ombudsman on 28-11-2011. Sri.Ashutosh Brahma on behalf of appellant present and Sri K.Srinivas, SE/O/Srikakulam, Sri S.Masila Mani, DE/O/Tekkali and Sri P.Polinaidu, SAO/O/Srikakulam 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:

“Office of the Divl. Railway Manager (Elect), Khurda Road, P.O: Jatni, Dist: Khurda, Srikakulam District has filed a complaint stating that one malpractice case has been booked against SC.No. 48/HT – II category and issued provisional Assessment note for an amount of Rs. 2,42,740/-. Hence requested the Forum to pass valuable order and instruct the EPDCL authority to adjust the amount in the energy bills of Palasa Railway Station.”

2. The respondents have failed to submit their written submissions even after taking sufficient time.

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

- *“The Forum concludes that as per the procedure to deal with the complaints received under Clause No. 4.7 of Lr. No.S-325/05-01 dt.7.7.2005 issued by Hon’ble APERC:*
- *“If the subject matter of the complaint is show pending consideration before any court, tribunal arbitrator or any other Forum or a decree or award has already been passed by a competent Court of Law, the Forum can forthwith reject the complaint”*
- *Hence the Forum itself is not vested with power to deal with as it does not come within the definition of deficiency of service.*

With the above directions, the CG No.44/11-12 is disposed off with no costs.”

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the railway is availing power supply for operation and maintenance of its assets. For such maintenance and operation it requires man power who should remain in the vicinity of railway station in railway quarters, colonies specifically constructed for them and they have also provided with some amenities like water supply, street light and as they need some materials for daily use, some shops are permitted to do their business in the railway areas and are given power supply from railways and this is purely for staff amenity and therefore there is no malpractice as such or unauthorised connection in using the power and it is in accordance with the railway board guidelines and the Forum has failed to appreciate these aspects and rejected the claim made by the appellant and the impugned order passed by the Forum is liable to be set aside.

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

6. The appellant represented by Sri Ashutosh Brahma and Sri K.Srinivas, SE/O/Srikakulam, Sri S.Masila mani, DE/O/Tekkali and Sri P.Polinaidu, SAO/Srikakulam have attended on behalf of the respondents.

7. The representative of the appellant submitted that the Board’s direction is there since a long time and throughout India, they maintaining the shops and other

amenities for the benefit of the passengers and respondents have unnecessarily booked malpractice case and the appeal is to be allowed by setting aside the order and they have acted as per Board's letter. Whereas, the respondents submitted that the appellant is doing business by giving power supply to the shops and collecting unit rate at Rs.8/- and that itself is an unauthorised use and mis-use of electricity and the appeal preferred by the appellant is liable to be dismissed.

8. The respondents have stated that shops to which the power supply is made by the appellant collecting energy charges from the shop owners other than the rate fixed by the respondent. It may be in accordance with the guidelines issued by the Board but the same has to be approved by the concerned electricity authorities or APERC and without obtaining any permission and giving service connections to the shop owners is against to the tariff conditions and terms & conditions of supply and the very collection of charges from the said shop owners is nothing but doing business and the same is nothing but mis-utilising power supplied by the department to the appellant and it comes within the purview of malpractice and unauthorised use.

9. In the light of the above said circumstances, there is no other option except to hold that the Forum and this authority have no power to entertain the appeal as it comes within the provisions of S.126 of EA 2003. If the appellant wants to continue, he can as well get exemption from the electricity department to the supply made by the department but not by unauthorised use of electricity brought from the department, ie., respondents.

10. In the light of the above said discussion, the appeal is not maintainable under law and the same is liable to be dismissed.

11. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 15th December 2011

VIDYUT OMBUDSMAN