



BEFORE THE VIDUYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Beside Hyderabad Boat Club
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDUYUT OMBUDSMAN**

WEDNESDAY THE FIRST DAY OF MAY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 03 of 2024-25

Between

Sri Madan Mohan Sharma (authorised person) on behalf of Sri Vishnu Das,
#21-3-765, Chelapura, Near Saheb Ki Masjid, Hyderabad - 500 002.

.....Appellant

AND

1. The Assistant Engineer/Operation/Moinabad/TSSPDCL/Cybercity Circle.
2. The Assistant Divisional Engineer/Operation/Mokila/TSSPDCL/Cybercity Circle.
3. The Assistant Accounts Officer/ERO/Ibrahimbagh/TSSPDCL/Cybercity Circle.
4. The Divisional Engineer/Operation/Ibrahimbagh/TSSPDCL/Cybercity Circle.
5. The Superintending Engineer/Operation/Cybercity Circle/TSSPDCL/Cybercity Circle.

.....Respondents

This appeal is coming on before me for final hearing on this day in the presence of the Sri B. Rvinder Prasad Srivastava, authorised representative of the appellant and Sri B.Hamu-AE/OP/Moinabad, Sri M.Ramesh ADE/OP/Mokila, and Sri P Raju- AAO/ERO/Ibrahimbagh for the respondents and having stood over for consideration, this Viduyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the common Award passed by the Consumer Grievances Redressal Forum -Greater Hyderabad Area, (in short 'the

Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.M.P.No.04/2023-24 in C.G.No.531/2019-20/Cybercity Circle and C.M.P.No.05 of 2023-24 in C.G.No.532/2019-20/Cybercity Circle dt.22.01.2024, rejecting the petitions with certain observations.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant before the learned Forum is that basing on the common Award of the learned Forum in C.G.No.531 and 532 of 2019-20/Cybercity Circle dt.28.02.2020, the appellant submitted the necessary documents on 19.03.2020 to respondent No.1 and also respondent No.2. Thereafter the Covid-19 lockdown began. Soon after lifting the restrictions of Covid-19 lockdown the appellant made several attempts to contact respondent No.1 and 2, but he did not get proper reply from them. Thus the respondents have not complied with the common Award passed by the learned Forum.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written replies filed by respondent No. 1 before the learned Forum, it is, inter-alia, submitted that he went to the spot and found that there is no agricultural activity. In 2007 four Service Connections were released in the name of Vishnu & Co., The first one is Domestic Service Connection No. 811700351. The three agricultural Service Connections are 811700360, 811700361 (in short the 1st subject "Service Connection") and 811700362 (in short the 2nd subject "Service Connection"). The 1st and 2nd subject Service

Connections were not traced at the premises.

4. In the written reply filed by respondent No. 3 before the learned Forum, it is, inter-alia, submitted that vide Memo No.CGM(Comml)/SE(C)/DE(C)/ADE-III/D.No.2792/14 dt.11.03.2015, Endt.No.DEE/OP/RJNR/D.No.1869 dt.30.09.2015, the documents required for conversion of paying category to free category of agricultural consumers were prescribed by the Corporate office. The appellant has not fulfilled the said criteria.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has rejected both the petitions on 22.01.2024 with some observations.

6. Aggrieved by the said Award of the learned Forum, the present common appeal is preferred, contending among other things, that the respondents have not at all released the subject Service Connections to the appellant. The respondents have not issued any bill to the appellant. Hence the bill has not become due for payment of CC charges. It is accordingly prayed to set aside the impugned common Award and also the claim of Rs.63,189/- each on the subject Service Connections.

WRITTEN SUBMISSION OF THE RESPONDENTS

7. In the written reply filed by respondent Nos. 1 to 3 separately before this Authority, they have reiterated the written reply filed by them before the learned Forum.

ARGUMENTS

8. It is argued by the authorised representative of the appellant that the subject Service Connections were never released; that no bill was raised to claim Rs.63,189/- each on the subject Service Connections and as such the respondents cannot recover the said amount as it is barred by limitation.

9. On the other hand, it is argued on behalf of the respondents, that both the subject Service Connections were released in the name of M/s. Vishnu & Co and the subject Service Connections were kept under billstop status since 2011 and that since the consumer has utilised the power supply the consumer is liable to pay the due amount as the bills were raised for Rs.63,189/- each.

POINTS

10. The points that arise for consideration are:-

- i) Whether the respondents have raised the bill for the due amount of Rs.63,189/- each on the subject Service Connections?
- ii) Whether the respondents are entitled to recover the due amount of Rs.63,189/- each of the subject Service Connections? and
- iii) To what relief?

POINT Nos. (i) and (ii)

ADMITTED FACTS

11. It is an admitted fact that initially the respondents have released domestic Service Connection No.811700351 and also agriculture Service Connection Nos. 8117000360 in the name of M/s. Vishnu & Co., It is also an admitted fact that both these services are alive as on date.

SETTLEMENT BY MUTUAL AGREEMENT

12. Both the parties have appeared before this Authority. Efforts were made to reach a settlement between the parties through the process of conciliation and mediation. However, no settlement could be reached. The hearing, therefore, continued to provide reasonable opportunity to both the parties to put-forth their case and they were heard.

REASONS FOR DELAY IN DISPOSING OF THE APPEAL

13. The present appeal was filed on 10.04.2024. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

14. Though the present appeal is filed aggrieved by the impugned order dt.22.01.2024 passed in C.M.P.Nos. 4 and 5/2023-24 in C.G.Nos. 531/2019-20/Cubercity Circle and 532/2019-20/Cubercity Circle respectively, the facts referred to in the main C.G.Nos 531 and 532 are necessary to decide

the present appeal. The particulars in the said C.G.Nos. 531 and 532 are as under:-

The appellant has applied one domestic Service Connection and three agricultural free Service Connections in the name of M/s. Vishnu & Co. in Sy No.10, Venkatapur, Ibrahimbagh, Moinabad. The respondents have released only one domestic Service Connection and one agriculture free Service Connection. In respect of the subject Service Connections, no meter was installed and no Service Connection was given. But surprisingly the respondents have claimed arrears of Rs.63,189/- from each subject Service Connection without any basis from May 2007 to June 2011. The Lineman disconnected the domestic Service Connection for non-payment of the above said arrears. In the said C.G.Nos. 531 and 532 of 2019-20, the respondents have submitted that both the subject Service Connections were released in 2007 and the consumer had utilised the power supply, as such the appellant is liable to pay the arrears up-to 2011. The learned Forum in the said C.G.Nos.531 and 532 of 2019-20 directed the appellant to submit necessary documents for revision of the bill under free Category. Thereafter the appellant approached the respondents with certain documents, but since no relief was granted by the respondents, he approached the learned Forum and filed C.M.P.Nos. 4 and 5 of 2023-24 in C.G.No.531 and 532 of 2023-24/Cybercity Circle respectively.

15. Having regard to the facts and circumstances referred to above, the moot question that arises for consideration is: whether the respondents have ever raised any bill in respect of the subject Service Connections. The result in the present appeal depends on the answer to this question.

16. At the cost of repetition, though the respondents claimed that they have released both the subject Service Connections in favour of the appellant (M/s. Vishnu & Co.,) and the appellant has been utilising the power supply, the appellant has denied it.

17. Even if it is admitted that the respondents have released both the subject Service Connections to the appellant, it is necessary for the respondents to prove that they have, in fact, raised the bill in respect of Rs.63,189/- each for the subject Service Connections, then only they are entitled to recover the amount.

18. There are many twists and turns in the present case. One of such events is Covid lockdown. The respondents have not produced any document to show that, in fact, they have raised / issued any bill in respect of the subject Service Connections to recover Rs.63,189/- on each of the subject Service Connections. The electricity charges would become first due only after the bill is issued to the consumer. Further under Sec.56 of the Electricity Act (in short 'the Act') limitation of two years is also mentioned to recover the dues. The said provision reads as under:-

Section 56. (Disconnection of supply in default of payment):-

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

(a) an amount equal to the sum claimed from him, or

(b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.

19. At the cost of repetition the respondents have not at all produced at least a copy of the bill raised at the relevant time for Rs.63,189/ each on the subject Service Connection. Apart from that there is no evidence produced by the respondents to the effect that they have shown the arrears due regularly in the bills before the subject Service Connections were kept under Billstop status. In this connection, the learned authorised representative of the

appellant has relied upon the judgement of the Hon'ble Supreme Court in ASST. ENGINEER (D1) AJMER VIDYUT NITRAN NIGAM LTD AND ANR v. RAHAMATULLAH KHAN alias RAHAMJULLA in Civil Appeal No. 1672 of 2020 arising out of Spl. Leave Petition(c) No. 5190 of 2019 dt. 18.02.2020. In the said judgement of the Hon'ble Supreme Court it is held that the period of limitation under Sec.56(2) of the Act cannot be extended by raising a supplementary bill and that the obligation to pay electricity bill would arise when the bill is issued by the Licensee-company quantifying the charges to be paid and that the electricity would become "first due" only after the bill is issued to the consumer, even though the liability to pay may arise on the consumption of electricity. As already stated, in the present case there is no iota of evidence to show that the respondents have raised or issued bills demanding to pay Rs.63,189/- on each of the subject Service Connection. That being the case it can safely be held that the respondents have not raised the bills and as such they are not entitled to recover the said amount which is barred by limitation. These points are accordingly decided in favour of the appellant and against the respondents.

POINT No. (iii)

20. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be allowed.

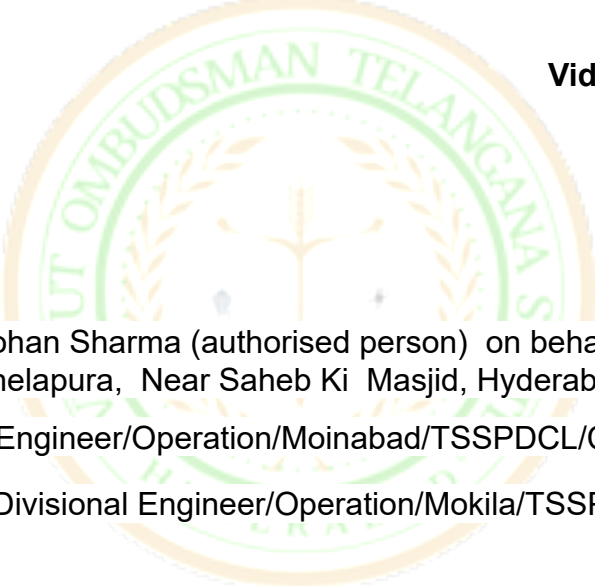
RESULT

21. In the result, the appeal is allowed, setting aside the claim of Rs.63,189/- on each of the subject Service Connections.

A copy of this Award is made available at <https://vidyutombudsman-tserc.gov.in>.

Typed to my dictation by Office Executive cum Computer Operator, corrected and pronounced by me on the 1st day of May 2024.

**Sd/-
Vidyut Ombudsman**

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1. Sri Madan Mohan Sharma (authorised person) on behalf of Sri Vishnu Das, #21-3-765, Chelapura, Near Saheb Ki Masjid, Hyderabad - 500 002.
 2. The Assistant Engineer/Operation/Moinabad/TSSPDCL/Cybercity Circle.
 3. The Assistant Divisional Engineer/Operation/Mokila/TSSPDCL/Cybercity Circle.
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 5. The Divisional Engineer/Operation/Ibrahimbagh/TSSPDCL/Cybercity Circle.
 6. The Superintending Engineer/Operation/Cyber City Circle/TSSPDCL/Cybercity Circle.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No..8-3-167E/1, CPTI Premises, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.