



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

TUESDAY THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 13 of 2022-23

Between

SLN TERMINUS, H.No. Level-9, beside Botanical Gardens, Gachibowli,
Hyderabad, represented by Sri T. Kiran Kumar, General Manager - Facilities
and Infra, - 500 032. Cell: 9963570009.**Appellant**

AND

1. The Assistant Divisional Engineer / Operation / Kondapur / TSSPDCL /
Ranga Reddy District.
2. The Divisional Engineer / Operation / Kondapur / TSSPDCL / Ranga Reddy
District.
3. The Senior Accounts Officer / Operation / Cyber City / TSSPDCL /
Ranga Reddy District.
4. The Superintending Engineer / Operation / Cyber City / TSSPDCL /
Ranga Reddy District.
5. The Chief General Manager (Commercial) / TSSPDCL/ Corporate Office /
Hyderabad.

..... **Respondents**

This appeal is coming on before me for final hearing on 12.10.2022
in the presence of Ms. Nishtha, authorised representative of the appellant and
Sri T. Kiran Kumar, representative of the appellant and Sri M.P.Ravi Kumar
- SAO/Cybercity Circle and Sri Ch. Kamalakar Reddy - ADE/OP/Kondapur
representing the respondents and having stood over for consideration till this
day, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the 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.G.No. 54/2022-23/Cybercity Circle dt.29.06.2022, rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that the respondents have released the H.T. Service Connection No. CBC 2727 on 09.02.2015 to the appellant in the following phased manner:-

Phased Manner	CMD in KVA	Date of release
1st phase	1000 KVA	Immediately
2nd phase	1000 KVA	20th August 2015
3rd Phase	1000 KVA	20th June 2016
4th Phase	1500 KVA	20th September 2021
5th Phase	1500 KVA	After 6 months from the date of release of 4th phase
Total	6000 KVA	

Upto 3rd phase loads were released as per schedule. Owing to Covid-19 pandemic situation and financial crisis, the appellant was unable to utilise the total load. Accordingly a representation was made to the corporate office of the respondents and also the Chief General Manager (Commercial) (in short 'CGM')

on 25.08. 2021 to postpone the release of 4th phase of 1500 KVA from 09/2021 to 03/2022. A bill for an amount of Rs 51,04,876/- was generated on 29.09.2021 without adding any additional Contracted Maximum Demand (in short 'CMD'). That amount was paid on 07.10.2021. Without considering the request of the appellant for postponement of 4th phase the bill received on 07.10.2021 was with a load of 4500 KVA. An amount of Rs. 38,06,515/- was billed which is over and above the bills of the appellant with addition of CMD. Therefore it is prayed to grant relief of postponement of release of 4th phase and revise the bill and also to adjust the amount paid by the appellant in future bills.

CASE OF THE RESPONDENTS BEFORE THE FORUM

3. In the written submissions of respondent No.4, it is, inter-alia, stated that the load of 4th phase was released as per schedule and as per H.T. agreement. It was accordingly prayed to dismiss the complaint.

4. In the reply filed by the CGM(Commercial) it is stated that as per Clause 5.9.4 3 of the General Terms and Conditions of Supply (in short 'GTCS') the consumer may defer or cancel the phased demands by giving three months notice in advance or in lieu thereof pay three months charges towards deferment or cancellation, which was not done in this case.

AWARD OF THE FORUM

5. The learned Forum, after considering material on record and after hearing both sides, has rejected the complaint.

6. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that the learned Forum has passed the Award without properly analysing the facts on record and without properly considering the relevant provisions.

GROUND OF THE APPEAL

7. In the grounds of the appeal it is submitted that the existing HT agreement is for 3000 KVA only and applicable for billing purpose as such the claim of demand charges on CMD of 4500 KVA is illegal. It is also submitted that prior notice is mandatory before effecting change of load. It is prayed to set aside the impugned Award and to direct for refund the amount paid with interest @ 24% p.a.

WRITTEN REPLY

8. In the written reply filed by the CGM(Commercial), it is stated that the appellant has applied for postponement of 4th phase load just (5) days before its release instead of applying three months prior to the schedule release of the 4th phase load.

REJOINDER

9. In the rejoinder, it is stated that the release of CMD 1500 KVA is unilateral and illegal. In the present case the HT service is live hence no

deferment charges are applicable.

ARGUMENTS

10. It is argued on behalf of the appellant that the existing HT agreement is for 3000 KVA only and applicable for billing purpose as such the claim of demand charges on CMD of 4500 KVA is illegal. It is also submitted that prior notice is mandatory before effecting change of load and therefore it is prayed to set aside the impugned Award and to direct the respondents to refund the excess claim of Rs.55,35,168/- along-with interest.

11. On the other hand, on behalf of the respondents, it is argued that unless the appellant requests for postponement of 4th phase load three months prior to the schedule release or payment of required amount in that regard, such request cannot be considered. Therefore it is prayed to reject the appeal.

POINTS

12. The points that arise for consideration are:-

- i) Whether the appellant is entitled for cancellation of 4th phase load to its Service Connection or adjustment of amount already paid, as prayed for?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- iii) To what relief?

POINT No. (i) and (ii)

SETTLEMENT BY MUTUAL AGREEMENT

13. Both the parties have appeared before this Authority on different dates. 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

14. Since I took charge as Vidyut Ombudsman on 01.07.2022 and since there was no regular Vidyut Ombudsman earlier, the appeal was not disposed of within the prescribed period.

ADMITTED FACTS

15. The admitted facts are that the respondents have released H.T. Service Connection No. CBC 2727 to the appellant on 09.02.2015. The load was to be released in a phased manner. It is also an admitted fact that upto the release of 3rd phase there is no dispute. Further the appellant has not requested for postponement of the 4th phase load within (3) months as per the agreement.

CRUX OF THE MATTER

16. As already stated the appellant was accorded sanction of HT Service Connection CBC 2727 released on 09.02.2015, in the following phased manner:-

Phased Manner	CMD in KVA	Date of release
1st phase	1000 KVA	Immediately
2nd phase	1000 KVA	20th August 2015
3rd Phase	1000 KVA	20th June 2016
4th Phase	1500 KVA	20th September 2021
5th Phase	1500 KVA	After 6 months from the date of release of 4th phase
Total	6000 KVA	

As per the above given schedule phased manner CMD was released upto 3rd Phase i.e. 3000 KVA. But in view of its requirement, appellant requested for postponement of 4th phase release of 1500 KVA from time to time. Almost from 2017 till March 2021, there were several occasions of postponement of 4th phase CMD. This time also as usual, the appellant requested the Corporate Office /TSSPDCL for further postponement of 4h phase CMD vide letter dt.26.08.2021, for further 6 months instead of scheduled release during September 2021. The request was not considered due to miscommunication in the internal mechanism of the TSSPDCL and the 4th phase CMD of 1500 KVA

was released during the month of September 2021. Consequently the demand charges, which are relative to the CMD got increased, the comparative statement was produced by the appellant showing the revenue impact after release of 4th phase CMD of 1500 KVA. As per the Tariff Order the monthly demand shall be 80% of the CMD or Recorded Maximum Demand whichever is higher. The comparative statement given by the appellant is as under:

Sl. no.	Billing Month	CMD Considered to claim demand charges KVA (80% of CMD)	Demand charges per KVA Rs.	Demand charges claimed Rs.	CMD actual to be claimed in KVA (80% of 3000 KVA)	Demand Charges per KVA Rs.	Actual Demand Charges to be claimed Rs.	Difference demand charges excess claimed
(1)	(2)	(3)	(4)	(5)(3x4)	(6)	(7)	(8)(7x8)	(9)(5-8)
1.	Sep,2021	3600	390	14040000	2400	390	936000	468000
2.	Oct,2021	3600	390	14040000	2400	390	936000	468000
3.	Nov,2021	3600	390	14040000	2400	390	936000	468000
4.	Dec,2021	3600	390	14040000	2400	390	936000	468000
5.	Jan,2022	3600	390	14040000	2400	390	936000	468000
6.	Feb,2022	3600	390	14040000	2400	390	936000	468000
7.	Mar,2022	3600	390	14040000	2400	390	936000	468000
8.	Apr,2022	1393.56 2206.44	390 475	543488 1048059	1148.48 1251.52	390 475	447907 594472	549168
9.	May,2022	3600	475	1710000	2400	475	1140000	570000
10.	June 2022	3600	475	1710000	2400	475	1140000	570000
11.	July 2022	3600	475	1710000	2400	475	1140000	570000
Total				16549547			11014379	5535168

Now the appellant claimed that the request placed for deferment of release of 4th phase CMD was not considered by the TSSPDCL resulting in levy of excess amount of Rs. 55,35,168/-. Upon the enquiry made by the appellant against the action taken on their request, it was found that the communication letter sent by the Corporate Office requesting the SE/OP/Cybercity to submit certain information, towards deferment of 4th phase was not received, thereby the 4th phase CMD was released during the month of September 2021. Hence the appellant claims that due to delay in the process of the internal mechanism of the TSSPDCL, they have been penalised and hence requested to withdraw the release of 4th phase and revise the bills duly adjusting the additional amount paid by way of adjusting in the future bills which was paid forcibly.

17. The respondents relied on the Clause 5.9.4.3 of GTCS which is reproduced here under:-

“In the case of consumers who were sanctioned phased Contracted Demand and supply released for initial or intermediary phased demands, the consumer may seek deferment or cancellation of such of the phased demands which are scheduled beyond minimum period of Agreement, by giving three Months notice in advance or in lieu thereof pay three months charges towards such deferment or cancellation of such phased demands.”

The respondents claim that any request for deferment of phased manner CMD has to be applied well before (3) months in advance or in lieu thereof need to pay (3) months charges towards such deferment or cancellation of such phased demands.

18. There is no dispute that the application requesting for postponement of 4th phase CMD of 1500 KVA scheduled in September 2021 for further (6) months was given to the CGM/Commercial on 26.08.2021, i.e. 5 days before the scheduled release. Further the appellant had applied for deration of CMD of earlier released load of 1500 KVA i.e. from 4500 KVA to 3000 KVA on 18.12.2021. The same was approved on 31.12.2021. In view of not getting any recourse of relief over withdrawing the amount retrospectively charged towards release of 4th phase, the appellant preferred not to conclude agreement towards deration of CMD.

19. The appellant relied on the following grounds towards its claim :-

- a. The release order of SE/OP/RR North Circle directs the concerned officials that supply is to be released only after completion of all the works in all aspects and also completion of all conditions stipulated in the order.
- b. The latest agreement was executed on 29.02.2020, and is in force for 3000 KVA. The respondents have changed the CMD in the CC charges bill from 3000 KVA to 4500 KVA without any notice, without any application, without executing HT agreement for 4500 KVA, without any requirement of the appellant, without any payment of Security Deposit which is in violation of the conditions stipulated.
- c. The GTCS Clause 5.9.4.3 relied on by the respondents is not correct, since the said clause is in respect of termination of LT agreement and HT agreement whose supply is disconnected for non-payment of any amount, but not for release of CMD.
- d. The claim of demand charges against the CMD of 4500 KVA is illegal and in violation of the Clause 7.141 of the Tariff Order FY 2018-19, which is reproduced here under:-

"7.141. The billing demand shall be the maximum demand recorded during the month or 80% of the contracted demand, whichever is higher."

- e. There were several occasions previously where the respondents increased the CMD unilaterally from 3000 KVA to 4000 KVA and again reduced to the original CMD of 3000 KVA, during December 2017, September 2019, March 2020 and April 2020. That the appellant paid demand charges of 1500 KVA every time during the above said period which was adjusted by the respondents in the subsequent months.

20. The release order of the SE/OP/RR North Circle (now SE/OP/Cyber City) directs the ground officials to re-check the completion of work before the release. Subject to the metering arrangement for the excess CMD of 1500KVA, there is no other reason not to release the 4th phase as per the sanctioned scheme.

21. The sanctioned scheme of 6000 KVA in a phased manner as stated in the aforementioned paras is basically on the request of the appellant. Any deferment in the sanctioned scheme can only be made if the appellant seeks for postponement of release of intermediary phased demands. Such requests for postponement shall be in advance of not less than (3) months as per the Clause 5.9.4.3 of GTCS. Hence, the Executing Officer, SE/OP/Cybercity proceeded with the release of 4th phase CMD of 1500 KVA as per the orders issued by the CGM/Commercial vide Lr.No. CGM(Comml)/SE(C)/DE(C)/ADE-I/D.No.5243/2021 dt.20.03.2021, which was accorded based on the previous request made by the appellant vide letter dt.11.02.2021. Hence non execution of fresh agreement and other conditions shall not impede the respondents to release 4th phase CMD of 1500 KVA.

22. The Clause 5.9.4.3 of GTCS- Termination of LT agreement and HT agreement on account of disconnection guides the provisions towards termination of LT/HT agreements on account of disconnection over non-payment of any amount but also provides the clause towards deferment of phased manner release of supply as per the last para of the Clause 5.9.4.3, which reads as under:-

“In the case of consumers who were sanctioned phased Contracted Demand and supply released for initial or intermediary phased demands, the consumer may seek deferment or cancellation of such of the phased demands which are scheduled beyond minimum period of Agreement, by giving three Months notice in advance or in lieu thereof pay three months charges towards such deferment or cancellation of such phased demands.”

23. The Clause 7.141 of the Tariff Order FY 2018-19, does not restrain the respondents to release the 4th phase CMD for 1500 KVA. In view of the release of 4th phase CMD of 1500 KVA, the contracted demand shall be 4500 KVA. The Clause reiterates the procedure of making billing demand.

24. In the previous occasions, there were instances where the respondents reverted back to 3000 KVA CMD after release of 4500 KVA which is against the principles of Clause 5.9.4.3 of GTCS, but this does not entitle the appellant to revert back the release of 4th phase CMD of 1500 KVA.

25. The learned authorised representative of the appellant has relied upon the judgement of the Hon'ble High Court of Andhra Pradesh in M/s. Lotus Poly Packs India Pvt. Ltd., v. The Southern Power Distribution Company of

Telangana (W.P.No. 6493 of 2016 dated 29.02.2016), wherein it was held that notice to the consumer is mandatory before changing the Category from Industrial to Commercial. Since there is no change of Category in this case, this judgement is not useful to the appellant.

26. The learned authorised representative of the appellant has also relied upon the judgement of the Hon'ble Supreme Court reported in RAYMOND LIMITED v. MADHYA PRADESH ELECTRICITY BOARD¹ wherein it is held in Para No. 10 as under :-

“ The minimum guarantee, thus, appears to be not in terms of any fixed or stipulated amount but in terms of merely the energy to be consumed. The right, therefore, of the Board to demand the minimum guaranteed charges, by the very terms of the language in the contract as well as the one used in the tariff notification is made enforceable depending upon a corresponding duty, impliedly undertaken to supply electrical energy at least to that extent, and not otherwise.”

The Hon'ble Supreme Court in the said judgement was dealing with a case where the Electricity Board is entitled to demand charges from a consumer provided, it supplied the electrical energy to that extent. There is no dispute about the said proposition. But in the present case that question does not arise. The appellant did not apply for postponement of release of 4th phase load three months prior to its scheduled release. Therefore, this judgement is not useful to the appellant.

¹ LAWS (SC) - 2000-11-99

27. In view of these factors, I hold that the appellant is not entitled for cancellation of 4th phase load to its Service Connection or adjustment of amount already paid and accordingly the Award of the learned Forum is not liable to be set aside. These points are accordingly decided against the appellant and in favour of the respondents.

POINT No. (iii)

28. In view of the findings on point No. (i) and (ii), the appeal is liable to be rejected.

RESULT

29. In the result, the appeal is rejected, without costs, confirming the Award passed by the learned Forum.

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 this the 22nd day of November 2022.

Sd/-

Vidyut Ombudsman

1. SLN TERMINUS, H.No. Level-9, beside Botanical Gardens, Gachibowli, Hyderabad, represented by Sri T. Kiran Kumar, General Manager - Facilities and Infra, - 500 032. Cell: 9963570009.
2. The Assistant Divisional Engineer / Operation / Kondapur / TSSPDCL / Ranga Reddy District.

3. The Divisional Engineer / Operation / Kondapur / TSSPDCL / Ranga Reddy District.
 4. The Senior Accounts Officer / Operation / Cyber City / TSSPDCL / Ranga Reddy District.
 5. The Superintending Engineer / Operation / Cyber City / TSSPDCL / Ranga Reddy District.
 6. The Chief General Manager (Commercial) / TSSPDCL/ Corporate Office / Hyderabad.
- Copy to**
7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.

APPEAL NO. 13 OF 2022-23