



BEFORE THE VIDYUT 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
VIDYUT OMBUDSMAN**

FRIDAY THE TWELFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 20 of 2022-23

Between

Smt. Kayathi Rama Devi, w/o.K.Govardhan Reddy, H.No.8-2-684/1/10,
Bhavani Enclave, Road no.12, Banjara Hills, Hyderabad. Cell: 9701717111,
9393313111. **.....Appellant**

AND

1. The Assistant Engineer / Operation / Choutuppal / TSSPDCL / Yadadri-Bhuvanagiri District.
2. The Assistant Divisional Engineer / Operation / Choutuppal / TSSPDCL / Yadadri- Bhuvanagiri District.
3. The Assistant Accounts Officer / Operation / Choutuppal / TSSPDCL / Yadadri - Bhuvanagiri District.
4. The Divisional Engineer / Operation / Choutuppal / TSSPDCL / Yadadri-Bhuvanagiri District.
5. The Superintending Engineer/Operation/ Yadadri Circle/TSSPDCL/ Yadadri - Bhuvanagiri District.

..... Respondents

This appeal is coming on before me for final hearing on 10.01.2024 in the presence of Sri K.Govardhan Reddy - representative of the appellant, Sri R. Shyam Kumar - ADE/OP/Choutuppal, Sri T. Bhavani Prasad - AAO/ERO/Choutuppal and Smt. K. Vijaya Lakshmi - AO/Revenue representing the respondents and having stood over for consideration till this day, this Vidhyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award passed by the Consumer Grievances Redressal Forum - I (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.30/2022-23, Yadadri Bhongir Circle dt.24.08.2022.

2. The grievance raised in this case is in respect of dismantlement of agricultural services.

CASE OF THE APPELLANT BEFORE THE FORUM

3. The case of the appellant is that she is having the following (4) electrical Service Connections at her agriculture land at Toopranpet village, Choutuppal Mandal, Yadadri district:-

1. 5122400061
2. 5122400065
3. 5122400066 and
4. 5122400068

She paid the entire dues on one time settlement on 11.12.2015 at the office of respondent no.1. The appellant requested the respondents to dismantle the above said Service Connections. The appellant received a notice from respondent no.3 claiming dues on the above said Service Connections. When she approached the respondents no proper reply was given to her. Hence it is prayed to do justice.

REPLY OF THE RESPONDENT BEFORE THE FORUM

4. In the written reply submitted by respondent No.2, it is stated that on 23.01.2020 the appellant has applied for dismantling the subject Service Connections. The said Service Connections were released in IT assessee category. She is not eligible for tariff applicable for free supply as the appellant is having more than three numbers of agriculture Service Connections in the dry land held by her. There is no one time settlement scheme as stated by the appellant. The appellant has not cleared the dues.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has disposed of the complaint directing the Chief General Manager (HRD) to initiate disciplinary proceedings against the erring employees of the respondents within a specified period.

6. Aggrieved by the Award passed by the learned Forum, the present appeal is preferred, contending among other things, that no concrete result has been passed in favour of the appellant. Therefore it is prayed to do justice.

WRITTEN SUBMISSION OF THE RESPONDENTS

7. In the written submissions of respondent no.3 the arrears details of the Service Connection of the appellant were mentioned, as under:-

Sl no	SC.No.	CC Charge in Rs.	Surcharge in Rs.	Total in Rs
1	5122400061	109268.41	83774.00	193042.00
2	5122400065	110391.13	83703.97	194095.00
3	5122400066	88995.16	66752.84	155748.00
4	5122400068	88995.16	66752.84	155748.00

8. After hearing both sides and after considering the material on record this Authority has rejected the appeal on 03.01.2023 confirming the Award passed by the learned Forum.

9. Aggrieved by the Award passed by this Authority the appellant preferred W.P.No.6423 of 2023. The Hon'ble High Court vide its Order dt.30.10.2023 in the said Writ Petition has set aside the Award passed by this Authority, directed this Authority, among other things, to reconsider the whole issue in conformity with principles of natural justice by providing reasonable opportunity to both the petitioner and also respondent Nos. 2, 3 and 4 and pass appropriate orders, in accordance to law, within a period of four weeks from the date of receipt of copy of this order etc.,

10. Accordingly this Authority has issued notices to both parties. Both the parties are present before this Authority.

11. Heard both sides.

POINTS

12. The points that arise for consideration are:-

- i) Whether the appellant is entitled for dismantling the subject Service Connections without paying necessary charges?
- ii) Whether the impugned Award of the learned Forum is liable to be set aside? and
- ii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

13. It is an admitted fact that the four subject Service Connections are in the name of the appellant at her agriculture land at Toopranpet village. They are not dismantled so far.

SETTLEMENT BY MUTUAL AGREEMENT

14. 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

15. This appeal is being disposed of within the time as directed by the Hon'ble High Court.

CRUX OF THE MATTER

16. The appellant Smt.K.Rama Devi, has filed the present appeal in respect of dismantling of the following (4) Service Connections:-

1. 5122400061
2. 5122400065
3. 5122400066 and
4. 5122400068

The dispute is in respect of pending arrears against the said (4) Service Connections. The appellant sought to withdraw the arrears of the said connections from the year 2000 onwards. It is argued by the appellant that she has transferred the agricultural land in the year 1999 and paid the entire dues of Rs 29,756/- for each Service Connection on one time settlement on 11.12.2015 at AAO/ERO/RAMANNAPET. According to the respondents the arrears against the said (4) Service Connections are as under:-

Table -A

Sl.No	Service Connection	Amount as per RR Act Notice
1	5122400061	Rs. 193162
2	5122400065	Rs. 193042
3	5122400068	Rs. 155868
4	5122400066	Rs. 155860

At this stage it is significant to note that vide Lr. No. AEE/OP/CTPL/F.No.ERO/D.No 379/2020-21, dated 09.12.2020, the AAE/OP/Choutuppal (respondent No.1) reported that he has inspected the premises and found that there is neither LT line nor DTR and no bore well were existing. Further he proposed for withdrawal of fictitious demands raised under the paying category. The given proposal was returned by the SE/OP/Yadadri Circle (respondent No.5) vide memo no. 586 dated 28.02.2020, for the reason that the Service Connections are not eligible for tariff applicable for free supply.

17. The appellant has applied for dismantling of the above said (4) Service Connections on 23.01.2020, at the Customer Service Centre Vide Reg. Nos.CC673201907041, CC673201907094, CC673201907098 and CC673201907105. The Service Connections were under bill stopped category during the month of May 2013. The amounts pending as on such date is shown in table-A supra.

18. The record reveals that the power supply was provided till April 2013 and from May 2013 the services were under bill stopped category. The appellant claimed that after 1999 she did not receive any bills in respect of the (4) Service Connections. The argument of the appellant is that the services were disconnected in 1999 and the Licensee, therefore, cannot raise any bills thereafter. According to her, the bills now raised by the respondents are barred by limitation under Sec.56(2) of the Electricity Act (in short "the Act"). The

respondents did not agree with the said arguments. At this stage it is necessary to refer to Sec.56(2) of the Act, which reads as under:-

“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.”

Effect of Sec.56(2) of the Act

19. This provision makes it quite clear that no sum due from any consumer shall be recovered after the period of two years from the date when such sum became first due unless such sum was shown continuously as arrears.

Application of Sec.56(2) of the Act to the present case

20. The letter of respondent No.1 dt.09.12.2020 addressed to respondent No.3 makes it clear that, in fact, he inspected the premises in question and did not find any LT line and DTR.

21. In the written reply filed by respondent No.2 before the learned Forum it is mentioned that the appellant has applied for dismantling the subject (4) Service Connections and, in fact, respondent No.1 in his letter has requested for withdrawal of CC amount on the ground that the amounts were charged under IT Farmer category and it should be in non-LT Farmer category. The record also shows that the appellant paid Rs.29,750/- each of all the (4) Service

Connections. Even according to the version of the respondents, the subject services were under bill stopped category from May 2013.

22. There is no iota of evidence to indicate that the respondents have ever issued any bill claiming any arrears on the subject Service Connections within two years of such arrears became first due to fulfil the ingredients of Sec.56(2) of the Act. It appears that the respondents have issued a notice to the appellant on 29.04.2022 under Revenue Recovery Act. But before that notice and after May 2013, no such notice or bill was issued within two years to recover the dues of electricity bills from the appellant.

23. It is the argument of the appellant that she carried out the agricultural operations till 1999 and that she paid Rs.29,750/- for each Service Connection due to pressure from the respondents. It appears that the real problem arose when the respondents demanded the huge sum on the (4) subject Service Connections as shown in the table 'A' above. Till such time either from 1999 or up to 2015 or from 2015, no bill was issued at any point of time claiming arrears on the subject Service Connections. From the material on record it is crystal clear that no regular bills were issued by the respondents to the appellant reflecting the dues from 1999 continuously. At the cost of repetition at any given time from 1999 till filing of the complaint before the learned Forum no bill either regularly showing the arrears or any demand showing the arrears within the period of two years when they became first due was issued by the respondents. To put it

succinctly no bill within two years of the bill became first due was issued. Under these circumstances it is necessary to decide whether the respondents are still entitled to recover such due from the appellant legally.

24. The Hon'ble Supreme Court in the judgement reported in Assistant Engineer (D1), Ajmer Vidyut Vitran Nigam Ltd., & another v. Rahamatullah Khan alias Rajamjulla,¹ at paras 6.9,7.4, 7.5 has held as under:-

“6.9 The liability to pay arises on the consumption of electricity. The obligation to pay would arise when the bill is issued by the licensee company, quantifying the charges to be paid. Electricity charges 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.

7.4 Sub-section (1) of Section 56 confers a statutory right to the licensee company to disconnect the supply of electricity, if the consumer neglects to pay the electricity dues. This statutory right is subject to the period of limitation of two years provided by sub-Section (2) of Section 56 of the Act.

7.5 The period of limitation of two years would commence from the date on which the electricity charges became “first due” under sub-section (2) of Section 56. This provision restricts the right of the licensee company to disconnect electricity supply due to non-payment of dues by the consumer, unless such sum has been shown continuously to be recoverable as arrears of electricity supplied, in the bills raised for the past period. If the licensee company were to be allowed to disconnect electricity supply after the expiry of the limitation period of two years after the sum became “first due”, it would defeat the object of Section 56(2).”

The Hon'ble Supreme Court while dealing with Sec.56(2) of the Act has held that the liability of pay electricity charges arises only on the consumption of electricity and after issuing the bills by the Licensee. It is also held by the Hon'ble Supreme

¹(2020) 4 SCC 650

Court that the Licensee is entitled to recover the bills if the bills are issued within two years from the date when they became first due. In the present case, as already stated, no bill was issued which fits into Sec.56(2) of the Act. More-over, the report of respondent No.1, also supports the version of the appellant that the appellant was not using the electricity since a long time. Therefore, I hold that the judgement of the Hon'ble Supreme Court (1 supra) clearly applies in this case.

25. Similarly in the judgement of our Hon'ble High Court in W.P.No.11676 of 2007 dt.02.05.2018 it is held as under:-

“8. In the facts and circumstances of the case and in the considered view of this Court, the C.C. bills are pertaining to the year 1987 onwards till the termination of the agreement on 21.12.1998. Thereafter, no bills were raised, much less indicating the arrears of dues in the C.C. bills, except the impugned notices. The power supply was disconnected on 09.02.1998 in spite of part payment of the bills as per the orders of this Court. Hence, the impugned demand of payment of electricity bills raised by the respondents is barred by limitation and not recoverable under Section 56(2) of the Electricity Act, 2003. The Section 56(2) of the Act reads as under:

“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.”

The alleged dues could not be recovered under the provisions of Andhra Pradesh Revenue Recovery Act and under Section 6 of the Andhra Pradesh State Electricity Board (Recovery of Dues) Act, 1984.

9. Therefore, the impugned demand notices raised by the second respondent in Lr.No.SE/OP/RRC/N/SAO/HT/D.No.61/2006 dated 06.12.2006 and Lr.No. SE/OP/RRC/N/SAO/HT /D.No.194/07 dated 24.02.2007 and the

subsequent Letter No. SE/OP/RRC/N/ SAO/HT/D.No.248/07 dated 7/12.04.2007, are set aside by holding that the same are barred by limitation and issued contrary to Section 56(2) of the Act and unenforceable.

The proposition laid down in this Judgement is also, more or less, similar to the proposition laid down in the Judgement of the Hon'ble Supreme Court (1 Supra).

26. As already stated in the present case, the respondents have not shown any evidence to show that they have issued the bills within two years when they became first due and shown the arrears due. Further there is no notice issued within two years at least after the Service Connections were kept under "bill stopped" category. More-over, it appears that the appellant is not at all using the electricity since a long time. In view of these circumstances, I hold that the appellant is entitled for dismantling the subject Service Connection without paying necessary charges and the demand of the respondents to pay the amount due on the subject (4) Service Connections is barred by limitation under Sec.56(2) of the Act. Accordingly the Award of the learned Forum is liable to be set aside. Consequently all the notices demanding due amounts are also liable to be set aside. These points are decided accordingly in favour of the appellant and against the respondents.

POINT No. (iii)

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

RESULT

28. In the result, the appeal is allowed, setting aside the Award of the learned Forum. The dismantle notices issued by respondent No.3 to pay arrears including the notice issued under Revenue Recovery Act as shown in Table 'A' in respect of (4) subject Service Connections are set aside. The respondents are directed to dismantle the subject (4) Service Connections, without demanding the charges and report compliance within (15) days from the date of receipt of copy of this Award.

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 12th day of January 2024.

Sd/-
Vidyut Ombudsman

1. Smt. Kayathi Rama Devi, w/o.K.Govardhan Reddy, H.No.8-2-684/1/10, Bhavani Enclave, Road no.12,Banjara Hills, Hyderabad. Cell: 9701717111, 9393313111.
2. The Assistant Engineer / Operation / Choutuppal / TSSPDCL / Yadadri-Bhuvanagiri District.
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4. The Assistant Accounts Officer / Operation / Choutuppal / TSSPDCL /

Yadadri - Bhuvanagiri District.

5. The Divisional Engineer / Operation / Choutuppal / TSSPDCL / Yadadri-Bhuvanagiri District.
6. The Superintending Engineer/Operation/ Yadadri Circle/TSSPDCL/ Yadadri - Bhuvanagiri District.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL-I (Rural), H.No.8-03-167/14, GTS Colony, Erragadda, Hyderabad - 500 045.

