



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**

MONDAY THE NINTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE

Appeal No. 31 of 2021-22

Between

M/s. Creative Multimedia, #16-11-741/C/, Datta Sai Towers- 5th Floor, Main Road, Dilshukunagar, Hyderabad-500036, represented by Sri Raja Sekhar Buggaveeti, Cell.No-9948491663.**Appellant**

AND

1. The Assistant Engineer / Operation / Saleem Nagar/TSSPDCL/Hyderabad.
2. The Assistant Divisional Engineer /Operation/Asmangadh/ TSSPDCL/ / Hyderabad.
- 3.The Assistant Accounts Officer/ERO/Chanchalguda/TSSPDCL/Hyderabad.
4. The Divisional Engineer / Operation / Asmanghad/TSSPDCL/Hyderabad.
5. The Senior Accounts Officer / Operation / Hyderabad South Circle / TSSPDCL/Hyderabad.
6. The Superintending Engineer/Operation/Hyderabad South Circle /TSSPDCL/Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 06.12.2022 in the presence of Miss. Nishtha - authorised representative of the appellant and Smt.S.Jayanthi - AAO/ERO/Chanchalguda, Sri Ajay Kumar Tirumala - SAO/OP/Hyderabad South Circle 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 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No.12/2021-22, Hyderabad South Circle dt.28.10.2021.

CASE OF THE APPELLANT BEFORE THE FORUM

2. In the complaint filed before the learned Forum, it is, inter-alia, submitted that the appellant is the consumer of the respondents vide H.T. Service Connection No. HDS-689 at premises No. 16-11-741/C/1, Dilsukhnagar, Hyderabad. It received a memo vide Memo no.SE/OP/South/Hyd/SAO/JAO/HT/D.No.354/2021 dt:27.03.2021 demanding to pay Rs.2,65,992/- towards fixed charges arrears and Fuel Surcharge Adjustment (in short 'FSA') charges on old LT connections which were terminated in 2011. On 25.01.2016 also the appellant paid an amount of Rs. 50,000/-. Further in 2020 also the respondents have served a similar memo claiming dues in respect of LT Connections. Hence it is prayed to give permanent relief to the appellant.

REPLY OF THE RESPONDENTS BEFORE THE FORUM

3. In the written reply submitted by respondent No.2, it is, inter-alia, submitted that after clubbing the '6' LT connections the subject HT Service Connection was released in favour of the appellant. On 04.12.2019 the load of Service Connection No. V8021412 was charged from 50 KW to 63 KW and

fixed charges of Rs.60,255/- were imposed. Likewise the load of other Service Connections was changed and fixed charges were imposed. Subsequently fixed charges were recalculated and FSA charges were added.

4. In the written submissions of respondent no.3, it is, inter-alia, submitted that earlier the balance of FSA was not recovered while issuing no dues certificate in September 2009. Development charges cases were booked and payments were updated in respect of two Service Connections of the appellant.

5. In the written submission of respondent no.6, it is, inter-alia, submitted that earlier two LT Service Connections of the appellant were kept under OSL status from January 2011. As per EBS, the FSA and fixed charges balance of the LT charges are as under:-

Sl.No	S C .No	Fixed Charges (Rs.)	FSA (Rs.)	Total amount may be (Rs.)
1	V8004852	4,600/-	63,536/-	68,136/-
2	V8021412	10,080/-	1,25,517/-	1,35,597/-
3	V8021415	5,880/-	56,379/-	62,259/-
	Total			2,62,992/-

AWARD OF THE FORUM

6. After considering the material on record and after hearing both sides, the learned Forum has rejected the complaint under Clause 2.37 of

Regulation of 03 of 2015 of Hon'ble Telangana State Electricity Regulatory Commission(in short 'the Regulation'), on the ground that the matter is subjudice as SLP No. 13785 of 2012 is pending before the Hon'ble Supreme Court.

7. Aggrieved by the Award passed by the learned Forum, the present appeal is filed contending, among other things, that the learned Forum has not considered the material on record properly and has also not considered the provision of law correctly.

GROUND OF APPEAL

8. In the grounds of appeal it is stated that the fixed charges amounts were debited after (9) years violating Sec.56 (2) of the Electricity Act (in short 'the Act'). Further as prescribed in Clause 4.1.5 of Regulation 5 of 2004 once the final bill is raised, the licensee shall not have any right to recover any charge other than those in the final bill, for any period prior to the date of such bill.

WRITTEN SUBMISSION OF THE RESPONDENTS

9. In the written submissions of respondent No.3 and 6, before this Authority, they have reiterated the grounds as submitted by them before the learned Forum.

10. In the reply filed by the appellant before this Authority, it is submitted that the Chief General Manager (CGM) (Commercial) is not authorised to

issue any direction for collection of any tariff rates from the consumers independently.

11. Heard both sides.

POINTS

12. The points that arise for consideration are:-

- i) Whether the respondents are not entitled to recover Rs.2,65,992/- towards FSA charges?
- 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)

ADMITTED FACTS

13. It is an admitted fact that the appellant was having LT Service Connections and on the request of the appellant they were replaced with the subject HT Service Connection by the respondents. There is no dispute that a Special Leave Petition is pending before the Hon'ble Supreme Court in respect of levy of FSA charges.

SETTLEMENT BY MUTUAL AGREEMENT

14. 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

15. 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.

CRUX OF THE MATTER

16. The present appeal is filed to set aside the Lr.No.SE/OP/South/Hyd/SAO/JAO/HT/D.No.354/20-21 dt.27.03.2021, demanding Rs. 2,65,992/- towards fixed charges arrears and FSA charges arrears pertaining to (3) Service Connections V8004852, V8021412 and V8021415 which are under billstop '99' status. The breakup of the amount demanded is placed below:-

Sl.No	S.C .No	Fixed Charges (Rs.)	FSA (Rs.)	Total amount may be (Rs.)
1	V8004852	4,600/-	63,536/-	68,136/-
2	V8021412	10,080/-	1,25,517/-	1,35,597/-
3	V8021415	5,880/-	56,379/-	62,259/-
	Total			2,62,992/-

Previously a new HT Service Connection was released for a CMD of 160 KVA on 06.12.2010 by way of clubbing the existing (6) Nos. Service Connections viz. V8021412, V8021413, V8021415, V8004852, V8004848 and V8021425.

Respondent No.6 stated that during an internal audit in the ERO/Chanchalguda in March 2021, it was pointed out that FSA charges were not levied for the period from December 2008 to January 2011 and also fixed charges against the additional load was also not imposed. At the time of release of HT service, the FSA charges pertaining to the above said period were to be levied in the bills starting from the month of July 2010 to January 2011 respectively. The appellant has paid the dues upto the date of conversion from LT to HT and obtained a no due certificate. The FSA charges were reckoned at a later date during the month of October 2019.

17. Later the fixed charges amount of Rs. 1,34,879/- was withdrawn by the respondents during the month of September 2021 vide JE Nos. 9923, 9922 and 9921 dt.31.07.2021 against these (3) subject Service Connections. The only dispute remains is payment of FSA charges. The subject pertaining to pending FSA charges of the above said period is pending before the Hon'ble Apex Court vide SLP No. 13785 of 2012. Hence the matter is subjudice. Hence the relief claimed in respect of FSA cannot be considered.

18. The learned authorised representative of the appellant has relied upon the judgement of the Hon'ble Supreme Court in ASST. ENGINEER (DI), AJMER VIDYUT VITRAN NIGAM LTD., and ANR v. RAHAMATHULLAH KHAN alias RAHANJULLA (Civil Appeal No. 1672 of 2020 dt.18.02.2020). The Hon'ble Supreme Court in the said case was dealing with the question as to the period

of limitation to recover the electricity charges and the Hon'ble Supreme Court has held that the said period would commence from the date on which the electricity charges became "first due" under Sub-section (2) of Section 56 of the Act. There is no dispute about the said proposition. But that principle is not applicable in the instant case inasmuch as soon after its commencement of noticing the mistake in charging FSA, the amount was demanded. Hence the said judgement has no application in this case.

19. The learned Authorised representative of the appellant has relied upon the judgement of the Hon'ble High Court of Andhra Pradesh in W.P.No.14893 of 2011 dt.21.11.2011 (M/s. SRI VENKATESHWARA RICE MILL v. The AAO/ERO-APDCAPL), W.P.No. 21179 of 2012 dt.26.09.2012 (RAJANI GINNING and PRESSING FACTORY v. The SE/NPDCL) wherein the Hon'ble High Court has held that under Sec.56(2) of the Act no sum due from any consumer 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 recoverable as arrears of charge for the electricity supplied. There is no dispute about the said proposition. But in the present case the subject matter is back billing. The facts in those cases and the facts in the present case are different, therefore these judgements are not applicable.

20. The learned Authorised representative of the appellant has relied upon the judgement of the Hon'ble Supreme Court in Civil Appeal No. 6036 of

2012 dt.16.10.2015 (A.P. POWER COORDINATION COMMITTEE & ors. V. M/s. LANCO KONDAPALLI POWER LTD., & ORS.). The said judgement dealt with the claim of Minimum Alternate Tax (MAT). Considering those facts the Hon'ble Supreme Court has held in favour of the consumer. Since the facts in the said case and the facts in the present appeal are distinct, the judgement is not helpful to the appellant. In view of the above discussion, I hold that the respondents are entitled to recover Rs.2,65,992/- towards FSA and 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)

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

RESULT

21. In the result, the appeal is rejected, without costs, confirming the Award passed of 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 the 9th day of January 2023.

Sd/-
Vidyut Ombudsman

1. M/s. Creative Multimedia, #16-11-741/C/, Datta Sai Towers- 5th Floor, Main Road, Dilshukunagar, Hyderabad-500036, represented by Sri Raja Sekhar buggaveeti, Cell.No-9948491663.
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7. The Superintending Engineer/Operation/Hyderabad South Circle /TSSPDCL/Hyderabad.

Copy to

8. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL-(GHA),H.No.8-3-167/E/1,GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad-45

