



BEFORE THE VIDUYUT 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
VIDUYUT OMBUDSMAN**

MONDAY THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY TWO

Appeal No. 43 of 2021-22

Between

Mrs. Zakia Sultana, w/o. Mohd Sarfaraz Hussain, H.No.9-10-68/A/246/1,
Resham Bagh, Hyderabad - 500 008. Cell: 9290063863, 9676938256.

.....Appellant

AND

1. The Assistant Engineer / Operation / Golconda / TSSPDCL / Hyderabad.
2. The Assistant Divisional Engineer / Operation / Golconda / TSSPDCL / Hyderabad.
3. The Assistant Accounts Officer / ERO / Rethibowli / TSSPDCL / Hyderabad.
4. The Divisional Engineer / Operation / Mehdipatnam / TSSPDCL / Hyderabad.
5. The Superintending Engineer / Operation / Hyderabad Central Circle / TSSPDCL / Hyderabad.

..... Respondents

This appeal is coming on before me for final hearing on 30.08.2022 in the presence of Sri Mohammed Sarfaraz Hussain - representing the appellant and Sri T.Venkateswarlu - ADE/OP/Golconda, Sri K.S.A. Saleem - AAO/ERO/Rethibowli and Sri R. Sri Kirshna - AAE/OP/Golconda 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, Hyderabad

- 45 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') vide Lr.No.CP/CGRF-2/Orders/C.G.No.98/2021-22/D.No.587/21 dt.30.12.2021, rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The appellant purchased the house bearing No.9-10-68/A/246/1, Resham Bagh, Hyderabad - 500 008 (in short 'the house of the appellant') from one Sri Mohd. Abdullah in 2003. At that time two Service Connections viz - S.C.No.S9-021639 under Category - I and S.C.No.S9-023048 under Category-II existed.

3. The appellant intended to surrender S.C.No.S9-023048 and to get the name changed in respect of the other Service Connection. She accordingly contacted one Sri Bullaiah, Lineman of the Licensee-respondents and paid Rs.1,000/- to him and also cleared the arrears. Thereafter the said Lineman disconnected S.C.No.S9-023048 and took away the meter by connecting the wiring in her house to the existing S.C.No.S9-021639.

4. In November 2003 the officials of the vigilance wing of the Licensee came to the house of the appellant and informed her that the meter dismantled from her house (S.C.No.S9-023048) was found in Hotel Limra near Golconda Police Station. She was also informed that unless the departmental enquiry was held against the said Lineman, the Service Connection cannot be changed in

her name. Thereafter Sri Bullaiah was punished for the misconduct. A theft case was registered against the owner of Limra Hotel.

5. The appellant has applied for two new Service Connections to her house. Her request was not considered by the respondents on the ground that consumption charges of Rs.1,22,165/- are due relating to Service Connection No.S9-023048. She got issued a legal notice to the respondents, but in vain. Therefore it is prayed to direct the respondents to release fresh electricity Service Connections to the house of the appellant, without demanding to pay arrears etc., and also to award compensation of Rs. 50,000/- towards pain and suffering.

CASE OF THE RESPONDENTS BEFORE THE FORUM

6. In the written submissions of respondent No.2, it is admitted that the appellant has purchased the house in question. The existence of two Service Connections at her house is also admitted. He has also admitted about surrender of Service Connection No. S9-023048 to the then Lineman, Sri Bullaiah and its fixation at Limra Hotel. The registration of a case under Section 135 of the Electricity Act (in short 'the Act') is also admitted. It is further submitted that four increments of Sri Bullaiah were stopped since he unauthorisedly installed the meter in question at Limra Hotel. However, finally it is submitted that since the theft amount of Rs.1,05,714/- is pending on Service Connection No.S9023048, new connections were not released to the appellant.

AWARD OF THE FORUM

7. After considering the material on record and after hearing both sides, the Forum has rejected the complaint on the ground that in terms of Clause 2.37 of the Regulation 3 of 2015 of the Hon'ble Telangana State Electricity Regulatory Commission (in short 'the Regulation'), it has no jurisdiction.

8. Aggrieved by the Award passed by the Forum in rejecting the complaint, the present appeal is preferred, contending among other things, that the appellant has surrendered the meter in question to the Lineman of the Licensee-respondents under the bonafide impression but he installed the meter at Limra Hotel illegally where the theft of electricity occurred and hence, the appellant is not at fault.

GROUND OF THE APPEAL

9. In the grounds of appeal it is submitted that even the record of the respondents shows that their Lineman, Sri Bullaiah, was punished for the act of illegally shifting the meter of the appellant and installing it at Limra Hotel, where theft of electricity occurred and in spite of the same, there is no justification for the respondents to reject the request of the appellant to release two new Service Connections to her house.

WRITTEN SUBMISSION OF THE RESPONDENTS

10. In the written submissions of respondent No.2, before this Authority, it is, inter-alia, submitted that the process of dismantling the meter is on and that theft case was booked under Sec.135 of the Act.

11. Heard both sides.

POINTS

12. The points that arise for consideration are:-

- i) Whether the appellant is entitled to release of two new Service Connections to her house?
- ii) Whether the Award /Order passed by the learned Forum is liable to be set aside? and
- iii) To what relief.

POINTS (i) and (ii)

ADMITTED FACTS

13. It is an admitted fact that respondent No.2- ADE has clearly admitted in his written reply before the learned Forum that the appellant has purchased her house in 2003 and at that time itself (2) Service Connection Nos. S9-021639, Category-I (undisputed) and S9-023048, Category-II (the meter which is involved in the present case) were existing. He has also admitted that the appellant has surrendered the meter S9-023048 to Sri Bullaiah, the then Lineman of the Licensee-respondents who fixed the said meter at Limra Hotel, Near Police Station, Golconda without any authority. The case under Sec.135 of the Act was registered at the premises of Limra Hotel. Respondent No.2 has also admitted that since the said lineman installed the meter bearing

S.C.No.S9-023048 unauthorisedly at Limra Hotel, his (4) Annual Grade Increments were stopped with cumulative effect in the Departmental Enquiry.

SETTLEMENT BY MUTUAL AGREEMENT

14. Both the parties have appeared before this Authority on 30.08.2022. 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 CASE

16. The appellant has applied for (2) new Service Connections to her house and that request was not considered by the respondents on the ground that the case of theft of energy is pending.

WHO COMMITTED THEFT OF ENERGY

17. The respondents have admitted the entire case of the appellant. But they did not release the new Service Connections to the appellant solely on the ground that the case of theft of energy on S.C.No.S9-023048 is pending. Now it is necessary, prima-facie, to know as to who committed theft of energy. The

material on record referred to above especially the admitted case of the respondents, the theft occurred at Limra Hotel premises. During the course of arguments, it is submitted that a theft case was registered against the owner of Limra Hotel and he was acquitted after trial. The entire material on record including the admission of respondent No.2 only shows that Sri Bullaiah, the then Lineman installed the meter in question at Limra Hotel, where theft occurred. The Lineman took the meter from the house of the appellant, handed over by the appellant for surrendering to the Licensee. Thereafter, the theft of energy occurred only at the Limra Hotel premises.

CIVIL LIABILITY

18. The rejection of the request of the appellant for releasing (2) Service Connections is on the ground of non payment of theft of energy. The Civil liability is to be determined by the Special Court alone. This Authority will not decide as regards the Civil liability. Apart from that it is Sri Bullaiah, the then Lineman who is responsible for the entire episode and mental agony to the appellant including delay in releasing the (2) Service Connections.

WHETHER THE APPELLANT IS AT FAULT

19. The entire case of the respondents also is that it is Sri Bullaiah, who took the meter from the house of the appellant and instead of taking it to the Licensee, he took it to a third-person unauthorisedly, while performing his duties under the Licensee-respondents. Thus at no stretch of imagination it can be concluded that the appellant is at fault.

VICARIOUS LIABILITY OF THE RESPONDENTS

20. Now it is necessary to discuss about the vicarious liability in Master-Servant relationship. Two conditions are required to be established to arrive at the vicarious liability of Master-Servant. They are:-

1. The servant must have committed an act which amounted to a tort.
2. Such an act must have been committed during the course of his employment under the Master.

Admittedly in the present case Sri Bullaiah, was working as Lineman with the Licensee and during that employment he took the meter from the appellant and misused it. Thus the two conditions are fulfilled.

21. In England the House of Lords decided the well known case in LLOYD v. GRACE SMITH & Co¹ on 19.07.1912. The facts are as under:-

The plaintiff, a widow who owned two cottages, wanted to sell the property. To that end, the plaintiff consulted a firm of solicitors and saw their managing clerk. The latter, acting as the representative of the firm of solicitors, induced the plaintiff to convey the property to himself. The clerk then sold the property in his own name, and escaped with the money. The plaintiff brought an action against the respondents' firm, alleging the firm's liability for deeds committed by their managing clerk. The trial judge ruled for the plaintiff. In the opinion of the trial judge, when a servant acts within his authority but for his own benefit, the master shall be liable for his acts whether in contract or tort. As a result, in the present case, the solicitors' firm was liable for the action of their managing clerk. The Court of Appeal reversed the trial judge's decision and ruled in favour of the respondents.

The House of Lords reversed the Court of Appeal's decision and restored the judgement of the trial judge. The House of Lords established that the firm's managing clerk committed fraud because he was given insufficient supervision by his employers, the respondents' firm. It was held that a principal is liable for the

¹ (1912 A.C. 716)

fraud of his agent acting within the scope of his authority. The fact that the is committed for benefit of the principal or for the benefit of the agent has no relevance and the principal remains liable.

Illustration: If 'A' goes to a bank and deposits a cheque with 'C', an employee of the bank and C fraudulently transfers that amount to his wife's account. Here for the fraudulent act of 'C', the Bank will be liable.

And since that decision the same legal position has been accepted in India. In the present case also, there is no dispute that Sri Bullaiah was the employee of the Licensee. There is also no dispute that the appellant trusted the said Bulliah and the meter was handed over to him for surrendering the same to the Licensee. But finally, the Licensee punished him for his misdeeds stated above.. The appellant is suffering for not releasing her two new service connections, without any fault. Therefore, the appellant is entitled for release of (2) new Service Connections to her house and at the same time she is entitled for reasonable compensation from the Licensee for the delay in releasing the new Service Connections. In view of these factors, I hold that the appellant is entitled for release of (2) new service connections and the Award of the Forum is liable to be set aside. These points are accordingly decided in favour of the appellant and against the respondents.

Point No. (iii)

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

RESULT

23. In the result, the appeal is allowed and the Award/Order passed by the Forum is set aside. The respondents are directed to release the (2) new Service Connections sought by the appellant at an early date, preferably within (2) days from the date of receipt of copy of this Award. The Respondents are also directed to pay compensation of Rs.5,000/- (Rupees five thousand only) to the appellant by way of adjusting the amount in future bills of any of the Service Connections of the appellant.

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 26th day of September 2022.

Sd/-

Vidyut Ombudsman

1. Mrs. Zakia Sultana, w/o. Mohd Sarfaraz Hussain, H.No.9-10-68/A/246/1, Resham Bagh, Hyderabad - 500 008. Cell: 9290063863, 9676938256.
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6. The Superintending Engineer / Operation / Hyderabad Central Circle / TSSPDCL / Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum - GHA, Erragadda, Hyderabad.

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