



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**

WEDNESDAY THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 49 of 2023-24

Between

Sri Mutyala Nagaraju, s/o.Late M.Balaiah, [H.No.15-4-101](#), Gowliguda Chaman,
old bus depot, Nampally, Hyderabad-500012, Mobile No:9848559874.

AND

1. The Assistant Engineer/Op/Putli Bowli/TSSPDCL/Hyderabad.
2. The Assistant Divisional Engineer/Op/Troop Bazar/TSSPDCL/Hyderabad.
3. The Assistant Accounts Officer/ERO/Sultan Bazar/TSSPDCL/Hyderabad.
4. The Divisional Engineer/Op/Begum Bazar/TSSPDCL/Hyderabad.
5. The Superintending Engineer/Op/Hyderabad South Circle/TSSPDCL /
Hyderabad

.....Respondents

This appeal is coming on before me for final hearing on this day in the presence of the appellant in person and Sri D.Pranavind - AAE/OP/Putlibowli, Sri V. Srinivas - ADE/OP/Troop Bazar and Smt. M. Bhagya Lakshmi - JAO/billing on behalf of AAO/ERO/Sultan Bazar for the respondents and having stood over for consideration, this Vidyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award in C.G.No 161/2023-24/Hyderabad South Circle dt.17.10.2023 (in short "the impugned 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'), directing the appellant to apply for dismantlement of the Service Connection No.K1000494 (in short "the subject Service Connection") and also directing the respondents to dismantle the said Service Connection after collecting the requisite charges.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The case of the appellant is that he is a resident of the premises bearing H.No.15-4-101, Gowliguda Chaman, old bus depot, Nampally, Hyderabad. The subject Service Connection is at premises bearing No.15-4-98, Osman Shahi, Begum Bazar, Hyderabad. He let out the said premises to a tenant for running a flour mill long back. The tenant obtained the subject Service Connection from the respondents. The tenant left the premises in 2002. The subject Service Connection was under disconnection and nobody was using the said Service Connection. The appellant requested the respondents to dismantle the subject Service Connection. But the respondents were insisting to pay more than Rs.20,000/- for dismantling the subject Service Connection though it was not used for a long time. Accordingly it was prayed to direct the respondents to dismantle the subject Service Connection by with-drawing the excess billed amount at the earliest.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written reply submitted by respondent No. 2, it is, inter alia, stated that the subject Service Connections is under bill stopped status. The appellant has to clear the arrears for dismantling the subject Service

Connection.

4. In the written reply filed by respondent No.3, it is stated that the subject Service Connection was having long standing arrears of Rs.27,187/- from February 2001 to March 2003. The service was under bill stopped status from March 2003 to September 2023. In order to dismantle the subject Service Connection the amount of arrears is to be paid. In the written reply submitted by respondent No. 3, on 25.09.2023, it is, inter alia, stated that an amount of Rs.1,07,299/- is pending towards arrears on the subject Service Connection. The consumer has to pay the said amount for dismantling the service.

AWARD OF THE FORUM

5. After considering the material on record and after hearing both sides, the learned Forum has passed the Award as stated above.

6. Aggrieved by the said Award of the learned Forum, the present appeal is preferred, contending among other things, that the Award of the learned Forum is not correct and, in fact, that the appellant is intending to use the premises where the subject Service Connection was installed for his business purpose. The respondents are demanding the arrears on the subject Service Connection pending for more than (20) years. The claim of the respondents is not correct. Accordingly it is prayed to set aside the impugned Award and to pass any other order in the circumstances of the case.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

7. In the written reply submitted by respondent No.3, before this Authority, it is, inter-alia, submitted that the appellant has not registered the complaint in the Customer Service Centre for dismantling the subject Service Connection. The arrears due amount of Rs. 1,07,299/- was arrived at as per the oral direction of the learned Forum.

ARGUMENTS

8. The appellant has submitted that the subject Service Connection was under bill stopped status from March 2003; that the subject Service Connection is not in use for more-than two decades and hence it is prayed to direct the respondents to dismantle the subject Service Connection without payment of arrears, if any.

9. On the other hand, it is submitted by the respondents that unless the arrears amount is paid, the dismantling of the subject Service Connection cannot be carried out. It is accordingly prayed to reject the appeal.

POINTS

10. The points that arise for consideration are:-

- i) Whether the subject Service Connection is liable to be dismantled without payment of arrears if any?
- ii) Whether the impugned Award of the learned is liable to be set aside?
and
- iii) To what relief?

POINT No. (i) and (ii)

ADMITTED FACTS

11. It is an admitted fact that the subject Service Connection is existing in the premises of the appellant bearing H.No.15-4-98, Osmanshahi, Begum Bazar, Hyderabad. The subject Service Connection was disconnected and it is under bill stopped status from March 2003 till 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 23.12.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

14. According to the appellant so far no notice was issued to him by the respondents demanding to pay any arrears in respect of the subject Service Connection. Like-wise the respondents have also admitted that no notice was issued to the appellant either demanding Rs. 20,964/- or Rs.27,187/- or any

other amount so far. Apart from that no proof is produced to show that the respondents have ever demanded the appellant to pay the due amount. The amount of Rs. 1,07,299/- as shown in the written reply of respondent No.3, is only on the oral instructions of the learned Forum. Thus the respondents have not issued any demand notice to pay arrears in respect of the subject Service Connection for its dismantling.

15. The respondents have admitted that the subject Service Connection is under bill stopped status from March 2003 to September 2023. The respondents have submitted that the subject Service Connection was released on 31.01.1947. At no point of time till date any notice was issued to the appellant demanding the arrears within (2) years when the arrears became first due. To be more specific even from March 2003 till date no such notice demanding the appellant to pay arrears in respect of the subject Service Connection was issued. That apart the respondents have not shown the arrears in any bill continuously. At this stage it is necessary to refer to Sec.56(2) of the Electricity Act, (in short "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

16. 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

17. The respondents have been admitting through-out that no notice as required under Sec.56(2) of the Act was ever issued to the appellant to collect the arrears.

18. 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

¹(2020) 4 SCC 650

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 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. Therefore, I hold that the judgement of the Hon'ble Supreme Court (1 supra) clearly applies in this case.

19. 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). Thus in this case the limitation to recover the arrears from the appellant is barred by Sec.56(2) of the Act. Therefore I hold, that the respondents are liable to dismantle the subject Service Connection of the appellant without insisting for payment of arrears and the impugned Award of the learned Forum is liable to be set aside. 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 by setting aside the impugned Award of the learned Forum. The respondents are directed to dismantle the Service Connection No. K1000494 without insisting for arrears on the subject Service Connection and file compliance within (15) days from the 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 the 17th day of January 2024.

**Sd/-
Vidyut Ombudsman**

1. Sri Mutyala Nagaraju, s/o.Late M.Balaiah, [H.No.15-4-101](#), Gowliguda Chaman, old bus depot, Nampally, Hyderabad-500012, Mobile No:9848559874.
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6. The Superintending Engineer/Op/Hyderabad South Circle/TSSPDCL / Hyderabad.

Copy to

7. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL-Rural, H.No.8-03-167/14, GTS Colony, Yousufguda, Hyderabad - 45.