



BEFORE THE VIDUYUT 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
VIDUYUT OMBUDSMAN**

WEDNESDAY THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 51 of 2023-24

Between

Sri P. Vamshi Krishna Reddy, s/o. Pathi Vasudeva Reddy, Unit No.6, Wonderful World, Pooja Crafted Homes, Kismatpur, Hyderabad - 500 086.
Cell: 9603117555.

AND

1. The Assistant Engineer/Operation/Ghatkesar/TSSPDCL/Medchal-Malkajiri.
2. The Assistant Divisional Engineer / OP / Ghatkesar / TSSPDCL / Medchal-Malkajiri.
3. The Assistant Accounts Officer/ERO/Keesara/TSSPDCL/Medchal-Malkajiri.
4. The Divisional Engineer/OP/Keesara/TSSPDCL/Medchal-Malkajiri.
5. The Superintending Engineer/OP/Habsiguda Circle/TSSPDCL/ Medchal - Malkajiri.

.....Respondents

This appeal is coming on before me for final hearing on this day in the presence of the appellant in person and Sri B. Srinivas Reddy-ADE/OP/Ghatkesar, Sri K. Vinod Kumar - AAO/ERO/Keesara and Sri K. Hanuma -SAO/OP/Habsiguda for the respondents and having stood over for consideration, this Viduyut Ombudsman passed the following:-

AWARD

This appeal is preferred aggrieved by the Award/Order in Lr.No. Chairperson/CGRF-II/Complaint Return/2023-24/D.No.714/2023 dt.10.11.2023 (in short "the impugned Award/Order") passed by the Consumer Grievances

Redressal Forum, (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') returning the complaint filed by the appellant.

CASE OF THE APPELLANT BEFORE THE FORUM

2. In the complaint dt.30.10.2023, the appellant has furnished the particulars of earlier dispute in respect of clubbing of (6) Service Connections of the appellant. Earlier dispute was basing on the demand notice dt.04.07.2022 for Rs.4,94,817/- towards back-billing of the (6) Service Connections from 09.08.2021 to 08.06.2022. That dispute was resolved by the learned Forum in C.G.No.297/2022-23/Habsiguda Circle on 31.01.2023.

3. Thereafter respondent No.3 issued a demand notice to the appellant on 15.04.2023 demanding the appellant to pay Rs.6,19,069/- showing as outstanding towards electricity charges arose due to clubbing of (6) services into one Service Connection No.052801845 from July 2022 to March 2023. The amount was subsequently reduced to Rs.2,99,399/-. In respect of this dispute the appellant approached the learned Forum presumably challenging the notice dt.15.04.2023 and filed a complaint dt. 30.10.2023. But that complaint was returned vide impugned Award/Order by the learned Forum on the ground that W.P.No.19256 of 2023 is pending before the Hon'ble High Court.

4. Aggrieved by the said Award/Order of the learned Forum, the present appeal is preferred, contending among other things, that the Award/Order of the learned Forum is not correct and, in fact, the learned Forum has passed an Award in his favour. It is accordingly prayed to de-club the (6) Service Connections of the appellant and reimburse the excess amount paid by the appellant etc.,

WRITTEN SUBMISSION OF THE RESPONDENTS

5. In the written reply filed by respondent No.2, before this Authority, it is, inter-alia submitted that in the instant case, the learned Forum has held that the respondents are entitled to club the (6) Service Connections.

6. In the written reply filed by respondent No.3, it is inter-alia,submitted that W.P.No.19256/2023 is pending before the Hon'ble High Court. It is also submitted that they are entitled to club the multiple Service Connections into a single Service Connection.

7. Heard both sides.

POINTS

8. The points that arise for consideration are:-

- i) Whether the impugned Award/Order of the learned is liable to be set aside? and
- ii) To what relief?

POINT No. (i)

ADMITTED FACTS

9. It is an admitted fact that there was an inspection of the premises which is 3rd and 4th floors of M/s. Chandraas Commercial Complex, Annojiguda, Hyderabad of the appellant on 08.06.2022 and found that (6) Service Connections were existing in the premises of the appellant and accordingly they issued a notice to the appellant on 04.07.2022 for clubbing those (6) Service Connections and also demanding him to pay Rs.4,94,817/- towards back-billing charges for the period from 09.08.2021 to 08.06.2022. Aggrieved by the said notice the appellant preferred complaint in C.G.No.297 of 2022-23/Habsiguda Circle. The learned Forum after considering the material on record and after hearing both sides, set aside the back billing notice and also directed the respondents to take disciplinary action against the erring officials for delaying the matter in issuing back-billing notice. The respondents aggrieved by the said Award preferred W.P.No.19256 of 2023 before the Hon'ble High Court which is pending.

SETTLEMENT BY MUTUAL AGREEMENT

10. 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

11. The present appeal was filed on 29.12.2023. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

12. The appellant approached the learned Forum basing on the first notice dt.04.07.2022 proposing to club the (6) Service Connections for the back-billing period from 09.08.2021 to 08.06.2022. Admittedly that notice was set aside by the learned Forum. As already stated, the respondents preferred W.P.No.19256 of 2023 before the Hon'ble High Court, which is pending. The learned Forum in the impugned Award/letter has referred to Clause 2.37 of the Regulation 3 of 2015 (in short "the Regulation") and returned the complaint dt.30.10.2023. This said Clause reads as under:-

The Forum may reject the grievance at any stage under the following circumstances:

a) Where proceedings in respect of the same matter or issue between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority as the case may be;"

xxxxx

xxxxx

d) In the cases, where grievances are:

- frivolous,vexatious,malfide;
- Without any sufficient cause; or
- Where there is no prima facie loss or damage or inconvenience caused or to be caused to the

Complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected in writing unless the Complainant or Association of persons has been given an opportunity of being heard.

In order to apply this Clause in this case it is necessary to fulfil the two conditions. The first condition is that the parties before the Hon'ble High Court and also in the complaint dt.30.10.2023 must be the same. The second condition is that the dispute in the Writ Petition and also in the latest complaint of the appellant dt.30.10.2023 must be the same. The grievance of the appellant basing on the first notice dt.04.07.2022 was adjudicated by the learned Forum in C.G.No.297/2022-23/Habsiguda Circle on 31.01.2023. That was for recovery of Rs.4,94,817/- towards back-billing from 09.08.2021 to 08.06.2022. That demand notice was set aside by the learned Forum.

13. The present dispute is in respect of the notice issued by respondent No.3 on 15.04.2023 demanding to pay Rs. 6,19,069/-, which was reduced to Rs.2,99,399/-. Thus, this amount is imposed from July 2022 after the date of inspection. Therefore the appellant herein raised a new dispute before the learned Forum in his complaint dt.30.10.2023, it is not connected to the dispute in the Writ Petition also. Accordingly, the learned Forum is not supposed to apply Clause 2.37 of the Regulation.

14. Apart from the above, at this stage it is necessary to refer to the proviso to Clause 2.37(d) of the Regulation is important. This proviso makes it mandatory that no grievance shall be rejected or returned in writing unless the complaint or association of persons has been given the opportunity of being heard. In the present case, it appears that no opportunity was given to the appellant for submitting his arguments before the learned Forum. Thus the impugned Award/letter of the learned Forum is liable to be set aside for the two reasons infra:-

i) The dispute in W.P.No. 19256 of 2023 is in respect of the notice dt.04.07.2022 demanding the appellant to pay Rs.4,94,817/- towards back-billing for the period from 09.08.2021 to 08.06.2022. Whereas the notice dt. 15.04.2023 challenged by the appellant is for different amount and for different period. Therefore the subject matter in the Writ Petition and the dispute raised by the appellant now are distinct.

ii) No opportunity was given to the appellant before passing the impugned Award/letter.

In view of these factors, I hold that the impugned Award/letter is liable to be set aside. This point is decided accordingly in favour of the appellant and against the respondents.

POINT No. (ii)

15. In view of the finding on point Nos. (i), the appeal is liable to be allowed.

RESULT

16. In the result, the appeal is allowed, and the impugned Award/letter is set aside. The appellant is directed to approach the learned Forum with the copy of the complaint already filed before the Forum and the learned Forum is directed to issue notice to both parties, obtain written replies of the respondents, hear arguments and pass appropriate Award keeping in view, the above observations.

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 10th day of January 2024.

**Sd/-
Vidyut Ombudsman**

1. Sri P. Vamshi Krishna Reddy, s/o. Pathi Vasudeva Reddy, Unit No.6, Wonderful World, Pooja Crafted Homes, Kismatpur, Hyderabad - 500 086. Cell: 9603117555.
2. The Assistant Engineer/Operation/Ghatkesar/TSSPDCL/Medchal-Malkajgiri.
3. The Assistant Divisional Engineer / OP / Ghatkesar / TSSPDCL / Medchal-Malkajgiri.
4. The Assistant Accounts Officer/ERO/Keesara/TSSPDCL/Medchal-Malkajgiri.
5. The Divisional Engineer/OP/Keesara/TSSPDCL/Medchal-Malkajgiri.
6. The Superintending Engineer/OP/Habsiguda Circle/TSSPDCL/ Medchal - Malkajgiri.

Copy to

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