



BEFORE THE VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

First Floor 33/11 kV Substation, Hyderabad Boats Club Lane
Lumbini Park, Hyderabad - 500 063

**PRESENT : SRI MOHAMMAD NIZAMUDDIN
VIDYUT OMBUDSMAN**

FRIDAY THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FOUR

Appeal No. 53 of 2023-24

Between

M/s. Pratap Raceciment Pvt.Ltd., represented by Miss Dodla Shriya Reddy
(Director), d/o. Dodla Pratap Chander Reddy, #8-2-573, Road No.7, Banjara
Hills, Hyderabad - 500 034. Cell: 9000444556.

.....Appellant

AND

1. The Assistant Engineer /Operation /Pargi/TSSPDCL/Vikarabad District.
2. The Assistant Divisional Engineer /Operation /Pargi/TSSPDCL/Vikarabad District.
3. The Assistant Accounts Officer /ERO/Vikarabad/TSSPDCL/Vikarabad District.
4. The Divisional Engineer /Operation/ Vikarabad Circle/TSSPDCL/Vikarabad District.
5. The Superintending Engineer /Operation /Vikarabad Circle / TSSPDCL / Vikarabad District.
6. The Chief General Manager /Commercial/TSSPDCL/Corporate Office / Hyderabad.
7. The Divisional Engineer /DPE/Vikarabad Circle/TSSPDCL/Vikarabad Circle.

..... Respondents

This appeal is coming on before me for the final hearing today in the presence of Mr. Thomas Joseph Lloyd, Advocate for the appellant and Sri Khaja Babu Shaik - AE/OP/Pargi, Sri B. Rama Murthy - ADE/OP/Pargi, Sri B. Laxmaiah - AAO/ERO/Vikarabad, Sri T. Sanjeevi - DE/OP/Vikarabad, Sri K. Kishor Kumar - ADE/DPE/Vikarabad and Sri Ch. Brahmanandam - DE/DPE/Vikarabad for 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 (in short 'the Forum') of Telangana State Southern Power Distribution Company Limited (in short 'TSSPDCL') in C.G.No 204/2023-24/Vikarabad Circle dt.14.12.2023, rejecting the complaint.

CASE OF THE APPELLANT BEFORE THE FORUM

2. The appellant-premises is situated in Sy.No.238 of Chinna Madaram Village, Pargi Mandal, Vikarabad District. It is engaged in the activity of Horse Breeding Unit since 2012. On 09.02.2012, the respondents have released Service Connection No.3032000163 (in short 'the subject Service Connection') under LT Category-II (Commercial). Respondent No.2 issued back billing notice No. ADE/OP/Pargi/D.No.2085 dt.31.07.2023 to the appellant demanding to pay Rs.18,33,162/- (and Rs.118/- as GST) in respect of the Subject Service Connection for a period of (7) years from 20.10.2016 to 07.07.2023 by changing the category of the subject Service Connection and changed the Category-IIIA to Category-II, without any reason. It was accordingly prayed to waive the entire back billing amount.

WRITTEN SUBMISSIONS OF THE RESPONDENTS

3. In the written reply submitted by respondent No.3 before the learned Forum, the release of subject Service Connection to the appellant was admitted. According to him, on 18.10.2016 the Category of the subject Service Connection was changed from Category-II to Category-III. Again the said Category was changed from Category-III to Category-II on 01.08.2023 as the subject Service Connection was being run under the wrong Category. The appellant paid an amount of Rs.4,00,000/- on 30.09.2023 out of the total assessed amount of Rs.18,33,162/-.

4. In the written replies filed by respondent No.1 and 7 also similar averments like respondent No.3 were made.

AWARD OF THE FORUM

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

6. Aggrieved by the said Award of the learned Forum, the present appeal is preferred, contending among other things, that all of a sudden the respondents have issued a notice demanding Rs.18,33,162/- towards back billing of the Service Connection for a period of (7) years without any reason. Since February 2012, the appellant has not indulged in any act which is

detrimental to the respondents. Therefore it is prayed to waive the entire back billing amount for the period of (7) years.

WRITTEN SUBMISSION OF RESPONDENTS

7. In the written submission of respondent No.3, before this Authority, he has reiterated the contents made by him before the learned Forum. He has submitted that the appellant also paid Rs.2,00,000/- on 10.01.2024.

8. The written reply of respondent Nos. 1,2 and 7 filed separately is more or less similar to the written reply submitted by respondent No.3.

ARGUMENTS

9. The learned Advocate for the appellant has submitted that without proper notice the respondents have changed the Category of the subject Service Connection basing on the inspection dated 07.07.2023 and that the present claim of Rs. 18,33,280/- is barred by limitation and hence he prayed to waive the back billing amount.

10. On the other hand, the respondents have submitted that the subject Service Connection falls under Category-II only which was existing since the release of the subject Service Connection and finally basing on the inspection dated 07.07.2023 it was again changed to Category-II correctly. Therefore it is prayed to reject the appeal.

POINTS

11. The points that arise for consideration are:-

i) Whether the appellant is entitled for waiving the entire back billing amount as prayed for?

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 FACT

12. It is an admitted fact that the respondents have released the subject Service Connection on 09.02.2012 in Category-II. It is also an admitted fact that the respondents have changed the Category of the subject Service Connection from Category-II to Category-III in November 2016. Both the parties have admitted that after the respondents have issued a notice demanding the back billing amount for a period of (7) years, the appellant paid in all Rs.6,00,000/-.

SETTLEMENT BY MUTUAL AGREEMENT

13. 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

14. The present appeal was filed on 17.01.2024. This appeal is being disposed of within the period of (60) days as required.

CRUX OF THE MATTER

15. There is no dispute about the respondents releasing the subject Service Connection to the appellant on 09.02.2012 under Category-II. The appellant had been paying the Electricity bills to the respondents accordingly since then. But again the respondents have changed the Category of the subject Service Connection from Category-II to Category-III on 18.06.2016.

16. The record shows that DPE/Wing/Vikarabad circle inspected the premises of the appellant on 07.07.2023 and noticed that the power supply was being used for running the Unit of Breeding and selling of collaborated race horses for racing purpose, for which LT- Category-II is applicable to the subject Service Connection. Respondent No.2 issued notice on 15.07.2023 to the appellant mentioning about the inspection of the premises of the appellant on 07.07.2023 and requesting the appellant to furnish the documents in support of the billing of the subject Service Connection under Category-III. The appellant has responded to the said notice.

17. Basing on inspection of the premises of the appellant on 07.07.2023 by the DPE-Wing of the respondents, after issuing initial notice, obtaining

response from the appellant, respondent No.2 has issued the back billing notice dated 31.07.2023 demanding Rs.18,33,162/- with GST for a period of 7 years. This is the reason for the present dispute. At this stage it is necessary to refer to Clause 3.4.1 of the General Terms and Conditions of Supply(in short "GTCS")

" 3.4.1: Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/ purpose of usage of the premises without prior intimation to the Designated Officer of the Company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The Company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if necessary even with retrospective effect, the assessment shall be made for the entire period during which such reclassification is needed, however, the period during which such reclassification is needed cannot be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection"

This Clause of GTCS makes it quite clear that if the respondents want to change a particular Category of any consumer on the ground that the earlier Category was not correct, the respondents have to issue initial notice to that effect calling for the objection of the consumer. Thereafter they have to change the Category and back-bill the Service Connection. In the present case it is admitted that the respondents have issued a notice initially and the appellant has also responded to such notice. The respondents finally issued the notice dated 31.07.2023 changing the Category of the subject Service Connection from Category-III to Category-II and back-billing the subject

Service Connection from 20.10.2016 to 07.07.2023 claiming Rs.18,33,280/- including GST of Rs. 118/-.

18. In the present case as stated above the subject Service Connection was released to the appellant under Category-II initially, later it was changed to Category -III during the year 2016. The appellant had been paying the electricity bills under the said Category regularly. There was an inspection on 07.07.2023 by the DPE-Wing of the respondents. The respondents after issuing the initial notice and after obtaining reply of the appellant issued the back billing notice dated 31.07.2023. The reason stated by the respondents for changing Category is that the appellant was running the Breeding of Thoroughbred Horses. This aspect is not in the Category-III, therefore it was concluded that Category of the appellant is Category-II. The reason given by the respondents for back billing for such a long period is that there was a mistake in changing the Category on 18.10.2016 from Category-II. If reality the change of Category in 2016 was by mistake the respondents ought to have rectified it while issuing the monthly bills by the officers concerned during the periodical inspection of MRT wing and corrected the said mistake immediately with-in (3) years. That was not done, Therefore it cannot be accepted that there was any mistake on the part of the respondents in changing the Category and issuing backbilling notice dated 31.07.2023, but it is some sort of negligence.

Limitation

19. Under the general law of limitation under the Limitation Act 1963, in the present case the respondents are not entitled to recover the arrears of back billing for a period exceeding (3) years preceding the date of inspection. Accordingly I hold that the appellant is entitled for waving the back billing amount exceeding (3) years preceding the date of inspection and the Award of the learned Forum is liable to be set-aside to that extent. These points are decided partly in favour of the appellant and partly in favour of the respondents.

POINT No. (iii)

20. In view of the findings on point Nos. (i) and (ii), the appeal is liable to be allowed in part to the extent indicated above.

RESULT

21. In the result, the appeal is allowed in part and the impugned Award of the learned Forum is set aside to the extent of back-billing beyond the period of (3) years from the date of inspection. The respondents are permitted to back bill the Service Connection for (3) years preceding the date of inspection on 07.07.2023. After the amount is revised, since the appellant has already paid Rs.6,00,000/- (Rupees six lakhs only) the appellant is directed to

pay the balance amount in (3) monthly instalments commencing from March 2024. Thereafter the respondents shall file compliance report.

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 2nd day of February 2024.

Sd/-

Vidyut Ombudsman

1. M/s. Pratap Raceciment Pvt.Ltd., represented by Miss Dodla Shriya Reddy (Director), d/o. Dodla Pratap Chander Reddy, #8-2-573, Road No.7, Banjara Hills, Hyderabad - 500 034. Cell: 9000444556.
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8. The Divisional Engineer /DPE/Vikarabad Circle/TSSPDCL/Vikarabad Circle.

Copy to

9. The Chairperson, Consumer Grievances Redressal Forum of TSSPDCL- Greater Hyderabad Area, Door No.8-3-167/E/1, Central Power Training Institute (CPTI) Premises, TSSPDCL, GTS Colony, Vengal Rao Nagar, Erragadda, Hyderabad - 45.