



VIDYUT OMBUDSMAN FOR THE STATE OF TELANGANA

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

:: Present:: R. DAMODAR

Saturday, the Second Day of January 2016

Appeal No. 77 of 2015

Preferred against Order Dt. 22-07-2015 of CGRF In

CG.No: 315/2015 of Warangal Circle

Between

Sri .D Salman, S/o.Ratnam, H-no, 2-146, Desaipet, Warangal-Dist
C.No 9912332826.

... Appellant

AND

1. The AE/Dist/ Desaipet/9491058647.
2. The ADE/Dist/Mulugu road-9491061735.
3. The AAO/ERO/Town /Warangal-9440811279.
4. The DE/OP/Warangal-9440811313.

... Respondents

The above appeal filed on 29.10.2015 coming up for hearing before the Vidyut Ombudsman, Telangana State on 10.12.2015 at Hyderabad in the presence of Sri. D. Salman - Appellant and Sri. Sridhar - AE/Distribution/Desaipet, Sri. T. Anil Kumar - AAO/ERO/Town/Warangal, Sri. P. Tirupati - ADE/Distribution/Mulugu Road for the Respondents and having considered the record and submissions of both the parties, the Vidyut Ombudsman passed the following;

AWARD

The Appellant has Service Connection No 1515- 07935 category I at Desaipet, Warangal. The category of the Service Connection of the Appellant was changed from I to II in the month of November, 2010 and back billing was resorted to. The

Appellant, aggrieved by the change of category and also issue of back billing, preferred a complaint before CGRF. The Respondents claimed before the CGRF that the Appellant had the connected load of 1230 watts out of which, he was using 1190 watts for domestic and 40 watts (1 tube light) for non- domestic purpose and therefore, they claimed that the category of the service connection was changed from Category I to category II and that the Appellant paid the malpractice amount.

2. The Respondents further claimed that the Appellant failed to pay CC bills regularly and therefore, the arrears got accumulated.

3. During the hearing before the CGRF, the Appellant was advised to take one more Service Connection under category I for domestic purpose and use the existing service for non domestic purpose.

4. The CGRF scrutinised the statement of (DCB) of Service Connection in question and found no abnormality in billing. The CGRF also found the check reading as in order and therefore, opined that the bills raised by the Respondents under the category II as sustainable.

5. The CGRF on finding huge arrears to the Service Connection informed the Appellant to pay the dues in instalments as declared by the Respondents and advised the Appellant to take a new Service Connection under category I for domestic purpose. The CGRF further directed the Respondent No.4 to arrange comfortable installments to the Appellant and disposed of the complaint through the impugned orders.

6. Having aggrieved and not satisfied with the impugned orders, the Appellant preferred the present Appeal claiming that he was not in a position to pay the arrears with huge interest and that for the total arrears of Rs 1,35,891/-, he paid only Rs 30,000/- by borrowing the amount. The Appellant further claimed that the AE and the lineman were threatening to disconnect power supply unless he clears the dues.

7. The 3rd respondent, through a written submission claimed that the service was inspected by the 2nd Respondent - ADE who found that the supply was being used for non domestic and domestic purpose and booked a malpractice case and that the Appellant paid the malpractice charges of Rs 6,202/- on 20th April, 2012.

He claimed that on receipt of the final assessment, the difference amount was adjusted to current energy charges.

8. The Efforts at mediation could not succeed, because the Appellant was pleading that the Category of Service Connection may be changed from category II to I and this was not acceded to by the Respondents. Hence the matter is being disposed of on merits.

9. Arguments heard

10. The points for determination are :-

1. Whether the Appellant is entitled to get the category of service changed from category II (commercial) to I (Domestic) for his Service Connection No 15150- 07935?
2. Whether the Appellant is entitled to remission of delayed payment surcharge over the amounts due?
3. Whether the impugned orders are liable to be set aside?

Issues 1 & 2

The Appellant is aggrieved that his domestic connection category was changed from I (Domestic) to II (Commercial) and that only one tube light was being used in the petty shop in his house and imposing heavy financial burden on him is totally unjustified and requested for total exemption of delay payment surcharge and restoration of consumer category to I to his service connection.

11. The Tariff order 2014-2015, in the case of unauthorised use of power, provides guidelines to the DISCOMS to apply for the collection of Tariff.

Clause 1.1.2 of Tariff Order 2014-2015 is Applicable to the present matter and it says:

Clause 1(a). If electricity supplied in domestic premises is required to be used for non domestic or commercial purpose, a separate connection should be taken for such loads under LT category-II, filing which the entire supply shall be charged under LT category-II Tariff, apart from liability for penal charges as per the terms & conditions of the supply.

12. **Regarding the back billing, Clause 9.3.2.9 of GTCS is applicable which restricts the assessments for the cases under unauthorised use of electricity to 3 months in case of domestic & Agriculture consumers.**

13. **Clause 9.3.2.11 of GTCS is applicable for cases involving unauthorised extension of supply to higher category usage where the clause contemplates that the assessment shall be in proportion to its use in that category and shall be charged at 1.5 times the Tariff applicable.**

14. The record shows that the Period of Assessment was taken as 6 months in the final Assessment

15. **The provisional assessment Dt. 7-10-2010 made by the ADE(R2) discloses the following particulars regarding the service connection of the Appellant.**

- (a) period of Assessment = 6 months.
- (b) connected load =720 watts.
- (c) No.of units recorded = 1235 units.
- (d) No.of units (Unauthorised usage) =1235 units.
- (e) Amount of on unauthorised usage = Rs 3402 .
- (f) Development charges = Rs 2000/-
- (g) security deposit = Rs 800/-
- (h) Supervision charges = Rs 150.
- (i) Total Amount = Rs 6352.

16. **The Final Assessment order Dt. 15-12-2012 of the 4th Respondent discloses the following:**

- (a) Period of Assessment = 6 months.
- (b) Recorded consumption = 1235 units.
- (c) Total connected load = 720 Watts(cat-I 490 w +cat-II 230 w)
- (d) Unauthorised units and amount = 300 (230(commerical)/ 720(total load))
 $(2 \times 3.85 - 1.45) + 300(230/720) (2 \times 6.20 - 2.80) + 600 (230/720) (2 \times 6.50 - 3.05) + 35(230/720) (2 \times 6.50 - 4.75) = 3518$
Total amount = Rs 3,518/-.
- (e) Development charges- Nil
- (f) Security deposit- Nil

17. A perusal of the procedure prescribed in the GTCS as applicable to the present case discovered in the inspection of the service on 19-8-2010 at 10.30 AM by the ADE (R2) shows that the Respondents have not assessed the dues correctly and ignored the guide lines to a considerable extent as the following would show:

(a) As per the guidelines for the assessment of cases of unauthorised use of electricity, Under Annexure XII (VII) (A) of GTCS, the special rate applicable is 1.5 times of the Tariff for the category for which the supply is sanctioned. The final assessment in this case was done taking 2 times the Tariff. This shall be revised and reduced as per the guidelines of the GTCS from 2 times to 1.5 times the Tariff.

(b) The billing category of the service consumption was utilised in the present case for the purpose other than the sanctioned i.e commercial. The Clause 9.3.2.9 of GTCS restricts the domestic consumers ((since the load is mixed and the domestic load is more than 50% of commercial load i.e. 490 W - domestic & 230 W commercial(taken from the final assessment)) for 3 months retrospective billing under the commercial tariff.

18. By applying the above two clause of GTCS, the assessment is revised as follows:

- (i) The Period of Assessment = 3 months.
- (ii) The Recorded consumption = 635 units.
- (iii) The Total connected load = 720 W (cat-I = 490 W & cat-II=230W)
- (iv) The Units assessed under unauthorised usage
 - 1st slab = $300(230(\text{Commercial})/720(\text{total commercial \& domestic})(1.5 \times (3.85 - 1.45)) +$
 - 2nd slab = $300(230/720)(1.5 \times (6.20 - 2.80)) +$
 - 3rd slab = $53(230/720)(1.5 \times (6.50 - 3.05)) = 95.84 \times 36 + 95.84 \times 5.1 + 16.93 \times 5.175 = 345.02 + 488.78 + 87.61 = 921.41 = \text{Rs } 922/-$

The Total Assessment amount in the present case would be Rs 922/- only.

19. In view of the above final assessment based on the relevant clauses of GTCS, the final assessment amount shall be revised from Rs 3518 to Rs 922. The late payment surcharges accordingly shall be revised w.e.f 15-12-2012 (final assessment

date) on Rs 922/- only and on the total amount so arrived at, the Appellant is found entitled to 12 equal instalments in paying the dues to the DISCOM as permitted under Clause 4.6.1 of Regulation 5/2004 as amended by the regulation 6/2013.

20. The Appellant, in view of the reason supra, is found not entitled to get the Service Connection No. 1515 07935 changed to category I.

21. Both the issues are answered accordingly.

22. Issue No.3: The impugned orders which lack clarity on the assessment amount, lack of focus on the clauses of GTCS and lack of reasons, is found unsustainable to the extent indicated above. The Appeal is allowed to the extent indicated in paras 19 and 20 of this Award.

23. This award shall be implemented within 15 days of the receipt of the Award at the risk of penalties as indicated in clauses 3.38, 3.39, 3.42 of the Regulation No. 3/2015 of TSERC.

TYPED BY CCO, Corrected, Signed and Pronounced by me on this the 2nd day of January, 2016.

Sd/-

VIDYUT OMBUDSMAN

1. Sri .D Salman, S/o.Ratnam, H-no, 2-146, Desaipet, Warangal-Dist.
2. The AE/Dist/ Desaipet/9491058647.
3. The ADE/Dist/Mulugu road-9491061735.
4. The AAO/ERO/town /Warangal-9440811279.
5. The DE/OP/Warangal-9440811313.

Copy to:

6. The Chairperson, CGRF, Vidyut Bhavan, Nakkalagutta, Hanamkonda, Warangal
7. The Secretary, TSERC, 5th Floor, Singareni Bhavan, Red Hills,Hyderabad.

