

STATE ELECTRICITY OMBUDSMAN

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REPRESENTATION No: P 55/09

Appellant : Sri P.K.Viswanathan

S/o Kammaran Nambiar Pothera House,
KARTHIKAPURAM (Po) Alakopde Village,
Thalipparamba Taluk, Kannur Dt

Respondent: Kerala State Electricity Board

Represented by

The Assistant Executive Engineer
Electrical Sub Division THALIPPARAMBA
Kannur Dt

ORDER

Sri P.K.Viswanathan S/o Kammaran Nambiar, Pothera House,
KARTHIKAPURAM submitted a representation on 24.2.2009 seeking the following relief :

To declare that the Agricultural Service connection number 3512 under Alakode Section is eligible for concessions from Agricultural Department, not liable to pay any current charges, the disconnection of the service was illegal, to order re-connection of the service, to declare that collection of arrears from the Appellant is illegal and to set aside the order dated 30.12.2008 of CGRF Kozhikode.

Counter statements of the Respondent was obtained and hearing of both the parties conducted on 8.7.2009 .

The Appellant had an electric connection of 1HP single phase for agricultural purpose and the date of connection was 20.1.1993. He had not paid current charges from June 1993 onwards. The service was disconnected in October 2007 and dismantled on 10.3.2008. The Respondent had initiated Revenue Recovery action to realize the arrears as per the details given below:

CC from 6/93 to 3/2008 : Rs 4835/-

Less CD adjusted : Rs 100/-

Balance Rs 4735/-

Interest upto 8/2008 : Rs 8551/-

Cost of Meter : RS 588/-

TOTAL Rs 13874/-

The Appellant has raised dispute against this and approached CGRF .The forum upheld the arrear assessment .The representation with the pleas noted above is submitted to the under signed in the above back ground.

The contentions/arguments/points raised by the Appellant in the representation and during the hearing are summarized below:

The Appellant did not pay current charges from 1993 on knowing that agricultural connections are exempted from paying charges through News Papers.

The service connection was exempted from payment of current charges as his name is included in the list of exempted consumers under Krishi Bhavan Udayagiri. Hence he is not liable to pay any current charges. The dismantling of the connection was illegal.

The Appellant was made ware of the fact that current charges are to be paid by him only when he received a spot bill in 2001.Information from KSEB that current charges are in arrears was known to him after 169 months (14 Years) from the date of connection and the connection was disconnected only in 10/2007. If the KSEB had taken proper action to disconnect the service immediately on default he would have paid the current charges in time.

KSEB is not empowered to realize arrears after 6 months of default as per the Act and Rules.

KSEB cannot realize arrears for more than 2 years as per Section 56(2) of Electricity Act 2003 and Section 18(8) of the Supply Code since the arrears are not added on to normal bills as per the provisions of the Act and Codes.

The contentions/arguments/points raised by the Respondent in the counterstatement and during the hearing are summarized below:

Being aware of outstanding arrears, the petitioner had approached Hon:High Court with OP 5493/2001 contending that being agricultural connection he is eligible for exemptions and against collecting current charges from him .As per directions of the Hon:High Court dated 19.09.2002 a report was obtained from the Agricultural Department on 30.11.2002 The Agricultural Officer had reported that free electricity for all crops were started from 1.4.1997 only. The Appellant had not applied for concessions against consumer number 3512. Hence it was clear that the consumer number 3512 was not eligible for free electricity.

The matter was informed to the Appellant by registered letter with acknowledgement on 10.12.2002 and he was informed that he shall not be exempted from payment of current charges towards consumer number 3512.

It is true that steps for disconnecting the service was not taken earlier since the agricultural consumers in general were not disconnected as far as possible.

Discussion and Findings:

A consumer can not assume that he is exempted from paying charges based on News paper reports alone .The Appellant contention that he did not pay current charges on the presumption that he was exempted from payment of current charges can not be approved. A consumer has the primary duty to pay the charges when ever he is utilizing any service from a public utility. KSEB's failure to take prompt action to realize the charges could never be accepted as an excuse for non paying charges.

In spite of all the claims that name of Sri Viswanathan appear in some lists of exempted consumers agricultural department, the Appellant could not produce any clear document to prove that the consumer number 3512 of Sri Viswanathan has been exempted from payment of current charges .The Agricultural Officer has un-equivocally stated that the consumer number 3512 had not been included in the list of exempted consumers. Hence the claim of the consumer that his service number 3512 had been exempted from payment is totally un-acceptable.

The Appellant contents that he was aware of outstanding arrears only by 2001 when the spot bill system was introduced and a spot bill was issued to him .When the KSEB intimated the outstanding arrears to him he moved the Hon:High Court pleading that he is eligible for exemptions. But the verification of records and the report of the Agricultural Officer did not favor his contention. It is also seen that he could not produce appropriate records of ownership of land for making him eligible for exemptions.

As such the Appellant can not claim exemption from payment of current charges on any grounds.

Since the arrears are predominantly pertaining to the periods prior to the Electricity Act 2003 and the Supply Code made effective from March 2005, the contentions of the Appellant against demand for arrears based on Section 56(2) etc are not relevant. More over the various appellate court judgments on the matter had upheld the right of the Licensees to recover legitimate and genuine arrears from the consumers.

Hence I conclude and decide that the Appellant is liable to pay current charges from the date of default in 1993 onwards and the action of KSEB in disconnecting and dismantling the service is correct.

Orders:

Under the circum stances explained above and after carefully examining all the evidences, arguments and points furnished by the Appellant and Respondent on the matter, the representation is disposed off with the following orders:

1. *The pleadings made by the Appellant are devoid of merits and hence the representation is dismissed.*
2. *The Respondent shall be free to recover the arrears as per rules in force.*
3. *No order on costs.*

Dated this the 14th day of July 2009 ,

P.PARAMESWARAN
Electricity Ombudsman

No P 55/09 / 289 / dated 17.7.2009

- Forwarded to: 1. Sri P.K.Viswanathan
S/o Kammaran Nambiar Pothera House,
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2. The Assistant Executive Engineer
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Copy to :

1. The Secretary,
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2. The Secretary ,KSE Board,
VaidyuthiBhavanam ,Thiruvananthapuram 695004
3. The Chairman , CGRF,KSE Board ,
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