

**THE STATE ELECTRICITY OMBUDSMAN**

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APPEAL PETITION NO. P/058/2016

(Present: V.V. Sathyarajan)

Dated: 2017

Review Appellant : Sri. C.P. Paul  
Proprietor, Paulson Park Hotel,  
Carrier Station Road,  
Ernakulam

Review Respondent : The Assistant Executive Engineer,  
KSE Board Limited,  
Electrical Sub Division, College,  
Ernakulam.  
Kottayam.

**ORDER**

The appellant is running a hotel in the name and style 'Paulson Park Hotel' having consumer number 5481 under the jurisdiction of College section, Ernakulam. On 05-09-2001, the appellant had submitted an application before the Assistant Executive Engineer, College Sub Division, Ernakulam for conversion of existing LT service connection to HT, after remitting the required application fee and after complying with all necessary formalities. The appellant had executed an OYEC agreement with the AEE for the HT supply on 03-05-2002 and remitted an amount of Rs. 2,84,400.00 towards cash deposit for power allocation to the extent of 180 kVA with a contract demand of 150 KVA as per the application submitted for HT supply. The grievance of the appellant is that the inordinate delay to provide HT service connection had resulted in bringing to a halt of functioning of the hotel, which consequently resulted in default in payment of electricity charges and subsequently dismantlement of connection.

The appellant approached the CGRF requesting to treat him as a deemed HT consumer with effect from 05-09-2001 till dismantling of the service and further claiming a sum of Rs. 1,63,71,357.00 towards loss and damages suffered by the appellant on account of non conversion of the LT connection to HT. The CGRF dismissed the petition as it is found no merit in the contentions

of the appellant; vide order no. 30/2006-07 dated 10-12-2007. Aggrieved by the order passed by the CGRF the appellant filed appeal petition before this Authority which was disposed of by ordering that the billing done from August 2003 has to be revised at HT treating the appellant as a deemed HT consumer and no other reliefs, vide order No. 02/2008 of 14-3-2008. The KSEB filed WP (C) 20445/2008 before the Hon'ble High Court challenging the findings rendered by the Ombudsman directing to treat the consumer as deemed HT from August 2003 onwards. On the other hand, the appellant also filed WP (C) 26745/2008 challenging orders passed by the CGRF as well as Ombudsman declining to grant the amount of compensation claimed. The Hon'ble High Court of Kerala in the common judgment dated 27-11-2013 in WP (C) Nos. 20445 and 26745 of 2008 have directed this Authority to dispose of Appeal Petition No P/002/2008 afresh within 3 months of receipt of a copy of the judgment, after affording fresh opportunity of personal hearing to the parties concerned. Accordingly the appeal petition was disposed of by ordering that "In view of the discussions it is decided that the appellant is eligible for deemed HT consumer with effect from 08-02-2003 to the date of dismantling of service i.e. 16-05-2006. It is also made clear that the appellant is entitled for refund of the amount deposited for effecting the conversion from LT to HT with interest at bank rate as on the date of remittance of amount. The question of compensation of Rs. 1,63,71,367.00 claimed by the appellant, this Authority is not empowered to take a decision as to the right of the appellant to claim compensation and to decide the amount of damage sustained by the appellant in this regard. That question is left open. The appellant is at liberty to approach the appropriate Forum for the damages if he so desires", vide order no. P/058/2016 dated 31<sup>st</sup> January 2017. Still aggrieved by the decision, the review appellant has submitted this review petition with a plea to provide HT supply to the appellant and to issue orders.

The review appellant submitted that on 10-01-2017, when the matter came up for hearing, the respondent suggested a proposal and estimate for providing HT supply to the appellant, as directed by the Hon'ble Ombudsman. Since the proposal submitted by the respondent would involve huge amount as investment, the appellant had submitted an alternative proposal minimising the expenses and a sketch was also enclosed.

In the order sought to be reviewed, steps taken by the appellant and respondent as per the direction of the Hon'ble Ombudsman to give supply to the appellant have not been considered. It is submitted that in view of the investment made by the appellant to facilitate conversion of supply from LT to HT, the Hon'ble Ombudsman ought to have directed the respondent to effect the conversion of supply for which all the procedural and technical formalities have been complied with by the appellant. The appellant is entitled to the said relief and hence this review petition is filed seeking a direction to the respondent to provide HT supply to the appellant forthwith.

According to the respondent, the proposal of the review Petitioner is not technically feasible that the Appeal was not filed for getting the HT connection but for getting back payment made for getting conversion to HT and for compensation. The review petition is filed for a prayer to consider a new proposal for effecting HT supply. A review petition is admissible for a reason if there is apparent error in the facts considered or when a fact which was not available at the time of the original matter was under consideration which is found later. The new proposal will not qualify any of the criteria necessary for a review Petition.

Hearing of the case was conducted on 17-03-2017 in my chamber at Edappally, Kochi. Sri C.P. Paul and Sri R. Sudhir, advocate represented for the review appellants side, and Sri Sheriff, Executive Engineer, Electrical Division, Ernakulam and Sri Emerson Assistant Executive Engineer, Electrical Sub Division, College, Ernakulam appeared for the review respondent and they argued the case on the above mentioned lines. On perusing the review petition, the statement of facts filed by the review respondent, the arguments of both sides in hearing and considering all the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions thereof.

In the review petition nothing is pointed out which escaped the notice of this Authority while disposing the appeal petition. The review jurisdiction is limited to rectify a mistake or an error which is apparent on the face of records and it cannot be used as appellate jurisdiction. The Hon'ble High Court in the common judgment dated 27-11-2013 in WP (C) Nos. 20445 and 26745 of 2008 have directed this Authority only to dispose of Appeal Petition No. P/002/2008 afresh. Hence this Authority has considered the reliefs requested in the original appeal filed by the appellant in P/002/2008 and disposed of the case accordingly. Now the review petition is filed for a prayer to consider a new proposal for effecting HT supply which was not a prayer in Appeal P/002/2008 filed by the appellant. Hence there is no cause or sufficient reason established by the review appellant, for the review of the order already issued.