

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/075/2017
(Present: A.S. Dasappan)
Dated: 23rd October 2017

Appellant : Smt. Remadevi P.,
Thundathil Illom,
Nechipuzhoor P.O., Pala,
Kottayam

Respondent : Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Ramapuram,
Kottayam

ORDER

Background of the case:

The electric service connection, consumer No.14798, under Ramapuram Electrical Section, stands in the name of Sri. Vasudevan Namboodiri. The service connection is under LT IA domestic tariff and the connected load is 4066 watts. A provisional short assessment bill for Rs.18361/- was issued to the appellant on 06-10-2012, reassessing her, for the door locked period of 06/2012 to 10/2012. Aggrieved against the impugned bill, the appellant filed a complaint before the CGRF, Kottarakkara on 07-01-2016. The Forum dismissed the petition due to lack of merit. Not satisfied with the decision of CGRF, vide OP No. 344/2017 dated 02/05/2017, the appellant has submitted the Appeal petition before this Authority.

Arguments of the appellant:

The appellant has raised the following arguments in his petition filed before this Forum.

The appellant in this petition is the wife of the registered consumer Sri. Vasudevan Namboodiri who expired on 26-06-2016. The cause of the petition is the short assessment bill dated 06-10-2012 amounting to Rs. 18,361/- issued to the consumer number 14798 under the domestic tariff. The appellant and her husband were being residing in the house during these years and the bimonthly electricity charges never exceeded Rs. 1,000/-. According to the appellant, the order of the CGRF is wrong, contrary to law and opposed to the facts of the case. The CGRF is erred in dismissing the complaint without appreciating the evidence in the case. The CGRF has not considered the fact that the energy meter was faulty as per the bills issued before 06-10-2012 and the short assessment bill was issued based on such a wrong reading. The respondent inspected and checked the meter for the name sake and mechanically reported that the said meter is working properly and without applying the reasonable mind. The contention of the appellant is that the consumption for the period 8/12 was 130 units & N/V was shown for the period 04/2012 notwithstanding the fact that the usage of energy is not changed for the period in question. The respondent has not conducted a hearing on the objection raised on the provisional bill and issued a final bill as per the rules. The appellant was directed to remit the short assessment bill on 19-12-2015 i.e., after a period of 3 years without settling the dispute. The short assessment bill was issued on the ground of 'door lock', but there was reading taken by the meter reader on 08-08-2012. The appellant argued that there was no door lock situation in her house during these years.

Arguments of the Respondent: -

The respondent has filed the counter statement against the complaints contained in the Appeal Petition, stating that all the averments in the petition except which are admitted, are false and hence denied by him.

The respondent has raised an objection regarding the right of the appellant to submit this appeal petition as the appellant is not the registered consumer and not transferred connection in the name of the appellant. Another contention of the appellant is that the previous consumption pattern is not consistent and it varies the bimonthly usage of energy from 285 units to 404 units during the period from 08/2008 to 06/2012. The premises of the appellant was found door locked during the period from 17-06-2012 to 08-08-2012. According to the respondent, the initial reading of the appellant on 07-06-2012 was 5157 units and final reading as on 06-10-2012 was 7896 units and hence the consumption was 2739 units. So the appellant was issued a short assessment bill amounting to Rs. 18,361/- after deducting the bills issued on the basis of average consumption. On getting a complaint regarding the short assessment bill, a parallel meter was installed in the premises and

confirmed no defects in the meter. The subsequent bills were issued showing the disputed amount as arrears. The appellant was given all the chances to test the meter in an approved lab, but the consumer had not taken any action to test the meter by remitting the required fees.

The KSE Board has acted as per existing regulations, in issuing the short assessment bill to the consumer. The demand becomes due only when it is raised. This demand has been continuously shown in subsequent bills. The demand raised is as per rules.

Analysis and Findings: -

The hearing of the case was conducted on 22-08-2017, in my chamber at Edappally and Smt. Vrinda V. Chandra represented the appellant's side and Mr. Rajmohan, Assistant Executive Engineer, Electrical Sub Division, Ramapuram, represented the respondent's side. On perusing the Appeal Petition, the counter of the Respondent, the documents submitted, arguments during the hearing and considering the facts and circumstances of the case, this Authority comes to the following findings and conclusions leading to the decisions there of.

The respondent has challenged the maintainability of the petition stating that the complainant has no manner of rights to file above complaint before the Ombudsman, as the appellant is not a consumer of electricity. One of the main arguments of the respondent is that the appellant is not the registered consumer and stranger to the respondent. It is pertinent to note the appellant is the present occupier of the premises and the legal heir of the registered owner. As per Regulation 2.1 (e) of Kerala State Regulatory Commission (CGRF and Electricity Ombudsman) Regulations, 2005, a complainant is defined as any consumer of electricity supplied by the licensee including applicants for new connections;

1. a voluntary electricity consumer association/forum or other body corporate or group of electricity consumers;
2. the Central Government or State Government - who or which makes the complaint
3. in case of death of a consumer, his legal heirs or representatives

In the Act a consumer is defined as "any person who is supplied with electricity for his own use by a licensee or the government or by any other person engaged in the business of supplying electricity to the public under this

Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of the licensee, the government or such other person, as the case may be". Considering the above definition it is clear that petitioner is a consumer. In this case, the appellant is occupying the building is a fact. These points establish that the appellant's claim as a consumer of electricity. Hence, the argument of the respondent that the appellant is not a 'consumer' is found as not sustainable.

The important point to be decided is whether the Energy meter provided to the consumer was faulty during the period and whether the consumption of 2739 units recorded in it during that period is genuine or actually consumed by the consumer. It is noted that the disputed energy meter of the appellant was tested, at the consumer's premises, by installing a good energy meter (Check meter) in tandem with the existing meter; so that both meters carry the same electric current and will measure the same energy, consumed by the party. The test so conducted at the site shows that the two meters are recording exactly the same quantum of energy consumption. This fact shows that the meter is working in good condition. But the consumer has disputed the 'test' done by the KSEB. The respondent has not furnished the details of test like period and consumption shown in both meters.

The Installation of a Good meter (Check meter), in tandem to existing (disputed) meter to verify the accuracy of the Meter is justifiable as per clause 42(3) in KSEBoard Terms and Conditions of Supply. The test being done on the consumer's premises and in his presence is more convincing than any other documentary evidence and would help the appellant to clear his doubts on the existing meter. However, in this case the test done by KSEB, did not convince the appellant, may be due to, carrying out the test by KSEB without insisting the presence of the consumer and preparation of a mahazar on the 'test' done. When the test is undertaken by KSEB on the consumer's meter, it is the best practice to prepare a mahazar, in the presence of the petitioner or his representative, recording the facts of, Check meter installed, the details of both meters with their seals, recording their initial reading etc on the first day and got it witnessed and then leave both meters in service for one week time, for joint working. Similarly, after informing the consumer, a final recording of meter readings in his presence, would have cleared the doubts and the said mahazar so prepared will surely be a valid document before any legal Forum. The KSEB should have prepared a mahazar on the Test undertaken by it, in the consumer's or his representative's presence. But the respondent failed to do so and the consumer has raised the allegation that the testing was not done properly and the matter remains unsettled.

A verification of the energy consumption details of the consumer, furnished by the respondent shows that the energy consumption pattern was not varies considerably, at least from 10/2010 onwards. The energy

consumption was recorded as 404 in 10/2010, 390 in 01/2011, 337 in 08/2011 and it was 350 units in 06/14. Hence the energy consumption for the three bi-months 07-06-2012 to 06-10-2012 for 2739 units is found not in consistent with the above pattern of consumption. The appellant's energy consumption in 6/2012 was 635 units and had no dispute over this quantum of energy usage and readily paid the electricity charges for the same.

It is revealed that the respondent has not issued a final bill after conducting a hearing on the objection filed by the appellant. The consumption details are furnished below.

12-04-2012 IR	-	4583 FR	-	N/V
08-08-2012 IR	-	5157 FR	-	130
06-10-2012 IR	-	5157 FR	-	7896
08-02-2013 IR	-	8037 FR	-	8270

As per the bill dated 12-04-2012, the present reading was shown as 'N/V' and previous reading was 4583, and for the bill dated 08-08-2012, present reading was shown as 130 units and previous reading was 5157 units. The respondent has failed to give any convincing reason for the reading of 130 units on 08-08-2012, although he has admitted that the meter was not faulty.

Accepting the argument of the appellant that "the usage of energy has not changed during the period and the working of the meter is suspicious, I find it proper to fix the average energy use of consumption of the consumer for the period of 06/2012 to 10/2012 based on the previous six months average consumption. Hence the disputed bill dated 06-10-2012 for Rs. 18,361/- (for 2739 units) stands cancelled and the respondent is ordered to revise the bill of the consumer, pertaining to the three bi-months of 06/2012, 08/2012 and 10/2012, at the average energy consumption of previous six months, after deducting the amounts if any, paid by the appellant for the above period.

Decision

In view of the above discussions, the issuance of demand for an amount of Rs. 18,361.00 towards the short assessment issued to the appellant is not sustainable and is hereby quashed.

The respondent is directed to revise the bimonthly bill for 06/12, 08/2012 and 10/2012 based on the average energy consumption of previous six months and issue the bill after deducting the amounts if any, paid by the appellant for the above period. This shall be done at any rate within 15 days from the date of receipt of this order. No interest is payable by the consumer up

to the due date of the revised bill as ordered now. The order of CGRF OP No. 344/2017 dated 02-05-2017 is set aside. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/075/2017/ _____ /Dated: _____

Delivered to:

1. Smt. Remadevi P., Thundathil Illom, Nechipuzhoor P.O., Pala, Kottayam.
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Ramapuram, Kottayam.

Copy to:

1. The Secretary, Kerala State Electricity Regulatory Commission, KPFC Bhavanam, Vellayambalam, Thiruvananthapuram-10.
2. The Secretary, KSE Board Limited, Vydhyuthibhavanam, Pattom, Thiruvananthapuram-4.
3. The Chairperson, Consumer Grievance Redressal Forum, Vydhyuthibhavanam, KSE Board Ltd, Kottarakkara - 691 506.