

THE STATE ELECTRICITY OMBUDSMAN
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APPEAL PETITION No. P/086/2019
(Present: A.S. Dasappan)
Dated: 27th December 2019

Appellant : Sri. T.R. David
TC 34-671-1, G.V. Raja Road,
Beach P.O.,
Thiruvananthapuram

Respondent : The Assistant Executive Engineer,
Electrical Sub Division,
KSE Board Ltd, Beach,
Thiruvananthapuram

ORDER

Background of the case:

The appellant is provided with electrical connection bearing consumer No. 11415131016291 in the name of Sri. T.R. David, under Electrical Section, Beach, Thiruvananthapuram in domestic (1A) tariff. On 11-12-2015 the single-phase service connection was converted to three phase. The appellant was issued a short assessment bill amounting to Rs.11,556/- based on the average consumption after the replacement of the faulty energy meter. Since the appellant had not remitted the regular current charge bills, the connection was disconnected by the KSEBL. Aggrieved by this, the appellant filed a writ petition before the Hon'ble High Court of Kerala and as per direction of the Court, the service connection was resumed. The request of the appellant before the CGRF, Kottarakkara is that to cancel the short assessment bill for Rs. 11,556/- and to reimburse the amount of Rs. 25000/- he had expended towards the fees and charges of legal service or adjust the same in his future electricity bills. The Forum disposed of the petition vide order no. 69/2019 dated 24-09-2019 with the decision

1. Short assessment bill for Rs.11,556/- is quashed, stating that, this bill is unsustainable, since, the disputed meter was not tested to prove that, the meter was sluggish or faulty during the period 10/2010 to 08/2011.
2. The petitioner is liable to pay the regular electricity bills issued to him by the respondent.

Still not satisfied with the decision of the Forum, the appellant has filed the Appeal petition before this Authority on 13-11-2019.

Arguments of the appellant:

The brief of the appellant's contentions is the following.

The appellant is a US citizen and came to India sometime in April 2010 after buying a newly built house from the builder by the name Salim. He had taken out the electric connection at the request of the appellant in his name and the appellant is paying the bills as and when received.

The appellant had lodged complaint before the respondent regarding the huge amount of electricity bills issued to him. Pursuant to the complaint of the appellant, the disputed energy meter was replaced with a correct meter by the respondent. Thereafter the appellant was issued a short assessment bill amounting to Rs.11,556/- based on the average consumption after the replacement of the faulty energy meter. Since the appellant had not remitted the bills, the connection was disconnected by the KSEBL. Aggrieved by this, the appellant filed a writ petition before the Hon'ble High Court of Kerala and as per direction of the Court, the service connection was resumed. Later the existing connection was converted from single phase to three phase. Thereafter also, the amount of electricity bills is not reduced. The appellant had expended an amount of Rs. 25000/- towards the fees and charges of legal service in approaching the Hon'ble High Court of Kerala and requested to reimburse the amount or adjust the same in his future electricity bills.

Arguments of the respondent:

The meter of the appellant was faulty for the period from 10/2010 to 08/2011. Meter changed on 09/2011. After changing the meter, the consumption of the consumer is as follows

12/2011 - 1034 units
02/2012- 1292 units
04/2012- 1474 units

Average bimonthly consumption - 1267 units $((1034+1292+1474)1/3)$. The appellant was issued RAO inspection bill for meter faulty period short assessment, dated 28.04.2017 for Rs. 11,556/- for 2 billing cycle preceding the date of meter being found or reported defective. (Bill issued for 1267 x 2 Bills = 2534 units, amounting to Rs.11,726/- after deducting the paid amount of Rs.85.12. The balance amount to pay is Rs. 11,556/-). Since the consumer has not paid any bill after 24.04.2017, all the arrears outstanding if any will be accumulated and the amount becomes Rs.27885/- and the details are as follows.

This is the initial stage details.

RAO Inspection bill dated 28.04.2017 - Rs.11,556/-

Annual ACD dated 26.05.2017 - Rs.3,162/-

Regular CC bill dated 02.06.2017- Rs.14,589/- and S/C Rs.52/-.

Refund of security deposit interest dated 19.05.2017-Rs. 1474/-
Total Rs.27,885/- as on date 02.06.2017.

Energy consumption of the family is very high. Meter faulty short assessment is done as per clause 125 of Kerala Electricity Supply Code 2014. The consumer is using between 1500 and 1830 units in every bi-month and not paying any amount to KSEB for the last 2 years from 04/2017. Thereafter, i.e. after 24.4.2017, the consumer is not remitting any payments and the bill amount has got accrued to a bigger amount inclusive of the arrears so far.

Later, the consumer filed a petition before Hon'ble CDRF on 13.06.2017 and obtained an order dated 21.06.2017, a temporary injunction against disconnection of electricity till further orders. Direction was sought from Law Officer for vacating the Injunction and permission to disconnect the service connection for non-payment of regular current charges bill. As per the direction from the Law Officer vide letter under reference 3, disconnection notice was issued to the consumer. But the consumer in his reply dated 24.10.2018 stated the stay order is issued for indefinitely and mentioned that if proceeded ahead with disconnection of electrical services, that will tantamount to contempt of court and liable for all costs and expenses.

It was requested to take immediate necessary action, either to pronounce the final orders at an early date or to vacate the existing stay with immediate effect, so that. It is high time to proceed against the consumer for disconnection, vide this office letter of even no. dated 12.03-2019 to Law Officer.

The total amount to be paid as on date 11.04.2019.

Regular Current Charge Bill Amount pending from 06/2017 to 04/2019:
Rs. 182379 + Surcharge: Rs.31674. i.e. Total Due =Rs.214053/-
Excess Current charges = Rs. 11556/-
Annual ACD 05/18=Rs.3576/-

On getting direction from Board dated 22.03.2019, to effect disconnection in case of default of regular current charges (CC) bills, another D.C Notice was served by the Assistant Engineer. Electrical Section, Beach, dated 22.03.2019 and disconnected the service connection on 08.04.2019 after a notice period of 15 days.

The consumer filed WPC 11372 dated 09.04.2019 before Hon'ble High Court. As per the direction of the Court, to effect reconnection forthwith, reconnection was effected on 09.04.2019. Also, the Hon'ble Court directed the consumer to pay Rs. 1 lakh on or before 6.5.19 and monthly bill and check meter 2 or 3 times and file a report. One new 3 phase energy meter tested in TMR-Thirumala was installed in parallel with the existing meter on 20.04.2019. The Assistant Engineer, TMR has reported that the meter is in good condition. On payment of Rs. 1,00,000/- by the appellant on 28.04.2019, Rs. 89055/- including surcharge is outstanding against the consumer as on 04-05-2019. The appellant was allowed instalments to the balance amount, but the consumer did not turn up for instalment or payment.

The report of the condition of the meter was also submitted to Hon'ble High Court.

Later, vide interim order dated 21.05.2019 of Hon'ble High Court of Kerala to check whether there is any leakage in the internal system of the consumer by competent authority of KSEBL, measured the insulation resistance of the internal wiring by the Assistant Engineer and a site mahazar was prepared by the Sub Engineer, Electrical Section, Beach. When Insulation Resistance (IR) was measured to ascertain any leakage of current, the IR value measured is very healthy and conform to the standard value specified in Central Electricity Regulation on safety. (Chapter IV, clause 33 and sub clause (ii) of minimum 1 megohm). The report was submitted to the Hon. High Court.

It is mentioned by the appellant that the next-door person is paying only a fraction of what he is paying. Current charges are based on the actual consumption of the electricity by the consumer and the respective tariff. Here in this case, the total connected load is 19.354 kW, out of which 10 kW is unauthorized. So, it again attracts, penalisation as per Section 126. cl. v & vi of the Electricity Act 2003 for the unauthorized intentional use of electricity.

Total bills pending as on 08.07.2019 - Rs. 1,23,868/-. Normal surcharge for the belated payment of the above bills is to be generated along with the next regular bill after clearing the pending bills and this amount is subject to change depending on the date of clearing of pending bills.

Here in this case, the stay order made absolute by the Hon'ble CDRF is being used by the consumer to circumvent the facts with malafide intentions and to misuse the same as a curtain to commit offences like non-payment of regular current charge bills and to resist the disconnection of electricity stipulated under section 131 of Kerala Electricity Supply Code 2014.

Analysis and Findings: -

The Hearing of the case was conducted on 19-12-2019, in my chamber at Edappally. The appellant was absent and Smt. Sreekala B. Nair, Assistant Executive Engineer, Electrical Sub Division, Beach, Thiruvananthapuram, 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 appellant has not reported any inconvenience to attend the hearing and not requested for another hearing. As per the respondent, a case on the same subject matter is pending with CDRF. The appellant has remitted all the dues and remitting the usual energy bills and at present no arrears to be remitted. The appellant's request is to reimburse the amount he had expended towards the legal service charges in approaching the Hon. High Court of Kerala. Since there is a remedy available for the appellant to approach the CGRF directly and this Authority without incurring any cost, the appellant

had not utilized this facility as an initial measure. Further it is found that the disconnection was made after issuing proper notice and this was for non payment of regular current charges by the appellant. The request of the appellant for reimbursement of any amount expended by him for engaging advocates is not allowable and hence rejected. The appellant shall apply for regularization of the additional load connected in the premises and the respondent shall take proper action to regularize the same.

Decision:-

From the analysis done above and the conclusions arrived at, the appellant's plea to reimburse the amount expended as legal service charges is rejected and this Authority uphold the decision taken by the CGRF, Kottarakkara in OP No.69/2019 dated 24-09-2019.

The appeal is found devoid of any merits and hence dismissed. Having concluded and decided as above, it is ordered accordingly. No order on costs.

ELECTRICITY OMBUDSMAN

P/086/2019/_____ /Dated:_____

Delivered to:

1. Sri. T.R. David, TC 34-671-1, G.V. Raja Road, Beach P.O., Thiruvananthapuram
2. The Assistant Executive Engineer, Electrical Sub Division, KSE Board Ltd, Beach, Thiruvananthapuram

Copy to:

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