

## **THE ELECTRICITY OMBUDSMAN**

(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act of 2003)

**B-53, Paschimi Marg, Vasant Vihar, New Delhi-110057**

(Phone No.: 011-26144979)

### **Review Peetition in Appeal No. 04/2022**

(Against the CGRF-BRPL's order dated 29.11.2021 in CG. No. 125/2021)

#### **IN THE MATTER OF**

Smt. Karuna Sharma

Vs.

BSES Rajdhani Power Limited

Present:

Appellant: Shri Karn Kumar and Shri Ankit Agarwal, Advocates, on behalf of Smt. Karuna Sharma, Appellant

Respondent: Shri S Bhattacharjee, Sr. Manager, Ms. Ruchi Sardana, Sr. Manager, Ms. Rohini Singh, Manager, Shri Shiv Prasad, Asst.-I.T. and Shri Deepak Pathak, Advocate, on behalf of BRPL

Date of Hearing: 11.11.2022 and 07.12.2022

Date of Order: 08.12.2022

### **ORDER**

1. Smt. Karuna Sharma in her Appeal No. 04/2022 against the order of CGRF-BRPL dated 29.11.2022 in CG No. 125/2021, prayed before the Ombudsman for relase of new connection at her premises No. 20-B, Top Floor, Radha Apartments, Krishna Nagar, Safdarjung Enclave, New Delhi -110029,

2. The matter was heard on 05.08.2022 and in the order dated 10.08.2022, the Ombudsman issued the following directions to the Respondent:

- a. Refund the security deposit plus interest after settlement of all the dues payable to the Respondent.
- b. Refund the difference of the amount between domestic and non-domestic w.e.f. 13.02.2021 to 25.07.2021 when the meter was allegedly

stolen and a final bill was sent to the Appellant, after settlement of dues. The above amount may be refunded to the Appellant within next fifteen days of the issue of the order.

3. The Respondent, vide their communication dated 12.09.2022 has submitted a Review Petition against the order dated 10.08.2022 on the ground that since no security deposit was ever paid by the Appellant and there is no receipt for such deposit in the record, the question of reimbursement of the security deposit amount did not arise. A prayer was, therefore, made to admit the Review Petition and pass appropriate orders.

4. The Review Petition along with the submissions made by the Appellant have been carefully considered.

5. The power for review of its orders by the Ombudsman vests in regulation 33(1) of the DERC (Forum for Redressal of Grievances of the Consumer & Ombudsman) Regulations 2018, which reads as under:-

*"Any person aggrieved by an order of the Ombudsman, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent from the face of record, may apply for a review of such order, within 30 days of the date of the order, as the case may be to the Ombudsman."*


6. The Supreme Court of India, while considering the Power of Review under the Civil Procedure Code has in the case *Parsion Devi and Others v. Sumitri Devi and Others* [12 (1997) 8 SCC 715], .....observed as under:

*"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of this jurisdiction under Order 47 rule 1 CPC it is not permissible for an erroneous decision to be 'reheard and corrected'. A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise.'"*

7. During the hearing on 10.11.2022 as well as on 07.12.2022, the Appellant has not been unable to produce any record in respect of deposit of security amount of Rs.42,900/-. The Advocate for the Appellant relied upon the settlement at Rs.1.0 lakh before the Lok Adalat against the provisional assessment order for Rs.2,22,477/- for unauthorized use. This per se is not material since no security amount is either levied or mentioned in such settlement order.

8. Accordingly, for the reasons mentioned above in the present case, an error apparent on the face of record crept in. Since no security amount of Rs.42,900/- has been deposited by the Appellant and no receipt thereof is available on record, the order dated 10.08.2022 stands modified to the extent that no refund of the alleged security deposit amount of Rs.42,900/- needs to be made by the Respondent {(a) of the Ombudsman's order}.

9. With these observations, the Review Petition is disposed off.

  
(P.K. Bhardwaj)  
Electricity Ombudsman  
08.12.2022