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Office of Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
B-53, Paschimi Marg, Vasant Vihar, New Delhi – 110 057
(Phone No.: 32506011 Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2006/102

Appeal against Order dated 18.05.2006 passed by CGRF – BRPL on Complaint No.: CG/54/2006.

In the matter of:

Shri Yogesh Bihari Lal Gupta

- Appellant

Versus

M/s BSES Rajdhani Power Ltd

- Respondent

Present:-

Appellant

Shri Yogesh Bihari Lal Gupta along with his son
Shri Sanjay Gupta

Respondent

Shri Y.M. Saxena, Assistant General Manager (W)
Shri Sujay Chaturvedi, Business Manager, Janakpuri,
Shri Praveen Gupta, Section Officer, Accounts attended on
behalf of the Respondent Company.

Date of Hearing : 12.09.2006, 03.11.2006

Date of Order : 13.11.2006

ORDER NO. OMBUDSMAN/2006102

Appellant has filed this appeal against the CGRF order dated 18.5.2006. The main contentions / prayer of the Appellant are as under :-

1. Though CGRF had not imposed any liability of old arrears on the Appellant in respect of old disconnected connections yet a conditional order has been issued;
2. To award penalties under section 43(3) to bear all the rental losses together with due compensation w.e.f. 1.11.2005
3. Penalty u/s 43(3) of Electricity Act, 2003 of Rs. 1,000/- per day w.e.f. 1.11.2005 with all the rental losses and damages of Rs. 17,500/- sustained at the time of cancellation of rental agreement.

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4. Due compensation of Rs. 500/- per day w.e.f. 1.11.2005 for all the tortures, harassment and mental agony sustained by a retired Principal of 78 years of age.

A perusal of the contents of appeal, CGRF's record and submissions made by both the parties indicates:

- 1) that there was no justification for the conditional order passed by CGRF when no liability was imposed on the appellant in respect of out standing arrears of 3 nos. disconnected connections.
- 2) The Appellant had applied for 5 KW new connection in the basement at B-24/1-A, Rajouri Garden, New Delhi on 01.10.2005 vide application No. M-261005100024.
- 3) The DISCOM's Business Manager, Janak Puri informed the Appellant vide his letter dated 21.11.2005 that the status of commercial feasibility of new connection is pending due to non-payment of outstanding dues against K. No. 2610 H 611 0424 in the said premises.
- 4) Though the Appellant followed up with the DISCOM's Business Manager through various letters but each time he got the reply that Appellant had already been informed vide his letter dated 21.11.2005 and subsequent letters. Business Manager had neither mentioned the amount payable by the appellant nor outstanding dues against the said connection but informed the Appellant vide his letter dated 15.12.2005 that the matter may be treated as closed from his end.
- 5) The DISCOM's Assistant Engineer (Power Supply) Janak Puri informed the Appellant vide his letter dated 31.12.2005 that new connection case was not executed due to non-payment of pro rata bill and as per records, outstanding dues of Rs.2,08,611.46 against K. No. 2610 H 5250 193 and Rs.1,95,940.00 against K. No. 26100 E 070010 are in the name of Shri Rajinder Singh Saluja, the earlier registered consumer.
- 6) Business Manager in reply to CGRF vide letter dated 16.2.2006 stated that while considering commercial feasibility, the case was rejected due to outstanding dues of Rs.48,420.16 against K. No. 2610 H 5250 193 and Rs.1,95,940.44p. against K. No. 26100 E 070010 installed at the said premises. In his reply, Business Manager further stated that Appellant was informed vide letters dated 21.11.2005, 30.11.2005, 13.12.2005, 15.12.2005, 25.12.2005 and 10.2.2006 to clear the outstanding dues of above K. Nos. so that necessary demand note can be issued.
- 7) A perusal of various letters mentioned in Business Manager's reply indicate that there is no mention of K. No. 2610 H 5250 193 and K. No. 26100 EO 70010 nor any outstanding dues were mentioned and the

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case was closed by mentioning a wrong K. No. 2610H6100424 as elaborated in paras (3) & (4).

- 8) As per CGRF's order dated 18.5.2006, the DISCOM's Business Manager informed that supply of K. No. 26100EO70010 was disconnected in November 1998 due to non payment of dues but provisional billing continued till August 2002 as disconnection particulars were not fed in the computer. Accordingly, the bill was revised to Rs.5308.21 (earlier dues were shown as Rs.1,95,940.44).

Regarding K. No. 2610 H 5250 193, he further stated that notice had been issued to Shri R.S. Saluja, the registered consumer to make the payment of pending dues and a notice has also been issued with regard to another K. No. 2610 H 525 0264 – dues (unspecified) to Shri Manjit Singh who had taken possession of portion of the property from the original registered consumer.

- 9) Based on above reply of the DISCOM's Business Manager, CGRF ordered that appropriate action be taken for recovery of dues against disconnected connections from the registered consumer of supply, whose whereabouts are reportedly known. Immediately after recovery against disconnected connection, the complainant may be allowed a new connection. In case the complainant is not prepared to wait as some delay is likely to take place in the process of realization of dues from the registered consumer, appellant may be asked to make payment of dues on pro rata basis in accordance with the policy laid down by Delhi Vidyut Board vide order No. CO-II/P-37/99/10 dated 24.3.1999.
- 10) CGRF has also stated in its order that appellant appears to have been harassed by way of slapping a hefty bill which was subsequently revised to Rs.5,308.21. The attempt of the concerned officials by issuing such an erroneous bill without reconciliation of record tantamounted to an act of causing undue mental agony and harassment. It rather created an impression that some officials at the helm of affairs deliberately issued such a bill to bring the appellant in the ambit of ulterior motives attributed to cases of this kind.

The hearing of the case was fixed for 12.9.2006.

The appellant attended in person along with his son Shri Sanjay Gupta.

Shri Y.M. Saxena, Assistant General Manager (W) attended on behalf of the Respondent Company alongwith Shri Sujay Chaturvedi, Business Manager, Janakpuri, and Shri Praveen Gupta, Section Officer, Accounts.

During the hearing the Electricity Ombudsman asked the Business Manager how the case was wrongly closed by linking the new connection with wrong K. No. as mentioned in his letters. To this, the DISCOM's AGM (West) informed that Business

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Manager was sincere in processing this case but tactless in his conduct to the appellant. Though the pay-in-slips (for pro rata dues) given to the appellant were with regard to the pending dues as mentioned in reply to the CGRF; but inadvertently letters were issued for wrong K. No. The Appellant confirmed having received pay-in-slips for pro rata basis, the DISCOM's Business Manager expressed his regret for his mistake and assured to be more careful in future.

After discussing the case it was held that since the CGRF had not imposed any liability for pending dues on the Appellant, the DISCOM

- i) **was instructed to install the meter immediately by levying normal charges without any arrears. The DISCOM's Business Manager, however, stated that some dues were still payable by the Appellant.**

The Business Manager was therefore asked to

- ii) attend on 15/9/06 and confirm in writing what dues were pending against the appellant. The statement of the Business Manager must be accompanied by original records to substantiate his contention.

Considering his age / physical condition the appellant was not required to attend on 15/9/06 as only the records of the Discom had to be examined. He agreed accordingly because only records of the Discom had to be examined as to how dues were stated to be pending (of the appellant) when the CGRF had already concluded that the appellant was not the beneficiary. After verifying the statement of the Business Manager the order would be passed in this case.

The DISCOM's Business Manager, Janak Puri attended Electricity Ombudsman's office on 15.9.2006 with a written reply stating that as per the instructions given during hearing on 12.9.2006, meter against K. No. 26100 5100024 in favour of appellant Shri Y.B.L. Gupta has been installed on 13.9.2006. In his reply, it is further stated :-

- (i) that the Appellant was enjoying electricity from 1996 onwards from K. No. 2610H5250193 only and supply to this K. No. was disconnected and removed on 3.7.2001 and current outstanding dues on this K. No. are Rs. 48,420.16.
- (ii) that as per ^{pay-in} ~~pay~~ slips given to the consumer based on pro rata, amount payable is Rs. 13,960/- pending against 3 No. K. Nos. i.e. 2610H5250193; M-2610H5250264 and 26100 E 070010;
- (iii) that as per enquiry made by him from present occupants of the premises, the Appellant had rented out his basement for certain period and electricity for basement was used from K. No. 2610H5250417 installed on Ground Floor in the name of Shri Manjit Singh.

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It was observed that the above versions of the DISCOM's Business Manager were inconsistent and, therefore, he was asked to further examine the records and submit with evidence whether the appellant was beneficiary or not.

The DISCOM's Business Manager again attended this office on 22.9.2006 alongwith accounts officials and submitted a written reply dated 19.9.2006 which did not indicate whether the appellant was beneficiary or not. However, Business Manager produced a copy of the statement procured from Shri Sarabjeet Singh, a shop owner in the said premises, stating that according to his knowledge, the basement was being used by an adjoining shop owner (M/s. Jasmine Collections) and electricity to the basement was being used from the said shop during 2000-2003.

Since the above information submitted by the Business Manager did not categorically confirm that the appellant was the beneficiary or not he was asked to produce the 3 K.No. files so that the required information could be examined from original records. He was also asked to give the date of giving new connections in the 4 number shops and also to submit whether old dues were recovered or not while allowing these connections in the premises.

Business Manager alongwith accounts officials brought 3 K. Nos. files for scrutiny / examination, comments on which are as under :-

- a) On 28.09.2006 the file of K. No. 60756 (old) new K. No. 26100EO700010 was scrutinized / examined in his presence alongwith accounts officials. It was observed that this connection was disconnected against Disconnection Order issued on 4.9.1998 and disconnection was confirmed vide report dated 13.11.1998. **Consumer paid up-to-date bill amounting to Rs.88,241/- on 31.5.1999.** Since disconnection particulars were not fed into the computer nor factual position was examined from K. No. files, provisional bills continued to be generated by computer and dues to the amount of Rs.1,95,940/- were projected in Business Manager's report to CGRF. **It was, therefore, concluded that no dues are pending against this K. No.**
- b) On 6.10.2006 the file of K. No. 60959 (old) / new 2610 H 5250 193 was scrutinized in the presence of Business Manager and accounts officials. It was observed from the records that last reading in the meter book was 11620 as on February 1993. No further record of readings was available in the record. A copy of the Zonal Site Inspection Report dated 5.8.1997 available in K. No. file 60756 revealed the details of all the connections existing at that time in the premises but this report does not indicate the existence of the meter against K. No. 2610 H 5250 193. It, therefore, appeared that the connection was disconnected after February 1993. **As the basement was purchased by the appellant in 1996, he does not appear be a beneficiary of the disconnected connection.**
- c) On 18.10.2006 the file of K. No. 0268 (old) / new K. No. 2610 H 5250 264 was scrutinized. From meter book record, it was revealed that the last

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reading recorded was R-19040 on 21.4.1997 and thereafter same reading continued. **There was no evidence to show that the appellant was beneficiary of this connection.**

Examination of such old voluminous records was time consuming and after examination of the 3 K. Nos. files and documents brought by the DISCOM's Business Manager, it appears that the appellant was not the beneficiary of the connections pertaining to the 3 K. Nos. under reference. **However this finding of ours was required to be confirmed by the Respondent Company in writing.**

The DISCOM's Business Manager therefore was asked to submit a consolidated report based on scrutiny / examination of K. No. files. A number of times, the DISCOM's Business Manager was reminded on phone to submit the report. He, however, informed that the report was sent to the higher officials and would be submitted on receipt of the same.

In the meantime, several letters were received from the Appellant. Therefore a special hearing was fixed for 3.11.2006. During hearing, appellant argued that DISCOM officials have not implemented the CGRF's orders in time, inasmuch as Ms Renu Antony's letter dated 7.6.06 alongwith a cheque of Rs.1,000/- was received belatedly on 7.7.06 and the same had been returned by him under protest. He also prayed for a compensation as requested in his appeal. The DISCOM's Business Manager was again reminded to submit the report based on examination of K. No. files immediately.

The DISCOM's Business Manager vide his report dated 03.11.06 (received through fax) informed that no dues are recoverable from the appellant with regard to K. No. 2610 EO 7000010 and 2610 H 5250 264. However, it is stated that in regard to K. No. 2610 H 5250 193, the dues pending as of February 1993 were Rs.19034/- and after purchasing the basement in November 1996, appellant has not obtained any NOC from the DISCOM. **As such, dues on pro rata basis amounting to Rs.3958/- are payable by him.**

The Ombudsman observed as under after considering the submissions made by the Appellant and the replies and clarifications given by the DISCOM:-

1. Based on DISCOM's report, CGRF in its order dated 18.5.06 has not imposed any liability of arrears on the Appellant but simply issued a conditional order. DISCOM now cannot shift the stand and say that dues are recoverable from the appellant.
2. The DISCOM's Business Manager stated that an amount of Rs.19,790/- as on February 1993 is recoverable against K. No. 2610 H 5250 193 installed at ground floor of the said premises. Record also shows that new connections were given in 4 number shops on ground floor in 1996-97. The DISCOM could not explain why the arrears were not recovered while giving these new connections and also while giving another connection for 2nd floor in February 2006.

- 25/11/2006
3. As per procedure and guidelines before giving new connection, old dues are first settled. The DISCOM's report, however, states that dues are pending since February 1993. Further record is however incomplete/not available. There is no record to show whether these dues were recovered earlier or not before giving new connections. At this stage, DISCOM cannot change its stand taken before CGRF as already mentioned in para (1) above.

In view of the above finding it is ordered as under:-

1. For the harassment suffered by the Appellant at the hands of DISCOM for its deficiency in service, a compensation of Rs.5,000/- is granted to meet the ends of justice.
2. Record shows that the request of the appellant for new connection dated 01.10.2005 was not processed as per rules and considerable delay was caused, as new connection was given on 13.9.2006. Therefore a penalty of Rs.500/- is payable by Discom as per "Regulation 38 (Chapter IX) of DERC Regulations – 2002" (Performance Standards - Metering and Billing)
3. The award of penalty under section 43(3) of the Electricity Act 2003 prayed for the appellant in respect of rental losses, damages of Rs.17,500/- for cancellation of rental agreement and compensation @ Rs.500/- per day for delay in grant of connection, do not fall within the jurisdiction of the Ombudsman.
4. The appellant has stated in his appeal, that a Demand Draft of Rs.10,000/- was sent by him to the Discom which was reported before CGRF that it was returned to the appellant by speed post. As per the appellant he has not received back the same Draft. The Discom vide its letter dt. 3/11/06 confirmed that a certificate, addressed to the Branch Manager, Punjab & Sind Bank, Safdarjung Enclave, New Delhi has been issued and sent to the appellant mentioning that demand draft had not been encashed by the Discom. This will enable the appellant to get his money back from the bank.
5. Regarding action against the concerned officials of the DISCOM as prayed for by the appellant, it is for the DISCOM to take necessary action against their personnel following due process of law.

The appeal is disposed off accordingly.

The order of CGRF is set aside.

34/11/2006
(Asha Mehra)
Ombudsman