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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/2006/132

Appeal against Order dated 23.10.2006 passed by CGRF – BRPL on Case No. CG/258-2006 (K.No. 2510N2778307)

In the matter of:

Shri Rajiv Sagar Malhotra

- **Appellant**

Versus

M/s BSES – Rajdhani Power Ltd.

- **Respondent**

Present:-

Appellant

Shri J.S. Malhotra, Father of the appellant

Respondent

Shri Sunil Singh, Business Manager,
Shri Biswajit Biswas, Commercial Officer, on behalf of BRPL

Date of Hearing: 31.01.2007

Date of Order : 13.02.2007

ORDER NO. OMBUDSMAN/2007/132

The Appellant filed appeal dated 13.11.2006 against CGRF order dated 23.10.2006. The facts of the case are that the appellant purchased a DDA LIG Flat No. 3A, Pocket A-11, Kalkaji Extension, New Delhi-110 019 by virtue of Conveyance Deed dated 29.6.2005 executed in his favour by DDA. He applied for name change of K. No. 2510 N277 8307 which was earlier registered in the name of the previous owner Shri Rajinder Singh, the original allottee of the flat.

The DISCOM raised a demand note of Rs. 1800/- to be deposited as Security Deposit charges. In response thereto the appellant produced the receipt dated 24.9.1983 in respect of the old Security Deposit paid by the original allottee. He also submitted to the DISCOM that since the Security Deposit has already been paid by the previous owner against the same connection, no additional Security Deposit was payable. He has also given an undertaking that if there are any earlier dues of the previous owner, he will be liable to pay the same. In view of the evidence of payment of Security Deposit and the undertaking given by him, it was submitted by the consumer that no further Security Deposit was liable to be paid by him.

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In this connection he met the officials of the DISCOM in their office but when his above submissions were not accepted, he filed a complaint with the CGRF.

The CGRF relied on an old Office Order of DESU dated 26.7.1980 which was also quoted by the Business Manager of the DISCOM. On the basis of said order, the CGRF came to the conclusion that production of the old Security Deposit receipt by the erstwhile owner of the flat implies consent for name change in favour of the present occupant/present owner. Despite the consumer satisfying the condition required in the office order of the DESU dated 26.07.1980, the CGRF concluded that "cases of name change are virtually at par with the case of new connection, where the deposit of Security Deposit is pre-requisite". Accordingly, **the CGRF passed the order holding that the appellant was liable to pay the balance security charges of Rs. 1425/- after adjustment of Rs. 375/-(paid by the previous owner) against the current charges amounting to Rs. 1800/-.**

Appellant not satisfied with the above order of the CGRF, filed an appeal before the Ombudsman. He submitted that a fresh security deposit can be demanded from an incoming consumer only if the out going consumer has surrendered his connection and taken refund of the Security Deposit made by him. In fact, as per the Conveyance Deed, the electricity connection has also been given to him along with the flat and the out going consumer has handed over the receipt for the Security Deposit made by him so that the existing connection in the premises could continue to be used by the incoming consumer.

The out going consumer has surrendered all his rights in respect of the property including the facilities attached therewith i.e. water and electricity connections provided by the respective departments therein. He has further submitted that the Delhi Jal Board has effected the change of name in favour of the appellant after charging a nominal transfer fee.

In the appeal it is further stated by the appellant that the CGRF has erred in treating this case of name change, with the cases of new connections wherein physical work is required to be done by the DISCOM for laying the line from pole to the premises and installation of a meter etc. whereas in the present case (of the appellant) no such physical work is required to be done by the DISCOM. The only requirement is to change the name in the records of the DISCOM.

The Appellant has further referred to the dissenting opinion of the Legal Member in the order of the CGRF wherein the Legal Member has stated that "the complainant stated to have purchased the property No. 3A, Pocket A-II, Kalkaji Extension, New Delhi-19 by way of execution of Conveyance Deed dated 29.6.2006 along with attached electricity K. No. 2510 N277 8307. The seller also transferred original receipt of security deposit to the purchaser/complainant for

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effecting transfer of his name in the records of electricity connection with the respondent. This transaction tantamounts to prove that the original owner has sold the property for all intent and purposes to the purchaser along with the benefits/facilities attached with the property including the availability of electricity connection existing in the property. The new incumbent shall avail all facilities with the property as was enjoyed by the erstwhile owner. The latter paid all electricity bills and the same is ensured to be paid by the present incumbent. He is also prepared to pay dues, if any, left by the seller of the property. In this way the complainant continues to be the consumer of electricity without any change whatsoever except to incorporate his name in records of the K. No. For this purpose, the original security receipt is available with him. The transfer of the receipt to the purchaser conveys his consent. The consent may be expressed or implied which is significant in this case by passing on the receipt. Thus, the complainant is entitled for transfer of his name in the record of this connection merely on showing of the receipt to the Business Manager (Div.) Alaknanda without making any payment whatsoever. There appears to be no reason for asking another security in the name of Advance Consumption Charges for the same connection particularly when no physical work in laying the line or installation of any electrical instrument has been done by the Business Manager. If it has been demanded so, it will be against the principles of Natural justice and fair play. There appears to be remote possibility of claiming of the security amount by the original owner when the receipt in original has already been transferred to complainant. In view of the above, the complainant has proved that he is not liable for payment of fresh security deposit of Rs.1800/- and he is entitled that his name may be incorporated in the records for future reference with the licensee and also in the original security receipt. "

The appellant relying on the above dissenting opinion of the Legal Member has prayed that the majority order of the CGRF be set aside and direct the DISCOM to transfer the amount already lying with it as Security Deposit in the name of the appellant (the new owner) and record the name change in their records.

After study of the contents of the case and submissions made by both the parties the case was fixed for hearing on 31.1.2007.

The father of the appellant Shri J.S. Malhotra attended in person. Shri Sumit Singh, Business Manager and Shri Biswajit Biswas, Commercial Officer attended on behalf of the Respondent.

Shri Malhotra pointed out that the dissenting opinion of the Legal Member is in accordance with principles of natural justice and fair play. It has also followed the DESU order dated 26.7.1980 referred to by the CGRF and followed by it on the basis of which it has concluded that the production of the Security Deposit receipt for payment made by the previous owner implies his consent for change of name in his favour by the DISCOM. Since the CGRF has also held

that there is implied consent for change of name in his favour by the earlier occupant, then the conditions required in the DESU order dated 26.7.1980 (relied upon by the CGRF and the DISCOM) are, fulfilled. Accordingly, no additional Security Deposit is required to be paid for the same connection. It is not the case of the DISCOM that if the property changes hands four times, Security Deposits will have to be made 4 times for the same connection.

In view of the above discussion **I agree with the dissenting opinion of the Legal Member. Accordingly, it is directed that a change of name may be effected in the records of the DISCOM in favour of the appellant without making any additional security deposit.**

The majority order of the CGRF is set aside.

स.स. २१/११/२०१८
(Asha Mehra)
Ombudsman