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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/2006/133

Appeal against Order dated 28.09.2006 passed by CGRF – BYPL on
Complaint No.: CG-325/08/2006 (K.No. 611-126050).

In the matter of:

Shri Sunder Gupta - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Shri Sandeep Sharma attended on behalf of
the appellant

Appellant

Respondent

Shri Jitendra Nalwaya, Business Manager, Karkardooma,
Shri Himanshu Agarwal, Commercial Officer and
Shri Sumit Prakash, Legal Officer all on behalf of BYPL

Date of Hearing: 02.02.2007

Date of Order : 12.02.2007

ORDER NO. OMBUDSMAN/2007/133

An appeal is received on 13.11.2006 against the CGRF order dated 28.9.2006 certified copy of which is stated to be received by the appellant on 19.10.06. Scrutiny of the contents of appeal and CGRF record shows that the appellant had deposited an amount of Rs. 22,989/- on 20.1.1995 for the purpose of a new industrial connection to the Discom. The industrial connection was refused to him due to ban on release of I.P – I.L. connection vide letter dated 23.03.96. The appellant filed a complaint with the CGRF since he could not get the refund of the amount deposited with the Discom.

During the hearing before the CGRF, the Discom submitted that an amount of Rs. 22,967/- had been worked out for refund to the appellant and the

same was being processed. The CGRF in its order directed the Discom to refund the net amount of Rs.22,967/= to the registered consumer by cheque after obtaining an indemnity bond . It appears that the cheque of the same amount had already been received by the Appellant.

Not satisfied with the order of CGRF, the appellant filed an appeal before the Ombudsman praying for interest @ 18% from the date of deposit, of Rs.22989/- (It is interesting to note that before the CGRF the appellant had demanded interest at 24% on the deposited amount). The appellant has also prayed for Rs.10,000/- as cost and compensation .

The case was fixed for hearing on 02.02.2007. Shri Sandeep Sharma attended on behalf of the appellant. Shri Jitendra Nalwaya, Business Manager, Karkardooma attended alongwith Shri Himanshu Agarwal, Commercial Officer and Shri Sumit Prakash, Legal Officer on behalf of the Respondent Company.

The case was fixed for 02.02.2007 at 11.30 am. The appellant did not attend. However, at 12.45 p.m. one Shri Sandeep Sharma, attended and stated that he was sent by the appellant. Shri Sandeep Sharma was without any written authorization from the appellant. He was answering queries raised in a very casual and negligent manner and finally stated that he is not aware of the facts of the case. It is ridiculous that the appellant has sent somebody to represent his case without briefing him about the facts of the case. Even before the CGRF there is no attendance by the appellant. (He has stated that he reached the CGRF at 11.15 am for the hearing instead of 11.00 am.) The above conduct of the appellant is not satisfactory, to say the least. It appears that he is not serious about his claim and is making a mockery of the judicial process of law.

The representative of the Discom stated that the amount of Rs. 22,989/- had been refunded to the appellant as per the CGRF order. . Regarding interest demanded by the appellant Discom relied upon Section 47 (iii) of the Electricity Act 2003 which provides for payment of interest w.e.f. June 2003 on Security Deposit. It was stated that there was no office order of the DVB / DESU on this issue prior to the Electricity Act 2003. Therefore interest if any, will be allowed only from June 2003.

Vide letter dated 18.12.06 the ombudsman required the appellant to produce proof of payment of Rs.22,989/-. He was also asked to give reason for not seeking refund of the deposited amount immediately after 23.05.96 when he was informed that he could not be given the connection asked for.

In his undated reply received on 08.01.07, he stated that the photocopy of the receipt is not available now with him Even during hearing no documentary evidence was produced in evidence of his claim that he had been knocking at the

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doors of different officers of the DESU/ DVB. The appellant was informed on 23.03.96 that he could not be given the industrial connection asked for. It is only on 15.06.04 after almost 8 years that he put in his request for refund to the Consumer Cell of the BSES.

The inordinate delay in making his claim for refund remains unexplained. The appellant has claimed 24% interest before the CGRF, but before the ombudsman he has prayed for 18%. The difference in his claim is not explained.

The appellant has neither attended on the date of hearing nor sent a representative duly authorized and properly briefed about the facts of the case.

The above discrepancies /inconsistencies show that the appellant is trying to conceal some relevant facts.

Interest can be paid to the appellant only after ascertaining the correct amount of Security Deposit in the total payment of Rs.22989/-Accordingly, the DISCOM is directed to grant refund to the appellant at bank rate on the amount of security deposit which may be ascertained from the original receipt produced by him/load applied for at the first stage, w.e.f. June 2003. It is clear that interest is not allowable on the whole amount of Rs. 22,989/- which is inclusive of development charges etc.

In view of the discrepancies pointed out above, there is no justification for award of any compensation to the appellant.

The order of the CGRF is set aside.

31/07/2021
(Asha Mehra)
Ombudsman