

Office of Electricity Ombudsman

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

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Appeal No. F. ELECT/Ombudsman/2007/147

Appeal against Order dated 18.12.2006 passed by CGRF – BRPL in Case No.: 0971/11/06/MDT

In the matter of:

Smt. Sarla Gupta - Appellant

Versus

M/s North Delhi Power Ltd - Respondent

Present:-

Appellant Shri A.K. Gupta son of the appellant

Respondent Shri Banwari Lal Gupta, Manager (Commercial)
Shri Gagan Sharma, Assistant (R&C) and
Shri Suraj Das Guru, Legal representative on behalf of the NDPL

Date of Hearing: 23.03.2007

Date of Order : 11.04.2007

ORDER NO. OMBUDSMAN/2007/147

Appeal dated 10.01.2007 is filed by the appellant against CGRF Order dated 18.12.2006.

Scrutiny of the contents of the appeal, the CGRF order, the CGRF records and the submission made by the respondent in response to the queries raised by the ombudsman shows that the old meter installed at the appellant's premises was replaced on 14.09.2004 with "figure upset" remarks. The respondent carried out assessment for the period **22.05.2002 to 14.09.2004** on the average consumption recorded for the six month period of 14.09.2004 to 25.03.2005 and worked out a net debit of Rs.11,182.58/- after adjusting the amount already billed / paid during the assessed period.

CGRF in its order observed that the base period of exclusively post replacement of meter puts the consumer in a disadvantageous position. The CGRF decided that

60% of the average consumption recorded during the base period may be considered for making the assessment for the defective period i.e. 22.05.2002 to 14.09.2004.

Not satisfied with the above CGRF order, the appellant filed this appeal. In its appeal the appellant submitted that since the installation of the meter till its removal in 2004, she received provisional bills despite the representations made by her for taking actual reading. It is also submitted by her that she made payment of all the provisional bills from time to time.

She further objected to the CGRF order for assessment to be made on the basis of 60% of the average consumption recorded in the year 2006. **Her argument is, how can the consumption of 2006 be taken as a base for charging / making an assessment for the period 2002 to 2004.** She also submitted that under section 56(2) of the Electricity Act, 2003, the assessment bill is time barred.

The case was fixed for hearing on 23.03.2007.

On 23.03.07 Shri A. K. Gupta son of the appellant attended. Shri Banwari Lal Gupta, Manager (Commercial), Shri Gagan Sharma, Assistant (R&C), and Shri Suraj Dass Guru (Legal Executive) attended on behalf of the respondent company.

The above officers of the Discom repeated the submissions made vide its letter dated 27.02.2007 viz that section 56 (2) of the Electricity Act does not apply in this case because the latter deals with disconnection of the supply in case of default of payment. The Discom further relied on the case of Hon'ble High Court of Delhi in H. D. Shourie Vs. MCD wherein it was held that charges would become "due and payable" only with the submissions of the bill and not earlier.

In the said letter the Discom has further relied on Swastic Industries Vs. Maharashtra State Electricity Board, and North Delhi Power Limited Vs. Electricity Ombudsman & others for its contention that the demand raised by the Discom is not barred by section 56(2) of the Electricity Act. Thus, the Discom in its reply raised objection to the appellant's submission relating to section 56(2) of the Electricity Act, 2003. The cases relied upon by the Discom were discussed and it was observed that the facts of the case under consideration do not apply to those cases and are therefore not relevant.

The facts in this case are that the old meter installed at the premises of the appellant was replaced on 14.09.2004 with "figures upset" remarks and that this meter remained stopped at the reading of 5390 since long. The above facts show that the meter which was replaced was a 'faulty' meter as it did not record the consumption of electricity by the appellant. In accordance with the DERC regulations and the DVB circular dated 10.05.2000 an assessment needs to be made for six months in case of 'defective' meter.

The DVB order dated 10.05.2000 orders that **"in all cases of defective meters including burnt/stop meters detected with effect from 01.05.2000, the period of assessment would be limited to a maximum of six months.** It shall be mandatory on the part of concerned field officer(s) to conduct regular checking of the meters and all the dead / stop/ burnt and inaccurate meters found must be replaced within a period of six months from the date these are found defective failing which the responsibility for the loss of revenue of the Board for a period beyond six months shall lie on the concerned field officers / officials." This circular of the DVB has not been superseded or cancelled and is therefore applicable.

Also the Delhi High Court in the case of H. D. Shourie Vs. MCD held that **"the maximum period for which a bill can be raised in respect of a defective meter is six months and no more.** Therefore, even if a meter has been defective for, say, a period of 5 years, the revised charge can be for a period not exceeding six months. The reason for this is obvious. It is the duty and obligation of the licensee to maintain and check the meter. If there is a default committed in this behalf by the licensee and the defective meter is not replaced, then it is obvious that the consumer should not be unduly penalized at a later point of time and a large bill raised. The provision for a bill not to exceed six months would possibly ensure better checking and maintenance by the licensee.

Following the above decision of the Delhi High Court **the Discom is directed to make an assessment for six months prior to 14.09.2004, (the date when the meter was replaced).** This assessment will be based on the consumption recorded by the present meter of the appellant for the corresponding period after it was replaced.

The Discom is directed to revise the bills on the above basis. No LPSC is to be charged in the revised bills.

The CGRF order is set aside.

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(Asha Mehra)
Ombudsman