

**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/2007/154**

Appeal against Order dated 22.01.2007 passed by CGRF – NDPL in C.G.No.0943/11/06/KPM (K.No.32200606526)

**In the matter of:**

Shri M.L. Goyal

- Appellant

**Versus**

M/s North Delhi Power Ltd.

- Respondent

**Present:-**

**Appellant**            Shri M.L. Goyal

**Respondent**        Shri M.S. Saini, Commercial Manager  
Shri Vivek, Executive (Legal) and  
Shri Suraj Das Guru Executive (Legal) all on behalf of NDPL

Date of Hearing: 15.05.2007

Date of Order : 29.05.2007

**ORDER NO. OMBUDSMAN/2007/154**

The appellant filed this appeal against CGRF-NDPL order dated 22.01.2007 as the relief prayed for was not allowed to him except a compensation of Rs.2,000/-

Perusal of the appeal, the CGRF records and the submissions of the respondent in response to the queries raised by the Ombudsman, show that

The appellant's meter no. 0791897 became defective on 07.07.1994 and was found stopped on **09.11.1994** at Reading of-24990. This **defective meter was replaced on 04.01.2003 by a new meter no.202205** at reading -1 vide meter installation report dated 30.07.2003. Throughout the defective period i.e. 09.11.1994 to 04.01.2003 provisional bills were received by the appellant which were paid regularly. Even when the new meter was installed on 04.01.2003, provisional bills continued to be received by him up to 04.07.2003 i.e. for next

three billing cycles .It was only after 4.7.03 that he started receiving reading-based bills which were also paid by him. It is stated that since reading-based bills were being received after the replacement of the meter and these were being paid regularly by him, there was no case of any arrears. Nor were any arrears shown in these bills.

The appellant was therefore shocked when he found the Assessment demand of Rs.46,916.43/- for the period 01.02.2000 to 04.09.2003 (on account of defective meter) included in the bill for May '06 dated 26.05.2006.

The Appellant raised objections against the above bill vide his letters dated 30.05.2006, 12.07.2006 and 08.08.2006 stating that:

- (i) The claim is time barred under section 56(2) of the Electricity Act, 2003.
- (ii) Payments had already been made on average basis during the preceeding six months and as per section 56(1) it cannot be reopened now.
- (iii) Defective meter was replaced on 04.01.2003 and not on 01.02.2003.
- (iv) Average calculation done by the Discom on the basis of post defective period is in violation of section 21 of the DERC regulations 2002.
- (v) For determining the average consumption of the post defective period, consumption of 215 days was taken instead of six months(180days).
- (vi) Consumption of 3799 units pertains to 243 days from 04.01.2003 to 04.09.2003.and not for six months.
- (vii) Average consumption per day on the basis of past six months and post six months works out to 11.68 units and not 17.67 units as claimed.
- (viii) The new meter started functioning normally after 04.11.2004 and the correct average consumption would work out to 8.27 units per day and not 17.67 units per day.

To the appellant's various letters, the Respondent informed vide letters dated 05.07.2006, 26.07.2006 and 25.08.2006 that "his complaint had been analyzed and found that the bill is in order".

The appellant filed a complaint with the CGRF-NDPL on 16.10.06.

Before the CGRF the respondent stated that disconnection notices were issued on 19.06.2006 and 17.08.2006. But the appellant stated that satisfactory evidence of the notices and of its proper service was not produced. A document

was produced showing notice dated 17.08.2006 was pasted on the wall on 24.08.2006. The appellant's supply of electricity was disconnected after seven days i.e. without waiting for the statutory period of 15 days before disconnection. CGRF brushed aside above facts and recorded in the order that issuance of notice cannot be doubted. The appellant's supply was restored on 04.09.06 after he made an unconditional payment of Rs.20,000/- /- on 04.09.2006. But the family was without electricity for four days.

As the appellant threatened to file a complaint in a consumer court, the NDPL withdrew the additional demand of Rs.46,916.43/- on 28.09.2006 and raised a revised assessment demand of Rs.25,815.35/-

After hearing both the parties the CGRF in its order dated 22.01.2007 awarded compensation of Rs.2,000/- for harassment but held that appellant is to pay Rs.25,815.35p as demanded by the Discom.

Not satisfied with the CGRF order, the appellant filed a representation before the ombudsman on 27.02.07.

The case was fixed for hearing on 15.05.2007.

On 15.05.07 Shri M. L. Goyal, the appellant attended in person.

Shri M. S. Saini, Commercial Manager attended along with Shri Vivek and Shri Suraj Das Guru (Legal department) on behalf of NDPL.

The case was discussed based on the documents furnished by both the parties. The appellant repeated that he was harassed and suffered tremendous agony by the callous behaviour of the Discom. According to him the physical / mental agony suffered by the 79 year old appellant cannot be described in words, and that "this shows not only the monumental inefficiency but also the callous and cavalier attitude of the Licensee. It appears that the Company assumes that it is not answerable or responsible to any body and are law unto themselves".

NDPL was asked to explain why,

- (i) Assessment bill was raised in May 2006, when the defective meter was replaced on 04.01.2003-- the reasons for raising the assessment bill after more than 3 years.
- (ii) Why assessment bill was raised for 3 years whereas DVB order dated 10.05.2000, allows the assessment for a maximum period of 6 months.
- (iii) The appellant has paid the provisional bills raised earlier and the assessment bill was under dispute. Under these conditions why

disconnection notice was issued and supply disconnected in violation of section 56 (i) (b) of Electricity Act 2003.

To the various representations of the appellant, NDPL informed him vide letter dated 05.07.2006, 26.07.2006 and 25.08.2006 that complaint has been analyzed and found that bill is in order. If NDPL was so sure that the bills raised are correct then why this bill was revised from Rs.46,916.43/- to Rs.25,815.35/-.

The NDPL was given time to file its reply by 17.05.07 and also to submit the calculation for the assessment to be made for 6 months prior to 04.01.03 on the basis of appellant's average consumption of 6 months after replacement of the meter i.e.04.01.03 and 6 months prior to its replacement if it was available.

On 17.05.2007 the Discom in its submissions stated that the appellants meter remained defective for approximately 8 years but the Discom charged the consumer for 3 years, and that the assessment was made on the basis of office order dated 15.12.2003. The office order is not enclosed nor is it known whether the said officer order has DERC's approval.

It further stated that the assessment bill was raised as soon as the escaped demand came to its notice. It was further submitted that the consumer had been using electricity even when the meter had stopped and he had been paying provisional bills which were much less than the actual energy consumed by him.

The argument of the Discom that the appellant was being benefited by paying the provisional bills which were much less than the actual energy consumed by him does not find favour as the provisional bills were raised by the Discom itself and the appellant was under the bonafide belief that these were the correct bills and he had no means to know whether these bills were less or more than the energy actually consumed by him. This argument therefore is not relevant.

It is noted that the DVB order dated 10.05.2000 clearly directs assessment to be made for 6 months only when the consumer's meter is burnt or stopped. Further, the Delhi High Court decision in the case of H.D. Shouri 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 five 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."

Accordingly the assessment for 3 years as made by the Discom is incorrect and needs to be revised. The assessment is to be made for 6 months and no

more. The revised calculation for assessment for 6 months as directed earlier was provided by the Commercial Manager. This shows:

Energy charges for 6 months	Rs.5292/-
Already charged	<u>Rs.1944/-</u>
Net Payable	<u>Rs.3348/-</u>

Thus the demand payable by the appellant is Rs.3348/- as against Rs.25,815.35p raised earlier.

It is a fact that the appellant is a Senior Citizen of 79 years who was put to tremendous harassment by the callous and insensitive behaviour of the Discom. His family remained without electricity for four days leading to a lot of difficulty and inconvenience. While no amount of compensation can make up for the inconvenience and harassment suffered by the appellant, the token compensation awarded by the CGRF seems to be in order and does not call for any intervention. The officers / officials of the Discom are advised to be courteous to the consumers and to look into their grievances sincerely and promptly.

The appellant is required to make the payment of Rs.3348/- on receiving the revised bill of assessment from the Discom.

The order of the CGRF is partly upheld.

अशा मेहरा  
(Asha Mehra)  
Ombudsman