



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/2007/163

Appeal against Order dated 19.03.2007 passed by CGRF – NDPL in
C.G.No.1106/02/07/SMB (K.No.45300127329)

In the matter of:

Shri Sunil Kumar Pandey - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Sunil Kumar Pandey

Respondent Shri Rajeev Gupta, Commercial Manager
Shri Pramod Kumar, Section Officer and
Shri Suraj Das Guru Executive (Legal) all on behalf of NDPL

Date of Hearing: 06.06.2007

Date of Order : 13.06.2007

ORDER NO. OMBUDSMAN/2007/163

The appeal is filed by the appellant Shri Sunil Kumar Pandey against CGRF order dated 19.3.2007.

The facts of the case are that the appellant occupied flat No. 640C, Pocket-BH, Shalimar Bagh in September 2005. The old "stopped" meter was replaced in his premises on 19.6.2004. Before occupying the said premises, the appellant checked from NDPL office by a personal visit to the said office to ascertain whether any arrears/dues were outstanding against the said K. No. in the NDPL records. The appellant was informed by the concerned official that an amount of Rs.1670/- was outstanding against the said K. No. The appellant paid Rs.1670/-. No further arrears were reflected in the subsequent bills received by the appellant.

Therefore, the appellant was shocked when he received the bill for October 2006 which included an amount of Rs. 35,828.67 as adjustment (Dr./Cr.). Consequently, the appellant sent representations to the DISCOM vide letters dated 18.10.2006, 20.11.2006, 26.12.2006 (copy of the last letter was also marked to

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Managing Director by name) but he received no reply to any of the above letters. The appellant was further shocked to know that the DISCOM had withdrawn an amount of Rs.36,220/- (this was the payable amount in the bill for October 2006 inclusive of Rs.35,828.67) through his credit card of ICICI Bank . This information of withdrawal of the above amount through credit card was received by him through SMS message. Since he neither received a reply to his various letters nor any remedial action was taken, the appellant filed the complaint with the CGRF on 22.2.2007.

After hearing both the parties, CGRF passed the order dated 19.03.2007 wherein it directed that the assessment period should be restricted to 20.8.2002 to 19.6.2004. It also directed that the basis for making the assessment for the above period should be 70% of the consumption recorded with the new meter during 19.6.2004 to 21.12.2004.

Not satisfied with the CGRF order, the appellant filed this appeal before the Ombudsman.

After scrutiny of the contents of the appeal, CGRF records and the submissions made by the DISCOM in response to the queries raised, the case was fixed for hearing on 6.6.2007.

On 6.6.2007 Shri Sunil Kumar Pandey the appellant attended in person.

Shri Rajeev Gupta, Commercial Manager attended along with Shri Pramod Kumar, Section Officer and Shri Suraj Das Guru, Executive Legal Cell all on behalf of NDPL.

Shri Rajeev Gupta submitted that the meter had "stopped" long back probably even before June 2002 and that the assessment was correctly made by the Discom. He stated that no evidence was produced by the appellant regarding outstanding dues amounting to Rs. 1670/-. He also submitted that appellant had not made an application for change in name of the K. No. However, Shri Gupta had no explanation for the complete lack of communication and no response whatsoever to the various letters written by the appellant and also to the Discom withdrawing the amount of Rs. 36,220/- from the credit card of the appellant on 13.11.2006 even though the appellant had vide his previous letter dated 18.10.2006 disputed that the arrears/assessment bill pertained to him.

The appellant on the other hand insisted that the concerned official of the NDPL after checking the records wrote Rs.1670/- was outstanding on the reverse of the Bill, in his own handwriting without putting any signatures. He refused to take his application querying about the arrears.

Regulation 20 (ii) (b) of DERC Regulations 2002 states as under:

If the meter is not recording / stuck is noticed by the licensee, the licensee shall notify the consumer. Thereafter, licensee shall check the meter and if found stuck, the meter shall be replaced within 30 days.

CGRF has considered the reply of NDPL dated 8.3.2007 stating that the meter remained stopped at the same reading of 2095 since June 2002, whereas the meter book records available in the CGRF folders indicate that the meter was showing same reading from 1995 onwards till it was replaced on 19.6.2004.

NDPL took over from DVB w.e.f. 1.7.2002. DERC Regulations 2002 came into effect from 19.8.2002 but the consumer's stopped meter was replaced belatedly on 19.6.2004, although it was in the knowledge of NDPL that consumer's meter was not working / lying stopped since long and was required to be replaced within 30 days.

DVB's office order dated 10.5.2000 on the subject clearly states that in case of defective meter including burnt / stopped meter the period of assessment is limited to a maximum of six months. **As per Delhi High Court order in the case of H.D. Shouri Vs. MCD, "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 penalised 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".

The consumer's defective meter was replaced on 19.6.2004. The assessment should have been initiated after a period of six months for taking average of the six months consumption with new meter. Surprisingly in this case the assessment bill was raised much later.

There is clear deficiency on the part of NDPL in not replacing the meter immediately when it came to their notice that it is not working, thus violating Regulation 20 (ii) (b) of DERC Regulations 2002. The assessment bill raised after such a long period also indicates deficiency on the part of NDPL as assessment bill was due to be raised after a period of six months when meter was replaced.

As per the appellant, no reply was received by him to the various representations sent to NDPL officers and the amount of disputed bill was got deposited through the credit card of the consumer. In fact NDPL should have first settled the disputed bill and till such time only the current bill amount should have been got deposited through credit card.

The Discom is therefore, directed to make the assessment for six months i.e. for the defective period 19.12.2003 to 19.6.2004 on the basis of consumption during the period 19.12.2004 to 19.6.2005 for the corresponding period after the replacement of the meter. It is stated that the consumption for the period prior to the date of replacement of meter is not available as the meter has remained stopped from 1995 onwards. It is further directed that even though at present no change in name has taken place yet since the amount of Rs.36,220/- has been withdrawn from the credit card of the appellant Shri Sunil Kumar Pandey, **the surplus amount withdrawn (after adjusting the amount payable consequent to revised assessment) should be refunded by cheque in the name of Shri Sunil Kumr Pandey.** The appellant in the meantime will also make a representation to the Discom for effecting the change of name. The calculations for the assessment on the basis of the above directions were to be submitted by 12.6.2007.

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The calculations submitted on 12/06/2007 by the Discom on the basis of the above directions show the net amount payable for the defective period is Rs.3281.87p. Thus after deduction of all earlier demand, the net refundable amount works out to Rs.32,150.50p. upto reading as on 18/04/2007.

The Discom is directed to send a cheque of Rs.32,150.50p. in the name of Shri Sunil Kumar Pandey, the appellant, as directed above.

The order of the CGRF is set aside.

अशा मेहरा
(Asha Mehra)
Ombudsman