

Office of Electricity Ombudsman

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

B-53, Pashimi Marg, Vasant Vihar, New Delhi- 110057

(Phone No. 32506011, Fax No. 26141205)

Appeal No. F.ELECT/Ombudsman/2007/194

Appeal against Order dated 03.07.2007 passed by CGRF – BRPL in case no. CG/74/2007 (K.No.2550 L404 0632).

In the matter of:

Smt. Manju Bhargava

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Appellant

Versus

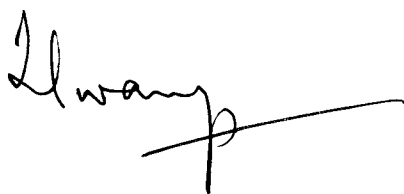
M/s BSES Rajdhani Power Ltd.

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RespondentPresent :**Appellant** : Shri Mukul Bhargava, Advocate (husband of Appellant)
attended on behalf of the Appellant**Respondent** : Shri Arun K. Tyagi, Business Manager, BRPL**Date of Hearing** : 06.11.2007, 20.11.2007, 29.11.2007**Date of Order** : 10.12.2007**ORDER NO. OMBUDSMAN/2007/194**

1. The Appellant has filed this appeal against the order of CGRF-BRPL in case no. CG 74/2007 stating that the Learned CGRF erred in not adjudicating on the issues raised by the petitioner and in not granting relief sought by way of damages for not restoring his electric connection. The Appellant has sought the following relief:

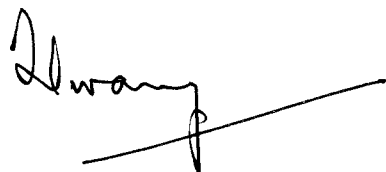
- (i) That the demand of Rs 76,412/- raised by Respondent be held as non recoverable as it is barred by limitation and the amount of Rs.45,000/- already deposited by the Complainant/Petitioner be ordered to be refunded with interest.



- (ii) That the revision of bills be held as barred by limitation and the Respondents be directed not to recover the amount.
- (iii) That the entire revision of amount be held as incorrect.
- (iv) That without prejudice to the above and in the alternative the Respondents be directed to produce evidence regarding the meter being defective or testing the meter in case of replacement. The correct reading be given and the bill be revised accordingly as per the recorded readings.
- (v) That the Respondent be directed to pay compensation for :
 - (a) Not restoring the electricity when the prayer was made in the year 2006.
 - (b) Damages for loss incurred by the Complainant/ petitioner due to delay in restoration of electricity
 - (c) Cost of litigation

2. The background of the case is as under:

- (i) The Appellant is the owner of the basement premises No. B-46, 9 Somdutt Chamber-II, Bikaji Cama Place, New Delhi. The electric meter installed on 27.04.1991 remained static / faulty at reading 2 and this meter was replaced only on 12.10.1995. During this period provisional bills on average basis were issued and paid.
- (ii) After replacement of the faulty meter on 12.10.1995, the assessment bill for the past defective period was not raised, and at that time the premises was being used by a tenant.
- (iii) The meter again became faulty on 21.12.1998 and was replaced on 20.09.1999. The supply was disconnected on 22.10.1999 on account of dishonored cheque of Rs27,000/- and pending arrears. The supply remained disconnected upto January 2006.
- (iv) Thereafter, the Appellant approached the Respondent for restoration of supply in January 2006 when the LPSC waiver scheme was in force. The Respondent failed to inform the Appellant of principal amount of arrears (excluding LPSC), despite several requests and follow up by the Appellant.
- (v) The Appellant filed a complaint before the CGRF in February 2007, as neither the amount payable was being informed to the Appellant nor supply was being restored. Before the CGRF the Respondent



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informed that the bill has been finalized for Rs.60839/- after raising an assessment bill for the defective period 27.04.1991 to 12.10.1995 and 21.12.1998 to 20.10.1999. The CGRF directed restoration of the supply on payment of 75% of the dues by the Appellant. The Appellant deposited a sum of Rs.45,000/- and supply was restored on 23.04.2007.

- (vi) In the subsequent hearing before the CGRF, the Respondent filed another set of calculations and increased the payable amount to Rs.1,03,612/- and also sent a notice for disconnection dated 22.05.2007. The Appellant objected to the revision of bills after a delay of 16 years on account of meter being defective, especially since no test reports were also attached. The Respondent before the CGRF admitted their mistake of double debiting the amount of dishonored cheque of Rs.27,000/- and again revised the bill to Rs.76,412/-
- (vii) The Appellant has stated that the CGRF passed the order without discussing the averments and prayer of the Appellant and held that the Appellant is liable to pay Rs.76,412/- without appreciating the facts and prayer of the Appellant.

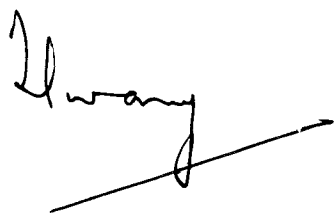
Not satisfied with the order of CGRF, the Appellant has filed this appeal.

3. After scrutiny of the appeal, the records of the CGRF and the reply/comments submitted by the parties the case was fixed for hearing on 06.11.2007.

On 06.11.2007, the Appellant was present through Shri Mukul Bhargava, Advocate husband of the Appellant. The Respondent was present through Shri Arun K. Tyagi Business Manager

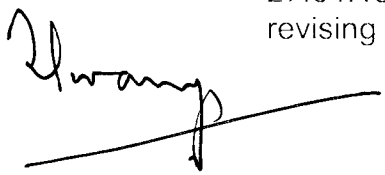
4. Both parties were heard. The Respondent was asked to produce a complete statement of account of K No. 2550L4040632 installed at the Appellants premises. Any correspondence exchanged regarding disconnection of supply, such as notices etc were also to be produced on next date of hearing i.e. 20.11.2007.
5. On 20.11.2007, the Appellant was present through Shri Mukul Bhargava, Advocate. The Respondent was present through Shri A. K. Tyagi, Business Manager.

The Respondent produced the statement of account from 1991 onwards which was taken on record. Shri Tyagi could not produce any record regarding the basis for provisional billing done during the period



27.04.1991 to 12.10.1995 but showed records of the bills raised on reading basis for the period the meter remained in order. No correspondence regarding disconnection or for recovery of arrears is available with Respondent. The Statement of account was given to the Appellant and the case was fixed for arguments on 29.11.2007

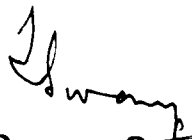
6. On 29.11.2007 Shri Mukul Bhargava, Advocate was present on behalf of the Appellant and Shri A. K. Tygal, Business Manager, on behalf of the Respondent. After detailed scrutiny of the Statement of account from 1991 onwards, the Appellant sought certain clarifications regarding payments made by his tenant which was given by the Respondent. The Appellant was satisfied with the Statement of Account which was taken on record.
7. After scrutiny of the revised Statement of Account produced by the Respondent and after hearing the averments of the parties, it was decided that revised bills be raised on the following basis:
 - a) The meter remained defective/static between 27.4.91 and 12.10.95. The Respondent had not raised any assessment bill after replacement of defective meter on 12.10.95. It will not be justified to raise assessment bills now after such a long period. During this period however provisional bills were raised and paid. The correct consumption pattern for this commercial connection is not available as the meter was defective since its installation. It is, therefore, decided that the provisional bills be revised for the period 27.4.91 to 12.10.95 on sanctioned load basis.
 - b) During the second disputed period i.e. 21.12.98 to 29.9.99, when the meter was defective, provisional bills on average consumption basis were raised and partly paid. These could now be revised on the basis of the consumption pattern for one year prior to 21.12.98 when the meter was functioning properly
 - c) Supply was disconnected on account of non-payment of dues and dishonored cheque in October 1999. Thereafter neither the Appellant came forward for restoration of supply nor the Respondent took any action for recovery of dues for over six years. It is only in January 2006 that the Appellant approached the Respondent for restoration of supply. Both parties are therefore responsible for not taking any action earlier for restoration of supply/recovery of dues etc. As such no compensation is called for. Respondent should charge only MG for next six months after disconnection.
 - d) All payments received from the Appellant and his tenant from 27.04.1991 onwards should be accounted for and adjusted, while revising the total amount payable as per decision at (a) to (c) above.



Excess amount if any be refunded through cheque, within 10 days of the date of this order.

The Respondent has raised a number of bills during the period 27.04.1991 to 29.09.1999, albeit these bills were not based on correct readings. As such the provisions of Section 56(2) of the Indian Electricity Act are not attracted in this case, as prayed for by the Appellant.

The appeal is disposed off as above and the orders of the Learned CGRF modified to the extent indicated in para 7 above


(~~Suman Swarup~~)
Ombudsman

10th December 2007