

10/1/2008

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/2007/215

Appeal against Order dated 04.10.2007 passed by CGRF–NDPL in CG.No.1295/06/07/NRL.

In the matter of:

Shri Sunil Kumar - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Sunil Kumar Appellant attended alongwith his Advocates
Shri O.P. Madan
Shri S. Singhal and
Shri V.K. Goel

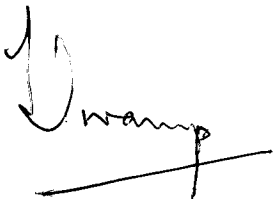
Respondent Smt. Satya Gupta, AGM (IT)
Shri B.N. Prasanna, Manager (HRB & AMR)
Shri S.S. Ankit, Manager (Comm.) – NRL
Shri Yugenshu Rahore, Sr. Executive
Shri B.L. Gupta, Assistant Manager – CMG
Shri Amandeep, Sr. Officer, CMG
Shri Rajbir Singh Serwa, Section Officer (B) NRL
Shri Pawan Chetal, Executive, RRG and
Shri Vivek Kumar, Assistant Manager (Legal) attended on behalf of
NDPL

Dates of Hearing : 10.01.2008, 16.01.2008, 23.01.2004

Date of Order : 11.02.2008

ORDER NO. OMBUDSMAN/2008/215

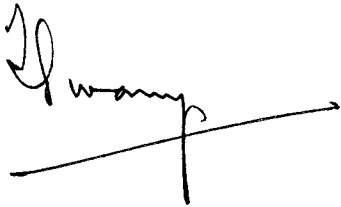
1. The Appellant Shri Sunil Kumar, has filed this appeal against the order of the CGRF-NDPL dated 4.10.07 in case CG No. 1295/06/07/NRL and has stated that:-



- a) The CGRF has not applied its judicial mind to the facts and circumstances of the case in the right perspective and has not appreciated the legal position on the subject at all.
- b) The Ld. CGRF has failed to appreciate that as per Regulation 14 (iv) of DERC Regulations 2002, once a final bill is raised, the licensee has no right to recover any charges, other than those in the final bill, for any period prior to the date of the said bill.
- c) The Appellant has prayed that the CGRF's order dated 4.10.07 may be set aside and the Respondent may be directed:-
- i) To release the new connection applied for without any further delay
 - ii) To reverse the debit of Rs.5,18,533/- and to allow the refund of excess amount paid for the new connection and also allow suitable compensation to the Appellant for the mental torture, agony and harassment.

2. The background of the case is as under:-

- i) An electric connection K. No. 4320 0142 5860 was installed at A-50, DSIDC, Narela Industrial Area in the name of Sh. Harmohan Singh with a sanctioned load of 79.6 KW, for industrial purposes.
- ii) The supply to the connection was disconnected on 14.10.05. The Appellant Sh. Sunil Kumar purchased the above property in November 2005 and requested the Respondent for a final bill vide request no. BM195489 dated 19.9.06. The final bill was issued in November 2006 for Rs.1,30,035/- and after adjustment of security deposit of Rs.1,08,000/- Appellant paid Rs.22,035/- on 26.12.2006
- iii) Thereafter the Appellant applied for a new connection in his own name vide application no. 060765141 on 13.2.07. Despite the fact that the final bill was paid on 26.12.06 against the earlier connection, the Respondent sent a dues intimation letter dated 24.02.07, indicating further dues of Rs.1,99,121/- against the disconnected connection of Shri Harmohan Singh, without taking into account payment made on 26.12.2006
- iv) The Appellant states that under compelling circumstances, he paid another sum of Rs.75,120/- on 9.3.07 as demanded by the Respondent. This amount was arrived at after adjusting the security deposit of Rs.1,08,000/- and LPSC amount of Rs.16,000/-. The Appellant also paid dues of Rs.3188/- on 19.03.2007, pertaining to another connection installed in the premises.
- v) Again the new connection was not given, and the Respondent raised another bill of Rs.4,33,197/- dated 27.4.07.



- vi) Thereafter the Appellant filed a complaint before the CGRF –NDPL on 15.6.07. During the hearing before the CGRF, the Respondent submitted that an amount of Rs.5,18,533/- was wrongly credited, due to a “system bug” in April '05, and it was corrected in April '07 by debiting the same back.
- vii) The Respondent further informed that they have a computerized bill generating process which also covers preparation of JE's by the system and while generating the bill no. 0504904899 , the system refunded an amount of Rs.5,18,533/- due to “system bug”.
- viii) Before the CGRF the Appellant submitted that as per Regulation 14 (iv) of the DERC Regulations 2002, once the final bill has been raised, the licensee has no right to recover any charges, other than those mentioned in the final bill for any period prior to the date of such bills.
- ix) The CGRF observed that extending the credit of Rs.5,18,533/- was a bonafide mistake due to system deficiency and decided that the correction done, is in order. The CGRF decided that the net recoverable amount, after adjusting the payments already made works out to Rs.1,24,428/-, as per details provided by the Respondent. The new connection applied for by the Appellant be released after deposit of a sum of Rs.1,24,000/-.

Not satisfied with these orders of the CGRF the Appellant has filed this appeal.

3. After scrutiny of the appeal, the records of the CGRF and submissions made by both the parties, the case was fixed for hearing on 10.1.08.

On 10.1.08 the Appellant was present in person along with Sh. O.P. Madan, Advocate and. The Respondent was present through Sh. B. N. Prasanna, Manager HRB & AMR, Sh. Samuel Christy, Client Manager HRS, Sh. S. S. Ankit, Commercial Manager, Sh. Rajvir Singh Serwa S.O. (B) NRL, and Sh. Vivek AM (Legal),

4. Both parties were heard. During the hearing the Appellant reiterated that as per the DERC Regulations once the final bill is raised, the Respondent has no right to recover any other charges, other than those in the final bill for any period prior to the date of such bill. The Appellant produced another letter of the Respondent dated 4.12.07 i.e. after the CGRF's order, informing him of pending dues of Rs.20,95,378/- for the earlier connection of Shri Harmohan Singh. The Appellant was directed to produce the copy of sale deed and the Respondent to produce documents relating to action taken for recovery of arrears for over two years from the earlier owner / consumer, Shri Harmohan Singh before disconnection, copies of disconnection notices issued, meter change report, the enforcement units inspection report for FAE, and to bring all the documents regarding claims shown in the bill, on the next date of hearing fixed for 16.1.08.



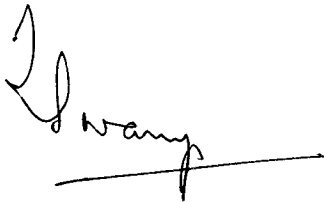
On 16.1.08 the Appellant was present through Shri V. K. Goel Advocate and Shri O.P. Madan, Advocate. The Respondent was present through:

1. Smt. Satya Gupta - AGM (IT)
2. Sh. B. N. Prasanna - Manager (HRB & AMR)
3. Sh. S. S. Ankit - Manager (Comm.) – NRL
4. Sh. Yugenshu Rahore - Sr. Executive
5. Sh. B. L. Gupta - AM- CMG
6. Sh. Amandeep - Sr. Officer, CMG
7. Sh. Pawan Chetal - Executive, RRG
8. Sh. Rajbir Singh Serwa - S.O. (B) NRL
9. Sh. Vivek, - AM (Legal)

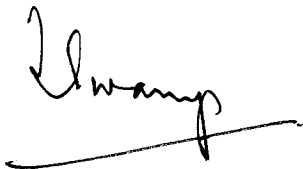
Both the parties were heard. The Appellant filed documents relating to purchase of the property and the Respondent regarding action taken to recover arrears i.e. two disconnection notices dated 8.1.04 for arrears of Rs.2,56,288/- and dated 7.4.05 for arrears of Rs.5,86,063/- along with inspection report for FAE and dues intimated on 4.12.07 as a result of FAE inspection. Mrs. Satya Gupta AGM (IT) explained the process of incorrect entry resulting in giving a credit of Rs.5,18,533/- not due, in April 2005 and the correction done in April 2007.

The Respondent was asked to file a report on action taken to recover the FAE dues by 23.1.08. Both the parties completed their arguments. The Respondent argued that while raising the final bill, the concerned official did not check from other units whether any arrears were pending as a result of FAE inspection. The wrong credit entry also remained undetected.

5. A report from the Respondent's HOD (HRB & AMR) was received on 23.1.08 which indicates that on the basis of the inspection by the Enforcement unit, a show cause notice dated 13.10.04 was duly served on Shri Harmohan Singh, the consumer, giving him an opportunity for personal hearing on 18.10.04. A provisional assessment bill for Rs.17,03,993/- was also prepared in the case. The report further indicates that a speaking order and a final bill in the matter have not been passed/issued till date and a vigilance inquiry is being conducted by NDPL's vigilance department in this matter. The Respondent stated during the hearing that a decision on the said theft case will be finalized once the vigilance inquiry report is available.
6. From the records and averments of the parties at the hearing the following conclusions are drawn:



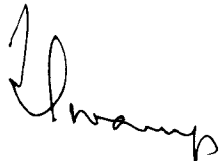
- i) The records indicate that the earlier consumer Shri Harmohan Singh has been regularly making part payments only, and arrears were allowed to accumulate to the tune of Rs.5.86 lakhs in April 2005 and no concrete action was taken to recover the dues in time. The Respondent has produced copies of two disconnection orders issued in January 2004 and April 2005 but no disconnection was done, nor any follow up action taken.
- ii) It was informed by the Respondent that the meter was earlier replaced in 2003 and the new meter particulars were not fed. The particulars of the new meter installed in 2003 were fed into the system for billing purposes in 2005 only, and due to some error in feeding the particulars of the meter, the credit of Rs.5,18,533/- was wrongly given in the bill of April 2005. The Respondent could not give a satisfactory reply to the question that if there was some system problem as claimed by Respondent, why it should not have affected all the consumer bills, and why it affected only one consumer. The possibility of a deliberate error in feeding the particulars cannot be ruled out, resulting in a huge wrong credit in the bill of Shri Harmohan Singh. The Respondent informed that a vigilance inquiry is being conducted to investigate the case from this angle.
- iii) The Appellant produced a copy of the Respondent's letter dated 4.12.07 i.e. after the CGRF's order, intimating him of further dues of about Rs.20 lakhs. The Respondent informed that these are based on the enforcement inspection dated 13.10.04 when FAE was detected, and a show cause notice was issued to Shri Harmohan Singh. The Respondent officials could not confirm whether after issue of the show cause notice, speaking orders were passed and theft bills were raised or not. Now in their further submissions on . 23.1.08 it was confirmed that the Respondent had not passed any speaking orders nor a FAE bill in the matter had been raised. Surprisingly the enforcement inspection dated 13.10.04 is undecided till date even after 4 years. The issue is being investigated by the vigilance department but no conclusion of this investigation is available.
- iv) The Respondent has issued the final bill after two months of the Appellant's request. There was sufficient time for ascertaining the dues position from other departments, if any. As per the DERC Regulations of 2002, once the final bill is raised, the licensee has no right to recover any charges, other than those in the final bill, for any period prior to the date of the bill.
7. It is observed that there were serious lapses in the working of the Respondent officials in not recovering the dues for regular monthly bills from Shri Harmohan Singh, the previous owner. The arrears were allowed to accumulate, wrong credit was given presumably because of some error in feeding the meter particulars, and the error was not detected for more than two years, the debit amount was not recovered from the earlier consumer. These lapses came to surface only after the premises was sold by Shri



Harmohan Singh to the Appellant. The issue of a theft case on the basis of an enforcement inspection dated 13.10.04 is still pending for passing speaking orders and for raising the theft bill. **Thus the earlier consumer Shri Harmohan Singh has been extended undue benefit, evidently because of connivance with the concerned officials.**

8. To meet the ends of justice it is directed that in view of the DERC Regulations 14 (iv) the Respondent cannot recover any charges from the Appellant other than those given in the final bill for any period prior to the date of the final bill. All the payments made by the Appellant after payment of the final bill excluding adjustment of security deposit of the previous owner for connection K.No.4320 0142 5860 be adjusted against the new connection. The new connection may be given, after completion of commercial formalities. The amount due from the previous owner Shri Harmohan Singh be recovered from him, if necessary through appropriate legal action. The vigilance enquiry be completed within 60 days of this order and the officers responsible for the apparent lapses / connivance in this case, suitably punished. **The compliance report be submitted by the Respondent within a period of 21 days of this order.**

11th February 2008


(SUMAN SWARUP)
OMBUDSMAN