

158

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/2007/247

Appeal against Order dated 18.04.2007 passed by CGRF–BYPL in complaint no. 95/03/07 (K.No. 1250 5003 0010).

In the matter of:

Shri Rafiq Ahmed
M/s Hamid Metal Works

- Appellant

Versus

M/s BSES Yamuna Power Ltd.

- Respondent

Present:-

Appellant Shri Rakesh Kumar, Advocate attended on behalf of the Appellant

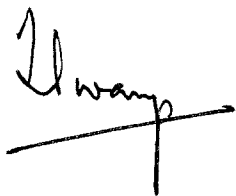
Respondent Shri Naveen Vats, Business Manager,
Shri S.L. Khullar, Commercial Officer,
Shri Bhagat Ram, Section Officer,
Shri Rajeev Ranjan Assistant Manager (Legal),
Shri Prasenji, Official present during meter testing,
Shri A.P. Singh, Deptt. Of Enforcement and
Shri P.K. Mahur, Legal Retainer

Dates of Hearing : 26.02.2008, 11.03.2008, 26.03.2008,
04.04.2008, 30.04.2008, 30.05.2008,

Date of Order : 16.06.2008

ORDER NO. OMBUDSMAN/2008/247

1. The Appellant, Shri Rafiq Ahmed, has filed this appeal through Shri Rakesh Kumar Advocate, against the orders of CGRF-BYPL dated

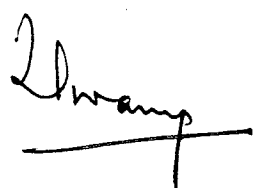


157

18.04.2007 in complaint no. 95/03/07 stating that the CGRF orders are unjust and illegal and have been passed without considering the entire set of facts. He has prayed that the said orders be set aside, and his bill be revised upto the reading of 10455.

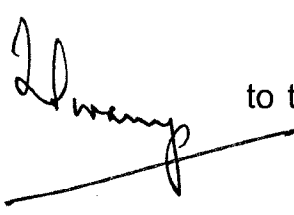
2. The background of the case is as under:

- i) The Appellant is the registered consumer of an electric connection vide K. No. 125050030010 installed at his premises 865/20 Gali No. 31/4, Zafarabad, Delhi, for industrial use.
- ii) The Appellant had earlier moved an application in June 2006 before the Permanent Lok Adalat stating that his meter was disconnected in 2001 at the reading of 10455, but the exact date of disconnection is not known to him. The meter is lying disconnected at his premises and still showing the reading of 10455. The cause of complaint was the bill received by him for June 2006 of Rs.1,62,457.25, indicating the reading of 28583 as on 26.12.2005. The Appellant in his complaint stated that this is a case of an incorrect bill based on wrong readings. The Appellant requested for a revised bill based on actual consumption up to the reading of 10455. As both the parties could not come to any settlement, the case was closed by the PLA as unsettled, on 23.01.2007.
- iii) Thereafter, the Appellant filed a complaint before the CGRF-BYPL on the above grounds and further stating that the meter was checked twice by the Respondent officials on 17.08.2006 and 22.12.2006 but no irregularity was found. As such the bill under



dispute be revised on the basis of the reading being shown i.e. 10455.

- iv) The Respondent stated before the CGRF-BYPL that the supply was disconnected on 03.12.2005 at the meter reading of 28583 and no demand was raised after disconnection of supply.
- v) The CGRF in its order dated 18.04.2007 observed as under:
 - a) The claim of the complainant that his final reading is 10455 is simply based on the inspection report No. 7411 of 17th August, 2006 and 5145 of 22nd December, 2006, wherein the final reading recorded is 10447.
 - b) The meter readings were regularly recorded upto 04.06.2005 and these show an increasing trend and the bills were also issued to the complainant regularly. In the month of June, 2005 the outstanding dues were Rs.1,39,418.68.
 - c) After June 2005, no meter reading was recorded, and the bills were issued on provisional basis upto November 2005, and the final amount was Rs.1,58,786.01 in the month of November, 2005.
 - d) The Appellant raised his first objection against the bills issued to him, only before the P.L.A. in the year 2006, while the bills have been issued since 2000.

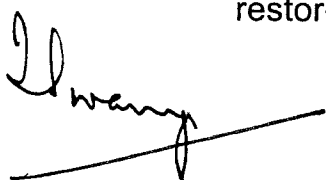


The CGRF further observed that the complainant is trying to take advantage of the final reading as recorded at the time of

155

meter inspections in August and December 2006, while all other facts are contrary to his submissions. He had been regularly billed on the basis of the consumption recorded in his meter, to which he never objected. The first objection was raised by him before the PLA only in the year 2006. The consumption pattern is also showing the consumption in an increasing manner. Further, it was also observed that more than 20 times, meter readings were recorded between 2000 to 2005 and these readings have been recorded not by one meter reader alone, but several meter readers were involved. The CGRF concluded that the meter was in working order upto 04.06.2005, and the readings were correctly recorded by the meter readers. Regarding the reading recorded at the time of meter inspections, which do not tally with the consumption pattern of the complainant, the Forum concluded that these readings were faulty.

The CGRF in its order directed the Respondent to revise the bill upto 04.06.2005 as per the recorded meter readings and six months MG thereafter, assuming the date of disconnection to be 04.06.2005, since no record regarding the date of disconnection was produced by the parties. LPSC is also leviable upto 04.06.2005 as the bills were issued on the basis of correct meter readings upto this date. The complainant has been allowed to make the payment of the revised bill in five equal installments, and it was directed that the Appellant's supply be restored within 48 hours after the payment of the first installment.



vi) Not satisfied with the above orders of the CGRF, the Appellant has filed this appeal.

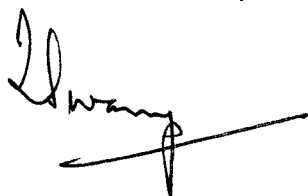
3. After scrutiny of the contents of the appeal, the CGRF's order and the replies submitted by both the parties, the case was fixed for hearing on 26.02.2008.

On 26.02.2008, the Appellant was not present. The Respondent was present through Shri Rajeev Ranjan, Assistant Manager (Legal). The case was further fixed for hearing on 11.03.2008 and a notice was issued to the Appellant to be present on the next date to plead his case.

On 11.03.2008, the Appellant was not present again. The Respondent was present through Shri Rajeev Ranjan, Assistant Manager (Legal) and Shri Bhagat Ram, Section Officer. The case was again adjourned as the Appellant was not present. The last opportunity was given to the Appellant to appear on 26.03.2008 at 12:00 Noon.

4. On 26.03.2008, the Appellant was present through his advocate Shri Rakesh Kumar. The Respondent was present through Shri Rajeev Ranjan Assistant Manager (Legal), Shri S. K. Khullar, Commercial Officer and Shri Bhagat Ram, Section Officer.

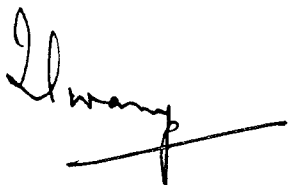
Both parties were heard. The Appellant reiterated what he had already stated in his appeal. He could not however produce the last paid bill or any other document to corroborate his contention that



153

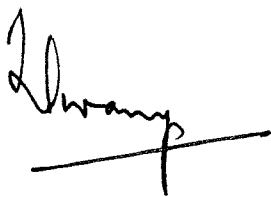
his meter was disconnected in the year 2001. The Respondent produced the Statement of Account from 1996 to December 2005 which indicates that the Appellant had made part payment of Rs.7,000/- in September 2000 at the reading of 11900 (page 114). Thereafter, the Appellant had not made any payment till disconnection in 2005. This reading of 11900 is much higher than the reading of 10455 as claimed by the Appellant when his supply was disconnected in 2001. The Appellant was asked to produce the copy of the last paid bill. A copy of the Statement of Account was given to the Appellant. The case was fixed for arguments on 04.04.2008.

5. On 04.04.2008, the Appellant was present through Shri Rakesh Kumar Advocate. The Respondent was present through Shri Bhagat Ram, Section Officer and Shri P. K. Mahur, Legal Retainer. Both parties were unable to produce any record regarding the date of disconnection of the meter, disconnection particulars or any other documents to corroborate their versions. The Appellant could also not produce the copy of the last paid bill despite several opportunities to do so. It was stated by the Respondent that the meter was still at site. The Respondent was directed to remove the meter and to get it tested in an approved lab and to produce its results at the next hearing to ascertain whether the meter had been reversed, along with other documents which could not be produced today. The Appellant was asked to produce a copy of the last paid bill and date of disconnection including copy of notices issued for disconnection and sealing of premises as claimed by him, if any. The case was fixed for hearing on 30.04.2008.



6. The Respondent submitted vide letter dated 07.04.2008 that his officials visited the premises of the Appellant on 05.04.2008 at 1:00 PM for removal of the meter for testing as per directions issued during hearing on 04.04.2008, but the Appellant did not allow the officials to remove the meter. The Appellant was directed vide Ombudsman's office letter dated 15.04.2008 to co-operate with the Respondent for removal and testing of the meter on 24.04.2008 at 11:00 AM for proper adjudication of this case, otherwise adverse inference will be drawn against him for non-compliance with the directions of the Ombudsman.
7. On 30.04.2008, the Appellant was present through Shri Rakesh Kumar Advocate. The Respondent was present through Shri Naveen Vats, Business Manager, Shri Bhagat Ram, Section Officer and Shri Rajeev Ranjan, Assistant Manager (Legal).

The Meter test / analysis report dated 28.04.2008 of ERDA was taken on record. The report was found to be incomplete as it does not discuss at all whether the meter had been tampered with and reversed as this was the main purpose for its testing. It was directed that the meter be tested for reversal of readings and the report be submitted at the next hearing. The Respondent also clearly stated that the copies of the disconnection notices particulars are not available. The Appellant could also not submit the copy of the last paid bill and copy of disconnection notices received before actual disconnection. The case was fixed for hearing on 30.05.2008 and in



151

the meanwhile the Respondent was asked to get the report from ERDA. The officials of the Respondent who were present during testing of meter were also called alongwith the meter.

8. On 30.05.2008, the Appellant was not present and his advocate was contacted on phone who stated that he will be sending written submissions within a week.

The Respondent was present through Shri Naveen Vats, Business Manager, Shri Rajeev Ranjan Assistant Manager (Legal), Shri Prasenjit official present during meter testing, Shri A. P. Singh, Deptt. Of Enforcement and Shri Bhagat Ram, Section Officer.

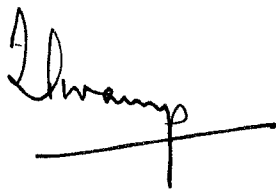
The Respondent produced the ERDA lab report and the original meter as an exhibit to show that anti-reversing device was disturbed from its original position and was not correctly aligned so as to prevent the meter from moving in reverse direction. No other document was available with Respondent with regard to disconnection of the connection.

9. Based on the arguments and documents submitted by both the parties, it is observed as under:
 - a) The Appellant has stated that his supply was disconnected in 2001(exact date not known to him) but the disconnected meter remained at the site and indicated a reading of 10455 when the complaint was filed before the PLA in June 2006 i.e. 5 years later. As per the Statement of Account produced by the

Alwamy

Respondent, the Appellant had made a part payment of Rs.7,000/- in September 2000 for the reading of 11900, and thereafter no payment was made by him . As a result of this, the arrears kept on mounting and the supply was finally disconnected in December 2005 at the reading of 28583.

- b) Neither the Respondent nor the Appellant could produce any document such as copies of disconnection notices issued for clearing the pending arrears, copy of disconnection particulars sheet indicating date of disconnection, and the last recorded reading of 28583. When asked if any representation was made between 2001 and 2006 on receipt of bills after disconnection of supply in 2001, the Appellant replied that no bills were received by him during this period. However, he had filed a complaint against the June 2006 bill, received by him. The Appellant's version that he had not received any bill after September 2000 is not acceptable, since he had made only part payment of the dues in September 2000. The Appellant could not produce a copy of the last paid bill despite several opportunities. The original meter books and reading record produced by the Respondent, the only record which has been produced, indicates that regular readings in increasing order were recorded by different meter readers up to 04.06.2005 with the last reading of 28583. After 04.06.2005 the same reading was indicated up to November 2005. As per records submitted by Respondent the reading 28583 was recorded as on 27/12/2007 after verification. The Respondent



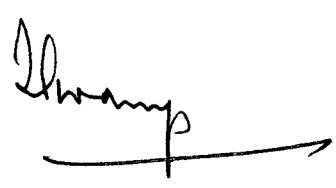
149

states that the supply was disconnected on 04.12.2005 and no further consumption was recorded after this date.

- c) It is unusual that the Respondent did not take any action for recovery of arrears and current dues after September 2000 till December 2005 as no payment was made by the Appellant during this period. For this the Respondent could not give any satisfactory reply nor could they explain why the meter was allowed to remain at the site after disconnection of supply in December 2005. Both the parties could not explain how the meter was showing a reading of 10455 in 2006 when the last bill was paid in September 2000 at the reading of 11900. The Respondent stated that the supply was disconnected in December 2005 on account of non-payment of bills, which were raised regularly and the Appellant had never protested against the bills issued up to December 2005. It is only after disconnection of supply that he had filed a complaint against the June 2006 bill of Rs.1,62,457/-. As per the records, the meter readings were recorded by different meter readers between 2000 to 2005 and the last reading of 28583 was recorded on 04.06.2005. It is noted with surprised that the disconnected meter is now indicating a reading of 10455 as stated by the Appellant, and this reading was also observed during inspections made by the Respondent officials on 17.08.2006 and 22.12.2006. It appears that the meter has been reversed, most likely in collusion with the officials of the Respondent.

Shwamy

- d) The non-availability of relevant documents also points to collusion between the Respondent officials and the Appellant. Neither party could produce evidence to confirm when the supply was disconnected nor the Respondent could explain why the supply was allowed to continue till the end of 2005 when no payment was made after September 2000 and why the disconnected meter was allowed to remain at site after disconnection of supply. The meter in question is a three phase electro mechanical meter of Havells make. The Respondent's inspection report dated 17.08.2006 could not certify the status of the seal and whether these are genuine or tampered with. The report also does not indicate how the meter is now indicating a lower reading in comparison to the long record of the higher meter readings. Obviously, various dubious means have been adopted to facilitate the Appellant.
- e) To further ascertain the status of the meter and whether it has been reversed, it was ordered to be sent for testing to the ERDA, accredited lab. As per the lab report the anti-reversing device was found disabled /misaligned, so that the anti-reversing device does not work. This meter was produced as an exhibit during the hearing and was found moving in reverse direction when input / output supply wires or connections were inter-changed.



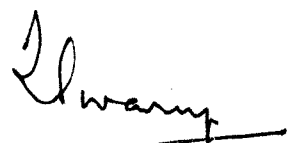
147

- f) The meter reading records produced by the Respondent cannot be ignored as readings were recorded by different meter readers during a long period of five years up to 04.06.2005.

In view of the above observations in para 9 above there is no reason to interfere with the orders of the CGRF-BYPL dated 18.04.2007. The CGRF has rightly relied on the original meter reading record and correctly concluded that since the meter readings have been recorded by different meter readers upto 04.06.2005, the bill be revised upto this date.

The appeal is accordingly dismissed.

16th June 2008.


(SUMAN SWARUP)
OMBUDSMAN