

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/2008/298

Appeal against Order dated 14.11.2008 passed by CGRF–NDPL in
 CG.No. 1849/08/08/RHN.

In the matter of:

Shri Shiv Charan Sharma - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri V.K. Goel, Advocate
 Shri O.P. Madan, and Shri Pradeep Kumar, Advocates
 attended on behalf of the Appellant

Respondent Shri Rajeev Khariyal, AGM,
 Shri Sai Ram Patro, HOG (R&C)
 Shri Sunil Dutt, Section Officer,
 Shri Ashutosh Kumar, Senior Executive
 Shri Nitish Gupta, Officer HRD
 Shri Vikas Gupta & Shri Praveen Chawla , Asstt. HRB
 Shri Rajeev Wadhwa, Client Manager and
 Shri Vivek, Assistant Manager (Legal) attended on behalf
 of the NDPL

Dates of Hearing : 29.01.2009, 11.02.2009, 20.03.2009

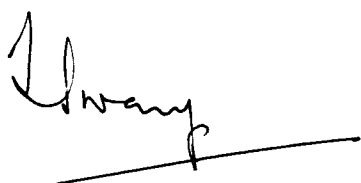
Date of Order : 30.03.2009

ORDER NO. OMBUDSMAN/2009/298

1. The Appellant has filed this appeal against the orders of the CGRF-NDPL dated 14.11.2008 in case CG No. 1849/08/08/RHN, on the following grounds:

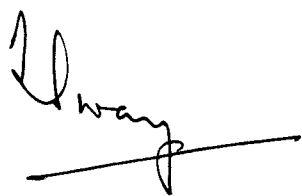


- a) That the Ld. CGRF has not applied its judicial mind to the facts and circumstances of the case in the right perspective and has not appreciated the legal proposition on the subject at all.
- b) That there is no provision for deposit of any amount for hearing the complaint and there is no provision for closing the case unheard in such a situation. If any consumer is not able to pay, he has the right to atleast get his bill corrected.
- c) That the Ld. CGRF has failed to appreciate that the demand shown by the Respondent is highly inflated and on correction it would be reduced to much less.
- d) The settlement arrived at in the Hon'ble Civil Court in respect of the two theft cases was not given effect to and if, the bill is properly corrected the amount payable would be much less.
- e) The Appellant has made the following prayer:
- To quash the assessment bill for Rs.31,493/- being illegal.
 - To correct the bill by withdrawing complete LPSC levied by Respondent.
 - To correct the bill by implementing the settlement reached at in the Hon'ble Civil Court regarding the FAE bills.
 - To grant suitable compensation for mental torture, agony and harassment.



2. The background of the case as per the submissions of both the parties is as under:-

- i) The Appellant Shri Shiv Charan Sharma is the registered consumer of electricity connection bearing K. No. 44300127764 installed at 275-A, Naharpur, Delhi – 110 085 with a sanctioned load of 40 kw for industrial purpose.
- ii) The Respondent changed the category of tariff from IP to NL in the records without any reason and started levying misuse tariff from July 2007 onwards. As per the Appellant no show cause notice or personal hearing was given to the Appellant. The Appellant filed a complaint before the CGRF-NDPL for:
 - Removal of wrong tariff (misuse) and LPSC;
 - Correcting date of energization of the connection which was energized in 1990 instead of on 14.04.1993 as shown in the bill.
 - The consumption deposit shown in the bills is Rs.2900/-. This is required to be corrected as the consumption deposit made was Rs.4,300/- on 06.04.1990, and Rs.28,528/- on 01.01.1996.
- iii) The Secretary CGRF-NDPL informed the Appellant by letter dated 15.04.2008 that the grievance of the Appellant falls under Section 126 (unauthorized use) of the Electricity Act 2003, as such the Forum is not in a position to register the complaint.
- iv) Thereafter, the Appellant filed an appeal before the Electricity Ombudsman. With reference to the appeal, the Respondent



(NDPL) replied that due to non-production of a valid MCD license, IP / NF tariff (misuse industrial connection) was levied on the Appellant's connection and the tariff was not levied under Section 126 of the Electricity Act 2003. In view of this reply of the Respondent, the case was remanded back to the CGRF-NDPL for proper adjudication of the dispute on merits.

- v) The Appellant again filed his complaint before the CGRF-NDPL on 11.08.2008 which was registered vide case CG No. 1849/08/08/RHN.
- vi) The Respondent stated before the CGRF that the connection K. No. 44300127764 was energized on 05.07.1990 with a sanctioned load of 1 kw and supply type IP (Industrial power). In the year 1996, the consumer got the load enhanced from 1 kw to 40 HP under the voluntary load declaration scheme. The area of village Naharpur is a nonconforming industrial area and in the absence of a valid MCD license IP/NF (misuse) tariff was levied by erstwhile DVB, in accordance with the prevailing office order at that time.
- vii) The complainant applied for withdrawal of misuse charges which were withdrawn from July 2007. The Respondent further informed the CGRF that the meter against the connection was replaced on 15.02.2006 with MF remarks, and as the last OK reading was recorded on 20.12.2005, therefore, the Respondent carried out an assessment for the period 20.12.2005 to 15.02.2006. The



Respondent further stated that after withdrawal of misuse charges, the justified bill amount of Rs.6,20,301/- was pending against the connection and is payable by the Appellant.

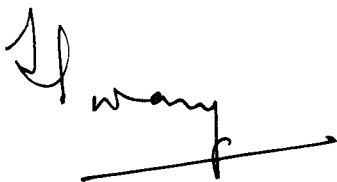
- viii) The CGRF passed interim orders on 13.10.2008 and 03.11.2008 directing the consumer to make 'on account' payment of Rs.3,00,000/- (three lakhs) out of the outstanding dues of Rs.6,20,300/- and accorded a final opportunity to the Appellant to make the necessary deposit by 10.11.2008. The CGRF passed the final orders on 14.11.2008 and decided to close the case as unheard, considering that the Appellant had willfully failed to comply with the interim orders of the Forum.

Not satisfied with the CGRF's order, 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 29.01.2009.

On 29.01.2009, the Appellant was present through Shri V. K. Goel and Shri O. P. Madan, Advocates. The Respondent was present through Shri Rajeev Khariyal, AGM, Shri Sunil Dutt ,S.O., Shri Vikas Gupta, Assistant HRB, Shri Rajeev Wadhwa, Client Manager and Shri Vivek, A.M. Legal.

Both parties were heard. The Appellant stated that there are four issues:



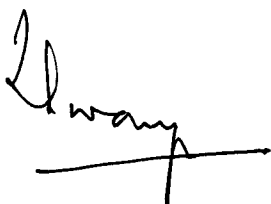
- Levy of misuse tariff due to change from industrial connection to NL in the records by the Respondent.
- Assessment for 57 days i.e. 20.12.2005 to 15.02.2006 amounting to Rs.31,493/-.
- LPSC of about Rs.1.11 lakhs levied on the Appellant.
- Arrears of about Rs.4.87 lakhs shown in the bill of August 2008.

The Respondent was directed to file the details of arrears of Rs.4,87,015/-, LPSC of Rs.71,403/- and Rs.6,833/- and the basis for assessment, alongwith the Statement of Accounts. The Appellant was also asked to file details of court cases alongwith the decisions of PLA. The documents were to be filed by 09.02.2009 and the case was fixed for hearing on 11.02.2009.

4. On 11.02.2009, the Appellant was present through Shri O. P. Madan and Shri Pradeep, Advocates. The Respondent was present through Shri Rajeev Khariyal, AGM, Shri Sai Ram Patro, HOG (R&C), Shri Sunil Dutt, S.O., Shri Praveen Chawla, Ass. HRB, Shri Nitish Gupta, Officer HRB and Shri Vivek, A.M. Legal.

Both parties argued at length on the four issues raised by the Appellant:

- Regarding the assessment done by Respondent for the period 20.12.2005 to 15.02.2006, the Respondent informed that the last bill was issued based on the reading dated 20.01.2006. This was confirmed by Appellant. It was decided that the assessment bill be



revised and be raised for 26 days i.e. for the period 20.01.2006 to 15.02.2006 after applying the DERC Regulations i.e. taking six months past average and six months average after installation of the new meter on 15.02.2006, as the basis. The Respondent informed that on this basis the consumption comes to 201.86 units per day. It was decided that the bill be revised and the excess amount, if any be refunded after calculating the amount already charged minus the amount payable.

- As regards the current dues for the period July 2007 to June 2008, and levy of LPSC thereon, the Respondent was asked to file the statement of dues month-wise and the details of LPSC levied thereon. After levy of IP tariff the revised arrears be worked out.
- Regarding the FAE bills decided upon by the Civil Court on 17.11.2007, the Appellant agrees to pay the amount found to be due, after adjusting the payments already by him. The Respondent was asked to raise the arrear claim separately after adjusting the payments already made against the DAE bills.

The case was fixed for hearing on 20.03.2009 and the Respondent was asked to file the statements of dues by 15.03.2009.

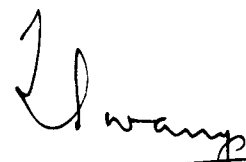
5. On 20.03.2009, the Appellant was present through Shri V. K. Goel and Shri Pradeep Kumar, Advocates. The Respondent was present through Shri Sunil Dutt, S.O., District Rohini, Shri Parveen Chawla, Asstt. HRB and Shri Vivek, A.M., Legal.



Both parties argued the matter at length. After hearing both the parties and seeing the documents on record it is noted that the net payable amount has been worked out to be Rs.3,31,752/- upto KVAH reading 156291 dated 20.02.2009 as per the statement filed by the Respondent. The Appellant has no objection to payment of this amount to clear all outstanding arrears reflected in the August 2008 disputed bill. **Since the Appellant has no objection to the payment of this amount, the Respondent is directed to send a revised corrected bill giving details of the arrears recoverable including LPSC up to July 2007, to the Appellant within 10 days of this order.**

The CGRF order is accordingly set aside.

30th March 2009.


(SUMAN SWARUP)
OMBUDSMAN