

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/2009/334

Appeal against Order dated 11.08.2008 passed by CGRF-BYPL in complaint No.119/06/08 (K.No. 614-154799-IX).

In the matter of:

Shri Devraj - Appellant
M/s Globe Sanitation

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Devraj was present in person

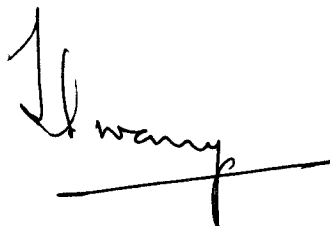
Respondent Shri Mahender Reddy, Business Manager, NNG
Shri Rajeev Ranjan, Nodal Officer,
Ms. Sapna Rathore, AM-CGC
Shri M.K. Jha, Legal Officer and
Shri Ravinder Bisht, Asstt. Grade-III (Legal) attended on
behalf of the BYPL

Dates of Hearing: 27.10.2009, 10.11.2009

Date of Order : 16.11.2009

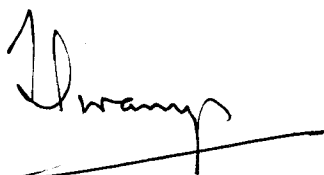
ORDER NO. OMBUDSMAN/2009/334

1.0 The Appellant Sh. Devraj has filed this appeal against the orders dated 11.08.2008 passed by the CGRF-BYPL on the complaint no. 119/06/08, on the following grounds:-


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- i) That the Ld. Forum failed to give due and deep consideration to his main contention relating to deficiency in service on the part of the Respondent, in not raising bills in respect of the electricity connection of the Appellant for five years approx., i.e. from the date of the replacement of the meter. The Appellant had to approach the PLA-II earlier, and now the CGRF Karkardooma, in complaint no. 119/06/08. Thus the impugned order passed by the Ld. Forum on 11.08.2008 cannot be said to be lawful and judicious and as such it is liable to be set aside.
- ii) That the Ld. Forum erred in appreciating the provisions of Section 56 (2) of Electricity Act 2003 around which the whole complaint of the complainant / Appellant centers. Thus the impugned order passed by the Ld. Forum on 11.08.2008, cannot be said to be lawful and judicious and as such it is liable to be set aside.
- iii) That the Ld. Forum has failed to appreciate / look into the financial difficulty of the complainant/ Appellant while ordering payment of the bill, which has accumulated for 5 years, i.e. after 20.05.2003, due to deficiency in service on the part of the Respondent, in 8 monthly installments. The payment should have been ordered in more easy monthly installments, and equal to the monthly electricity charges.

The Appellant has prayed that the order passed by the Ld. CGRF on 11.08.2008 may be quashed/ set-aside in the interest of justice.


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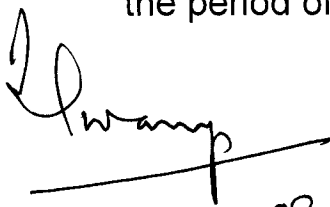
1.1 The background of the case as per the contents of the appeal, the CGRF's order and submissions of the parties is as under:

- a) The Appellant has an industrial connection vide K. No. 12600 G021527, with a sanctioned load of 14.92 Kw. The Appellant has stated that from the date of installation, no electricity bill was issued by the Respondent. The Appellant therefore approached the PLA-II, and as per the orders dated 14.08.2003 passed by the PLA-II, the Appellant made a payment of Rs.1,00,000/- on 30.06.2003, Rs.50,000/- on 31.07.2003 and Rs.44,446/- on 30.08.2003, and the balance amount of Rs.50,000/- was not paid, as no demand was raised.
- b) After payment of the above three installments, no further bills were raised and the meter of the Appellant was also changed on 27.07.2004. Thereafter also, no bill was ever served upon the Appellant.
- c) The Appellant filed a complaint before the CGRF in this regard with the prayer that the Respondent be directed to provide a correct bill in terms of the provisions of section 56 (2) of the Electricity Act 2003, as the demand prior to 2 years had become time barred. The electricity charges were neither demanded separately nor shown in any bill as arrears, from the date of replacement of the meter on 24.07.2004.
- d) The Respondent stated before the CGRF that the Appellant had made payment of the revised bill upto the reading '60668' dated 20.05.2003 for meter no. 980917, in terms of the orders of the PLA-II dated 14.08.2003, and billing upto this period is not


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disputed. The Respondent also stated that the new meter no. 17015973 was installed, under the scheme of mass replacement of electro mechanical meters, on 27.07.2004. Inadvertently, the master data of the consumer could not be punched in the system due to which the bills could not be raised in the Appellant's case. The reading of the old meter at the time of replacement on 27.07.2004 was 85281. Accordingly, the Appellant is to be charged for the remaining units i.e. the difference in reading '85281' and the reading '60668' as on 20.05.2003 = 24614 units, for which the charges work out to Rs.1,19,101.16. The reading of the new meter installed on 27.07.2004 was '155439' units (Kvah on 07.07.2008) as per the site report, and the dues including arrears had been worked out to Rs.7,41,865.51. The Respondent further submitted that the case had been sent for punching the required data of the consumer and bills will be issued to the complainant in future regularly as per the energy consumed.

- e) The Respondent further stated that as per the DERC Regulations, in case of non-receipt of bills, it is the duty of the Appellant to make a complaint in writing to the Business Manager of the concerned district. For non-receipt of bills, the Appellant had never approached the Respondent nor had made any complaint in this regard, though he was using / consuming electricity. As such he cannot escape the liability of paying the dues of electricity actually consumed by him.
- f) The Respondent also stated that as per the various court orders the period of limitation as per section 56 (2) of the Electricity Act,

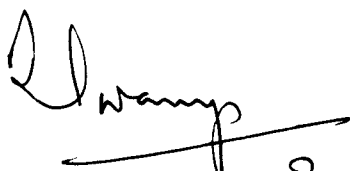

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starts when the electricity charges become first due i.e. only after a bill or demand notice for payment is sent by the Discom to the consumer.

- g) The Appellant stated that consumption of 24614 units in 14 months i.e. between (20.05.2003 to 27.07.2004) is not possible, if compared with the consumption of 60668 units between 11.01.1999 to 20.05.2003 i.e. in 52 months and 9 days.
- h) The Appellant could not submit any document in support of his claim that he had approached the Respondent in respect of non-receipt of bills after 20.05.2003. The CGRF in its order concluded that the Appellant is liable to pay for the electricity actually consumed by him w.e.f. 20.05.2003 onwards, and the escaped billing due to non-punching of the master data by the licensee in the computer system resulted in non-raising of the electricity bills. The Appellant was allowed to make payment of the arrears in 8 monthly installments, along-with the current dues, without levy of LPSC. The Appellant was also granted a compensation of Rs.2000/- for harassment.

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

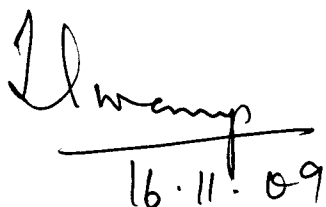
2.0 After scrutiny of the contents of the appeal, the CGRF's order and the replies submitted by both the parties, the case was fixed for the first hearing on 24.10.2009.


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On 24.10.2009, the Appellant Sh. Devraj was present in person. The Respondent was present through Sh. Mahender Reddy, Business Manager, NNG. Div., Sh. Rajeev Ranjan, Nodal Officer, Ms. Sapna Rathod, AM CGC and Sh. Ravinder Bisht, Asstt. Grade-III (Legal).

Both the parties argued at length. The Appellant re-iterated the submissions already made in the appeal. It was stated that after installation of the connection in January 1999, no bill was raised by the Respondent. The issue was taken up with the PLA-II. As per the PLA-II's order, the Respondent raised a bill upto the reading of '60668' as on 20.05.2003, and payment was made in installments. The Respondent changed the meter on 27.07.2004 and again no bill was raised. Thereafter, the Appellant filed a complaint before the CGRF. The Respondent was directed to produce the meter change report of July 2004, to explain the reasons for not raising the bills after May 2003, and to produce a statement of the arrears claimed in three parts i.e. from 20.05.2003 to 27.07.2004, 27.07.2004 to 07.07.2008 when site inspection was made, and reading based bills thereafter till date. The Appellant was asked to produce the records available with him. The case was fixed for further hearing on 10.11.2009.

- 2.1 On 10.11.2009, the Appellant Sh. Devraj was present in person. The Respondent was present through Sh. Mahender Reddy, Business Manager, Ms. Sapna Rathod, AM CGC, Sh. Ravinder Bisht, Asstt. Grade-III and Sh. M. K. Jha, LO.


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The statement of dues produced by the Respondent was taken on record, and a copy was also given to the Appellant for comments, if any. The Appellant confirmed the payments made by him and recorded in the statement. The Appellant also stated that as per the PLA-II decision, he did not pay the balance Rs.50,000/- as no bills for two installments each of Rs.25,000/- were received by him. The Respondent stated that bills were not raised as the master data was not fed in the system for billing purposes, due to oversight.

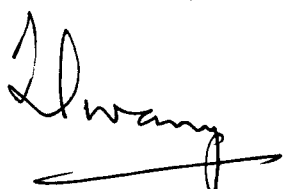
- 2.2 The Respondent stated that the total amount due as on 06.11.2009 is Rs.8,20,305.78. Another amount of Rs.50,000/- is due as arrears for the period prior to May 2003 as per the PLA's decision. It was also observed that after the PLA's order, neither any bill was raised by the Respondent nor any payment was made by the Appellant, though electricity was being consumed. As per the records submitted by the Respondent, the Appellant has made the following payments in 2009, and no other amount has been paid by him between 30.08.2003 to 13th May 2009.

14.05.2009 Rs.42,180/-

29.08.2009 Rs.3,03,250/-

22.09.2009 Rs.18,000/-

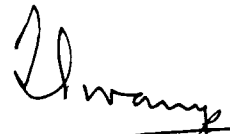
After adjusting the above payments indicated above, the net demand, without LPSC, has been stated to be Rs.4,56,875.78 + Rs.50,000/- (arrears) by the Respondent.


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2.3 After considering the statements produced and the averments of the parties, it is decided that the dues amounting to Rs.5,06,875.78 are payable by the Appellant. This amount should be paid by the Appellant in 10 monthly installments i.e. 9 installments of Rs.50,000/- each and the last installment of Rs.56,875.78. These 10 installments should be paid monthly, alongwith the current dues. Henceforth, the Respondent should raise regular monthly bills for the Appellant's connections and ensure that the data is properly fed into the computer system.

The CGRF order is modified to the extent indicated above. Compliance of this order be reported within 21 days.

16th November 2009


(SUMAN SWARUP)
OMBUDSMAN