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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/2010/356

Appeal against Order dated 14.10.2009 passed by CGRF-BRPL in case no. C.G.No.246/2009.

In the matter of:

Shri Kuldip Singh Makhni - Appellant

Versus

M/s BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Kuldip Singh Makhni was present in person

Respondent Shri Avinash Kumar, DGM and Shri Anurag Gupta, Commercial Officer attended on behalf of BRPL

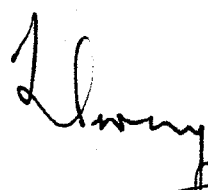
Date of Hearing : 23.03.2010

Date of Order : 05.04.2010

ORDER NO. OMBUDSMAN/2010/356

1.0 The Appellant, Shri Kuldip Singh Makhni has filed this appeal against the orders of CGRF-BRPL dated 14.10.2009 in the case CG No.246/2009 stating that the CGRF has completely ignored the arguments put forward by him and has not taken up the matter raised in his complaint.

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


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- (i) The Appellant has a domestic electricity connection sanctioned for a load of 9 KW vide K.No.2551L6070092
- (ii) Earlier this connection was supplied electricity through three electro-mechanical meters and these electro-mechanical meters were replaced with a single three phase meter bearing No.27048453 on 26.09.2003.
- (iii) As per the Respondent's reply, due to oversight, the new meter No. was not punched into the Electronic Billing System (EBS). As a result of this, bills were not raised after installation of the new meter i.e. after 26.09.2003.
- (iv) On a complaint received from the Appellant regarding non-receipt of bills, the Respondent carried out an inspection on 28.01.2009 and the meter reading was found to be 91216 units.
- (v) Based on the above meter reading, the Respondent raised a bill for an amount of Rs.3,60,104/- dated 24.09.2009.
- (vi) Against the above said bill the Applicant filed a complaint before the CGRF-BRPL on 11.08.2009 highlighting the inefficiency of the Respondent in not raising bills for 6 years. He further stated that on a correct interpretation of Section 56(2) of the Indian Electricity Act, 2003, he is liable to pay an amount of Rs.135039/- being the amount payable for two years only i.e. for the period from 26.09.2003 to 25.09.2005.
- (vii) The Respondent has cited the order of the Hon'ble Delhi High Court in the case of Shri H D Shourie Vs. Municipal Corporation of Delhi, AIR 1987 Delhi 219, wherein it is

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ruled that electricity charges become first due after the bill is sent to the consumer and not earlier thereto. The amount of charges would become due and payable only after the submission of the bill and not earlier. The Respondent stated before the CGRF, that the principle of law decided in the above case has been accepted before the Appellate Tribunal of Electricity in M/s Ajmer Vidyut Vitran Nigam limited Vs. M/s Sisodia Marble & Granites Pvt. Ltd. & Ors. (Appeal No.202 & 203 of 2006 dated 14.11.2006.

(viii) The CGRF in its order held that in view of the submissions made by the Respondent, the plea raised by the Appellant is not tenable in law and the Respondent is entitled to recover the consumption charges for 91261 units for the period 27.09.2003 to 28.01.2009.

(ix) The CGRF however awarded a compensation of Rs.1,000/- for the harassment and tension caused to the Appellant for no fault on his part.

(x) The Appellant was allowed to pay the arrears in three installments. The first installment shall be of 50% of the billed amount, and the remaining amount is to be paid in two equal installments.

2.0 Not satisfied with the CGRF's order the Appellant has filed this appeal with the submission that a clear distinction has to be made between the time which has elapsed, limiting a period of 2 years for raising of the bill for consumption of electricity, and the


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limitation period for the payment of the same, but this has been over-looked by the CGRF.

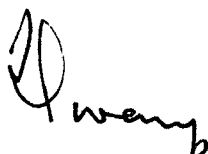
- 3.0 After perusal of the appeal, the records of the CGRF, and the reply/comments submitted by the Respondent, the case was fixed for hearing on 23.03.201.

On 23.03.2010, the Appellant was present in person. The Respondent was present through Shri Avinash Kumar (DGM) and Shri Anurag Gupta (Commercial officer).

- 3.1 Both the parties argued their case. The Appellant stated that the bill should be raised for consumption of electricity for two years only, in view of the provisions of section 56(2) of the Indian Electricity Act, 2003. Section 56(2) prohibits raising of bills for a period prior to two years.

- 3.2 The Respondent stated that the meter details were not punched into the billing system inadvertently and admitted that this was a lapse. However, the period of limitation of two year under Section 56(2), does not apply for raising of bills. Due to delay in raising of bills by them, the Appellant had not suffered any financial loss. In fact the Discom had suffered a loss in revenue. The Appellant at no stage represented earlier against non receipt of bills and waited for six years to do so.

- 3.3 After hearing the arguments of both the parties, it is observed that there is a lapse on the part of the Respondent in not raising



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bills for 6 years, after installing the 3 phase meter on 26.09.2003. The DGM should enquire into the matter to fix responsibility on the persons responsible for this lapse and to recover the loss from their salaries as a result of delay in raising of bills.

As regards, payment of the demand now raised by the Respondent, for consumption of electricity, the Appellant is required to pay the dues for the electricity actually consumed by him. The limitation prescribed under Section 56(2) of the Electricity Act 2003, in my view is not attracted in this case. I find no reason therefore to interfere with the orders of the CGRF in this regard.

S^{lt} April 2010


(SUMAN SWARUP)
OMBUDSMAN