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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/2009/362

Appeal against Order dated 30.11.2009 passed by CGRF–NDPL in CG.No. 2468/10/09/BDL.

In the matter of:

Shri Suresh Kumar - Appellant

Versus

M/s North Delhi Power Ltd. - Respondent

Present:-

Appellant Shri Harish Jain, Advocate was present on behalf of the Appellant

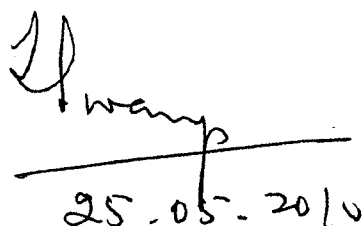
Respondent Shri Ajay Kalsi, Company Secretary,
Shri A.S. Acharya, AGM, Badli,
Shri B.L. Gupta, Manager, CMG,
Shri Arun Sharma, Commercial Manager,
Shri Vivek, Manager, Legal,
Shri Y. Pathak, Assistant Manager, CMG
Shri Harish Gupta, (ZM, 507),
Shri Rakesh Kumar, (ZMDMO, 507) and
Shri Krishnender Datta, Advocate attended on behalf of the NDPL

Date of Hearing : 21.04.2010, 11.05.2010

Date of Order : 25.05.2010

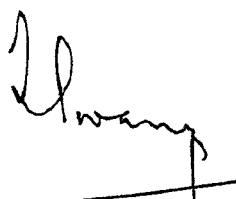
ORDER NO. OMBUDSMAN/2010/362

1.0 The Appellant, Shri Suresh Kumar, has filed this appeal against the order of the CGRF dated 30.11.2009, praying for amending the aforesaid impugned order.


25.05.2010

1.1 The brief facts of the case as per the records and submission of the parties are as under:

- (i) The Appellant, at his premises Khasra No.25/14, Gali No. 6, Libas Pur Near Jindal Factory Delhi-110042 had an electricity connection K.No.46305104737-NL with a sanctioned load of 1 KW.
- (ii) The Appellant applied on 28.01.2008 for enhancement of load from 1 KW to 30 KW and for change of category from commercial to industrial use.
- (iii) The Respondent, on receipt of the application, issued to the Appellant a demand note dated 28-01-2008 for deposit of Rs.59,500/- (Rs.43,500/- as consumption deposit and Rs.16,000/- as service/development charges). The Appellant deposited this amount of Rs.59,500/- on the same day.
- (iv) The Respondent neither enhanced the load to 30 KW nor changed the category within the time period prescribed under Schedule III of the DERC Supply Code, 2007. The Appellant also visited the office of the Respondent a number of times and submitted reminders which were duly acknowledged by the Respondent on 06.04.2009 and 24.09.2009, but no action was taken on his application.


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2.0 The Appellant filed a complaint before the CGRF-NDPL dated 01-10-2009 for the redressal of his grievance. The CGRF, after considering the records and arguments of the parties, observed that the complaint did not attract the provisions of Schedule III of the DERC Supply Code, 2007. As such, the CGRF in its order dated 30-11-2009, directed the Respondent to change the category from NL to IP and increase the load from 1 KW to 30 KW by 15-12-2009, and also awarded a compensation of Rs.10,000/- to the Appellant.

3.0 The Appellant, not satisfied with the impugned order of the CGRF dated 30-11-2009, has filed this appeal on 29.12.2009. He has prayed for modification of the aforesaid order of the CGRF and has sought compensation for the delay caused by the Respondent as per Clauses 22, 23 and Schedule III of the DERC Supply Code, 2007.

The Respondent in their reply dated 18-03-2010 stated that the Appellant had not furnished the required valid industrial licence as notified by the Factory Licensing Department of the MCD. Secondly, the factory licence furnished by the Appellant was provisional and was valid from 27-10-2009 to 25-01-2010. As such, the Appellant did not have the required factory licence on the date of filing the application for change in category and for load enhancement. The Respondent in support of this contention have enclosed a copy of the MCD

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letter dated 25-09-2008, directing the DISCOMs not to grant electricity connection to any industrial unit without a factory licence under Section 416 and 417 of the DMC Act, 1957 and to disconnect any such electricity supply, if connection is already sanctioned.

- 4.0 The first hearing in the case was fixed on 21-04-2010 after obtaining the required clarifications from the parties.

At the first hearing on 21-04-2010 the Appellant was present through Shri Harish Jain, Advocate. The Respondent was represented by Shri Krishnendu Datta, Advocate, Shri Ajay Kalsi, (Company Secretary), Shri Vivek, Manager (legal), Shri A.S. Acharya, (AGM -Badli), Shri Arun Sharma, (Commercial Manager), Shri Harish Gupta, (ZM Zone 507) and Shri Rakesh, (ZRDMO, 507).

The Appellant could not provide the required information about the nature of business carried out in his factory and produce a copy of his application for the enhancement of load and change of category.

The Respondent submitted that the load of 30 Kw was sanctioned on 04-12-2009 and the category was changed to industrial use. The Respondent further pointed out that the provisional licence produced by the Appellant was valid only from 27-10-2009 to 25-01-2010.

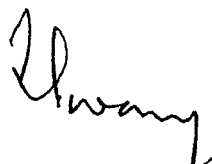
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The Respondent was directed to produce the Appellant's K.No. file for sanction of the 1 Kw connection, application for enhancement of load and change of category, and the report of the inspection carried out in this regard. The next date of hearing was fixed on 11-05-2010.

- 5.0 At the next hearing on 11-05-2010 the Appellant was present through Shri Harish Jain, Advocate. The Respondent was represented by Shri Krishnender Datta, Advocate, Shri Ajay Kalsi, (Company Secretary), Shri Vivek, Manager (legal), Shri A.S. Acharya, (AGM- Badli), Shri Arun Sharma, (Commercial Manager), Shri B.L. Gupta (Manager CMG) and Shri Y. Pathak, (Assistant Manager CMG).

The Appellant submitted that the licence for the factory had been renewed upto 31-03-2011 and produced a copy. The Appellant further submitted that his application for load enhancement and change of category was submitted on 28-01-2008, but there was undue delay on the part of the Respondent. He, therefore, requested for compensation.

- 6.0 It is evident from the records that the Appellant, at the time of applying for the load enhancement and change of category, did not have the required MCD licence for an industrial connection. Subsequently, he obtained a provisional factory licence valid for three months from 27-10-2009 and 25.01.2010. The Respondent, however, without scrutiny accepted the application of the Appellant dated 28-01-2008,


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issued the Demand Note and received the payment of Rs.59,500/-. This is in violation of Clause 22 of the DERC performance Standards, 2007, which requires the Respondent to intimate any deficiency in the application in writing to the Applicant, within 7 days of the receipt of the application.

- 6.1 In my view there is a deficiency of service on the part of the Respondent in not scrutinizing the application as per rules. The amount of Rs.59,500/- deposited by the Appellant should have been refunded within seven days of the date of receipt of the application. Obviously, the Respondent wrongly accepted the amount of Rs.59,500/- from the Appellant. **The Respondent is, therefore, directed to pay simple interest at the rate of 6% per annum on the amount of Rs.59,500/- from the date of receipt of this deposit to the date of this order as provide under Section 62 (6) of the Electricity Act, 2003.**

The Respondent should also implement this Order within 21 days from the date of its receipt under intimation to this office, as per Regulation 9(6) of the DERC Notification dated 11.03.2004.

25th May 2010.


(SUMAN SWARUP)
OMBUDSMAN

25.05.2010