

**OFFICE OF THE 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/2010/389**

Appeal dated 25.08.2010 against Order dated 30.06.2010 passed by  
CGRF-BRPL in case no. CG-252/2009.

**In the matter of:**

**Smt. Moorti Devi**

**- Appellant**

**Versus**

**M/s BSES Rajdhani Power Ltd.**

**- Respondent**

**Present:-**

**Appellant**      The Appellant was present through her Husband  
Shri Balwan Singh and her son Shri Sandeep Sinhmar

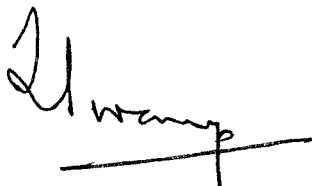
**Respondent**      Shri Paritosh Srivastava, DGM,  
Smt. Alpna Pundir, Commercial Officer and  
Shri Surender Singh, AG-II attended on behalf of  
BRPL

**Date of Hearing**      : 07.12.2010, 16.12.2010, 07.01.2011,  
11.03.2011

**Date of Order**      : 30.05.2011

**ORDER NO.: OMBUDSMAN/2011/389**

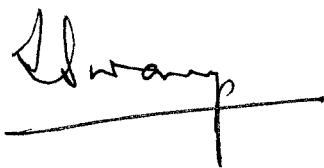
1.0 The Appellant, Smt. Moorti Devi, has filed this appeal against the  
orders of the CGRF-BRPL dated 30.06.2010 in CG No.: 252/2009  
praying for i) Refund of the amount charged illegally from  
September 1991 to September 2002 ii) payment of interest at



18% on the inflated bills, and for incorrect bills which had been raised, including for the defective period, iii) Restoration of compensation credit of Rs.21036.03 granted in January 2004, iv) Grant of compensation as per DERC's guidelines.

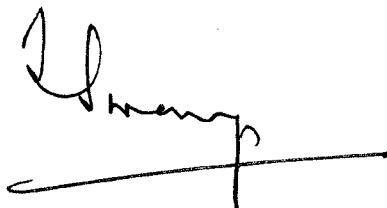
2.0 The brief background of the case is as under:

- (a) The Appellant has an electricity connection K. No. 2621 J5280228 with a sanctioned load of 2 KW for domestic purposes at her premises Pole No.97, Kh. No.3, Block-B, House No. 37, Main Gopal Nagar, Najafgarh, New Delhi – 110043.
- (b) The Appellant's case emanates from the withdrawal/correction made in the billing month of January 2009, pursuant to an audit objection of the credit given earlier of Rs.17,995.73 in the month of July 2003. The credit is stated to have been given on account of withdrawal of misuse charges levied. w.e.f. July 1999 to May 2002.
- (c) In his complaint before the CGRF, the consumer disputed charging of misuse penalty, the withdrawal of credit by the Discom, and requested for compensation as per the DERC's guidelines as also for interest @ 18% on the inflated bills, and revision of the bill which had been raised.



- (d) The CGRF after hearing both the parties vide its order dated 30.06.2010 observed that this is a case of deficiency in service for CRN No. 2620008185 sanctioned in the name of Smt. Moorti Devi . The CGRF also observed that meter no. 8848374 was installed in the premises of the complainant in November, 1997. This meter was changed in July 2001. The meter installed in the premises started recording correct readings from 09.11.2002 onwards only. The CGRF after hearing the parties ordered for assessment for the defective meter periods w.e.f November 1997 to 09.11.2002 taking the period 09.11.2002 to November 2003 as the base period. The consumer was however made liable to pay for a six month period only, ending 09.11.2002, out of the meter defective periods. The CGRF further ordered that the entire payments made by the consumer during the meter defective period w.e.f. November 1997 to 09.11.2002 be adjusted, and credited in the consumer's account. Further, no LPSC was to be charged.
- (e) The CGRF also deliberated on the duplicate credit entries in the consumer's account and ordered for their correction as these amounts were wrongly credited.

Further, the CGRF in their order allowed interest @7% per annum on Rs.12,799.89 (misuse charges allegedly paid by

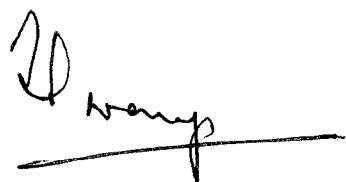


the consumer) and also awarded a compensation of Rs.3,000/- for harassment.

2.2 Not satisfied with the above order of the CGRF, the Appellant has filed this appeal vide letter dated 23.08.2010 requesting for:

- Refund of all the amounts illegally charged for the faulty meter from September 1991 to September 2002.
- Enhancement of interest to 18% against the 7% interest allowed by the CGRF.
- Compensation for the inflated bill as per the DERC's Regulations 2002, amounting to Rs.3,53,716.03 in consonance with the Statement of Accounts submitted by the Appellant for the inflated bills.
- Restoration of the credit of Rs.21,036.03 granted in January 2004.
- Enhancement of compensation of Rs.3,000/- granted by the CGRF

3.0 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 hearing on 07.12.2010.

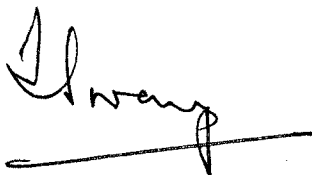
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On 07.12.2010, the Appellant was present through Shri Balwan Singh, h/o Smt. Moorti Devi and Shri Sandeep Sinhmar, s/o Smt. Moorti Devi. The Respondent was represented through Shri Paritosh Srivastava (DGM), Ms. Alpna Pundir (Comml. Officer), and Shri Surender Kumar (AG-II).

Both the parties argued their case at length. After hearing them, it was decided that the Respondent will produce the original ledgers on 10.12.2010 alongwith a "due/drawn statement". The case was fixed for further hearing on 16.12.2010.

3.1 On 16.12.2010, the Respondent produced a "due/drawn statement" framed on the basis of the original ledger. The Statement did not separately and clearly reflect the "misuse charges" levied during the period January 1999 to September 2003, nor the amount paid towards these by the consumer. The Respondent was therefore asked to file a clear statement showing the misuse charges levied and paid by the consumer separately, at the next hearing. Bills raised and paid from January 1999 were also to be produced by the consumer before the next hearing. The case was fixed for further hearing on 07.01.2011.

3.2 On 07.01.2011, the Respondent produced a detailed Statement of Accounts. It was decided that the accounts should be certified by the internal auditors of the Discom, as these pertain to almost a ten

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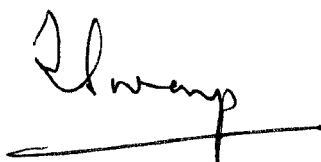
year period. Prima-facie the figures needed to be reconciled. The Respondent was directed to send the reconciled audited accounts by 31.01.2011.

- 3.3 The Statement of Accounts duly verified by the Internal Auditors of the Respondent were filed for the period January 1999 to January 2011. A copy of these was given to the Appellant on 11<sup>th</sup> March 2011 for comments regarding payments made and for pointing out discrepancies, if any by 20.03.2011. The reply of the Appellant and the Discoms comments were taken on record, and have been duly considered.

The audited statement filed by the Respondent seems to be in order and is being relied upon for deciding the merits of the case. The statement reveals that the following is the position of the dues for the DVB period:

- |    |   |              |
|----|---|--------------|
| a) | Dues before 08.1.1999   | Rs. 194.58   |
| b) | Assessment made for the period<br>08.01.1999 to 09.11.2002. As per the<br>base period w.e.f. 09.11.2002 to 06.01.2004<br>(readings 120 to 1330) | Rs. 5,075.78 |

- 3.4 The audited Statement of Accounts also shows that between January 1999 to November 2002 a payment of Rs.18,778.00 only was made by the consumer. It is interesting to note that when the



payment of Rs.18,778/- only had been made during the period January 1999 to July, 2003 by the Appellant, she is claiming a refund/credit of Rs.21,036.03 in the January 2004 bill in her appeal.

3.5 As per the Audited Statement of Accounts filed, the details of amounts due and paid by the consumer upto January 2009 are reproduced below in brief:

| Period                  | Due (Rs.)       | Demand (Rs.)             | Payment (Rs.)   |
|-------------------------|-----------------|--------------------------|-----------------|
| Jan. 1999 to Nov. 2000  | 3460.08         | 15413.39<br>(Mis-use)    | 2878.00         |
| Jan.2001 to May 2002    | 1787.74         | 1787.74<br>(No Mis-use)  | 2150.00         |
| July 2002 to July 2003  | 1927.11         | 19922.84<br>(Mis-use)    | 13750.00        |
| Sept. 2003 to Jan. 2009 | 26387.10        | 26387.10<br>(No Mis-use) | Not paid        |
| <b>TOTAL</b>            | <b>33562.03</b> | <b>63511.07</b>          | <b>18778.00</b> |

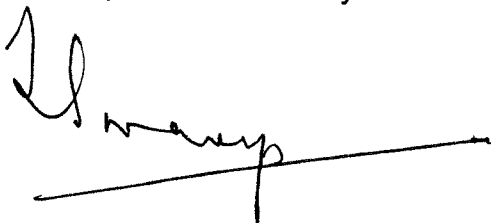
Dues from January 1999 to May 2002 are Rs.5,247.82 (3460.08 + 1787.74) against which a payment of Rs.5,028.00 (2878.00 + 2150.00) has made. As such dues and payments practically offset each other for the erstwhile DVB period.

It is further observed that the Govt. of NCT of Delhi's order dated 16-19/5/2008 has escaped the attention of the CGRF. Taking this order into consideration, dues/assessment upto June 2002,

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**for the erstwhile Delhi Vidyut Board period, should be waived off.**

- 3.6 In view of the above discussion, the assessment for the defective period may also be made only for the period from 01.07.2002 to 09.11.2002 and not for the six month period, and the bill for this may be raised as per the average consumption in the base period 09.11.2002 to 06.01.2004. The Appellant has prayed for refund of payments made for the faulty meter from September 1991 to September 2002. The issue of the meter being defective from 1991 can not be considered and decided upon, as this issue was not decided by the CGRF and cannot be brought up 'de novo' at the appeal stage.
- 3.7 During the Discom's period from July 2002 to July 2003 the actual dues for electricity consumption are shown to be Rs.1927/- against which a payment of Rs.13,750/- had been made by the Appellant. Thus, from this it can be adduced that an amount of Rs.13,750.00 – Rs.1,927.0 i.e. Rs.11,822.29, has been paid by the Appellant towards misuse charges. From the authenticated statement of payments, it is also observed that a lump-sum of Rs.12,710/- was paid by the Appellant on 20.08.2002 towards electricity consumption and misuse charges. As such, the excess amount of Rs.11,822.29 paid by the Appellant as misuse charges can accrue from 20.08.2002 only. This may be adjusted against the subsequent electricity consumption charges.



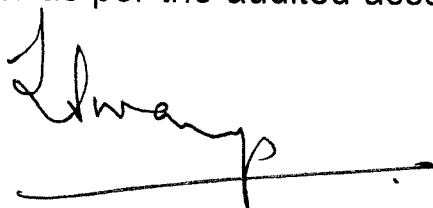


From the audited statement filed, it is also evident that upto January 2009, dues of Rs.26,387/- without levy of misuse were payable by the Appellant, but, not paid by her. It is clear that the Appellant has been using the supply for a good five years without paying any amount. The excess paid by her towards misuse should be adjusted against the electricity consumption charges due.

- 3.8 As brought out earlier, when the payment of Rs.18,778/- only had been made during the period January 1999 to November 2002 by the Appellant, it is also not clear how the Appellant is claiming a refund/credit of Rs.21,036.03 in the January 2004 bill in her appeal, and meanwhile she has also not paid for the electricity consumed till January 2009. This situation arises clearly on account of an incorrect credit entry. There is no provision for payment of any 'compensation credit' as claimed by the Appellant.

The CGRF has already taken a rational view that the credit entries were wrongly reflected in the billing month of January 2004, which is duly supported by the facts of the case, and also pointed out by the auditors in the year 2009 during audit. This is further confirmed by the audited accounts produced. **Hence, restoration of the wrong credit entries is not agreed to.**

- 3.9 It is a fact that the consumer has already enjoyed electricity without paying for it for years and substantial dues were pending against her as per the audited accounts, due to an accounting error by the

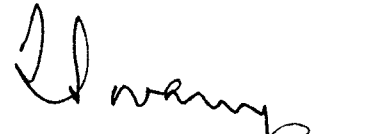


Discom. She should liquidate the dues, and also settle the accounts. The bills are to be raised w.e.f. 09.11.2002 onwards on the basis of the actual readings and amounts due which have since been authenticated by the auditors also.

3.10 There is also no reason to enhance the interest rate to 18% from the 7% already awarded by the CGRF on the amount paid as misuse charges in 2002, in view of the existing legal provisions. No enhancement of compensation from the Rs.3,000/- already given by the CGRF to Rs.3,53,716.03 as prayed for, is called for, in view of the facts of the case and the DERC's Regulations. In this case the Appellant has benefitted greatly due to the accounting error of the Discom and no further relief may be given on this account.

The case is accordingly disposed of. These orders may be complied within 21 days time.

30th May 2011

  
(SUMAN SWARUP)  
OMBUDSMAN