

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/2010/402

Appeal filed in pursuance of Order dated 04.10.2010 passed by the Hon'ble Delhi High Court in WP(C) No. 9656/2009.

In the matter of:

Shri Sanjeev Kumar Ghambhir - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Sanjeev Kumar Ghambhir was present alongwith his advocate Shri Krishan Kumar

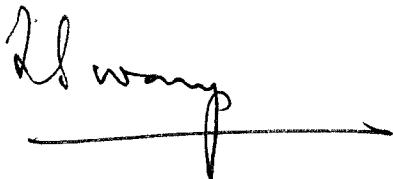
**Respondent Shri Deepak Benjamin, Business Manager,
Shri D.K. Sharma, Commercial Officer,
Shri Hitesh Gosain, Manager,
Shri Vijayender Kumar, Asstt. Acctt. and
Shri Pawan Mahur, Legal Officer attended on behalf of BYPL.**

**Dates of hearing : 07.01.2011, 20.01.2011, 16.02.2011,
23.03.2011, 06.04.2011**

Date of Order : 23.05.2011

ORDER NO.: OMBUDSMAN/2011/402

1.0 The Appellant, Shri Sanjeev Kumar Gambhir, had filed a writ petition registered as WP(C) No. 9656/2009 before the Hon'ble Delhi High Court, feeling aggrieved by the order dated 22.04.2009 passed by the Ombudsman in the Appeal No. F.ELECT/Ombudsman/2009/301. The



Hon'ble Delhi High Court on 04.10.2010 disposed of the petition with the following directions:

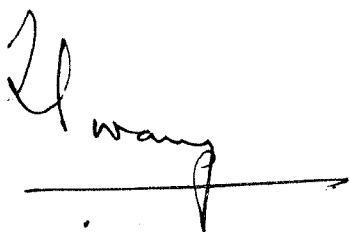
- (i) The petitioner to approach the Ombudsman within 30 days of today. Till then the interim order granted shall continue. However, thereafter the same shall be subject to the further orders, if any, of the Ombudsman.
- (ii) The Ombudsman shall decide all pleas as taken by the petitioner in this writ petition.

1.1 In pursuance of the directions of the Hon'ble Delhi High Court, the Appellant has filed this appeal through his advocate Shri Krishan Kumar, with a prayer to review and recall the order dated 22.04.2009 and to set aside the order dated 02.12.2008 of the CGRF BYPL, as also to quash and set aside the bills, arrears and demand of the Respondent.

2.0 The background of the case briefly is as under:

The Appellant is the registered consumer of electricity connection against K. No. 1220R6220076, for a sanctioned load of 3 KW for domestic use.

The Appellant filed a complaint dated 21.10.2008 before the CGRF and prayed for revision/correction of the bill raised by the Respondent for the period 29.08.2005 to 27.02.2008 as well as for correction of the bill



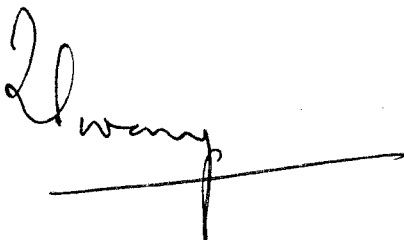
The Appellant stated that he had made payment of the electricity bills regularly upto 29th August 2005. The electricity connection was being metered through a four digit mechanical meter.

Consumption

- Uwamp

- 2.1 In its order dated 02.12.008, the CGRF after hearing the parties, concluded that the revised bill raised by the Discom for Rs.92,678/- was correct and payable by the complainant. The CGRF allowed payment of this bill in five installments alongwith the current bill. The CGRF awarded a compensation of Rs.2,000/- for undue harassment caused to the consumer by the Discom by raising provisional bills for a long period. The CGRF also directed the Discom to change the four digit mechanical meter and to install an electronic meter within one week.
- 2.2 Not satisfied with the order of the CGRF, the Appellant filed an appeal before the Ombudsman vide his appeal dated 05.01.2009 contending:
- (i) That he had been regularly making the payment of his electricity bills upto August 2005, and nothing was due against him.
 - (ii) He prayed for relief against the demand of Rs.92,678/- raised by the Discom for the period April 2005 to October 2008.
- 3.0 After hearing both the parties and after going through the records. The Ombudsman in the order dated 22.04.2009 concluded that:

The main plea of the Appellant is that readings after August 2005, are not reliable and these appear to have been incorporated later. However both the parties have no objection if the bill is revised for the disputed period 29.08.2005 to December 2008 (when the meter was replaced), based on the average consumption of accepted readings recorded between 23.10.2008 and 27.10.2008.



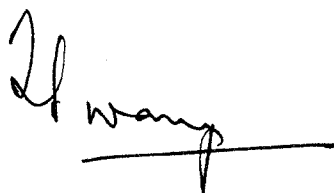
This was decided on the basis of the acceptance of the above, by the parties to the dispute. The Respondent was accordingly directed to revise the bill, after adjusting the amount already paid during the period of revision of bill, vide Ombudsman order dated 22.04.2009.

Pursuant to the above order, a revised bill of Rs.74,280/- was raised against the Appellant by the Respondent.

- 4.0 The Appellant in his appeal dated 29.10.2010 to the Ombudsman has prayed for the review and recall of the earlier order dated 22.04.2009 and requested for setting aside the order dated 02.12.2008 passed by the CGRF-BYPL consequently, to quash and set aside the impugned bills and arrears and demand of the Respondent as illegal, not payable.

This prayer has been made on the following grounds:

- i) He never consented to raising of the average consumption based bill, based on the consumption between 23.10.2008 to 27.10.2008 i.e. 22.75 units per day.
- ii) The demand is time barred under section 56(2) of the Electricity Act, 2003.
- iii) There has been violation of the Supply Code 2007, by preferring 15 provisional bills.
- iv) He has sought raising of the bills on average consumption on a wider base period.



- 5.0 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 07.01.2011.

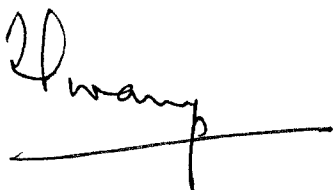
On 07.01.2011, the Appellant Shri Sanjeev Kumar Gambhir was present, in person. The Respondent was represented by Shri Pawan Mahur (Legal Officer), Shri Deepak Benjamin (Business Manager) and Shri Vijayender Kumar (Accounts Assistant).

The Appellant sought adjournment, as his counsel was ill. The case was adjourned to 20.01.2011. Meanwhile, the Appellant stated that he wishes to pay the current dues which are undisputed and the Respondent agreed to accept the current dues.

- 5.1 On 20.01.2011, the Appellant stated that a 'Settlement' is being negotiated with the Respondent. The terms of the Settlement shall be intimated alongwith the basis for calculating the amount payable, and the case was adjourned to 16.02.2011.

- 5.2 On 16.02.2011, both the parties stated that they have arrived at a mutual settlement of the dispute, and a copy of the 'Settlement' document will be filed in seven days.

- 5.3 On 28.02.2011, the Respondent submitted that till date no settlement had been arrived at between the parties, and it was prayed that a hearing may be given in the matter on merit for proper adjudication of

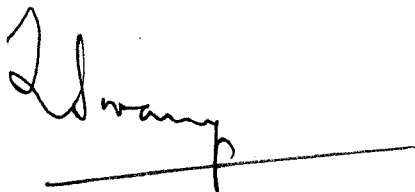


the case, in the interest of justice. Accordingly, a hearing was fixed on 23.03.2011.

On 23.03.2011, the Appellant requested for a short date as his counsel was not present. The Respondent again confirmed that no settlement had been arrived at and the matter be heard on merit. The case was adjourned to 06.04.2011.

5.5 On 06.04.2011, the Appellant argued that the consumption for 4-5 days should not form the basis for arriving at the consumption for three years. Accordingly, after re-examining the reading chart submitted by the Respondent – readings from S. No. 1 to 16 of the chart for the period 21.10.2002 to 24.04.2005 and from 27.02.2008 to 27.10.2008 were found to be readings which could be relied upon. The Appellant stated that readings upto Serial No. 1 to 16 of the reading chart were also acceptable to him as correct. The Respondent again stated that the bill raised earlier was on the basis of actual readings, but provisional bills were raised due to a system aberration, as a result of a four digit meter being in existence.

The Appellant accepted that the readings dated 23.10.2008 and 27.10.2008 were accurate, as stated during the hearing for the earlier appeal, and confirmed their veracity. He however stated that he had accepted for reliance on the same earlier too during the hearing of the previous appeal, but, is contesting that these two readings should not be taken as the basis for assessment, as the period was too short for reflecting the Appellant's actual consumption for the entire period of



assessment of about three years. He has clearly retracted from his earlier position.

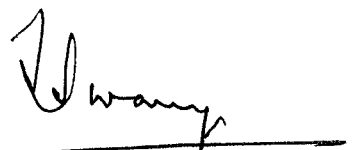
5.6 The case hinges on the veracity of the readings for the disputed period. The Appellant has never questioned the accuracy of the meter, and has also now accepted the readings as correct between Serial No. 1 to 16 of the Reading Chart produced i.e. for the period 21.10.2002 to 24.04.2005. These undisputed readings can therefore be relied upon.

As has been brought out above, the efforts for a mutual settlement between the Appellant and the Respondent have failed. Thus in view of the above deliberations and the facts on record, it would be just & fair that the Appellant is charged for the disputed period i.e. 29.08.2005 to 27.02. 2008 on the basis of one year's average consumption recorded during the period 17.04.2004 to 24.04.2005 (Base period). The period falls just prior to the disputed period and does not involve any dial over.

6.0 The CGRF has already awarded a compensation of Rs.2000/- for raising of provisional bills for a long period. No further compensation under the Supply Code 2007 is called for.

This order may be complied with in 21 days time. The appeal is accordingly disposed of.

23rd May 2011


(SUMAN SWARUP)
OMBUDSMAN