

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/2011/442

Appeal against Order dated 25.08.2011 passed by CGRF–BYPL in complaint No.111/06/11.

In the matter of:

Shri Rakesh Kumar - Appellant

Versus

M/s BSES Yamuna Power Ltd. - Respondent

Present:-

Appellant The Appellant Shri Rakesh Kumar was represent through Shri Yogesh Kumar and his son Shri Navneet Aggarwal

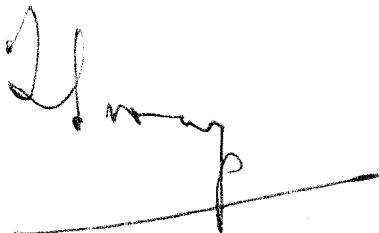
Respondent Shri Saurabh Bandopadhyay, Business Manager(D)-JLM, Shri Mukesh Tanwar, Officer and Shri Ravinder Singh Bisht, AG-II attended on behalf of BYPL.

Dates of hearings : 07.12.2011, 01.02.2012, and 06.02.2012

Date of Order : 17.02.2012

ORDER NO.: OMBUDSMAN/2012/442

1.0 The Appellant, Shri Rakesh Kumar, resident of 7/354, Ground Floor, Anaj Mandi, Near Sabzi Mandi, Delhi-110032, has filed this appeal against the order of the CGRF-BYPL dated 25.08.2011 in Complaint No.111/06/11 regarding refund of the balance amount of Rs.93,835.17 (Rs.1,03,413.00 minus Rs.9,577.83)



alongwith interest, on account of "Security Deposit" related to disconnected connection bearing C.A. No.100014373 (CRN No.1210110547) and surrender of meter, after paid the final Electricity Bill dated 22.09.2010 of Rs.4823/-.

2.0 The background of the case as per the records is as under:

2.1 The Appellant was the registered consumer of the electricity connection bearing C.A. No.100014373 (CRN No.1210110547), installed at 7/354, Anaj Mandi, Shahdara, Delhi-110032 with a declared connected load of 65 KW for industrial purposes.

2.2 The Appellant approached the BYPL on 16.10.2010 regarding refund of the Security Deposits amounting to Rs.1,03,413/-, against the said disconnected connection, as per details hereunder:

- i) Rs.7,000/- vide Receipt No.233641 dt.01.11.1994
- ii) Rs.30,728/- vide Receipt No.277870 dt.28.12.1995 &
- iii) Rs.65,685/- vide Receipt No.33339 dt.17.03.1999

2.3 The Appellant again approached the BYPL on 25.03.2011 regarding refund of the balance Security Amount of Rs.93,835.17, out of the total Security Deposit of Rs.1,03,413/-, as he had already received Rs.9577.83 from the Discom, vide cheque no.930393 dated 08.03.2011 of HDFC Bank Ltd.

2.4 After that, the Appellant filed a complaint before the CGRF-BYPL on 02.06.2011, under Rule 8 of the Delhi Electricity Regulatory



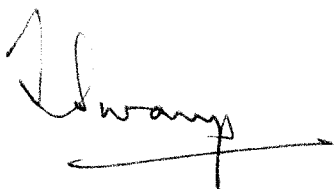
Commission (Guidelines for Establishment of Forum for Redressal of Grievance of the Consumers and the Ombudsman) Regulations 2003, regarding refund of the balance Security Amount of Rs.93,835.17 alongwith interest .

2.5 The Discom contended that the whole amount deposited by the Appellant as Security Amount had been refunded already, and the balance amount paid was not part of the security deposit and was therefore not refundable, and the break-up is as per following details.

- a. Rs.7,000/- = (Rs.4,200/- Development Charges + Rs.700/- Security Deposit + Rs.2,100/- Service Line Charges).
- b. Rs.30,728/- = (Rs.25,300/- Development Charges + Rs.2,300/- Security Deposit + Rs.3,036/- Service Line Charges + Rs.92/- Departmental Charges).
- c. Rs.65,685/- = (Rs.50,820/- Development Charges + Rs.6,600/- Security Deposit + Rs.8,065/- Service Line Charges + Rs.200/- Departmental Charges).

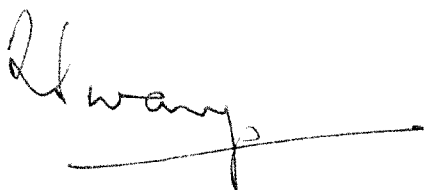
2.6 According to the Respondent, out of the total security of Rs.9,600/- refunded (Rs.700/- + Rs.2,300/- + Rs.6,600/-), as per the Collector's Sheet Record, the Discom has actually paid only Rs.9,577.83 through cheque, and the remaining Rs.22/- was deducted as postage charges and Rs.0.17 adjusted in the final bill amount.

2.7 The DISCOM's contention is that the Security Amount deposited by the Appellant was under the Account Code head - 48.100,



stated as "Security Deposits from Consumers (in cash)". According to the Appellant, the development charges were not recoverable in the electrified area, as per Regulation 15 of the Supply Code and Performance Standards Regulations – 2007. The Respondent however stated that the Supply Code-2007 was applicable prospectively from 18.04.2007, and did not cover his case. The Appellant deposited the amount of Security and Development & Service Line Charges on 01.11.1994 amounting to Rs.7,000/-, on 28.12.1995 amounting to Rs.30,728/-, and on 17.03.1999 amounting to Rs.63,685/- respectively, during the DESU/DVB period. The DERC Supply Code and Performance Standards Regulations-2007 had come into force much later.

- 2.8 The CGRF-BYPL after hearing the parties vide its order dated 25.08.2011 in Complaint No.111/06/11, decided that from the narration of facts and material placed before them, it is seen that the code "47" related to the account code for 'deposits for electrification services connections etc.' and the code "48" was towards the account code for 'security deposits from consumers' and the amount deposited by the complainant under the account code "48" alone was refundable on account of being the security deposited by the consumer. Moreover, the amount deposited under other heads was not refundable and hence, the company had taken the right step in refunding only the security deposit amount. However, the Respondent Company was directed to pay interest on the security deposit as per the DERC guidelines."

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3.0 The Appellant, not satisfied with the above order of the CGRF-BYPL, has filed this appeal on 22.09.2011 and has prayed that for setting aside of the impugned order dated 25.08.2011, and for directing the Respondent company to refund the security amount of Rs.93,835.17 alongwith interest, in terms of the prayer made in the original complaint.

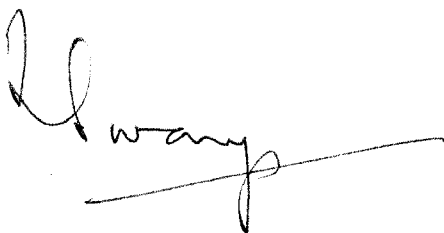
3.1 After receipt of the CGRF-BYPL's record and the para-wise comments from the Discom, the case was fixed for hearing on 07.12.2011.

On 07.12.2011, the Appellant sent an application through Shri Yogesh Kumar, his son, for seeking adjournment to February, 2012, due to the Appellant's illness. The Respondent was represented by Shri Sourav Bandyopadhyay – Business Manager (Div.- Jhilmil), Shri Mukesh Tanwar – Officer. The original documents brought by them were seen and the copies retained for record.

The case was adjourned to 08.02.2012.

3.2 The case was pre-poned to 01.02.2012.

On 01.02.2012, the Appellant, Shri Rakesh Kumar, was represented by his son, Shri Navneet Aggarwal. The Respondent was represented by Shri Sourav Bandyopadhyay – Business Manager (Div.- Jhilmil), Ravinder Singh Bisht – AG-II (BYPL), Shri Mukesh Tanwar – Officer. Both parties were

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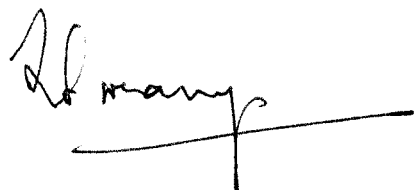
heard. The Respondent filed documents relating to the amounts of security deposited by the Appellant, and the K. No. File. They sought time for filing the remaining documents by 03.02.2012. The case was fixed for further hearing on 06.02.2012.

3.3 On 06.02.2012, the Appellant was present through his son, Shri Navneet Aggarwal. The Respondent Shri Sourav Bandyopadhyay – Business Manager (Div.- Jhilmil), Ravinder Singh Bisht – AG-II (BYPL), Shri Mukesh Tanwar – Officer. Both parties were heard and the documents filed were perused. Based on the office orders issued by DESU/DVB dated 18.10.1995 filed by the Respondent, it was argued that Rs.1,100/- per KW was payable for load enhancement as development cost. In February, 1999, this amount was further increased. The Appellant however stated that the receipts given to him by the DVB reflected that this amount was refundable. Both the parties argued their case and arguments were closed.

4.0 Copies of the Office Orders of 15.02.1999 were filed by the Respondent on 13.02.2012.

The following Office Orders have been produced by the Discom:

<u>S.No.</u>	<u>Office Order No.</u>	<u>Date</u>
a)	CO.II/COM.26/35/95-96/23	18.10.1995
b)	CE (COMML)/CO-II/P (10-11)/95-96/40	22.12.1995
c)	CO II/P-10 & 11-97-98/31	16.01.1998
d)	CO.II/P-8/99/6	15.02.1999
e)	CO.II/P-7/2000/12	13.03.2000

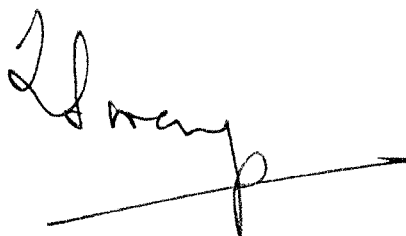


4.1 Based on the above orders, the amounts deposited by the Appellant from time to time are as follows:

- a) Rs.7,000/- = (Rs.4,200/- Development Charges + Rs.700/- Security Deposit + Rs.2,100/- Service Line Charges) on 01.11.1994.
- b) Rs.30,728/- = (Rs.25,300/- Development Charges + Rs.2,300/- Security Deposit + Rs.3,036/- Service Line Charges + Rs.92/- Departmental Charges) on 28.12.1995.
- c) Rs.65,685/- = (Rs.50,820/- Development Charges + Rs.6,600/- Security Deposit + Rs.8,065/- Service Line Charges + Rs.200/- Departmental Charges) on 17.03.1999.

4.2 As per the Order No.CO.II/P-8/99/6 dated 15.02.1999 at para 4.0 (d) above, regarding the revised policy, it is stipulated under Head 8.3 that Regularisation-cum-Development Charges @ Rs.1,540/- per KW or part thereof shall be payable for grant of domestic/non-domestic/industrial/ Farm House (for domestic loads), connections. According to the details furnished by the Discom, vide letter dated 07.02.2012, and the payment receipts produced by the Appellant dated 17.03.1999, it is seen that an additional load of 33 KW was applied for by the Appellant, i.e. from 32 KW to 65 KW, under the Voluntary Disclosure Scheme, and the break-up of payment made is as under:

S. No.	Amount (Rs.)	Account Head	Rate/KW	Relevant Office Order
1.	Rs.50,820/-	Development Charges	Rs.1,540/KW	CO.II/P-8/99/6 (8.3)
2.	Rs.6,600/-	Security Deposit	Rs.200/KW	CO.II/P-7/2000/12 (Sr.No.3)



From the documents on record and perusal of the orders of the DVB/DESU, it is evident that the total amount of security deposited by the Appellant comes to Rs.9,600/- = (Rs.700/- + Rs.2,300/- + Rs.6,600/-) from which he has been refunded Rs.9,577.83 after deducting Rs.22/- as postage charges, and Rs.0.17 as the balance amount of the final bill.

Further, the Office Order No.CO II/P-10 & 11-97-98/31 dated 16.01.1998 issued by Delhi Vidyut Board regarding guidelines for processing cases of reduction of load/termination of agreement under the Voluntary Disclosure Scheme for commercial/industrial use, confirms that under head 4.2 Development cost is not to be refunded. As such, from the facts placed on record, no change is warranted in the CGRF-BYPL's Order dated 25.08.2011, and there is no reason to set-aside their order. The Appellant has already been given relief by way of payment of interest on the security deposit amount.

5.0 The appeal is disposed of accordingly. The Compliance Report of this order may be submitted within 21 days.

17th February 2012


(SUMAN SWARUP)
OMBUDSMAN