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Office of the Electricity Ombudsman
(A Statutory Body of Govt. of NCT of Delhi under the Electricity Act, 2003)
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(Phone No.: 32506011, Fax No.26141205)

Appeal No. F. ELECT/Ombudsman/2013/449

Appeal against the Orders dated 21.12.2009 & 26.09.2011 passed by CGRF-BRPL in CG.No.250/2009.

In the matter of:

Shri Balwant Singh - Appellant
(Proprietor of M/s Chawla Industrial Company)
Versus
BSES Rajdhani Power Ltd. - Respondent

Present:-

Appellant: Shri Balwant Singh was present in person, Shri Ravinder P. Kumar was also attended on behalf of the appellant.

Respondent: Shri B. N. Jha, Asst. V.P. (West I), Shri Sudhir Jairath, Sr. Manager and Shri Praveen Kumar, Section Officer, attended on behalf of the BRPL.

Date of Hearing: 25.06.2012, 10.10.2012, 06.02.2013

Date of Order : 07.03.2013

ORDER NO. OMBUDSMAN/2013/449

An appeal was filed by Shri Balwant Singh, proprietor of M/s Chawla Industrial Company, C-308. Phase -II. Mayapuri, New Delhi - 110 064 on 30.12.2011, against the Consumer Grievance Redressal Forum (CGRF) – BRPL's orders dated 21.12.2009 and 26.09.2011, in the case No. 250/2009 on the ground that the orders of the CGRF did not appreciate the evidence on record, and allowed the DISCOM to recover all pending dues as per the previous order on 21.12.2009.

(25)

It appears that the dispute arose in 2007 on receipt of a bill for the month of May 2007. There was a prior history of the Appellant claiming erratic consumption even in the years 2005 & 2006 and the matter had gone to the Permanent Lok Adalat (PLA), where some resolution of the issue had taken place with the consumer paying a revised bill. A fresh complaint having arising in May 2007, the matter came before the Forum in 2009. In between the Appellant had also gone to the High Court of Delhi, which had directed the complaint to be filed before the CGRF concerned.

Earlier, the Appellant had approached the PLA in 2006 regarding the accuracy of the meter and the same was got tested and found faulty. This was replaced on 22.08.2006 with a new meter no.27078775 vide CRN No.2610120926 with a sanctioned load of 37 kW. When he received a bill of Rs.1,33,799.13 for the month of May, 2007, he approached the CGRF regarding the accuracy of the existing meter. It appears the Deputy General Manager (B), Janakpuri of BRPL, had got the meter tested to avoid further dispute on 28.06.2007 and it was found within permissible limits i.e. (+) 1.48% and was thus OK. However, the consumer continued to insist on the meter being erratic. The CGRF, in turn, directed that a parallel check meter be installed and a comparison of slowness/fastness be made and the bill revised w.e.f. 22.08.2006. This order was passed on 21.12.2009 with the meter to be installed within 15 days. A report was to be submitted to the CGRF by 15.04.2010. It is observed that, independently, a third party testing of the check meter No.27131440 was done by the ERDA on 11.05.2010 which was found to be 0.13% fast. A subsequent check of the existing meter (no.27078775) and check meter (no.27131440) on 29.07.2011 found them to be 0.82 & 0.97 % fast, respectively.

Thereafter, we find ourselves with an order of the CGRF dated 26.09.2011, which briefly discusses the readings of the check meter and the existing meter on a daily basis, alongwith variations, as maintained by both the DISCOM and the consumer separately. The CGRF's order analyses some of the variations between those submitted by the consumer and those by the DISCOM

and comes to the conclusion that the differences/variation are within the limits of accuracy. The CGRF orders the DISCOM to, therefore, recover all pending dues as per previous order dated 21.12.2009, which means the bill would have been revised w.e.f. 22.08.2006.

It is not clear from the submissions made by either side as to why almost two years were allowed to elapse between the two orders. The record shows that the check meter was installed in January 2010, almost within the 15 days laid down by the CGRF, but there appears to be no record of any report submitted by the DGM (Business) Division –Janakpuri on, or by, 15.04.2010 to the CGRF. The matter appears to have lingered on and the Appellant contends that during this period the DISCOM had not even been sending any Meter Reader to the premises in question. The Appellant also argues that throughout the remaining period of 2010, other officers of the DISCOM visited the premises, and tried to remove the check meter even while he continued to try to show that the daily readings show large differences upto 12% between the two meters. The Appellant also contends that there were three meetings in the office of the DISCOM at the level Dy. Vice President where some settlement at a level 30% less than the amount due from May 2007 was discussed. Over these two years no report on the comparison of the two meters seems to have gone to the CGRF, and as payments were not made by the consumer, disconnection of the electricity took place at the premises on 12.09.2011.

The Appellant argues that this disconnection was mala-fide in nature as the matter was being heard before the CGRF and he had been opposing the removal of the check meter as his own daily record showed large variations between the two meters. It is indeed surprising that, given the large amounts due, the DISCOM did not immediately file a report with the CGRF, on or before 15.04.2010, as specified in the 21.12.2009 order. The DISCOM, of course, denies, in their written submission, that any discussion took place with the Appellant/consumer, or any offer of rebate of 30% was made, or any settlement

arrived at. They claim that the Appellant has concocted all these with a view to escaping payment of bills.

A hearing was held in the matter in this office on 25.06.2012 with both the parties reiterating their stands. Since there was no consolidated record of the readings of the check meter and existing meter, date-wise, this was sought from the DISCOM. Incidentally, the order of the CGRF dated 26.09.2011 mentions that the DISCOM and the consumer had both brought a daily record of the existing and check meter which was available to them. However, this was not brought forth in our hearing nor did the two sides indicate, as directed on 25.06.2012 in our Interim Order, whether there is any agreement on dates/readings of any of the individual entries. On this date of hearing, the Appellant had also wanted a computerized printout of meter consumption data on daily basis for the period in which the check meter was installed. The case was to come up again on 05.09.2012, and the above data was to reach this office by 03.09.2012.

Meanwhile, the DISCOM was also advised on 07.09.2012 to forward the CMRI downloaded load survey data on daily basis for the period the check meter remained installed, immediately. Further, simultaneous readings of the check meter and the main meter (with agreement of the Appellant, if available), were to be submitted before the next date of hearing. This data was not received. The Appellant separately asked for postponement on medical grounds. Subsequently, some documentation was submitted by the DISCOM, but this was not found complete.

The next hearing was held on 10.10.2012. Both the parties stuck to their respective positions. In the absence of any other cogent arguments, the matter was heard and reserved for orders.

By the facts placed on records, it is observed that the DISCOM has failed to comply with the order of the CGRF dated 21.12.2009 to submit a report by 15.04.2010. The Appellant also did not pursue this non-submission of report with the CGRF resulting into stretching out/non-resolution of the complaint. It may be noted

that both the parties remain reticent about the non-compliance of the CGRF order for reasons not on record. During the hearing the consumer produced records of his own daily readings showing variations of accuracy between the check and the main meter which cannot be substantiated. The CMRI downloaded load survey data submitted by the DISCOM does not suggest jumping of the meter as such. However, the Comparison Charts of the existing Meter vs. the Check Meter, supplied by the DISCOM in September, 2012 in response to our request, show wide variation in the readings (on the relevant days) since 19.01.2010, the date of installation of check meter, till 09.10.2012. The monthly variation of KVAH of the existing and the check meter is to the tune of (+)13.62 % to (-) 6.94%, in KVAH terms, which the DISCOM has failed to explain. However, the cumulative variation in the existing meter vs. the check meter was only 0.03% (KWH) and 1.53% (KVAH) respectively, since the installation of check meter till 09.10.2012. To that extent the daily or monthly variations do not assume importance.

The jumping of the meter, as contended by the Appellant, for the period 29.03.2007 to 09.05.2007, is prior to the installation of the check meter. The Discom has submitted consumption data/reading chart of the consumer's meter for the period. It is observed that for the period of the disputed bill preferred in the month of May, 2007, a consumption of 28333 units has been recorded from 29.03.2007 to 09.05.2007 i.e. 41 days which comes to 691 units per day. It is, further, observed that during the succeeding period from 01.04.2008 to 02.05.2008, for 31 days, consumption is 21663 units which comes to 699 units per day and for the period 02.05.2008 to 03.06.2008, for 32 days, the consumption is 22308 which comes to 697 units per day.

Further, in the year 2009, for the period from 24.02.2009 to 27.03.2009, for 31 days, the consumption is 25664 units which comes to 827 units per day. As such, the above figures illustrate and suggest that the recorded consumption of 28333 units @ 691 units per day is not due to jumping of meter but is the actual usage by the party.

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To summarise, the total/aggregate consumption recorded by both meters since the installation of the check meter on 19.1.2010 and till 16.1.2012, is as under:

Meter	Meter No.	Reading (KWH) on the date of installation of Check Meter (19.01.2010)	Latest Reading (KWH) (16.01.2012)	Consumption
Existing	27078775	506930	680396	173466
Check	27131440	1	173395	173394
			Difference	72

This difference of 72 is within the limits laid down.

The gap between 15.4.2010, when the report was to be filed with CGRF in pursuance of its order of dated 21.12.2009, and late 2011, when the Appellant again went to CGRF, is said to have been filled with out of court negotiations, offers and counteroffers. Some copies of letters from BSES extending such offers have been filed but these have been denied by the Discom. ***The gap of 1½ years between the date fixed for filing of report on check meter to the CGRF on 15.4.2010 and the passing of the final order by CGRF on 26.9.2011 does obliquely suggest that some negotiations were going on between the Appellant and the DISCOM to sort out the matter mutually which, perhaps, could not materialize.***

The claim of the Appellant that a written offer of settlement was made on 23.09.2010 is borne out by the record. The denial of this offer in the written reply of the DISCOM is curious and cannot be explained by them. However, even if letters were sent and negotiations undertaken this does not strengthen the case of the Appellant as the 2 ERDA reports of 11.5.2010 and 29.7.2011 show conclusively that both meters were functioning within the allowed ranges.

To clarify these matters another hearing was scheduled on 06.02.2013 wherein the DISCOM was specifically asked to explain these negotiations. DISCOM then sent a reply dated 13.02.2013 that there was a drive to install check meters in

2009-2010, under DERC supervision and "the present case came before the CGRF during the initial stage when the process for handling of complaints was being formalized and an IT driven process was under formulation. Analysis of consumer complaint was sent to the consumer vide BRPL letter No.RPG/2011-12/CMI-2610-1 dated 15th July 2011. There was some delay in sending the analysis because of the sheer volumes involved.

Though there was no variation in real power (KWH) consumption in this case, there was definitely some variation in apparent Power (KVAH) consumption; a derived quantity from real power consumption, recorded by existing meter and check meter in weekly/monthly consumption chart.

The amount involve in this case was too high (to the tune of Rs.20 lakhs). In order to resolve the dispute amicably and for early realization of dues, letter for settlement was sent to consumer."

Thus, the DISCOM has tried to explain the long delay, and the negotiations, in the case with the above details. This is, however, not satisfactory at all as they first denied the written offer and later admitted it. They could also have filed a report with the CGRF sometime in 2010, which was not done. This is, all in all, negligence in performance by the DISCOM over an extended period.


In the final analysis, no benefit can be given to the party for alleged fast running of meter in view of meter testing reports and cumulative readings of check meter and consumer's meter from 19.01.2010 till 09.10.2012. However, some benefit of doubt is given to the party for the period 29.03.2007 to 09.05.2007 since the dispute for alleged jumping of the meter is prior to the installation of the check meter and cannot be evaluated at this juncture based on the records placed in the file.

To meet the ends of natural justice a benefit of doubt is given to the Appellant and it is decided he be charged for the period 29.03.2007 to 09.05.2007 on the basis of average consumption of the twelve months preceding the disputed period

in terms of Clause 43 (i) of DERC Supply Code and Performance Standards Regulations, 2007. The check meter should now be removed from the Appellant's premises.

The fact that the Appellant was asked to negotiate without finality, the fact that his electricity was cut off and restored later, the fact that the Discom did not go back to CGRF on 15.04.2010 with a report on the check meter allowing the dispute to persist without being resolved, all point to a failure to abide by the CGRF's order by the DISCOM which is negligence in performance of their duties. This merits a compensation for harassment of Rs.20,000/-.

The case is accordingly closed.


(PRADEEP SINGH)
OMBUDSMAN

7th MARCH, 2013