**COURT OF THE LOKPAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

 **PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,**

 **S.A.S. NAGAR (MOHALI)**

**Appeal No. 101/2017**

**Date of Registration : 28.12.2017**

**Date of Hearing : 31.05.2018**

**Date of Order : 07.06.2018**

**Before:**

 **Er. Virinder Singh, LokPal (Ombudsman) Electricity**

**In the matter of:**

Motia Real Estate,

C/o Shri Kewal Bansal,

Village: Chajjumajra,

S.A.S. Nagar (Mohali).

...Petitioner

Versus

Additional Superintending Engineer

DS Division (Special),

 PSPCL, S.A.S. Nagar (Mohali).

 ...Respondent

**Present For :**

Petitioner **:** 1. Shri Vinod Kansal, Petitioner,

2. Shri R.S. Dhiman,

 Petitioner’s Representative (PR).

Respondent **:** . Er. H.S. Oberoi,

 Addl. Superintending Engineer.

 Before me for consideration is an Appeal preferred against the order dated 24.11.2017 of the Consumer Grievances Redressal Forum (Forum) in Case No. CG-260 of 2017, deciding that:

 *“Account No. 3000299967 of the Petitioner be overhauled from 19.11.2013 (when the meter was declared defective) to 06.05.2014 (Maximum period of temporary connection) with 6815 units per month.”*

2. **Facts of the Case:**

The relevant facts of the case are that:

1. The Petitioner was having Non Residential Supply Category connection with Sanctioned Load of 8.980 kW, bearing Account No. 3000318496.
2. The Petitioner received a bill of Rs. 7,38,307/- for the period from 17.04.2017 to 15.06.2017 (59 days) including the arrears of Rs.7,13,015/-. These arrears pertained to the Temporary Connection, bearing Account No. 3000299967 taken by the Petitioner earlier on 07.05.2012 for carrying out the construction work of residential colony Plots at Village: Chhajju Majra, S.A.S. Nagar (Mohali) and disconnected on 28.03.2016.
3. Aggrieved with the arrear amount charged in the bill, the Petitioner filed a Petition in the Forum who, after hearing, passed order dated 24.11.2017 (Reference: Page 2, Para 1).
4. Not satisfied with the decision of the Forum, the Petitioner filed an Appeal in this Court and prayed that its account of Temporary Connection may be overhauled in accordance with the relevant Regulation of the Supply Code-2014 in the interest of justice.

**3. Submissions made by the Petitioner and the Respondent:**

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Petitioner in the Appeal and reply of the Respondent as well as the oral submissions of the Representatives of the Petitioner and the Respondent alongwith the material brought on record by both the sides.

1. **Submissions of the Petitioner:**

The Petitioner submitted the following for consideration of this Court:

1. The Petitioner obtained a temporary electricity connection, bearing Account No. 3000299967, with Connected Load of 10.970kW for construction work of the residential colony Plots being built by it at Village: Chhajju Majra, Greater Mohali on 07.05.2012. The Energy Meter of the said connection became defective and a new Energy Meter was installed on 31.01.2014. All the bills issued by the Respondent were being paid by the Petitioner regularly.
2. After completion of the work, the Petitioner submitted a written request (vide its letter dated 19.03.2014) to the SDO (AEE), Commercial, PSPCL, S.A.S, Nagar (Mohali) to remove the Energy Meter as the Temporary Connection was no longer required by it. The regular Connection to the Petitioner was released on 27.06.2013.
3. As per reply submitted by the Respondent in the Forum, the Petitioner’s Energy Meter was removed on 28.03.2016.
4. A bill for Rs 3,73,580/- was received by the Petitioner on 03.04.2014. On a representation made by the Petitioner, the said bill was corrected to Rs. 1,86,269/- which was then paid by the Petitioner to settle the matter.
5. The Petitioner was shocked to find a sum of Rs. 7,13,015/- added in the bill of its permanent connection, bearing Account No. 3000318496, in 06/2017. On enquiry, it was learnt that this amount was pending against the Petitioner’s temporary connection bearing Account No. 3000299967. The Petitioner tried its best to convince the Respondent that its temporary connection was disconnected and no energy consumption was used through it after 03/2014. Also, the Petitioner never applied for extension of period of the Temporary Connection beyond 03/2014. But, nothing fruitful happened.
6. Aggrieved, the Petitioner filed a Petition before the Forum for justice. Though, the Forum agreed that the Temporary Connection could not be treated as running beyond two years of its release i.e. 06.05.2014, it erred in deciding that the account be overhauled from 19.11.2013 (when the Energy Meter was declared defective) to 06.05.2014 (the date upto which the Temporary Connection was allowed/released).
7. A sum of Rs. 3,30,457/- was charged to the Petitioner on the basis of the decision of the Forum vide SDO (AEE), Commercial, Mohali’s Memo No. 355 dated 20.12.2017. The Petitioner did not agree with this decision. As such, the present Appeal was being filed for justice.
8. The decision of the Forum to treat the connection running up to 06.05.2014 was not justifiable. However, to settle the matter amicably, the Petitioner was prepared to accept this date. But the decision to charge the Petitioner from 19.11.2013 to 06.05.2014 (period of defect in the Energy Meter) at the rate of 6815 units per month was not acceptable, being totally unfair.
9. The detailed procedure for overhauling the account in the case of the defective Energy Meter was laid down in Regulation 21.5.2 (a) of Supply Code-2014. The method adopted by the Forum in the case of the Petitioner was nowhere mentioned in the said Supply Code.
10. The disputed Energy Meter had already been declared defective by ME Lab Ropar and returned to it, hence, at this stage, the exact nature of defect of the Energy Meter could not be determined.
11. In view of the submissions made above, the Petitioner’s account may be overhauled in accordance with the relevant Regulation of the Supply Code-2014 in the interest of justice.
12. **Submissions of the Respondent:**

The Respondent, in its defence, submitted the following for consideration of this Court:

1. A Temporary Connection, bearing Account No. 3000299967, with Sanctioned Load of 10.970kW was released to the Petitioner on 07.05.2012.
2. Energy Meter (Electro-Mechanical) of the said temporary connection got defective, on 19.11.2013 and a new Energy Meter was installed on 31.01.2014.
3. Subsequently, bills in ‘D’ Code on average consumption basis were issued to the Petitioner upto 01.10.2016 through SAP billing system.
4. In the meantime, the Energy Meter of the Temporary Connection was removed on 28.03.2016 and got checked on 12.04.2016 in ME Lab, Ropar where the Energy Meter was declared defective.
5. From 01.10.2016 onwards, the account of the said Temporary Connection of the Petitioner ceased to exist and a sum of Rs. 17,10,070/- was lying outstanding on account of electricity bills on that date.
6. The account of the Temporary connection of the Petitioner was overhauled for the period from 17.02.2014 to 28.03.2016 (date of removal of Energy Meter) based on the average of total consumption of 15,000 units per month (for the period from 17.02.2014 to 28.03.2016) as per following details:

|  |  |
| --- | --- |
| Average of consumption from 17.02.2014 to 28.03.2016 (25 Months 5 Days) |  15000 x 765days/210 days = 54643kWh ( units)  |
| Sale of Power (54643 units x Rs. 11.39 per unit) |  = Rs. 6,22,383/- |
| Electricity Duty ( 18% of SOP) |  = Rs. 1,12,028/- |
| Octroi Charges (54643 x 0.10 per unit) |  = Rs. 5,464/- |
| **Total** |  **= Rs. 7,39,875/-** |

1. After adjusting the amount of Security (Rs. 26,860/-) deposited by the Petitioner for the Temporary Connection, the recoverable amount worked out to Rs. 7,13,015/- for which a notice, bearing No. 700 dated 07.04.2017, was issued asking it to deposit the same failing which, the same will be charged to its existing regular connection released on 27.06.2013, bearing Account No. 3000318496. As the Petitioner did not deposit the above amount, the same was charged to its bill dated 15.06.2017 under the Head “Sundries”.
2. The Petitioner did not agree with the amount charged and filed a Petition in the Forum which, after hearing, passed order dated 24.11.2017. In view of the order ibid, the account of the Temporary Connection of the Petitioner was overhauled, for the period from 19.11.2013 to 06.05.2014 (168 days), on the basis of consumption of 6815 units per month, and the Petitioner was informed accordingly, vide letter dated 20.12.2017, to deposit a sum of Rs. 3,30,457/-.
3. Aggrieved with the decision of the Forum, the Petitioner preferred an Appeal in this Court for justice.

**4. Analysis:**

The issue requiring adjudication is the legitimacy of overhauling the account of the Temporary Connection, after its being found defective, as per applicable regulations.

 *The points emerged are deliberated and analysed as under:*

 The present dispute involves a demand of Rs. 3,30,457/- raised by the Respondent, vide memo no. 355 dated 20.12.2017, after overhauling the account of the Temporary Connection of the Petitioner for the period from 19.11.2013 to 06.05.2014 with 6815 units consumption per month.

 As per material available on record, a Temporary Connection, bearing Account Number 3000899967, with Sanctioned Load of 10.970 kW was released to the Petitioner on 07.05.2012. The last reading of the Energy Meter was taken on 11.10.2013 whereafter, no reading was taken and no checking was done. As the Energy Meters was found defective on 19.11.2013 by the Respondent, the same was removed and replaced on 31.01.2014. The Petitioner stated that it had requested the SDO (AEE), Commercial, Mohali, vide application dated 19.03.2014, to remove the Energy Meter on 31.03.2014 as the Temporary Connection was no longer required by it and produced a letter duly receipted by the then Officer-in-Charge. Subsequently, bills in ‘D’ Code were issued to the Petitioner through SAP billing system by the Respondent. The Energy Meter was tested in ME Lab, Ropar on 12.04.2016, and declared defective. The DDL of the defective Energy Meter was not taken by the Respondent. The account of the Temporary Connection of the Petitioner ceased to exist permanently from 01.10.2016 when a sum of Rs 17,10,070/- was lying outstanding on account of its pending dues. However, considering that the defective Energy Meter had been deposited in ME Lab, on 12.04.2016, the Respondent overhauled the Petitioner’s account of the Temporary Connection for the period from 17.02.2014 to 28.03.2016 (date of removal of the Energy Meter) based on average monthly consumption of 15,000 units for the period from 17.02.2014 to 28.03.2016 and issued a notice, bearing no. 700 dated 07.04.2017, to the Petitioner to deposit a sum of Rs 7,13,015/- after adjusting the Security of Rs 26,060/-) of the Temporary Connection. As the Petitioner did not deposit the said amount, the same was charged to its regular connection (which was released on 27.06.2013) bearing Account No. 3000318496 under ‘Sundries’ vide bill dated 15.06.2017. Aggrieved, the Petitioner moved a Petition in the Forum which decided on 24.11.2017 that Account No. 3000299967 (relating to Temporary Connection) be overhauled from 19.11.2013 (the date when the Energy Meter was found defective) to 06.05.2014 (the date beyond which, the Temporary Connection could not be allowed to continue without approval of the Chief Engineer/DS) with 6815 units per month. Accordingly, the Respondent, overhauled the Petitioner’s account of the Temporary Connection and issued a notice, bearing no. 355 dated 20.12.2017 to deposit a sum of Rs. 3,30,457/-

 *I observe that the last reading of the Temporary Connection was taken by the Respondent on 11.10.2013 whereafter, no reading was taken and no checking was done as required under Instruction No. 104 of ESIM. The Respondent disconnected the above Temporary Connection permanently on 28.03.2016. I also observe that as per provisions contained in Instruction No. 8 (iv) of ESIM-2011, the Temporary Connection can be permitted for a period not exceeding two years. However, the extension upto a maximum of three years can be given with the approval of the Chief Engineer/DS and beyond this period by the Chief Engineer/Commercial. The connection was released on 07.05.2012 with the approval of the Chief Engineer/DS, but, as per record, no approval of the Chief Engineer/DS has been taken for extension beyond two years by the Respondent.*

 *I find that the Respondent is responsible for releasing the Regular Connection on 27.06.2013 before ensuring clearance of the outstanding dues of the Temporary Connection as required under the provisions of Regulation 30.13 of Supply Code-2014. I also find that the Forum has taken the decision to overhaul the account of the Temporary Connection as per Maximum of the Monthly Consumption recorded during the period when the Energy Meter of the Temporary Connection was running correctly i.e. 6815 units recorded in 06/2012 for the period from 19.11.2013 (when the Energy Meter was declared defective) to 06.05.2014 (the date beyond which the Temporary Connection could not be allowed to continue without the approval of the Chief Engineer/DS) with 6815 units per month. I am of the view that since the Energy Meter was declared defective in ME Lab, on 12.04.2016, hence, the Account of the Temporary Connection of the Petitioner is required to be overhauled for the period from 19.11.2013 (when the Energy Meter was found defective by the Respondent) to 06.05.2014, the date beyond which the Temporary Connection can continue as per Instruction No. 8 (iv) of ESIM-2011, on the basis of energy consumption of corresponding period of previous year, as per provisions contained in Regulation 21.5.2 (a) of the Supply Code-2014.*

From the above analysis, it is concluded that the Energy Meter of the Temporary Connection of the Petitioner was defective. Hence the account of its Temporary Connection, bearing Account No. 3000299967, is required to be overhauled for the period from 19.11.2013 (when the Energy Meter was found defective at site by the Respondent) to 06.05.2014 (the date upto which, the Temporary Connection is allowed to continue as per Instruction No. 8 (iv) of ESIM) based on the consumption recorded during corresponding period of previous year (i.e. from 19.11.2012 to 06.05.2013) as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014.

**5. Decision:**

 **As a sequel of above discussions, the order dated 24.11.2017 of the Forum in Case No. CG-260 of 2017 is set-aside. Accordingly, the Respondent is directed to re-calculate the demand (i.e. for the period 19.11.2013 to 06.05.2014) based on the consumption of corresponding period of previous year ( i.e. 19.11.2012 to 06.05.2013) as per provisions contained in Regulation 21.5.2 (a) of Supply Code-2014 and refund / recover the amount found excess / short, without any interest/surcharge, after adjustment, if any.**

**6.** The Appeal is disposed off accordingly.

**7**. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, it is at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

June 07, 2018 LokPal (Ombudsman)

S.A.S. Nagar (Mohali) Electricity, Punjab.