IN THE COURT OF THE LOKPAL (OMBUDSMAN),

ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 45 / 2017 Date of Order : 14.11.2017

Account No. GC41 / 0076

Punjabi University,

Patiala.

….Petitioner

*Through*

Shri R.S. Dhiman, Petitioner’s Representative (PR)

Shri Jasbir Singh, SDO (Electricity), Punjabi University

Versus

Punjab State Power Corporation Limited

....Respondent

*Through*

Er. Gurtej Singh Chahal,

Additional Superintending Engineer,

DS Sub-Urban Division,

PSPCL, Patiala.

Petition No. 45 / 2017 dated 10.08.2017 was filed against order dated 14.07.2017 in case no. CG-63 of 2017 of the Consumer Grievances Redressel Forum (Forum) which decided that:

* *The demand surcharge charged from the Petitioner on account of exceeding the MDI than the sanctioned CD during the months from 07/2011 to 09/2015 (except for the months from 09/2011 to 05/2012 and for the months from 08/2012 to 07/2013) is correct and chargeable.*

1. Arguments, discussions & evidences on record were held on 14.11.2017.
2. Shri R.S. Dhiman, Petitioner’s Representative (PR) along with Shri Jasbir Singh, SDO (Electricity), Punjabi University, Patiala, attended the Court proceedings on behalf of the Petitioner. Er. Gurtej Singh Chahal, Addl. Superintending Engineer, DS Sub-Urban Division, PSPCL,

Patiala and Ms. Jyoti Kapoor, Revenue Accountant, appeared on behalf of the Respondent Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Shri R.S. Dhiman, Petitioner’s Representative (PR) stated that the Petitioner, was having a Single Point electricity connection bearing account no. GC41/0076 under DS category fed at 11KV with sanctioned load of 7794.670kW and Contract Demand (CD) 3997kVA falling under the territorial jurisdiction of Bahadurgarh Sub Division of Sub-Urban Division, PSPCL, Patiala. PR stated that all electricity bills were paid by the Petitioner regularly. Prior to 28.12.2015 the sanctioned load of this connection was 4294.670kW.

PR also stated that a demand of Rs 41,50,741/- was raised against the Petitioner allegedly on account of Demand Surcharge vide AEE, PSPCL, Bahadurgarh’s memo no. 24 dated 7.1.2016. The Demand Surcharge was levied from 06/2010 to 09/2015 treating the Petitioner’s CD as 2400kVA. This action of the Respondents was totally wrong as the Petitioner’s CD during this period was 4771.858kVA as mentioned in the electricity bills issued by the PSPCL throughout during 06/2010 to 02/2016. Aggrieved by this undue demand, the Petitioner approached the CGRF (Forum) and filed a Case bearing no. CG-63 of 2017, but the Forum gave partial relief ignoring material facts on record. As the Petitioner was not satisfied with this decision, the present appeal was filed in the sanguine hope of justice.

PR reiterated that a demand of Rs. 41,50,741/- had been raised against the Petitioner on account of Demand Surcharge from 06/2010 to 09/2015 treating 2400kVA as its Contract Demand (CD) despite the fact that the Respondent had been mentioning CD 4771.858kVA on all the Petitioner’s electricity bills issued every month right from 07/2010 to 02/2016. PR stated that CD of 4771.858kVA was admitted to have been calculated by the Respondent in accordance with departmental instructions and thus, the Respondent could not use two yardsticks viz, 2400kVA for levying Demand Surcharge, and 4771.858kVA for billing.

PR stated that it had been pleaded on behalf of Respondent that the sanctioned Transformer Capacity of 2400kVA had been treated as the Petitioner’s CD in the absence of separately sanctioned CD by PSPCL and if that was so, then 3400kVA should be treated as the CD of the Petitioner from 04/2006 because the Respondent was duly informed by the Petitioner vide memo no. 979/E/05 dated 10.11.05 that it was proposed to install two additional Transformers of 500kVA each and the Petitioner specifically inquired if any other formality was required to be completed by it. PR further stated that after installation of these Transformers, the Respondent was again informed by SDO (Electricity) Punjabi University, vide memo no. 1136-1137 dated 04.04.2006 that these Transformers had been installed and energized after approval of Chief Electrical Inspector, Punjab. PR also stated that keeping silent on these letters for nearly ten years, the Respondent could not now say that these additional Transformers were not sanctioned and ignored the same for imposing Demand Surcharge.

PR also stated that on the basis of aforesaid facts, Chief Engineer, DS (South) confirmed to CE, Commercial, PSPCL, Patiala, vide memo no. 12951 dated 15.10.2015, that Demand Surcharge was not leviable in the Petitioner’s case. PR further stated that the Forum did not take cognizance of the said letter while deciding the present case.

PR also stated that the Petitioner again got its load extended from 4294.670kW to 7794.670kW in 12/2015 and at that time, the sanctioning authority advised the Petitioner to keep its CD below 4000KVA if the Petitioner wanted to avail power supply at 11KV. On this, the Petitioner mentioned 3997kVA as its CD on the documents submitted by the Petitioner, and the same was sanctioned by CE, DS (South) vide memo no. 15520/21 dated 28.12.2015. PR added that it was thus clear that prior to 28.12.2015, the CD intimated to the Petitioner through electricity bills regularly from 7/2010 to 2/2016 was 4771.858kVA.

PR prayed to set-aside the undue Demand Surcharge imposed on the Petitioner in the interest of justice in view of the aforementioned facts.

5. Defending the case on behalf of the Respondent PSPCL, Er. Gurtej Singh Chahal, Addl. S.E. Sub-Urban Division, PSPCL, Patiala admitted that a sum of Rs. 41,50,741/- had been raised against the Petitioner on account of Demand Surcharge from 06/2010 to 09/2015 treating 2400kVA as its CD. The Respondent also admitted that CD 4771.858kVA was mentioned on all the electricity bills issued every month from 07/2010 to 02/2016. The Respondent further stated that it had not used two yardsticks viz. 2400kVA for levying Demand Surcharge and 4771.858kVA for billing. Rather, the bills up to 05/2010 used to be prepared by CBC, Chandigarh and from 06/2010 onwards, the bills were being prepared by Computer Centre, Patiala. The CD was changed to 4771.858kVA on the basis of sanctioned load of 4294.67kW by taking 0.9 Power Factor as per Instruction no. 10.2 of ESIM. The Respondent added that neither any increase in CD was applied for by the Petitioner nor any increase in CD was sanctioned or approved by the Competent Authority. Hence, the actual CD of the Petitioner remained 2400kVA till 27.12.2015 and the same was got enhanced by the Petitioner from 2400kVA to 3997kVA on 28.12.2015, as such, the mention of 4771.858kVA on bills was inadvertent and a clerical mistake during updation of demand for HT DS/NRS consumers. The Respondent also added that if kVA exceeded 4000 in case of DS category connection, then, supply was required to be given through 66 KV as per Clause no. 5.2(b) of Condition of Supply (COS), whereas the supply of the Petitioner was running through 11KV, which also showed that the kVA of the Petitioner was less than 4000kVA i.e. 2400kVA.

The Respondent also stated that the sanctioned capacity of 2400 kVA had been treated as Petitioner’s CD. It was wrong to contend that 3400kVA should be treated as the CD of the Petitioner from 04/2006 and also that the Respondent was duly informed by the Petitioner vide memo no. 979 / E / 05 dated 10.11.2005 that it was proposed to install two additional Transformers of 500kVA each. The Respondent denied that the said letter was got duly received in the office of AEE / DS, PSPCL, Bahadurgarh. The Respondent also denied that, it was again informed by SDO (Electricity) Punjabi University vide memo no. 1136-1137 dated 04.04.2006 that additional Transformers had been installed. The Respondent submitted that these letters were never received by the concerned office of the Respondent and it was clear from the said letters annexed to the Petition that the same did not disclose as to who had received the said letters. The Respondent also stated that as per ESR no. 88.4.2, no consumer shall effect any change in his Contract Demand (CD) without proper approval of Board/Licensee meaning thereby that before installing the additional Transformers, the same was required to be approved by the Competent Authority by applying for the same to the concerned office. But, in the present case, the Petitioner installed the additional Transformers without any approval from the Licensee. The Respondent also stated that if any consumer wanted to install additional Transformer, then firstly, it had to apply for the same to the concerned office and thereafter, the Chief Electrical Inspector was required to conduct an inspection regarding the same, but in the present case, the Petitioner did not follow the rules and got inspected the Transformers from the Chief Electrical Inspector without seeking the requisite approval from the Competent Authority. Moreover, the Petitioner never followed any rules and regulations for installation of additional Transformers or for increasing the CD.

The Respondent admitted that CE, DS (South) wrote a letter to CE, Commercial, PSPCL, Patiala, vide memo no. 12951 dated 15.10.2015. But it was wrong that in the said letter, CE / DS had confirmed that Demand surcharge was not leviable in the Petitioner’s case. The Respondents clarified that the said letter was written in reply to letter/memo no. 392 dated 01.10.2015. In fact, the said letter pertained to the matter concerning the Voltage Surcharge and not the Demand Surcharge.

The Respondent stated that the Petitioner got its load extended from 4294.670kW to 7794.670kW and the Petitioner mentioned 3997kVA as its CD on the documents submitted by it. It was also correct that the same was sanctioned vide CE, DS (South) memo. no. 15520/21 dated 28.12.2015. It was wrong that prior to 28.12.2015, the CD of the Petitioner was 4771.858kVA from 07/2010 to 02/2016 as mentioned on the bills. The Respondent submitted that as per letter / memo no. 15520/21 dated 28.12.2015 of CE /DS(South), the current CD of the Petitioner was shown as 2400kVA, which meant that the earlier CD of the Petitioner was 2400kVA and not 4771.858kVA. Moreover, in view of the letter no.15520 / 21 dated 28.12.2015 of CE, DS (South), the CD of the Petitioner had been increased from 2400kVA to 3997kVA, as such, Demand Surcharge for the increased CD from 06 / 2010 up to the month having excess CD was recoverable from the Petitioner. The Respondent also pointed out that the Petitioner kept its CD below 4000kVA because if CD exceeded 4000kVA, then, 66 KV supply was required to be installed as per Clause no. 9.2 (b) of COS and the Petitioner was not willing to get installed 66 KV Grid on its own.

The Respondent further stated that it had also issued revised notice no.1907 dated 08.08.2017 for a sum of Rs. 30,10,318/- as per the order of the Forum and prayed that the appeal of the Petitioner may kindly be dismissed with costs.

**Decision**

6. The relevant facts of the case are that the Petitioner in this case is Punjabi University, Patiala having a Single Point electricity connection bearing account no. GC41/0076 under DS category fed at 11KV with sanctioned load of 7794.670kW and Contract Demand (CD) 3997kVA falling under the territorial jurisdiction of Bahadurgarh Sub Division of Sub Urban Division, PSPCL, Patiala. The Petitioner had requested for extension in load from 2535kW to 4294.670kW, vide A&A no. 42942 dated 26.08.2003, mentioning only the Transformer capacity of 2400kVA and the extension in the load as applied (without any Contract Demand) was sanctioned by the Chief Engineer, Commercial, PSEB vide letter dated 01.04.2004. Subsequently, the Petitioner again got extended the load from 4294.670kW to7794.670kW and got sanctioned CD as 3997kVA vide Chief Engineer/DS South, PSPCL, Patiala vide letter dated 28.12.2015.

Immediately thereafter, a demand of Rs 41,50,741/- was raised against the Petitioner on account of Demand Surcharge vide AEE, PSPCL, Bahadurgarh memo no. 24 dated 07.01.2016. The Demand Surcharge was levied from 06 / 2010 to 09 / 2015 treating the Petitioner’s CD as 2400kVA. This demand was raised by the Respondent as CD of 4771.858kVA continuously appeared on all the electricity bills issued every month from 07/2010 to 02/2016 inadvertently due to clerical mistake consequent upon updation of demand for HT DS/NRS consumers. The CD was mentioned as 4771.858kVA on the basis of sanctioned load 4294.67kW by taking 0.9 Power Factor as per Instruction no. 10.2 of ESIM. As per records of the Respondent, neither any increase in CD was applied for by the Petitioner nor any increase in CD was sanctioned or approved by the competent authority due to which, the actual CD of the Petitioner remained 2400kVA till 28.12.2015

The Petitioner did not agree to the amount charged to it and filed a case in the Forum which decided on 14.07.2017 that the Demand Surcharge charged from the Petitioner on account of exceeding the Maximum Demand (MD) than the sanctioned CD during the months from 07 / 2011 to 09 / 2015 (except for the months from 09/2011 to 05/2012 and for the months from 08/2012 to 07/2013) was correct and chargeable.

Pursuant to the Forum’s decision ibid, the Demand Surcharge was revised to Rs. 30,10,318/- by the Respondent vide its notice dated 08.08.2017. Being not satisfied with this revised Demand Surcharge, the Petitioner has approached this court and prayed for setting-aside the undue charges raised against it.

I have gone through the written submissions made in the Petition and reply of the Respondent as well as oral arguments of the Representatives of the Petitioner and Respondent along with material brought on record by both the sides. The issue requiring adjudication in the present case is the legitimacy of the amount charged at a belated stage to the Petitioner on account of Demand Surcharge for the period from 06/2010 to 09/2015 due to the amount less billed as a result of inadvertent mention of CD on the electricity bills issued by the Respondent.

My findings on the points emerged and deliberated are as under:-

1. *I find that the dispute arose when a demand of Rs. 41,50,741/- was raised on 07.01.2016 against the Petitioner, on account of the Demand Surcharge from 06/2010 to 09/2015 treating 2400kVA as its Contract Demand , vide AEE, DS, PSPCL, Bahadurgarh’s memo. no. 24 dated 07.01.2016. PR argued that this action of the Respondent was totally wrong as the Petitioner’s CD during this period was 4771.858kVA as mentioned on the electricity bills issued by the PSPCL throughout during the period from 07/2010 to 02/2016. PR also contended that aggrieved by this undue demand, a case bearing no. CG-63 of 2017 was filed before the Forum which gave only partial relief ignoring the material facts on record.*

I noted the contention of PR that CD of 4771.858kVA was admitted to have been calculated by the Respondent in accordance with departmental instructions and the Respondent could not use two yardsticks viz. 2400kVA for Demand Surcharge and 4771.858kVA for billing.

The Respondent, in its defence, stated that it had not used two yardsticks viz. 2400kVA for levying Demand Surcharge and 4771.858kVA for billing. The Respondent added that bills up to 05/2010 used to be prepared by the CBC, Chandigarh and from 06/2010 onwards, the bills were prepared by the Computer Centre, PSPCL, Patiala. The Respondent also contended that CD was changed to 4771.858kVA on the basis of sanctioned load of 4294.670kW by taking 0.9 Power Factor as per Instruction no. 10.2 of ESIM. The Petitioner had requested for extension in load from 2535kW to 4294.670kW, vide A&A no. 42942 dated 26.08.2003, mentioning only the Transformer capacity of 2400kVA and the extension in the load as applied (without any Contract Demand) was sanctioned by the Chief Engineer, Commercial, PSEB vide letter dated 01.04.2004. Subsequently, the Petitioner again got extended the load from 4294.670kW to 7794.670kW and got sanctioned CD as 3997kVA from Chief Engineer, DS (South Zone), PSPCL, Patiala vide letter dated 28.12.2015. There is, thus, justification in the contention of the Respondent that neither any increase in CD was applied by the Petitioner nor any increase in CD was sanctioned or approved by the Competent Authority, hence, actual CD of the Petitioner remained 2400kVA till 27.12.2015 and the same was got enhanced by the Petitioner from 2400kVA to 3997kVA on 28.12.2015. I observed that the Respondent admitted that mention of 4771.858kVA CD on bills was inadvertent and a clerical mistake consequent upon updation of demand for HT DS/NRS consumers. The Respondent also added that if Demand exceeded 4000kVA in case of DS category connection, then, supply was required to be given on 66KV as per Clause no. 5.2(b) of COS whereas supply of the Petitioner was running at 11KV which also showed that kVA of the Petitioner was less than 4000kVA i.e. 2400kVA.

1. *I noted that the PR referred to the plea taken by the Respondent that sanctioned Transformer Capacity of 2400kVA had been treated as Petitioner’s CD in the absence of separately sanctioned CD by the PSPCL and if that was so, then, 3400kVA should be treated as sanctioned CD of the Petitioner from 04/2006 because he Respondent was duly informed by the Petitioner vide memo. No. 979 / E / 05 dated 10.11.2005 that it was proposed to install two Transformers of 500KVA each and the Petitioner specifically inquired if any other formality was required to be completed by it. PR added that after installation of these Transformers, the Respondent was again informed by SDO (Electricity), Punjabi university, Patiala vide memo. No. 1136-37 dated 04.04.2006 that these Transformers had been installed and energized after getting approval of the Chief Electrical Inspector, Punjab. PR also argued that after keeping these letters for nearly ten years, the Respondent could not say that additional transformers were not sanctioned and ignored the same for imposing Demand Surcharge.*

I noted the Respondent’s contention in this regard that sanctioned installed capacity of Distribution Transformers of 2400kVA had been treated as Petitioner’s CD. The Respondent termed as wrong the PR’s contention that 3400kVA should be treated as CD of the Petitioner from 04/2006 and also that the Respondent was duly informed by the Petitioner vide memo. no. 979 / E / 05 dated 10.11.2005 of the Petitioner’s proposal to install two additional Transformers of 500KVA each. The Respondent contested PR’s contention that the said letter was got duly received in the office of the AEE, DS Sub Division, PSPCL, Bahadurgarh. The Respondent added that it was also incorrect that after installation of the two Transformers, the Respondent was again informed, about the Transformers having been installed, by the SDO (Electricity), Punjabi University vide memo. No. 1136-37 dated 04.04.2006. The Respondent categorically stated that these letters were never received in its concerned office as was evident from bare perusal of the copies of the said letters (annexed to the Petition) which did not show any diary number of the office receiving the letters or name of recipient of the letter. I observed that PR, on being inquired, did not place on record of this Court any concrete evidence in support of its contention of having got the letters actually received in the concerned office of the Respondent. Even if, any such reference as stated by the Petitioner was made to the Respondent, the same should have been followed till finality as simply informing the Respondent by the Petitioner of its proposal to install two Transformers was not sufficient and approval of the Licensee had to be invariably obtained as per provisions contained in ESR no. 88.4.2 (applicable before 01.01.2008 when the Supply Code-2007 came into effect) which provide that no consumer shall effect any change in its Contract Demand without proper approval of the Licensee. I agree with the contention of the Respondent that if any consumer wanted to install additional distribution transformer, it had to apply for the same to the concerned office of the Respondent and thereafter, the Chief Electrical Inspector, was required to conduct inspection of the same. But in the present case, two additional Transformers were got inspected from Chief Electrical Inspector without following the rules and without obtaining the prior approval of the Licensee.

I do not find merit in the contention of the PR that the Petitioner submitted letter dated 04.04.2006 to the concerned office of the Respondent, which did not raise any objection and the Petitioner, considering this as an approval, went ahead with the installation of two additional Transformers. I have already discussed in the preceding para that PR did not submit any concrete evidence in support of its contention of having got the letter ibid received in the concerned office of the Respondent. I also observe that Punjabi University, Patiala, having an Engineering Wing/Department, comprising competent and trained Engineers, was supposed to follow rules / regulations, consider / examine the matter in right perspective and should not have avoided to undertake and execute the work of installation of additional Transformers and inspection by Chief Electrical Inspector, without approval of Licensee which was a must as per rules. I also observe from the record that the connection of the consumer was checked by DS Staff and installed capacity of distribution transformers was detected as 1000KVA excess against sanctioned capacity and Rs. 7.50 Lakh was deposited by Punjabi University on dated 07.08.2002 on account of excess transformer surcharge. Hence, Electrical Department of Punjabi University was fully aware that installed capacity of the transformer could not be increased without proper approval from the Competent Authority of Licensee.

1. *PR next contended that Chief Engineer, DS (South), PSPCL, Patiala, vide memo. No. 12951 dated 15.10.2015 addressed to the Chief Engineer, Commercial, PSPCL, Patiala confirmed that the Demand Surcharge was not leviable in the Petitioner’s case and that the Forum did not take cognizance of the said letter while deciding the case.*

I agree with the Respondent contesting the above plea of the PR by stating that the said reference was in reply to memo. no. 3392 dated 01.10.2015 and pertained to Voltage Surcharge instead of Demand Surcharge.

1. *I noted the contention of the Respondent that the Petitioner got the load extended from 4294.670kW to 7794.670kW but mentioned 3997kVA as its CD on the documents submitted by it. The Respondent confirmed that the sanction was accorded by the Chief Engineer, DS (South), PSPCL, vide memo. no. 15520-21 dated 28.12.2015. However,* *the Respondent termed the PR’s contention as wrong*  *that CD of the Petitioner was 4771.858kVA from 07/2010 to 02/2016 as mentioned on the bills. The Respondent submitted that as per letter no. 15520-21 dated 28.12.2015 of the Chief Engineer, DS (South), the CD of the Petitioner had been increased from 2400kVA to 3997kVA, as, such, the Demand Surcharge, for the increased CD from 06/2010 upto the month having excess CD, was recoverable. The Respondent also added that the Petitioner kept its CD below 4000kVA because if CD exceeded 4000kVA, the 66KV supply was required as per Clause no. 5.2(b) of COS and the Petitioner was not ready to get installed 66KV Grid on its own.*
2. *I have gone through the Consumption Data for the period from 06/2010 to 09/2015 placed on record of the Forum by the Respondent and have observed that during the months of 09/2011 to 05/2012 and 8/2012 to 07/2013, when Maximum Demand was not reset, the Demand did not increase during the corresponding months of the year 2010. Hence, I am of the view that no officer/official can b e held responsible on this account.*

In view of the above, it is concluded that the Petitioner viz., Punjabi University, Patiala, having a full fledged Engineering Wing equipped with competent Task Force defaulted in discharging its duty and its responsibility as a Consumer of the Distribution Licensee by

1. *not bringing to the notice of the Respondent about inadvertent mention of 4771.858kVA Contract Demand (for which the Petitioner would have to switch-over to 66KV supply or pay voltage surcharge), on the electricity bills issued for the disputed period,*
2. *not seeking approval of the Competent Authority of the Licensee to install two additional 500KVA Transformers and get the same inspected from the Chief Electrical Inspector, Punjab, Patiala and,*
3. *not applying for increase in Contract Demand up to 12/2015 as required under the rules.*

As a sequel of above discussion, it is held that the Petitioner is liable to pay Demand Surcharge charged to it amounting to Rs. 30,10,318/- by the Respondent vide its revised notice bearing no. 1907 dated 08.08.2017. Accordingly, the Respondent is directed to recover the charged sum of Rs. 30,10,318/- without interest after adjustment, if any, from the Petitioner.

7. The Appeal is dismissed.

8. If the Petitioner or the Respondent is not satisfied with this decision, they are at liberty to seek appropriate remedy from the appropriate Bodies in accordance with Regulation 3.28 of PSERC (Forum and Ombudsman) Regulations-2016.

(VIRINDER SINGH)

LokPal (Ombudsman)

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