**COURT OF THE LOK PAL (OMBUDSMAN),**

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 10/2018**

**Date of Registration : 29.01.2018**

**Date of Hearing : 16.07.2018**

**Date of Order : 24.07.2018**

**Before:**

 **Er. Virinder Singh, Lok Pal (Ombudsman) Electricity**

**In the Matter of:**

 Sushil Kumar,

S/o Shri Gian Chand,

Near Bhai Jiwan Singh Gurdwara Sahib,

G.T. Road, Bara, Sirhind,

Distt. Fatehgarh Sahib.

 ...Petitioner

 Versus

 Additional Superintending Engineer,

DS Division, PSPCL,

Sirhind.

 ...Respondent

**Present For:**

Petitioner : Sh. Kuldeep Rai Advocate,

 Petitioner’s Counsel (PC).

Respondent : Er. Avtar Singh,

Assistant Engineer.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 30.11.2017 of the Consumers Grievances Redressal Forum (CGRF) in Case No. CG-270 of 2017 deciding:

*“T*o *uphold the decision of Circle Dispute Settlement Committee (CDSC) that bill on final reading of 5690 units ( i.e. final reading 10996 units as on 28.09.2016 minus units already billed 5306 units) is recoverable from the consumer and to recover the energy charges on units consumed after installation of new meter on 29.09.2016 bearing Serial No. 46183 from the initial reading as per instructions of the PSPCL duly checked by Accounts Officer/Field.”*

**2. Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having Domestic Supply Category connection initially with sanctioned load of 0.500kW which was extended to 8kW, on 28.10.2015.
2. At the time of taking reading of the Energy Meter on 28.09.2016, the Meter Reader found some defect in the Energy Meter and recorded ‘D’ Code (Defective).
3. The Energy Meter was replaced vide Device Replacement

Application No. 100002615913 dated 29.09.2016, effected on 20.11.2016.

1. The disputed Energy Meter was got tested on 20.01.2017 from ME Lab which reported that Energy Meter’s display was Dead and Energy Meter was burnt internally. The reading of the Energy Meter was shown as “**Not Visible**”.
2. The Respondent billed the Petitioner for the month of 03/2017 for 7375 units (6113 units of old Energy Meter and 1262 units of the new Energy Meter). The consumption of 6113 units of old Energy Meter was taken on the basis of consumption recorded for the month of 10/2015 i.e 463 units for 0.500 kW load and enhanced proportionately for 8 kW. Accordingly, the bill issued to the Petitioner, amounted to Rs. 49,510/-
3. The Petitioner did not agree with the billed amount and

represented to the Circle Level Dispute Settlement Committee (CDSC) which decided on 24.08.2017 that :

 “ygs vkN/ nB[;ko pdb/ whNo dh ckJhBb ohfvzr 10996 ;h . id'A fe fJ; whNo dk fwsh 28H9H16 sZe 5306 :{fBNK dk fpb fbnk ik u[Zek ;h . fJ; bJh T[go'es sZEK B{z w[Zy oZyd/ j'J/ ew/Nh tb'A c?;bk ehsk frnk fe T[so/ whNo dh ckJhBb ohfvzr 10996–5306 = 5690 :{fBN dk fpb ygseko gk;'A t;{bD :'r jB .”

1. Aggrieved with the decision of the Circle Level Dispute Settlement Committee, the Petitioner filed a Petition in the Forum which passed order dated 30.11.2017 (Reference: Page-2, Para-1).
2. Not satisfied with the decision of the Forum, the Petitioner preferred Appeal in this Court and prayed to set aside the decision of the Forum and allow the Appeal 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 and reply of the Respondent as well as oral submissions made by the Representative of the Petitioner and the Respondent alongwith material brought on record by both the sides.

1. **Submissions of the Petitioner**:

The Petitioner made the following submissions for the consideration of this Court:

1. The average bill of the Petitioner was for consumption of 700 to 800 units but the Respondent issued the bill for 7375 units which was unreasonable as the Petitioner could not consume electricity of this magnitude in this short period. The Respondent had raised the enhanced final reading of 10996 kWh which was on the basis of Estimation/presumption. The previous reading was 5306 kWh and the Petitioner could not consume (10996-5306) = 5690 units in one billing cycle of winter season.
2. The Petitioner never violated any instructions and rules of the PSPCL and was regularly paying the electricity charges. The Petitioner was also ready to pay the bill on the basis of the actual consumption or on the basis of consumption of the corresponding period of the previous year.
3. The Forum, after hearing the matter on 29.11.2017, pronounced the order in the presence of Counsels for the Petitioner and representative of the Respondent thereby directed the Respondent that the account of the consumer be overhauled on the basis of highest consumption of previous year 2016 i.e. of 2068 units instead of disputed consumption. But when the Petitioner received copy of the order dated 30.11.2017 of the Forum alongwith Notice No. 46 dated 18.01.2018, then, it came to know that Forum had passed the order against the Petitioner, hence this Appeal was filed against the decision of the Forum.
4. After pronouncing of the order ibid by the Forum, one energy bill was also issued on 24.12.2017 as the Respondent was in the impression that the order of the Forum was passed in favour of the Petitioner. The said bill was deposited by the Petitioner in due course.
5. The order of the Forum was erroneous in law as it contained many irregularities and illegalities.
6. The Appeal of the Petitioner may please be accepted and the PSPCL authorities be directed to correct the disputed bill of the Petitioner and to charge the Petitioner on the basis of actual consumption or on the basis of bill of the corresponding period of the previous year, instead of presumed/estimated enhanced reading taken by the computer, in the interest of justice.
7. **Submissions of the Respondent:**

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

1. The Petitioner was having a Domestic Supply Category connection bearing Account. No. 3002992921 with sanctioned load of 8kW. The Petitioner had got extended its load from 0.500kW to 8kW, on 28.10.2015.
2. The Energy Meter of the Petitioner was found defective on 28.09.2016 at the time of taking reading by the Meter Reader who recorded the “D” (Defective) Code. The said Energy Meter was replaced vide DRA No. 100002615913 dated 29.09.2016, effected on 20.11.2016.
3. The disputed Energy Meter was sent to the ME Lab vide Store Challan No. 999 dated 20.01.2017. The ME Lab reported that “**Display Dead/Meter burnt internally**” and reading of the Energy Meter was shown as “**Not Visible”**.
4. The account of the consumer was overhauled in accordance to the provision contained in Regulation 21.5.2 of the Supply Code, which read as under :

**“*Defective (other than inaccurate)/Dead Stop /Burnt /Stolen Meters:***

 *The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

1. *On the basis of energy consumption of corresponding period of previous year”*
2. The Billing of the Petitioner for the month of 03/2017 was done on the basis of 7375 units (6113 units for consumption of the old Energy Meter and 1262 units of the new Energy Meter). The average consumption of 6113 units was taken on the basis of consumption recorded for the month of 10/2015, which was 463 units for 0.500 kW load and was enhanced on pro rata basis for 8kW which came out to be 6113 units. The load of the consumer was checked vide LCR No. 49/4001 dated 22.06.2017 and the load of 10.366 kW was running against sanctioned load of 8kW.
3. The Petitioner did not agree with the billed amount and represented to the Circle Level Dispute Settlement Committee which decided on 24.08.2017 that the amount charged was recoverable.
4. The Petitioner was not satisfied with the decision of the Circle Dispute Settlement Committee (CDSC) and filed a Petition before the Forum which, vide its order dated 30.11.2017, decided that the bill based on final reading of 5690 units (i.e. final reading 10996 units as on 28.09.2016 minus units already billed i.e. 5306 units) was recoverable from the Petitioner and also ordered to recover energy charges on units consumed after installation of new Energy Meter on 20.11.2016, bearing Sr. No. 46183 from the initial reading as per instructions of the PSPCL. The decision of the Forum was correct, so, the Appeal deserved to be dismissed.

4. **Analysis:**

The issue requiring adjudication is the legitimacy of the overhauling the account of the Petitioner for the period of defect in the Energy Meter noticed by the Meter Reader at the time of taking its reading on 28.09.2016.

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

The dispute in this case arose when the Meter Reader took regular reading of the Energy Meter on 28.09.2016 and recorded ‘D’ Code after finding the same defective. The said defective Energy Meter was replaced on 20.11.2016 and was tested on 20.01.2017 in ME Lab which reported that “**Display Dead/Meter burnt internally**” and Meter Reading “**Not Visible**”.

 I find that the Respondent, on being asked during the course of hearing, could not produce any documentary evidence to confirm as to how the Junior Engineer Incharge, who replaced the disputed Energy Meter on 20.11.2016, had shown the readings on the Device Replacement Application as 10996 kWh and 11883 kVAh.

 *I observe that since the disputed Energy Meter was declared ‘Burnt’ by the M.E. Lab, in its report dated 20.01.2017, the provisions contained in Regulation 21.5.2 (a) of the Supply Code-2014 are relevant in this regard, in terms of which, the amount of the Petitioner is required to be overhauled for the period from 28.09.2016 (the date on which the Energy Meter was found defective by the Meter Reader) to 20.11.2016 (the date of replacement of the disputed Energy Meter) on the basis of consumption for the corresponding period of previous year but I find that the previous year’s reading was for 0.500kW, but, in the disputed period, the sanctioned load was 8 kW, hence, the account is required to be overhauled as per provisions contained in Regulation 21.5.2 (d) of the Supply Code- 2014 i.e. with LDHF formula, as given in Annexure-8 of the Supply Code-2014, by taking the load (L) as 8 kW, which reads as under:*

*“The accounts of a consumer shall be overhauled / billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

***(d)*** *Where the consumption for the previous months/ period as referred in para (a) to para (c) is not available the consumer shall be tentatively billed on the basis of consumption assessed as per para - 4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.”*

I also observe that in so far as the billing for the period after installation of new energy Meter is concerned, there is no dispute regarding preparing the bill based on the actual consumption recorded by it.

From the above analysis, it is concluded that:

1. The account of the Petitioner for the period of defect in the Energy Meter (i.e. from 28.10.2015 to 20.11.2016) be overhauled, as per provisions contained in Regulation 21.5.2 (d) of the Supply Code-2014, i.e. with LDHF formula by taking the load as 8 kW or the consumption recorded by the new meter (replaced on 20.11.2016) in the corresponding months of the succeeding year and the higher out of the two shall be chargeable.
2. The Petitioner is required to be billed for the period from 20.11.2016 (i.e. after installation of new Energy Meter) on the basis of actual energy consumption recorded by it.

**5.** **Decision**:

**As a sequel of above discussions, it is held that the account of the Petitioner should be overhauled as per conclusion arrived at in Para 4 above of this order. Accordingly, the Respondent is directed to recalculate the demand and recover/refund the amount found short/excess, if any, after adjustment without any interest.**

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

**7.** In case, the Petitioner or the Respondent (Distribution 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 the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

July 24 , 2018 LokPal (Ombudsman)

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