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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 51/2018**

**Date of Registration : 20.08.2018**

**Date of Hearing : 28.11.2018**

**Date of Order : 13.12.2018**

**Before:**

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

**In the Matter of :**

 Sada Shiv Castings Pvt. Ltd,

Village & P.O. Mubarikpur,

Dera Bassi,

Distt. S.A.S. Nagar (Mohali).

 ...Petitioner

 Versus

 Sr. Executive Engineer,

DS Division,

PSPCL, Lalru.

 ...Respondent

**Present For:**

Petitioner : Sh. R.S. Dhiman,

 Petitioner’s Representative (PR).

Respondent : Er. Inderpreet Singh,

 Sr. Executive Engineer,

DS Division ,

PSPCL, Lalru.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 27.07.2018 in Case No. CG-213 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

“*Demand of Rs., 5,07,552/- on account of proportionate cost of back up line and 66 kV Bay for extension in CD from 6732 KVA to 8732 KVA is in order and is recoverable.”*

**Facts of the Case:**

The relevant facts of the case are that:

**(i)** The Petitioner was having a Large Supply Category connection with sanctioned load of 1680 kW and contract demand (CD) of 2250 kVA at 11 kV Supply Voltage. The load was got extended from 1680 kW to 1990 kW in the Year 1996 without any change in CD. The Petitioner again got the load extended from 1990 kW to 8990 kW and CD from 2250 kVA to 10,215 kVA on 22.05.1999 after paying the proportionate cost of 66 kV bay at 220 kV Sub-station, Saidpura and that of the line from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur amounting to Rs. 19,15,489/-, full cost of 66 kV bay at 66 kV Sub-station, Mubarikpur, amounting to Rs. 33,00,000/- and Rs. 14,32,522/- as full cost of 66 kV new line from 66 kV Sub-station, Mubarikpur to consumer premises.

 **(ii)** In the year 2006, the Petitioner clubbed its three connections, namely; Sada Shiv Casting (LS-52) with contract demand (CD) as 10,215 kVA, Sada Shiv Ispat (LS-123) with CD as 1267 kVA and Ria Steel (LS-109) with CD as 250 kVA into a single connection in the name of Sada Shiv Casting (LS-52) with CD as 11,732 kVA and load as 10,445.745 kW from 8990 kW.

**(iii)** The Petitioner applied for reduction in CD from 11,732 kVA to 6,732 kVA in 07/2013 without change in connected load which was approved and sanctioned.

**(iv)** Thereafter, the Petitioner applied for extension in CD from 6,732 kVA to 8,732 kVA on 26.10.2016 without change in connected load.

**(v)** The Petitioner was served a Demand Notice (DN) vide memo no. 102 dated 21.04.2017 for Rs. 5,07,552/-, for recovery of proportionate cost of Back up Line and Bay (Rs. 4,75,152/- + Rs.32,400/-) which was deposited by the Petitioner on 23.10.2017.

**(vi)** Aggrieved with the demand, the Petitioner preferred an Appeal on 23.05.2018 in the Forum, who after hearing, passed order dated 27.07.2018 (Reference : Page 2, Para 1).

**(vii)** Not satisfied with the decision of the Forum, the Petitioner filed an Appeal in this Court and prayed that the amount of Rs. 5,07,552/- deposited by it may be refunded with interest in the interest of justice.

1. **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 along with material brought on record by both the sides.

**(a) Submissions of the Petitioner**:

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

1. The Petitioner was having sanctioned load of 1,680 kW and the contract demand (CD) of 2,250 kVA. The Petitioner got its load extended from 1990 kW to 8990 kW and CD from 2,250 kVA to 10,215 kVA (2,250 + 7,965) on 22.05.1999.
2. In the year 2006, the Petitioner clubbed its three connections, namely; Sada Shiv Casting (LS-52) with contract demand (CD) as 10,215 kVA, Sada Shiv Ispat (LS-123) with CD as 1,267 kVA and Ria Steel (LS-109) with CD as 250 kVA into a single connection in the name of Sada Shiv Casting (LS-52) with CD of 11,732 kVA and load of 10,445.745 kW.
3. In the year 2013, the Petitioner got its contract demand (CD) reduced to 6,732 kVA by surrendering CD of 5,000 kVA without reducing the connected load.
4. The Petitioner again applied for extension in CD of 2000 kVA in 04/2017 without reducing the connected load. The Respondent – PSPCL, then, raised a demand of Rs. 5,07,552/- for releasing the extension in CD on account of proportionate cost of back up 66 kV Line and Bay, which was deposited by the Petitioner.
5. After getting the extension of 2,000 kVA CD released, the Petitioner filed a Petition in the Forum for refund of Rs. 5,07,552/- on the ground that it had already paid the proportionate cost of back up Line and Bay from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur, amounting to Rs. 19,15,489/-, at the time of getting the extension of 7,965 kVA in the 05/1999.
6. The Petitioner got an extension of 7000 kW load with CD from 7,965 kVA to 10,215 kVA in the year 05/1999 and the supply voltage was upgraded to 66 kV from 11 kV.
7. The Petitioner deposited the full cost of 66 kV Line and Bay amounting to Rs. 14,32,522/- and Rs. 33,00,000/- respectively at 66 kV Sub-station, Mubarikpur. In addition, the Petitioner was asked to deposit Rs. 19,15,489/- for extension in CD to 7,965 kVA on account of proportionate cost of back up 66 kV Line from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur, which was deposited by the Petitioner.
8. In 07/2013, the Petitioner got its CD reduced by 5,000 kVA and in 05/2017 again applied for extension of 2,000 kVA without reduction in load. So, it was not fair to ask for proportionate charges for extension in CD of 2,000 kVA which had been already paid by the Petitioner. Rather, the Petitioner was entitled to avail 3,000 kVA more without paying any proportionate cost of back up infrastructure.
9. Aggrieved with the decision of the Forum, an Appeal was preferred in this Court with the request that the amount of Rs. 5,07,552/- deposited by it may be refunded with interest in the interest of justice.
10. **Submissions of the Respondent:**

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

1. The Petitioner was having a Large Supply Category connection with sanctioned load of 1680 kW and contract demand (CD) of 2250 kVA at 11 kV Supply Voltage. The load was got extended from 1680 kW to 1990 kW in the Year 1996 without any change in CD. The Petitioner again got the load extended from 1990 kW to 8990 kW and CD from 2250 kVA to 10,215 kVA on 22.05.1999 after paying the proportionate cost of 66 kV bay at 220 kV Sub-station, Saidpura and that of the line from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur amounting to Rs. 19,15,489/-, full cost of 66 kV bay at 66 kV Sub-station, Mubarikpur, amounting to Rs. 33,00,000/- and Rs. 14,32,522/- as full cost of 66 kV new line from 66 kV Sub-station, Mubarikpur to consumer premises.
2. In the year 2006, the Petitioner got its connections namely; Sada Shiv Casting (A/c No. LS-52) having CD of 10,215 kVA, Sada Shiv Ispat (A/c No. LS-123) having 1,267 kVA CD and Ria Steel (A/c No. LS-109) having 250 kVA CD clubbed into one connection in the name of Sada Shiv Casting (A/c No. LS-52) with CD of 11,732 kVA and load of 10,445.745 kW.
3. In the year 2016, the Petitioner was having contract demand of 6,732 kVA. On 26.10.2016, the Petitioner applied for extension in Contract Demand from 6,732 kVA to 8,732 kVA without change in load, for which, the Petitioner was issued Demand Notice on 21.04.2017 to deposit an amount of Rs. 5,07,552/-.
4. The Petitioner was issued demand notice dated 21.04.2017 to deposit the proportionate cost amounting to Rs.5,07,552/- (Rs. 4,75,152/- for 66 kV line from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur and Rs. 32,400/- for 66 kV bay at 220 kV Sub-station, Saidpura) of the common portion from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur for extension in CD from 6,732 kVA to 8,732 kVA.
5. Aggrieved with the demand raised, the Petitioner filed a Petition in the Forum which, after hearing, decided that the amount raised by the Respondent – PSPCL was justified and recoverable.
6. In view of the above submissions, the Appeal may be dismissed.
7. **Analysis:**

The issue requiring adjudication is the legitimacy of the demand raised for Rs. 5,07,552/- on account of proportionate cost of back up line and 66 kV Bay for extension in CD from 6,732 kVA to 8,732 kVA.

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

1. During the course of deliberations, it was observed that complete details of events (such as extension/reduction in load /CD) relating to the Petitioner’s connection ever since the connection in 1993 under Large Supply (LS) Category at 11 kV supply voltage alongwith the particulars of the amounts deposited were required for arriving at a conclusion about genuineness of the amount charged to the Petitioner. Besides, a single line diagram from Sub-station along with size and length of conductor was also required for consideration and decision. Accordingly, the Respondent was directed to send the aforesaid information, vide letter no. 1745/OEP/A-51/2018 dated 29.11.2018, by 03.12.2018 positively.
2. In compliance to the said directions of this Court, the Respondent sent the requisite details tabulated below vide memo no.9185 dated 05.12.2018 through e-mail dated 05.12.2018 and as per telephonic talk with Sr. XEN on 11.12.2018:

|  |  |  |
| --- | --- | --- |
| S.No. | Date/Month/Year | Event/Remarks |
| 1. | 1993 | Obtained Large Supply (LS) Category connection with load of 1,680 kW and CD as 2,250 kVA at 11 kV supply voltage. |
| 2. | 22.05.1999 | CD and Load got extended to 10,215 kVA (2,250+7,965) and 8990 kW respectively at 66 kV supply voltage and deposited the amount detailed as under:1. a) Cost of 66kV : Rs. 33,00,000/-
2. Bay (at 66 kV
3. Sub-station, Mubarikpur).

b) Proportionate : Rs.19,15,489/-Cost of 66 kV bayand line from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur. c) Cost of 66 kV : Rs.14,32,522/-New line from 66 kV Sub-station, Mubarikpur to  consumer premises.  |
|  3.  | 05.05.2006 | Clubbing of 3 connections viz.1. Sada Shiv Casting (LS-52) with CD of 10,215 kVA.
2. Sada Shiv Ispat (LS-123) with CD of 1,267 kVA.
3. Ria Steel Tube (LS-109) with CD of 250 kVA.

 With this clubbing, aggregate CD was 11,732 kVA and connected load as 10,445.745 kW. **At the time of clubbing, no amount was charged from the Petitioner.** |
| 4. | 07/2013 | The Petitioner got its CD reduced from 11,732 kVA to 6,732 kVA without change in connected load. |
| 5. | 05/2017 | CD was got extended by 2,000 kVA with net CD becoming 8,732 kVA for which, the consumer was charged proportionate cost of back up line, amounting to Rs. 4,75,152/- from 220 kV Sub-station, Saidpura to 66 kV Sub-station, Mubarikpur and Rs. 32,400/- for 66 kV bay at 220 kV Sub-station, Saidpura. Thus, total amount of Rs. 5,07,552/- (Rs.4,75,152 + Rs.32,400/-) was charged from the Petitioner as per CC No. 60/2014.  |
| 6. |  \_ | On being requested, office of the Chief Engineer, Commercial, clarified vide memo no. 391 dated 22.05.2017 that the proportionate cost of 66 kV back up line and Bay was chargeable from the consumer. Accordingly, the amount of Rs. 5,07,552/- was charged to the Petitioner. |
| 7. | 04/2018 | The Petitioner got reduced its CD further by 3,000 kVA whereafter, its CD was 5,732 kVA but, the load remained the same and fed at 66 kV supply voltage. |

1. Proviso in Reg. 9.1.3 (ii) of the Supply Code-2014 reads as under:

*“Provided that where a HT/EHT consumers having a sanctioned load/contract demand exceeding 100 kW / 100 kVA and who has paid the actual cost of HT /EHT service line or feeders (including breakers/bay) at the time of release of connection, requests for additional load/demand and such load/demand can be fed from the same line without any augmentation then the HT/EHT consumers shall be liable to pay only the proportionate cost of HT/EHT main/common line upto feeding sub-station including breaker/bay.”*

1. A perusal of the details relating to extension/reduction in load and CD of the Petitioner’s connection vis-a-vis the amounts deposited there-against reveal that the Petitioner got its CD extended from 2,250 kVA to 10,215 kVA on 22.05.1999 after depositing the proportionate cost as per demand raised by the Respondent – PSPCL. Subsequently, the Petitioner got its three connections clubbed due to which, combined CD become 11,732 kVA (10,215 + 1,267 + 250). For the said clubbing, no amount was charged from the Petitioner. However, in 07/2013, the Petitioner got its CD reduced from 11,732 kVA to 6,732 kVA. But when the Petitioner applied subsequently in 05/2017, for increase in CD by 2,000 kVA i.e. from 6,732 kVA to 8,732 kVA, it had to deposit the proportionate cost detailed below as per demand raised by the Respondent - PSPCL.

Proportionate cost of back up line Rs.4,75,152/-

from 220 kV Sub-station, Saidpura

to 66 kV Sub-station, Mubarikpur.

Proportionate cost of 66 KV Bay

at 220 kV Sub-station, Saidpura . Rs.32,400/-

 **Total**  **Rs.5,07,552/-**

After perusing the above details brought on record of this Court, I find merit in the contention of the Petitioner’s Representative that it will not be fair to ask for proportionate charges for extension in CD of 2,000 kVA which had already been paid by the Petitioner while getting its CD extended to 10,215 KVA in 05/1999. PR rightly argued that the Petitioner was entitled to avail 3,000 kVA more without paying any proportionate cost of back up infrastructure. Moreover, surrender of load by the Petitioner enabled the Respondent to get more cushion to release the connections to other consumers and charge from them.

 From the above analysis, it is concluded that charging the Petitioner with the proportionate cost of back up line and 66 KV Bay for extension in CD from 6,732 kVA to 8,732 kVA is not just and fair in accordance with the principle of natural justice, as the Petitioner had already deposited the proportionate cost for availing CD of 8,732 kVA (reduced from clubbed CD of 11,732 kVA) at the time of applying for extension in CD from 2,250 kVA to 10,215 kVA in May 1999.

1. **Decision**:

 **As a sequel of above discussions, the order dated 27.07.2018 of the Forum in Case No. CG-213 of 2018 is set aside. It is held that the proportionate cost on account of extension in CD of 2000 kVA is not recoverable from the Petitioner. Accordingly, the Respondent is directed to refund the amount deposited by the Petitioner on this account without interest.**

1. The Appeal is disposed off accordingly.
2. 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 the Regulation 3.28 of the Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

 (VIRINDER SINGH)

December 13, 2018 LokPal (Ombudsman)

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