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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL No. 59/2018**

**Date of Registration : 13.09.2018**

**Date of Hearing : 27.12.2018**

**Date of Order : 31.12.2018**

**Before:**

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

**In the Matter of :**

Allengers Medical Systems Ltd,

Village Bhankarpur, Mubarakpur Road,

Tehsil Dera Bassi,

District S.A.S.Nagar (Mohali).

...Petitioner

Versus

Senior Executive Engineer,

DS Division,

PSPCL, Lalru.

...Respondent

Present For:

Petitioner : 1. Shri Balwinder Chand,

Assistant Manager,

Petitioner’s Representative (PR)

2. Shri R.M. Gupta, Electrical Consultant,

Petitioner’s Representative (PR).

Respondent : Er. Inderpreet Singh,

Senior Executive Engineer,

DS Division, PSPCL, Lalru.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 13.08.2018 in Case No. CG-246 of 2018 of the Consumers Grievances Redressal Forum (Forum) deciding as under:

*“Applicable interest on Security (Consumption) be paid to the petitioner till the end of financial year 2017-18 i.e. 31.03.2018 on total Security (Consumption) including the Security (Consumption) deposited by the Petitioner, as per Regulation 17.1 of Supply Code-2007 and Regulation 17.1 of Supply Code-2014.”*

**2 Facts of the Case:**

The relevant facts of the case are that:

1. The Petitioner was having a Large Supply Category connection with sanctioned load of 299.840 kW and contract demand (CD) of 300 kVA.
2. Initially, a Medium Supply Category connection, bearing Account No. Z21MS210603 in the name of Harman Bawa (P) Ltd, Village Bhankarpur was running which was purchased by the Petitioner in the year 2004. The Petitioner applied for change of name (CON) vide Application & Agreement No. 19805/CON dated 19.08.2005 and deposited the Advance Consumption Deposit (ACD) and Security (Meter) of Rs. 70,670/-.
3. Subsequently, the Petitioner applied for extension of load and change of category of connection from Medium Supply Category to Large Supply Category vide A&A No. 1102 dated 20.10.2010 and deposited Rs. 3,10,950/- on 20.10.2010 as Security (Consumption) and Security (Meter). The Application was not processed, as the Test Report was not submitted by the Petitioner.
4. In the year 2013, the Petitioner again applied for the extension in load from 93.330 kW to 299.840 kW vide A&A No. 5674 dated 01.03.2013 by depositing 10% Earnest Money, amounting to Rs. 31,095/- and balance amount of Security was adjusted from the already lying Security deposited by the Petitioner on 20.10.2010.
5. The connection was released vide Service Connection Order (SCO) dated 05.02.2014. The additional Security (Consumption) was demanded by the Respondent on 20.01.2015 in view of Commercial Circular (CC) No.28/2010, amounting to Rs. 32,961/-, which was deposited by the Petitioner on 09.02.2015.
6. The Security (Consumption) and Security (Meter) was not updated in the bills. It was updated in the bill of 07/2016 and thereafter, interest on Security had been given to the Petitioner.
7. The total upto date Security (Consumption) and Security (Meter) deposited by the Petitioner was Rs. 70,670/- + Rs. 3,10,950/- + Rs. 32,961/- = Rs. 4,14,581/-.
8. Due to non-updation of Security in the bills from time to time, the Petitioner did not get the applicable interest as per provisions contained in the Supply Code-2007 and the Supply Code-2014.
9. Due to non-receipt of the requisite interest on Security, the Petitioner, filed a Petition dated 19.06.2018 in the Forum, who passed the order dated 13.08.2018 (Reference : Page 2, Para 1).
10. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and requested to set aside the decision dated 13.08.2018 of the Forum and allow the actual amount due on account of interest on Security deposits with PSPCL from the actual date of deposit.
11. **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 Representatives of the Petitioner and the Respondent along with material brought on record by both the sides.

1. **Submissions of the Petitioner**:

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

1. The Petitioner purchased a running unit having Medium Supply Category connection bearing Account No. Z21MS210603, in the year 2004 whereafter, the Petitioner applied for change of name vide A&A No. 19805/CON dated 19.08.2005 by depositing ACD and Security (Meter) of Rs. 70,670/-. After the change of name, regular bills were issued by the Respondent – PSPCL, which were paid in time.
2. Subsequently, the Petitioner applied for the extension of load, and change of category to Large Supply Category, vide A&A No.1102/MS dated 20.10.2010 by depositing Rs. 3,10,950/- as Security, but due to non-submission of Test Report, the extension in Load was not released. The Petitioner again applied for extension in Load on 01.03.2013 and deposited Rs. 31,095/- as Security and Load was released on 05.02.2014.
3. Additional Security of Rs. 32,961/-, as demanded by the Respondent – PSPCL, was paid on 07.02.2015.
4. The interest on Security deposit of Rs. 3,735/- was given in the bill issued in the month of 04/2016 and the total Security amounting to Rs. 4,14,581/-, deposited by the Petitioner, was updated in the energy bill in the month of 07/2016.
5. The Petitioner requested the SDO, DS Sub Division, PSPCL, Dera Bassi many times to give interest on Security deposits but nothing was done.
6. Aggrieved, the Petitioner filed a Petition dated 19.06.2018 in the Forum, who, vide order dated 13.08.2018, did not grant interest on Security deposit from the actual date of deposit i.e. 20.10.2010 as per Regulation 17.3 and 17.4 of the Supply Code-2007 and the Supply Code-2014.
7. In view of the submissions made above, the order of the Forum be set aside and the actual amount due on account of interest on Security deposits from the actual date of deposit be allowed in the interest of justice.
8. **Submissions of the Respondent:**

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

1. The Petitioner was having Large Supply Category connection with sanctioned load of 299.840kW and contract demand (CD) of 300 kVA.
2. The Petitioner applied for extension in load from Medium Supply to Large Supply Category on 20.10.2010 vide A&A No. 1102 dated 20.10.2010 by depositing Rs. 3,10,950/- on 20.10.2010 as Security but did not process its request further.
3. In the year 2013, the Petitioner again applied for extension in load from 93.330 kW to 299.840 kVA vide A&A No. 5764 dated 01.03.2013 by depositing Rs.31,095/- (10% of Rs.3,10,950/-) on 01.03.2013 and the connection was released to the Petitioner vide SCO No. 68/25965 dated 05.02.2014.
4. The Security of the Petitioner was not updated initially. It was updated in the bill of 07/2016 and only thereafter, interest on Security had been given to the Petitioner.
5. The Petitioner filed its Petition on 19.06.2018 in the Forum for getting interest on Security for the period 20.10.2010 to 31.03.2016.
6. The Forum, vide its decision dated 13.08.2018, directed to update the interest on Security lying with PSPCL except for that deposited by the Petitioner on 20.10.2010 towards extension of Load as neither the compliance of Demand Notice was made by the Petitioner nor the Petitioner submitted any request for withdrawal of its application for extension of load. Subsequently, the Petitioner again applied for extension of load and got adjusted its previous Security after deduction of 10% earnest money. The extension of load was granted on 05.02.2014.
7. As per decision of the Forum, the interest on Security (Consumption) was paid to the Petitioner till the end of the financial year 2017-18 i.e. 31.03.2018 on total Security (Consumption) and Rs. 1,20,045/- as interest on Security was given in the bill of 08/2018.
8. In view of the submissions made above, the Appeal may be dismissed.
9. **Analysis:**

The issue requiring adjudication is the legitimacy of the claim of interest due on Security (Consumption) and Security (Meter) deposited by the Petitioner from the actual date of deposit i.e. 20.12.2010 as per applicable regulations.

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

1. As per material on record, the Petitioner has now demanded the penal interest on Security (Consumption) and Security (Meer) deposited as per provisions contained in 17.4 of the Supply Code-2007 and 17.3 of the Supply Code-2014. Though the Petitioner deposited the Security on 20.10.2010, amounting to Rs.3,10,950/- at the time of applying for extension in load but extension could not be released, as the Petitioner did not make the compliance of Demand Notice and also did not submit Test Report. Besides, the Petitioner did not submit any request for withdrawal of application for extension in load. The Petitioner again applied for extension in load on 01.03.2013 and previous Security deposited was adjusted after deducting 10% earnest money, which was deposited by the Petitioner.
2. During the course of hearing, the Petitioner’s Representative submitted that the Petitioner had also not been allowed interest for the years 2008-09 to 2011-12 on the Security deposited by it. Accordingly, the Respondent was directed to intimate the interest paid to the Petitioner on the Security (Consumption) and Security (Meter) from 2008-09 by 31.12.2018. In response, the Respondent, vide e-mail dated 31.12.2018 sent the requisite information which is reproduced as below:

*“As per the available record of 2012-2013, the interest on the Security deposited with the PSPCL under the Group Head 48.120 was given to the consumer. As per the record, interest of Rs.8,285/- was credited in consumer’s bill on Security deposited in his MS connection A/c no. Z21MS210603. Further, it is submitted that amount of Rs.31,095/- was deposited by the consumer for the extension of the load vide BA-16 No. 225/5205 dated 20.10.2010. But the extension was not availed by the consumer. But the security lied with PSPCL under the Group head 48.120, but consumer never claimed the refund of security. Subsequently, in the year 2013, consumer again applied for Extension of Load by depositing difference of security amount of Rs.31,095/- vide BA-16 No.495/5260 dated 01.03.2013.”*

I find from perusal of the letter ibid that the Petitioner has received interest on the Security for the year 2012-13 (at the time of having MS Category connection) amounting to Rs. 8,285/-, but, the letter is silent about the payment or otherwise of interest from the Financial Year 2008-09. I also observe that the amount of Rs. 3,10,950/- was deposited by the Petitioner on 20.10.2010 as Security for conversion of its connection from MS to LS category and the said amount was lying under the Head 48.120 (Security Head) with the PSPCL but the Petitioner did not get extension in load as it did not comply with the Demand Notice. Besides, the Petitioner also did not claim refund of Security. Subsequently, this amount was adjusted in the Year 2013 when it again applied for extension in load by depositing difference of Security amounting to Rs. 31,095/- (10% of Security deposited on 20.10.2010) on 01.03.2013.

I am of the view that since the Security amounting to Rs. 3,10,950/- deposited on 20.10.2010 remained lying under the Security Head 41.920, hence, the Respondent is liable to pay interest on this amount to the Petitioner.

*I observe that the Respondent defaulted in ensuring timely up-dation of Security (Consumption) and Security (Meter) in the Energy Bills which led to avoidable litigation. At the same time, the Petitioner had also been negligent in bringing the fact of non-updation of the same in the Energy Bills for a long period, to the notice of the Respondent. The Petitioner, being a Large Supply Category consumer, was expected to go through and study the Energy Bills carefully and intelligently and bring the discrepancy, if any, to the notice of the Respondent immediately on noticing it on receipt of the energy bills. Hence, in view of the facts and circumstances of the present case, the claim of the Petitioner for allowing interest in terms of provisions of Regulation 17.4 of the Supply Code-2007 or Regulation 17.3 of the Supply Code-2014 is not sustainable.*

From the above analysis, it is concluded that the Petitioner is required to be allowed yearly interest on the Security deposited from 01.04.2009 (for the year 2008-09) to 31.03.2018, if not paid earlier, in terms of provisions contained in Regulation 17.1 of the Supply Code-2007 and the Supply Code-2014.

1. **Decision:**

**As a sequel of above discussions, the order dated 13.08.2018 of the forum in Case No. CG-246 of 2018 is modified. It is held that the Petitioner shall be allowed yearly interest on Security (Consumption) and Security (Meter) deposited during the year from 2008-09 (interest payable as on 01.04.2009) to 2017-18 (interest payable as on 01.04.2018) after due verification of the fact of non-payment earlier, in terms of provisions contained in Regulation 17.1 of the Supply Code-2007 and the Supply Code-2014.**

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

(VIRINDER SINGH)

December 31, 2018 LokPal (Ombudsman)

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