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

**ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO.05/2019**

**Date of Registration : 24.01.2019**

**Date of Hearing : 05.03.2019, 26.03.2019 &**

 **09.04.2019**

**Date of Order : 22.04.2019**

**Before:**

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

**In the Matter of :**

 Jagbir Singh,

 Village Singhpura, Behind Motia Royal City,

 NAC, Zirakpur.

 ...Petitioner

 Versus

 Addl. Superintending Engineer,

DS Division,

PSPCL, Zirakpur.

 ...Respondent

**Present For:**

Petitioner : 1. R.S. Dhiman,

 Petitioner’s Representative (PR)

 2. Shri Roshan Lal,

 Petitioner’s Representative (PR).

Respondent : 1.Er. Khushwinder Singh,

 Addl. Superintending Engineer,

 DS Division, PSPCL, Zirakpur.

2.Er. Gaurav Kamboj

 Assistant Engineer/Commercial.

Before me for consideration is an Appeal preferred by the Petitioner against the order dated 31.12.2018 in Case No. CG-407 of 2018 of the Consumer Grievances Redressal Forum (Forum) deciding as under:

*“* ***(a)*** *The amount charged by the Audit Party vide HM No. 2412 dated 20.11.2017 is unjustified and is not recoverable.*

***(b)*** *In addition to above, the amount of Rs.37,533/- pertaining to the interest on the defaulting amount for the period of 8 months from 24.8.2017 to 03/2018 is also unjustified and is not recoverable.*

***(c)*** *The account of the Petitioner bearing 1st Account No. ZT-3810 be overhauled from the date connection i.e. 18.01.2017 to the date of replacement of meter i.e. 13.06.2017 (vide MCO No.012/2416 dated 01.06.2017 effected on 13.06.2017) for 146 days on the basis of average consumption for the period the meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days worked out as Reading 34,609 kWh on 29.01.2018 minus Initial reading 1 on 06.10.2017 = 34,608 units as per Regulation 21.5.2(d) of Supply Code 2014. As such, 1st Account No. ZT 3810 of the Petitioner be overhauled from 18.01.2017 to 13.06.2017 on the basis of average consumption worked out as 43,937 units (i.e. 34,608 x 146 / 115 = 43,937 units).*

***(d)*** *The account of the Petitioner bearing 1st Account*

*No.ZT-3810 be overhauled for the period 13.06.2017 to the date of permanent disconnection i.e. 24.08.2017 on the basis of actual consumption recorded 27,918 units (i.e. Final reading 27,930 as on 24.08.2017 minus Initial reading 12 as on 13.06.2017).*

***(e)*** *The account of the Petitioner bearing Account No. ZT-4270 the meter of which had gone defective on 29.01.2018 be overhauled from 29.01.2018 to the date of permanent disconnection i.e. 20.03.2018 (vide PDCO No. 112/13451 dated 03.10.2017 effected on 20.03.2018) for 50 days on the basis of average consumption for the period the meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days worked out as Reading 34,609 kWh on 29.01.2018 minus Initial reading 1 on 06.10.2017 = 34,608 units) as per Regulation 21.5.2(c) of Supply Code 2014. As such, 2nd account no. ZT-4270 of the Petitioner be overhauled from 29.01.2018 to 20.03.2018 on the basis of average consumption worked out as 15,047 units (i.e. 34,608 x 50 / 115 = 15,047 units).”*

**2. Facts of the Case:**

 The relevant facts of the case are that:

1. A temporary electricity connection, bearing Account No. Z74ZT003810 (T-3810) with sanctioned load of 7.980 kW, was released to the Petitioner for use by labourers engaged on the construction of a project at Village Singhpura and Energy Meter, bearing Serial No. 91137, was installed on 18.01.2017.
2. Energy bills of the Petitioner’s 1st Account (Account No. ZT-3810) for the month of 05/2017, 06/2017 and 07/2017 were generated with Meter Status as ‘F’(Meter changed, advice not sent) and for the month of 08/2017 with ’C’ Code and for the month of 09/2017 with ‘S’ Code (Meter not at site). The Energy bill issued on 28.04.2017 for the period 18.01.2017 to 28.04.2017 was for average 9,577 kWh units (Meter Status: F) with initial Meter Reading as 1 kWh and final reading as 310 kWh.
3. Next energy bill for the period 28.04.2017 to 30.05.2017 amounting to Rs.1,74,070/- (Rs.1,29,910/- of previous bill and Rs.41,570/- of current ) was generated with ‘F’ Code and average consumption of 3,065 kWh units was charged. Thereafter, the Energy Meter got damaged and was replaced with Energy Meter bearing S. No. 856848 vide Meter Change Order (MCO) No. 012/2416 dated 01.06.2017, effected on 13.06.2017. In the meantime, the Petitioner paid the first bill of Rs.1,29,910/- on 01.06.2017.
4. Subsequent energy bill for the period from 30.05.2017 to 25.06.2017 was also generated with ‘F’ Code with average consumption of 2,490 kWh units. Thereafter, next energy bill for the period from 25.06.2017 to 25.07.2017 was generated with ‘C’ Code with average consumption of 2,777 kWh units.

The said temporary connection was permanently disconnected on 24.08.2017 at Final Reading of 27,930 due to non payment of defaulting dues. However, the Petitioner paid Rs.1,53,209/- on 13.09.2017 against the said (first) account.

1. Thereafter, another Temporary Connection, bearing Account No. T-4270, was released to the Petitioner on 06.10.2017. Energy Bills of this connection issued upto 02/2018 were of actual consumption but were not paid by the Petitioner.
2. The Energy Meter of the 2nd connection got burnt in 02/2018. Due to non-payment of outstanding amount of energy bills, the connection was permanently disconnected on 20.03.2018. Last bill of this connection was prepared upto 30.04.2018 with outstanding amount of Rs. 9,14,043/- which included the pending dues of the Petitioner’s first Account No. T-3810. The Petitioner paid Rs.1,82,808/- on 20.06.2018 and Rs.1,83,359/- on 13.11.2018.
3. The Petitioner wanted to get the connection reconnected after payment of genuine charges based on actual consumption, but the Respondent insisted on payment of total disputed amount.
4. Aggrieved, the Petitioner filed a Petition in the Forum who, after hearing, passed the order dated 31.12.2018 (Reference : Page 2, Para 1).
5. Not satisfied with the decision of the Forum, the Petitioner preferred an Appeal in this Court and requested to set aside the order dated 31.12.2018 of the Forum, in the interest of justice.
6. **Submissions made by the Petitioner and the Respondent:**

 Before undertaking analysis of the case, it is necessary to go through the 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.

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

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

1. The first connection, bearing A/C No. Z74ZT003810F, was released on 18.01.2017 with a sanctioned load of 7.980 kW.
2. From the very beginning, the Respondent issued highly inflated bills. The Petitioner paid two bills one amounting to Rs. 1,29,910/- on 01.06.2017 and another for Rs. 1,53,209/- was paid on 03.09.2017. Thereafter, the Petitioner stopped making payment as the amounts raised were very unreasonable. As a result, the connection was disconnected and the Energy Meter was removed from the site on 24.08.2017. The amounts of bills showed that the same were unreasonable considering the load of 7.980 kW.
3. After disconnection of the said temporary connection, the Petitioner got another temporary connection, bearing Account No. Z74ZT004270A, in the same premises with sanctioned load of 7.870 kW which was released on 06.10.2017. Again, highly inflated bills were issued by adding the disputed amounts of previous connection in the bills of 2nd connection. Therefore, the Petitioner did not make payment of the same. Resultantly, the second connection was also disconnected permanently on 20.03.2018.
4. The Respondents continued issuing bills even after disconnection and finally, a demand of Rs 9,14,043/- was raised as per bill dated 13.5.2018.
5. The unreasonably huge bills were prepared on speculative basis as the Energy Meters installed at the Petitioner’s premises remained mostly inoperative.
6. A glance over the documents submitted by the Respondent in the Forum would reveal that the status of the Energy Meter had hardly remained ‘O’ during the installation of the first connection. Similarly, the 2nd connection showed ‘O’ Code for about two months only. But, again, the consumption shown was highly disproportionate to the Petitioner’s load. The readings recorded by the Meter Reader were at great variance with the readings noted by the Petitioner in its own record.
7. The Forum had based its decision relying fully on the final readings of defective as well operational Energy Meters removed from the Petitioner’s site. But, these readings were highly exaggerated in comparison to the readings noted in the Petitioner’s own record. The Petitioner apprehended misuse of the Energy Meters at some other premises after removal from the Petitioner’s site. The apprehension was reinforced by the fact that the final readings were never got authenticated from the Petitioner at the time of removal of the Energy Meter from site.
8. The average and actual consumption, prescribed by the Forum for overhauling the Petitioner’s accounts, were not genuine as the same were based on unauthenticated readings. The figures were more than double the consumption worked out even as per LDHF formula. These factors had not been kept in view by the Forum while deciding the case.
9. The Petitioner had been requesting the Respondent - PSPCL right from the beginning that it was willing to pay for the consumption reasonably assessed as the Energy Meters installed at its premises remained largely defective.
10. The charged amount may be reviewed and charged correctly and the Appeal may please be allowed.

**(b) Submissions of the Respondent:**

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

1. The Petitioner got released first temporary connection bearing Account No. T-3810 with sanctioned load of 7.980 kW on 18.01.2017 in the name of Jagbir Singh, behind Motia City, Singhpura.
2. The first Energy Meter, which was issued vide Service Connection Order (SCO) No. 60/1406 dated 10.01.2017, got burnt and a new Energy Meter was installed in its place due to which, the first bill was of “F” code and was calculated on the basis of LDHF formula.
3. The Petitioner deposited the first bill on 01.06.2017 amounting to Rs. 1,29,910/- whereafter, it did not deposit the bill issued within the date, due to which, Energy Meter was removed from its premises on 18.08.2017 and the connection was disconnected on 24.08.2017. However, the Petitioner deposited Rs. 1,53,209/- on 13.09.2017 against this account.
4. The connection of the Petitioner bearing No. T-3810, was disconnected due to non-payment of the total outstanding dues of Rs.1,77,242/- and Rs. 1,35,577/- charged to this account by the Audit Party, vide Half Margin No. 2412 dated 20.11.2017, due to “F” Code correction in connection with the actual energy consumption for the month of 06/2017 to 08/2017.
5. Subsequently, another temporary connection, bearing Account No. Z742ZT004270A (T-4270), was released to the Petitioner on 06.10.2017 and the bill issued to the Petitioner upto 02/2018, on the basis of actual consumption was not paid by it.
6. As both the connections, bearing Account Nos. T-3810 and T-4270, belonged to the Petitioner, the defaulting amount of Rs.3,12,779/- of T-3810 was charged to its Account No. T-4270 after permanent disconnection of the first connection on 24.08.2017.
7. The Energy Meter (2nd Temporary Connection) got burnt in 02/2018 whereafter, all the bills of previous period were prepared on the basis of actual consumption.
8. The said (2nd) connection was permanently disconnected on 20.03.2018 and the last bill amounting to Rs. 9,14,043/-was prepared in the month of 04/2018 which also included the arrears of unpaid bills of Ist connection. .
9. The initial bills were calculated and raised on “F” Code relating to Account No. T- 3810 on the basis of LDHF formula and the first three bills in the case of Account No. T-4270 (2nd connection) were raised on the basis of actual consumption recorded with “O” Code by the Meter Reader.
10. The Energy Meter, removed from the Petitioner’s site, was directly taken into custody and the entry of the same was made in the record with exact reading as appearing on the Energy Meter at that time.
11. The Petitioner contested the disputed bill in the Forum who decided the case vide order dated 31.12.2018, which was correct.
12. As per the Forum’s decision, the amount payable by the Petitioner worked out to Rs.10,65,081/- (Rs. 3,79,221/- of Account No. T-3810 and Rs. 6,85,860/- of Account No. T-4270), which was correct and recoverable.
13. Keeping in view the above submissions, the Appeal may be dismissed.
14. **Analysis:**

The issues requiring adjudication are the legitimacy of:

1. Overhauling the Petitioner’s Account bearing No. T-3810, from the date of release of connection i.e. 18.01.2017 to the date of replacement of the Energy Meter on 13.06.2017 for 146 days on the basis of average consumption for the period, the Energy Meter worked correctly i.e. 06.10.2017 to 29.01.2018 for 115 days worked out at Reading of 34,609 kWh on 29.01.2018 minus Initial Reading 1 on 06.10.2017 = 34,608 kWh implying the overhauled consumption worked out as 34,608 x 146/115 = 43,937 kWh units.
2. Overhauling the Account No. T-3810 of the Petitioner for the period from the date of replacement of the Energy Meter i.e. 13.06.2017 to the date of permanent disconnection i.e. 24.08.2017 on the basis of actual consumption recorded as 27,918 kWh units (i.e. Final reading 27,930 kWh on 24.08.2017 minus initial reading 12 kWh as on 13.06.2017).
3. Overhauling the Petitioner’s 2nd Account, bearing No. T-4270 (due to Energy Meter had becoming defective on 29.01.2018) from 29.01.2018 to the date of permanent disconnection i.e. 20.03.2018 for 50 days on the basis of average consumption for the period, the Energy Meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days worked out at Reading 34,609 kWh on 29.01.2018 minus Initial Reading 1 kWh on 06.10.2017 = 34,608 kWh ) and its average worked out to be 34,608 x 50/145 = 15,047 kWh units.

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

1. In the present dispute, a temporary electricity connection, bearing Account No. Z74ZT003810 (T-3810) with sanctioned load of 7.980 kW, was released to the Petitioner on 18.01.2017 for use by labourers engaged on the construction of a project at Village Singhpura. The first Energy Bill for the period from 18.01.2017 to 28.04.2017 was issued for Rs. 1,29,910/- on 28.04.2017 for average of 9,577 kWh units (Meer Status ‘F’). Next Energy Bill for the period from 28.04.2017 to 30.05.2017 amounting to Rs. 1,74,070/- was generated with ‘F’ Code and average consumption of 3,065 kWh units was charged. The Petitioner deposited only the first bill amounting to Rs. 1,29,910/- on 01.06.2017. As per billing data, the connected load was more than the sanctioned load due to which, the Energy Meter got burnt/damaged and was replaced on 13.06.2017. Subsequently, bills dated 25.06.2017 and 25.07.2017 for Rs.78, 870/- and Rs.1,50,200/- respectively were also issued against which, the Petitioner deposited only Rs. 1,53,209/- on 13.09.2017. Due to non-deposit of defaulting dues, the said connection was permanently disconnected on 24.08.2017. The Audit Party, vide Half Margin No. 2412 dated 20.11.2017, charged the Petitioner with outstanding sums of Rs. 1,77,242/- and Rs. 1,35,577/- on the basis of ‘F’ Code Status of Energy Meter and actual energy consumption for the period from 06/2017 to 08/2017. Thereafter, another temporary connection, bearing Account No. Z74ZT004270A (T-4270) with sanctioned load of 7.870 kW was released to the Petitioner on 06.10.2017. Energy Bills dated 28.12.2017, 29.01.2018, 28.02.2018 and 28.03.2018 amounting to Rs. 3,68,150/-, Rs. 1,65,520/-, Rs. 2,07,160/- and Rs. 8,74,070/- respectively, were issued to the Petitioner on the basis of actual consumption but the same were not paid by it. The Energy Meter of this temporary connection got burnt in 02/2018, whereafter, the same was permanently disconnected on 20.03.2018. As both the Temporary Connections belonged to the same consumer, the outstanding payable amount of Rs. 3,79,221/- of first Account No. T-3810 was charged/clubbed in its other Account No. T-4270 having outstanding dues of Rs. 6,85,860/- with aggregate recoverable amount worked out as Rs. 10,65,081/- by the Respondent.
2. In its written arguments, PR contested the contention of the Respondent that the Petitioner’s Energy Meter got burnt frequently due to connected load being more than the sanctioned load. Petitioner’s Representative (PR argued that the Respondent did not have any evidence of any unauthorized load. The Petitioner’s load was never checked by any officer of the PSPCL. On the other hand, the Petitioner’s claim was that the Energy Meter got burnt due to poor quality of the Energy Meter for which, it was being penalized unnecessarily.

PR contended that the consumption recorded in case of second connection, bearing Account No. T-4270 i.e 34,609 kWh units from 06.10.2017 to 29.01.2018 (115 days) relied upon by the Forum, was totally wrong. The Respondent’s own record had shown 12,999 kWh units as per bill dt 13.12.2017 and 13,920 kWh units as per bill dated 14.01.2018. The Energy Meter showing this high consumption also got burnt. But its final reading was never got authenticated from the Petitioner, nor was the Energy Meter tested in ME Lab in its presence. PR added that the Energy Meter of the Petitioner’s first connection, bearing Account No. T-3810, got burnt twice, first in 04/2017 and again in 06/2017 and accordingly was changed twice. But the record of the Respondent showed that the Energy Meter got burnt and was changed in 06/2017 only. The Petitioner had been recording readings of its connection daily and date wise in a register. The readings recorded by the Petitioner in its register did not tally with the readings recorded by the Respondent’s Meter Reader. The Petitioner had been requesting the respondents to rectify the bills after verifying the facts. But no action was taken which led to non payment of bills by the Petitioner and disconnection by the Respondent. PR also contended that the status of Petitioner’s Energy Meter had never been shown ‘O’. A perusal of the statement furnished by Respondent in the Forum showed multiple status codes of Energy Meter, Status ‘O’ is not recorded anywhere. It proved that the Meter Reader had been recording wrong readings or had been recording the readings of some other connection. As per Petitioner’s record, its first Energy Meter of first connection worked correctly upto 20.04.2017 whereas the status of Energy Meter had been shown ‘F/O’, ‘F/F’, ‘C/F’ & ‘S/C’ upto Sept 2017. This was totally against facts. PR next submitted that the reading of the Petitioner’s second connection on 08.03.2018 was 11,147 kWh as per the register maintained by it. This did not tally with the final reading, shown in the records of the Respondent. The final reading of the Energy Meter of this connection was never got seen/authenticated from the Petitioner at the time of removal of the Energy Meter from Petitioner’s premises. The Petitioner had thus suffered unnecessarily and its grievances needed to be redressed in a just and fair manner. The Petitioner was always ready to pay genuine charges based on equity and fairness.

The Respondent, in its defence, stated that the averments made by the Petitioner were false and were not based on facts. As per billing data, the connected load of the Petitioner remained more than the sanctioned load due to which, the Energy Meter installed at the premises of the Petitioner got burnt/damaged frequently and had to be replaced. The Petitioner never challenged the working of the Energy Meters and also did not bring anything adverse to the notice of the Respondent either orally or in writing. The Respondent added that the amount charged to the Petitioner as per decision dated 31.12.2018 of the Forum, was correct and recoverable.

*I observe that after release of the 1st Temporary Connection on 18.01.2017 and its permanent disconnection on 24.08.2017 due to non payment of outstanding dues, the Respondent should not have released another Temporary Connection to the Petitioner on 06.10.2017 without ensuring the clearance of the defaulting amount of the said account as per provisions contained in Regulation 30.13 of the Supply Code-2014 which are reproduced below:*

**“30.13** *If a consumer vacates any premises to which electricity has been supplied by a distribution licensee without paying all charges due from him in respect of such supply, or for the provision of an electricity meter, electric line or electrical plant, the distribution licensee may refuse to give him supply at any other premises until he pays the amount due and also may refuse to connect such premises either on request from existing consumer or on application for new connection by any person till all dues are cleared.”*

 I find that in the given circumstances, the issues involved are to be adjudicated keeping in view the relevant rules and regulations. I also find that the Forum has rightly decided the matter in terms of provisions contained in regulation 21.5.2 (c) and 21.5.2 (d) of the Supply Code-2014, which read as under:

***“21.5.2: Defective (other than inaccurate)/Dead***

 ***Stop/Burnt/Stolen Meters:***

1. *If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*
2. *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.*

***Note:*** *Para 4 of Annexure-8 of the Supply Code-2014 deals with LDHF Formula for assessment of electricity consumption where;*

*L = Load in kW*

*D = No. of working days per month*

*H = Use of supply hours per day*

*F = Demand Factor*

1. **Conclusion:**

From the above analysis, the legitimacy of overhauling the Account No. T-3810 and also of T-4270 of the Petitioner, as per following details, proves beyond doubt:

***(i)*** *The account of the Petitioner bearing 1st Account No. T-3810 is required to be overhauled from the date of release of connection i.e. 18.01.2017 to the date of replacement of the Energy Meter i.e. 13.06.2017 (vide MCO No. 012/2416 dated 01.06.2017 effected on 13.06.2017) for 146 days on the basis of average consumption for the period, the Energy Meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days) worked out at Reading 34,609 kWh on 29.01.2018 minus Initial reading 1 kWh on 06.10.2017= 34,608 kWh as per Regulation 21.5.2(d) of Supply Code 2014. As such, this Account of the Petitioner be overhauled from 18.01.2017 to 13.06.2017 on the basis of average consumption worked out as 43,937 kWh units (i.e. 34,608 x 146 / 115 = 43,937 kWh units).*

***(ii)*** *The account of the Petitioner bearing 1st Account No. T-3810 is also required to be overhauled for the period 13.06.2017 to the date of permanent disconnection i.e. 24.08.2017 on the basis of actual consumption recorded 27,918 kWh units (i.e. Final reading 27,930 kWh as on 24.08.2017 minus Initial reading 12 kWh as on 13.06.2017).*

***(iii)*** *The account of the Petitioner, bearing Account No. T 4270, ( due to the Energy Meter getting defective on 29.01.2018) is required to be overhauled from 29.01.2018 to the date of permanent disconnection i.e. 20.03.2018 (vide PDCO No.112/13451 dated 03.10.2017 effected on 20.03.2018) for 50 days on the basis of average consumption for the period, the Energy Meter worked correctly (i.e. 06.10.2017 to 29.01.2018 for 115 days worked out at Reading 34,609 kWh on 29.01.2018 minus Initial reading 1 kWh on 06.10.2017= 34,608 kWh) as per Regulation 21.5.2(c) of Supply Code 2014. As such, 2nd Account No. T-4270 of the Petitioner is required to be overhauled from 29.01.2018 to 20.03.2018 on the basis of average consumption worked out as 15,047 kWh units (i.e. 34,608 x 50/115 = 15,047 kWh units).*

1. **Decision:**

**As a sequel of above discussions, the order dated 31.12.2018 of the Forum in Case No. CG-407 of 2018 is upheld.**

1. The Appeal is disposed of 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)

April 22, 2019 LokPal (Ombudsman)

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