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

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

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

 **APPEAL NO. 57/2019**

**Date of Registration : 03.10.2019**

**Date of Hearing : 26.11.2019**

**Date of Order : 28 .11.2019**

**Before:**

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

**In the Matter of :**

Rajinder Kochhar,

Kothi No.33-34, D.R.Enclave,

Airport Road, Amritsar

 ...Petitioner

 Versus

Senior Executive Engineer,

DS Sub-urban Division ,

 Verka Complex,

PSPCL, Amritsar

 ...Respondent

**Present For:**

Petitioner : Sh.Gurmit Singh Bhatia,

 Petitioner’s Representative (PR).

Respondent : 1. Er.Amrinderpal Singh,

 Assistant Executive Engineer/DS,

 Harsha Chinna Sub Division ,

 PSPCL, Amritsar

 2. Sh.Rajinder Kapur,

 Revenue Accountant,

 Harsha Chinna Sub Division.

 PSPCL, Amritsar.

 Before me for consideration is an Appeal preferred by the Petitioner against the order dated 30.08.2019 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-197 of 2019, deciding that :

“ i. *The decision taken by CLDSC Suburban Circle, Amritsar, in its meeting held on 06.05.2019, is set aside.. The account of the Petitioner be overhauled for the period of six months prior to 28.08.2018 ( date of replacement of meter), with the consumption of corresponding period of previous year as per Regulation 21.5.2 (a) of Supply Code-2014..*

*ii. Chief Engineer/DS Border Zone, Amritsar, is directed to initiate against the officer/official responsible for not taking cognizance of such a huge variation when very low consumption was being recorded from November 2017 onwards.”*

**2**. **Facts of the Case:**

 The relevant facts of the case are that:-

1. The Petitioner was having Domestic Supply Category connection

with sanctioned load of 24.890 kW for which, the Metering was being done by providing Three Phase Four Wire, 10-60A, whole current Energy Meter.

1. After receipt of the bill for 12/2017 prepared on Minimum Monthly

Charges (MMC) basis, the Petitioner protested in writing, vide letter dated 21.12.2017 and 25.01.2018, to investigate the matter on the plea that the readings of the Energy Meter were not being taken correctly.

1. Due to less consumption recorded during 30.01.2018 to 30.05.2018,

the Energy Meter was declared ‘Dead’ on 29.06.2018 by DS Office.

1. The connection was checked by the Addl.SE/Enforcement, PSPCL,

Amritsar vide ECR No.21/2368 dated 14.08.2018 whereby, it was reported that display of the Energy Meter was OFF. The readings were taken on Battery Mode and noted as under:

kWh = 092519

kVAh = 100611

Maximum = 19.88 kVA

Demand

1. The Energy Meter was replaced, vide Meter Change Order

 (MCO) No.94/25 dated 27.08.2018, affected on 28.08.2018.

1. The Energy Meter was got checked from M.E Laboratory on

03.05.2019 and reported that Pulse of the Energy Meter was not coming and Display was dead. However, readings were taken on Battery Mode and DDL could not be taken.

(v) In the meantime, the Respondent overhauled the account of the Petitioner and issued Memo No.407 dated 05.10.2018 asking the Petitioner to deposit Rs.53,470/- on average for the period from 30.01.2018 to 30.05.2018.

1. The Petitioner did not agree wih the Notice and filed a Petition in the

Circle Dispute Settlement Committee (CDSC) who, after hearing, passed order dated 06.05.2019, as under:

*“ ਅੱਜ ਮਿਤੀ 06.05.2019 ਨੂੰ ਖਪਤਕਾਰ ਮੀਟਿੰਗ ਵਿੱਚ ਪੇਸ਼ ਹੋਇਆ ਅਤੇ ਖਪਤਕਾਰ ਨੂੰ ਸੁਣਦੇ ਅਤੇ ਰਿਕਾਰਡ ਦੇਖਣ ਤੇ ਪਾਇਆ ਗਿਆ ਕਿ ਖਪਤਕਾਰ ਦੀ ਬੇਨਤੀ ਤੇ ਜੇਈ ਵੱਲੋਂ ਮਿਤੀ 26.04.2018 ਨੂੰ ਕੀਤੀ ਮੀਟਰ ਚੇਕਿੰਗ ਰਿਪੋਰਟ ਤੱਸਲੀ ਬਖਸ ਨਹੀ ਹੈ ਜਿਸ ਅਨੁਸਾਰ ਕਮੇਟੀ ਵੱਲੋਂ ਫੈਸਲਾ ਲਿਆ ਗਿਆ ਕਿ ਖਪਤਕਾਰ ਨੂੰ ਚਾਰਚ ਕੀਤੀ ਗਈ ਰਕਮ ਸਹੀ ਅਤੇ ਵਸੂਲਣ ਯੋਗ ਹੈ। ਇਸ ਲਈ ਖਪਤਕਾਰ ਪਾਸੋਂ ਰਕਮ ਦੀ ਵਸੂਲੀ ਸਮੇਤ ਵਿਆਜ ਪਹਿਲਾਂ ਦੀਆ ਹਦਾਇਤਾ ਅਨੁਸਾਰ ਵਸੂਲਦੇ ਹੋਏ ਕੇਸ ਦਾ ਸਮਾਧਾਨ ਕੀਤਾ ਜਾਵੇ। ਕੇਸ ਦਾ ਫੈਸਲਾ ਲਾਗੂ ਕਰ ਕੇ ਤੁਰੰਤ ਇਸ ਦਫਤਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਜਾਵੇ।”*

1. On the basis of the said decision of CDSC, the Respondent issued

Notice, vide Memo No.2800 dated 27.06.2019, to deposit the already charged amount of Rs.53,470/- with interest.

1. Not satisfied with the decision of the CDSC, the Petitioner filed

a Petition dated 02.08.2019 in CGRF, Ludhiana who, after hearing, passed order 30.08.2019 (Reference Page-2, Para-1).

1. Aggrieved with the decision of the CGRF, Ludhiana, the Petitioner

preferred an Appeal in this Court and prayed to review the matter under Regulation 21.5.2 of Supply Code-2014 and as per report dated 26.04.2018 of the Junior Engineer stating that the Energy Meter lying installed then was O.K.

**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 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 was having Domestic Supply Category connection

with sanctioned load of 24.890 kW for which the Metering was being done by providing Three Phase Four Wire, 10-60A, whole current Energy Meter.

(ii) The bill for the month of 12/2017 was received on MMC basis which was deposited under protest.

(iii) Written requests dated 21.12.2017 and 25.01.2018 were made to the Respondent for looking into the matter as the readings of the Energy Meter were not taken correctly.

(iv) The Energy Meter was found O.K. by Junior Engineer on 26.04.2018. The Energy Bills issued upto 04/2018 were on ‘O’ Code basis.

(v) Less consumption was recorded during 30.01.2018 to 30.05.2018 and Energy Meter was declared ‘Dead’ on 29.06.2018, by the DS Division.

1. The connection of the Petitioner was checked by the

Addl.SE/ Enforcement, PSPCL, Amritsar on 14.08.2018 and it was reported that display of the Energy Meter was OFF and readings were taken on Battery Mode. Thereafter, the Enforcement ordered to change the Energy Meter.

 (vii) The Energy Meter was replaced on 28.08.2018.

1. The Energy Meter was got checked from M.E Laboratory on

03.05.2019 and it was reported that Pulse of the Energy Meter was not coming and Display was dead. However, readings were taken on Battery Mode, but DDL was not taken.

(ix) The Respondent overhauled the account of the Petitioner and issued

Memo No.407 dated 05.10.2018 asking the Petitioner to deposit Rs.53,470/- on average for the period from 30.01.2018 to 30.05.2018.

(x) The Respondent did not act as per instructions contained in ESIM

and did not maintain Energy Variation Register for keeping necessary watch on variations in energy consumption of the Petitioner’s connection.

(xi) The Petitioner did not agree with the Notice issued by the

Respondent and contested the amount in the Circle Level Dispute Settlement Committee.

1. The Circle Level Dispute Settlement Committee, Amritsar heard the

case in its meeting held on 06.05.2019 and decided that the amount charged to the Petitioner was correct and be recovered with interest.

1. The Petitioner did not agree with the decision dated 06.05.2019 of

the CLDSC and filed a Petition in the CGRF, Ludhiana, who, after hearing, set-aside the order dated 30.08.2019 of the CLDSC and directed the Respondent to overhaul the account of the Petitioner for the period of six months prior to 28.08.2018 (date of replacement of Energy Meter), on the basis of the consumption of corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code-2014.

1. The decision of the Forum was not just and fair and may be

reviewed after going through the report dated 26.04.2018 of the Junior Engineer and lapses of the Respondent in not keeping a watch on variations in energy consumption.

1. **Submissions of the Respondent:**

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

1. The Energy Meter installed at the premises of the Petitioner showed very less consumption as per its reading for the period from 30.01.2018 to 30.05.2018 and declared dead on 29.06.2018.
2. The connection was checked by the Addl.S.E/Enforcement-1, PSPCL, Amritsar vide ECR No.21/2368 dated 14.08.2018 whereby it was reported that display of the Energy Meter was OFF and directions were issued to replace the Energy Meter.
3. The disputed Energy Meter was replaced, vide Meter Change Order (MCO) No.94/25 dated 27.08.2018, effected on 28.08.2018.
4. The Petitioner was asked, vide Memo No.407 dated 05.10.2018, to deposit Rs.53,470/- as average for the period of reading recorded from 30.01.2018 to 30.05.2018.
5. The Petitioner challenged the charging of the said amount of Rs.53,470/- in Dispute Settlement Committee which decided on 06.05.2019 that charged amount was correct and recoverable with interest.
6. The Petitioner challenged the order of the Circle Dispute Settlement Committee in the CGRF, Ludhiana, who, vide order dated 30.08.2019 directed the Respondent to overhaul the account of the Petitioner for the period of six months prior to 28.08.2018 (date of replacement of Energy Meter), with the consumption of corresponding period of previous year as per Regulation 21.5.2(a) of Supply Code-2014.
7. The Report dated 26.04.2018 of the Junior Engineer was wrong as was clear from the consumption data and the request letter of the Petitioner stating that consumption shown in the bills issued upto 04/2018 was very much less. In its letter, the Petitioner had requested to change the Energy Meter as it knew that the Energy Meter’s working was defective and it had recorded less consumption.
8. The decision of the CGRF, Ludhiana was implemented and the Petitioner informed accordingly vide Memo No.4457 dated 1.10.2019.
9. After overhauling the account of the Petitioner, as directed by the Forum, adjustment of Rs.18,700/- was made in electricity bill for the month of 10/ 2019.
10. No excess amount was charged from the Petitioner.
11. In view of the submissions made above, Appeal be dismissed.

**4.** **Analysis:**

The issue requiring adjudication is the legitimacy of overhauling of the account of the Petitioner for a period of six months prior to replacement of Energy Meter (28.08.2018), on the basis of energy consumption of corresponding period of previous year, in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014.

*The points emerging in the case are deliberated and analysed as under:-*

1. With a view to adjudicate the present dispute, it is worthwhile to

peruse the details of energy consumption of the Petitioner’s connection for the years 2015 to 2019, tabulated below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year | 2015 | 2016 | 2017 | 2018 | 2019 |
| Month | Cons | Code | Cons | Code | Cons | Code | Cons | Code | Cons | Code |
| Jan |  |  | 1390 | 0 | 1783 | 0 | 725 | 0 | 1983 | 0 |
| Feb. |  |  | 2391 | 0 | 1647 | 0 | 252 | 0 | 2176 | 0 |
| Mar |  |  | 1137 | 0 | 1206 | 0 | 2 | 0 | 1337 | 0 |
| April |  |  | 1183 | 0 | 1704 | 0 | 260 | 0 | 1058 | 0 |
| May | 1122 | 0 | 1669 | 0 | 1894 | 0 | 59 | 0 | 1390 | 0 |
| June | 1708 | 0 | 1971 | 0 | 2007 | 0 | 1882 | D | 2170 | 0 |
| July | 2893 | 0 | 2162 | 0 | 1786 | 0 | 1725 | D | 2101 | 0 |
| Aug | 1974 | 0 | 2052 | 0 | 1781 | 0 | 1839 | C |  |  |
| Sept | 1908 | 0 | 2074 | 0 | 1413 | 0 | 1413 | D |  |  |
| Oct | 2135 | 0 | 1715 | 0 | 1611 | 0 | 1718 | C |  |  |
| Nov | 1344 | 0 | 1356 | 0 | 69 | 0 | 856 | 0 |  |  |
| Dec | 1681 | 0 | 1242 | 0 | 1062 | 0 | 2122 | 0 |  |  |

 I observe from the perusal of the consumption data that energy consumption of the connection was very much less during the disputed period as compared to the consumption of corresponding months of previous year. But the Energy Meter was declared dead by the DS Sub-urban Division, PSPCL, Amritsar in 06/2018 and was replaced on 28.08.2018 after checking dated 14.08.2018 by the Enforcement vide ECR No.21/2368 dated 14.08.2018 by ASE/Enforcement-1, Amritsar. As per the Checking Report, the display of the Energy Meter was OFF and readings were taken on Battery Mode. Besides, the Energy Meter was found dead as per ME Lab report dated 03.05.2019. Though, DDL of the Meter could not be taken.

1. During the course of hearing, Petitioner’s Representative (PR) was

asked to specifically intimate the kind of relief it had sought ( as per applicable regulations) in its present Appeal filed for review of the decision given by the CGRF, Ludhiana. But, the Petitioner’s Representative (PR) did not elaborate any ground with reference to rules/instructions of the PSPCL in this regard.

 I agree with the contention of the Petitioner that the Respondent defaulted in complying with the provisions contained in Instruction No.104.7.2 of ESIM regarding procedure to be adopted for checking of variations in energy consumption. Had the instructions ibid been complied with and a watch kept on variation in energy consumption by the Respondent, the variations could have been noticed immediately on occurrence and the present dispute could have been avoided

 I find that the Appeal filed by the Petitioner in this Court was not properly submitted and did not mention the grounds/nature of relief sought.

 I am of the view that in the given circumstances, the Forum rightly concluded that the disputed Energy Meter was defective and decided to order overhauling of the Petitioner’s account for six months prior to replacement of the disputed Energy Meter (on 28.08.2018) on the basis of energy consumption of corresponding period of previous year in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014,

**5. Conclusion**:

From the above analysis, the legitimacy of overhauling of the account of the Petitioner for a period of six months prior to date of replacement of Energy Meter (28.08.2018), on the basis of energy consumption of corresponding period of previous year, in terms of provisions contained in Regulation 21.5.2(a) of Supply Code-2014 as decided by the Forum, vide order dated 30.08.2019 proves beyond doubt.

**6.** **Decision:**

**As a sequel of above discussions, the order dated 30.08.2019 of the CGRF, Ludhiana in Case No. CGL-197 of 2019 is upheld.**

**7.** The Appeal is disposed of accordingly.

**8.** In case, the Petitioner or the Respondent 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)

November 28, 2019 Lokpal (Ombudsman)

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