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

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

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

 **APPEAL NO. 67/2019**

**Date of Registration : 10.12.2019**

**Date of Hearing : 21.01.2020**

**Date of Order : 27.01.2020**

**Before:**

**Er. Gurinder Jit Singh,**

 **Lokpal (Ombudsman), Electricity, Punjab**.

**In the Matter of :**

Avtar Singh Badwal

 # 1761, Phase-5,

 S.A.S Nagar (Mohali).

 ...Appellant

 Versus

 Additional Superintending Engineer,

 DS Division (Special),

 PSPCL, S.A.S Nagar (Mohali).

 ...Respondent

**Present For:**

Appellant : 1. Sh. S.R.Jindal,

 Appellant’s Representative(AR).

 2. Sh. Avtar Singh Badwal,

 Appellant.

Respondent : Er. Gaurav Kamboj,

 Assitant Executive Engineer, Technical-1,

 DS Division (Special),

 PSPCL, S.A.S. Nagar(Mohali).

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 08.11.2019 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-251 of 2019, deciding that :

*“The consumption of 9351 units recorded by the Meter from the date of installation on 09.01.2016 with Meter reading as 1 to the date of removal of the Meter on 19.06.2019 with Meter reading as 9352 be spread equally during this period and revised bill be issued to the Petitioner.*

 *The amount so derived may be recovered in 6 equal monthly installments without charging any surcharge/interest if the Petitioner agrees with the same.*

 *Further, SE/DS Mohali is advised to conduct an inquiry and take suitable disciplinary action against the delinquent officials”.*

**2. Facts of the Case:**

 The relevant facts of the case are that:-

1. Initially, the Appellant got a NRS Category connection for

renting out its booth to Bank ( for ATM) in Phase 5 Market, Mohali on 15.06.2014 with sanctioned load of 8 kW for which metering was done by providing Three Phase Four Wire, 10-60A, Static Energy Meter. Subsequently, the Appellant got reduction in load from 8 kW to 3 kW and Three Phase Four Wire, Energy Meter was replaced with Single Phase, Two Wire, Energy Meter on 09.01.2016. The Energy Meter was installed in the Pillar Box outside the premise of the Appellant rented on to an Electrician for electricity repair work.

1. The Appellant was billed for energy consumption of 47

kWh from 27.10.2015 to 29.12.2015 (63 days) and again for NIL consumption from 29.12.2015 to 09.01.2016 (11 days). These bills were cleared by the Appellant, who did not raise any dispute in regard to the aforesaid bills.

1. Thereafter, the Appellant was issued a bill for ₹800/- for the energy consumption of 99 kWh for the period 10.01.2016 to 10.02.2017. Another bill for ₹15,330/- was issued for consumption of 1400 kWh for the period 10.02.2017 to 12.10.2018. These bills were not deposited by the Appellant and only part payment of ₹4,250/- was deposited on 31.12.2018.
2. Thereafter, a bill was issued for consumption of 10 kWh for the period 12.10.2018 to 15.02.2019 (126 days) for ₹10,810/, including the arrears of current year. This bill was also not paid by the Appellant.
3. The Appellant challenged the working of the Energy Meter by depositing the Meter Challenge Fee on 30.04.2019. As a result, AVON make Energy Meter was replaced with L&T Make Energy Meter vide Device Replacement Application No.100008186721 dated 30.04.2019, effected on 19.06.2019.
4. The Appellant was then billed for ₹59,650/- for the consumption of 5,490 kWh for the period from 15.02.2019 to 19.06.2019 (old reading as on 15.02.2019= 1510 kWh, new reading as on 19.06.2019= 7000 kWh). This amount includes the arrears of previous bills also.
5. The challenged Energy Meter was got checked from M.E.

Laboratory on 09.08.2019 when its accuracy was found to be within permissible limits and the final Reading noted was 9,352 kWh.

1. The Appellant was then served with a bill dated 26.08.2019 for consumption of 2806 kWh (2352 kWh consumed by old Energy Meter and 454 kWh consumed by new Energy Meter) for the period from 19.06.2019 to 26.08.2019 (68 days) for ₹73,760/-. But the Appellant did not agree with the same and filed a Petition dated 04.10.2019 in the office of the CGRF, Patiala on whose directions, DDL of the disputed Energy Meter was taken in M.E. Laboratory, Ropar on 11.10.2019.

Thereafter, the Forum, after hearing both sides, decided the case vide order dated 08.11.2019.

1. Not satisfied with the above decision of the Forum, the

Appellant preferred an Appeal in this Court and prayed that the recovery of excess/inflated bills be effected from the officials at fault and the bill, on actual consumption basis be served to the Appellant. Besides, compensation for financial/ mental/ physical harassment be awarded to the Appellant, as the Forum, in its decision, had passed order for fixing of responsibility of the officials of the Respondent for the deficiency in service. The Appellant also prayed that compensation of litigation fee also be awarded to the Appellant who had spent money on pursuing the case before the Forum and also in this Court for justice.

(x) In compliance of the decision of the Forum, a Notice bearing Memo No.4473 dated 20.12.2019 was issued to the Appellant by the AEE/Commercial, DS Division (Special), PSPCL, S.A.S.Nagar (Mohali) raising the demand of ₹59,185/- for the period from 09.01.2016 to 19.06.2019.

**3. Submissions made by the Appellant and the Respondent**:

Before undertaking analysis of the case, it is necessary to go through written submissions made by the Appellant and reply of the Respondent as well as oral submissions made by the Representatives of the Appellant and the Respondent along with material brought on record by both the sides.

1. **Submissions of the Appellant**:

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

1. The Appellant got 8 kW NRS Category connection for its booth, situated in the market of Phase-5 for ATM, on 15.06.2014, but the connection was not actually operated/installed at all as conditions of the agreement with the Bank were not fulfilled by both the parties.
2. The Appellant got the load reduced from 8 kW to 3 kW (Single Phase) with effect from 09.01.2016 and rented the booth to an Electrician for repair work.
3. The officials of the Respondent took only four readings of the Energy Meter during the period from 09.01.2016 to 19.06.2019 and issued bogus energy bills based on the readings taken arbitrarily by the Meter Reader/ Bill Clerk. The Energy Meter was installed in the chamber where 15-20 Energy Meters of consumers of the market were installed. The Chamber was duly locked.
4. The Meter Reader/Bill Clerk knowingly avoided billing bi-monthly. The Meter Reader/ Bill clerk connected the Energy Meter supply of the Appellant to that of another consumer, due to which, the present dispute had arisen.
5. The working of the Energy Meter was challenged on 30.04.2019 by the Appellant and the same was removed on 19.06.2019 and the removed Meter was checked in the M.E Laboratory on 09.08.2019.
6. The dispute arose due to the negligence of the Meter Reader/Bill Clerk and the Forum had passed directions to initiate disciplinary action against the delinquent officials who put financial burden of other consumers on the Appellant. Actually, the amount so involved should have been recovered from them instead of the Appellant.
7. The officials of the Respondent were responsible for the misutilisation and accumulation of heavy amount of energy bills. As such, the recovery be effected from the delinquent officials who were responsible for the same.
8. The Respondent, during oral discussion before the Forum admitted that work of the Company, who was assigned the job/work of recording the readings of Energy Meter, was not satisfactory due to which, the said company was replaced. The recovery of the amount involved should, therefore, be effected from the said Company.
9. The present Energy Meter, installed on 19.06.2019 was challenged on 12.09.2019 but was not checked/replaced within a week as per Standard of Performance of the Respondent-PSPCL, therefore, penalty be levied for the period of delay.
10. After reduction of load from 8 kW (Three Phase) to 3 kW NRS(Single Phase) on 09.01.2016, Single Phase Energy Meter was installed at initial reading as 1 by removing healthy Three Phase Energy Meter at reading of 564.
11. The reading of Single Phase Energy Meter installed on 09.01.2016 was not taken regularly/ properly (monthly/ bimonthly) by the Meter Reader who visited periodically to take the readings from the Chamber where 15-20 Energy Meters of the Market shops were installed.
12. There was no difficulty for the Meter Reader to record the readings properly and serve the energy bills. The official of the company visited the site regularly and served the energy bill to the other consumers, but knowingly neither recorded the readings of the connection of the Appellant nor served the energy bill regularly, rather, connected the Energy Meter of the Appellant with that of other consumer to cause loss to the Appellant and recorded the fake readings of the Energy Meter of the Appellant after a long interval when inquired about not issuing the energy bill to the Appellant.
13. The following readings from 10.01.2016 clearly showed the malafide intention of the Meter Reader/Bill Clerk:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Period | Days | Readings (New – old) in kWh | Consumption in kWh  | Per Day consumption in kWh  |
|  10.01.2016 to10.02.2017 | 401 | 100-1 | 99  | 0.25 |
| 10.02.2017 to12.10.2018 | 609 | 1500-100 | 1400 | 2.30 |
| 12.10.2018 to 15.02.2019 | 126 | 1510-1500 | 10 | 0.09 |
| 15.02.2019 to 19.06.2019 | 124 | 7000-1510 | 5490 | 44.27 |
| 19.06.2019 to 20.06.2019 | 1 | 9352-7000 | 2352 | 2352 |

1. It was evident from the DDL of the Energy Meter ( removed on 19.06.2019) supplied by the Respondent that the consumption was recorded periodically beyond limit for a small booth in the shape and size with small load connected to it.
2. In view of the submissions made above, the recovery of excess/inflated bills be effected from the officials at fault and the bill, on actual consumption basis be served to the Appellant. Besides, compensation of financial/ mental/ physical harassment be awarded to the Appellant, as the Forum, in its decision, had fixed responsibility of the officials of the Respondent for the deficiency in service. Besides, compensation of litigation fee be also awarded to the Appellant as the Appellant had spent money on pursuing the case before the Forum and also in this Court for justice.
3. **Submissions of the Respondent:**

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

1. The Appellant was presently having a NRS Category connection in Booth No.57, Phase-5, S.A.S Nagar (Mohali), bearing Account Number 3000333512, with sanctioned load of 3kW with effect from 09.01.2016.
2. Earlier, the Appellant was having an electricity connection with sanctioned load of 8 kW, since 15.06.2014. An electricity bill dated 29.12.2015, pertaining to the period from 27.10.2015 to 29.12.2015, amounting to ₹3100/- was issued to the Appellant who deposited the same in time on 06.01.2016.
3. Subsequently, a bill dated 19.01.2016 for the period from 29.12.2015 to 18.01.2016 for nil energy consumption (old reading:564, new reading:564) for (-) ₹ 470/- was issued to the Appellant.
4. Thereafter, on the request of the Appellant, Three Phase Four

Wire Energy Meter of the Appellant was replaced by Single Phase Two Wire Energy Meter and load was reduced from 8 kW to 3 kW on 09.01.2016.

1. Two bills were issued on 12.12.2018 to the Appellant as per

details tabulated below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sr.No | Period of Bill | Consumption | ReadingNew Old | AmountIn ₹ |
| 1 | 29.12.2015 to10.02.2017(393 days) | 99 units | 100 | 01 | 800/- |
| 2 | 10.02.2017 to12.10.2018(609 days) | 1400 units | 1500 | 100 | 15,330/- |

Due date of payment of these bills was 27.12.2018.

The Appellant did not deposit the bills and deposited only part payment of ₹4250/- on 31.12.2018.

1. Thereafter, a bill was issued for the period from

 12.10.2018 to 15.02.2019 (126 days) amounting to ₹10,810/- in 02/2019 with due date being 14.02.2019. This amount also included the outstanding amount of previous bills. The Appellant did not deposit the aforesaid bill received in 02/2019 and challenged the working of the Energy Meter installed at its premise.

1. The challenged Energy Meter was removed and replaced

vide Job Order No.100008186721 dated 30.04.2019 effected on 19.06.2019.

1. Subsequently, the Appellant was served with bill for the

period from 15.02.2019 to 19.06.2019 (124 days) amounting to ₹59,650/- on account of energy consumption of 5490 kWh. This bill also included the unpaid amounts of previous bills. The due date of payment of this bill was 10.07.2019 but, the Appellant deposited only part amount of ₹12,220/- on 04.07.2019. The removed/Challenged Energy Meter of the Appellant was checked on 09.08.2019 in M.E. Laboratory, Ropar which declared that the same was O.K.

1. After receipt of Checking Report of M.E Laboratory, a bill

dated 26.08.2019 for the period from 19.06.2019 to 26.08.2019 amounting to ₹73,760/- (including arrears of previous bills) for the energy consumption of 2806 kWh was issued. The Appellant did not deposit this bill and also filed a Petition dated 04.10.2019 in the office of the CGRF, Patiala who, after hearing, passed order dated 08.11.2019.

1. The account of the Appellant was overhauled in the light of

the decision of the Forum and a sum of ₹9,623/- was found recoverable in addition to the disputed amount and was charged, through Sundries, to the Appellant. The Appellant did not agree with the above decision of the Forum and preferred the present Appeal in this Court.

1. On reviewing the account of the Appellant, a Notice bearing

Memo No.4473 dated 20.12.2019 was issued by the Respondent requesting the Appellant to deposit a sum of ₹59,185/-.

1. The entry of installation of Single Phase, Two Wire, Energy

Meter on 09.01.2016 was wrongly made in the SAP system as 25.01.2016. As a result of above error in the SAP, billing of the Appellant could not be done in time. However, correction in the account of the Appellant was made on 12.12.2018 and billing of the Appellant’s NRS category connection was done from 25.01.2016 in the SAP.

1. The billing of the Appellant was done as per consumption

data and the consumption recorded by the Energy Meter was correct as per its DDL. The billing of Appellant’s connection was not done due to error in SAP.

1. In view of the submissions made, the Appeal may be

dismissed.

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

The issue requiring adjudication is the legitimacy of the amount of ₹59,185/- charged to the Appellant for the energy consumption of 9,351 kWh vide AEE/Commercial, DS Division (Special), PSPCL, Mohali’s Memo No.4473 dated 20.12.2019 for the period from 09.01.2016 ( Date of installation of Single Phase Energy Meter) to 19.06.2019 ( Date of replacement of Energy Meter on being challenged by the Appellant).

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

1. A hearing was held in this Court on 21.01.2020 whenthe

representatives of both the sides reiterated the written submissions made in the Appeal/Reply. Besides, the Appellant’s Representative (AR) submitted a rejoinder to the written reply given by the Respondent and the same was taken

on record. A copy of the said rejoinder was also given to the representative of the Respondent. While making oral submissions, the Appellant and its representative emphasized that action should be taken against the officials of the Respondent who did not actually take Meter Readings regularly and correctly during the disputed period. They also pointed out the omissions/deficiencies on the part of the concerned officials of the Respondent who did not keep a vigil on significant variations in the energy consumption during the period under dispute. Appellant prayed to award compensation for the financial loss to the Appellant on account of amount charged/billed in excess and also for the litigation expenses.

The AEE, Technical-1, DS Division (Special), PSPCL, S.A.S.Nagar, representing the Respondent-PSPCL, submitted that the entry of installation of Single Phase, Two Wire, Energy Meter on 09.01.2016 was wrongly entered in the SAP system as 25.01.2016. As a result of above error in the SAP, billing of the Appellant could not be done in time. However, correction in the account of the Appellant was made on 12.12.2018 and billing of the Appellant’s NRS category connection was done from 25.01.2016 in the SAP. The billing of the Appellant was done as per consumption data and the consumption recorded by the Energy Meter was correct as per its DDL. Besides, the Appellant’s connection supplied energy to its premise only.

1. With a view to adjudicate the present dispute wherein

the Appellant has contested the bills issued to it from 09.01.2016 (when Single Phase Energy Meter was installed) to 19.06.2019 ( when the same was removed and replaced on being challenged by the Appellant),it is necessary to peruse the details of the Readings of the Energy Meter and Energy Consumption as tabulated below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **S.No** | **Date** | **Meter Reading in kWh (old)** | **Date** | **Meter Reading in kWh (new)** | **No of days** | **Consumption in kWh**  |
| 1 | 09.01.2016 | 1 | 10.02.2017 | 100 | 398 | 99 |
| 2 | 10.02.2017 | 100 | 12.10.2018 | 1500 | 609 | 1400 |
| 3 | 12.10.2018 | 1500 | 15.02.2019 | 1510 | 126 | 10 |
| 4 | 15.02.2019 | 1510 | 19.06.2019 | 7000 | 124 | 5490 |
| 5 | 19.06.2019 | 7000 | 19.06.2019 | 9352 | 1 | 2352 |

I observe that there were wide gaps in the dates of the readings of the Energy Meter from 09.01.2016 to 19.06.2019 and variations in energy consumption were clearly visible from a perusal of the said details. But the Respondent defaulted in keeping a vigil on these variations in energy consumption as required under provisions of Electricity Supply Instruction Manual (ESIM) of the licensee (PSPCL). Had the above provisions been complied with by the Respondent, the present dispute would not have arisen.

1. The Energy Meter, after being removed from site on

19.06.2019 (on being challenged by the Appellant), was checked in M.E. Laboratory on 09.08.2019 and its accuracy was found within permissible limits. The DDL was also taken on 11.10.2019 as per orders of the CGRF, Patiala and as per Instantaneous Values, the cumulative kWh was 9352 which matched with the last reading taken at site on 19.06.2019**.** The final reading of 9357.26 kWh was after testing of Energy Meter in ME Lab.

I observe that the readings in DDL data retrieved in M.E Laboratory did not match with the readings taken by the Meter Reader for the period from 09.012016 to 19.06.2019. This clearly shows that the readings taken by the Meter Reader were not genuine for which, suitable action should be taken against delinquent officials who recorded incorrect Meter readings.

1. Snap shots of Daily cumulative Energy in kWh at 00:00 hours

or last 100 Power ‘ON’ days from 31.03.2019 to 30.07.2019 were studied and monthly consumption is tabulated as below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **S.No** | **Date** | **Readi-ng in kWh** | **Date** | **Readi-ng in kWh** | **Consump-tion in kWh**  | **Number of days** |
| 1 | 31.03.2019 | 8788 | - | - | - | - |
| 2 | 30.04.2019 | 8937 | 31.03.2019 | 8788 | 149 | 31 |
| 3 | 31.05.2019 | 9172 | 30.04.2019 | 8937 | 235 | 31 |
| 4 | 19.06.2019 | 9352 | 31.05.2019 | 9172 | 180 | 19 |

 I also observe that readings of the Energy Meter from 31.03.2019 to 19.06.2019 are available in the DDL under the Head Daily Cumulative Energy in kWh at 00:00 hrs for 100 Power ‘ON’ days. The reading on 31.03.2019 and 19.06.2019 were 8,788 kWh and 9,352 kWh respectively while the readings of other days were rolled over. The decision dated 08.11.2019 of the Forum regarding spreading of consumption of 9351 units equally during disputed periods from 09.01.2016 (when Single Phase Energy Meter was installed at initial reading of 1) to 19.06.2019 (date of its removal at 9,352 kWh reading ) is not fair. Since, the reliable readings were available from 31.03.2019 (8,788 kWh) to 19.06.2019 (9,352 kWh) in DDL dated 11.10.2019, the billing from 31.03.2019 to 19.06.2019 is required to be done as per these readings. From 09.01.2016 ( initial reading as 1 kWh) to 31.03.2019, consumption of 8787 units should be spread over equally. Accordingly, revised bills are required to be issued to the Appellant without levy of any surcharge/interest.

1. It is observed that the Appellant did not bring, on being asked during hearing dated 21.01.2020, any evidence on record of this Court to prove that it had ever brought to the notice of the Respondent in writing (till challenge of the Energy Meter on 30.04.2019) that the billing of its connection from 09.01.2016 was not done regularly and also that there were wide variations in the energy consumption as per bills issued to it. The Appellant also failed to provide necessary evidence in support of its contention that energy of its connection was used for other connections installed in the Market where the Booth/premise of the Appellant was situated. As a result, the claim/prayer of the Appellant for grant of compensation/payment of litigation expenses is without merit and also not sustainable.
2. The Appellant submitted during hearing that its Energy

Meter was installed in 20 in 1 Pillar Box but was not locked despite clear instructions to lock all the Pillar Boxes to avoid pilferage/theft of energy.

 I observe that all the terminal blocks of the Energy Meter are required to be properly sealed by the officers/officials of the PSPCL to safeguard the interests of both the consumers as well as the licensee.

**5. Conclusion**:

From the above analysis, it is concluded that the accuracy of the Energy Meter ( installed on 09.01.2016 and challenged on 30.04.2019 by the Appellant) was found to be within permissible limits, during its checking on 09.08.2019 by ME Laboratory, Ropar and DDL data retrieved from the Energy Meter did not confirm the readings taken earlier by the meter reader. Accordingly, the decision of the CGRF, Patiala directing the Respondent to spread over the reading from 09.01.2016 (when Energy Meter was installed at initial reading of 1) to 19.06.2019 (date of removal of Energy Meter at 9,352 kWh reading) is not just and fair. The reliable readings were available from 31.03.2019 (8,788 kWh) to 19.06.2019 (9,352 kWh) in DDL taken in M.E Laboratory on 11.10.2019 on being so directed by the Forum. Therefore, the billing from 31.03.2019 to 19.06.2019 is required to be done as per these readings of DDL and billing for the period 09.01.2016 to 30.03.2019 be done by spreading the consumption of 8787 kWh (8788 kWh- 1 kWh) equally. As a result, the bill of the Appellant is required to be revised as per Tariff rates applicable from time to time, after adjusting the amounts already paid, without levy of any surcharge/interest. However, no compensation/litigation expenses will be payable to the Appellant. The Appellant has been suitably compensated by spreading the energy consumption during period of dispute and no surcharge/ interest is being levied on unpaid amounts.

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

**(i) As a sequel of above discussions, the order dated 08.11.2019 of the CGRF, Patiala in Case No. CGP-251 of 2019 is set aside. It is held that account of the Appellant shall be overhauled in terms of conclusion arrived at in Para-5 above without levying surcharge/interest. Accordingly, the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any, without surcharge/ interest. No compensation/litigation expenses shall be payable to the Appellant.**

**(ii) Suitable action should be taken against the officials who recorded incorrect readings of Energy Meter during the period of dispute. Appropriate action should also be taken against the officials/officers who have failed to take remedial action regarding variations in energy of this connection.**

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

**8.** In case, the Appellant 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.

(GURINDER JIT SINGH)

January 27, 2020 Lokpal (Ombudsman)

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