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

 **ELECTRICITY, PUNJAB,**

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

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

 **APPEAL NO. 20/2020**

**Date of Registration : 20.03.2020**

**Date of Hearing : 03.06.2020 and 10.06.2020**

**Date of Order : 12.06.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

Parminder Singh,

Plot No. C-14,

Industrial Focal Point,

Dera Bassi,

Distt. S.A.S. Nagar.

**Contract Account Number: Z 24-UF 37-1425-L**

 ...Appellant

 versus

Senior Executive Engineer,

DS Division, PSPCL,

Lalru.

 ...Respondent

**Present For:**

Appellant : 1. Sh. R.S. Dhiman

 Appellant’s Representative (AR).

 Respondent : 1. Er. Inderpreet Singh

 Senior Executive Engineer,

DS Division, PSPCL, Lalru.

 2. Er. Gurjinder Singh

Assistant Executive Engineer

DS Sub Division, PSPCL,

Mubarikpur.

3. Rohit Singla

 Revenue Accountant (RA).

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 25.02.2020 of the Consumer Grievances Redressal Forum (Forum), Patiala in Case No. CGP-36 of 2020, deciding that:

 *“The bill of ₹ 62,610/- issued to the petitioner in the month of 06/2019 for the period 02.12.2018 to 16.06.2019 for a consumption of 5825 units for 196 days is in order and is recoverable.”*

**2*.* Registration of the Appeal**

A scrutiny of the Appeal and related documents revealed that the Appeal was submitted in this Court on 20.03.2020 which was within one month of receipt of order dated 25.02.2020 of the Forum. Besides, the Appellant had deposited ₹ 21,115/- on 03.7.2019 and ₹ 4,000/- on 20.03.2020 and submitted photo copies of receipts in token of its having deposited the requisite amount. Thus, the Appellant deposited

₹ 25,115/- which was more than 40% of disputed amount of

 ₹ 62,610/-. Accordingly, the Appeal was registered and a copy of the same was forwarded to the Sr. XEN, DS Division, PSPCL, Lalru for sending written reply/parawise comments with a copy to the office of the CGRF, Patiala for sending the case file under intimation to the Appellant vide letter Nos. 310-312/OEP/A-20/2020 dated 03.04.2020.

**3.** **Proceedings**

A hearing in this case was fixed for 03.06.2020 at 2 PM and intimation to this effect was sent to the Appellant and the Respondent vide this office e-mail dated 29.05.2020. The hearing was attended by representatives of both the sides and copies of the proceedings were sent to the Appellant and the Respondent vide Memo No. 386-87/OEP/A-20/2020 dated 03.06.2020. The directions were also issued to the representatives of both the sides to attend another hearing on 10.06.2020 vide above referred letter. Another hearing was necessitated as details of ₹ 11,992/- charged to the Appellant were not available with the Respondent.

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

With a view to adjudicate the dispute, it is necessary to go through written submissions made in the Appeal by the Appellant and reply of the Respondent as well as oral submissions made by their respective representatives along with material brought on record by both the sides.

1. **Submissions of the Appellant**
2. **Submissions made in the Appeal**

The Appellant made the following submissions in the Appeal, received on 20.03.2020, for consideration of this Court:

1. The Appellant had taken a small connection with load of 1.98 kW, bearing Account No. Z24-UF37-1425-L, at its factory in Plot No. C-14 Industrial Focal Point, Dera Bassi for its watchman. The site was under the jurisdiction of the AEE, DS Division, PSPCL, Mubarikpur under DS Division Lalru.
2. Right from the beginning, the electricity bill of the said connection never exceeded ₹ 600-700, and all the bills were paid regularly. However, in 6/2019, the Appellant received an abnormal bill for ₹ 62,610/- for consumption of 5825 units for 196 days. This amount included arrears of current year amounting to ₹ 11,992/-.
3. The highly inflated bill, being totally wrong and unjustified,

was contested by the Appellant before local officers of PSPCL but no action was taken to rectify the bill. On insistence of the officials of the PSPCL, the Appellant deposited 33% of the disputed amount and challenged the working of the Energy Meter.

1. As per report of ME Lab., the disputed Energy Meter could not

 be tested as its terminal block was burnt.

1. The new Energy Meter installed in place of the disputed one

showed normal consumption as before. As the local authorities refused to set right the disputed bill on the basis of consumption shown by the new Energy Meter, the Appellant filed its grievance in the office of the CGRF, Patiala. But, the Forum also did not help and upheld the undue charges on the basis of surmises and conjectures. The Appellant did not agree with the findings of the Forum and was, therefore, constrained to file the present Appeal for justice.

1. As per report of ME Lab, the Appellant’s Energy Meter was

burnt. As such, the account of the Appellant was required to be overhauled in accordance with Regulation 21.5.2. of Supply Code-2014 . The procedure followed by the Forum to decide the Appellant’s case was nowhere mentioned in the aforesaid provisions. Thus, the decision of the Forum was null and void, being ultra vires of Regulations prescribed by Hon’ble PSERC for overhauling of account in case of burnt Energy Meters.

1. The Forum erroneously took into consideration the final reading

of the disputed Energy Meter and spent all its energy to justify its reading. But, the Forum forgot to take note of the fact that it was a case of burnt Energy Meter. The reading of such Energy Meter generally jumped at the time of burning. It was for this reason that no mention of the final reading had been made in Regulation 21.5.2 of Supply Code-2014, which was meant for overhauling of accounts of consumers whose Energy Meter got burnt. In such cases, even direct supply was given to the consumer to provide uninterrupted supply of Power.

1. The findings of Forum were based on surmises and

conjectures. The readings recorded by the meter reader over a period of 4-5 years were bogus without any evidence just to uphold the wrong and unjustified charges raised against the Appellant. Consumption of 5825 units in 196 days with a domestic load of 1.98 kW was not justified by any stretch of imagination.

1. It had not been investigated as to why a consolidated bill for 196 days was issued instead of issuing regular bimonthly bills. The Appellant could not be penalized for this lapse on the part of Respondent.
2. The Appellant had been held guilty of concealment of

consumption on purely imaginary and whimsical considerations. No industrial consumer could be expected to indulge in such bungling, especially in case of his connection of 1.98 kW for use by a chowkidar (watchman).

1. In view of the facts brought out above, it was prayed that the

account of the Appellant may be overhauled in accordance with the provisions of Regulation 21.5.2 (a) of Supply Code-2014.

1. **Submissions during Hearing**

During the hearing on 03.06.2020, the Appellant reiterated the submissions already made in the Appeal and prayed to allow the same. In addition, Sh. R.S. Dhiman, Appellant’s Representatives pointed out that PSPCL had not supplied details of current year’s arrears included in the disputed bill. AEE/Commercial, DS Sub Division, Mubarikpur did not have any documents/details in support of including the current year’s arrear amount of ₹ 11,992/- in the disputed bill for 06/2019 amounting to ₹ 62,610/-. Accordingly, another hearing was fixed for and held on 10.06.2020 when the Appellant’s Representatives reiterated the submission made earlier and prayed to do justice to the Appellant. The Appellant agreed to pay arrears of ₹ 11,992 subject to corrections, if any.

1. **Submissions of the Respondent**
2. **Submissions made in the Written Reply**

The Respondent, in its reply sent vide Memo No.1994 dated 07.05.20 submitted the following in its defence for consideration of the Court:

1. It was true that the meter terminal block was burnt at the time of

checking in ME Lab on 20.08.2019 and the final reading was recorded as 15181 units. Accordingly, the account of the consumer had been overhauled as per the provisions of the Regulation 21.5.2 of Supply Code-2014.

1. As per the consumption details of the account w.e.f. 02/2015 upto the date of PDCO i.e. 23.10.2019, there were only nominal units recorded but during 06/2019, the consumption was recorded as 5825 units for 196 days because last two bills of the consumer were generated on ‘N’ code basis. As per the consumption pattern of the consumer, the possibility of accumulation of reading could not be ruled out.
2. The bill was raised for 196 days as per consumption of 5825

 units recorded on the Energy Meter.

1. The said bill for 5825 units was raised and issued to the consumer with ‘OK’ status of the Energy Meter and it was not appropriate to mention in the Appeal that the bill was raised on imaginary basis.
2. **Submissions during Hearing**

During the hearings on 03.06.2020 and 10.06.2020, the Respondent reiterated the submissions already made in the written reply. Since the Respondent could not provide details of ₹ 11,992/- charged to the Appellant, it was directed to send the same by e-mail latest by 08.06.2020 and attend the hearing on 10.06.2020. AEE, DS Sub Division, Mubarikpur sent, a statement vide e-mail dated 04.06.2020 which did not have the necessary details. Thereafter, in response to e-mail dated 06.06.2020, the Respondent sent the requisite details which were deliberated in hearing on 10.06.2020.

5. **Analysis and Findings**

The issue requiring adjudication is the legitimacy of the energy bill amounting to 62,610/- issued to the Appellant in the month of 06/2019 relating to the period from 02.12.2018 to 16.06.2019 (196 days) for energy consumption of 5825 units.

*My findings on the points emerged, deliberated and analyzed are as under:-*

1. The Appellant was having a NRS Category connection with

sanctioned load of 1.980 kW for which metering was done by providing Single Phase, 2 Wire, 10-60 Amp, Static Energy Meter bearing S.No.593668 of Flash Make.The Appellant received the energy bill of ₹ 62,610/- in the month of 06/2019 for the period from 02.12.2018 to 16.06.2019 for the consumption of 5825 units for 196 days which included arrears of current year, amounting to ₹11,992**/-.** The Appellant challenged the working of Energy Meter by depositing the

requisite fee. The said Energy Meter was replaced vide Meter Change Order dated 03.07.2019, effected on 22.07.2019. The Flash Make Energy Meter was replaced at Reading of 15181 kWh with L&T Make, Single Phase, 10-60 Amp, Energy Meter at initial reading of zero kWh. The old disputed Energy Meter was got checked on 20.08.2019 in ME Laboratory. It was reported that accuracy could not be checked as **Meter’s Terminal Block was found burnt** and Reading was shown as 15181 kWh. DDL could not be taken, as the Meter had no Optical Port.

1. A perusal of record of the CGRF, Patiala, revealed that the

connection of the Appellant was permanently disconnected on 23.10.2019 on the request dated 21.10.2019 of the Appellant as it had taken the Industrial Medium Supply connection at the same Plot on 19.10.2019**.**

1. It is observed that the Forum had decided the case on the

basis of consumption pattern of the Appellant’s connection. As per consumption data, the consumption was very low during 02/2015 to 10/2019 but the status of Energy Meter was ‘O’ Code i.e O.K upto reading date 02.12.2019. The Energy Meter was replaced on 22.07.2019, since the same was challenged by the Appellant, on the plea that disputed billed amount was on higher side, as compared to previous monthly bills. The Forum had decided the case as accumulation of reading, which is not as per Supply Code-2014 regulations**.**

1. A hearing to adjudicate the dispute was held on 03.06.2020

when Sh. R.S. Dhiman pointed out that PSPCL had not supplied details of current year’s arrears amount of ₹ 11,992/- included in the disputed bill for ₹ 62,610/-. AEE, DS Sub Division, Mubarikpur did not have any documents/details in support of inclusion of the current year’s arrear amount of ₹ 11,992/- in the disputed bill for 06/2019 amounting to ₹ 62,610/-. Accordingly, he was directed to send the requisite details by e-mail to this Court as well as the Appellant by e-mail by 08.06.2020. Next hearing was fixed for 10.06.2020 at 11 AM in this Court for which, both sides were asked to attend the same. A copy of the proceeding was sent to the Appellant and the Respondent vide Memo No. 386-87 dated 03.06.2020. In response, AEE, DS Sub-Division, PSPCL, Mubarikpur sent an e-mail dated 04.06.2020 vide which a calculation sheet was sent. A perusal of the said calculation sheet revealed that the requisite details in support of ₹ 11,992/- were not sent by the Respondent. Accordingly, an e-mail was sent to the AEE, DS Sub-Division, Mubarikpur to send, by e-mail, latest by 08.06.2020 the following information:

1. Consumption data since the installation of Energy Meter upto replacement by Energy Meter with status code.
2. Details of ₹ 11,992/- as directed during hearing and proceeding dated 03.06.2020 sent by e-mail.
3. Sr. Xen, DS Division, PSPCL, Lalru intimated, vide e-mail

dated 08.06.2020, requisite details of energy consumption, status of Energy Meter and details of ₹ 11,992/- included in the total disputed amount of ₹ 62,610/-. A perusal of the above details revealed that

1. ₹ 11,992/- pertains to unpaid amount from 05.04.2018 to

 16.04.2019

1. Status of Energy Meter from 24.07.2015 to 05.04.2018

was O.K and for reading dated 14.06.2018, status was ‘I’ (Inconsistent) Code and for 21.8.2018 to 02.12.2018, status was O.K. During the period from 04.02.2019 to 16.04.2019, no reading was taken. The bills for the period 14.08.2019 to 23.10.2019, were prepared on ‘F’ Code i.e. on Average basis. On 23.10.2019, the connection was permanently disconnected at the request of the Appellant.

 I observe that the Energy Meter was found burnt during checking in ME Lab due to which accuracy could not be checked. DDL could not be taken as the Energy Meter had no Optical Port.

 I observe that the Forum erred in deciding the case by considering the period of consumption from 02.12.2018 to 16.06.2019 on the basis of consumption data despite the fact that Energy Meter was found burnt in ME Lab during checking.

 As a matter of fact, the account of the Appellant can be overhauled for a maximum period of six months prior to replacement of Energy Meter as per provisions of Regulation 21.5.2 of Supply Code- 2014 . In this case, the burnt Energy Meter was replaced on 22.07.2019. The account of the Appellant is required to be overhauled on the basis of consumption of the corresponding period of previous year interms of provisions of Regulation 21.5.2 (a) of Supply Code-2014.

 I also observe from the perusal of consumption data that reading for the month of 06/2018 was taken on 14.06.2018 on ‘F’ Code (Inconsistent Reading) which was not reliable. As such, overhauling of account as per Regulation 21.5.2 (a) of Supply Code-2014 is not possible.

 Hence, the account of the Appellant is required to be overhauled from 23.01.2019 to 22.07.2019 (date of replacement of Energy Meter) as per LDHF formula given in Annexure-8 of Supply Code-2014 because the energy consumption of the Appellant’s connection during the corresponding period of the preceding and succeeding year is not reliable. At the same time the amount of ₹11,992/-, included as current year’s arrear in the disputed bill of ₹ 62,610/-, was not paid earlier by the Appellant as admitted by the appellant’s Representative during hearing dated 10.06.2020. This amount shall also be paid by the Appellant subject to corrections, if any.

1. The Respondent is responsible for not monitoring the

 variations in energy consumption as per its own instructions.

1. The Respondent released the MS Category connection without

recovery of the defaulting amount outstanding in respect of old NRS category connection in the name of the Appellant in the same premises.

1. The Respondent had failed to send investigation report of burnt

meter to the Appellant as per Regulation no. 21.4.1 of Supply-Code-2014.

**7.** **Decision**

As a sequel of above discussions, the order dated 25.02.2020 of CGRF, Patiala in case No CGP-36 of 2020 is set aside. It is held that the account of the Appellant shall be overhauled from 23.01.2019 to 22.07.2019 (date of replacement of Energy Meter) as per LDHF formula given in Annexure-8 of Supply Code-2014 since the energy consumption of the Appellant’s connection during the corresponding period of the preceding and succeeding year is not reliable. Further, the amount of ₹ 11,992/-, included as current year’s arrear in the disputed bill of ₹ 62,610/-, was not paid earlier by the Appellant as admitted by the Appellant’s Representative during hearing on 10.06.2020, is also recoverable from the Appellant subject to corrections, if any as agreed by both parties. Accordingly the Respondent is directed to recalculate the demand and refund/recover the amount found excess/short after adjustment, if any.

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

**9**. 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.

 June 12, 2020 (GURINDER JIT SINGH)

 SAS Nagar (Mohali) Lokpal (Ombudsman)

 Electricity, Punjab.