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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 42/2020**

**Date of Registration : 31.08.2020**

**Date of Hearing : 18.09.2020 and 05.10.2020**

**Date of Order : 12.10.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 S.K. Gupta,

 Brij Building, B-XV Moongfali Mandi Road,

 Vishkarma Chowk,

 Ludhiana.

 **Contract Account Number: 3002348208**

 ...Appellant

Versus

 Addl. Superintending Engineer,

 DS Estate Division (Special),

 PSPCL, Ludhiana.

 ...Respondent

**Present For:**

Appellant : Sh. S. K. Gupta,

 Appellant.

Respondent : 1. Er. Kulwinder Singh,

 Addl. Superintending Engineer,

 DS Estate Division (Special), PSPCL,

 Ludhiana.

 2. Sh. Krishan Singh,

 Assistant Accounts Officer.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 21.07.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. T-213 of 2020, deciding that:

*“Keeping in view of the above, Forum decides that interest as per Regulation 17 of Supply code be given to petitioner till date of payment through cheque, however in view of the decision of the appeal no. 45/2018 in which Hon’ble Ombudsman has disallowed penal interest under 17.4 of Supply Code-2007 and 17.3 of Supply Code-2014, hence penal interest on the delay in affecting adjustments of interest on security is disallowed. The case is disposed off accordingly.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 31.08.2020 i.e. within one month of receipt of the decision dated 21.07.2020, sent by office of the CGRF, Ludhiana to the Appellant vide letter no. 2159/60/T-213/20 dated 05.08.2020. Thus, the Appeal was within limitation period. The Appellant was not required to deposit the requisite 40% of the disputed amount for filing the Appeal in this Court as the Appeal related to refund of ACD/Security (Consumption) and Security (Meter). Accordingly, the Appeal was registered and a copy of the same was sent to the Addl. Superintending Engineer/Ds Estate Division (Special), PSPCL, Ludhiana for furnishing written reply/parawise comments and also to the office of the CGRF, Ludhiana for sending the case file under intimation to the Appellant vide this office letter nos. 789-91/OEP/A-42/2020 dated 31.08.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 18.09.2020 and intimation to this effect was sent to both the sides vide letters nos. 857-58/OEP/A-42/2020 dated 14.09.2020. As scheduled, the hearing was held on 18.09.2020 in this Court.

1. In the said hearing, the Appellant pointed out discrepancies in the amounts of interest worked out on Securities by the Respondent at normal rate of interest as per Supply Code Regulations. Accordingly, the Representatives of both the sides, on being directed, agreed to reconcile mutually the figures of interest on 21.09.2020 at 12.00 Noon in the office

of the Sr. Xen, DS Aggar Nagar Division, PSPCL, Ludhiana. Next hearing in this case was fixed on 05.10.2020 at 12.30 PM. Copies of the proceedings were sent to both the sides vide this office letter nos. 880-81/OEP/A-42/2020 dated 18.09.2020.

1. Hearing was held on 05.10.2020 in this Court and copies of the proceedings were sent to both the sides vide this office letter nos. 931-32/OEP/A-42/2020 dated 06.10.2020.

**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 in this Court on 31.08.2020, for consideration:

1. The father of the Appellant was having a NRS category connection, bearing Account No. 3002348208, with sanctioned load (SL) as 9 kW installed at its site office at Brij Building, B-XV Moongfali Mandi Road, Vishkarma Chowk, Ludhiana.
2. The main grievance of the Appellant against the Respondent was that he was not paid interest on ACD/Security (Consumption) and Security (Meter) and also that the Respondent had not implemented the order dated 21.07.2020 of the Forum within stipulated period of 21 days.
3. The interest on ACD/Security (Consumption) and Security(Meter) had not been calculated as per provisions of Electricity Supply Code applicable from time to time.
4. The Appellant was entitled to get interest from the year 2003 when the Electricity Act, 2003 came into force. The Act stipulated for payment of interest on securities deposited by the consumers with the licensee. Therefore, the Appellant was entitled to interest from 01.04.2003.
5. The Forum passed the order to pay interest under Regulation 17.1 to 17.3 of Supply Code-2007 and under Regulation 17.1 to 17.2 of Supply Code-2014 whereas the penal provisions were conveniently skipped by the Forum. The Appellant demanded invocation of penal interest provisions under Regulation17.4 of Supply Code-2007 and under Regulation 17.3 of Supply Code-2014 as the Distribution Licensee had failed to pay interest on securities deposited by the Appellant.
6. The Forum had passed the order on 21.07.2020 for payment of securities and interest thereon within 21 days as per Regulation 2.41 of the PSERC (Forum and Ombudsman) Regulations, 2016. However, till date, the Appellant had not received any amount or communication from the Respondent. The amounts due to be paid to the Appellant were ₹ 5,269/- (Refundable Securities) alongwith interest, penal interest thereon till date of payment and ₹ 2,701/- as the balance outstanding in the account.
7. This Court was requested to take stern action against the erring officers for contempt of Forum’s order.
8. **Submissions during Hearing**
9. During hearing on 18.09.2020, the Appellant reiterated the submissions already made in the Appeal and pointed out discrepancies in the amounts of interest worked out on Securities by the Respondent at normal rate of interest as per Supply Code Regulations. Accordingly, the Representatives of both the sides, on being directed, agreed to reconcile mutually the figures of interest on 21.09.2020 at 12.00 Noon in the office of the Sr. Xen, DS Aggar Nagar Division, PSPCL, Ludhiana. Next hearing in this case was held in this Court on 05.10.2020 at 12.30 PM to sort out the points of difference, relating to calculations/refund of interest at normal rates alongwith the issue of claim of the Appellant for payment of penal interest.
10. In the hearing held on 05.10.2020, the Appellant was given the details of the amount of interest on Securities due/refundable by the Addl. S.E/DS Estate Division (Spl.), Ludhiana (Respondent). The Appellant was apprised by the Respondent that the said amount had been worked out in terms of provisions contained in Regulation 17.1 to 17.3 of Supply Code-2007 further amended by Regulation 17.1 & 17.2 of Supply Code-2014 as applicable from time to time.
11. **Submissions of the Respondent**
12. **Submissions made in the Written Reply**

The Respondent, in its reply dated 14.09.2020, made the following submissions for consideration of the Court:

1. A statement showing amount of ₹ 9,506/- as refundable on account of ACD/Security (Consumption) and Security (Meter) with interest from 01.04.2008 to 31.03.2019 in respect of Account No. 3002348208 was submitted to the Forum during proceedings dated 21.07.2020. But, the Forum decided to allow the interest uptodate of the payment of amount. Accordingly, as per the said decision, total refundable/payment of ₹ 10,000/- was calculated which was on account of ACD/Security (Consumption) and Security (Meter) and interest thereon for the period 01.04.2008 to 30.09.2020.
2. As per Supply Code-2007, the interest on ACD/Security (Consumption) and Security (Meter) was payable from 01.04.2008.
3. As per the letter dated 08.01.2018 of the Appellant, he acquired the property (where electricity connection was installed) as per orders of Civil Court and became the owner of the said property. In this connection, as per law, the Appellant had no right to claim this refund prior to the date of orders passed by Civil Court. Therefore, the claim of the Appellant for penal interest prior to 2018 was not maintainable.
4. The Respondent had not received the order dated 21.07.2020 of the Forum and letter no. 2066/T-213 dated 28.07.2020 submitted by the Appellant with the present Appeal had been addressed to ASE/DS Agar Nagar Division (Spl.), Ludhiana. Actually, the Respondent had not received any letter from DS Agar Nagar Division (Spl.), Ludhiana forwarding the decision of the Forum so far. The Respondent came to know about the decision of the case when the present Appeal was received from the Court of the Ombudsman, Electricity vide letter dated 31.08.2020.
5. The Appellant had been demanding ACD/Security (Consumption) and Security (Meter) and interest in respect of connection bearing Account No. 3002348208 which was previously in the name of his father, Sh. Brij Lal Gupta. The Appellant had given letter dated 21.07.2017 to the Respondent stating that the connection had been transferred in his (Appellant’s) name and further stated in letter dated 08.01.2018 that the portion, in which the meter was installed, hadbeen got vacated through Civil Court’s orders and the Appellant was owner of the property earlier owned by his father. The Energy Meter, which was issued in the name of Sh. Brij Lal Gupta and installed at the said premise was removed by the Respondent.
6. The Appellant had not submitted a copy of Civil Court’s order along with his letter dated 08.01.2018 stating as under:

 “Further I may inform you that the portion in which the meter was installed has got vacated through court orders and now I am the owner of the property. The meter which was issued to Sh. Brij Lal Gupta has been removed by the department.

 Thereafter I applied for the new connection and completed all formalities and got new connection for 2 kW and had been issued new account bearing number 301509116 at the same property in my name.”

1. Security (Consumption), Security (Meter) and interest could be paid only to legal heirs of the deceased Consumer. But the Appellant had not submitted any legal heir certificate or no objection statement from other legal heirs of his late father.
2. The Appellant was required to submit these documents toprove its title to claim the amount of ACD/Security (Consumption) and Security (Meter) through cheque or Demand Draft so that necessary formalities for payment of the amount could be completed.

**(b) Submissions during Hearing**

(i) During hearing on 18.09.2020, the Respondent reiterated the submissions already made in the Appeal and agreed to review and reconcile the figures of interest for the disputed period in coordination with the Appellant and subsequently apprise this Court in the hearing fixed for 05.10.2020.

(ii) In the hearing on 05.10.2020, the Respondent handed over a copy of calculation sheet of the amount refundable on account of Securities payable and interest thereon upto 30.09.2020 to this Court as well as to the Appellant.

**5.** **Analysis and Findings**

 The issue requiring adjudication are the legitimacy of the

1. payment of ACD/Security (Consumption) and Security (Meter) alongwith interest as per applicable Supply Code Regulations.
2. grant of penal interest due to delay in payment of the aforesaid Securities.

*My findings on the above issues deliberated and analyzed are as under:*

**Issue (i)**

1. The present dispute relates to release/payment of ACD/Security (Consumption) and Security (Meter) in respect of electricity connection, bearing Contract Account No. 3002348208, sanctioned in favour of Sh. Brij Lal Gupta (father of the Appellant). The Appellant informed the Respondent, vide his application dated 21.07.2017, that he had become owner of the premise (on which the connection bearing Account No. 3002348208 was installed) as per order of the Civil Court after the death of his father, Sh. Brij Lal Gupta. Accordingly, the Appellant got said connection transferred in his name. Subsequently, the Appellant sent a letter dated 08.01.2018 to the SDO/Commercial, Giaspura Division, PSPCL, Ludhiana stating that the Energy Meter installed at the aforesaid premise had been removed by the PSPCL and he had got a new connection, bearing Account No. 3001509116, sanctioned with load of 2 kW in his name at the same premise. The Appellant also requested, vide the said letter dated 08.01.2018, to refund the ACD/Security (Consumption) and Security (Meter) through payorder in his name or adjust the amount in his next bill for Account No. 3015019116.
2. In the present Appeal, the Appellant submitted that the main grievance of the Appellant against the Respondent was that he was not paid interest on ACD/Security (Consumption) and Security (Meter) and also that the Respondent had not implemented the order dated 21.07.2020 of the Forum within stipulated period of 21 days. The interest on ACD/Security (Consumption) and Security (Meter) had not been calculated as per provisions of Electricity Supply Code applicable from time to time. The Appellant was entitled to get interest from the year 2003 when the Electricity Act, 2003 came into force. The Act stipulated for payment of interest on securities deposited by the consumers with the licensee. Therefore, the Appellant was entitled to interest from 01.04.2003. The Appellant also stated that the amounts due to be paid to the Appellant were ₹ 5,269/- (Refundable Securities) alongwith interest, penal interest thereon till date of payment and ₹ 2,701/- as the balance outstanding in the account. He requested this Court to take stern action against the erring officers for contempt of Forum’s order dated 21.07.2020.
3. The Respondent, in its written reply, submitted that the order dated 21.07.2020 of the Forum was not received in its office. A copy of the same was received alongwith the Appeal from this Court vide letter no. 789/OEP/A-42/2020 dated 31.08.2020. The Respondent added that Security (Consumption), Security (Meter) and interest could be paid only to legal heirs of the deceased Consumer. But the Appellant had not submitted any legal heir certificate or no objection statement from other legal heirs of his late father. The Appellant was required to submit these documents as evidence in support of its title to claim the amount of ACD/Security (Consumption) and Security (Meter) with interest through cheque or Demand Draft so that necessary formalities for payment of the amount could be completed.
4. During the hearing on 18.09.2020, the Appellant pointed out discrepancies in the amounts of interest on Securities worked out by the Respondent at normal rate of interest as per applicable Supply Code Regulations. Accordingly,the Representatives of both the sides, on being directed, agreed to reconcile mutually the figures of interest on 21.09.2020 at 12 Noon in the office of the Sr. Xen, DS Aggar Nagar Division, PSPCL, Ludhiana. They were informed that next hearing in this case will be held in this Court on 05.10.2020 at 12.30 PM when the points of difference, if any, relating to calculations/refund of interest will be deliberated. Copies of minutes of the hearing were sent to the Appellant and the Respondent vide this office letter nos. 880-81/A-42/2020 dated 18.09.2020.
5. In compliance to directions given on 18.09.2020, both the parties met on 21.09.2020 in Aggar Nagar Divisional Office and tried to review/reconcile the differences in their respective figures.In the hearing held on 05.10.2020, the Appellant was given the details of the amount of Securities and interest thereon due/refundable amounting to ₹ 10061/- with interest upto 30.09.2020 by the Addl. S.E/DS Estate Division (Spl.), Ludhiana (Respondent). The Appellant was apprised by the Respondent that the said amount had been worked out in terms of provisions contained in Regulation 17.1 to 17.3 of Supply Code-2007 amended vide Regulation 17.1 and 17.2 of Supply Code-2014 as applicable from time to time.
6. With a view to adjudicate this issue, it is worthwhile to go through previsions contained in Section 47 (4) of the Electricity Act, 2003 which reads as under:

“*The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the concerned State Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.”*

1. As required under Electricity Act-2003, PSERC was formedwith a view to look after and manage the electricity regulatory affairs of the State of Punjab.Subsequently, PSERC notified the Supply Code-2007 making the same applicable from 01.01.2008. The provisions contained in Regulation 17.1 to 17.3, relevant in the present dispute, are reproduced below:

*“17.1 The Licensee will pay interest on Security (consumption) at the SBI’s Long Term PLR prevalent on first of April of the relevant year, provided that the Commission may at any time by notification in official Gazette of the State specify a higher rate of interest.*

*17.2 The Licensee will indicate the amount becoming due to a consumer towards interest on the Security (consumption) in the first bill raised after thirtieth of April every year.*

* 1. *The interest will be credited to the account of a consumer annually on first day ofApril each year and will be adjusted on first May of every year against the outstandingdues and/or any amount becoming due to the Licensee thereafter.”*
1. Supply Code-2007 was amended and substituted by Supply Code-2014 which was made applicable from 01.01.2015. The provisions relevant in the matter are contained in Regulation 17.1 and 17.2 of Supply Code-2014 and are reproduced below:

*“17.1 The distribution licensee shall pay interest on Security (consumption) and Security (meter) at the Bank Rate (as on 1st April of the year for which interest is payable) as notified by RBI.*

*17.2 The interest on Security (consumption) and Security (meter) shall be credited to the account of a consumer annually on first day of April each year and shall be adjusted/paid in first bill raised after first April every year against the outstanding dues and/or any amount becoming due to the distribution licensee thereafter.”*

 From a perusal of the above provisions of Section 47 of the Electricity Act, 2003; it is evident that interest on Securities got deposited from the consumers was to be allowed at the rates as specified by the State Commission and also that refund of such Security will be given to the person who gave such Security. Accordingly, PSERC notified the Supply Code-2007 (applicable from 01.01.2008) amended vide Supply Code-2014 (applicable from 01.01.2015) consistent with the provisions of Electricity Act-2003. As aresult, interest on ACD/Security (Consumption) & Security (Meter) was to be calculated/allowed as per Supply Code Regulations and was to be credited to the accounts of the respective consumers from 01.01.2008 onwards. In the present case, the consumer (who was sanctioned the disputed connection and had deposited Securities) expired. Thereafter, the Appellant became the owner of premise (on which, the connection was installed) as per order of the Civil Court. Subsequently, on the request of the Appellant, a new connection having sanctioned load of 2 kW (Account No. 3015019116) was released in his name. The Appellant then requested the office of the Respondent on 21.07.2017 and 08.01.2018 for refund of ACD/Security (Consumption) and Security (Meter) with interest by payorder or adjusted in his new Account Number 3015019116. The matter remained under process/dispute with the Respondent who stated in its written reply that the Appellant had neither submitted any Legal Heir Certificate as evidence regarding his being the only legal heir of his father (consumer) nor No Objection from other legal heirs.

 I observe that the Appellant became the owner of the premise owned by his father (consumer) as per orders of a Civil Court. However, no evidence was brought on record by the Appellant, even on being enquired during proceedings dated 05.10.2020, to show thatany Court of law had passed any order regarding his becoming the owner of the Electricity connection held by his late father (consumer).

 I also observe that the Appellant has not submitted any document with the present Appeal to prove/establish his credentials/title to claim the Securities and interest thereon in respect of the Electricity connection held by his late father. Any claim in this regard must have adequate proof and should stand scrutiny of law.

I am, therefore, of the view that ACD/Security (Consumption) and Security (Meter) with interest thereon, in respect of Contract Account No. 3002348208, from 01.01.2008 till the date of payment is required to be refunded in terms of provisions of Section 47 (4) of Electricity Act-2003 read with Regulation 17.1 to 17.3 of Supply Code-2007 amended vide Regulation 17.1 and 17.2 of Supply Code-2014 as applicable from time to time.

**Issue (ii)**

1. The Appellant submitted that the Forum passed the order to pay interest under Regulation 17.1 to 17.3 of Supply Code-2007 and under Regulation 17.1 to 17.2 of Supply Code-2014 whereas the penal provisions were conveniently skipped by the Forum. The Appellant demanded invocation of penal interest provisions under Regulation 17.4 of Supply Code-2007 and under Regulation 17.3 of Supply Code-2014 as the Distribution Licensee had failed to pay interest on securities deposited by the Appellant.

 I find that Sh. Brij Lal Gupta in whose name the electricity connection bearing Account No. 3002348208 was running during his life time and who had deposited the Security (Consumption) and Security (Meter) never requested the license, as per material on record, for credit of interest in his account on the 1stApril each year.

 I also find that provisions contained in Section 47 (4) of Electricity Act-2003 require/provide that Security be refunded on the request of the consumer who gave such Security.

 I observe that the consumer (Sh. Brij Lal Gupta) who had deposited the requisite Securities with the PSPCL expired whereafter, his son (Appellant) became theowner of the premise owned by his late father as per order of a Civil Court. However, no evidence was brought on record to prove that the request of the Appellant vide letters dated 21.07.2017 or 08.01.2018 to the office of the Respondent was supported by legally valid documents of his having title to the connection owned by his father. I agree with the Respondent that the Appellant had not submitted the requisite Legal Heir Certificate or No Objection Certificate for refund of Securities deposited by his father (Consumer).

 I also observe that the Appellant has not submitted any document in support of his title/credentials with the Appeal to prove/establish his title/credentials for the amount claimed. Thus, the contention of the Appellant regarding delay on the part of the Respondent (PSPCL) to refund the Securities with interest is not corroborated by facts/evidence brought on record and does not stand legal scrutiny. As a matter of fact, the onus for delay in submission of the disputed claim rests on the part of the Appellant himself who failed to submit the requisite claim complete in all respects to the Respondent.

 In view of the above, the claim of the Appellant for allowing interest on ACD/Securities (Consumption) and Security (Meter) in terms of provisions of Regulation 17.4 of Supply Code-2007 amended vide Regulation 17.3 of Supply Code-2014 iswithout merit, hence, not sustainable in the eyes of law. Accordingly, the issue is decided against the Appellant.

**6.** **Decision**

As a sequel of above discussions, the order dated 21.07.2020 of CGRF, Ludhiana in Case No. T-213 of 2020 is set aside. It is held that:

1. Security (Consumption) and Security (Meter) and interest thereon pertaining to the disputed Contract AccountNo. 3002348208 from 01.01.2008 till the date of payment would be refunded in terms of provisions contained in Section 47 (4) of Electricity Act-2003 read with Regulation 17.1 to 17.3 of Supply Code-2007 and Regulation 17.1 and 17.2 of Supply Code-2014 as applicable from time to time.
2. No penal interest as claimed in the present Appeal on Security (Consumption) and Security (Meter) would be payable.

**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)

 October 12, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.