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

 **ELECTRICITY, PUNJAB,**

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

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

**APPEAL NO. 48/2020**

**Date of Registration : 12.10.2020**

**Date of Hearing : 27.10.2020 and 04.11.2020**

**Date of Order : 04.11.2020**

**Before:**

 **Er. Gurinder Jit Singh,**

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

**In the Matter of:**

 Vinay Bansal,

Bawa Colony, Bahadur Ke Road,

Ludhiana.

**Contract Account Number: 3002961818**

 ...Appellant

Versus

Addl. Superintending Engineer,

DS City West Division (Spl.),

PSPCL, Ludhiana.

 ...Respondent

**Present For:**

 Appellant : Sh. Puneet Anand, Advocate,

 Appellant’s Counsel (AC).

 Respondent : 1. Er. Ramesh Kaushal

 Addl. Superintending Engineer,

 DS City West Division (Spl.),

 PSPCL, Ludhiana.

2. Navjot Singh Dhillon

 Assistant Executive Engineer,

 City West Division (Spl.),

 Ludhiana.

 Before me for consideration is an Appeal preferred by the Appellant against the order dated 11.09.2020 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-234 of 2020, deciding that:

*“The a/c of the Petitioner be overhauled as per final reading recorded in ME Lab with applicable MF. The amount be re-worked out & bills issued on average basis be adjusted and net amount be charged/refunded to the Petitioner, accordingly”.*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 12.10.2020 i.e within one month of receipt of the decision dated 11.09.2020 of the Forum by the Appellant. Besides, the Appellant had deposited ₹ 18,687/-, being 40% of the present disputed amount of ₹ 46,716/-, vide Receipt No. 2182000067980 dated 30.06.2020. Accordingly, the Appeal was registered and copy of the same was sent to the Addl. Superintending Engineer/DS City West Division (Special), PSPCL, Ludhiana for sending written reply/parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide this office letter numbers 947-49/OEP/A-48/2020 dated 12.10.2020.

**3.** **Proceedings**

(i) With a view to adjudicate the dispute, a hearing was fixed in this Court on 27.10.2020 at 11.45AM and an intimation to this effect was sent to both the sides vide letter numbers 1000-01/OEP/A-48/2020 dated 22.10.2020. As scheduled, the hearing was held in this Court on the said date and time. Copies of the minutes of the proceedings were sent to the Appellant and the Respondent vide this office letter numbers 1020-21/OEP/A-48/2020 dated 27.10.2020 wherein date of next hearing as 04.11.2020 was also mentioned.

(ii) As scheduled, another hearing was held on 04.11.2020 and was attended by the representatives of the Respondent. Before the start of hearing, e-mail was received from the Appellant’s Counsel at 11.25 PM stating that the matter has been compromised. The Appellant had deposited the disputed amount along with current bill as per copy of receipt attached.

**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 12.10.2020, for consideration:

1. The Appellant was having a Medium Supply (MS) category connection,bearing account No. 3002961818,with sanctioned load of 46.91 kW and CD as 52.120 kVA.
2. Sh. Rakesh Kumar had applied for electricity connection under Medium Supply Category in the name of his wife Mrs. Vinay Bansal (Appellant) in the year 2013. Sh. Rakesh Kumar was the Proprietor of the firm in the name and style of M/s. Viprry Knitwear. The Appellant had been depositing the electricity bills in time, from the beginning till date, by cheque and the Bank Account statement was also annexed.
3. The connection of the Appellant was checked by ASE/ EA & MMTS-4, Ludhiana vide ECR No. 42/3156 dated 04.07.2019 as per which, it was reported that Meter was of old version, meter be changed immediately, new version DLMS Meter be installed and removed meter be got checked from ME Lab.
4. The details of monthly electricity bills from the year 2018 onwards were as under:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Year | Month | Amount (in ₹) | Year | Month | Amount(in ₹) |
| 2018 | January | 35384 | 2019 | April | 14520 |
| 2018 | February | 20670 | 2019 | May | 24390 |
| 2018 | March | 16430 | 2019 | June | 44640 |
| 2018 | April | 6820 | 2019 | July | 61200 |
| 2018 | May | 22090 | 2019 | August | 50460 |
| 2018 | June | 52420 | 2019 | September | 59650 |
| 2018 | July | 54070 | 2019 | October | 44830 |
| 2018 | August | 78810 | 2019 | November | 25530 |
| 2018 | September | 52400 | 2019 | December | 18260 |
| 2018 | October | 46110 | 2020 | January | 11320 |
| 2018 | November | 32398 | 2020 | February | 7840 |
| 2018 | December | 29200 | 2020 | March | 6751 |
| 2019 | January | 22470 | 2020 | April | 3142 |
| 2019 | February | 16330 | 2020 | May | 8160 |
| 2019 | March | 15090 | 2020 | June | 14089 |
|  |  |  | 2020 | Sundry | 93431 |

1. The Appellant was surprised on receipt of a bill dated 17.06.2020 for ₹1,07,520/-. It was relevant to mention here that the factory runs mostly in the summer because the Appellant had been doing work in summer only.
2. The Appellant, as per guidance of the SDO, Er. Sumit Kansal of Grievance Cell, had deposited current bill of ₹ 14,089/- and 20% of the disputed amount of ₹93,431/-on 29.06.2020. Earlier, the Appellant visited the office of the Respondent on 28.06.2020 and met the SDO who could not clear the matter regarding the sundry charges and only told the Appellant’s Representative that the amount was charged as per observations of Audit Team. The Appellant requested the SDO to give a copy of the audit said observation but the same was declined. The Appellant’s Representative was told that if he wanted any type of relief, he should challenge the audit observation at MSME, Ludhiana. Thereafter, the Appellant approached the Forum in the interest of justice because the Respondent admitted all the true facts that the bill was generated wrongly due to “D” Code.
3. The Forum had told the Counsel for the Appellant that the whole amount should be waived off but the Forum had actually given wrong decision which was in favour of the Respondent.
4. No fault was found in the old meter which was checked by the Respondent on the spot at factory premises. The report was crystal clear and spoke loudly that old meter was found correct but the old meter was changed and new meter was installed in its place.
5. The Audit Party had given wrong report of MF (Multiplication Factor) i.e 0.5 which was incorrect.
6. It was prayed that the bill dated 17.06.2020 be corrected and advance payment of 40% of disputed bill be adjusted in future bills.
7. **Submissions during Hearing**
8. During hearing on 27.10.2020, the Appellant’s Counsel reiterated the submissions already made in the Appeal and submitted an application requesting the Court to direct the Respondent to furnish the following information’s/documents:
9. copy of final reading mentioned in the Audit Report i.e 560443.
10. clear copy of ME Lab report and DDL.
11. copy of checking reports of the connection by different authorities.
12. copies of MCOs effected at site for replacement of meters for the last five years.
13. copies of Regulation(s)/Instructions vide which the disputed amount was charged to the Appellant.
14. copies of bills for the months of April to July 2019 against which, the payments were deposited.
15. copy of consent letter of the Appellant for checking the disputed Energy Meter in ME Lab.
16. copy of detailed information in support of the amount charged to the Appellant.

A copy of the aforesaid application of the Appellant’s Counsel was given to the Addl. S.E, DS City West Division (Special), Ludhiana (Respondent) with the direction to provide the desired information to the Appellant’s Counsel on 28.10.2020 at 09.00 AM in its office. The Appellant’s Counsel was also asked to contact the above named officer to collect the required information and clear the doubts, if any.

1. Before the start of hearing on 04.11.2020, an e-mail was received from the Appellant’s Counsel at 11.25 PM stating that the matter had been compromised. The Appellant had deposited the disputed amount along with current bill as per copy of receipt attached.
2. **Submissions of the Respondent**
3. **Submissions made in the Written Reply**

The Respondent, in its written reply, sent vide email dated 24.10.2020, made the following submissions for consideration of the Court:

1. The Appellant was the holder of MS category connection, bearing Account No. 3002961818 with sanctioned load of 46.910 kW and CD as 52.120 kVA installed at her premises.
2. The meter was checked by ASE/Enforcement-4, Ludhiana vide ECR No. 42/3156 dated 04.07.2019 and reported that meter was of old version, be replaced by new version DLMS meter and removed meter be checked by ME Lab.
3. The meter was replaced vide Device Replacement Application No. 100008467988 dated 22.06.2019 effected on 15.07.2019 at final reading of 544741 kWh and 560443 kVAh.
4. The removed meter was sent to ME Lab vide challan No. 246 dated 22.08.2019 whereby, it was reported that accuracy of meter was within permissible limit. DDL could not be taken, U/W was correct. The final reading recorded in the ME Lab was 544741 kWh and 560443 kVAh. The Appellant was issued bill of D Code wrongly instead of O Code by the office from 05/2019 to 07/2019. The Appellant was charged the amount of ₹ 93,431/- of the actual units consumed based on final reading recorded in ME Lab as per report of Internal Audit Party vide Half Margin No. 361 dated 05.02.2020.
5. The Appellant was issued bill for the period 08.05.2020 to 08.06.2020 amounting to ₹ 1,07,520/- including sundry charges of ₹ 93,431/- charged by Audit. Later on, it was observed that units were charged by Audit Party with MF of 01 instead of 0.5.
6. The Appellant did not agree to the amount charged and approached CGRF, Ludhiana and filed a case bearing No. 234/2020. After hearing both the parties, the Forum had decided to overhaul the account of the Appellant with applicable MF.
7. The Appellant had deposited 20% of disputed amount of ₹ 93,431/- alongwith current bill vide Receipt No. 218200067980 dated 30.06.2020.
8. The Appellant’s Representative was entertained/ attended to when he visited the office and he was advised to file a case if he did not agree with the amount charged. Thereafter, the Appellant approached CGRF, Ludhiana. The Forum had given the decision to consider final reading recorded at ME Lab for billing with applicable MF i.e 0.5 instead of 01. Hence, the appellant had been issued Notice vide Memo No. 731 dated 09.10.2020 for payment of ₹ 46,716/- in compliance of the said decision.
9. As per ECR No. 42/3168 dated 04.07.2019, the working of the meter was found correct but as meter was of old version, so, directions were given to replace the meter with new version DLMS meter for recording ToD reading.
10. The Appellant had already deposited ₹ 18,687/- as 20% of ₹ 93,431/- (initial disputed amount) alongwith current bill. The said amount was the same requisite 40% of ₹ 46,716/- i.e disputed amount after the decision of the Forum.
11. The consumption of average based bill (‘D’ code) had been adjusted in the revised bill (‘O’ code) based on unbilled units of final reading of old meter by Audit Party in their Half Margin.
12. **Submission during Hearing**
13. During hearing on 27.10.2020, Addl. SE/DS City West Divn. (Spl.), PSPCL, Ludhiana reiterated the submissions already made in its written reply and prayed for the dismissal of the Appeal. The application of the Appellant’s Counsel for furnishing copies of some documents was given to the Respondent for complacence.
14. During hearing on 04.11.2020, AEE, City West Division (Spl.), PSPCL, Ludhiana, on being asked, confirmed that the Appellant had deposited the whole disputed amount with PSPCL on 03.11.2020.

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

The issue requiring adjudication is the legitimacy of overhauling the account of the Appellant for the period 05/2019 to 07/2019 as per final reading recorded in M.E. Lab on Challan No. 246 dated 22.08.2019 with applicable Multiplication Factor of the disputed Energy Meter.

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

1. The present dispute arose when the Medium Supply Category connection of the Appellant was checked by the Addl. S.E., Enforcement & E.A-cum-MMTS-4, Ludhiana vide ECR No. 42/3156 dated 04.07.2019 whereby, it was reported that:

“ਮੀਟਰ old version ਹੈ, ਮੀਟਰ ਤੁੰਰਤ ਬਦਲੀ ਕਰਕੇ New Version DLMS ਮੀਟਰ ਲਗਾਇਆ ਜਾਵੇ ਅਤੇ ਉਤਾਰਿਆ ਮੀਟਰ M.E. ਲੈਬ ਤੋਂ ਚੈੱਕ ਕਰਵਾਇਆ ਜਾਵੇ। ਚਲਦੇ ਲੋਡ ਉੱਪਰ ਮੀਟਰ ਡਿਸਪਲੇਅ ਤੇ ਆ ਰਹੇ ਕਰੰਟ ਦਾ ਮਿਲਾਣ ਕਲਿਪਆਨ ਮੀਟਰ ਨਾਲ ਕੀਤਾ ਗਿਆ, ਠੀਕ ਪਾਇਆ ਗਿਆ।”

In compliance to directions given during the checking dated 04.07.2019, the old version Non DLMS Energy Meter was removed from the premises of the Appellant and replaced with DLMS Meter vide Device Replacement Application No. 100008467988 dated 22.06.2019 effected on 15.07.2019 by entering/mentioning the Meter as Defective at final reading of 544741 kWh/560443 kVAh.

Non DLMS Energy Meter removed from the premises of the Appellant on 15.07.2019 was checked in M.E. Lab, vide store challan No. 246 dated 22.08.2019 whereby it was reported that:

“ਮੀਟਰ ਐਕੁਰੇਸੀ ਸੀਮਾ ਵਿੱਚ ਹੈ, DDL ਨਹੀਂ ਆ ਰਿਹਾ ਹੈ, U/W ਠੀਕ ਹੈ।”

 The Appellant was billed incorrectly for the months from 05/2019 to 07/2019 on ‘D’ Code basis (instead of ‘O’ Code) by SAP.

As a result the account of the Appellant was overhauled for the months of 05/2019 to 07/2019 vide HM No. 361 dated 05.02.2020 on the basis of actual energy consumption and a sum of ₹ 93,431/- was charged to the Appellant. Accordingly, this amount was included under sundries for the bill of 06/2020 to the Appellant.

The Audit Party erred in overhauling the account of the Appellant from 05/2019 to 07/2019 by taking into account MF as 01 instead of 0.5. Aggrieved, the Appellant approach the Forum who passed order dated 11.09.2020. Pursuant to the above decision of the Forum, the Appellant was issued a Notice by the office of the Respondent, vide Memo No. 731 dated 09.10.2020, for payment of ₹ 46,716/-.

1. During hearing on 27.10.2020, the Appellant’s Counsel reiterated the submissions already made in the Appeal and submitted an application requesting the Court to direct the Respondent to furnish the following information’s/documents:
2. copy of final reading mentioned in the Audit Report i.e 560443.
3. clear copy of ME Lab report and DDL.
4. copy of checking reports of the connection by different authorities.
5. copies of MCOs effected at site for replacement of meters for the last five years.
6. copies of Regulation(s)/Instructions vide which the disputed amount was charged to the Appellant.
7. copies of bills for the months of April to July 2019 against which, the payments were deposited.
8. copy of consent letter of the Appellant for checking the disputed Energy Meter in ME Lab.
9. copy of detailed information in support of the amount charged to the Appellant.

A copy of the aforesaid application of the Appellant’s Counsel was given to the Addl. S.E, DS City West Division (Special), Ludhiana (Respondent) with the direction to provide the desired information to the Appellant’s Counsel on 28.10.2020 at 09.00 AM in its office. The Appellant’s Counsel was also asked to contact the above named officer to collect the required information and clear the doubts, if any.

 I find that the aforesaid document were provided to the Appellant’s counsel by the Respondent.

1. Before the start of hearing on 04.11.2020, an e-mail was received from the Appellant’s Counsel at 11.25 PM stating that the matter has been compromised. The Appellant had deposited the disputed amount along with current bill as per copy of receipt attached.
2. In this connection, it is worthwhile to peruse the observation of the Forum in its decision (at Pages 7-8) reproduced below:

*“Forum observed that the Respondent in his reply admitted that the audit party has not applied MF of 0.5, applicable in this case and stated that amount of only 6712 units instead of 13424 units is chargeable, to which Petitioner agreed during oral discussion. So, Forum is of the opinion that as the Petitioner has admitted as above, there remains no dispute between the parties.*

*Keeping in view the above, Forum came to unanimous conclusion that the a/c of the Petitioner be overhauled as per final reading recorded in ME Lab with applicable MF. The amount be re-worked out & bills issued on average basis be adjusted and net amount be charged/refunded to the Petitioner, accordingly.”*

1. Taking into consideration the fact that the Appellant agreed (in the Forum) for being charged for 6712 units (at applicable MF 0.5) instead of 13424 units (at MF 01) earlier charged for the disputed period, the Appellant did not have the right to represent against the decision of the Forum (after having consented there) in this Court as provided in Regulation 2.50 of PSERC (Forum and Ombudsman) Regulations, 2016 reproduced as under:

*“2.50 The Forum may settle any grievance in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such an order.”*

In view of the above, it is clear that the present Appeal is not maintainable in this Court. Besides, the Appellant’s Counsel, vide his e-mail received before the start of hearing on 04.11.2020, informed this Court that the matter had been compromised. The Appellant had deposited the disputed amount along with current bill as per copy of receipt attached. Accordingly, the present Appeal is treated as withdrawn.

**6. Decision**

As a sequel of above discussions, the Appeal preferred by the Appellant against the order dated 11.09.2020 of CGRF, Ludhiana in Case No. CGL-234 of 2020 is not maintainable. Hence, dismissed as withdrawn.

**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)

 November 04, 2020 Lokpal (Ombudsman)

 SAS Nagar (Mohali) Electricity, Punjab.