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

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

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

**APPEAL NO. 53/2020**

**Date of Registration : 10.11.2020**

**Date of Hearing : 23.11.2020**

**Date of Order : 23.11.2020**

**Before:**

**Er. Gurinder Jit Singh,**

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

**In the Matter of :**

D.K. Industries,

Village Gehri Butter,

Tehsil Sangat, Bhatinda-Dabwali Road,

District Bhatinda

...Appellant

Versus

Addl. Superintending Engineer,

DS Division,

PSPCL, Bhatinda.

...Respondent

**Present For:**

Petitioner : Sh. S.R. Jindal,

Appellant’s Representative (AR).

Respondent : Er. Hardeep Singh Sidhu,

Addl.Superintending Engineer,

DS Division,

PSPCL, Bhatinda

Before me for consideration is a representation made by the Appellant for full and final compliance of the order dated 26.11.2019 of this Court in Appeal No. A-56 of 2019 deciding that:

“*Accordingly, the Respondent is directed to send the refund case of the Petitioner within 15 days from the date of receipt of this order to the committee empowered to decide such cases as provided in CC No.48/2019 dated 05.09.2019. The said committee shall decide the case within 30 days of receipt of reference from the Respondent (DS Division). In case, the Petitioner is not satisfied with the decision of this committee, it has the remedy to make a representation to the Dispute Settlement Committee concerned which will adjudicate the dispute within one month from the date of receipt of the case from the Petitioner.*”

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 10.11.2020 i.e. after more than one month of receipt of the decision dated 03.03.2020 of the CGRF, Patiala in Case No. T-45 of 2020 as well as Memo No. 12670/ t;-DSC-BTI dated 17.09.2020 of CE/ DS (West), Bhatinda. Accordingly, the Appeal was registered and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Bhatinda for sending written reply/ parawise comments with a copy to the office of the CGRF, Patiala under intimation to the Appellant vide this office letter Nos. 1082-1084/OEP/A-53/2020 dated 10.11.2020.

**3.** **Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 23.11.2020 at 12.00 Noon and an intimation to this effect was sent to both the sides vide letter Nos. 1082/1084/OEP/A-53/2020 dated 10.11.2020. As scheduled, the hearing was held on 23.11.2020 in this Court, on the said date and time.

**4.** **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 alongwith material brought on record by both the sides.

1. **Submissions of the Appellant**

The relevant facts of the case are that:

1. The Appellant was having a Large Supply Category connection bearing Account No. LS 01/00007 with sanctioned load of 261.680 kW and CD as 290.750 kVA from 17.09.2013. The connection was taken for Plywood Factory at UPS Feeder.
2. An Appeal No. 56/2019 was preferred by the Appellant in this Court against order dated 04.10.2019 of the Forum in this case. This Court, vide order dated 26.11.2019, had directed the Respondent to send the refund case of the Appellant within 15 days from the date of receipt of the order, to the Committee, empowered to decide such cases as provided in CC No. 48/2019 dated 05.09.2019, with the direction that the said Committee shall decide the case within 30 days. In the above order dated 26.11.2019, it was mentioned that in case, the Appellant was not satisfied with the decision of the Committee, it had the remedy to make a representation to the Dispute Settlement Committee concerned, who will decide the case within one month.
3. The Zonal Refund Committee decided the case on 07.01.2020 and ordered that Peak Load Charges for the period 10/2013 to 06/2016 deposited by the Appellant were refundable as per PR Circular No. 3/2005, therefore, due refund may be given to the Appellant after getting it audited from AO/Field.
4. In compliance to the order of the said Committee, refund of ₹ 4,88,167/- was allowed by the Respondent to the Appellant, against the disputed amount of ₹ 7,38,167/-.
5. The Appellant approached the Forum vide registered letter dated 24.01.2020 for issuing directions for refund of the remaining disputed amount. But the Forum returned the case of the Appellant, vide Memo No. 660/T-45/2020 dated 03.03.2020, with the direction to the Appellant to approach the Appropriate Authority.
6. The Appellant, after receipt of the said order dated 03.03.2020 of the Forum, filed its case before Zonal Level Dispute Settlement Committee, Bhatinda on 05.03.2020.
7. The Appellant also represented its case to CE/Commercial, Patiala with copy to Chairperson, PSERC, Chandigarh on 15.07.2020.
8. The Appellant used to inquire the status of its case and every time, the Appellant was told that its case had been sent to CE/ Commercial, PSPCL, Patiala. When the Appellant visited the said office on 05.11.2020, the Respondent handed over to it the copy of Memo No. 12670/t;-DSC-BTI dated: 17.09.2020 addressed to CE/ARR & TR, PSPCL, Patiala and directed to inquire from the said office. The Appellant had not got full relief.
9. Aggrieved by the non-redressal of its grievance, the Appellant had requested this Court to direct the concerned office to hear its grievance for refund of full Peak Load Exemption Charges alongwith interest.
10. **Submissions of the Respondent**

The Respondent made the following submissions in its reply, sent vide memo No. 14321/D.K. Industries dated 18.11.2020, for consideration of this Court:

1. As per decision of this Court, in Appeal No. 56 of 2019 decided on 26.11.2019, the Zonal Refund Committee, Bhatinda decided to refund the amount of ₹ 4,88,167/- vide its order dated 07.01.2020. There was no direction regarding the refund of interest on above said amount.
2. The Respondent had already released the refund amount of ₹ 4,88,167/- to the Appellant vide Sundry No. 386/114/27 dated 06.02.2020.
3. The above said amount was charged to the Appellant as PLEC charges from October, 2013 to June, 2016.
4. On the request of the Appellant, the Respondent/Dy. Chief Engineer/DS Circle, PSPCL, Bhatinda had issued letter No. 29859/LD dated 30.09.2013 vide which the Appellant was exempted from Peak Load Charges from 30.09.2013.
5. The Appellant had represented about the refund on account of Peak Load Exemption Charges paid by it during the period from 10/2013 to 06/2016 and the same had been allowed to the Appellant by the Respondent.
6. In view of the submissions made above, the Appeal be decided.

**5.** **Analysis**

1. The relevant facts of the case are that the Appellant had filed a case bearing No. T-225 of 2019 on 10.09.2019 in the office of the CGRF, Patiala for allowing refund of Peak Load Exemption Charges for the period from 10/2013 to 06/2016 admissible as per PR Circular No. 03/2005 dated 20.01.2005. The Forum, vide order dated 04.10.2019, decided that:

“*After scrutinizing the case, the Forum has decided as the refund related to period 10/2013 to 06/2016 that is beyond 2 years as required under Forum and Ombudsman Regulation-2016, therefore you may avail the opportunity under recent Commercial Circular no. 48/2019 and approach the appropriate authority for redressal of your grievance.”*

Aggrieved the Appellant filed Appeal No. 56/2019 on 01.10.2019 against the order of the Forum in this Court which was decided on 26.11.2019 as below:

“*Accordingly, the Respondent is directed to send the refund case of the Petitioner within 15 days from the date of receipt of this order to the committee empowered to decide such cases as provided in CC No. 48/2019 dated 05.09.2019. The said committee shall decide the case within 30 days of receipt of reference from the Respondent (DS Division). In case, the Petitioner is not satisfied with the decision of this committee, it has the remedy to make a representation to the Dispute Settlement Committee concerned which will adjudicate the dispute within one month from the date of receipt of the case from the Petitioner.*”

In compliance to the above order dated 26.11.2019, Dy. CE/DS Circle, Bhatinda submitted the refund case of the Appellant to the Zonal Refund Committee which decided the case on 07.01.2020 and ordered that Peak Load Exemption Charges for the period 10/2013 to 06/2016 deposited by the Appellant were refundable as per PR Circular No. 3/2005, therefore, due refund may be given to the Appellant after getting it audited from AO/Field. In compliance to the order of the said Committee, refund of ₹ 4,88,167/- was allowed to the Appellant by the Respondent against the disputed amount of ₹ 7,38,167/-. The Appellant approached the Forum vide registered letter dated 24.01.2020 for issuing directions for refund of the remaining disputed amount. But the Forum returned the case of the Appellant, vide Memo No. 660/T-45/2020 dated 03.03.2020, with the direction to the Appellant to approach the Appropriate Authority. The Appellant, after receipt of the said order dated 03.03.2020 of the Forum, filed its case before Zonal Level Dispute Settlement Committee, Bhatinda on 05.03.2020. Thereafter, the Chief Engineer/DS, West Zone, PSPCL, Patiala, vide Memo No. 5386 dated 15.03.2020, and reminders vide numbers 7369 dated 16.05.2020 and 8750 dated 07.07.2020, requested the Chief Engineer/Commercial, PSPCL, Patiala to provide guidelines as to whether the interest on the amount of PLEC refunded to the Appellant was admissible or not. Subsequently, Chief Engineer/ARR/TR, PSPCL, Patiala, vide e-mail dated 10.08.2020, asked for a report/comments, from the Chief Engineer/DS, West Zone, Bhatinda who responded, vide Memo No. 12670 dated 17.09.2020, stating as under:

*“ਉਪਰੋਕਤ ਵਿਸੇ ਦੇ ਸਬੰਧ ਵਿੱਚ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਜੋਨਲ ਰਿਫੰਡ ਕਮੇਟੀ ਦੀ ਮੀਟਿੰਗ ਜੋ ਮਿਤੀ 07/01/2020 ਨੂੰ ਇਸ ਦਫਤਰ ਵਿਖੇ ਹੋਈ ਸੀ, ਉਸ ਵਿੱਚ ਉਕਤ ਖ਼ਪਤਕਾਰ ਨੂੰ ਸਮਾਂ 10/2013 ਤੋਂ 06/2016 ਤੱਕ ਦੇ ਵਾਧੂ ਭਰੇ ਗਏ ਪੀਕ ਲੋਡ ਚਾਰਜਸ ਨੂੰ ਪੀ.ਆਰ ਸਰਕੂਲਰ ਨੰ 03/2005 ਅਨੁਸਾਰ ਰਿਫੰਡ ਦੇਣ ਦਾ ਫੈਸਲਾ ਕੀਤਾ ਗਿਆ ਸੀ । ਫੈਸਲੇ ਅਨੁਸਾਰ ਖਪਤਕਾਰ ਦੇ ਬਣਦੇ ਰਿੰਫਡ ਨੂੰ ਲੇਖਾ ਅਫਸਰ/ਖੇਤਰ ਤੋਂ ਪ੍ਰੀ ਆਡਿਟ ਉਪਰੰਤ ਅਗਲੇ ਬਿਲਾਂ ਵਿੱਚ ਅਡਜਸਟ ਕਰਨ ਦਾ ਫੈਸਲਾ ਲਿਆ ਗਿਆ ਸੀ ਅਤੇ ਸਬੰਧਤ ਦਫਤਰ ਵੱਲੋ ਖਪਤਕਾਰ ਨੂੰ ਸਮੇਂ ਸਿਰ ਬਣਦਾ ਰਿਫੰਡ ਦੇ ਦਿੱਤਾ ਗਿਆ ਹੈ।*

*ਜੋਨਲ ਡਿਸਪਿਊਟ ਸੈਟਲਮੈਂਟ ਕਮੇਟੀ (ZDSC) ਜੋ ਕਿ ਇੱਕ Constitutional Body ਹੈ ਦਾ ਗਠਨ Consumer Complaint Handling Procedure (CCHP) ਦੀ ਧਾਰਾ 4 ਦੇ ਮੱਦੇਨਜਰ ਮਾਨਯੋਗ ਪੀ.ਐਸ. ਈ.ਆਰ.ਸੀ. ਜੀ ਦੀ ਮੰਨਜੂਰੀ ਉਪਰੰਤ ਕੀਤਾ ਗਿਆ ਹੈ । ਜੇਕਰ ਜੋਨਲ ਡਿਸਪਿਊਟ ਸੈਟਲਮੈਂਟ ਕਮੇਟੀ ਦੇ ਉਕਤ ਫੈਸਲੇ ਦੇ ਨਾਲ ਖਪਤਕਾਰ ਸਹਿਮਤ ਨਹੀ ਹੈ ਤਾਂ ਉਹ ਇਸ ਬਾਬਤ ਸਬੰਧਤ ਫੋਰਮ ਵਿਖੇ ਸਮੇਂ ਸਿਰ ਅਪੀਲ ਕਰ ਸਕਦਾ ਹੈ ।”*

A photo copy of the said Memo dated 17.09.2020 was handed over to the Appellant’s Representative on 05.11.2020 when he statedly visited the office of the Respondent. Aggrieved, the Appellant had represented to this Court to direct the concerned office to hear and decide its grievance for refund of balance amount of PLEC and interest on the whole amount of PLEC refunded/refundable.

1. A perusal of material on record reveals that the Zonal Refund Committee, PSPCL, Bhatinda, in its meeting dated 07.01.2020, passed order directing the Respondent to refund PLEC from 10/2013 to 06/2016 as per PR Circular No. 3/2005 dated 20.01.2005, in future bills. The Zonal Refund Committee did not give any direction on the Appellant’s request for refund of leftover amount of PLE Charges and interest on the whole PLEC due to be refunded. Accordingly, the Respondent refunded ₹ 4,88,167/- vide Sundry No. 386/114/27 dated 06.02.2020 to the Appellant.
2. In this connection, it is worthwhile to peruse the relevant portion of Para 6 (Page 13) of order dated 26.11.2019 of this Court (for compliance of which, the present Appeal has been filed):

*“In case, the Petitioner is not satisfied with the decision of this committee, it has the remedy to make a representation to the Dispute Settlement Committee concerned which will adjudicate the dispute within one month from the date of receipt of the case from the Petitioner.”*

I find that while passing the above order, this Court kept in view the instructions contained in CC No. 48/2019 dated 05.09.2019 stating, inter-alia, as under:

“*After decision of disputed cases ‘Pertaining to Audit Period’ by the above Committees and debiting the consumer accounts, if challenged by the consumer shall be dealt by the Dispute Settlement Committees.”*

1. It is observed that the Appellant was not satisfied with the order dated 07.01.2020 of the Zonal Refund Committee, PSPCL, Bhatinda and represented on 24.01.2020 to the CGRF, Patiala which, vide its decision dated 03.03.2020, directed the Appellant to approach the Appropriate Authority. Subsequently, the Appellant filed its case on 05.03.2020 before the CE/DS-cum Chairman ZDSC/West Zone, PSPCL, Bhatinda who, instead of hearing the case in the Committee took up the matter with the CE/Commercial for clarification. Thus, the dispute raised by the Appellant remained under correspondence and unresolved/ undecided. The Appellant was not informed in writing about the fate of its case.

I observe that directions given in the order dated 26.11.2019 in Appeal No. A-56/2019 were very clear and need to be complied in toto. Since the Appellant had already given representation on 05.03.2020 to ZLDSC against the order dated 07.01.2020 of the Zonal Refund Committee, ZLDSC is to hear the case of the Appellant and decide the same on merits. A copy of this order shall be sent to CE/DS (West Zone), PSPCL, Bhatinda for strict compliance.

**6.** **Decision**

As a sequel of above discussions, it is decided that the order dated 26.11.2019 of this Court in Appeal No. A-56/2019 be complied with by the Respondent (PSPCL) in letter and spirit. The representation, already, made on 05.03.2020 by the Appellant to the CE/DS-cum Chairman ZLDSC/West Zone, PSPCL, Bhatinda, shall be decided on merits within one month of the receipt of this order.

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

(GURINDER JIT SINGH)

November 23, 2020 Lokpal (Ombudsman)

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