

**COURT OF THE LOK PAL (OMBUDSMAN),  
ELECTRICITY, PUNJAB,  
PLOT NO. A-2, INDUSTRIAL AREA, PHASE-1,  
S.A.S. NAGAR (MOHALI).**

**(Constituted under Sub Section (6) of Section 42 of  
Electricity Act, 2003)**

**APPEAL No. 01/2022**

**Date of Registration : 10.01.2022**

**Date of Hearing : 24.01.2022**

**Date of Order : 24.01.2022**

**Before:**

**Er. Gurinder Jit Singh,  
Lokpal (Ombudsman), Electricity, Punjab.**

**In the Matter of:**

Smt. Vandana W/o Shri. Pankaj Kumar,  
0, Industrial Area C, Kanganwal,  
Ludhiana.

**Contract Account Number: 3005276390 (LS)**

...Appellant

Versus

Addl. Superintending Engineer,  
DS Estate (Special) Divn.,  
PSPCL, Ludhiana.

...Respondent

**Present For:**

Appellant: Sh. Jivtesh Singh Nagi,  
Appellant's Counsel.

Respondent : 1. Er. Kulwinder Singh,  
Addl. SE/ DS Estate (Spl.) Divn.,  
PSPCL, Ludhiana.  
2. Sh. Krishan Singh,  
AAO.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 14.07.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-103 of 2021, deciding that:

*“The account of the Petitioner be set-right as per conclusion arrived at point no. 6 above.”*

The conclusion at point no. 6 of the decision of the Forum is reproduced as under:

*“6. Keeping in view the above, Forum come to unanimous conclusion that the amount charged of Rs. 546432/- on basis of audit half margin is quashed. As per above clause 21.5.2 of Supply code 2014 amended from time to time, the account of the Petitioner needs to be overhauled as below:-*

- a. From 12.02.2020 to 04.03.2020- On the basis of consumption recorded during 04.03.2020 to 15.05.2020.*
- b. From 04.03.2020 to 15.05.2020- Be overhauled on the basis of actual reading recorded.*
- c. From 15.05.2020 to 07.12.2020- As per 21.5.2 (d) above, since previous consumption is not available, being new connection.”*

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

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 10.01.2022 i.e beyond the period of thirty days of receipt of the decision dated 14.07.2021 of the CGRF, Ludhiana in Case No. CGL-103 of

2021. After the implementation of the decision of the Forum, the disputed amount remained as ₹ 4,25,270/-. The Appellant deposited the requisite 40% of the disputed amount vide receipt no. 156236385 dated 05.03.2021 for ₹ 1,09,287/- and receipt no. 170421715 dated 27.12.2021 for ₹ 70,000/-. Therefore, the Appeal was registered on 10.01.2022 and copy of the same was sent to the Addl. SE/ DS Estate (Spl.) Divn., PSPCL, Ludhiana for sending written reply/ parawise comments with a copy to the office of the CGRF, Ludhiana under intimation to the Appellant vide letter nos. 42-44/OEP/A-01/2022 dated 10.01.2022.

### **3. Proceedings**

With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.01.2022 at 12.15 PM and an intimation to this effect was sent to both the parties vide letter nos. 57-58/OEP/A-01/2022 dated 18.01.2022. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

### **4. Condonation of Delay**

At the start of hearing on 24.01.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Counsel stated that the Respondent issued the fresh Demand Notice to the Appellant on 16.12.2021 after

implementing the decision dated 14.07.2021 of the Forum and the Appeal was filed within 30 days from the date of issue of said demand notice. The Appellant's Counsel further prayed that the delay in filing the present Appeal be kindly condoned and the Appeal be adjudicated on merits in the interest of justice. The Respondent objected to the condoning of delay in filing the Appeal in this Court in its written reply and argued that the Limitation period started from the date of receipt of the decision of the Forum which was received by the Appellant in the month of 07/2021. The Respondent prayed for the dismissal of the Appeal case as the Appeal was not filed within the Limitation period.

In this connection, I have gone through Regulation 3.18 of PSERC (Forum and Ombudsman) Regulations, 2016 which reads as under:

*“No representation to the Ombudsman shall lie unless:*

- (ii) *The representation is made within 30 days from the date of receipt of the order of the Forum.*

*Provided that the Ombudsman may entertain a representation beyond 30 days on sufficient cause being shown by the complainant that he/she had reasons for*

*not filing the representation within the aforesaid period of 30 days.”*

The Court observed that the Respondent issued the fresh Demand Notice to the Appellant on 16.12.2021 i.e. beyond the period of 21 days from the date of receipt of decision dated 14.07.2021 of the Forum. The Appeal was received in this Court on 10.01.2022 i.e. after more than 30 days of receipt of the said order but within 30 days of receipt of fresh demand raised by the Respondent after implementing the decision of the Forum. It was also observed that non-condoning of delay in filing the Appeal would deprive the Appellant of the opportunity required to be afforded to defend the case on merits. Also The Honorable Supreme Court of India, in its decision pronounced on 10.01.2022 in Miscellaneous Application No. 21 of 2022 in Miscellaneous Application no. 665 of 2021 in Sou Motu Writ Petition (C) No. 3 of 2020, extended the period of limitation in all the proceedings before the Court/ Tribunals till 28.02.2022. Therefore, with a view to meet the ends of ultimate justice, the delay in filing the Appeal in this Court beyond the stipulated period was condoned and the Appellant's Counsel was allowed to present the case.

## **5. 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 Appellant's Counsel and the Respondent alongwith material brought on record by both the parties.

### **(A) Submissions of the Appellant**

#### **(a) Submissions made in the Appeal**

The Appellant made the following submissions in its Appeal for consideration of this Court:-

- (i) The Appellant was having a Large Supply Category Connection, bearing Account No. 3005276390, released on 12.02.2020 with sanctioned load of 180 kW and CD as 180 kVA in her name.
- (ii) The Appellant's connection was checked on 04.03.2020 vide ECR no. 28/3185, whereby it was observed that due to wrong connections on the meter terminals and inherent defect in the CT/PT unit, the readings were being recorded wrongly.
- (iii) The connections were however set right at the site by the Respondent and CT/PT unit was recommended to be changed and in pursuance thereof, the CT/PT unit was eventually

changed by the Respondent department on 15.05.2020. It was pertinent to mention that when the CT/ PT were changed, inadvertently, wrong connections were made by the Respondents in the meter equipment. Consequently, the meter was again recording incorrect readings subsequent to 15.05.2020.

- (iv) The meter was again checked by the Respondent on 7.12.2020 vide ECR no. 18/3259 and on checking, it was found that phase wires were wrongly connected in the meter, which were set right on the said date. However, DDL could not be recorded on the said date. Thereafter, in continuation of the aforementioned checking, the meter was again checked on 18.12.2020 vide ECR no. 13/3260, but DDL could not be recorded even on 18.12.2020.
- (v) Sr.XEN/Addl.SE MMTS had recommended to overhaul the account of the Appellant from the date of release of connection, i.e. from 12.02.2020 to 07.12.2020 and as such, a Demand Notice for ₹ 5,57,360/- dated 22.02.2021 was issued to the Appellant. The Demand Notice was challenged before the Forum by the Appellant and the Forum, inter alia, was pleased to quash the said Demand Notice dated 22.02.2021. Further, the

Forum directed that the account of the Appellant be overhauled as under vide its Order dated 14.07.2021: -

- a. From 12.02.2020 to 04.03.2020 - On the basis of consumption recorded during 04.03.2020 to 15.05.2020.
- b. From 04.03.2020 to 15.05.2020 - Need not to be overhauled.
- c. From 15.05.2020 to 07.12.2020 - As per Regulation No. 21.5.2 (d) of Supply Code, 2014, since previous consumption is not available, being new connection.

In terms of the aforementioned, the Respondent department issued another Demand Notice bearing Memo No. 1854 dated 16.12.2021 for ₹ 3,15,983/-.

- (vi) The CGRF had, however, erred and passed an incorrect finding to the effect that in terms of the governing Regulation (21.5.2 of the Supply Code, 2014), the account of the Appellant can only be overhauled for a period of 6 months and not beyond that under any circumstances. Furthermore, for the purpose of overhauling the account, the consumption data in terms of the Regulation had to be considered and if the data of previous period is available, then the consumption data of subsequent period cannot be considered. Regulation 21.5.2 of the Supply

Code-2014, has been reproduced herein below for the perusal of the Court:-

*21.5.2 Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters*

*The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop subject to maximum period of six months. In case of burnt/stolen meter, where supply has been made direct, the account shall be overhauled for the period of direct supply subject to maximum period of six month. The procedure for overhauling the account of the consumer shall be as under:*

*a) On the basis of energy consumption of corresponding period of previous year.*

*b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*

*c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*

*d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para - 4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*

*e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts.*

(vii) In the instant matter, the connection of the Appellant was set right on 04.03.2020, and due to incorrect connections made by the Respondents in the metering equipment on 15.05.2020, the meter started recording incorrect readings again after 15.05.2020. Therefore, the meter was admittedly running correctly for a period of 04.03.2020 to 15.05.2020, as also observed in the order passed by the Forum. In the matter, at hand, the account had been directed to be overhauled for a period of more than 6 months, which was illegal and against the mandate of the aforementioned regulation. The account could only be overhauled for a period of 6 months at the most and accordingly, the Appellant's account should be overhauled for a period of 08.06.2020 to 07.12.2020. As such, as per clause (c) of the regulation, if neither the consumption of corresponding

period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the Appellant.

- (vii) Since, the meter of the Appellant worked correctly from 04.03.2020 to 15.05.2020, the consumption data of the said period should have been considered for the purpose of overhauling the account of the Appellant. The succeeding period could only be considered if consumption data of preceding period was not available and therefore, the Forum had wrongly invoked clause (d) of the regulation since the consumption data of previous months was in fact available.
- (viii) As such, the account of the consumer could only be overhauled for a period of 08.06.2020 to 07.12.2020 and the consumption data of 04.03.2020 to 15.05.2020 had to be considered in terms of the aforementioned Regulation and not of the subsequent period as directed by the CGRF.
- (ix) The requisite court fee had been affixed herewith. The Appeal was within limitation as the Demand Notice was issued on 16.12.2021 and the cause of action arose again. Nevertheless, an application for condonation of delay has been attached.

(x) The Appellant prayed that the Order dated 14.07.2021 passed by the Forum and the Demand Notice dated 16.12.2021 be set aside and Respondent be directed to overhaul the account of the Appellant in the aforementioned terms in the interest of justice, equity and good conscience.

**(b) Submission during hearing**

During hearing on 24.01.2022, the Appellant's Counsel (AC) reiterated the submissions made in the Appeal and prayed to allow the same.

**(B) Submissions of the Respondent**

**(a) Submissions in written reply**

The Respondent submitted the following written reply for consideration of this Court:

- (i) The Appellant was having a Large Supply Category Connection with sanctioned load of 180 kW and CD as 180 kVA released on 12.02.2020.
- (ii) The Appellant's meter was checked by Addl. SE/ MMTS-2 on 04.03.2020 vide ECR 28/3185 on reference of SDO Tech-2, Estate Division for wrong connections. As per ECR, Uryb and ARby was being shown on the meter display. On interchanging R1S1 & R2S2 with each other from MTC then display on meter came as Uryb & Aryb. As per ECR, flags R1S1 & R1S2 on the

wires coming from inside of CTPT were interchanged by the manufacturer company. Also R1S1 of R Phase CT was of red color, so R1S2 should be of black color, but it was also of red color. So, Addl. SE/ MMTS-2 directed to change the CTPT.

- (iii) The Appellant's meter was again checked on 07.12.2020 vide ECR 18/3259 by Addl. SE/ MMTS-5, Ludhiana. As per ECR, 'star' sign was coming on meter display. On checking from MDAS/SAP, it was found that 'Yellow' and 'Blue' Phase currents were negative. As per ECR; 'Yellow' and 'Blue' CT wires were interchanged with each other, but PT wires 'Y' and 'B' Phase wires were correctly connected. CT connections from MTC were correctly reconnected on the site as a result of which, 'star' sign disappeared from the meter display.
- (iv) The Appellant's connection was again checked on 18.12.2020 vide ECR 13/3260 by Addl. SE/ MMTS -5, Ludhiana in continuation with checking dated 07.12.2020 for taking DDL. But DDL could not come, so directions were issued to change the meter.
- (v) CT/PT unit was changed with MCO No. 100010001640 dated 14.05.2020, affected on 15.05.2020. The Appellant's meter was changed vide MCO No. 1000011996420 dated 22.12.2020 effected on 28.12.2020. The Appellant's meter Sr. No.

19364311 L&T was checked vide ME Challan No. 1 dated 12.01.2021 in which meter accuracy was found within limits and DDL was taken on MRI.

(vi) The Audit Party overhauled the Appellant's account as per speaking orders issued by Addl.SE/MMTS -5, Ludhiana vide Memo No. 27 dated 28.01.2021 by overhauling account from 12.02.2020 to 06.12.2020 by taking average from 07.12.2020 to 21.01.2021 and charged ₹ 5,46,432/- with half margin no. 146 dated 22.02.2021.

(vii) The Appellant presented her case before the Forum for the total bill amounting ₹ 5,46,432/-. The Forum gave the following decision on 14.07.2021:-

“Keeping in view the above, Forum come to unanimous conclusion that the amount charged of ₹ 5,46,432/- on basis of audit half margin is quashed. As per above clause 21.5.2 of Supply Code 2014 amended from time to time, the account of the Petitioner needs to be overhauled as below:-

- a. From 12.02.2020 to 04.03.2020- On the basis of consumption recorded during 04.03.2020 to 15.05.2020.
- b. From 04.03.2020 to 15.05.2020- Be overhauled on the basis of actual reading recorded.
- c. From 15.05.2020 to 07.12.2020- As per 21.5.2 (d) above, since previous consumption is not available, being new connection.”

- (viii) The account was overhauled as per decision of the Forum and revised recoverable amount worked out as ₹ 4,14,907/-, the net payable amount was ₹ 3,15,983/- after adjusting already deposited amount of ₹ 1,09,287/-, being 20% of original disputed amount. Afterwards, the Appellant submitted her Appeal in this Court.
- (ix) As per the speaking order of Addl. SE/ MMTS-5, Ludhiana, meter was defective from 12.02.2020 to 04.03.2020 when the connections were corrected by them. It remained ok from 04.03.2020 to 15.05.2020 when CTs were changed on 15.05.2020. Afterwards, in checking on 07.12.2020, it was found that yellow and blue phase CT wires were found interchanged which was corrected by MMTS on 07.12.2020. Accordingly the Forum gave correct decision.
- (x) The Respondent submitted that the Forum had rightly decided to overhaul the account of the Appellant from 15.05.2020 to 07.12.2020 as per Regulation 21.5.2(d) of the Supply Code-2014 by taking base of future consumption of 15.05.2021 to 07.12.2021 as the period from 22.03.2020 to 05/2020 may be effected under COVID-19 lockdown. The consumption from 04.03.2020 to 15.05.2020 came to  $(3882-1012=2870 \times 2 \text{ (MF)})=$

5740 kVAh units for 72 days. The Forum had correctly decided the case and had correctly given order to overhaul the account.

(xi) The contention of the Appellant that the account could be overhauled for maximum period of 6 months was not maintainable as meter was changed twice and the checking were also done twice so the Limitation period of 6 months was to be counted separately. Moreover the clause of 6 months was not applicable as meter was found correct in the ME Lab. The consumption was less due to wrong connections and not due to the defective meter.

(xii) The Respondent prayed that keeping in consideration the reply as stated above, the present Appeal may kindly be dismissed.

**(b) Submission during hearing**

During hearing on 24.01.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

**6. Analysis and Findings**

The issue requiring adjudication is the legitimacy of the amount charged by the Respondent for overhauling of the Appellant's account from 15.05.2020 to 07.12.2020 as per the decision dated 14.07.2021 in Case No. CGL-103 of 2021 of the Forum.

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

- (i) The Appellant's Counsel (AC) reiterated the submissions made by the Appellant in the Appeal. He pleaded that the Appellant agreed with the decision of the Forum to the extent that the account of the Appellant be overhauled from 12.02.2020 to 04.03.2020 on the basis of consumption recorded during the period from 04.03.2020 to 15.05.2020 but the Forum had wrongly decided to overhaul the account of the Appellant from 15.05.2020 to 07.12.2020 as per Regulation No. 21.5.2(d) of the Supply Code-2014 whereas this period should be overhauled as per Regulation No. 21.5.2(c) of Supply Code, 2014 as the consumption of period from 04.03.2020 to 15.05.2020 was available. Moreover, the maximum period for which the account could be overhauled was six months, so the account of the Appellant should be overhauled from 08.06.2020 to 07.12.2020. He requested for acceptance of the Appeal.
- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and reiterated the submissions made by the Respondent in the written reply. The Respondent argued that the Forum had rightly decided to overhaul the account of the Appellant from 15.05.2020 to 07.12.2020 as per

Regulation No. 21.5.2(d) of the Supply Code-2014 as the period from 04.03.2020 to 15.05.2020, on the basis of which the Appellant had requested to overhaul the account, was not normal consumption period as there was lockdown during 22.03.2020 to 05/2020 due to Covid-19 resulting in less consumption. As such overhauling of account on the basis of this lockdown period consumption would not be correct. In regard to the contention of the Appellant that the account could be overhauled for maximum period of 6 months, the Respondent submitted that as meter was changed twice and the checking were also done twice so the limitation period of 6 months was to be counted separately. Moreover the clause of 6 months was not applicable as meter was found correct in the ME Lab. The consumption was less due to wrong connections and not due to the defective meter. The Respondent prayed that the Appeal be dismissed.

- (iii) The Forum in its order dated 14.07.2021 observed that the metering equipment of the Appellant was defective from the date of release of the connection till its replacement, being inbuilt error, which was set aright/ corrected in between for the period from 04.03.2020 to 15.05.2020. Therefore, the Forum decided to quash the notice of ₹ 5,46,632/- charged to

Appellant by the Respondent on the basis of audit half margin and ordered to overhaul the account of the Appellant as per Regulation No. 21.5.2 of the Supply Code-2014 as below:-

- a. From 12.02.2020 to 04.03.2020- On the basis of consumption recorded during 04.03.2020 to 15.05.2020.
- b. From 04.03.2020 to 15.05.2020- Be overhauled on the basis of actual reading recorded.
- c. From 15.05.2020 to 07.12.2020- As per Regulation No. 21.5.2 (d) of Supply Code, 2014, since previous consumption is not available, being new connection.

(iv) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 24.01.2022. The Appellant did not challenge the decision of the Forum regarding the overhauling of her account from 12.02.2020 to 15.05.2020. The only contention of the Appellant is that her account should be overhauled for maximum six months from 08.06.2020 to 07.12.2020 as per Regulation No. 21.5.2 (c) instead of 21.5.2 (d) of Supply Code, 2014. I agree with the contention of the Appellant that the Forum had erred in deciding to overhaul the account of the Appellant for the period from 15.05.2020 to 07.12.2020 i.e for more than six

months. The meter with wrong connections of CTs cannot be overhauled for more than six months. The accuracy of the meter with wrong connections was not checked on 07.12.2020 as per CCR No. 18/3259. As such, this meter is not to be treated as 'Inaccurate Meter'. The meter in dispute is to be treated as 'Defective' during the period from 15.05.2020 to 07.12.2020. The maximum period for which account can be overhauled is six months as per Supply Code, 2014. The account cannot be overhauled on the basis of consumption recorded during the period from 04.03.2020 to 15.05.2020. The consumption during this period was not normal in view of lockdown due to Covid-19 resulting in less consumption. The overhauling as per Regulation No. 21.5.2 (d) of Supply Code, 2014 is correct and justified.

- (v) In view of the above, this Court is not inclined to agree with the decision dated 14.07.2021 of the Forum in case no. CGL-103 of 2021 to the extent of overhauling of Appellant's account from 15.05.2020 to 07.12.2020. The Account of the Appellant should be overhauled for six months prior to replacement of the meter on 07.12.2020 on the basis of Regulation No. 21.5.2 (d) of Supply Code-2014.

**7. Decision**

As a sequel of above discussions, the order dated 14.07.2021 of the CGRF, Ludhiana in Case No. CGL-103 of 2021 relating to the period 15.05.2020 to 07.12.2020 is amended to the extent that the account should be overhauled for six months only prior to 07.12.2020 on the basis of Regulation No. 21.5.2 (d) of Supply Code, 2014.

8. The Appeal is disposed of accordingly.
9. As per provisions contained in Regulation 3.26 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations-2016, the Licensee will comply with the award/order within 21 days of the date of its receipt.
10. 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.

January 24, 2022  
S.A.S. Nagar (Mohali)

(GURINDER JIT SINGH)  
Lokpal (Ombudsman)  
Electricity, Punjab.