

**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. 02/2023

Date of Registration : 12.01.2023

Date of Hearing : 24.01.2023

Date of Order : 24.01.2023

Before:

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

In the Matter of:

Sh. Balwinder Singh,
Village Meerpur, House No. 626,
PO Mubarakpur, Near P.W.D. Rest House,
Tehsil Dera Bassi.

Contract Account Number: 3007112842 (DS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Division, PSPCL,
Lalru.

...Respondent

Present For:

Appellant: Sh. Balwinder Singh,
Appellant.

Respondent : Er. Paramjit Singh,
Sr. Executive Engineer,
DS Division, PSPCL, Lalru.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 14.07.2022 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. TP-133/2022 deciding that:

“After hearing both the parties, Forum observed that period of the dispute pertains to 2013. So as per Reg. 2.25 (c) of Forum & Ombudsman (2nd amendment), 2021, Forum can reject the grievance if the case has been filed after two years from the date on which the cause of action has arisen. Considering the above regulation, Forum decided to dispose off this grievance being time barred.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 12.01.2023 i.e. beyond the stipulated period of thirty days of receipt of the decision dated 14.07.2022 of the CCGRF, Ludhiana in Case No. TP-133/2022. The Appellant was not required to deposit the requisite 40% of the disputed amount as it was a refund case. Therefore, the Appeal was registered on 12.01.2023 and copy of the same was sent to the Sr. Executive Engineer/ DS Divn., PSPCL, Lalru for sending written reply/ para wise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 61-63/OEP/A-02/2023 dated 12.01.2023.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 24.01.2023 at 11.30 AM and intimation to this effect was sent to both the parties vide letter nos. 74-75/OEP/A-02/2023 dated 16.01.2023. As scheduled, the hearing was held in this Court and arguments of both the parties were heard.

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 deliberations made by the Appellant and the Respondent along with 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 DS Category Connection, bearing Account No. 3007112842 (earlier Account No. Z21UF371707N) with sanctioned load of 10.98 kW under DS Sub Divn., PSPCL, Mubarikpur.

- (ii) The Appellant received an inflated monthly bill for 9930 units during 08/2013 from the Respondent amounting to ₹ 78,001/-. He had challenged the working of the meter by depositing the requisite fee vide BA-16 No. 211/5256 dated 06.09.2013 after depositing the total bill amount of ₹ 78,001/-. The disputed meter was got tested on 03.07.2014 (after 10 months) from ME Lab, Ropar by JE Sh.Suresh Kumar and as per the ME Lab Report, the reading of the meter was found missing. From the date on which the meter was challenged to the date it was removed, the Appellant got bill of ₹ 89,353/-.
- (iii) The Appellant regularly visited the Sub Divn., Derabassi regarding sorting out this issue but no one listened to his request and he continuously received the inflated bill amount.
- (iv) In-spite of sorting my bill issue, SDO, Derabassi charged the Appellant ₹ 2,34,734/- in 06/2015 through sundry. When the Appellant asked about the wrong charging, no one listened him and even did not provide him the details of this amount. He stopped the payment of bills due to unsatisfied behavior of the Respondent office. The amount was continuously raised to ₹ 5,67,820/- till 03/2017 which contained the current bills and LPI/ LPS. The Appellant made the payments as per the details below:-
- ₹ 1,00,000/- in 03/2017

- ₹ 1,50,000/- in 04/2017
 - ₹ 54,741/- during 05/2017 to 02/2018
 - ₹ 5,13,060/- in 03/2018
 - Total billed amount of ₹ 9,64,461/- was deposited from 09/2013 to 02/2018, but the amount as per the meter reading consumption was ₹ 5,13,060/- for the period from 09/2013 to 02/2018. Excess amount deposited was ₹ 4,51,401/- which included ₹ 2,34,734/- & LPI/ LPS.
- (v) The above payments were made by the Appellant against current bills and the wrong charging of ₹ 2,34,734/- in 06/2015. The Appellant's disputed amount was ₹ 2,34,734/- + interest + Surcharge.
- (vi) The Appellant filed the case in the CCGRF, but they did not listen to his grievance and passed the order on dated 14.07.2022, with which he was not satisfied.
- (vii) The Appellant was in transportation business at Mumbai & Indore and most of the time the Appellant was not available in Punjab due to his business. The Appellant's family was residing in Mubarikpur Village. Due to his non-availability, the Appellant was not able to file above said case in any dispute Forum timely, but he asked the Sub Divn. regarding wrong charging from time to time but no one

provided him the solution and the huge amount had remained pending.

- (viii) The Appellant prayed that his case was for disputed amount of ₹ 2,34,734/- + interest + Surcharge (Tentative amount of dispute ₹ 9,64,461/- - ₹ 5,13,060/- = ₹ 4,51,401/- including LPI/ LPS).

(b) Submission during hearing

During hearing on 24.01.2023, the Appellant 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 DS Category Connection, bearing Account No. 3007112842 (earlier Account No. Z21UF371707N & GT21/0288) with sanctioned load of 10.98 kW in his name.
- (ii) On checking the billing data of the Appellant, it was found that in 08/2013 bill was issued to the Appellant for the consumption of 9930 units. Then the Appellant challenged the working of the meter by depositing the fee of ₹ 450/- on 06.09.2013 vide BA16 No. 211/5256. The Appellant's meter was sent to the ME Lab vide Challan No. 22 dated 03.07.2014 for checking but as per the ME Lab report the reading on the meter was found missing. After that

this meter was again sent to the ME Lab vide Challan No. 151 dated 10.10.2014 for checking. On the basis of this checking, Sundry was charged to the Appellant. But now, the copy of Challan No. 151 dated 10.10.2014 was not available in the office record.

- (iii) The Appellant's consumption data from 02/2012 was available in the office record. The Appellant received bills till 08/2013 with OK Code and the Appellant paid all the bills from time to time. But in 08/2013, the Appellant was issued a bill for the consumption of 9930 units with OK Code. The Appellant was not satisfied with this bill and he challenged this bill. If the Appellant's consumption from 06/2013 to 08/2013 was compared with the consumption from 06/2012 to 08/2012, then it was more than two times the consumption of previous year.
- (iv) As per reading record, after 08/2013, the Appellant received average bills on 'F' Code till 06/2014. During these 10 months, the Appellant was issued bills for the consumption of 13718 units. As per record, the Appellant's new meter reading was recorded as 654 units in 10/2013 and 3028 units in 06/2014. On this basis, it appeared that the Appellant was charged with extra units, but the copy of MCO was not available in the office record to confirm this.
- (v) In June, 2015, the Appellant was charged ₹ 2,43,734/- vide Sundry No. 6/79 R96. This Sundry was charged on the basis of Final

reading of 72403 units recorded while checking in ME Lab vide Challan No. 151 dated 10.10.2014. The Sundry amount was for the difference of 34713 units between Final reading of 72403 units and old reading of 37690 units. The Appellant was not satisfied with this. So he filed his Case in the CCGRF in 12/2021. The Appellant's case was disposed off by the CCGRF on 14.07.2022 because it was a time barred case according to the Regulation 2.25 (c) of PSERC (Forum and Ombudsman) (2nd Amendment) Regulations, 2021.

(vi) As per record, the Appellant had given his request to file his case with DSC office in 08/2013, but it was not registered in DSC due to non-payment by the Appellant. As per the record, the Appellant did not deposit any bill amount from 08/2013 to 03/2017 whereas the bills were issued to the Appellant with OK code during this period. The Appellant started depositing payment towards his bills from 04/2017 and he cleared all the dues in 02/2018. The Appellant filed his case in the CCGRF, Ludhiana after nearly 3 years 10 months. The CCGRF disposed this case on 14.07.2022.

(vii) After that, the Appellant gave his request letter to the Hon'ble Power Minister, Govt. of Punjab. The meeting was held on 17.08.2022. As per the directions of the Power Minister, for re-considering this case after giving relaxation in the rules, the full

case was sent to Chief Engineer/ DS (South), Patiala because this case was related with the period which had already been audited and if any amount was refundable to the Appellant, then it did not come under the authority of the Division office. This case was further sent to the office of the Chief Engineer/ Commercial for consideration and further orders. On this the office of CE/ Commercial, PSPCL commented that the decision taken by the DSC/ Corporate Forum can neither be changed nor be reviewed by his office because the Forum is a Quasi-judicial body. It didn't come in the authority of the Chief Engineer/ Commercial.

- (viii) It was worth mentioning here that the Appellant had hidden the fact that he had filed a Case No. CS-915/2022 in the Civil Court, Dera Bassi for the same subject matter as contained in the present Appeal. The next date of hearing in this case was fixed for 02.02.2023.
- (ix) The Appellant had filed his Appeal in the Court of Ombudsman on 12.01.2023 whereas the copy of decision of the CCGRF, Ludhiana was sent to him on 04.08.2022 by registered post. So, the Appellant should have filed his case in the Ombudsman office within 30 days.

(b) Submission during hearing

During hearing on 24.01.2023, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of the refund claim of the Appellant for the excess billing done from 08/2013 to 02/2018 which was deposited by the Appellant.

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

- (i) The Corporate Forum in its order dated 14.07.2022 observed as under:-

“After hearing both the parties, Forum observed that period of the dispute pertains to 2013. So as per Reg. 2.25 (c) of Forum & Ombudsman (2nd amendment), 2021, Forum can reject the grievance if the case has been filed after two years from the date on which the cause of action has arisen. Considering the above regulation, Forum decided to dispose off this grievance being time barred.”

- (ii) 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 24.01.2023. The Respondent had submitted in his reply that the Appellant had

filed Case No. CS/915/2022 in the Hon'ble Court of Additional Civil Judge (Senior Division), Dera Bassi for the same subject matter as contained in the present Appeal and the next date of hearing in this case is fixed for 02.02.2023. When the Appellant was asked to clear his position in this regard, he admitted that the case for the same grievance is pending before the Hon'ble Court of Additional Civil Judge (Senior Division), Dera Bassi vide Case No. CS/915/2022.

- (iii) It is observed that the Appellant filed wrong declaration that the Appeal case was not pending before any Authority/ Court of Law/ Arbitrator at the time of filing the present Appeal before this Court.
- (iv) In this connection, I have gone through Regulation 3.18 (iv) of the PSERC (Forum and Ombudsman) Regulations, 2016 reproduced as under:

“3.18 No representation to the Ombudsman shall lie unless:

(iv) The representation by the Complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority.”

It is evident from the perusal of above Regulation 3.18 (iv) that the present Appeal is not maintainable in this Court as the Appellant is pursuing the same subject matter in Case No. CS/915/2022 in the Hon'ble Court of Additional Civil Judge (Senior Division), Dera

Bassi. The Appellant had filed wrong declaration before this Court at the time of filing of this Appeal on 12.01.2023. This Appeal Case is not maintainable as per PSERC (Forum & Ombudsman) Regulations, 2016.

6. Decision

As a sequel of above discussions, it is decided that the present Appeal is not maintainable in this Court as per PSERC (Forum & Ombudsman) Regulations, 2016 to be read with amendments.

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.

January 24, 2023
S.A.S. Nagar (Mohali)

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