

**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. 07/2024

Date of Registration : 06.03.2024

Date of Hearing : 11.03.2024

Date of Order : 11.03.2024

Before:

**Er. Anjali Chandra,
Lokpal (Ombudsman), Electricity, Punjab.**

In the Matter of:

M/s. Parkash Confectioners and
Bakers Pvt. Ltd., Jalandhar.

Contract Account Number: 3007672551 (NRS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Model Town Division, PSPCL,
Jalandhar.

...Respondent

Present For:

Appellant: 1. Sh. Surinder Pal,
Appellant's Representative.
2. Sh. Anup Jain,
Appellant's Representative.

Respondent : Er. Tarun Iqbal,
AE/ Commercial,
DS Model Town Division, PSPCL,
Jalandhar.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 27.02.2024 of the Corporate Consumer Grievances Redressal Forum, Ludhiana (Corporate Forum) in Case No. T-042/2024, deciding that:

“Forum observed that Zonal Refund Committee in its proceedings dated 31.10.2022, deferred the case until the committee formulated by SE/Regulation, PSPCL, Patiala submits its decision. 16 months (approx.) have passed but no decision has been taken by the said committee. Forum observed that the Refund Committee cannot take indefinite period to decide upon refund matters and therefore present case is referred back to Zonal Refund Committee, North Zone, PSPCL, Jalandhar with the direction to decide the case within two months by taking up the matter with concerned authorities.

The present petition is disposed of accordingly.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 06.03.2024 i.e. within the period of thirty days of receipt of the decision dated 27.02.2024 in Case No. T-042/2024 of the CCGRF, Ludhiana. The Appellant was not required to deposit the requisite 40% of the disputed amount as this is a refund case. Therefore, the Appeal was registered on 06.03.2024 and copy of the same was sent to the Addl. Superintending Engineer/ DS Model Town Division, PSPCL, Jalandhar for sending written reply/ parawise comments with a copy to the office of the CCGRF, Ludhiana under intimation to the

Appellant vide letter nos. 160-62/OEP/A-07/2024 dated 06.03.2024.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 11.03.2024 and intimation to this effect was sent to both the parties vide letter nos. 163-64/OEP/A-7/2024 dated 06.03.2024.

As scheduled, the hearing was held in this Court on 11.03.2024 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's Representative 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 NRS Category Connection, bearing Account No. 3007672551 in the name of M/s. Parkash Confectioners and Bakers Pvt. Ltd., Jalandhar with present

Sanctioned Load/CD of 95 kW/95 kVA under DS Model Town Division, PSPCL, Jalandhar.

- (ii) The Appellant had submitted an application before the Corporate Forum, Ludhiana with Case No. T-03/2022 for refund of voltage surcharge amounting to ₹ 14,00,000/- approximately. The Corporate Forum, Ludhiana disposed off the application on 23.06.2022 with the direction to the concerned SDO to put up the case before appropriate refund committee.
- (iii) Now more than 18 months had been passed but neither the refund was given nor any information was imparted so far. So not being satisfied with the response of the Respondent on the subject cited matter, the Appellant again submitted the grievance before the Corporate Forum, Ludhiana on 06.02.2024 for kind consideration with the request to decide the matter in the Forum. But instead of passing an appropriate order in the case within 45 days as per provisions of Regulations 2.9.2 (iv) of PSERC (Forum and Ombudsman) (2nd amendment) Regulations, 2021, the Corporate Forum merely disposed of the grievance stating that the Refund Committee cannot take indefinite period to decide upon refund matters. Therefore the present case was referred back to Zonal Refund Committee, North Zone, PSPCL, Jalandhar with the direction to decide the case within two months by taking up the

matter with concerned authorities. It was for your kind honour that PSPCL constituted Consumer Grievances Redressal Forum at different levels under the provisions of Regulation 2.1, 2.2 & 2.3 of PSERC (Forum and Ombudsman) Regulations, 2021 and Corporate Forum had to deal all the cases above ₹ 5 lacs within 45 days as per provisions of Regulations 2.9.2 (iv) of PSERC (Forum and Ombudsman) (2nd amendment) Regulations, 2021 but the Appellant's grievance was disposed off two times by referring to Refund Committee & the same had not been resolved yet.

- (iv) The Appellant was not satisfied as the matter was still pending even after more than 18 months, so it filed the Appeal before the Court of Ombudsman, Electricity, Punjab.
- (v) In the month of 10/2021, the Appellant had got the connection transferred in its name alongwith reduction of load. Load & CD were reduced to 95 kW/95 kVA and the new Account No. 3007672551 was allotted to the Appellant.
- (vi) The Appellant was using the connection with connected load of 109.51 kW for the last more than 16 years and getting the supply at 400 volts and never changed the connected load/demand. It was only in the month of 10/2021, the Appellant had reduced its load/demand to 95 kW/95 kVA respectively.

(vii) Upto February-2016, bills of this account were issued according to the tariff orders issued from time to time by the PSPCL and the billing was correct in all the way. But suddenly from the month of March-2016 onwards, bills were issued by including voltage surcharge and this voltage surcharge remained continued till December-2020.

(viii) The Appellant was not satisfied from the bills of March-2016 and approached the concerned office and gave letters for refund as under:-

Letter Dated	09.09.2021
Letter Dated	09.10.2021
Letter Dated	11.12.2021
Letter Dated	15.07.2022
Letter Dated	23.06.2023
Letter Dated	16.11.2023

The Appellant's full genuine demand was not acceded so far. The PSPCL acceded to the Appellant's request partially and stopped charging voltage surcharge and allowed the refund from 01/2021 onwards. But the refund on account of voltage surcharge was still pending for the period from 03/2016 to 12/2020.

(ix) It was pertinent to mention that the Respondent also admitted in his written reply in para 4 before the Forum that prior to March, 2016 no voltage surcharge was levied to the Appellant but from March 2016 onwards, wrong voltage surcharge started in the bills in SAP system.

(x) There was no provision to charge the voltage surcharge as per CC No. 13/2015 Annexure 1 Clause 13.1 which clearly mentioned that exemption from levy of surcharge shall continue as under:-

13.1 (vi) (b)

“DS/NRS/BS consumers existing as on 31.3.2010 catered at a voltage lower than specified in Supply Code 2014 will be liable to pay surcharge only in case of any change in Contract Demand.”

(xi) Further there was no provision to charge the voltage surcharge as per CC No. 28/2020 Annexure 1 Clause 13.1 which clearly mentioned that Exemption from levy of Surcharge shall continue as under:-

13.1 (iv) (b)

“DS/NRS/BS consumers existing as on 31.3.2010 catered at a voltage lower than specified in Supply Code 2014 will be liable to pay surcharge only in case of any change in Contract Demand.”

(xii) It was pertinent to mention that the Appellant had never changed its contract demand after the ibid date i.e. 31.03.2010. So it was very

much clear as per CC No. 13/2015 & 28/2020 that the amount of voltage surcharge included in the bills was totally illegal, unjustified and wrong.

- (xiii) It was further submitted for your kind consideration that Corporate Forum, Ludhiana was competent to given refund from the date of refund due. The limitation of 2 years was only applicable to Zonal, Circle and Divisional Forum as per PSERC (Forum and Ombudsman) (2nd amendment) Regulations, 2021 circulated vide CC No. 39/2021 dated 28.10.2021. The relevant amendment clause of 2.9.2 is reiterated as under:-

“As per provisions of regulations 2.9.2 (iv) of PSERC (Forum and Ombudsman) (2nd amendment) Regulations-2021, the Zonal/Circle/Divisional Forum shall entertain only those complaints where the representations is made within 2 years from the date of cause of action.”

- (xiv) Keeping in view the above, the Appellant requested the Hon’ble Ombudsman, Electricity, Punjab to direct the Respondent to refund the amount of Voltage Surcharge from 03/2016 to 12/2020 alongwith the interest as per rules and regulations of PSPCL.

(b) Submission during hearing

During hearings on 11.03.2024, the Appellant’s Representative (AR) 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 Respondent submitted that it was true that the Appellant had approached the concerned and gave letters for refund. It was intimated that the case was registered in Corporate Forum and the Corporate Forum asked the Appellant to register his case in the Zonal Refund Committee. Then the Appellant had registered its case in the Zonal Refund Committee during proceeding of this case on 31.10.2022 the Refund Committee remarked that:

“ਲਿਮੀਟੇਸ਼ਨ ਪੀਰੀਅਡ ਸਬੰਧੀ ਨਿਗਰਾਨ ਇੰਜੀਨੀਅਰ/ ਰੈਗੂਲੇਸ਼ਨ, ਪਟਿਆਲਾ ਜੀ ਦੇ ਦਫ਼ਤਰੀ ਹੁਕਮ ਨੰ: 115/151 ਲੂਜ਼ 22 ਸੀਏਓ/ ਰੈਵਨਿਊ ਮਿਤੀ 13/04/2022 ਨਾਲ ਕਮੇਟੀ ਦਾ ਗਠਨ ਕਰਨ ਸਬੰਧੀ ਲਿਖਿਆ ਗਿਆ ਸੀ ਜਿਸ ਦਾ ਸਬੰਧਤ ਕਮੇਟੀ ਦਾ ਫੈਸਲਾ ਅਜੇ ਨਹੀਂ ਆਇਆ। ਇਸ ਲਈ ਕਮੇਟੀ ਵੱਲੋਂ ਫੈਸਲਾ ਕੀਤਾ ਗਿਆ ਸੀ ਕਿ ਉਪਰੋਕਤ ਗਠਿਤ ਕਮੇਟੀ ਦਾ ਫੈਸਲਾ ਆਉਣ ਤੋਂ ਬਾਅਦ ਇਹ ਕੇਸ ਜ਼ੋਨਲ ਰੀਫੰਡ ਕਮੇਟੀ ਵਿੱਚ ਲਗਾਇਆ ਜਾਵੇ।

- (ii) As per SAP, Voltage Surcharge was levied to the Appellant in the bill from 03/2016 onwards upto 12/2020.
- (iii) It was admitted that there was no provision to charge the Voltage Surcharge as per CC 13/2015 (Annexure 1 clause 13.1) which clearly mentioned that Exemption from levy of Surcharge shall

continue as: 13.1 (vi) (b) “DS/ NRS/ BS consumer existing as on 31.03.2010 catered at a voltage lower than specified in Supply Code, 2014 will be liable to pay surcharge only in case of any change in contract demand.”.

- (iv) There was no provision to charge the Voltage Surcharge as per commercial circular 28/2020 (Annexure 1 clause 13.1) which clearly mentioned that Exemption from levy of Surcharge shall continue as: 13.1 (vi) (b) “DS/ NRS/ BS consumer existing as on 31.03.2010 catered at a voltage lower than specified in Supply Code, 2014 will be liable to pay surcharge only in case of any change in contract demand.
- (v) The Respondent in its reply stated that the matter was under consideration with the Competent Authority.

(b) Submission during hearing

During hearings on 11.03.2024, 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 whether the decision of the Corporate Forum, to refer back the case of the Appellant to Zonal

Refund Committee, North Zone, PSPCL, Jalandhar, is tenable or not.

My findings on the points that emerged and my analysis is as under:

- (i) The Corporate Forum in its order dated 27.02.2024 observed as under:-

“Forum observed that Zonal Refund Committee in its proceedings dated 31.10.2022, deferred the case until the committee formulated by SE/Regulation, PSPCL, Patiala submits its decision. 16 months (approx.) have passed but no decision has been taken by the said committee. Forum observed that the Refund Committee cannot take indefinite period to decide upon refund matters and therefore present case is referred back to Zonal Refund Committee, North Zone, PSPCL, Jalandhar with the direction to decide the case within two months by taking up the matter with concerned authorities.

The present petition is disposed of accordingly.”

- (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 11.03.2024. The Appellant’s Representative (AR) pleaded that Appellant filed the case before the Corporate Forum vide Case No. T-03/2022 which was disposed of by the Forum on 23.06.2022 with the direction to the Respondent to put up the case of the Appellant before appropriate refund committee. Then after more than 18

months, when the Appellant got no relief from the refund committee, it again approached the Corporate Forum, Ludhiana vide Case No. T-042/2024 for the redressal of its grievances. But instead of passing an appropriate order in the case within 45 days, the Corporate Forum once again disposed of the case on 27.02.2024 by referring back the case to the Zonal Refund Committee, North Zone, PSPCL, Jalandhar with the direction to decide the case within two months by taking up the matter with concerned authorities. He further pleaded that since the disputed amount is more than ₹ 5 Lacs, the Corporate Forum was competent to decide the case on merits. But the Corporate Forum chose to refer back the case to the Zonal Refund Committee, North Zone, PSPCL, Jalandhar instead of deciding the case on merits. He prayed this Court to direct the Respondent to refund the amount of Voltage Surcharge from 03/2016 to 12/2020 wrongly charged to the Appellant alongwith interest as per rules & regulations of PSPCL.

- (iii) To determine whether the Corporate Forum was competent to hear & decide the case on its merit, I have gone through Regulation 2.9.1 (i) of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2nd Amendment) Regulations, 2021, reproduced as under:-

“The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs.

5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action.”

On the perusal of the above Regulation, there is no doubt that the Corporate Forum was competent enough to decide the case on its merits as the disputed amount of the case is more than ₹ 5 Lacs.

- (iv) The Corporate Forum should have passed a speaking/ detailed order on the issues involved in this case after giving an opportunity of hearing to both parties. Detailed deliberations were not held and due process of law was not followed in the Forum in respect of issues raised by the Appellant in the dispute case filed before the Forum. With a view to meet the ends of ultimate justice, this Court is inclined to remand back this Appeal case to the Corporate CGRF, Ludhiana for hearing, adjudicating and passing speaking orders in respect of issues raised before this Court as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. This dispute case has already been delayed by more than 20 months. As such, the Corporate Forum is directed to decide this case on priority as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time.
- (v) In view of above, this Court is not inclined to agree with the decision dated 27.02.2024 of the Corporate Forum in Case No. T-042/2024.

6. Decision

As a sequel of above discussions, the order dated 27.02.2024 of the CCGRF, Ludhiana in Case No. T-042/2024 is hereby quashed. The Appeal is remanded back to the Corporate Forum, Ludhiana with a direction to hear and decide the case on merits within the time frame as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time.

7. The Appeal is disposed of accordingly.

8. 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.

9. 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.

March 11, 2024
S.A.S. Nagar (Mohali).

(ANJULI CHANDRA)
Lokpal (Ombudsman)
Electricity, Punjab.