

**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. 15/2022

Date of Registration : 10.03.2022

Date of Hearing : 22.03.2022

Date of Order : 22.03.2022

Before:

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

In the Matter of:

M/s. Bishan Vihar Resident Welfare
& Maintenance Society (Regd.),
Urban Estate, Phase-3 Dugri,
Ludhiana.

Contract Account Number: 3002811706 (DS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Model Town (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Parvesh Chadha,
Appellant's Representative.

Respondent : Sh. Satnam Singh, AAO (Revenue),
O/o Addl. SE/ DS Model Town (Spl.) Divn.,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 07.02.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-23 of 2022 (T-427/21), deciding that:

“Zonal Level Refund Committee rightly decided in case no. 767/2020 dated 05.03.2021 that there is no provision of allowing interest in instant case of 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 09.03.2022 i.e. within the period of thirty days of receipt of the decision dated 07.02.2022 of the CGRF, Ludhiana in Case No. CGL-23 of 2022 (T-427/21). The Appellant was asked vide Memo No. 226/OEP/M/s. Bishan Vihar dated 09.03.2022 to send the Resolution of the Society authorizing Sh. Hardeep Iqbal Singh Aurora to file the present Appeal in this Court. The Appellant sent the same vide its letter no. BVRW&MS/2022/5 dated 10.03.2022. The requisite 40% of the disputed amount was not required in this case as it was a refund case. Therefore, the Appeal was registered on 10.03.2022 and a copy of the same was sent to the Addl. SE/ DS Model Town (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. 227-29/OEP/A-15/2022 dated 10.03.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 22.03.2022 at 01.30 PM and intimation to this effect was sent to both the parties vide letter nos. 257-258/OEP/A-15/2022 dated 15.03.2022. 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's Representative 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 Single Point Domestic Supply Category Connection, bearing Account No. 3002811706 with sanctioned load of 408.215 kW and Contract Demand as 455.570 kVA under DS Model Town (Spl.) Divn., PSPCL, Ludhiana.
- (ii) The Appellant obtained the connection during 2009 with independent supply and deposited the full cost of ₹ 41,28,879/- vide BA-16 No. 495/3808 dated 20.07.2009 as per Estimate No. 91036/2009-10 dated 25.06.2009. The system was laid down by the Respondent but the actual cost was less than the estimated cost deposited. The new estimate was framed vide no. 01035/2010-11 dated 09.07.2010 for ₹ 24,87,280/-, as such a case was filed in ZLDSC vide no. 1/2019 and as per decision, an amount of ₹ 16,41,599/- was ordered to be refunded. The Respondent refunded the amount as per decision vide SCA No.161/180/R-216C to be adjusted in the future energy bills but no interest was given on the ibid refund.
- (iii) Another Case No. 767/2020 was filed on 10.12.2020 before the Zonal Refund Settlement Committee (ZRSC) for seeking the interest on the refund of ₹ 16,41,599/- which was calculated as ₹ 18,84,509/-. The ZLDSC decided the case on 05.03.2021 against the Appellant deciding *“that there is no provision for*

providing interest in such cases. The amount claimed is disputed one and does not fall in the competency of this committee. The case is dismissed.”

- (iv) The Appellant filed an appeal before the CGRF on 03.09.2021 against the decision of ZRSC which was also decided against the Appellant on 07.02.2022.
- (v) Both the ZRSC and the Forum had ordered that there was no provision of allowing interest on excess amount deposited. The Appellant had submitted before the Forum that Regulation 9.3.6 of the Supply Code, 2014 provides that amount actual incurred be adjusted from the deposit and excess amount should be refunded within 60 days from the release of connection. In case there was delay beyond 60 days, the interest was payable on excess amount at SBI's Base rate on first of April of the relevant year plus 2% for the period of delay beyond 60 days of the date of release of connection. Regulation 9.3.6 of Supply Code-2014 is reproduced as below:-

“9.3. Security (works) for the Electric Line or Electrical Plant

9.3.6 1[After execution of work of the electric line or electrical plant as the case may be, the distribution licensee shall be entitled to demand from the applicant the total amount of expenditure actually incurred (recoverable amount) and adjust Security (works)

against such recoverable amount. In the event of Security (works) being in excess of the recoverable amount, the excess amount shall be determined by the distribution licensee within sixty (60) days from the date of release of connection and refunded by adjustment against electricity bills of the immediately succeeding months. In case the distribution licensee fails to refund the excess amount and adjust it against electricity bills of the immediately succeeding months, the distribution licensee shall be liable to pay interest on the excess amount at SBI's Base Rate prevalent on first of April of the relevant year plus 2% for the period of delay beyond sixty (60) days of the date of release of connection till the excess amount is adjusted. The amount of such interest shall be adjusted against the electricity bills thereafter.]”

- (vi) The CGRF had ignored this Regulation while deciding the case and no such reference was made in the decision.
- (vii) The Appellant may be given the interest as per rules and regulations of PSPCL/ PSERC as claimed before the ZRSC vide Case No. 767/2020 and before CGRF in Case No. CGL-23/2022 with 2% penal interest which came to ₹ 19,46,631/-.

(b) Submission in Rejoinder:

In its Rejoinder to the written reply of the Respondent, the Appellant submitted the following for consideration of this Court: -

- (i) The Forum had not decided the Appeal properly and had not specified the reason of ignoring the points raised by the Appellant.
- (ii) Regulation 9.3 of Supply Code, 2014 provides that the PSPCL has to refund the excess amount within 60 days from the date of release of connection in energy bills immediately in succeeding months and in case of default of 60 days, pay interest plus 2% for the period of delay beyond 60 days.
- (iii) It was prayed to set aside the decision of the Forum. Relief in the shape of interest was requested at SBI rates as on 1st of April of relevant year plus 2% penal interest.

(c) Submissions during hearing

During hearing on 22.03.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal as well as in the Rejoinder 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 connection of the Appellant was running under Single Point Domestic Supply category & sanctioned load/CD was 408.215 kW/453.57 kVA. The Appellant got its excess

deposited amount refunded through ZLDSC, Ludhiana vide Case No. 01/2019, which was duly decided on 29.04.2019 & implemented on 03.07.2019 by giving refund of ₹ 16,41,599/- vide SCA No. 161/180/R-216C after getting the amount pre-audited. No interest was provided on the amount refunded as per ZLDSC decision as the same was not demanded by the Appellant at that time in 2019.

- (ii) The Appellant again approached the ZLDSC for interest on excess amount deposited over actual estimated amount & the same was heard by the Committee on 05.03.2021. Sh. HS Aurora from the Appellant side was present in the meeting where the case of refund of interest amount was dismissed.
- (iii) The Appellant filed its first appeal against the orders of ZLDSC before the CGRF, Ludhiana on 21.09.2021. After proper hearing of the case, the Forum decided the said Case No. CGL-23/2022 on 07.02.2022 by upholding the decision of ZLDSC given on 05.03.2021.
- (iv) The Respondent submitted that the Appellant had not petitioned earlier for the interest on the excess amount deposited while applying for refund of Principal excess amount through ZLDSC (Refund Committee) in the year 2019. The Appellant had

willfully applied for refund of interest amount late only to gain by way of interest earning.

- (v) The Respondent submitted that ZLDSC and the Forum had rightly decided the case in favour of PSPCL and prayed for the dismissal of the appeal.

(b) Submission during hearing

During hearing on 22.03.2022, 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 claim by the Appellant regarding interest on excess amount of Security (Works) refunded to it as per Regulation 9.3.6 of Supply Code-2014.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made by the Appellant in the Appeal. He pleaded that both ZLDSC, Ludhiana and the Forum had ignored the provisions contained in the Regulation 9.3.6 of the Supply Code, 2014 and wrongly disallowed the interest. He argued that the Respondent

has to refund the excess amount within 60 days from the date of release of connection in energy bills immediately in succeeding months and in case of default of 60 days, pay interest at SBI base rate plus 2% for the period of delay beyond 60 days and in this case there was significant delay on the part of the Respondent and as such, the Respondent was under obligation to pay the interest to the Appellant.

(ii) On the other hand, the Respondent controverted the pleas raised by the Appellant and pleaded that both the ZLDSC, Ludhiana and the Forum rightly decided the case as the interest was not payable to the Appellant as it never applied for the refund of the excess amount during the period from the date of release of connection till the time the Appellant filed the case before ZLDSC in the year 2019. Even at first time when the Appellant approached ZLDSC, it did not file dispute of interest on the excess amount recovered. He prayed for the dismissal of the Appeal.

(iii) The Forum while deciding this case has observed as under: -

“Petitioner has a bulk supply connection with sanctioned load of 408.215 KW/ 453.57 KVA. For the release of this connection, estimate no. 91036/2009-10 dated 25.06.2009 was prepared and amount was paid by Petitioner vide BA-16 495/3808 dated 20.07.2009. Estimate was revised down to Rs. 2487280/- and new estimate 01085/2010-11 dated 09.07.2010 was framed. Petitioner was allowed refund for excess deposited

amount in decision passed by Zonal Level Refund Committee in case no. 01/2019. Decision of the case was implemented and accordingly refund of Rs. 1641599/- was allowed in bills of Petitioner vide Sundry no. 161/180/-216C.

Petitioner again filed case no. 767/2020 in Zonal Level Refund Committee for interest on excess amount deposited against estimate for release of bulk supply connection in 2009 but ZLDSC decided it on 05.03.2021 as under:-

“The committee deliberated the case and concluded that there is no provision for providing interest in such cases. The amount claimed is disputed one and does not fall in the competency of this committee. The case is dismissed”.

Respondent in his reply submitted that the interest on excess deposited amount was not allowed as it was neither demanded by Petitioner in Zonal Level Refund Committee case no. 01/2019 nor allowed by Zonal Level Refund Committee either.

In view of the above, Forum is of the opinion that as per Regulation 9.3 of Supply code there is no provision in respect of interest on excess deposited amount where the estimate were originally of higher amount than the revised estimate and revised estimate framed due to some technical reasons. Moreover the Petitioner remained silent for almost 12 years and after such long time demanding interest to get the profit at the cost of PSPCL. Being a HT consumer with load 408.215 kW/453.57 kVA, petitioner was supposed to had acted upon vigilantly as and when the connection was released. Interest is not allowed on excess deposited amount, already refunded in compliance of Zonal Level Refund committee decision in case no. 01/2019.”

- (iv) I have gone through the Appeal as well as Rejoinder of the Appellant and written submissions of the Respondent as well as oral arguments of both the parties during the hearing on

22.03.2022. This Court is of the opinion that although the Appellant did not raise the issue of refund of excess amount deposited by it for many years but the Respondent also did nothing in this regard. The Appellant had pointed out in its Appeal that as per Regulation 9.3.6 of Supply Code, 2016, the Respondent was required to determine the excess amount within 60 days of release of connection and should have refunded it by adjustment against the electricity bills of immediately succeeding months. But the Respondent had failed to comply with the same. The amount was refunded in 07/2019 only. The Appellant had relied upon Regulation No. 9.3.6 of Supply Code, 2014 for payment of interest in this Appeal Case. The Appellant had also relied upon this regulation of Supply Code, 2014 in the petition (Case No. 23/2022) filed before CGRF, Ludhiana for payment of interest on delayed payment of ₹ 16,41,599/-. The Respondent is required to pay the interest on excess amount (₹ 16,41,599/-) as per Regulation 9.3.6 of Supply Code, 2014. Supply Code, 2014 came into force with effect from 01.01.2015 as per PSERC Notification No. PSERC/ Secy/ Regu.97 dated 05.11.2014 and accordingly, Regulation No. 9.3.6 of Supply Code, 2014 shall be applicable w.e.f. 01.01.2015. This Regulation cannot be made applicable in

respect of the period prior to 01.01.2015. As such, the Appellant shall be allowed interest on delayed payment of ₹ 16,41,599/- as per Regulation No. 9.3.6 of Supply Code, 2014 as applicable from time to time. The interest shall be payable from 01.01.2015 to date of actual payment of ₹ 16,41,599/- during the year 2019.

- (v) This is a clear case of violation of the Supply Code. The Respondent had failed to refund the excess amount as per regulations framed by the PSERC.
- (vi) The Forum also erred in disallowing the interest on the excess amount recovered from the Appellant as the provisions contained in the Regulation 9.3.6 of Supply Code, 2014 are very clear. It would be unfair to the Appellant if interest is not allowed in this case. As such, I am not inclined to agree with the decision dated 07.02.2022 of the Forum.

6. Decision

As a sequel of above discussions, the order dated 07.02.2022 of the CGRF, Ludhiana in Case No. CGL-23 of 2022 is hereby quashed. The Respondent is directed to pay the interest on excess amount (₹ 16,41,599/-) for the period from 01.01.2015 to the date when the excess amount was refunded in the account of the Appellant. The interest shall be payable as per

Regulation 9.3.6 of Supply Code, 2014 as applicable 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 22, 2022
S.A.S. Nagar (Mohali)

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