

**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. 20/2022

Date of Registration : 20.04.2022

Date of Hearing : 27.04.2022

Date of Order : 27.04.2022

Before:

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

In the Matter of:

Sh. Bhupinder Singh,
2814/1, Jammu Colony,
Ludhiana.

Contract Account Number: 3002930586 (NRS)

...Appellant

Versus

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

...Respondent

Present For:

Appellant: Sh. Paramjit Singh,
Appellant's Counsel.

Respondent : 1. Er. M.P. Singh,
Addl. SE,
DS Model Town (Spl.) Divn.,
PSPCL, Ludhiana.
2. Sh. Satnam Singh,
AAO.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 28.10.2021 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-232 of 2021, deciding that:

- “i. The bills dated 12.08.2020 to 02/2021 are quashed. The account be overhauled with the final reading recorded in ME Lab. i.e., 64090. The total consumption of 64090 KWH be spread equally on monthly basis from date of installment of disputed meter i.e., 24.06.2016 to date of replacement of same meter i.e., 10.03.2021 and bills be recasted as per applicable tariff from time to time.*
- ii. Dy. CE/ Op. City West Circle, Ludhiana, is directed to investigate the case for recording incorrect meter reading by meter reader for longer period of time and suitable action should be taken against meter reader/meter reading agency for causing revenue loss to the PSPCL.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 13.03.2022 i.e. beyond the period of thirty days of receipt of the decision dated 28.10.2021 of the CGRF, Ludhiana in Case No. CGL-232 of 2021. The Appellant did not submit any evidence in support of deposit of the requisite 40% of the disputed amount for filing the Appeal in this Court as required under Regulation 3.18 (iii)

of PSERC (Forum & Ombudsman) Regulation, 2016 despite requests vide letter nos. 238/OEP/ Bhupinder Singh dated 14.03.2022, 296/OEP/ Bhupinder Singh dated 22.03.2022 and 315/OEP/ Bhupinder Singh dated 28.03.2022. To consider the Appeal for registration, a pre-hearing was fixed in this Court for 04.04.2022 at 12.15 PM and the Appellant was informed vide letter no. 331/OEP/ Bhupinder Singh dated 29.03.2022. In the proceedings dated 04.04.2022, the Appellant requested for 15 days time to deposit the requisite 40% of the disputed amount. So, the next date of pre-hearing was fixed for 20.04.2022 at 12.00 Noon and intimation to this effect was sent to the Appellant vide Memo No. 58/OEP/ Bhupinder Singh dated 04.04.2022. Before the hearing on 20.04.2022, the Appellant's Counsel informed this Court on 19.04.2022 that 40% of the disputed amount had been deposited by the Appellant on 19.04.2022. The Respondent also confirmed by email dated 20.04.2022 that the Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 20.04.2022 and 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. 369-371/OEP/A-20/2022 dated 20.04.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 27.04.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 372-373/OEP/A-20/2022 dated 20.04.2022. 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 27.04.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Counsel stated that the Forum passed order in this case on 28.10.2021 and the Applicant received the copy of the order vide Memo No. 3769 dated 29.10.2021 on 18.11.2021. The Appeal was to be filed within thirty days from the date of receipt of the order i.e. before or on 18.12.2021. But the Appellant met with an accident and he had been suffering from low back pain, particularly in the winter season it changed to a severe pain and the Appellant was not able to do his routine work in normal way. Due to that, the Appeal was filed with a delay of 84 days. The Appellant's Counsel further prayed that the delay in filing the present Appeal was neither intentional

nor deliberate. As such, the delay may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. I find that the Respondent did not object to the condoning of the delay in filing the Appeal in this Court either in its written reply or during hearing in this Court.

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.”

It was 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 Courts/ 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 Representative 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 deliberations 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 NRS Category Connection, bearing Account No. 3002930586 with sanctioned load of 8.00 kW in his name. The Appellant had stated that he was issued a wrong and illegal bill of 48907 units amounting to ₹ 5,15,830/- alongwith previous arrears. This illegal bill was issued for the

period when a curfew/ complete lockdown was there due to Covid-19 Pandemic.

- (ii) The Appellant had paid the electricity bills in routine prior to the disputed bill in question. The Appellant wondered when a bill was issued on 12.08.2020 to him for the energy consumption of 48907 units. It was crystal clear from the meter reading record that the reading of the meter was 13700 as on 28.12.2019 and after that the reading on 12.08.2020 was mentioned as 62607 which caused the total difference of 48907 units. The Appellant submitted that it was well known fact that at that time the Covid-19 was in its peak condition and all the human activities stopped, especially the business and roads were closed. Nobody was allowed “to and fro movement” in that period. During that period when all the human community struggled for survival, nobody thought of business especially when the immune system of the Appellant was very low due to the accident. How the Respondent mentioned the reading, the reason best known to it. It was a case of excess reading which was not admissible at all, at any stage and at any cost.
- (iii) The business premises was checked by the concerned SDO vide LCR No. 81/842 dated 21.08.2021 and it was reported that the premises was utilized 4-5 years back for business purpose

and had been locked afterwards. The Appellant submitted that a certificate issued by the Councilor was also annexed in this regard.

- (iv) The Appellant filed a complaint to get justice but the Forum at one side quashed the bill for 228 days and on the other hand, it directed the Respondent to overhaul the account which was against the natural justice. Hence this Appeal was filed.
- (v) The order passed by the Forum was illegal, against the natural justice and bad in the eyes of law. The order was a non-speaking and ambiguous in itself.
- (vi) The bill in question was issued merely on presumption/erratic behavior of the meter which was totally illegal & wrong and liable to be waived.
- (vii) The consumption was low/nil so the Appellant had been paying the minimum bill as per the provision of law in routine. The premises had not been used since long and remained closed due to Covid-19 and prior to it was not in use because it had been in a damaged/ scrapped condition. So, the question of energy consumption of 48907 units did not arise and it also proved that the bill issued was wrong and illegal.
- (viii) During the peak period of Covid-19 in Punjab, the curfew/ lockdown was imposed from March, 2020 to December, 2020

and exists till date. All the businesses remained closed due to the curfew/lockdown during Covid-19 period. It was understood when the business premises were locked and not in use, the reading was noted so excess i.e. 48907, which was due to erratic behavior of the meter.

- (ix) The SDO himself made a sudden inspection of the business premises in question and he reported after making proper enquiry that the building had been closed during Covid-19 Pandemic period and prior to the Covid-19, it was not in use. Due to this, the electricity consumption was very low in the previous bills.
- (x) It was crystal clear from the reading data chart which showed that the energy consumption was very low in actual.
- (xi) The Appellant challenged the meter on receiving the bill in question. The report was issued without consideration of the facts. The ME Lab depicted that the meter was checked in ME Lab and accuracy was found within limits.
- (xii) Keeping in view the above- mentioned facts, circumstances and legal position of the case; particularly when the business premises was closed due to Covid-19, and prior to it the building had not been in use. Moreover, the data itself speaks and the Appellant had prayed that the appeal may kindly be

accepted. It was further prayed that this Court may pass any other order which might deem fit, just and proper.

(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 Respondent had not made any effort to check the premises when it was in the knowledge of the authorities that the consumption of energy was very low. Moreover, the building premises were checked on the directions made by the Forum.
- (ii) It was not a case of improper recording of reading by the Meter Reader rather it was a case of meter jumping. Even if it was fault of the Meter Reader, the Appellant was penalized for default of others whereas the Appellant was making the payment voluntarily as per the billing Circles. If the Meter Reader was at fault then why the higher authorities of the PSPCL had not checked the building premises.
- (iii) The SDO in his enquiry report, had reported that the building premises were not in use for the last four five years. There was no fun to switch on the points at the stake of own/ other lives. As such, it has happened only due to erratic behavior of the meter causing undue burden upon the Appellant.

- (iv) It was against the principle of natural justice that the Appellant was charged with the huge consumption of energy units. The Appellant had mentioned that the ME Lab report, DDL report was not produced before the Forum and delayed by months. The Forum had to pass adverse comment on the authorities of the ME Lab for non production of DDL report. The reasons of non production of DDL report were best known to the authorities of the ME Lab.
- (v) There is a procedure of testing of meters. As per clause 21.3.6(e) it was clearly mentioned that in case of testing of meter removed from the consumer premises in the licensee's Laboratory the consumer would be informed of the proposed date of testing through a notice at least 3 days in advance. In such case, the seals shall be removed/ broken in the presence of the consumer or his/ her authorized representative and testing undertaken in the Laboratory within days from the date of removal of meter from consumer's premises. However, such testing can be carried out by the distribution licensee in the absence of consumer if he/ she fails to associate with testing even after issue of two registered reminders or he/ she gives his/ her written consent for such testing without his/ her presence. The signatures of the consumer, or his authorized

representative, if present, would be obtained on the test results sheet and a copy thereof supplied to the consumer. If the meter is found to be inaccurate or tempered, the same shall be repacked and sealed and kept in safe custody till disposal of the case in order to preserve evidence. The authorities of the PSPCL totally failed to follow the procedure while testing the meter. Even no free consent was given by the Appellant at all. Hence the meter testing report is void and cannot be taken into consideration as evidence.

(vi) It was prayed that the illegal amount charged in the bills with respect to 48907 units of energy consumption and more in the later bills, may kindly be waived.

(c) Submission during hearing

During hearing on 27.04.2022, the Appellant's Counsel (AC) 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 Appellant was a NRS Category consumer having sanctioned load (SL) as 8.00 kW. According to sanctioned load

of this account, the readings so taken for the period 30.04.2017 to 28.12.2019 were not correct as during this period of 34 months only 453 units were shown as consumed units for a SL of 8.00 kW of NRS connection.

- (ii) On 28.02.2020, meter reader while taking the reading of the said meter found the reading at site as 61941 (verified from online billing), but the consumer was rendered with “P” code bill against average of 11 units & due to Lockdown “N” code bill of 179 units was issued as on 07.05.2020. After that on 26.06.2020, meter reader again took the actual reading of the Appellant as 62607 (verified from online billing) but the consumer was again rendered with 12 units “P” code bill.
- (iii) On 12.08.2020, actual reading was taken as 62607 & a bill of 48907 units for 228 days was issued to the Appellant which he did not pay & challenged the meter on 09.03.2021. The meter was replaced vide MCO No. 100012747609 dated 09.03.2021 effected on 10.03.2021 & it was checked in ME Lab vide ME Challan No. 873 dated 15.03.2021, where accuracy of the meter was found within limits on dial test & DDL was taken on MRI. The Appellant approached the Forum against the actual consumption bills.

- (iv) The Respondent submitted that the case was decided by the Forum on its merits. It was actual reading bill issued for a period of 228 days for 48907 units though issued late due to some technical errors.
- (v) The Respondent admitted that the premises of the appellant was checked vide LCR No. 81/842 dated 21.08.2021.
- (vi) As per CGRF decision, it was an accumulation of units consumed case. It was a case of improper recording of readings by the meter reader which was already mentioned in the decision of CGRF at point no. 6 (ii). So, the Forum had rightly decided the case to spread the whole consumption in dispute on monthly basis for the period from 24.06.2016 to 10.03.2021.
- (vii) The Respondent denied the contention of the Appellant that the meter was erratic, as the meter of the Appellant was checked at ME Lab and results of the same were 'ok' and accuracy of the meter was found within limits on dial test. The checking of the meter at ME Lab was done in the presence of senior officer of PSPCL and working of the meter was found within limits.
- (viii) The Appeal was liable to be dismissed as it was a case of billing of actual units consumed.

(b) Submission during hearing

During hearing on 27.04.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal of the Appellant.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of the bill dated 12.08.2020 for a period of 228 days from 28.12.2019 to 12.08.2020 of ₹ 4,48,390/- for the consumption of 48907 units on 'O' Code and onwards upto bill dated 27.02.2021 amounting to ₹ 5,15,830/-, further revised to ₹ 5,15,679/- after implementation of the decision 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 was issued bill dated 12.08.2020 for a period of 228 days from 28.12.2019 to 12.08.2020 of ₹ 4,48,390/- for the consumption of 48907 units which was not admissible at all. The Appellant filed his case in the Forum but did not get the relief. He argued that the premises of the Appellant was in a damaged/scrapped condition, so it had not been used since long and it remained

closed due to its damaged condition as well as due to Covid-19 lockdown also. He argued that the business premises was checked by the concerned SDO vide LCR No. 81/842 dated 21.08.2021 and it was reported that the premises was utilized 4-5 years back for business purpose and had been locked afterwards. He argued that it was the reason of low consumption by the Appellant and the Appellant was paying minimum charges due to closure of the premises. He further argued that it was a case of excess reading due to erratic behavior of the meter and prayed for the relief.

- (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 demand made by the Respondent was legal and valid and the order had been rightly passed by the CGRF, Ludhiana. He argued that according to sanctioned load of this account, the readings so taken for the period 30.04.2017 to 28.12.2019 were not correct as during this period of 34 months, only 453 units were shown as consumed units for sanctioned load of 8.00 kW of NRS connection. He submitted that on 12.08.2020, actual reading was taken as 62607 & a bill of 48907 units for 228 days was issued to the Appellant which he

did not pay & challenged the meter on 09.03.2021. The meter was replaced vide MCO No. 100012747609 dated 09.03.2021 effected on 10.03.2021 & it was checked in ME Lab vide ME Challan No. 873 dated 15.03.2021, where accuracy of the meter was found within limits on dial test & DDL was taken on MRI. As per CGRF decision, it was an accumulation of units consumed case. It was a case of improper recording of readings by the meter reader which was already mentioned in the decision of CGRF at point no. 6 (ii). He admitted that the premises of the appellant was checked vide LCR No. 81/842 dated 21.08.2021. He denied the contention of the Appellant that the meter was erratic as it was found OK in ME Lab. He prayed that the Appeal was liable to be dismissed as it was a case of billing of actual units consumed by the Appellant.

(iii) The Forum in its order dated 28.10.2021 had observed as under: -

“Forum observed that petitioner was issued bill dated 12.08.2020 for the consumption of 48907 KWH for the period of 28.12.2019 to 12.08.2020 (228 days) amounting to Rs. 448390/-. Not satisfied with the bill consumer challenged the meter and same was replaced vide MCO No. 100012747609 dated 09.03.2021 effective on 10.03.2021. Meter was checked in ME Lab vide Challan No. 873 dated 15.03.2021 and accuracy was found within limits. Not satisfied with the bill, petitioner filed case in CGRF, Ludhiana.

Year	2015		2016		2017		2018		2019		2020		2021	
Month	Cons.	Code												
Jan			11638	O			0	O						
Feb			2580	O	13245	C			0	O	11	P	0	O

Mar							0	O					
April			3318	O	0	O	0	O	421	O			
May											179	N	
June			4390	F	0	O			145	P	12	P	
July							0	O					751 N
Aug	6301	O					0	O	0	O	48907	O	
Sept													
Oct	9627	O					0	O	185	P	1055	O	
Nov					0	O							
Dec	6513	O					0	O	32	O	428	O	

From the above consumption data, the annual consumption during 2015-21 has been recorded as 22441(from Aug to Dec 2015), 21926, 13245, 0, 783, 50592&721 units (upto July 2021) respectively. It is observed that from 04/2017 to 02/2019 '0' consumption was recorded in the bills and reduced consumption thereafter due to incorrect readings which resulted in accumulation of consumption/readings. After that petitioner was issued bill for the month of 06/2019, 10/2019, 02/2020, 06/2020 on 'P' code which shows that reading at site was different from billed. It is observed that the exonerated consumption of 48907 KWH units was never recorded in any billing cycle during the previous period for which data was made available by the Respondent. On the direction of the Forum, site of the Petitioner was checked by Respondent vide LCR no. 81/842 dated 21.08.2021 and reported that premises was utilized 4-5 years back for business purpose and is locked afterwards. Forum also observed DDL report where final reading was recorded as 64090 KWH/67607 KVAH and the same reading was recorded in the ME Lab and reported that the accuracy of meter has been found within limits. Further, the readings were observed as under:
Reading on dated 28.02.2020: 61941 KWH(verified from online billing)
Reading on dated 26.06.2020:62607 KWH(verified from online billing)
As per DDL, the cumulative energy shown on 01.06.2020 is 62642.
Further as per LDHF formula, the monthly consumption comes out as:

With sanctioned load of 8.00 Kw : 960 units/month

From the above data, NIL monthly consumption recorded during 2017& 2018, does not match with the above monthly consumption worked out as per LDHF formula or actual consumption recorded from 12.08.2015 to 06/2016, hence does not seem to be justified. The accuracy of the meter was found within limits in ME Lab and moreover the final reading in DDL is 64090 KWH/ 67607 KVAH. As per DDL the cumulative energies are available from 25.04.2020 upto removal of meter. There is no jump in the readings.

Therefore, Forum is of the opinion that this is case of accumulation of reading/consumption due to non-recording of correct readings.

The bills dated 12.08.2020 to 02/2021 are not correct. Matter needs to be investigated and suitable action be taken against meter reading agency.

Keeping in view the above, Forum came to unanimous conclusion that, the bills dated 12.08.2020 to 02/2021 are quashed. The account be overhauled with the final reading recorded in ME Lab i.e., 64090. The total consumption of 64090 KWH be spread equally on monthly basis from date of installment of disputed meter i.e., 24.06.2016 to date of replacement of same meter i.e., 10.03.2021 and bills be recasted as per applicable tariff from time to time. Matter needs to be investigated and suitable action be taken against meter reading agency.”

- (iv) I have gone through the written submissions made by the Appellant in the Appeal as well as Rejoinder, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 27.04.2022. It is observed that the decision of the Forum to distribute the total consumption of 64090 kWh equally on monthly basis from the date of installation of the disputed meter till its removal is not based on any regulations/ instructions of the PSERC & the Distribution Licensee and the Forum has erred in passing such order. The overhauling of the accounts of the Appellant for the period 24.06.2016 to 10.03.2021 is against the law/ regulations and as such, cannot be upheld by this court.
- (v) The Appellant was issued bill on 12.08.2020 for a period of 228 days from 28.12.2019 to 12.08.2020 of ₹ 4,48,390/- for the consumption of 48907 units on ‘O’ Code and on receiving the bill amounting to ₹ 5,15,830/- on 27.02.2021, the Appellant

challenged the working of the meter on 09.03.2021. The meter was changed vide MCO No. 100012747609 dated 09.03.2021 effected on 10.03.2021. The meter was checked in ME Lab vide Challan No. 873 on 15.03.2021 where the working of the meter was found within permissible limits on dial test & DDL was taken on MRI. The Appellant gave consent to test the meter in ME Lab in his absence. The consent of the Appellant was produced by the Respondent during hearing on 27.04.2022. The copy of the same was given to the Appellant's Counsel during hearing and he did not raise any objection to it. This Court observed that data of Cumulative Energies/Reading from 25.04.2020 till the removal of meter was available in the DDL Report. The Cumulative Energies/Reading as per DDL Report was 62385 kWh on 25.04.2020 and 64090 kWh on 01.12.2020 which confirmed that there was no jump in readings from 25.04.2020 till the removal of the meter.

- (vi) In view of the above, this Court is not inclined to agree with the decision dated 28.10.2021 of the Forum in Case No. CGL-232 of 2021. The bill dated 12.08.2020 for a period of 228 days from 28.12.2019 to 12.08.2020 of ₹ 4,48,390/- for the consumption of 48907 units issued on 'O' Code is correct and hence the bill dated 27.02.2021 of ₹ 5,15,830/-, including

previous arrears of ₹ 5,14,583/-, is recoverable from the Appellant.

- (vii) There is violation of Standards of Performance as 'P' and 'N' Codes were cleared after 228 days. The licensee is directed to take appropriate action against delinquent officials/ officers.

7. Decision

As a sequel of above discussions, the order dated 28.10.2021 of the Forum in Case No. CGL-232 of 2021 is hereby quashed. The bill dated 12.08.2020 for a period of 228 days from 28.12.2019 to 12.08.2020 of ₹ 4,48,390/- for the consumption of 48907 units issued on 'O' Code is correct and hence the bill dated 27.02.2021 of ₹ 5,15,830/-, including previous arrears of ₹ 5,14,583/-, is recoverable from the Appellant.

- 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.

April 27, 2022
S.A.S. Nagar (Mohali)

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

