

**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. 28/2022

Date of Registration : 31.05.2022

Date of Hearing : 09.06.2022

Date of Order : 09.06.2022

Before:

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

In the Matter of:

M/s. J.B. Dyeing,
Village Kakowal, Noor Wala Road,
Ludhiana-141008.

Contract Account Number: 3002800585 (MS)

...Appellant

Versus

Addl. Superintending Engineer,
DS Sunder Nagar (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Gurdev Kumar,
Appellant's Representative

Respondent : Er. J.S. Jandu,
Addl. Superintending Engineer,
DS Sunder Nagar (Spl.) Divn.,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 24.03.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-276 of 2021, deciding that:

“Keeping in view of the above Forum observes and decides that as the Respondent himself admitted/ submitted during the hearing of the case that security amount of alongwith interest needs to be adjusted and (Rs. 28198/- had already been updated) therefore, there stands no dispute which needs the interference of the Forum and further the supply is cater on LT, no HT rebate is admissible. The case is disposed off accordingly.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 30.05.2022 i.e. beyond the period of thirty days of receipt of decision dated 24.03.2022 of the CGRF, Ludhiana in Case No. CGL-276 of 2021. The Appellant had not submitted 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. The Appellant was requested to clarify the position vide letter no. 515/OEP/ M/s. J.B. Dying dated 30.05.2022. The Appellant

confirmed by e-mail on 31.05.2022 that 40% of disputed amount has been deposited vide receipt no. 16299785 dated 02.08.2021 for ₹ 40,785/- and receipt no. 179221771 dated 26.05.2022 for ₹ 40,785/-. Therefore, the Appeal was registered on 31.05.2022 and copy of the same was sent to the Addl. SE/ DS Sunder Nagar (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. 525-527/OEP/A-28/2022 dated 31.05.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 09.06.2022 at 12.30 PM and intimation to this effect was sent to both the parties vide letter nos. 546-47/OEP/A-28/2022 dated 02.06.2022. 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 09.06.2022, the issue of condoning of delay in filing the Appeal in this Court was taken up. The Appellant's Representative stated that the Appellant received decision dated 24.03.2022 of the Forum in the second week of April, 2022 and it can be confirmed from the Forum. The

intimation of decision has been delayed by the Forum. Thereafter, the Appellant took some time to know the procedure for filing the Appeal. The Appellant's Representative further prayed that the delay in filing the present Appeal may kindly be condoned and the Appeal be adjudicated on merits in the interest of justice. The Respondent did not object to the request of condoning of delay.

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 Appellant received decision dated 24.03.2022 of the Forum in the second week of April, 2022 i.e. beyond the period of 21 days from the decision dated 24.03.2022 of the Forum. The Appeal was received in this

Court on 30.05.2022. 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. 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 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 Medium Supply Category Connection, bearing Account No. 3002800585. The Appellant had stated that the Respondent had raised demand of ₹2,03,921/- as AACD Security amount in April, 2021. But the

Appellant was not satisfied with this demand and approached the Forum but the decision of the Forum was vague.

- (ii) The Forum in its decision, had mentioned that ₹ 28,198/- had already been adjusted but it had not been adjusted till date. No clear instruction was given in its decision to adjust the Security amount already deposited against the notice and interest on Security amount was also not given.
- (iii) As per Instruction of PSPCL conveyed vide Memo No. 297/302/DD/SR-103 dated 26.03.2021, security needs to be adjusted as per prevalent rates applicable time to time. From 10.05.2001 onwards, security rate for MS Consumer is ₹ 750/- per kW.
- (iv) The Appellant also submitted that in 2004 its load was 40 kW and Security was not updated by the PSPCL. Now, its load was 97 kW so according to rates of PSPCL Security from 40 to 97 kW is equal to $750 \times 57 = ₹ 42,750/-$. Before 2004, the Securities were also deposited for release of connection/ extension of load upto 40 kW by the Appellant but PSPCL had not updated it.
- (v) Now, the PSPCL may furnish the certificate as instruction of Commercial Section of the PSPCL as per above circular and update its Securities. So, notice of AACD needs to be revised after adjusting the Security amount already deposited and

interest should also be provided till date on Security amount already deposited from time to time.

It was prayed that the Appeal may be accepted.

(b) Submissions in the Rejoinder

The Appellant filed a Rejoinder and pointed out that security amounting to ₹ 42,750/- due to enhancement of load from 40 kW to 97 kW had not been accounted. He pleaded that security should be updated in view of CE/ Commercial instructions dated 26.03.2021. Interest on security should be paid as per Supply Code regulations.

(c) Submission during hearing

During hearing on 09.06.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal/ 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 having a Medium Supply Category Connection, bearing Account No. 3002800585 running in the name of M/s J.B. Dying, residing at Nand Puri, Ludhiana with sanctioned load as 97.50 kW.

- (ii) The Appellant had deposited 40% of disputed amount i.e. ₹ 40,785/- on 02.08.2021 and ₹ 40,785/- on 26.05.2022. The Sub Divisional Officer/ DS Sunder Nagar Division (Spl.) Divn., Ludhiana had issued a notice of ₹ 2,03,921/- after revision of AACD dated 08.03.2021 vide Memo No. 878.
- (iii) After going through records, it was found that the Appellant had deposited an amount of ₹ 15,750/- vide BA 16 Receipt No. 489/68714 dated 29.10.2004 and ₹ 20,250/- vide BA 16 Receipt No. 18/10556 dated 08.06.2012 but in SAP, Security was updated with ₹ 7,802/- only. After checking of the record, it was found that ₹ 28,198/- was needed to be updated in account of the Appellant. So, ₹ 28,198/- had already been updated as a Security in account of the Appellant on 05.05.2021. Thus, the Appellant was required to deposit an amount of ₹ 1,75,723/-.
- (iv) At present, Security of the Appellant in account of PSPCL was ₹ 2,11,723/-. There was no record about ₹ 42,750/- that was deposited by the Appellant after 2004 as claimed by the Appellant. Interest on Security had been given to the Appellant for ₹ 27,988/- vide SCA No. 192/98 R505A dated 02.06.2022.

- (v) Moreover, the Forum also decided that there was no dispute about Security amount which needed the interference of the Forum.

It was prayed that the Appeal of the Appellant may be dismissed.

(b) Submission during hearing

During hearing on 09.06.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed to dismiss the Appeal. Respondent admitted during hearing that the Appellant has deposited ₹ 8,750/- as ACD vide BA-16 Receipt No. 378/18152 dated 16.03.1990 at the time of release of 49.920 kW MS connection, ₹ 15,750/- as ACD vide BA- 16 Receipt No. 489/68714 dated 29.10.2004 while releasing extension of 20.242 kW load and making the total load as 70.162 kW. Then the Appellant deposited ₹ 20,250/- vide BA-16 Receipt No. 18/10556 dated 08.06.2012 while second extension of load 27.395 kW was allowed and thus making total load as 97.535 kW. Total security deposited = ₹ 8,750/- + ₹ 15,750/- + ₹ 20,250/- = ₹ 44,750/-

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of Notice No. 878 dated 08.03.2021 for deposit of AACD amounting to

₹ 2,03,921/- after adjusting already deposited Security amounting to ₹ 7,802/-.

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

- (i) The Appellant's Representative (AR) reiterated the submissions made in the Appeal. He pleaded that the Respondent had raised demand of ₹ 2,03,921/- as AACD Security amount in April, 2021 and the Appellant was not satisfied with this demand and approached the Forum. No clear cut instructions were given by the Forum in its decision to adjust the Securities already deposited against the notice and interest on Security was also not given. The already deposited Security had not been adjusted in the demand raised by the Respondent and as such, the notice issued by the Respondent was liable to be revised.
- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and pleaded that the amount of Security (Consumption) amounting to ₹ 36,000/- - ₹ 7,802/- (already adjusted)= ₹ 28,198/- deposited by the Appellant, stood adjusted and interest on the amount of Security amounting to ₹ 27,988/- had been given to the Appellant vide SCA No. 192/98R505A dated 02.06.2022. In view of this, the Appellant was required to make payment of ₹ 1,75,723/- only

and the decision of the Forum stood implemented. Therefore, the Respondent prayed for dismissal of the Appeal of the Appellant being not maintainable and devoid of merit.

(iii) The Forum in its decision dated 24.03.2022 had observed as under: -

“Forum also observed that the copies of BA-16 submitted by Petitioner/PR in support of ACD, but none of which was found related to ACD by the Respondent instead was related to service connection charges, theft, cheque failure etc. Forum observed that the Petitioner was so casual in raising his grievance, appearing on hearing dates for necessary discussion and also submitted irrelevant documents.

Forum further observed that when the Respondent himself admitting that security amount of Rs. 28198/- needs to be adjusted against ACD notice and also updated by Respondent then why can't the interest be provided on its own level after approval of competent authority. Forum noticed that if the amount was credited as per the chronology statement was otherwise than deposited by the Petitioner on account of ACD, then Respondent should bring into the notice of the Forum as well as other authorities for necessary corrective action, but the respondent fails to do so. Forum did not understand on which basis Respondent is submitting reply when as per record the amount of ACD stands deposited, but Respondent reported otherwise”.

The Forum further decided as under: -

“Keeping in view of the above Forum observes and decides that as the Respondent himself admitted/ submitted during the hearing of the case that security amount of alongwith interest needs to be adjusted and (Rs. 28198/- had already been updated) therefore, there stands no dispute which needs the interference of the Forum and further the supply is cater on LT, no HT rebate is admissible. The case is disposed off accordingly.”

This Court is not inclined to agree with the decision of the Forum.

(iv) The Respondent admitted during hearing on 09.06.2022 that the security amount deposited by the Appellant has not been adjusted correctly and needs review at his end.

(v) I have gone through the written submissions made by the Appellant in the Appeal/ Rejoinder and by the Respondent in its written reply. It is an admitted fact that the Appellant had deposited some amount on account of Security (Consumption) and Security (Meter) at the time of release of connection and thereafter upon the extension of loads. The Security amount needs to be recalculated after adjusting already deposited Securities. In view of this, the impugned notice dated 08.03.2021 is hereby quashed. The Security amount should be calculated as per Supply Code, 2014 Regulation No. 16.4. A fresh notice should be issued to the Appellant upon recalculation as per Regulation 16.4 of Supply Code, 2014 after adjusting already deposited security amount. The amount of Security calculated as above should be recovered as per Supply Code Regulations. The interest on the already deposited security amount should be given as per Regulation No. 17.1 of the Supply Code, 2007 and Supply Code, 2014 as applicable from time to time.

7. Decision

As a sequel of above discussions, the order dated 24.03.2022 of the CGRF, Ludhiana in Case No. CGL-276 of 2021 is hereby quashed. The Respondent is directed to recalculate the amount

of Security (Consumption) as per Regulation 16.4 of the Supply Code, 2014 after adjusting already deposited Security (Consumption) and the Respondent is directed to issue fresh notice of Security (Consumption) accordingly. Further, the Respondent is directed to give the interest on Security amount deposited by the Appellant as per Regulation No. 17.1 of Supply Code, 2007 and Supply Code, 2014 as applicable from time to time.

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.

June 09, 2022
S.A.S. Nagar (Mohali)

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