

**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. 31/2022

**Date of Registration : 15.06.2022
Date of Hearing : 20.06.2022/24.06.2022
Date of Order : 24.06.2022**

Before:

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

In the Matter of:

Sh. Ashvani Kumar,
New Lajpat Nagar,
Noor Wala Road,
Ludhiana-141001.

Contract Account Number: 3002800597 (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. S.E.,
DS Sunder Nagar (Spl.) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 26.05.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-463 of 2021, deciding that:

- “i. 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 Rs. 27809/- needs to be adjusted against AACD notice and updated accordingly by Respondent himself and interest calculations to which Petitioner agreed therefore, there stands no dispute which needs the interference of the Forum, Interest be allowed after approval of competent authority.*
- ii. The bill dated 04.01.2021 & 18.01.2021 being generated on actual basis are correct & recoverable.*
- iii. Respondent may take appropriate action as per the observations in ECR no. 44/996 dated 10.12.2020 & report of ME Lab in challan no. 7980 dated 01.03.2021.”*

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 15.06.2022 i.e. within the stipulated period of 30 days of the decision dated 26.05.2022 of the CGRF, Ludhiana in Case No. CGL-463 of 2021. The Appellant confirmed that 100% of disputed amount had been deposited by him vide receipt no. 167152873 dated 21.10.2021. Therefore, the Appeal was registered on 15.06.2022 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. 606-08/OEP/A-31/2022 dated 15.06.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 20.06.2022 at 12.45 PM and intimation to this effect was sent to both the parties vide letter nos. 625-26/OEP/A-31/2022 dated 17.06.2022. None appeared on 20.06.2022. A copy of proceedings dated 20.06.2022 was sent to both the parties vide letter nos. 639/640/OEP/A-31/2022 dated 20.06.2022. Next date of hearing was fixed on 24.06.2022 at 11.10 AM as per request of Appellant's Representative because he was not feeling well and could not attend the Court on 20.06.2022. Hearing was held on 24.06.2022 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 Medium Supply Category Connection, bearing Account No. 3002800597 with sanctioned load of 78.64 kW/ 87.38 kVA under DS Sunder Nagar (Spl.) Division, Ludhiana.
- (ii) The Respondent had raised a demand of ₹ 1,64,905/- as AACD (Security Amount) in April, 2021. The Appellant was not satisfied with it and approached the CGRF, Ludhiana but the decision of the Forum was vague.
- (iii) In the decision of the Forum, it was mentioned that ₹ 15,864/- had already been adjusted but it has not been adjusted till date. No clear cut instructions were given in the decision to adjust the Securities already deposited against the notice and interest on Security was also not given.
- (iv) As per instruction of PSPCL vide Memo No. 297/302/DD/SR-103 dated 26.03.2021, security needs to be adjusted as per prevalent rates applicable from time to time. From 10.05.2021 onwards, Security rates for MS consumer was ₹ 750 per kW.

- (v) The Respondent had admitted that ₹ 5,500/- were paid on 16.03.1999 for extension of load from 20 kW to 32 kW & ₹ 28,600/- on 20.06.2005 for extension of load from 32 kW to 63 kW as Securities. But these securities were deposited for total extension of load from 20 kW to 63 kW. What about the Securities for load upto 20.00 kW during release of connection? In the year 2005, the load of the Appellant was 63 kW and at present it was 78.64 kW.
- (vi) So after 2005, the load of the Appellant was extended for 78-63 = 15.00 kW for which Security had not been accounted for by the Respondent which needed to be $15 \times 750 = ₹ 11,250/-$. The Respondent had not accounted for all the Securities deposited by the Appellant during release/ extension of loads.
- (vii) If the receipt of Securities was not available with PSPCL, action should be taken as per Memo No. 297/302/DD/SR-103 dated 26.03.2021 of Commercial Wing and the Securities of the Appellant be updated with the prevalent rate list provided in Circular. So, notice of AACD needs to be revised after adjusting all the securities already deposited and interest also be provided till date on security already deposited from time to time.
- (viii) The Appellant prayed to decide the case as per Memo No. 297/302/DD/SR-103 dated 26.03.2021 of Commercial Wing

and to revise the notice after adjusting all the securities upto 78.64 kW/87.38 kVA and to give interest on them up to date.

(b) Submission during hearing

During hearing on 24.06.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same. He was satisfied with the action taken by the Respondent on this Appeal.

(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 MS Category Connection, bearing Account No. 3002800597 with sanctioned load of 78.64 kW and contract demand as 87.38 kVA under DS Sunder Nagar (Spl.) Divn., PSPCL, Ludhiana.
- (ii) The Appellant had raised an objection over a notice for ₹ 1,64,905/- as AACD. The notice was served upon the Appellant after adjustment of already updated ACD of ₹ 6,291/- in his account, hence notice vide memo no. 900 dated 08.03.2021 was sent to the Appellant for total AACD amounting to ₹ 1,71,196/-. The Appellant had not deposited the said amount. Thereafter, an amount of ₹ 1,64,905/- was debited

to the account of the Appellant on 09.04.2021. The Appellant had deposited full amount of AACD i.e. ₹ 1,71,196/-.

- (iii) The record of the Appellant was not available. But it had been observed in the case of M/s. Vikas Dying that this connection (M/s. Vikas Dying) was applied on 28.07.1987 and ACD was charged @ 60/- per kW with allotment of account no. SP0273. Application of the Appellant was not available. However, it was observed from the Service Register record that it was SP category connection having load of 19.980 kW with account no. SP0322.
- (iv) It was observed that account no. SP0322 and account no. SP0273 were nearby and account no. SP0273 was applied in 1987. The account No. 322 must had been applied after 1987 in subsequent year or two. From PSPCL instructions issued vide memo no. 297/302/DD/SR-103 dated 26.03.2021, it was clear that from 1982 to 1993, the ACD of SP category was 60/- per kW only.
- (v) It was presumed that adjustment of ₹ 1,200/- (20 kW*60) should be given to the Appellant as per Memo No. 297/302/DD/SR-103 dated 26.03.2021 after Pre-audit from AO/ Field. As per record found, the Appellant had applied for extension of load of 11.952 kW from 19.980 kW after depositing ACD of ₹ 5,500/- vide BA16 Receipt No. 375

dated 16.03.1999 and total load became 31.932 kW. After that Appellant had applied for an additional load of 31.710 kW and deposited ACD amounting to ₹ 24,000/- and ₹ 4,600/- as a Meter Security vide BA16 Receipt No. 143/81624 dated 20.06.2005 and load became 63.642 kW. After that again the Appellant had applied for an additional load of 15 kW about which case was not available but load extension date can be confirmed from ledgers 03/2007. Thus, adjustment of ₹ 11,250/- (15kW*750) should be given to the Appellant as per Memo No. 297/302/DD/SR-103 dated 26.03.2021 after Pre-audit from AO/ Field.

- (vi) The Appellant had given wrong information about ₹ 15,864/- because this amount was related with Sh. Janak Raj case (3002800323). Instead of this, the Forum had asked for adjustment of ₹ 27,809/- which had already been adjusted on 30.07.2021.
- (vii) The instructions of PSPCL vide Memo No. 297/302/DD/SR-103 dated 26.03.2021 were applicable only if concerned office had not any record about the connection and credit of amount will be given after Pre-audit.
- (viii) The credit of interest on security of ₹ 51,795/- (i.e. after deduction of TDS) would be given to the Appellant after Pre-

audit because of instructions as per Memo No. 297/302/DD/SR-103 dated 26.03.2021.

(b) Submission during hearing

During hearing on 24.06.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. It was admitted that security already deposited was not correctly reflected in notice served vide Memo No. 900 dated 08.03.2021 and hence this notice is required to be revised now.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of Notice No. 900 dated 08.03.2021 for deposit of Security (Consumption) amounting to ₹ 1,64,905/- after adjusting already deposited Security amount of ₹ 6,291/-.

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 ₹ 1,64,905/- 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. He pleaded that the Respondent had not accounted for all the Security amounts deposited by the Appellant during release of connection/ extension of loads. If the receipts of security amounts were not available with the PSPCL, action should be taken as per Memo No. 297/302/DD/SR-103 dated 26.03.2021 of the CE/Commercial, PSPCL and the security amount should be updated as per the prevalent rate list provided in the said Memo. So, notice of AACD needs to be revised after adjusting the security amount already deposited and interest should also be paid from the dates of Security amount already deposited from time to time.

- (ii) On the other hand, the Respondent controverted the pleas raised by the Appellant in its Appeal and pleaded that the instructions of PSPCL conveyed vide Memo No. 297/302/DD/SR-103 dated 26.03.2021 were applicable only if concerned office had no record about the connection of the consumer. In the present case, the Appellant had some records related to deposit of security amounts and in other remaining cases where there is no record available the amount had been taken as per No. 297/302/DD/SR-103 dated 26.03.2021 and considered as deposited by the Appellant. He further submitted that the

CGRF decision for the adjustment of ₹ 27,809/- had already been complied on 30.07.2021.

(iii) The credit of interest on security of ₹ 51,795/- (i.e. after deduction of TDS) will be given to the Appellant after Pre-audit because of instructions as per No. 297/302/DD/SR-103 dated 26.03.2021.

(iv) The Forum in its decision dated 26.05.2022 had observed as under: -

“Respondent submitted necessary supporting documents and certificate that the ACD amounting Rs. 27809/- has never been adjusted before and already adjusted against AACD notice and whole of the security amount stands deposited.”

The Forum further decided as under:

- i. *“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 Rs. 27809/- needs to be adjusted against AACD notice and updated accordingly by Respondent himself and interest calculations to which Petitioner agreed therefore, there stands no dispute which needs the interference of the Forum, Interest be allowed after approval of competent authority.*
- ii. *The bill dated 04.01.2021 & 18.01.2021 being generated on actual reading basis are correct & recoverable.*
- iii. *Respondent may take appropriate action as per the observations in ECR no. 44/996 dated 10.12.2020 & report of ME Lab in challan no. 7980 dated 01.03.2021.”*

The issues decided by the Forum at Sr. No. (ii) & (iii) have not been raised in the Appeal made by the Appellant before this

Court. Only the decision given by the Forum at Sr. No. (i) has been challenged in the Appeal before this Court.

This Court is not inclined to agree with the Sr. No. (i) of the decision of the Forum about which the Appellant made an Appeal in this Court.

- (v) The Respondent admitted during hearing on 24.06.2022 that the security amount deposited by the Appellant had not been adjusted correctly.
- (vi) I have gone through the written submissions made by the Appellant in the Appeal 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 No. 900 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.

6. Decision

As a sequel of above discussions, the order dated 26.05.2022 of the CGRF, Ludhiana at Sr. No. (i) in Case No. CGL-463 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.

- 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.

June 24, 2022
S.A.S. Nagar (Mohali)

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

