

**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. 33/2022

**Date of Registration : 16.06.2022
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:

M/s. Jairath Dying,
Nand Puri Colony Kali Sadak,
Ludhiana-141001.

Contract Account Number: 3002800582 (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.) Division,
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-405 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 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-405 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 and Vakalatnama signed by all the partners authorising Sh. Gurdev Kumar (AR) to file this Appeal was not submitted. Accordingly, the Appellant was requested vide letter no. 514/OEP/ M/s. Jairath Dying dated 30.05.2022 to remove the

deficiencies. The Appellant confirmed that 40% of disputed amount has been deposited and sent a signed Vakalatnama by e-mail on 16.06.2022. Therefore, the Appeal was registered on 16.06.2022 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. 614-616/OEP/A-33/2022 dated 16.06.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 20.06.2022 at 01.15 PM and intimation to this effect was sent to both the parties vide letter nos. 621-622/OEP/A-33/2022 dated 17.06.2022. A copy of proceedings dated 20.06.2022 was sent to both the parties vide letter nos. 643/644/OEP/A-33/2022 dated 20.06.2022. None appeared on 20.06.2022. Next date of hearing was fixed as 24.06.2022 at 11.30 AM as per request of the Appellant's Representative because he was not feeling well on 20.06.2022. 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 24.06.2022, 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 in the last week of March as he had personally collected it from the office of 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. 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.”

The Court 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 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. 3002800582 running under DS Sunder Nagar (Spl.) Division, PSPCL, Ludhiana.

- (ii) The Appellant had stated that the Respondent had raised demand of ₹ 2,03,790/- 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. The Forum in its decision, had mentioned that ₹ 10,864/- 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 the 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 10.05.2001 onwards, security rate for MS consumer is ₹ 750/- per kW.
- (iv) The Respondent admitted that the Appellant had deposited ₹ 690/- on 02.04.1986, ₹ 3,300/- on 09.01.1992 and ₹ 14,625/- on 29.06.1999. But if added these securities total amount comes out to be ₹ 18,615/- only. How with ₹ 18,615/- as security, load of 96.890 kW was released by the PSPCL? The Respondent had not accounted all the securities deposited by the Appellant. If the receipt of securities was not available with the PSPCL, action should be taken as per Memo No. 297/302/DD/SR-103

dated 26.03.2021 of CE/ Commercial and all the Securities of the Appellant should be updated with the prevalent rate list provided in the Circular. So, notice of AACD needs to be revised after adjusting the security amount already deposited and interest should also be paid till date on security amount already deposited from time to time.

(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 the 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 Medium Supply Category Connection, bearing Account No. 3002800582 with sanctioned load of 96.800 kW running in the name of M/s. Jairath Dying residing at Nand Puri, Ludhiana.
- (ii) The Appellant had applied for an electricity connection for 18.593 kW under ARPC Scheme and had deposited ₹ 690/- as ACD vide BA 16 No. 328/28567 dated 02.04.1987. On

29.11.1988; AEE/ Khanna checked the premises of the Appellant and found the excess connected load as 36.181 kW. So, the Appellant had deposited ₹ 5,630/- as service connection charges vide BA 16 No. 421/36934 dated 09.06.1989 for extension of load of 39.481 kW.

- (iii) The Appellant applied for an extension of load of 18.898 kW and deposited ₹ 3,300/- as ACD vide BA 16 No. 34/20858 dated 09.01.1992. After that the Appellant applied for an additional load of 38.507 kW & deposited ₹ 14,625/- as ACD vide BA 16 No. 236/50824 dated 29.06.1999.
- (iv) The instructions of the PSPCL vide Memo No. 297/302/DD/SR-103 dated 26.03.2021 are applicable only if concerned office had not any record about the connection of the Appellant.
- (v) The credit of interest on Security of ₹ 20,300/- (i.e. after deduction of TDS) had already given to the Appellant on 06.06.2022.
- (vi) Moreover, the Forum had also decided on 24.03.2022 that security amount alongwith interest needs to be adjusted and ACD amount had already been updated. The decision of the Forum had already implemented.

(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 to dismiss the Appeal. The Respondent admitted that already deposited security amount has not been correctly adjusted in Notice No. 910 dated 08.03.2021. The notice is required to be modified.

6. Analysis and Findings

The issue requiring adjudication is the legitimacy of Notice No. 910 dated 08.03.2021 for deposit of Security (Consumption) amounting to ₹ 1,56,064/- after adjusting already deposited security amounting to ₹ 7,751/-.

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 ₹ 1,56,064/- as AACD (Security Amount) in April, 2021 and the Appellant was not satisfied with this demand and approached the Forum. No clear 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/extension of loads. If the receipts of security amounts were not available with the PSPCL, action should have been 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 provided from the date of security amount already deposited from time to time.

- (ii) The Respondent submitted in reply to the Appeal that the Appellant had applied for an electricity connection for 18.593 kW under ARPC Scheme and had deposited ₹ 690/- as ACD vide BA 16 No. 328/28567 dated 02.04.1987. On 29.11.1988; AEE/ Khanna checked the premise of the Appellant and found the excess connected load of 36.181 kW. So, the Appellant had deposited ₹ 5,630/- as service connection charges vide BA 16 No. 421/36934 dated 09.06.1989 for extension of load of 39.481 kW. The Appellant applied for an extension of load of 18.898 kW and deposited ₹ 3,300/- as ACD vide BA 16 No. 34/20858 dated 09.01.1992. After that the Appellant applied for

an additional load of 38.507 kW & deposited ₹ 14,625/- as ACD vide BA 16 No. 236/50824 dated 29.06.1999. The instructions of the PSPCL vide Memo No. 297/302/DD/SR-103 dated 26.03.2021 are applicable only if concerned office had not any record about the connection of the Appellant. The credit of interest on Security of ₹ 20,300/- (i.e. after deduction of TDS) had already given to the Appellant on 06.06.2022. The Forum had also decided on 24.03.2022 that security amount alongwith interest needs to be adjusted and ACD amount had already been updated. The decision of the Forum had already implemented.

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

“Forum further observed that when the Respondent himself admitting that security amount of Rs. 10864/- needs to be adjusted against ACD notice 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 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) 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. 910 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-405 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 24, 2022
S.A.S. Nagar (Mohali)

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

