

**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. 39/2022

Date of Registration : 04.07.2022

Date of Hearing : 12.07.2022

Date of Order : 12.07.2022

Before:

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

In the Matter of:

Sh. Krishan Kumar,
2284, Street No. 2, Kuldeep Nagar,
Basti Jadowal, Ludhiana-141007

Contract Account Number: 3002958330 (MS)

...Appellant

Versus

Sr. Executive Engineer,
DS Estate (Spl.) Division,
PSPCL, Ludhiana.

...Respondent

Present For:

Appellant: Sh. Gurdev Kumar,
Appellant's Representative.

Respondent : Er. Sukaran Singh Grewal,
Sr. Executive Engineer,
DS Estate (Spl.) Division,
PSPCL, Ludhiana.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 02.06.2022 of the Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. CGL-455 of 2021, deciding that:

“Amount of Rs. 180624/- charged vide half margin no. 159 dated 01.06.2021 is correct & recoverable.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 04.07.2022 i.e. within the period of thirty days of receipt of the decision dated 02.06.2022 of the CGRF, Ludhiana in Case No. CGL-455 of 2021, received by the Appellant on 15.06.2022. The Appellant had deposited the requisite 40% of the disputed amount. Therefore, the Appeal was registered on 04.07.2022 and copy of the same was sent to the Sr. Xen/ DS Estate (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. 739-41/OEP/A-39/2022 dated 04.07.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 12.07.2022 at 12.00 Noon and intimation to this

effect was sent to both the parties vide letter nos. 752-53/OEP/A-39/2022 dated 05.07.2022. 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 MS Category Connection, bearing Account No. 3002958330 with sanctioned load of 59.96kW/99.00 kVA under DS Estate (Spl.) Division, Ludhiana in his name.
- (ii) The meter of the Appellant, being defective, was changed vide MCO No. 1000010899664 dated 16.09.2020 effected on 09.10.2020. The meter was checked in the ME Lab vide Challan No. 35 dated 14.01.2021. As per ME Lab report, meter

of the Appellant was dead-stop and the DDL and readings could not be taken.

- (iii) The Audit Party during checking of accounts, overhauled the account of the Appellant for the period from 16.05.2020 to 02.08.2020 on the basis of consumption recorded in the corresponding period of previous year from 02.05.2019 to 02.08.2019 vide Half Margin No. 159 dated 01.06.2021. The Appellant was charged an amount of ₹ 1,80,624/- in the bill dated 19.10.2021.
- (iv) The Appellant approached the Forum against this amount charged in his bill. The Forum decided that the amount was correct and recoverable.
- (v) The Appellant submitted that he had deposited all the bills issued by the PSPCL from time to time and no bill was pending. The bills were issued to him as per the electricity consumed. His business got affected due to Corona Virus, so his consumption was reduced.
- (vi) The reading of the Appellant was being taken regularly every month by the PSPCL. So, how the Audit Party assumed that bills were not issued correctly. When the Meter Reader observed that Meter was not working fine, he had put 'D' Code in September, 2020 and he paid all the bills issued to him on

‘D’ code. Also, before that ‘O’ Code bills were issued upto 02.08.2020 which were paid by the Appellant.

- (vii) The Appellant prayed that the amount charged by the Audit Party vide Half Margin No. 159 dated 01.06.2021 be quashed.

(b) Submission during hearing

During hearing on 12.07.2022, the Appellant’s Representative (AR) reiterated the submissions made in the Appeal 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 MS Category Connection, bearing Account No. 3002958330 with sanctioned load of 59.96 kW/ 99.00 kVA under DS Estate (Spl.) Division, Ludhiana.
- (ii) The Respondent stated that the Appellant’s premises was checked by MMTS-5, Ludhiana vide ECR No. 29/3255 dated 06.10.2020 on request of ASE/ DS Estate (Spl.) Division, Ludhiana vide letter no. 2136 dated 18.09.2020 for defective meter. As per ECR, meter was found burnt & DDL/ readings could not be recorded.

- (iii) The Appellant's meter was changed vide MCO no. 100010899664 dated 16.09.2020 effected on 09.10.2020, due to meter being defective.
- (iv) This meter was sent to ME Lab vide Store Challan No. 35 dated 14.01.2021 and as per ME Lab report, the meter was Dead Stop & the DDL and readings could not be taken as not coming on AC and DC mode.
- (v) The Appellant's account was overhauled by Audit Party from 16.05.2020 to 02.08.2020 vide Half Margin no. 159 dated 01.06.2021 and an amount of ₹ 1,80,624/- for 24715 units, on average basis was charged as per Supply Code 21.5 by taking average on basis of the preceding year's same months' consumption for period from 02.05.2019 to 02.08.2019. The Appellant was issued supplementary bill vide Memo No. 1601 dated 29.09.2021 for ₹ 1,80,624/-.
- (vi) Then the Appellant had filed his Case in the Forum vide Case No. CGL-455/2021, for the disputed amount of ₹ 1,80,624/- by depositing 20% of the disputed amount i.e. ₹ 36,125/- on 02.12.2021. As per decision of the Forum, amount of ₹ 1,80,624/- was correctly charged and recoverable from the Appellant.

- (vii) Now, the Appellant had filed an Appeal before this Hon'ble Court by depositing additional 20% of the disputed amount i.e. ₹ 36,125/- on 04.07.2022.
- (viii) The Respondent submitted that the amount was correctly charged to the Appellant as per Regulation 21.5 of Supply Code, 2014.
- (ix) The Respondent prayed that keeping in consideration the reply as stated above, the present Appeal may kindly be dismissed.

(b) Submission during hearing

During hearing on 12.07.2022, the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. However, on being asked during hearing, under which regulation/ instruction of the PSPCL, the demand has been raised on the basis of half margin of the Audit, the Respondent failed to give any satisfactory reply and admitted that demand raised was not based on any regulations/ instructions of the Licensee.

5. Analysis and Findings

The issue requiring adjudication is the legitimacy of amount of ₹ 1,80,624/- charged to the Appellant vide Notice No. 1601 dated 29.09.2021 and lateron charged in his bill dated

19.10.2021 due to overhauling of the account of the Appellant for the period from 16.05.2020 to 02.08.2020 on the basis of consumption recorded from 02.05.2019 to 02.08.2019 i.e. corresponding period of previous year vide Half Margin No. 159 dated 01.06.2021.

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 on what basis the Audit Party overhauled the account of the Appellant for the period from 16.05.2020 to 02.08.2020, when he had already paid all the bills issued to him on 'O' Code during this period. His electricity consumption was low due to the fact that his business got affected due to Corona Virus. He further pleaded that when the Meter Reader observed that the meter was not working fine in September, 2020, he put 'D' Code, but the Audit Party overhauled the account from 16.05.2020 to 02.08.2020, when 'O' Code bills were issued to him. He prayed that the Appeal be allowed and the Notice No. 1601 dated 29.09.2021 issued by the Respondent be quashed.
- (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 Audit Party had overhauled the account of the Appellant correctly as per Regulation 21.5.2 of the Supply Code-2014 and the decision of the Forum was also justified. He prayed for the dismissal of the Appeal.

(iii) The Forum in its order dated 02.06.2022 observed as under:

“Forum observed that the meter of the Petitioner was changed vide MCO NO. 1000010899664 dated 16.09.2020 effective on 09.10.2020 due to defective. The meter was checked in the ME Lab vide challan no. 35 dated 14.01.2021. As per ME Lab report, meter of the Petitioner is dead-stop, and the DDL and readings could not been taken. The Audit party during checking of accounts, overhauled the account of the Petitioner for the period 16.05.2020 to 02.08.2020 on the basis of consumption recorded from 02.05.2019 to 02.08.2019 i.e. of the previous year vide Half Margin No. 159 dated 01.06.2021 and the amount of Rs. 180624/- was charged in bill dated 19.10.2021. During hearings Petitioner stated that he has no proof supporting lesser consumption during period overhauled. As per the directions of the Forum Respondent submitted report of manufacturer of the meter as under:-

1. Paper seal & ultrasonic welding was found intact on the meter. No external tampering is observed.
2. NVRAM of the meter has gone faulty, unable to retrieve meter data. The meter is faulty.

As per the direction given by CGRF site of the Petitioner was checked vide LCR no. 23/1855 dated 06.01.2022 as under: -

ਖਪਤਕਾਰ ਦਾ ਮੀਟਰ LT/ CT ਬਕਸੇ ftZu T/f d/ H-pole s/ bZrk j?.

fj; whNo dh Imp. ਲੋਡ ਪੈਣ ਤੇ ਤਿੰਨਾਂ ਫੇਸਾਂ ਤੇ ਬਲਿੰਕ ਕਰਦੀ ਹੈ। ਕੇਸ

ਲੱਗਾ ਹੋਣ ਕਾਰਨ ਮੈਂਕੇ ਤੇ ਜਾ ਕੇ LCR ਕੀਤੀ ਗਈ ਹੈ।

Forum also observed that Audit party overhauled the period from 02.05.2019 to 02.08.2019, whereas the relevant regulation of Supply Code 2014 dealing with dead stop, burnt, defective meters is as under: Regulation 21.5.2 of Supply Code 2014 dealing with Defective (other than inaccurate)/Dead Stop/Burnt/Stolen Meters is as under: -

“The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:

- a) On the basis of energy consumption of corresponding period of previous year.*
- b) In case the consumption of corresponding period of the previous year as referred in para (a) above is not available, the average monthly consumption of previous six (6) months during which the meter was functional, shall be adopted for overhauling of accounts.*
- c) If neither the consumption of corresponding period of previous year (para-a) nor for the last six months (para-b) is available then average of the consumption for the period the meter worked correctly during the last 6 months shall be taken for overhauling the account of the consumer.*
- d) Where the consumption for the previous months/period as referred in para (a) to para (c) is not available, the consumer shall be tentatively billed on the basis of consumption assessed as per para -4 of Annexure-8 and subsequently adjusted on the basis of actual consumption recorded in the corresponding period of the succeeding year.*
- e) The energy consumption determined as per para (a) to (d) above shall be adjusted for the change of load/demand, if any, during the period of overhauling of accounts”.*

From the above, the Forum is of the opinion that the account of the petitioner overhauled by Audit party is correct. So, the amount charged vide half margin no. 159 dated 01.06.2021 is correct and recoverable.

Keeping in view the above, Forum came to unanimous conclusion that the amount of Rs. 180624/- charged vide half margin no. 159 dated 01.06.2021 is correct and recoverable.”

- (iv) I have gone through the written submissions made by the Appellant in the Appeal, written reply of the Respondent as well as oral arguments of both the parties during the hearing on 12.07.2022. The Appellant had pleaded in his Appeal that he had already paid his monthly bills upto 02.08.2020 on ‘O’ Code, then how the Audit Party overhauled his account from 16.05.2020 to 02.08.2020? I agree with this contention of the Appellant. The Reading Record of the Appellant’s consumer account available in SAP system shows that bills were

regularly being issued to the Appellant on the basis of 'O' Code till 02.08.2020. The Appellant was issued bill on 'O' Code on 02.08.2020 and after that next month on 02.09.2020, the Meter Reader noticed that the meter was not working properly and put 'D' Code. The meter in dispute was declared as Dead Stop by the ME Lab. So as per Regulation 21.5.2 of Supply Code-2014, the account of the Appellant was required to be overhauled from 02.08.2020 to 09.10.2020 i.e. the date of replacement of the defective meter. However, in contrary to the Regulation 21.5.2 of Supply Code-2014, the account of the Appellant was overhauled from 16.05.2020 to 02.08.2020 by the Audit Party, which is not as per any regulations/ instructions of the Distribution Licensee. The Respondent had failed to prove that the readings recorded by the Meter Reader during the period from 16.05.2020 to 02.08.2020 were incorrect. This proves that the Respondent was satisfied with the 'O' Code bills issued to the Appellant.

- (v) The Respondent issued all the bills during the disputed period from 16.05.2020 to 02.08.2020 on 'O' Code, which were neither challenged by the Appellant nor by the Respondent. The decision dated 02.06.2022 of the Forum in this case is not correct and not as per Regulations of the PSERC and the

Licensee as the previous settled bills issued on 'O' Code cannot be changed or modified. The decision of the Forum is not based on any regulations/ instructions of the Distribution Licensee and the Forum had erred in passing such order.

- (vi) In view of the above, this Court is not inclined to agree with the decision dated 02.06.2022 of the Forum in Case No. CGL-455 of 2021. The Respondent could not prove that the readings recorded by the Meter Reader during the disputed period from 16.05.2020 to 02.08.2020 were incorrect. As such, the Notice No. 1601 dated 29.09.2021, vide which an amount of ₹ 1,80,624/- was charged to the Appellant, is hereby quashed. The Meter replaced on 09.10.2020 was a dead stop meter as per report of ME Lab. The account of the Appellant should be overhauled from 02.08.2020 to 09.10.2020 i.e. the date of replacement of the defective/ burnt meter as per Regulation 21.5.2 (a) of Supply Code-2014.

6. Decision

As a sequel of above discussions, the order dated 02.06.2022 of the CGRF, Ludhiana in Case No. CGL-455 of 2021 is hereby quashed. The amount of ₹ 1,80,624/- charged to the Appellant vide Notice No. 1601 dated 29.09.2021 is against the regulations and hence not recoverable from the Appellant. The

account of the Appellant should be overhauled from 02.08.2020 to 09.10.2020 i.e. the date of replacement of the defective/ burnt meter as per Regulation 21.5.2 (a) & (e) of Supply Code-2014.

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.

July 12, 2022
S.A.S. Nagar (Mohali)

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