

**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. 46/2022

Date of Registration : 24.08.2022

Date of Hearing : 06.09.2022

Date of Order : 06.09.2022

Before:

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

In the Matter of:

M/s. GPG Cattle Feed Pvt. Ltd.,
Village Machhi Bugra,
Talwandi Bhai Ki.

Contract Account Number: 3007509439 (LS)

...Appellant

Versus

Senior Executive Engineer,
DS Division, PSPCL,
Zira.

...Respondent

Present For:

Appellant: Smt. Parveen Kumari,
Appellant's Representative.

Respondent : Sh. Jasmanpreet Singh, LDC,
O/o Senior Executive Engineer,
DS Division, PSPCL, Zira.

Before me for consideration is an Appeal preferred by the Appellant against the decision dated 28.07.2022 of the Corporate Consumer Grievances Redressal Forum (Forum), Ludhiana in Case No. TP-142/2022 deciding that:

“After hearing the case, Forum observed that all disputes are of amount less than Rs. 5 Lac each, therefore the same cannot be heard in Corporate Forum as per PSERC (Forum & Ombudsman) (2ndAmendment) Regulation 2021. However, petitioner can approach appropriate Forum for redressal of these grievances.

The case is dismissed being not maintainable.”

2. Registration of the Appeal

A scrutiny of the Appeal and related documents revealed that the Appeal was received in this Court on 24.08.2022 i.e. within the period of thirty days of receipt of the decision dated 28.07.2022 of the CCGRF, Ludhiana in Case No. TP-142/2022. The requisite 40% of the disputed amount was not required to be deposited in this case as it was a refund case. Therefore, the Appeal was registered on 24.08.2022 and copy of the same was sent to the Addl. SE/ DS Division, PSPCL, Zira for sending written reply/ parawise comments with a copy to the office of

the CCGRF, Ludhiana under intimation to the Appellant vide letter nos. 919-21/OEP/A-46/2022 dated 24.08.2022.

3. Proceedings

With a view to adjudicate the dispute, a hearing was fixed in this Court on 06.09.2022 at 12.00 Noon and intimation to this effect was sent to both the parties vide letter nos. 935-36/OEP/A-46/2022 dated 29.08.2022. 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 LS Category Connection, bearing Account No. 3007509439 (Old Account No. M65-TB01-

00025) with sanctioned load of 900 kW and CD 900 kVA in its name under DS Division, PSPCL, Zira.

- (ii) The Appellant's Case No. TP-142/2022 was decided by the Forum on 28.07.2022 and copy of the order was not received by the Appellant. Therefore the same was received on 09.08.2022 by hand from the office of the Forum. The Appellant was not satisfied with the verdict of the Forum, so it had filed this Appeal.
- (iii) The decision of the Forum was not as per true spirit of Law as described vide Commercial Circular No. 39/2021. Regulation No. 2.9.1 of PSERC (Forums & Ombudsman) (2nd Amendment) Regulations, 2021 is reproduced below:-

“2.9.1 Corporate Forum

- (i) *The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs.5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action.*
- (ii) *Any complainant aggrieved by non-redressal of his grievance within the time period specified by the Commission or is not satisfied with the redressal of the complaint by the Zonal or Circle or Divisional Forum may himself or through his authorized representative, approach the Corporate Forum in writing for the redressal of his grievance.*
Provided that the Corporate Forum shall entertain only those complaints against the orders of Zonal or Circle or Divisional Forum, as the case may be, where the representation is made within 2 months from the date of receipt of the orders of respective Zonal/ Circle/ Divisional Forum, as the case may be.

Provided further that the Corporate Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements.”

- (iv) The total disputed amount involved was ₹ 7,31,039/- which was more than ₹ 5.00 lacs. The disputed case was applied in the month of January, 2022 in the office the Forum & was registered as T-10/2022 dated 28.01.2022. The case was forwarded to the office of ASE/ DS Division, PSPCL, Zira for submission of written reply vide Memo No. 2890/T-10/2022.
- (v) The office of the ASE/ DS Divn., Zira submitted reply to the office of the Secretary, CGRF, Patiala vide his office Memo No. 342 dated 10.03.2022. So the case was registered, as mentioned above. As per Regulation No. 2.39 of ESIM GRIVANCES HANDLING PROCEDURE, the case was to be decided within 45 days of the registration. But no hearing date was given to the Appellant by the concerned office.
- (vi) Meanwhile, the CGRF, Patiala was disbanded and the case was transferred to the Corporate CGRF, Ludhiana as per rules as the amount of case was more than ₹ 5.00 lac. Although the Respondent's office had already submitted its reply vide Memo No. 342 dated 10.03.2022 but the case was decided on 27.08.2022 without giving an opportunity of being heard on the ground that all issues were less than ₹ 5.00 lac and not on the

merits, against the Rules and Regulations of the Hon'ble PSERC and CC No. 39/2021.

- (vii) It was specifically mentioned in the Commercial Circular No. 39/2021 that the criteria of amount was per case and not per issue. The instructions as mentioned above were clear.
- (viii) The Appellant prayed that the Appeal be accepted in the interest of justice, otherwise it would suffer irreparable loss.

(b) Submission during hearing

During hearing on 06.09.2022, the Appellant's Representative (AR) reiterated the submissions made in the Appeal and prayed to allow the same. She pressed that the case may be remanded back to Corporate Forum for hearing/ decision on merits.

(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 LS Category Connection, bearing Account No. 3007509439 with sanctioned load of 900 kW and CD as 900 kVA for running a Cattle Feed Industry under DS Division, Zira.
- (ii) The Appellant initially got this connection for 250 kW load and 180 kVA as Contract Demand which was released on

03.09.2014, which was extended to 300 kW/300 kVA as Contract Demand on 29.09.2017 and later extended to 400 kW/400 kVA CD on 25.12.2019. Now, recently the Appellant got extended its load to 900 kW and CD as 900 kVA on 25.08.2021.

(iii) There were five no. of issues of the Appellant:-

- a) To update ACD for ₹ 2,59,600/-
- b) Interest payable for ₹ 53,658/- against ACD for ₹ 2,59,600/-
- c) To pay unpaid Threshold for the year 2017-18 for ₹ 2,93,713/-
- d) To refund interest of ₹ 93,693/- against Sr. No. (c) above as admissible under Regulation 35.1.3 of Supply Code
- e) To refund ₹ 30,375/- on account of excess recovery of SCC

(iv) The Respondent submitted the following reply issue-wise:

To update ACD for ₹ 2,59,600/-:-

It had been found in the office record and also had been verified from the bills generated that amount of ACD to be updated was ₹ 2,57,818/- and not ₹ 2,59,600/- as asked by the Appellant. The said amount of ₹ 2,57,818/- had been updated through SAP order no. 10016825021.

(v) Interest payable for ₹ 53,658/- against ACD for ₹ 2,59,600/-: -

Calculated Interest for the amount would be paid in accordance with the decision of the Hon'ble Ombudsman.

(vi) To pay unpaid Threshold for the year 2017-18 for ₹ 2,93,713-00: -

In this regard it was submitted that the claim being more than two year old became time barred under Regulation 2.25 of Punjab State Regulatory Commission (Forum & Ombudsman) Regulations, 2016.

(vii) To refund interest of ₹ 93,693/- against Sr. No. (c) above as admissible under Regulation 35.1.3 of Supply Code-2014: -

In this regard it was submitted that the claim being more than two year old became time barred under Regulation 2.25 of Punjab State Regulatory Commission (Forum & Ombudsman) Regulations, 2016. It was further added that the Appellant had not raised any request in this regard during the year 2017-18.

(viii) To refund ₹ 30,375/- on account of excess recovery of SCC:-

Excess service connection charges would be paid in accordance with the decision of the Hon'ble Ombudsman.

(b) Submission during hearing

During hearing on 06.09.2022, the representative of the Respondent reiterated the submissions made in the written reply to the Appeal and prayed for the dismissal of the Appeal. The representative of the Respondent had no objection if the case is remanded back to any Forum.

5. Analysis and Findings

The issue requiring adjudication is whether the decision of the Corporate Forum, to direct the Appellant to approach the Appropriate Forum as the various issues raised by the Appellant amounting to ₹ 7,31,039/- collectively in one case, but individually each dispute was of amount less than ₹ 5 Lac as the Corporate Forum can deal with monetary disputes above ₹ 5 Lac only, is tenable or not.

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 decision of the Forum was wrong as the total disputed amount involved was ₹ 7,31,039/- which was more than ₹ 5.00 lac. He pleaded that the case was filed with the CGRF, Patiala in the month of

January, 2022 and as per Regulation No. 2.39 of ESIM GRIVANCES HANDLING PROCEDURE, the case was to be decided within 45 days of the registration. But no hearing date was given to the Appellant by the concerned office. Meanwhile, the CGRF, Patiala was disbanded and the case was transferred to the Corporate CGRF, Ludhiana as per regulations as the amount of case was more than ₹ 5.00 lac. But the Corporate Forum decided the case on 27.08.2022 without giving an opportunity of being heard on the ground that all issues were less than ₹ 5.00 lac and not on the merits, against the Regulations of the Hon'ble PSERC and CC No. 39/2021. Monetary criteria mentioned in the Regulation 2.9.1 of PSERC (Forum and Ombudsman) Regulations, 2021 was per case basis and not per issue basis. He prayed that the Appeal be accepted in the interest of justice otherwise the Appellant would suffer irreparable loss.

- (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 Securities of the Appellant that needed to be updated were ₹ 2,57,818/- & not ₹ 2,59,600/- as claimed by the Appellant and the said amount of ₹ 2,57,818/- had been

updated in the SAP. He submitted that interest on this Security Amount would be paid in accordance with the decision of this Court. He countered the claim of the Appellant regarding unpaid Threshold Rebate for the year 2017-18 of ₹ 2,93,713/- and interest thereon of ₹ 93,696/-. He argued that the Appellant did not raise any request in regard of these claims during the year 2017-18 and now since these claims were more than 2 years old, so they became time barred under Regulation 2.25 of Punjab State Regulatory Commission (Forum & Ombudsman) Regulations, 2016. He further informed this Court that the excess service connection charges would be paid in accordance with the decision of this Court.

- (iii) The Corporate Forum in its order dated 28.07.2022 observed as under:

*“After hearing the case, Forum observed that all disputes are of amount less than Rs. 5 Lac each, therefore the same cannot be heard in Corporate Forum as per PSERC (Forum & Ombudsman) (2nd Amendment) Regulation 2021. However, petitioner can approach appropriate Forum for redressal of these grievances.
The case is dismissed being not maintainable.”*

- (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 06.09.2022. The Corporate Forum dismissed the petition of the

Appellant without going into the merits of the case. The Forum directed the Appellant to approach the Appropriate Forum as all the disputes/ issues raised by the Appellant in its case were less than ₹ 5 Lac each. Regulation 2.9 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2nd Amendment) Regulations-2021 prescribes the limits of Monetary Complaints to be dealt by the different Forums. The Corporate Forum can directly deal with monetary disputes above ₹ 5 Lacs as per Regulation 2.9.1 (i), reproduced as under:-

“The Corporate Forum shall have the jurisdiction to dispose of all the monetary disputes of an amount exceeding Rs. Five lakh (Rs. 5,00,000/-) in each case. Provided that the complaint/representation is made within two years from the date of cause of action”.

This Court had observed that the Monetary Limit mentioned is on “each case” basis and not on “each issue” basis.

- (v) This Court observed that the Appellant had filed the petition before the CGRF, Patiala mentioning the disputed amount as ₹ 7,31,039/-. After the CGRF, Patiala was disbanded; this case was transferred to the Corporate Forum as per the Monetary Limits mentioned in Regulation 2.9.1 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) (2nd Amendment) Regulations-2021. So, the decision of the

Forum that the disputed amount was less than ₹ 5 Lac is not correct and tenable.

- (vi) The Appellant approached the CGRF, Patiala in January, 2022 for the redressal of its grievance and the Corporate Forum, after nearly 6 months, dismissed the case and that too without going into the merits of the case, which is not desirable on the part of the Forum as the case was to be decided within a period not exceeding 45 days from the date of receipt of complaint/grievance as per Regulation 2.31 of PSERC (Forum and Ombudsman) (2nd Amendment) Regulations, 2021 which is reproduced below :

“2.31 On receipt of the comments from the concerned officer of the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, within a period not exceeding forty five (45) days from the date of receipt of the complaint/grievance. The complaint/grievance by senior citizens physically challenged or person suffering from serious ailments shall be disposed of on priority. However the order in case of grievance relating to non-supply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.”

- (vii) The Forum should have passed a speaking/ detailed order on the issues involved in this case after giving an opportunity of hearing to both parties. Detailed deliberations were not held and due process of law was not followed in the Forum in respect of issues raised by the Appellant in the dispute case filed before the Forum. With a view to meet the ends of

ultimate justice, this Court is inclined to remand back this Appeal case to the Corporate CGRF, Ludhiana for hearing, adjudicating and passing of speaking orders in respect of issues raised before this Court as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended from time to time. This dispute case is already delayed by more than 8 months. As such, the Corporate Forum may decide the case on priority basis.

- (viii) In view of above, this Court is not inclined to agree with the decision dated 28.07.2022 of the Forum in Case No. TP-142 of 2022.

6. Decision

As a sequel of above discussions, the order dated 28.07.2022 of the CCGRF, Ludhiana in Case No. TP-142 of 2022 is hereby quashed. The Appeal case is remanded back to Corporate Forum, Ludhiana with a direction to hear and decide this case on merits expeditiously as per PSERC (Forum & Ombudsman) Regulations, 2016 as amended 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.

September 06, 2022
S.A.S. Nagar (Mohali)

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

