

BEFORE THE VIDYUT OMBUDSMAN

:: Present ::

C. Ramakrishna

Date: 10-07-2014

Appeal No. 9 of 2014

Between

Smt. S. Ramakotamma, 12-16-47, Gavarapalem, Anakapalli 531 002,
Visakhapatnam Dt.

... Appellant

And

1. The Asst. Engineer, Operation, D2, Anakapalli, APEPDCL, Market Yard,
Anakapalli 531 001
2. The Asst. Accounts Officer, ERO, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001
3. The Asst. Divisional Engineer, Operation, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001
4. The Divisional Engineer, Operation, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001

... Respondents

The above appeal filed on 15-04-2014 has come up for final hearing before the Vidyut Ombudsman on 26-06-2014 at Visakhapatnam. The appellant, as well as respondents 1 to 4 above were present. Having considered the appeal, the written and oral submissions made by the appellant and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the complaint of the consumer about the meter of the service connection. The main grievance of the appellant in the appeal is that that she has been suffering from lack of electricity supply from 18-12-2013 due to the inaction / deficiency of service attributable to the respondent officers.

3. The appellant filed a long and winding appeal interspersed with some of the choicest abuses she could heap on the respondents. A thorough sifting of the appeal to get to the bottom of the issue revealed that the dispute started with the appellant challenging the functioning of the meter sometime in June or July of 2012 which led to the changing of the meter on 04-07-2012. Her plea is that she had paid the challenge fee well before the meter was taken out for testing and was replaced with a substitute meter. She contends that the respondents have never been interested in testing the meter and had deliberately misplaced the challenge fee that she paid and kept on asking her to pay the challenge fee to have the meter tested in the MRT lab. She claims that finally, the meter was tested on 10-01-2014 and the test results showed that the meter is functioning normally. She also submitted in her appeal that ever since the meter was changed on 04-07-2012, she did not pay the regular CC bills till December, 2013 because the absence of threat of disconnection made her believe that she has a strong case in her favour and that she would be getting relief. Her claim is that she was put to unnecessary inconvenience by deliberately delaying the testing of the meter in the MRT lab and that because the delay in the testing of the meter led her to believe that she is

about to get relief, it is the respondents who should bear responsibility for the accumulated arrears from July, 2012 till the date of disconnection i.e., 18-12-2013.

4. The respondents were issued a notice for hearing the appeal. The respondents submitted that as per the consumer's request, the meter was replaced on 04-07-2012 for testing at MRT lab; that at the time of replacement itself it was informed to the consumer to pay the challenge fee of Rs. 100/-, but that the consumer refused to pay the challenge fee; that as the consumer did not pay the challenge fee, the testing of the meter was not done; that it's only after the service was disconnected on 18-12-2013 that the consumer paid the challenge fee of Rs. 100/- on 09-01-2014 whereupon the testing of the meter was promptly carried out in the MRT lab on 10-01-2014; that the test results showed that the meter is working in perfect condition; that from the date of replacement of the meter on 04-07-2012, the consumer had not paid the regular CC bills; that the regular CC bills had to be issued in door locked condition due to a software problem which resulted in average billing being issued; that even then, in the month of January 2013 itself, the bills issued under door locked status were revised with actual meter readings and raising the correct demand of Rs. 7,157.02; and that as the consumer did not pay this amount also for close to a year, they were ultimately forced to disconnect the service on 18-12-2013.

5. Lot of material was pressed into service by both the appellant and the respondents to prove their contentions. A lot more oral submissions were seen during the course of the hearing of the appeal as this authority felt that

disconnection for non-payment of CC bills needed deeper probe. From the whole gamut of written and oral presentations, the picture that emerged was that the meter was replaced on 04-07-2012. In spite of removing the meter for testing purpose, the respondents did not send it to the MRT lab for testing on the ground that the challenge fee was not paid. The appellant is claiming that the challenge fee in fact was paid but that she is not having proof of having made that payment with her. In spite of keeping a new meter in its place, the respondents kept on issuing CC bills on average basis from June 2012 to December 2012 because of some software problem. Though they corrected this average billing with actual billing from January, 2013 the appellant did not pay the CC bills and outstanding amount. As there was no pressure from the respondents for collection of the CC dues from July, 2012 onwards, the appellant became complacent and started believing that relief was on its way. The respondents were simply playing a waiting game expecting the appellant to pay the challenge fee for the meter testing. Ultimately, unable to wait any longer for payments to come through from the appellant, the respondents had disconnected the service on 18-12-2013. Then the appellant had apparently cooperated and paid the challenge fee of Rs. 100/- to get the meter tested. As the meter was tested and found to be functioning normally, the outstanding dues became payable. But the appellant refused to budge and started filing appeal after appeal.

6. In the whole episode, the appellant as well as the respondents have to share equal blame for the state of affairs. The appellant is totally wrong in using very abusive language while preferring an appeal. Whatever may be the provocation, the appellant ought not to forget that we are living in a civic

society and the only manner in which grievances can be addressed is through using civic language. This authority finds that the language used by the appellant in the process of filing the appeal is far from accepted norms of communication. Consumer rights do not entitle a consumer to remain in a defaulting status in respect of the bills due. If the consumer has any dispute and is awaiting the outcome of the meter testing results or some other process, the proper course for such a consumer is to either pay the bill demanded by the DISCOM or pay the electricity charges on the basis of average charges for the preceding six months, to avoid disconnection. The appellant herein had done neither. She kept on waiting for the MRT lab report on the meter testing, in spite of knowing that the respondents have not been in a hurry either to get the meter tested unless challenge fee payment from her comes through. In the process when arrears got accumulated, she wrongly believed that she would be getting some relief and that she would somehow be able to avoid all payments due. This is not correct on her part. She has not played fair here vis a vis the DISCOM. Nobody can keep getting supply without making payment for the same.

7. The respondents on their part, have a fair share of explaining to do. When they replaced the meter on 04-07-2012 for testing purpose and the appellant had not, as claimed by them, paid the challenge fee of Rs. 100/-, what made them keep on waiting for the payment? What prevented them from keeping the old meter back as it is not they who are contesting the meter's functioning? When the regular CC bills are remaining unpaid, what made them wait till 18-12-2013 for disconnection of the service? Clause 4.8.1 of the Supply Code Regulation issued by the Hon'ble Commission clearly says

that disconnection shall be affected in cases of non-payment by giving a notice of 15 days. From 05-08-2013, this requirement for a notice of 15 days is done away with where the bill itself mentions the disconnection date. There were no proper answers coming forth from them on this count.

8. The appellant's claim that she had paid the challenge fee of Rs. 100/- at the time of meter replacement on 04-07-2012 is not proved by her with record. Even if it were true, that would have hardly altered things for her. Eventually, the meter was found to be working fine and there is no relief to her on that count. Only, she ended up being a defaulter by her non-payment of the CC charges while stubbornly waiting for the test results.

9. The final hearing was conducted on 26-06-2014. The key points that arose for consideration in this appeal are:

- a. Whether or not the appellant herein is really justified in feeling that she has been put to inconvenience by the delay in the testing of the meter at the MRT lab;
- b. Whether or not there is deficiency in service by the respondents and if so, to what extent has that deficiency resulted in the appellant herein suffering because of it; and
- c. Whether or not there is any need to interfere with the CGRF's order in this case.

10. The challenged meter was replaced with a new and working meter on 04-07-2012. While the appellant forcefully claims that the challenge fee was paid, the respondents claim that it was not paid and that because of that the

testing of the meter at the MRT lab could not be completed. The respondents ultimately got the meter tested on 10-01-2014, only after collecting the challenge fee from the appellant. When the appellant is given a new meter and some CC bills -- whether on average basis because of the software problem or otherwise -- were being served on her, her non-payment of the bills so raised, based on her own assumptions of some relief forthcoming from the meter testing, is not correct. She ought to have paid the regular CC bills -- either fully or on an average basis for the last six months -- every month during which time the dispute with the respondents was running. Even after she knew that the respondents were not getting the meter testing done because they were waiting for her to pay the challenge fee, she should have either paid the same or produced evidence of her having paid it already. The appellant is as much responsible for the delay as are the respondents -- because nothing prevented them from keeping the challenged meter back as the challenge fee was not paid -- for the delay in getting the meter tested. Therefore, this authority feels that the appellant's grievance of her suffering because of the delay in the meter testing is unfounded and without basis.

11. As regards whether or not there is any deficiency in service by the respondents, this authority finds that there is deficiency. The respondents have not followed the due process of collection of the regular CC bills from the appellant herein. Nothing prevented them from disconnecting her service when she stopped paying the regular CC bills. They should not have waited that long as they did for arrears to get accumulated and then disconnect it one fine morning after a gap of six months. Their months' long wait for the appellant herein to pay the challenge fee also is not appreciable.

Why should they wait? They ought to have given a notice for the payment to be made or they should have kept the challenged meter back in her premises in the face of her refusal to pay the challenge fee. They didn't do either of these things. Though this is certainly deficiency on their part, it is the DISCOM which has suffered because of this; not the appellant. The appellant had all the while been enjoying supply of power without payment.

12. Coming to the CGRF's order, this authority does not find any need to interfere with it as they have bent over backwards to accommodate and explain the procedures to the complainant before them. They have been very liberal in directing that the bills of the consumer appellant should be revised by duly apportioning the entire consumption units for the period from November, 2010 to November, 2013.

13. Therefore, it is hereby ordered that:

- the appellant shall pay the outstanding dues forthwith without further ado; and
- the respondents shall restore the power supply soon after receiving the outstanding dues in full.

14. This order is corrected and signed on this 10th day of July, 2014.

VIDYUT OMBUDSMAN

To

1. Smt. S. Ramakotamma, 12-16-47, Gavarapalem, Anakapalli 531 002,
Visakhapatnam Dt.
2. The Asst. Engineer, Operation, D2, Anakapalli, APEPDCL, Market Yard,
Anakapalli 531 001
3. The Asst. Accounts Officer, ERO, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001
4. The Asst. Divisional Engineer, Operation, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001
5. The Divisional Engineer, Operation, Anakapalli, Nidanamdhodi,
Gavarapalem, Anakapalli 531 001

Copy to:

6. The Chairperson, CGRF, APEPDCL, P & T Colony, Seethammadhara,
Near Gurudwara Junction, Visakhapatnam - 530 013.
7. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills,
Hyderabad - 500 004.