



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh & Telangana**

:: Present ::

C. Ramakrishna

Date: 10-09-2014

Appeal No. 63 of 2013

Between

Sri. P.V.N. Chalapathi Rao, Rice Shop, Main Road, Peddapuram, East Godavari

Dt.

... Appellant

And

- 1. The Assistant Engineer, Operation, APEPDCL, Town, Peddapuram**
- 2. The Assistant Accounts Officer, ERO, APEPDCL, Samalkota**
- 3. The Assistant Divisional Engineer, Operation, APEPDCL, Samalkota**
- 4. The Divisional Engineer, Operation, APEPDCL, Kakinada**

... Respondents

The above appeal filed on 08-05-2013 has come up for final hearing before the Vidyut Ombudsman on 04-09-2014 at Rajahmundry. The appellant, as well as respondents 3 & 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 grievance of the appellant that the assessment for shortfall units was made excessively and that he was unnecessarily made to bear the cost of replacement of meter.

3. The appellant stated in his appeal that his Category III service was inspected by the ADE/CT Meters on 10-12-2012 during which an error of -46.49% was found; that the meter change date was not considered by the assessing authorities; that meter reading considered for the purpose of assessment was fictitious; that the assessment notice was issued with a back date; that he was made to bear the burnt meter cost unnecessarily; that he should be paid compensation for the harassment meted out to him by the respondent ADE; that his service was disconnected on 28-02-2013 unnecessarily, even as his representation for revision of assessment is pending; that the respondent ADE had misguided the CGRF about the date and reading considered for assessment; that upon perusing the MRI data it was seen that the assessment notice relied on the kWh reading instead of taking the kVAh reading; that the CGRF also had not considered his pleas raised in his complaint before it; that he was unnecessarily forced to pay for the replacement of meter, as the inspection report of the ADE, CT Meters has nowhere mentioned that it is burnt and that the meter cost has to be collected from the consumer; that the meter is found to be defective, and therefore it is the DISCOM that has to bear the cost of replacement of the meter; that if the meter is really found to be burnt, the process that should have been followed is that it should have been bypassed giving direct supply to the consumer as provided for in clause 7.5.2 of the GTCS; and that as the

procedure laid down in clause 7.5.2 is not followed by the DISCOM, the appellant should be returned the cost of replacement of the meter. He mustered lot of material in support of his contentions.

4. A notice was issued for hearing the matter. The respondent ADE filed his written submission stating that the inspection report of the ADE, CT Meters clearly mentions the following points:

- a. Seals are intact
- b. "R" phase voltage missed in the meter and smoke observed at meter
- c. MRI downloaded
- d. Back billing notice to be issued as per Departmental rules
- e. The defective meter to be replaced with new Test LT TVR meter
- f. Test result values: -46.49% error

5. He went on to submit that as per the recommendations of the ADE, CT Meters, an assessment notice for short billing was issued for Rs. 12,200/-; that the service of the consumer has been disconnected on 28-02-2013 as the consumer has not paid either the back billing charges or the regular charges; that aggrieved with this disconnection he approached the CGRF; that the consumer had always made oral requests for withdrawal of back billing charges and had not lodged any written complaint as alleged in his appeal; that in spite of informing him to approach the DE in appeal, without doing so, he has resorted to making all sorts of baseless allegations with a view to obtain reconnection without payment of charges; that he did not make an issue of burnt meter charges while making the payment for the replacement

cost of the meter and that therefore the meter was replaced on payment made by him; and that as ordered by the CGRF, excess units directed to be withdrawn were withdrawn by the AAO/ERO.

6. The respondent AAO filed his written submission stating that the service connection in question belongs to Sri. M.S. Suryanarayana and that the present appellant is not the real consumer; that an amount of Rs. 12,200/- was raised towards back billing charges based on the back billing notice for the period 13-11-2012 to 10-12-2012 for 2,411 units; and that based on the order issued by the CGRF, an amount of Rs. 13,043/- has been withdrawn on 26-04-2013; and that as the back billing charges raised originally have since been withdrawn the appeal should be set aside.

7. The final hearing was conducted on 04-09-2014. During the hearings, the appellant reiterated his grievance saying that he was charged excess units and that he was made to pay for the cost of replacement of meter unnecessarily. The respondents reiterated that the excess units as identified by the CGRF and that were subsequently found, were already withdrawn and that there is nothing more that needs to be done in the case. The respondent contended that the meter was burnt not due to their fault and hence the consumer has to bear the cost of replacement of the meter. They further contended that if all the terminals in the meter are burnt, then only there will not be any display. As only one terminal got burnt in this meter, there is display in the meter and only one phase i.e., R-phase voltage is not getting recorded. In support of their contention, they showed that the meter test report also clearly showed that there was smoke in the meter and that it had to be replaced.

8. In the light of the submissions made, the two questions that need to be decided in this appeal are:

- a. Whether or not there is any inaccuracy in the short billing done?
Whether or not the inaccuracies were since corrected to the satisfaction of the consumer.
- b. Whether or not the meter is burnt? If so, who should bear the cost of replacement of the meter.

9. It is seen from the record produced that the inspection was conducted by the ADE, CT Meters on 10-12-2012. Based on this report, the respondent ADE issued an assessment notice for short billing on 17-12-2012 assessing the consumer's consumption for the period 13-11-2012 to 10-12-2012 for 2411 units. As per the original notice of short billing assessment, the number of units recorded in the past year was arrived as 2775 units by deducting the kWh reading of 97630 from the kVAh reading of 100405 that was recorded by the ADE, CT Meters during the testing of the meter on 10-12-2012. A perusal of the assessment notice dated 17-12-2012 shows that there are some inconsistencies in the said assessment notice. The number of units recorded for one year arrived at are found to be faulty. There cannot be a deduction of kWh units from the kVAh reading to arrive at the number of units recorded in a year. The assessing officer ought to have taken only the kVAh readings for the purpose of arriving at the units recorded in a year. This has been noticed by the respondents and they were willing to correct the issue from their end and have gone ahead and corrected it properly.

10. Secondly, the initial assessment notice erred in noting the date of

assessment also. Instead of taking the date from which the R-phase stopped getting recorded as 03-12-2012, the notice incorrectly took it as 13-11-2012. As seen from the MRI dump, the R-phase readings stopped getting recorded on and from 03-12-2012. The respondents noticed this and have taken correction in their stride.

11. Thirdly, as the MRI dump showed only kWh readings in it, these figures also had to be converted into kVAh readings by applying the power factor. This was not done in the original assessment and the respondents had readily agreed for adopting the correct figures and arrived at the kVAh reading by taking the power factor as 0.97, giving the benefit of doubt to the consumer, as the power factor recorded in the MRI dump is found to be this figure most of the time. Realizing these errors that have cropped into the assessment, the respondents assessed the missed units as below:

Period of assessment: 03-11-2012 to 31-12-2012

No. of units recorded in the period: $100763 - 98786 = 1977$ units

Total units missed: $(1977 * 46.49) / (100 - 46.49) = 1717.6$ Units

or say 1718 Units

12. When the respondents showed the revised short billing figures to the appellant, during the hearings, the appellant appeared satisfied and did not raise further objection on the figures. Hence, the first question is answered in favour of the appellant. There were some errors in the assessment that was done as pointed out by the appellant. The respondents were more than willing to take the objection in their stride and were sportive enough in admitting the mistakes on their part and have taken corrective steps to

rectify the calculation mistakes.

13. In view of the rectification done by the respondents, all the grievances raised by the appellant in regard to the provisional assessment are held as valid. However, in view of the corrective action already taken, there is nothing more that needs to be done on this ground. The appellant's contention that the assessment notice was issued with a backdate is of no consequence at this stage. Whether a notice is served on week or one month later doesn't alter the facts much. The point in a notice is, whether or not the appellant is given a chance to put forth his point of view. When that requirement is met, the date of notice or its service date are of not much relevance. The appellant's contention that he should be paid compensation for the mental harassment that was meted out to him is not borne by facts. Nothing prevented the appellant from making use of the appeal process that is available. Instead of approaching the DE who is the next higher authority, the appellant chose to go to the CGRF and the CGRF anyway had intervened in the matter as best as it could. Hence the question of considering payment of compensation does not arise.

14. Now let us turn to the question of finding whether or not the meter is burnt. When the R-phase readings stop getting recorded, it means that at least one terminal in the meter got burnt. When one of the terminals is thus found burnt along with the observation of smoke at the meter, the meter is considered to be a 'burnt' meter. It cannot be called a 'defective' meter but a 'burnt' meter. The burning itself having made the meter 'defective.' That burning of the terminal could happen, reportedly, for any number of reasons. At this point in time it would be difficult to say whether it was the fault of

the consumer that led to the burning of the meter. It could certainly be said that the burning of the meter or one terminal of the meter is not because of the DISCOM for the simple reason that, if there were any abnormalities in the power supply that led to the burning of the terminal, such burning of the terminals should have been noticed all across a number of meters / service connections. As that was not the case here, it could not be held that the burning of the meter happened due to the fault of the DISCOM. To get the benefit of having the meter replaced at the cost of DISCOM, the appellant kept on harping that the meter is not 'burnt' but that it was 'defective.' This authority is not impressed with the arguments put forth by the consumer that the burning of the meter did not happen because of his fault. It is settled principle of law that whoever seeks to claim a benefit, should prove conclusively that he is eligible for the benefit. It cannot be his case that because there is nothing adverse found against him, he should be given a benefit. In this case, the DISCOM also is certainly not at fault and there is nothing that it is found fault with as far as the meter burning issue is concerned. That being so, the appellant cannot claim that the DISCOM should bear the cost of the meter replacement. Therefore, the second question is answered against the appellant. One final observation that this authority cannot refrain from making is about the fact, as pressed by the respondents, that the appellant never raised the issue of replacement of meter charges at the time of making payment for the meter. It is basically an afterthought on the part of the consumer appellant. This authority tends to agree with the respondents contention in this regard.

15. The appellant further contended that, if it is to be considered a burnt meter, then the respondents have not followed the procedure as laid down in

clause 7.5.2 of the GTCS. Clause 7.5.2 of the GTCS reads as under:

7.5.2 In case a meter, on a complaint from the consumer or upon the inspection of the Company is found burnt, the Company shall restore the supply immediately bypassing the burnt meter after ensuring that necessary preventive action at site is taken to avoid future damage. Further, a new meter shall be installed by the Company within the timeframe specified in the 'Standards of Performance' Regulation issued by the Commission, duly obtaining the consumer's consent to pay the computed consumption charges for the non-metered period. The Company shall replace the burnt meter on payment by the consumer within 7 days, if the burning of the meter is attributed to the consumer. The payment can be made in cash or by Demand Draft at the consumer service centre / ERO.

16. This provision will apply in a case where there is no display at all in the meter and there is no way the DISCOM could note any of the recordings from the meter. If there is no display at all, and if MRI dumps cannot be taken from the meter, the above clause will surely come into play. But that is not the case in the instant case. Therefore, the respondents' argument that they were able to read from the MRI dumps and hence proposed for short billing is found to be reasonable. The appellant's contention that the respondents have not followed the procedure laid down in clause 7.5.2 is not found sustainable.

17. The respondent AAO filed in his submission that the appellant is not the real consumer of the service connection in question and that the service

connection belongs to one Sri. M.S. Suryanarayana. All along, while the respondents never had any issue of engaging the appellant as the deemed consumer, raising such an objection merely on technical ground is not sustainable. The respondents entered into and engaged in correspondence with the appellant all the while. Now, they cannot take the plea that it is not the appellant who is the real consumer and that somebody else is the real consumer.

18. In the whole episode, it is the CGRF, that has come out in poor light. It ought to have gone through the record fully and properly and given a finding as to who is correct and who is not. It has glossed over the contentions that were raised by the appellant and gave a finding only about the provisional assessment being correct or not. It has not gone into the issue of burt meter although it was raised before it by the appellant. Hence the order of the CGRF is liable to be set aside.

19. Therefore, it is hereby ordered that:

- the respondents shall act in accordance with the submissions made by them before this authority, in so far as, assessment of short billing units is concerned. That is, the appellant shall be charged only for 1717 units towards units that missed getting recorded;
- the appellant shall, without further ado, pay for these units that were not recorded;
- the respondents have correctly charged the cost of the meter on the appellant and there is nothing that needs to be done on this count; and
- the respondents shall report compliance of both the parties to these orders within 30 days from the date of receipt of this order.

20. This order is corrected and signed on this 10th day of September, 2014.

VIDYUT OMBUDSMAN

To

1. Sri. P.V.N. Chalapathi Rao, Rice Shop, Main Road, Peddapuram, East Godavari Dt.
2. The Assistant Engineer, Operation, Town, APEPDCL, Peddapuram
3. The Assistant Accounts Officer, ERO, APEPDCL, Samalkota
4. The Assistant Divisional Engineer, Operation, APEPDCL, Samalkota
5. The Divisional Engineer, Operation, APEPDCL, Kakinada

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.