

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 05 -07-2011

Appeal No. 20 of 2011

Between

Sri B.Suryanarayana
S/o B.V.Ramayya
D.No.3/136, Dorasamipalli
Proddutur, YSR Dist.

... Appellant

And

1. Asst.Engineer/operation/West/Proddutur
2. Asst.Divisional Engineer/operation/Town/Proddutur
3. Asst.Accounts Officer/ERO/Proddutur
4. General Manager/Internal Audit/Corporate office/Tirupati

....Respondents

The appeal / representation filed dt 29.03.2011 of the appellant has come up for final hearing before the Vidyut Ombudsman on 01.07.2011 at Hyderabad Sri B.Suryanarayana, appellant present Sri A.V.Siva Bhaskar, AE/O/West/Proddutur for the respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint on 18.08.2010 before the Forum stating that he was having one Industrial service under category –IV west section, Proddutur with the contracted load of 5 HP + 240 watts for the purpose of silk twisting and the CC bills were paid as and when issued by the respondents. During the course of audit, audit party raised short fall of Rs.1,55,363/- for the period from 4/06 to 2/09

based on the records on the plea that the connected load of the service exceeded 5 HP and shall be re-categorised under category-III and the respondents included the audit short fall in the CC bills without any notice. The above short fall was pointed without physical verification of service and requested the Forum to pass an order directing the respondents to withdraw the short fall and do justice.

2. The respondent Nos. 1, 2 and 3 submitted their written submissions as hereunder:

- "1. The contracted load SC No.12992 category-IV west section was 5.0HP + 240watts*
- 2. The contracted load was derated to 4.5 HP + 240watts with effect from 18.04.2009*
- 3. Based on the revised test report, recommended for dropping audit objection."*

3. After hearing both sides and after considering the material placed before the Forum, the Forum passed the order as hereunder:

- "1. Respondents are directed to revise the audit shortfall amount as per the items 4 & 5 of the observations and intimate the amount payable to the complainant within 10 days from this day.*
- 2. Proportionate surcharge on the revised amount shall also be withdrawn.*
- 3. Accordingly the complaint is partly allowed.*
- 4. The complaint could not be finalized for want of some records from the respondents and physical verification of records and hence it is condoned."*

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that from the date of taking service he was having only 4.5HP + 240watts and the same was certified by the AE in his letter dated 02.07.2009 and 10.12.2009. The power loom service is 3 x 1.5 HP = 4.5 HP motors and 4 tube lights are there in the said room and nothing was added and no high power was taken to invoke S.56(2) of Electricity Act, 2003. How they have arrived and how he was asked to pay the amount are not known to him and what was recorded in the records were not known to him and the Forum has failed to observe these aspects and the order passed by the Forum is liable to be set aside.

5. Now, the point for consideration is, “whether the impugned order dated 04.11.2010 is liable to set aside? If so, on what grounds?”

6. The Forum has observed that the respondents did not specify the connected load from the date of supply was below 5.0HP and also did not produce any documental evidence as a proof and as per the master copy of the service the connected load was recorded as 5.4 HP and refused to set aside the audit objection but waived the previous period on the ground of limitation u/s 56(2) of EA 2003.

7. The appellant present in person at the time of hearing on 01.07.2011 and submitted that the bills were raised without any basis and the same is liable to be withdrawn. Whereas the respondents are represented by Sri A.V.Siva Bhaskar, AE/O/West/Proddutur present and stated that they have recommended to withdraw the audit amount, but they did not do it. This fact was placed before the Forum in the reply submissions to the Forum and requested to pass any appropriate order by looking into the facts placed before this authority.

8. The AAE addressed a letter to the AAO for de-ration of power and the power was reduced to 4.5 HP + 240W on 18.03.2009. On 02.07.2009, the AAE addressed another letter stating that the load was 4.5 HP + 240 W right from the date of supply i.e, 02/1983 of service even though the contracted load was 5.0 HP + 400W and the consumer represented to decrease the contracted load and the same was de-rated by DE/O/Proddutur in his letter dated 25.04.2009. Again, on the same lines he addressed a letter on 10.12.2009. On 19.01.2010, AAO addressed a letter to SE stating that the service was having connected load of 4.5HP + 200W from the date of supply i.e, 08.03.1983 even though the contracted load was 5.0HP + 400 W and he requested to de-rate contracted load and recommended to examine the audit para for onward transmission to GM/internal audit. The very documents filed by them have clearly established that he was having the service connection with 4.5 HP + 240W but contracted load was high and it was de-rated. This is well within the knowledge of the department. They would have informed him either to de-rate

contracted load, or convert the same in to category-III. This was never brought nor informed to the appellant. Had it been informed and if he did not take steps, no doubt, he could be penalized. He cannot be penalized for the laches of the respondents as they have not taken any steps prior to the audit report though the actuals are otherwise.

9. The audit department has raised bills basing on the contracted load but not on the actual usage and the actual requirement as observed by AAE and AAO even though contracted load was also de-rated. So raising of bills from the last 3 years period is also against to principles of natural justice. Moreover through the letters submitted by the respondents they have requested that the claim made against the complaint has to be withdrawn. Inspite of their request, the same was not withdrawn. The audit party even without making personal inspection and without getting any report of inspection from the concerned officials, imposed surcharge for a period of 3 years as short fall .

10. In the light of the above said discussion, the Forum has neither looked into records submitted by the AAE and AAO nor without making any personal inspection of the premises about the exact usage of the power, the contracted load and the connected load and the difference in between them and the particulars of de-ration, etc., passed the impugned order. Hence I am of the opinion that the impugned order is liable to be set aside.

11. In the result, the appeal is allowed and the entire amount of short fall is waived and the respondents are directed to restore the service connection to the premises with immediate effect ie., after receipt of the order or by production of the order by the appellant whichever is earlier. If any amount is paid by the appellant on this claim, it shall be refunded or it may be adjusted in the future bills.

This order is corrected and signed on this day of 5th July 2011

VIDYUT OMBUDSMAN