

BEFORE THE VIDYUT OMBUDSMAN

Present

**K.Sanjeeva Rao Naidu
Vidyut Ombudsman**

Dated: 04 -11-2011

Appeal No. 34 of 2011

Between
Sri K.Tata Rao
Nelapogula, Veeravasaram (M)
WG Dist

... Appellant

And

1. Asst Engineer/Operation/Town/EPDCL /Veeravasaram
2. Asst Divisional Engineer/Operation/EPDCL/Palakollu
3. Asst.Accounts Officer/ERO/EPDCL/Palakollu
3. Divisional Engineer/Operation/ EPDCL/Bhimavaram

....Respondents

The appeal / representation filed on 23.08.2011 (received on 25.08.2011) of the appellant has come up for final hearing before the Vidyut Ombudsman on 17.09.2011 at Hyderabad, in the presence of Sri K.Tata Rao, appellant and Sri V. Jagannadha Rao, Counsel for appellant present and Sri G.Suresh Reddy, AE/O/Veeravasaram for respondents present and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The appellant filed a complaint before the Forum stating that he has not suppressed the reading and not exceeded contracted maximum demand and that the MD recorded is due to winding fault. He is liable for utilizing under pisciculture

tariff, short billing raised by APEPDCL is not justifiable and requested the Forum to cancel the notice issued by ADE/O/Palakol and refund the amount already paid by him.

2. The respondent No.3 filed his written submissions as hereunder:

“the consumer service No.55 of Nelapogula Distribution in Veeravasaram Section is being billed in ERO/Palakol under LT Cat-III A with Sub-Category – Fish and Prawn Culture below 10 HP at Subsidized tariff applicable to that Sub-Category.

The Consumer Service under grievance Sc.No.55 of Nelapogula, Cat-III A in Veeravasaram Section was inspected by AE/DPE2/Eluru on 10-05-2011 and observed that the consumer has exceeded the sanctioned contracted load of 5.83 HP and utilizing connected load of 22 HP and violated the condition prescribed for Fish Tank (Prawn Culture) subsidy tariff limited load of below 10 HP. Hence the consumer is not eligible to avail at 1.25 Price tariff/per unit and the same was to be billed under Industrial Tariff. Accordingly back billing is made from Fish and Prawn culture tariff to Industrial Normal Tariff to an amount of Rs.51,602/-.

The Asst. Divisional Engineer/Operation/Sub-Division/Palakol issued notice to the Consumer of Sc.No.55 of Nelapogulu Vide letter No.ADE/OSD/PKL/D.No.1179/11, Dt.23-05-2011 (Copy Enclosed) and the revenue loss of the company has been assessed at Rs.51,602/- and the consumer was requested to arrange to make payment of Shortfall amount and due to failure by the Consumer, the shortfall amount was included in CC bills for the month of June, 2011 vide Debit RJ.No.68/06-2011.

The Consumer however did not make payment for shortfall amount raised till to date.

Photo copies of Consumer master, bill book abstract and ledger details are also enclosed for perusal.”

3. After hearing both sides and after considering the material placed before the Forum, it was held that

- *“The Provisional Assessment notices issued by the 2nd respondent vide D.No.1164, 1178 and 1179 Dt.23/05/11 are in order Utsupra in findings and conclusion of Forum.*
- *The complainant is liable to pay all the amounts raised as per Provisional Assessment Notices issued.*
- *The respondents are herewith directed that such type of services should be provided LTTVR meters or MD recording meters immediately to avoid such type of complaints in future.*

- *With the above directions the CG.No.151/11-12 is disposed off.”*

4. The appellant being aggrieved by the said order, preferred this appeal questioning the same, that he is a lease holder of fish tanks and he is having contracted load of 5.883HP and the load was never exceeded at any time and he has not violated the terms and conditions of supply at any time. The inspection was not made in the presence of authorized representative of the consumer and in the first notice issued that 13235 units were suppressed as compared with check reading with meter on 56224 and demanded to pay the billed amount of Rs.55454/- by assessing the units in the Industrial tariff Cat-III instead of pisci culture tariff of 0.90 ps/unit. In the second notice, it was alleged that the connected load exceeded contracted load and demanded to regularize the fabricated load by paying the charges of Rs.25000 (development charges) plus Rs.50/- (application fee). In the third notice, the connected load was exceeded 10 HP and tariff of SC 55 shall be changed in the industrial category in future billing and also demanded to pay an assessment charges from 11.11.2010 to 10.05.2011 of Rs.51602 on the units of 14534 under Industrial tariff. As the notices served on him are biased, illegal and capricious and he never suppressed the units as pointed out by the respondents and he never exceeded the CMD provided to his service connection and fixed six HP with 3 motors of 3HP+ 2HP and 1HP and that he paid the demanded bill under protest which was billed under Industrial tariff for 14754 units on 16.06.2011 to avoid disconnection of power supply. In the light of the above said discussions, the Forum has failed to understand the said aspects and requested this authority to pass an order in his favour as sought for in the appeal.

5. Now, the point for consideration is, “whether the impugned order dt.03.08.2011 of the Forum is liable to set aside ? If so, on what grounds?”

6. The learned advocate for the appellant argued that the consumer is a lease holder and that he has got only 3 motors with 3HP + 2HP and 1HP and the inspection is made in the absence of the authorized representative of the consumer

and that the consumer is illiterate and he is not aware of the suppressed reading and there is no need for him to suppress the units and whatever bills received by him are paid and there is no need to pay towards suppressed units. It is also further argued that he has not exceeded CMD and is only fabricated record of reading made by the department and these facts are lost sight of by the Forum and the appeal preferred by the appellant is to be allowed by setting aside the impugned order.

7. Whereas, the respondents submitted that the reading is made by the inspecting authority and they could find that there was suppressed reading and the inspection report shows that there is excess load than the contracted load and all the aspects are categorically mentioned in the inspection report and the Forum has rightly observed all these facts and rejected the complaint and the appeal preferred by the appellant is liable to be dismissed.

8. It is clear from the observation made by the Forum that there is suppressed reading identified on the date of inspection as 56224 units suppressing 13235 in the month of April 2011 and billing was made accordingly. As per monthly consumption as pointed out by the inspecting authority it is running from 1878 units to 5874 units from May 2010 to May 2011. When the 5HP load is utilized for 7 hours a day in 30 days it cannot go beyond 783 units. Apart from the personal inspection the very reading discloses about the excess usage of load beyond 5HP. When the thing itself is speaking, no further proof is required. The contention of the appellant is that the reading exceeded due to the winding problem. Even if there is any winding fault, it is for him to check up and get it rectified and the blame cannot be shouldered on the respondent.

9. In the light of the above said discussion, it is clear that he has utilized more power than the contracted load as pointed out by the department and there is no need for this authority to interfere with the observations made by the Forum. When once exceeded he has to pay according to the tariff fixed by the Commission and it is only under Industry (Normal) Cat-III tariff.

10. So far as the suppression of the units is concerned, the blame cannot be thrown on the appellant as it is the bounden duty of the officials of the department to make the correct entries in the billing pattern. If there is any connivance on the part of the appellant, with the meter reader or recorder, no doubt, the blame can be thrown on the appellant. No such material is placed before this authority or the Forum that the appellant has connived with the department in recording of reading of meter but without proof of any connivance the blame cannot be thrown on the appellant. The appellant is not liable to pay any amount regarding suppression of the reading and it is for the department to take action on the official who is held responsible by collecting the amount from his salary or by taking disciplinary action against the erred official. The department has to send the authorized person under clause 7.4 for recording the meter reading. So it cannot be thrown on the appellant, when no such connivance is established.

11. So far as conversion of category is concerned, it is bounden duty of the appellant to get service connection changed when it is established that the contracted load is more than connected load as per the guidelines issued by the Commission and also in accordance with the GTCS.

12. In the light of the above said discussion, the appeal is allowed in part deleting the claim of suppressed reading as raised by the respondent and the claim made by the appellant is dismissed. If any excess amount is paid by the appellant, the same may be adjusted in his future bills. No order as to costs.

This order is corrected and signed on this day of 4th November 2011

VIDYUT OMBUDSMAN