

VIDYUT OMBUDSMAN
O/o: ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
4th Floor, Singareni Bhavan, Red Hills, Hyderabad – 500 004

Present

K.Sanjeeva Rao Naidu
Vidyut Ombudsman

Dated 19 – 12 - 2011

Appeal No. 70 of 2011

Between
Consumer Awareness and Research Centre
65-9-8, Meharnagar, Kakinada – 533 003
EG Dist.
Rep by its Chairman

... Appellant

And

1. Asst. Engineer / Operation / D3/EPDCL/ Kakinada
2. Assistant Divisional Engineer / operation / Town-1 /EPDCL / Kakinada
3. Divisional Engineer / operation / EPDCL /Kakinada.

....Respondents

The appeal / representation dt.19.09.2011 (received on 21.09.2011) against the CGRF order of APEPDCL (in CG No.164/2011-12 dt.19.08.2011). The same has come up for hearing before the Vidyut Ombudsman on 01-12-2011. Sri.E.Vijai Sagar, on behalf of the appellant present and Sri G.Rambabu, ADE/Town-I /Kakinada on behalf of respondents present, heard and having stood over for consideration till this day, the Vidyut Ombudsman passed/issued the following:

AWARD

The petitioner filed a complaint against the Respondents for Redressal of his Grievances and stated as hereunder:

“Consumer Awareness And Research Centre, Meharnagar, Kakinada, East Godavari District has filed a complaint stating that Ch. Suryavathi, W/o Ch. Gavaraju applied for LT Cat-II service on 07-10-2011 so far the new LT Cat-II has not been released. Hence, they requested the Forum to arrange payment to delay compensation to the consumer.”

2. The 2nd Respondent has filed his written submission as hereunder:

- "1) With reference to the above it is to submit that in the same premises already there are two services existing. The two Services are 1)33934, Cat-1 & 2) 638,Cat-1I.*
- 2) Smt.Cheduiluri Suryavathi, W/o. Gavaraju purchased the building in which the Service 638 existing in the name of Md.Habibullah and she has not applied for name transfer. For the same Service Number, MP Case was booked on 15.03.2008 and PA Notice was issued vide D.No.188/19.03.08. Demand raised against outstanding MP Case Charges for Rs.2908/-.*
- 3) As per Customer Service Center, Kakinada & ERO, Kakinada records, on 07-10-2008, Smt.Cheduiluri Suryavathi, W/o. Gavaraju, Dr.No. 4-3-14/1, Nookalamma street, Suryarao peta, Kakinada has applied for one more new electrical connection and the same application was rejected by AE/Operation/D3/Kakinada on 27-10-2008 with a reason that already existing service No.638 arrears pending in the same premises. This was also informed to the applicant Smt.Cheduluri Suryavathi through call center, Kakinada. The above Service No. 638 MP Case Charges were paid on 13.11.2008 vide BCRC No.38607.*
- 4) The Service was made NB on 11/2008 to 03/2009.As per the Check readings the demand raised for Rs.3537/- vide AE/O/D3's letter No. Nill dated 28.03.2009.and the same was paid by the consumer on 06.04.2009.*
- 5) Within 30days after the rejection of the application if the consumer has not applied for reissuing of the application after attending the remarks the application will be completely rejected in the Call center and reissuing is not possible. The consumer has not approached the call center, Kakinada within 30days of the rejection of the application. Hence the application was completely rejected by the Call center, Kakinada.*
- 6) The premises is already having one Domestic service and one commercial Service. There is no chance to release another Commercial Service in the same premises. Now at present in the premises already existing Service No,33934 is also made NB on 28.12.2010 and meter was also removed. Arrears pending for the Service No.33934 are Rs.298/-.And the Service No.638 is in live status.*

The above information was submitted for favor of taking necessary action please."

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

- The request of complainant can not be considered as per clause No.4.7 of the Commission guidelines Utsupra against the abnormal delay in releasing of new service under Cat – II in favour of Smt. Ch. Suryavathi, W/o. Gavaraju, Kakinada.*

Clause No.4.7:-

If the subject matter of the complaint is shown pending consideration before any court, tribunal or arbitrator or any other Forum or a decree or award has already been passed by a competent court of law, the Forum can forthwith reject the complaint.

- *No merits in the complaint and dismissed with No costs.*

Accordingly, the CG No.164/11-12 is disposed off.

4. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the Forum has not provided any opportunity to contest the correctness of the submissions made by the ADE and DE. The intimation letter dated 27.10.2008 was not received by Smt.Ch.Suryavathi. He requested this authority to call the records from call centre. In the application there is only an undertaking by consumer "that there is no case of theft of electricity or unauthorised use of electricity pending against" applicant only, but it was not mentioned in the application that service connection would not be provided incase there was any pending case of theft or unauthorised use of electricity in respect of consumer. The service connection to Ch.Suryavathi (S.33934) was released during pendency of the malpractice case and this has not been looked into by the Forum. This authority may specially order for appropriate clarification for the differenceness in malpractice case (regarding SC 638) P.A amounting Rs.2908/- and Final assessment of Rs.6183/- by DE/Assessments/RJY. The Forum appears to have acted with bias, but not in the interest of consumers and as per the APERC Regulation No.7/2004, Schedule-II and the impugned order passed by the Forum is liable to be set aside and compensation has to be paid for their failure in releasing the service connection.

5. Now, the point for consideration is, whether the impugned order is liable to be set aside or modified, if so, on what grounds?

6. Sri Vijay Sagar, Chairperson Consumer Awareness & Research Centre appeared before this authority on behalf of the appellant and submitted that the call centre rejected the application for service connection on the ground of malpractice and that they have issued the service connection for LT Cat-I on 09.05.2008. The application dt.07.10.2008 was illegally rejected on the ground of malpractice case. There is no hard and fast rule that the service connection need not be given in the case of pendency of malpractice case. The Forum has not considered as to how the

provisional assessment amount has differed with final assessment and the Forum has failed to appreciate this aspect and erroneously dismissed the same.

7. Whereas, the respondents represented by Sri G.Rambabu, ADE/O/Town-1/Kakinada appeared before this authority and stated that the Forum has rightly considered the rejection of the application as they have not paid the arrears assessed by the assessing authority and the appeal preferred by the appellant is liable to be dismissed.

8. The main ground mentioned in the petition filed by the appellant is that the service connection was issued under LT Cat-I even during pendency of malpractice case and the subsequent application is rejected on the ground of malpractice case. The methodology in giving service connection for the first time during pendency of the malpractice is also to be applied for the second application. This request made by the appellant is not germane. They might have given the service connection by mistake. That mistake has to be continued for the second service also is irrational.

9. If she has paid the amount assessed by the assessing authority, there may be some force in the contention and latches may be attributed to the respondents but they have not paid the amount. Furthermore, he has projected that provisional assessment has differed with final assessment. The very wording is clear that the provisional assessment is only the provisional amount but the final assessment is the assessment made after looking into all the facts and circumstances. There may be a difference from the provisional assessment to that of final assessment. But that itself is not ground to project the case that the respondents have made a mistake and they have to submit their explanation to the consumer.

10. The appellant requested this authority to summon the records of the call centre. The proceedings before the Forum and as well before this authority are summary proceedings. The procedure for calling for the records, verifying the records and their activities, etc. are to be entertained in regular enquiries, but not in the summary proceedings. On that ground he cannot throw the blame on the Forum or on the officials in the call centre.

11. He has approached the Forum with unclean hands and he wants to throw the blame on the officials. He should thank his stars for not disconnecting the live service in the premises. On the other hand, the service connection under category-I was also bill stopped as arrears of Rs.298 was not paid and the meter was also removed. He has not explained anything on the said service connection. It shows that he has suppressed certain facts and wants to gain under guise of non-releasing of service connection. When there is a malpractice case and the payments are also not made and still there are arrears on the other service category-I, she is not entitled for another service connection and she can not claim for compensation for the delay in releasing the service connection. The representative should not encourage such irregular activities. He should guide the consumers when they are suffering at the hand of the officials of the department.

12. Hence, there are no merits in this appeal and the appeal is liable to be dismissed.

13. In the result, the appeal is dismissed.

This order is corrected and signed on this day of 19th December 2011

VIDYUT OMBUDSMAN