

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: 31-07-2012

Appeal No. 41 of 2012

Between

Smt. P. Rama Devi,
C/o. T.J.Veeranjaneyulu,
3/704-13, 10th Cross, Krishnapuram,
Near Yellanur Road, Tadipatri – 515 411. Anantapur Dist **... Appellant**

And

1. Addl. Asst. Engineer / Operation / APCPDCL / Tadipatri Rural / Anantapur
 2. Asst. Divisional Engineer / Operation / APCPDCL / Tadipatri / Anantapur
 3. Asst. Accounts Officer, ERO / APCPDCL / Tadipatri / Anantapur
 4. Divisional Engineer / Operation / APCPDCL / Gooty / Anantapur
 5. Superintending Engineer / Operation / APCPDCL / Anantapur Circle / Anantapur
-Respondents**

The appeal / representation dt. 18.06.2012 received by this authority on 25.06.2012 against the CGRF order of APCPDCL in C.G. No. ATP-176 Dt. 30.04.2012 Anantapur Circle dated 17.05.2012. The same has come up for final hearing before the Vidyut Ombudsman on 25.07.2012. Sri. T.J. Veeranjaneyulu husband of the appellant present. Sri. K. Ravi Krishna AAO / ERO / Tadipatri and Sri. D. Venkata Krishna Reddy, AE / R / O / Tadipatri on behalf of the respondents present. Heard both the parties and having stood over for consideration till this day, the Vidyut Ombudsman passed / issued the following :

AWARD

The petitioner filed complaint before the CGRF against the Respondents for Redressal of his Grievances. In the complaint, she has mentioned about her grievances as hereunder:

She having ISC No.R132000794 for my Slab Industry. Sri S. Ramesh, DE/DPE/ATP inspected my factory on 1-11-2011 and issued a notice through the ADE/Operation/Anantapur asking me to pay short billing amount of Rs.1,03,625/- for the period from November 2008 to 24-11-2011, stating that the consumption was not recorded in Y-Phase due to technical fault. The meter reading was taken every month but this was not brought to our notice. It is not correct to collect the amount for back billing, as they are not responsible for the same. On appeal to the DE, Operation, Gooty in the matter, the back billing amount has been reduced to Rs.52,600/- for 16 months i.e., from July 2010 to 24-11-2011. As a notice was received for payment of 50% of the amount to avoid disconnection of supply, we paid Rs.20,000/- on 26-03-2012. Hence, it is requested to limit the back-billing amount for 6 months, as we are not responsible in the matter.

2. The third respondent has furnished written submissions as hereunder :
A complaint has registered in CGRF meeting held on 3-04-2012 at Anantapur Circle Office in respect of the Back Billing case booked in respect of ISC No.R132000795 Category-III A of Sajjaladinne of Rural Section of Tadipatri Sub-Division. In this regard, Sri S. Ramesh, D.E. on 01-11-2011, inspected the above said service. The initial Assessment notice was issued by ADE, Operation, Tadipatri for an amount of Rs.1,03,625-00 vide PAO Lr.No. ADE / O / TDP / SER / F.D.T / D.No.92 / 11, Dt.23-11-2011. Divisional Engineer/Op/Gooty issued the Final Assessment Order for an amount of Rs.52,600-00 vide Order No.DE/O/GTY/COMML, Dt: 26-02-2012.

According, the Final Assessment Order Amount was included in the February 2012 CC bill vide RJ No.74 of February 2012. The consumer paid Rs.20,000/- in the month of March 2012 vide PR No 80330 Dt: 26-3-2012 against Back Billing Amount.

Further, the Consumer has to pay arrear Rs. 32000/- by the end of 31-03-2012.

3. The complainant's husband Sri. T.J.Veeranjaneyulu deposed that he received back billing notice for Rs. 1,03,625/- and the same was reduced to Rs. 52,600/- by the DE and that he paid Rs. 20,000/- to avoid disconnection and that the total billing amount may be limited to 6 months period.

4. The second respondent has deposed before the Forum as hereunder :

Short billing notice (IA) issued to the SC.No.R132000934 for an amount of Rs.1,03,625/- as per the inspection report of DE/DPE/Anantapur. The short billing period was taken from 31-11-2008 to 24-11-2011. The consumer approached the DE, Operation, Gooty for revision of the back-billing amount. Accordingly, the DE/Op/Gooty issued FAO for Rs.52,600/- limiting the back billing period from July 2010 to 24-11-2011, duly deleting the short fall relating to the period from November 2008 to June 2010, as MRI data is inconsistent. The consumer has paid 20,000/- towards FAO. If the consumer is not satisfied with the FAO of the D.E., he is at the liberty to approach the SE, Operation, Anantapur, who is the next appellate authority.

5. After hearing both sides and after considering the material on record, the Forum passed the following order.

Based on the inspection of Sri S. Ramesh, DE/DPE/Anantapur dt.01-11-2011 the initial assessment notice was issued by the ADE, Operation, Anantapur for short billing of Rs.1,03,675/- taking the period of failure of 'Y'-phase from November 2008 to November 2011.

The initial Assessment amount has been reduced to Rs.52,600/- limiting the above said period to 16 months (July 2010 to November 2011) by the First Appellant Authority, DE, Operation, Gooty.

If the Complainant is not satisfied with the Final Assessment order of the DE, Operation, Gooty she got every right to appeal to the next appellant authority, SE, operation, Anantapur.

As the time limit to make the appeal to the SE, Operation, Anantapur would have lapsed. The SE, Operation, Anantapur is now ordered to accept the

appeal of the Complainant with in one month from the date of this order as a special case, duly condoning the delay, if the Complainant make an appeal and dispose accordingly, as per the merits of the case and existing provisions in vogue.

The complaint is disposed accordingly.

6. Aggrieved by the said order, the appellant preferred this appeal questioning the same that the respondents have illegally raised a demand of Rs.1,03,625/- towards back billing from the month of November, 2008 to 24.11.2011, though the official is taking the meter reading every month and they never informed about the technical defect in the Y- phase current and when they approached Appellate Authority the same was reduced by the authority to 16 months i.e. 7/10 to 24.11.2011 and when they tried to disconnect, he approached the CGRF, but the CGRF did not do any justice and rejected his complaint.

7. Now the point for consideration is, whether the impugned order is liable to be set aside? If so on what grounds?

8. The husband of the appellant Sri. T.J.Veeranjaneyulu, categorly stated about the ground on which they preferred the appeal. Whereas, the respondents represented by Sri. K Ravi Krishna, AAO / ERO / Tadipatri and Sri. D.V. Krishna Reddy, AE / O / Rural / Tadipatri stated that the appellant has approached the forum and thereafter this authority without exhausting the remedies available and the appeal is not sustainable under law and the same is liable to be dismissed.

9. The Forum has clearly mentioned

“If the Complainant is not satisfied with the Final Assessment order of the DE, Operation, Gooty she got every right to appeal to the next appellant authority, SE, operation, Anantapur.

As the time limit to make the appeal to the SE, Operation, Anantapur would have lapsed. The, Operation, Anantapur is now ordered to accept the ppeal of the Complainant with in one month from the date of this order as a special case, duly condoning the delay, if the Complainant make an appeal and dispose accordingly, as per the merits of the case and existing provision in vogue.”

10. The very order itself discloses that the appellant has not exhausted the remedies available under the Act. Approaching the forum and there after to this authority without exhausting the remedies available under the Act is not proper. She is at liberty to approach the authorities after exhausting the remedies available under the Act.

11. It is pertinent to note that the time for preferring the appeal is already expired. The Forum has already directed the appellate authority that is SE to receive the appeal even after expiry of the time limit. On the same lines, this authority is also directing the SE to receive the appeal if it is filed within 30 days from the date of receipt of this order and dispose of the same on merits.

12. The SE is also further directed to look into the basis for assessing the back billing for more than 3 years and the relevant provision for the same. He is also further directed to look into the aspect as to how the same is reduced to 16 months. What is the exact provision for such assessment by looking into the E Act, 2003 and the Electricity (amendment) Act, 2007 (No. 26 of 2007) and GTCS of 2006.

13. The appeal is disposed with the above said observations and the SE is directed to follow the above said guidelines scrupulously at the time of disposal of the appeal if preferred by the appellant.

This order is corrected and signed on this day of 31st July, 2012

Sd/-
VIDYUT OMBUDSMAN