



**BEFORE THE VIDUYUT OMBUDSMAN
Andhra Pradesh :: Amaravathi**

:: Present ::

N. Basavaiah, B.Sc, B.L.

Date:02-02-2021

Appeal No. 26 of 2020-21

Between

K.Bhaskara Rao, S/o Subba Rao, 2-9, Kammavari Palem, Kollaparru Village,
Akiveedu Mandal, West Godavari District - 534 235

... Appellant/Complainant

And

1. The Assistant Engineer / Operation / AKIVEEDU/APEPDCL
2. The Assistant Accounts Officer/ERO/BHIMAVARAM/APEPDCL,
3. The Assistant Divisional Engineer / Operation / AKIVEEDU/APEPDCL
4. The Divisional Engineer / Operation/BHIMAVARAM/APEPDCL
5. The Divisional Engineer / DPE/ Circle Office, APEPDCL, Eluru
6. The Assistant Engineer / DPE/Eluru, Circle Office, APEPDCL, Eluru

....Respondents

ORDER

The above appeal- representation came up for final hearing, by way of Video Conferencing, before me at the office of the Viduyut Ombudsman, Vijayawada on 29.01.2021. The appellant and the respondents 1 to 4, along with their standing counsel, Sri.G.V.V.Nageswara Rao, were present. Having considered

the appeal-representation and submissions of the above parties present, the Vidyut Ombudsman passed the following:

1. This appeal has been preferred by the appellant-complainant against the order **dated. 28th day of February,2020 in C.G.No: 366/2019 Visakhapatnam,** passed by the **Forum for Redressal of Consumer Grievances in Eastern Power Distribution Company of A.P Limited, Visakhapatnam,** whereby and where-under the above Forum set aside the original of Ex.A3, an assessment notice signed by the third respondent for short billing dated.20.10.2019 claiming Rs.1,45,887/ from the complainant for the period from 19.07.2014 to 03.10.2019, and directed the respondents to issue a revised assessment notice for short billing for the period from only 21.10.2017 to 20.10.2019 with respect to the service connection bearing No.5101/005808 under LT category-III Industry (ii) (Aqua culture now under Category- V(C) (ii)) at Akiveedu village by implementing the Aqua subsidy as per the orders of the Government of AP.

2. The complaint alleges that the complainant took the fish ponds with the above electricity service connection at Akiveedu on lease from one G.Seetamma about one year back and has been paying cc bills regularly, that the respondents gave him a notice for short billing under the original of Ex.A3 dated.20.10.2019 for Rs.1,45,887/- alleging the difference of the amount between the billing units of kWh and kVAh for the period more than 5 years and 3 months from 19.07.2014 to 03.10.2019, that he paid the charges for the additional load on 26.06.2019 and has been paying cc bills with KVAH consumption since the date of regularisation of the additional load from 5HP to 34 HP on 15.07.2019, that the above notice for short billing has no information regarding the aqua subsidy of Rs.2.63 and that

therefore, it is prayed to examine the assessment.

3. The first respondent in his response stated that the fifth respondent inspected the above service connection on 19.07.2014, detected connected load of 34 HP and booked an additional load case, as per the original of Ex.A1, that the 6th respondent inspected the above service connection on 03.10.2019, as per the original of Ex.A2, and noticed that the energy charges were being billed on the basis of KWH instead of KVAH and that as the contracted load of the above service is more than 15KW/20HP, the third respondent issued the above assessment notice for short billing under the original of Ex.A3 to the complainant.

4. No oral evidence was adduced. Exs.A1 to A3 were marked on behalf of the complainant. After considering the material available on record, the Forum passed orders as stated supra. Not satisfied with the above order, the complainant preferred this appeal representation. No evidence is adduced by both parties before this authority.

5. The appellant submitted that some more amount may be reduced. He also expressed his grievance against the quantum of the amount mentioned in the notice given by the respondents in pursuance of the order dated. 28th day of February,2020 passed by it. He also submitted during final hearing that he took the fish tank on lease about three years back and that the averment in his complaint as to the duration of his lease is incorrect. The counsel for the respondents made submissions supporting the order of the Forum and further submitted that as the additional connected load of 29 HP was regularised, the order of the Forum is legal.

6. There is no dispute that in this case, the initial contract load was only 5 HP. It is also not in dispute that the billing was done based on kWh and that energy charges shall be billed on kVAh basis instead of kWh basis for all consumers with contracted load of 20 HP and above, as per the relevant tariff orders. The case of the first respondent, in brief, is that the contracted load, in this case, has been above 20 HP. The respondents claimed the amount for more than five years, but the Forum restricted the above claim period to 2 years as stated supra following the provisions of section 56(2) of the Electricity Act. That finding against the respondents, including the aqua subsidy, has now become final as they have no right of appeal against the order of the Forum. Now, I cannot disturb that finding in favour of the appellant complainant. I am doubtful if the person, who files the complaint, will come within the meaning of 'complainant' given in the APERC Regulation No. 03/2016.

7. The following point is framed for consideration:

Whether the order of the Forum directing the respondents to issue a revised assessment notice for short billing for the period from only 21.10.2017 to 20.10.2019 is not correct and legal?

8. The main aspect to be considered, in this case, is whether the contracted load of the appellant complainant has been 20 HP since 21-10-2017? The result of this case depends upon the opinion of the Forum on the above aspect after consideration. The meaning of the word 'contracted load' is given under clause 2.2.12 of the GTCS, and it runs as follows:

'contracted load' means the connected load in kW, kVA or HP which the consumer requires in his installation and is so specified in the supply agreement between the parties.'

We have to look into the above meaning of 'contracted load' and decide the liability of the appellant complainant. There is a difference between 'connected load' and 'contracted load'. It appears the Forum did not look into the above meaning of 'contracted load' before the order was passed by it. There is no finding given by the Forum that the contracted load of the appellant complainant has been 20 HP since 21-10-2017. Unless there is a clear finding to the above effect, I cannot hold that the order of the Forum is correct or legal. To accept the case of the licensee, it has to prove that the contracted load of the complainant has been 20 HP since 21-10-2017. Without any finding on the above aspect by the Forum, it is not proper to give any finding on the above aspect by this authority in this appeal. The Forum also did not consider the aspect regarding the plea of the complainant that he has been paying cc bills with KVAH consumption since 15.07.2019, the date of regularisation of the additional connected load from 5HP to 34 HP. Apart from it, the Forum also did not consider the aspect whether the original of Ex.A1 was given in accordance with the amended clause 12.3.3.1.of the GTCS, which has been with effect from 07.03.2012. For the above reasons, I am of the opinion that the Forum did not pass a reasoned order and that the order of the Forum is not correct and legal. This point is ,thus, answered.

9. In the result, I uphold the appeal- representation, set aside the order of the Forum and remand this case to the Forum with a direction to dispose of the case afresh on merits on all aspects including the aspects pointed out supra in this order in accordance with the relevant Regulations made under the Electricity Act without disturbing its finding as to the non- liability of the appellant complainant for the remaining period and as to the aqua subsidy. The Forum shall take this case to its original number on its file, issue notices to both parties and give an

opportunity to both parties to file additional pleadings and lead evidence, if parties want to do so, before the case is decided on merits. Considering the facts and circumstances of this case, I direct both parties to bear their respective costs. It is needless to mention that as the matter is remanded to the Forum for fresh disposal, the appellant complainant is at liberty to take all objections including his grievance on the notice given as per the previous orders of the Forum alternatively. It is needless to mention that the standing counsel of the respondents may advance his arguments before the Forum.

10. A copy of this order is made available in the website:
www.vidyutombudsman.ap.gov.in

This order is corrected and signed on this 2nd day of February, 2021.

S/d. N.Basavaiah
VIDYUT OMBUDSMAN A.P

To

1. K.Bhaskara Rao, S/o Subba Rao, 2-9, Kammavari Palem, Kollaparru Village, Akiveedu Mandal, West Godavari District - 534 235
2. The Assistant Engineer / Operation / AKIVEEDU/APEPDCL, Operation Section, I-Bheemavaram Road, 33/11kV SS, Akiveedu, W.G.District - 535 235
3. The Assistant Accounts Officer/ERO/BHIMAVARAM/APEPDCL, Bhimavaram Industrial Estate, W.G.District - 534201
4. The Assistant Divisional Engineer / Operation / AKIVEEDU/APEPDCL/ Sub-Division, I-Bhimavaram Road, 33/11kVSS, Akiveedu, W.G.District - 535 235
5. The Divisional Engineer / Operation/BHIMAVARAM/APEPDCL, Operation Division, Bhimavaram Industrial Estate, W.G.District - 534201
6. The Divisional Engineer / DPE/Visakhapatnam, Circle Office, APEPDCL, Visakhapatnam
7. The Assistant Engineer / DPE/Eluru, Circle Office, APEPDCL, Visakhapatnam

Copy To:

1. The Chairman, C.G.R.F., APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam – 530 013.
2. The Secretary, APERC, 11-4-660, 4th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004