



BEFORE THE VIDUYUT OMBUDSMAN
Andhra Pradesh :: Hyderabad

:: Present ::

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

Date: 05-07-2017

Appeal No. 04 of 2017

Between

Sri. S.Samuel Prasad, 601, Vishnu Residency, B-Block, Gandhinagar, Hyderabad.

...Appellant/ Complainant

And

1. The AE/Operation/APEPDCL/Pedagantyada-Town/Visakhapatnam
2. The ADE/Operation/APEPDCL/Malkapuram/Visakhapatnam
3. The DE/Operation/APEPDCL/Visakhapatnam Zone-II/Visakhapatnam

... Respondents

The above appeal- representation filed on 06-05-2017 has come up for final hearing before the Viduyut Ombudsman on 15-06-2017 at Visakhapatnam. The complainant, as well as the respondents 1 to 3 above was present. Having considered the appeal, the submissions made on behalf of the complainant and the respondents, the Viduyut Ombudsman passed the following:

ORDER

1. This appeal-representation has been preferred by the appellant-complainant against the order dated.31-03-2017 in C.G.No:262/2016/Visakhapatnam Circle, 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 passed the order as follows:

“That the DISCOM is hereby directed to pay a sum of Rs. 20,000/- (Rupees Twenty Thousand Only) to the consumer at the first instance and recover the same from the officials concerned responsible in erecting the DTR on

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south-east corner of the group house ignoring the technical feasibility.

- Accordingly, the CG.No. 262/2016 is disposed off”.

2. The case of the complainant, in brief, is that on his application in the month of April,2014 for a new electricity connection, the then 1st respondent intentionally made over estimation of Rs.2,37,956/ for erection of a transformer near his newly constructed house and got it erected at a wrong place causing danger to the inmates of his house and as such, he requested to disconnect the power supply and shift the transformer to the correct place, that though there was no power supply, yet, he paid cc bills, that on his representation to the licensee, the transformer was shifted to the correct place, that the then 1st respondent paid him Rs.10,132/ by way of a cheque dated.8.2.2016 and that inspite of his representations to the licensee to refund the excess amount around Rs.1.25 lakh collected from him for erection of transformer, to take a departmental action against the then 1st respondent and for compensation for the mental agony and harassment caused to him, no action was taken and therefore, he approached the Forum for the above reliefs.

3.The first respondent alone filed his pleading stating that the complainant registered LT Application for release of 8 new Service connections at pedagnatyada on 25-04-2014,that during the site inspection, the complainant decided to locate the DTR at the south -east corner of the building as he already laid service cable to that place, that after following the prescribed procedure, when the execution of work was commenced, the local residents objected to the work on the ground that it is a narrow road and there is a scope of accidents if the poles are erected at that junction, and as such, poles were erected on the basis of mutual understanding between the local residents and the consumer, but the consumer, at that time, did not even make any representation that the transformer was to be erected on north west corner of the building, that all 8 services were issued during December,2014 and bills were issued from January,2015 onwards, that as the consumer had not paid the cc bills, the

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power supply was disconnected to all 8 service connection with prior information to the consumer, that the consumer complained at SPANDANA on 30-03-2015 making a request as to the transformer being shifted to the north west corner of the building and thereafter, the transformer from the existing corner was shifted, according to the request of the consumer, that the consumer represented to the CMD on 09-06-2015 for reimbursement of difference amount for round about running of poles and after calculation, it was found that Rs. 24,218/- is the difference amount as per the consumer request and it was paid by the then Assistant Engineer, Sri.Vidyasagar personally, to the consumer and that the complainant paid Rs.2,10,527/ towards service line charges besides Rs. 8,000 towards security deposit charges and service was released on 22.12.2014 after the work was completed.

4. No oral or documentary evidence was adduced before the Forum. After considering the material available on record, the Forum passed the order as stated supra. Not satisfied with the above order, the complainant preferred this appeal- representation. No oral or documentary evidence has been reported before this authority.

5. The complainant made the following submissions:

- i) Because the Forum granted the compensation to him, this authority is empowered to enhance the above compensation after considering the facts of this case;
- ii). There is neither discussion nor finding as to the prayer of the consumer for refund of the alleged excess amount collected from him for erection of distribution transformer and there is no basis for the calculation made in the revised estimate made by the respondents for the above purpose; and
- iii). The respondents have not followed the guidelines given in the Lr.No.APERC/E-202/DD-Dist/2016 dated:9.9.2016 by the Hon'ble APERC for the erection charges of distribution transformer with respect to the multistoried buildings where the building height is below 15 meters and that except the deposit amount, consumer need not pay anything with respect

to the above work.

6. The then Assistant Engineer submitted that the compensation amount was already paid to the complainant, that the charges were estimated as per the guidelines issued by the Honorable APERC, and the distribution company in its Memo No.CGM/O&CS/EPDCL/VSP/GM-O/DE1/ADE-@/D.No.686/17, dated : 24-03-2017 issued instructions to implement the instructions of the APERC dated.9.9.2016 with respect to modifications to the existing guidelines with effect from 01-04-2017, that as the application was made for the new service connection on 24-05-2014 prior to 1.4.2017, the guidelines issued by the corporate office regarding the multi storied buildings on the basis of height cannot be made applicable to the building of the complainant.

7. The consumer submitted that the guidelines of the APERC dated.9.9.2016 were issued on the basis of law existing even prior to 25-04-2014 and as such, he is entitled to the relief claimed by him.

8. The following point is framed for consideration:

Whether the representation can be upheld?

9. Point: At the outset, I would like to say that complaint is to be determined on merits by the Forum, as per the clause 12.3 of the Regulation No. 3/2016, and by this authority as per the clause 21.1 of the Regulation No.3/2016, on the pleadings and evidence available on record, but no evidence was adduced by both parties either before the Forum or before this authority. Apart from it, no pleading was filed on behalf of the respondents 2 and 3. Now, I am inclined to consider the submissions made by the complainant and the 1st respondent. The 1st submission made by the complainant regarding the enhancement of compensation is absurd or illogical. The Forum did not quote any law or regulation in its order touching the aspect of awarding of compensation. Even the complainant, except making the above submission, did not show me any provision of law

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or regulation or notification made there under touching the above aspect. However, I cannot disturb the above order of the Forum regarding the compensation awarded. Section 57(1) of Electricity Act, 2003 says that the appropriate commission may specify standards of performance of licensee. Clause. 4 of the Principle Regulation No. 7/2004 coupled with second amendment Regulation 9 of 2013 to the Principle Regulation 7 of 2004 deals with awarding of compensation specified in schedule-II for Licensee's failure to meet the guaranteed standards of performance specified in schedule I besides proceedings being initiated by the commission to levy penalty on the licensee for non-compliance of overall standards of performance mentioned in schedule III. We are now concerned with only guaranteed standards of performance specified in the schedule I. The harassment and mental agony alleged to have been caused to the complainant- consumer in connection with erection of transformer, is not specified in the schedule I stated supra so that it can be held that compensation can be awarded to the complainant in this case as per schedule II and that the quantum of compensation awarded by the Forum in this case is less or correct. Therefore, I am of the opinion that there is no merit in the above 1st submission.

10. I am of the view that the second submission of the complainant as to the over estimation made by the 1st respondent for erection of transformer is vague and is not specific as the allegation of the complainant made in his complaint that over estimation was made by the then 1st respondent regarding charges for erection of transformer remains as an allegation without any proof or basis. It is for the complainant to prove the above fact alleged by him, but, material supporting the above fact is lacking in this case. Even in the pleading of the complainant, it is not stated regarding his forming opinion that the 1st respondent made over estimation for the erection of the transformer. The statement of the complainant on the above aspect is only conjecture. The estimation prepared by the 1st respondent was approved by his superiors. In the absence of evidence or acceptable material, it is not possible for either the Forum or this authority

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to appreciate the above fact and as such, the above submission needs no detailed discussion as it is a fact not proved. The Forum ordered that the difference amount between the original estimation and the revised estimation be refunded to the complainant-consumer. According to the respondents, the above amount was paid. The above aspect was considered by the Forum in its order. Therefore, the above second submission needs no further consideration.

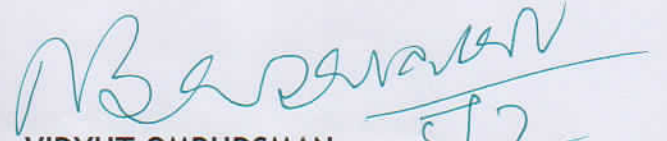
11. The above third (last) submission has been made by the complainant for the first time before this authority without any pleading. The contention of the respondents is that as per the instructions of the licensee, the guidelines of the Hon'ble APERC are to be implemented with effect from 1.4.2017. Even if the above submission is treated as a point touching the question of law only, considering the submissions of the 1st respondent, I am of the view that it is not proper to give a finding by this authority on the above aspect without a finding being given by the Forum on the above aspect and as such, I am inclined to remand the matter to the Forum for its finding on the above aspect and for disposal of the case afresh without disturbing the order passed by it on 31.3.2017. This point is thus answered.

12. In the result, I remand this case to the Forum to give a finding regarding the application of guidelines of the Hon'ble APERC dated.9.9.2016 or not, to the multistoried building of the complainant, and dispose of the case afresh on merits without disturbing the earlier order dated.31.3.2017. The Forum shall restore this case to its original number on its file, issue notices to both parties and give an opportunity to both parties to amend their respective pleadings or file additional pleadings and to lead evidence, if parties want to do so, before the case is decided on merits as stated supra. Considering the facts and circumstances of this case, I direct both parties to bear their respective costs. This appeal-representation is thus disposed of.

Abhijit

13. This order is corrected and signed on this 5th day of July, 2017.

14. A signed copy of this order is made available at
www.vidyutombudsman.ap.gov.in.


VIDYUT OMBUDSMAN 5/2/17

To

1. Sri. S. Samuel Prasad, 601, Vishnu Residency, B-Block, Gandhinagar, Hyderabad-500080.
2. The Assistant Engineer, Operation, Pedagantyada-Town, APEPDCL, Operation Section, P.Gantyada Rural, B.C. Road, Pedagantyada, Visakhapatnam - 530044.
3. The Assistant Divisional Engineer, Operation, Malkapuram, APEPDCL, Operation Sub-Division, Malkapuram, Visakhapatnam-530011.
4. The Divisional Engineer, Operation, Visakhapatnam Zone-II, APEPDCL, Operation Division, Ramurthy Panthulupeta, Kancharapelm, Visakhapatnam - 530008.

Copy to:

5. The Chairman, C.G.R.F., APEPDCL, P & T Colony, Seethammadhara, Near Gurudwara Junction, Visakhapatnam - 530013.
6. The Secretary, APERC, 11-4-660, 4th Floor, SingareniBhavan, Red Hills, Hyderabad - 500 004.