



**BEFORE THE VIDYUT OMBUDSMAN
Andhra Pradesh & Telangana**

:: Present ::

C. Ramakrishna

Date: 27-09-2014

Appeal No. 91 of 2013

Between

Sri. A. Ravi Kumar C/o Araveti Super Market, D.No. 9/510, Mydukur Road,
Proddutur Post and Mandal, Kadapa District - 516 360.

... Appellant

And

1. The Asst. Accounts Officer, ERO, APSPDCL, Proddutur.
2. The Asst. Engineer, Operation, East, APSPDCL, Proddutur.
3. The Asst. Divisional Engineer, Operation, Town, APSPDCL, Proddutur..

... Respondents

The above appeal filed on 26-07-2013 have come up for final hearing before the Vidyut Ombudsman on 25-09-2014 at Tirupathi. The appellant was not present but the respondents 1 to 3 above were present. Having considered the appeal, the written and oral submissions made by the appellant (in earlier hearings) and the respondents, the Vidyut Ombudsman passed the following:

AWARD

2. The appeal arose out of the grievance of the appellant that the respondents have levied capacitor surcharge on him unnecessarily.

3. The appellant stated in his appeal and submitted orally during the hearing on 14-08-2014 at Anantapur that the CGRF had pronounced its order on June 28, 2013; that the CGRF had clearly ordered that the capacitor surcharge shall be levied only after an inspection of the premises of the consumer and not otherwise; that in spite of this order of the CGRF, the respondents had still levied capacitor surcharge for the period 04/2013 to 07/2013 without conducting an inspection of the premises and without serving any notice on them.

4. The respondents were issued a notice for hearing the appeal. The respondent ADE stated in his written submission that the service of the appellant was released in March, 1970 with a contracted load of 5.26 kW under Category II; that capacitor surcharge was levied on the service from 08/2012 to 03/2013 for non-installation of the capacitors; and that as per the CGRF's orders, the capacitor surcharges for the period 08/2012 to 03/2013 were waived. The respondent AAO filed his written submissions essentially reiterating what the ADE has stated. But he also added that the respondent AE had been asked to state whether or not notices have been issued before levying capacitor surcharge; and that on receipt of the report from the AE, the amount will be withdrawn if the amount has been levied without issuing notices to the consumer.

5. During the course of the hearing on 25-09-2014 at Tirupati it was enquired with the AE whether or not notices have been issued before issuing capacitor surcharges. The AE confirmed that notices have not been issued.

6. The respondents have pleaded in their written submissions as well as orally that they have levied the capacitor surcharge as per para 4.VII.(4) of the Terms and Conditions of LT Tariffs mentioned in para 287 of the Tariff Order for the financial year 2013-14 which reads as under:

“In the case of LT consumers (except LT Domestic) not covered by kVAh billing, **if during inspection**, no capacitor is found, or the capacitors already installed are found to be damaged or having defect or ceased to function, such consumer shall be liable to pay surcharge @ 25% of the monthly bill amount, as per the terms and conditions of supply notified by the Licensee.” (Emphasis supplied)

7. The respondents also relied on their DISCOM distributed tariff guidance booklet which reads:

LT consumers with kWh based billing (except LT Domestic, LT IV, LT VI(A), LT VII (B)) **having connected loads** mentioned in the table below shall pay capacitor surcharge (as per rules in vogue) @25% billed amount, if capacitors are **found defunct**:

LT II & LT VII(A)	< 10 kW
LT III & LT VI(B)	< 20 HP

(Emphasis supplied)

8. The only issue that arises for consideration in this appeal is whether or not the appellant is liable for capacitor surcharge without any inspection as is done by the respondents.

9. The relevant clause in the Tariff Order which deals with levy of capacitor surcharge, extracted above, shows clearly that the stand of the respondents is without merit. Capacitor surcharge cannot be levied until and unless an inspection of the premises is made and a finding is given that capacitors have to be fixed or that the capacitors found are not working properly and that therefore, the consumer is liable for capacitor surcharge. First of all an inspection has to be conducted. Then a notice has to follow the inspection so conducted giving the consumer a reasonable opportunity of being heard about the non-existence of capacitors or improper working of the installed capacitors. Without doing this, the respondents cannot go about levying capacitor surcharge on the consumer. A plain reading of the relevant clause of the Tariff Order shows that those of the LT consumers who are not covered by kVAH billing shall be levied with capacitor surcharge of 25% of the monthly bill amount, only “if during inspection”, it comes to light that they have not installed capacitors or that those installed are not functioning properly. The CGRF also had clearly given a similar finding and had held correctly that capacitor surcharge on the consumer appellant cannot be levied without conducting an inspection. In spite of such finding having been given by the CGRF in no uncertain terms, the respondents have still carried on with the levy of capacitor surcharge for the period 04/2013 to 07/2013. This is not permissible.

10. Therefore, it is hereby ordered that:

- the respondents shall withdraw the capacitor surcharge for the period 04/2013 to 07/2013 without further ado; and
- shall not go about levying capacitor surcharge on the consumer without proper inspection and without giving a reasonable opportunity of being heard to the consumer appellant.

11. This order is corrected and signed on this 27th day of September, 2014.

VIDYUT OMBUDSMAN

To

1. Sri. A. Ravi Kumar C/o Araveti Super Market, D.No. 9/510, Mydakur Road, Proddutur Post and Mandal, Kadapa District - 516 360
2. The Asst. Accounts Officer, ERO, APSPDCL, Proddutur.
3. The Asst. Engineer, Operation, East, APSPDCL Proddutur.
4. The Asst. Divisional Engineer, Operation, Town, APSPDCL, Proddutur.

Copy to:

5. The Chairman, C.G.R.F., APSPDCL, 19/13/65/A, Sreenivasapuram, Near 132 kV Substation, Tiruchanoor Road, Tirupati - 517 503.
6. The Secretary, APERC, 11-4-660, 5th Floor, Singareni Bhavan, Red Hills, Hyderabad - 500 004.